



**House
Legislative
Analysis
Section**

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INFECTIOUS MEDICAL WASTE

House Bill 4135

Sponsor: Rep. Kenneth J. DeBorja

House Bill 4136

Sponsor: Rep. Teola P. Hunter

House Bill 4137

Sponsor: Rep. James A. Reston

House Bill 4138

Sponsor: Rep. Perry Bullard

House Bills 4140-4142

Sponsor: Rep. Michael J. Bennane

Committee: Public Health

Complete to 4-13-89

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**A SUMMARY OF HOUSE BILLS
4135-4138 AND 4140-4142 AS
INTRODUCED 2-9-89**

House Bill 4136 (to which all of the other bills are tie-barred) would create the Infectious Medical Waste Regulatory Act and establish penalties for its violation. House Bill 4138 would create criminal penalties for violations of the proposed act, and the other bills would require various health facilities and professionals to comply with the act. All of the bills (with the exception of House Bill 4137) would have effective dates of March 1, 1990.

House Bill 4136 would create the Infectious Medical Waste Regulatory Act to regulate the treatment, storage, transportation, and disposal of infectious medical waste. The bill also would create an Infectious Medical Waste Advisory Commission appointed by the governor and would impose civil fines and criminal penalties on violators.

Definitions. Under the bill, "medical waste" would include surgical, pathological, biological, or chemotherapy waste (each of which is further defined by the bill); laboratory waste that has come in contact with pathogenic (disease-causing) organisms; the dead bodies, bedding, or wastes from research animals exposed to pathogens; "sharps" (basically, needles, syringes, and scalpel blades, that can cause punctures or cuts); and laboratory cultures and stocks of infectious agents and "associated biologicals" (i.e. microbiological wastes).

"Infectious medical wastes" would be defined by the Department of Public Health (DPH) through administrative rules, and would include pathological waste (basically, all human tissues, organs, and body parts removed during surgery, obstetrical procedures, and autopsies) and sharps. Initially, the DPH would be required to promulgate emergency rules defining which medical wastes were to be classified as infectious within 30 days after the bill took effect (March 1, 1990); within six months after this, the department would be required to submit rules to the Joint Committee on Administrative Rules.

Handling of infectious medical waste at the point of generation. People who handled infectious medical waste (other than those who handled it in a private home in the course of caring for someone living there) would be required to follow a number of procedures, including separating it from other wastes and storing it in special containers.

Infectious medical waste would have to be contained, generally, in a way and at a place that limited its exposure to the public and that was protected from the environment. Unless otherwise allowed by the DPH, it would have to be kept only for the length of time and under conditions specified by the department's rules. It would have to be separated from other waste as soon as was practicable in the facility where it was produced, and kept separate from other wastes in red-colored containers prominently marked with the warning "infectious." Except for "sharps," it would have to be kept in bags that were moisture-proof; strong enough to resist ripping, tearing, or bursting in the course of normal usage or handling; and closed in such a way that they would not leak during storage, handling, or transport. "Sharps" would have to be put in leakproof, rigid, puncture-resistant containers that could be closed in a way that prevented the contents from being lost.

Before infectious medical waste that was kept in disposable containers could be transported for treatment or disposal from the facility that had produced it, it would have to be put in disposable or reusable leakproof containers ("disposable or reusable pails, cartons, drums, or portable bins") with tight-fitting covers. These containers could be of any color, but would have to be kept clean and in good repair and conspicuously labeled "infectious."

Finally, the bill would prohibit putting infectious medical wastes in trash chutes.

Treatment and disposal of infectious medical wastes. Generally, infectious medical wastes (with the exception of recognizable human body parts) that had been made noninfectious and that otherwise were not hazardous wastes, could be disposed of as solid wastes under the Solid Waste Management Act. This would include "sharps" in the proper containers, provided that they were not compacted or handed in a way that would break the containers. Pathological waste consisting of recognizable human body parts would have to be either incinerated or buried at a "recognized" burial site (i.e. in a cemetery).

Except for "sharps" and recognizable human body parts, infectious medical wastes would have to be treated or disposed of in one of the following ways:

(1) By being burned down to carbonized or mineralized ash in an infectious medical waste incinerator that was approved by the DPH and that had an operating permit

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H.B. 4135-4138 & 4140-4142

from the Department of Natural Resources under the Air Pollution Control Act;

(2) By being discharged into a sewage system (if the waste were liquid or semiliquid), unless prohibited by the rules promulgated by the DPH;

(3) By being heated until sterilized in a steam sterilizer; or

(4) By any other method approved by the DPH rules.

Transportation of, and facilities for, infectious medical wastes. A person could not transport more than 100 kilograms (220 pounds) of infectious medical waste per month nor operate a facility for treating, storing, or disposing of infectious medical waste without a permit from the Department of Natural Resources (DNR). The DNR would be required, upon application, to issue a permit to applicants who were in compliance with the bill and rules promulgated under the bill. The DNR could deny or revoke a permit if an applicant or permit holder failed to comply with the bill or rules.

Someone who transported infectious medical waste would be required to notify the DNR within 30 days if:

(1) The transporter changed majority ownership, name, or location;

(2) The ownership or control of a DNR-certified vehicle or container were changed; or

(3) A DNR-certified vehicle or container were involved in a spill or an accident which brought the vehicle or container out of compliance with the bill or rules.

Within six months of the promulgation by the Department of Public Health of the emergency rules classifying infectious medical waste, the DNR would be required to submit to the Joint Committee on Administrative Rules rules governing the transportation of infectious medical wastes and facilities for the treatment, storage, and disposing of such wastes, including:

- the procedures and criteria for issuing transportation and facility permits;
- fees for the annual transportation permits;
- record-keeping requirements for transporting infectious medical wastes; and
- requiring that infectious medical wastes be transported only to DNR-approved facilities.

Infectious Waste Advisory Commission. The bill would create a seven-member Infectious Medical Waste Advisory Commission in the Department of Public Health. The governor would appoint one member representing the DPH, one member representing the DNR (who would chair the commission), one member representing health care providers, one member representing infectious medical waste transporters and disposal facilities, and three members representing the general public. The duties of the commission would be to advise the governor and legislature on all matters regarding infectious medical waste, to complete an evaluation of the bill within two years of its enactment, and to recommend any needed changes.

Penalties. Anyone violating the bill would be subject to civil fines of up to \$2,500 for each violation and an additional fine of up to \$1,000 a day for continuing violations. Violators also would be subject to criminal penalties as established by House Bill 4138, to which the bill is tie-barred.

House Bill 4138 would amend the Michigan Penal Code to create criminal penalties (including mandatory minimum fines) for violating the Infectious Medical Waste Regulatory Act that would be created by House Bill 4136.

The bill would make it a felony to knowingly violate the proposed act (or rules promulgated under that act) or to knowingly falsify information required by the act. Knowing violations of the act or its rules would be a felony punishable by imprisonment for up to 15 years and a fine of at least \$10,000 but not more than \$200,000 for each day of violation. Falsifying information would be a felony punishable by imprisonment for up to five years and a fine of at least \$5,000 but not more than \$50,000. Someone who unintentionally violated the proposed act would be guilty of a misdemeanor punishable by imprisonment for up to one year and a fine of not less than \$1,000 but not more than \$10,000 for each day of the violation.

MCL 750.493f

House Bill 4135 would amend the Mental Health Code to require hospitals governed by the code that handle infectious medical waste to comply with the Infectious Medical Waste Regulatory Act proposed by House Bill 4136. Mental hospitals, psychiatric hospitals, psychiatric units, and hospitals operated by the Department of Mental Health would be required to train their personnel (both medical and non-medical) who handle infectious medical waste in accordance with rules promulgated by the director of the DMH, in consultation with the director of the Department of Public Health.

MCL 330.1147 and 330.1149a

House Bills 4140 and 4141 would amend the Public Health Code to require physicians, dentists, veterinarians, health facilities or agencies, and clinical laboratories that handle infectious medical waste to comply with the Infectious Medical Waste Regulatory Act proposed by House Bill 4136. House Bill 4140 would require compliance by physicians, dentists, and veterinarians who own or operate private practice offices or clinical laboratories that handle infectious medical waste, and would require them to train their employees (both medical and non-medical) in accordance with standards specified by rules promulgated by the Department of Public Health. House Bill 4141 would require compliance by health facilities or agencies and clinical laboratories, who also would be required to train their personnel in accordance with DPH standards.

MCL 333.16269 (House Bill 4140) and 333.20185 (House Bill 4141)

House Bill 4142 would amend the Occupational Code to require licensed funeral directors to comply with the Infectious Medical Waste Regulatory Act proposed in House Bill 4136. More specifically, the bill would make failure on the part of a mortuary science licensee to comply with the Infectious Medical Waste Regulatory Act subject to penalties prescribed in Article 6 of the code. (Presently, a first violation of Article 6 of the code is a misdemeanor, punishable by a fine of up to \$500 and imprisonment for up to 90 days; second and subsequent violations are misdemeanors punishable by fines of up to \$1,000 and imprisonment for up to one year.) Mortuary science licensees who owned or operated funeral homes also would be required to train their employees according to rules promulgated by the Department of Licensing and Regulation, in consultation with the Department of Public Health.

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House Bill 4137 would amend the water resources act to establish civil and criminal penalties for the unlawful discharge of infectious medical wastes into state waters, and would increase the act's existing penalties for violations.

More specifically, the bill would make the discharge, into state waters, of any solid or liquid wastes generated by any facilities regulated by the Public Health Code, the Mental Health Code, the Hazardous Waste Management Act, or the proposed Infectious Medical Waste Regulatory Act prima facie evidence of violation of the water resources act and subject to penalties prescribed by the act.

Civil fines. Presently, the act allows courts to impose civil fines of up to \$10,000 a day for each day of a violation of the act. The bill would make mandatory a civil fine of not less than \$2,500 and not more than \$25,000 for each day of violation. The bill also would mandate the awarding of reasonable attorney fees and costs to the Department of Licensing and Regulation if a violation were found.

Criminal penalties. Presently, violation of the act's provisions constitutes a misdemeanor, punishable by a mandatory fine of not less than \$2,500 and not more than \$25,000 for each violation. In addition, the court may impose an additional fine of up to \$25,000 for each day during which unlawful discharge occurs. If the conviction is a for violation committed after a first violation, the court may impose a fine of up to \$50,000 for each day of the violation.

The bill would make violations of the act's provisions felonies rather than misdemeanors; would mandate a minimum fine of not less than \$25,000 a day for each day of a second or subsequent violation (while retaining the upper limit of \$50,000 a day); and would allow the court to sentence convicted violators to up to two years' imprisonment or probation.

If the court found that the actions of a civil defendant posed "a substantial endangerment to public health, safety, or welfare," the court would be required to impose a fine of not less than \$1,000,000 and not more than \$5,000,000 in addition to any other civil penalties.

If the court found that the actions of a criminal defendant posed a substantial endangerment to public health, safety, or welfare," the court would be required to impose a fine of \$1,000,000 and five years' imprisonment, in addition to any other criminal penalties.

Any fines or other awards ordered to be paid under the act would be payable to the state of Michigan and credited to the general fund. Such fines and awards would constitute liens on any property owned by the defendant and would have priority over all other liens and encumbrances except those recorded prior to the date of judgment. Finally, in addition to any other method of collection, if the state owed the defendant any money (such as an income tax return), any fine or award ordered paid could be taken out of this money owed the defendant.