



**House
Legislative
Analysis
Section**

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REGULATE MEDICAL WASTE DISPOSAL

House Bill 4136 (Substitute H-2)

Sponsor: Rep. Teola P. Hunter

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House Bill 4137 (Substitute H-5)

Sponsor: Rep. James A. Kosteva

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House Bills 4140-4142 with committee amendments

Sponsor: Rep. Michael J. Bennane

Senate Bill 69 (Substitute H-3)

Senate Bill 73 (Substitute H-1)

Sponsor: Sen. Vernon Ehlers

Senate Bill 71 (Substitute H-1)

Sponsor: Sen. John Schwarz

House Committee: Public Health

Senate Committee: Health Policy

Senate Bill 74 (Substitute H-2)

Sponsor: Sen. Connie Binsfeld

House Committee: Conservation, Recreation, and
Environment

Senate Committee: Health Policy

First Analysis (12-13-89)

THE APPARENT PROBLEM:

The issue of storing, treating, and disposing of medical waste became a state and national issue last year because of incidents in Michigan and in other northeastern states where medical waste washed up on beaches. In Oceana and Mason counties, hypodermic syringes and other medical wastes washed up on the Lake Michigan shoreline and resulted in the temporary closing of some beaches. Used hypodermic needles were discovered on Lake Erie beaches in Cleveland, beaches in New York and New Jersey were closed due to medical debris (including syringes that contained HIV-infected blood), and in Indiana children were reported to have been found playing with HIV-contaminated waste from an alley dumpster.

While Michigan already has laws regulating solid and hazardous wastes, medical waste has been governed by a set of guidelines, based on the recommendations of the federal Centers for Disease Control and the National Institute for Health, established by the Department of Public Health (DPH). These guidelines, however, only apply to health facilities and laboratories, and compliance is voluntary at best. There are no guidelines which regulate medical waste generated in physicians' or dentists' offices, or other facilities such as funeral homes or psychiatric institutions, nor do the guidelines address the issue of transporting medical wastes, staff training, or other areas specifically recommended by the federal Environmental Protection Agency in its "Guidelines of Infectious Waste Management."

In April of this year, the DPH filed with the secretary of state emergency rules governing the management of medical waste. The rules were extended in October pending completion of work on the legislation proposed in the present package of bills.

THE CONTENT OF THE BILLS:

The bills would regulate the transportation and disposal of medical wastes in the state, amending the Public Health Code and other relevant laws dealing with health facilities and professionals that would be affected by the health code amendments. The main bills in the package, House Bill 4136 and Senate Bill 69, would add a new "Medical waste" part to the code to regulate the transportation and disposal of medical waste.

The other bills in the package would make the necessary changes in other parts of the health code and in other laws to bring them into compliance with the main bills. House Bill 4137 would amend the water resources commission act; House Bills 4140 and 4141 would amend the Public Health Code; House Bill 4142 would amend the Occupational Code; Senate Bill 71 would amend the Mental Health Code; Senate Bill 73 would amend the Solid Waste Management Act; and Senate Bill 74 would amend the Air Pollution Act.

House Bill 4136 would create the Medical Waste Regulatory Act, which would require that private practice offices producing medical waste (defined in Senate Bill 69) register with the Department of Public Health and have written medical waste management plans containing certain specified information on medical waste generated, stored, decontaminated, or incinerated on site or transported to another site. When these offices transported medical wastes off site, they would be required to package the waste in specified ways. Upon request by the DPH and under certain other circumstances they would have to make their plans available for inspection.

The Departments of Public Health and Natural Resources would be required to investigate cases of suspected

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H.B. 4136, et al (12-13-89)

violations of the bill and to undertake certain response activities.

The bill would create a five-member interdepartmental medical waste management advisory council (representing the Departments of Public Health, Natural Resources, State Police, Commerce, and the attorney general) in the DPH to collect data on medical waste reports and investigations carried out under the bill and to report annually on medical waste management under the bill.

The bill also would create a medical waste emergency response fund in the state treasury to receive money collected for registration fees and administrative fines under the bill, capping at 80 percent the amount of the fund that the DPH could use for implementing the bill. The balance would be used by the DNR for response activities necessitated by the release of medical waste into the environment.

Registration fees would be \$50 for private practice offices with fewer than four licensed health professionals, and \$20 for each professional (up to a maximum fee of \$80) for offices with four or more licensees. Administrative fines of up to \$2,500 per violation (and up to \$1,000 for each day the violation continued) could be levied for violations of the bill. Fines for failing to register with the DPH or to have a medical waste management plan available for inspection as required would be \$500.

Senate Bill 69 (MCL 333.13803 et al.) would add sections to the new "Medical Waste" part of the Public Health Code (created by House Bill 4136) which would define the terms used in this new part, and set registration fees and certain requirements for the handling of medical wastes stored, decontaminated, or disposed of on site. The bill also would set facility registration fees of between \$75 and \$150, depending on the size of the facility.

House Bill 4137 (MCL 323.2 et al.) would amend the water resources commission act to make unauthorized discharge of any medical waste into state waters prima facie evidence of a violation of the act and would subject the violator to the act's penalties. The bill also would increase certain of the civil fines for violations of the act, change intentional violations from misdemeanors to felonies, add minimum fines and prison sentences, and add substantial new mandatory minimum and maximum fines for defendants found to be civilly or criminally liable for substantial endangerment of the public health, safety, or welfare. The bill also would rewrite sections of the act pertaining to action that the DNR may take against suspected polluters and recourse available to those affected by a departmental order of abatement or permit action, as well as new provisions for those seeking new or increased use of state waters for sewage or waste disposal.

The following bills would amend the following acts to require compliance with the proposed new act:

- House Bill 4140 (MCL 333.16269) and House Bill 4141 (MCL 333.20185) would amend the Public Health Code regarding health facilities (including private practice offices or clinical laboratories owned by licensed health professionals) and clinical laboratories handling medical waste;
- House Bill 4142 (MCL 339.1810) would amend the Occupational Code regarding funeral directors; and

- Senate Bill 71 (MCL 330.1147) would amend the Mental Health Code regarding hospitals operated or licensed by the Department of Mental Health.

Senate Bill 73 (MCL 299.413b) would amend the Solid Waste Management Act to prohibit the knowing disposal in landfills of medical waste unless it had been decontaminated or packaged as required.

Senate Bill 74 (MCL 336.35a) would amend the Air Pollution Control Act to make certain changes in the act's provisions governing incinerators which burn medical waste by requiring a five-year renewable operating permit from the Department of Natural Resources and establish provisions for the Air Quality Division of the DNR to review the operation of the incinerators. The bill also would allow an incinerator to accept wastes generated off-site.

FISCAL IMPLICATIONS:

According to staff to the House Public Health Committee, registration fees would generate nearly \$800,000 in revenues every three years. (12-7-89) A May, 1989 cost estimate by the DPH estimated a total cost of nearly \$1 million if each medical waste generator were visited every year, and nearly \$600,000 if each site were visited every two years. The DPH would be allowed to use 80 percent of revenues generated for administrative costs; the remaining 20 percent would have to be used for environmental cleanup.

ARGUMENTS:

For:

The discovery of medical wastes on Michigan beaches — and the increased public awareness of the consequences of HIV infection — pointed up the lack of state regulation of the disposal of potentially lethal medical wastes and the need for state regulation of those who dispose of such wastes. The bills would place into law regulations for the handling, containment, and disposal of medical waste, providing a reasoned response to the medical waste problem.

Against:

Reportedly, the medical waste that washed up on Michigan shorelines could not be traced back to health professionals or facilities, and in fact most of the hypodermic needles found were apparently improperly disposed of by individuals (such as diabetic patients or illegal drug users) who would be unaffected by the bills. The bills would not get at the perceived problem — which itself was blown out of proportion because of the public's uninformed reaction to the fear of AIDS.

Response: Whether or not the incidents in Michigan last year would have been prevented by legislation such as this, they certainly did point out a gap in the state's regulation of an important — and potentially dangerous — type of waste. The bills would add an important piece to comprehensive efforts to deal with waste disposal problems generally.

POSITIONS:

The Department of Public Health supports the bills. (12-11-89)