

Act No. 18
Public Acts of 1990
Approved by the Governor
February 28, 1990
Filed with the Secretary of State
March 1, 1990

**STATE OF MICHIGAN
85TH LEGISLATURE
REGULAR SESSION OF 1990**

Introduced by Reps. Hunter, Murphy, DeBeaussaert, Power, Giese, DeMars, Perry Bullard, Varga, Bennane and Kosteva

ENROLLED HOUSE BILL No. 4136

AN ACT to amend Act No. 368 of the Public Acts of 1978, entitled as amended "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for penalties and remedies; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," as amended, being sections 333.1101 to 333.25211 of the Michigan Compiled Laws, by adding part 138.

The People of the State of Michigan enact:

Section 1. Act No. 368 of the Public Acts of 1978, as amended, being sections 333.1101 to 333.25211 of the Michigan Compiled Laws, is amended by adding part 138 to read as follows:

PART 138. MEDICAL WASTE

Sec. 13801. This part shall be known and may be cited as the "medical waste regulatory act".

Sec. 13813. (1) Each producing facility shall register with the department on a form prescribed by the department. A producing facility shall have a written medical waste management plan that contains information required in section 13817 on file on the premises within 90 days after registration.

(2) A producing facility shall submit the following registration fee with the registration form:

(a) For a producing facility that is a private practice office with fewer than 4 licensees under article 15 who are physicians, dentists, podiatrists, certified nurse practitioners, certified nurse midwives, or veterinarians employed by, under contract to, or working at the producing facility, a registration fee of \$50.00.

(b) For a producing facility that is a private practice office with 4 or more licensees under article 15 who are physicians, dentists, podiatrists, certified nurse practitioners, certified nurse midwives, or veterinarians employed by, under contract to, or working at the producing facility, a registration fee of \$20.00 for each licensee, up to a maximum total registration fee of \$80.00.

(3) Upon receipt of a complete registration form and registration fee under this section or section 13815, the department shall issue a certificate of registration to the producing facility. A certificate of registration issued under this section is valid for 3 years from its date of issuance. The department shall investigate each complaint received and may inspect a producing facility registered under this section pursuant to the receipt of a complaint.

(4) Registration fees collected pursuant to this section and section 13815 shall be forwarded to the state treasury and deposited pursuant to section 13829.

Sec. 13817. (1) The medical waste management plan required in section 13813 shall contain information relating to the handling of all medical waste generated, stored, decontaminated, or incinerated at each producing facility or transported from the producing facility for handling by another facility for storage, decontamination, incineration, or for disposal in a sanitary landfill, cemetery, or other disposal site. A professional corporation may identify and prepare a common medical waste management plan for all producing facilities owned and operated by the corporation. The medical waste management plan shall describe each of the following, to the extent the information is applicable to the producing facility:

(a) The types of medical waste handled.

(b) The segregation, packaging, labeling, and collection procedures used.

(c) The use and methods of on-site or off-site storage.

(d) The use and methods of on-site or off-site decontamination.

(e) The use of on-site or off-site incineration.

(f) The corporate or other legally recognized business name of solid waste haulers who transport medical waste for the producing facility.

(g) The use of sanitary landfills, cemeteries, and other disposal sites.

(h) The measures to minimize exposure of the facility's employees to infectious agents throughout the process of handling and disposing of the medical waste, including, where applicable, the use of protocols, procedures and training, personal protective devices and clothing, physical containment or isolation devices or systems, and prevention or control of aerosols.

(i) The name of the individual responsible for the management of the medical waste.

(2) A medical waste management plan shall comply with the requirements of this act.

(3) A producing facility shall update a medical waste management plan each time there is a change in either of the following, within 30 days after the change occurs:

(a) A person or site named in the plan.

(b) The types of medical waste handled or the methods of handling medical waste at the facility.

(4) Upon request, a producing facility shall make its medical waste management plan available to the department pursuant to a routine or unannounced inspection or the investigation of a complaint.

(5) Upon receipt of 24 hours' advance notice, a producing facility shall make its medical waste management plan available to an employee of the producing facility for inspection on the premises or provide a copy of the medical waste management plan to the employee.

(6) A producing facility shall comply with its medical waste management plan.

Sec. 13819. (1) Upon review of a medical waste management plan under section 13817(4), the department may require a producing facility to modify the medical waste management plan at any time the department determines the plan is not adequate to protect the public health or is inconsistent with state or federal law. Upon determining that the plan is inadequate or inconsistent under this section, the department shall notify the producing facility in writing of its determination and the specific modifications necessary for compliance. The producing facility shall modify the plan within 10 days after receipt of the notice from the department.

(2) The department may issue a warning to a producing facility that fails to modify a plan within the 10-day period.

Sec. 13821. A producing facility that transports medical waste off the premises of the producing facility shall package the medical waste in the following manner:

(a) Sharps that are not ground or incinerated as described in section 13811(d) shall be contained for disposal in individual leakproof, rigid, puncture-resistant containers that are secured to preclude loss of the contents. In addition, a container used to store or transport a number of individual sharps containers shall be leakproof. These containers shall be conspicuously labeled with the word "sharps". Sharps that are contained pursuant to this subdivision may be disposed of as solid waste pursuant to the solid waste management act, Act No. 641 of the Public Acts of 1978, being sections 299.401 to 299.437 of the Michigan Compiled Laws. However, sharps shall not be compacted or handled during transport in a manner that will result in breakage of a sharps container.

(b) Medical waste other than sharps shall be contained in bags other than body pouches or other containers that are impervious to moisture and have a strength sufficient to resist ripping, tearing, breaking, or bursting under normal conditions of usage or handling. The bags or containers shall be secured so as to prevent leakage during storage, handling, or transport.

Sec. 13823. (1) If suspected medical waste is discovered on any land or water in the state and reported to the department of natural resources, the department of public health, a local health department, the department of state police, or any other state or local governmental agency, the agency or department receiving the report shall promptly investigate to confirm the existence of medical waste. If the existence of medical waste is confirmed by a department or agency other than the department of natural resources, a report shall be transmitted immediately to the department of natural resources. The department of natural resources may if appropriate take measures to contain the medical waste, to close off the area, to remove the medical waste from the environment, and to do all things necessary to protect the public health, safety, and welfare and the environment. The department of natural resources may if appropriate conduct an investigation to determine the source of the medical waste.

(2) The department of natural resources may consult with the department of public health, the appropriate local health department, the department of state police, and the department of attorney general on the actions taken by the department of natural resources under this section.

(3) After the department of natural resources confirms the existence of medical waste under this section, the department of natural resources shall inform the legislature, the governor, the advisory council, and the public on the results of any investigation conducted within 30 days after the investigation is completed.

Sec. 13825. (1) If there is a suspected violation of this part on the premises of a health facility or agency or on the premises of an incinerator owned and operated by a health facility or agency, the department of public health shall promptly conduct an investigation to confirm the violation. If the suspected violation is reported to the department of natural resources, a local health department, the department of state police, or any other state or local governmental agency, the report immediately shall be transmitted to the department of public health. If the investigation confirms the existence of a violation of this part, the department of public health may if appropriate take measures to correct the violation and to do all things necessary to protect the public health, safety, and welfare and the environment.

(2) The department of public health may consult with the department of natural resources, the appropriate local health department, the department of state police, and the department of attorney general on the actions taken by the department of public health under this section. If the suspected violation of this part is at an incinerator owned and operated by a health facility or agency, the department of public health immediately shall notify the department of natural resources and request the assistance of the department of natural resources in conducting the investigation.

(3) If the department of public health confirms the existence of a violation under this section, the department of public health shall inform the legislature, the governor, the advisory council, and the public on the results of the investigation conducted within 30 days after the investigation is completed.

Sec. 13827. (1) The interdepartmental medical waste advisory council is created in the department. The council shall consist of the following members appointed as follows:

(a) One individual appointed by the director of public health representing the department.

(b) One individual appointed by the director of the department of natural resources representing the department of natural resources.

(c) One individual appointed by the director of the department of state police representing the department of state police.

(d) One individual appointed by the director of commerce representing the department of commerce, who has knowledge of tourism in the state.

- (e) One individual appointed by the attorney general representing the department of the attorney general.
- (2) The representative of the department shall serve as chairperson.
- (3) The advisory council shall do all of the following:
 - (a) Collect data pertaining to medical waste reports and investigations under this part.
 - (b) Annually report to the governor, the standing committees in the senate and house of representatives with jurisdiction over public health matters, the department of public health, and the department of natural resources on all of the following:
 - (i) The number of medical waste reports received and investigations conducted under this part.
 - (ii) The implementation and effectiveness of this part.
 - (iii) Changes in the overall regulatory scheme pertaining to medical waste, including, but not limited to, the enactment of pertinent federal law.
 - (iv) Recommendations, if any, that the advisory council has for changes to this part or any other state statute or rule that pertains to medical waste.
 - (v) Coordinate reports and investigations under this part between the department of public health and the department of natural resources.

Sec. 13829. (1) The medical waste emergency response fund is created in the state treasury.

(2) The state treasurer shall deposit in the fund all money received pursuant to this act and all money received by the fund as otherwise provided by law.

(3) The state treasurer shall direct the investment of the fund. Interest and earnings of the fund shall be credited to the fund. Money in the fund at the close of the fiscal year shall remain in the fund and shall not revert to the general fund.

(4) Not more than 80% of the total amount in the fund shall be used by the department of public health for administrative expenses related to the implementation of this part, and the balance may be used by the department of natural resources for response activities necessitated by the release of medical waste into the environment.

Sec. 13830. (1) The department shall promulgate rules to prescribe training standards for both medical and nonmedical personnel who handle medical waste in producing facilities.

(2) Each producing facility shall train its personnel who handle medical waste pursuant to the rules promulgated under subsection (1).

Sec. 13831. (1) Except as provided in subsection (2), a person who violates this part or a rule promulgated under this part is subject to an administrative fine of not more than \$2,500.00 for each violation and an additional fine of not more than \$1,000.00 for each day during which the violation continues. For a first offense, the department of public health or the department of natural resources may postpone the levying of a fine under this subsection for not more than 45 days or until the violation is corrected, whichever occurs first.

(2) A person who fails to register with the department or have a medical waste management plan available for inspection in compliance with sections 13813 and 13817 is subject to an administrative fine of \$500.00.

(3) A person who violates this act may be enjoined by a court of competent jurisdiction from continuing the violation.

Section 2. This amendatory act shall take effect upon the expiration of 90 days after the date of its enactment.

Section 3. This amendatory act shall not take effect unless Senate Bill No. 69 of the 85th Legislature is enacted into law.

This act is ordered to take immediate effect.

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Clerk of the House of Representatives.

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Secretary of the Senate.

Approved.....

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Governor.

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