

SENATE BILL 133

Introduced by Nathe

1/17	Introduced
1/18	Referred to Natural Resources
1/18	First Reading
2/01	Hearing
2/14	Committee Report--Bill Not Passed
2/14	Adverse Committee Report Adopted

1 *Senate* BILL NO. 133
 2 INTRODUCED BY WATH

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT EXEMPTING UNDERGROUND
 5 STORAGE TANKS THAT ARE 1,100 GALLONS OR LESS IN CAPACITY
 6 FROM THE MONTANA HAZARDOUS WASTE AND UNDERGROUND STORAGE
 7 TANK ACT; AND AMENDING SECTIONS 75-10-403, 75-10-405, AND
 8 75-11-217, MCA."
 9

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 **Section 1.** Section 75-10-403, MCA, is amended to read:

12 "75-10-403. Definitions. Unless the context requires
 13 otherwise, in this part the following definitions apply:

14 (1) "Board" means the board of health and environmental
 15 sciences provided for in 2-15-2104.

16 (2) "Department" means the department of health and
 17 environmental sciences provided for in Title 2, chapter 15,
 18 part 21.

19 (3) "Dispose" or "disposal" means the discharge,
 20 injection, deposit, dumping, spilling, leaking, or placing
 21 of any regulated substance or hazardous waste into or onto
 22 the land or water so that the regulated substance, hazardous
 23 waste, or any constituent of the regulated substance or
 24 hazardous waste may enter the environment or be emitted into
 25 the air or discharged into any waters, including ground

1 water.

2 (4) "Facility" or "hazardous waste management facility"
 3 means all contiguous land and structures, other
 4 appurtenances, and improvements on the land used for
 5 treating, storing, or disposing of hazardous waste. A
 6 facility may consist of several treatment, storage, or
 7 disposal operational units.

8 (5) "Generation" means the act or process of producing
 9 waste material.

10 (6) "Generator" means any person, by site, whose act or
 11 process produces hazardous waste or whose act first causes a
 12 hazardous waste to become subject to regulation under this
 13 part.

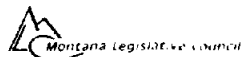
14 (7) (a) "Hazardous waste" means a waste or combination
 15 of wastes that, because of its quantity, concentration, or
 16 physical, chemical, or infectious characteristics, may:

17 (i) cause or significantly contribute to an increase in
 18 mortality or an increase in serious irreversible or
 19 incapacitating reversible illness; or

20 (ii) pose a substantial present or potential hazard to
 21 human health or the environment when improperly treated,
 22 stored, transported, or disposed of or otherwise managed.

23 (b) Hazardous wastes do not include those substances
 24 governed by Title 82, chapter 4, part 2.

25 (8) "Hazardous waste management" means the management



1 of the collection, source separation, storage,
2 transportation, processing, treatment, recovery, and
3 disposal of hazardous wastes.

4 (9) "Hazardous waste transfer facility" means any land,
5 structure, or improvement, including loading docks, parking
6 areas, holding sites, and other similar areas, used for the
7 transfer and temporary storage of hazardous wastes and where
8 shipments of hazardous waste are temporarily held for a
9 period of 10 days or less during the normal course of
10 transportation up to but not including the point of ultimate
11 treatment, storage, or disposal.

12 (10) "Manifest" means the shipping document originated
13 and signed by the generator and which is used to identify
14 the hazardous waste, its quantity, origin, and destination
15 during its transportation.

16 (11) "Person" means the United States, an individual,
17 firm, trust, estate, partnership, company, association,
18 corporation, city, town, local governmental entity, or any
19 other governmental or private entity, whether organized for
20 profit or not.

21 (12) "Regulated substance":

22 (a) means:

23 (i) a hazardous substance as defined in 75-10-002; or

24 (ii) petroleum, including crude oil or any fraction
25 thereof, which is liquid at standard conditions of

1 temperature and pressure (60 degrees F and 14.7 pounds per
2 square inch absolute);

3 (b) does not include a substance regulated as a
4 hazardous waste under this part.

5 (13) "Storage" means the actual or intended containment
6 of regulated substances, hazardous wastes, or both, either
7 on a temporary basis or for a period of years.

8 (14) "Transportation" means the movement of hazardous
9 wastes from the point of generation to any intermediate
10 points and finally to the point of ultimate storage or
11 disposal.

12 (15) "Transporter" means a person engaged in the offsite
13 transportation of hazardous waste by air, rail, highway, or
14 water.

15 (16) "Treatment" means a method, technique, or process,
16 including neutralization, designed to change the physical,
17 chemical, or biological character or composition of any
18 hazardous waste so as to neutralize the waste or so as to
19 render it nonhazardous, safer for transportation, amenable
20 for recovery, amenable for storage, or reduced in volume.

21 (17) "Underground storage tank":

22 (a) means, except as provided in subsections (17)(b)(i)
23 through ~~(17)(b)(viii)~~ (17)(b)(ix):

24 (i) any one or combination of tanks used to contain a
25 regulated substance, the volume of which is 10% or more

1 beneath the surface of the ground; and

2 (ii) any underground pipes used to contain or transport

3 a regulated substance and connected to a storage tank,

4 whether the storage tank is entirely above ground, partially

5 above ground, or entirely underground;

6 (b) does not include:

7 (i) a septic tank;

8 (ii) a pipeline facility (including gathering lines)

9 regulated under:

10 (A) the Natural Gas Pipeline Safety Act of 1968 (49

11 U.S.C. 1671, et seq.);

12 (B) the Hazardous Liquid Pipeline Safety Act of 1979

13 (49 U.S.C. 2001, et seq.); or

14 (C) state law comparable to the provisions of law

15 referred to in subsection (17)(b)(ii)(A) or (17)(b)(ii)(B),

16 if the facility is intrastate;

17 (iii) a surface impoundment, pit, pond, or lagoon;

18 (iv) a storm water or wastewater collection system;

19 (v) a flow-through process tank;

20 (vi) a liquid trap or associated gathering lines

21 directly related to oil or gas production and gathering

22 operations;

23 (vii) a storage tank situated in an underground area,

24 such as a basement, cellar, mine, draft, shaft, or tunnel,

25 if the storage tank is situated upon or above the surface of

1 the floor; or

2 (viii) any pipe connected to a tank described in

3 subsections (17)(b)(i) through (17)(b)(vi); or

4 (ix) any tank that would otherwise be defined as an

5 underground storage tank under subsection (17)(a) that is

6 1,100 gallons or less in capacity."

7 **Section 2.** Section 75-10-405, MCA, is amended to read:

8 "75-10-405. Administrative rules. (1) The department

9 may adopt, amend, or repeal rules governing hazardous waste,

10 including but not limited to the following:

11 (a) identification and classification of those

12 hazardous wastes subject to regulation and those that are

13 not;

14 (b) requirements for the proper treatment, storage,

15 transportation, and disposal of hazardous waste;

16 (c) requirements for siting, design, operation,

17 maintenance, monitoring, inspection, closure, postclosure,

18 and reclamation of hazardous waste management facilities;

19 (d) requirements for the issuance, denial, renewal,

20 modification, and revocation of permits for hazardous waste

21 management facilities;

22 (e) requirements for corrective action within and

23 outside of facility boundaries and for financial assurance

24 of that corrective action;

25 (f) requirements for manifests and the manifest system

1 for tracking hazardous waste and for reporting and
2 recordkeeping by generators, transporters, and owners and
3 operators of hazardous waste management facilities;

4 (g) requirements for training of facility personnel and
5 for financial assurance of facility owners and operators and
6 for liability of guarantors providing financial assurance;

7 (h) requirements for registration of generators and
8 transporters;

9 (i) a schedule of fees for hazardous waste management
10 facility permits and registration of hazardous waste
11 generators;

12 (j) a schedule of fees to defray a portion of the costs
13 of establishing, operating, and maintaining any state
14 hazardous waste management facility authorized by 75-10-412;

15 (k) requirements for availability to the public of
16 information obtained by the department regarding facilities
17 and sites used for the treatment, storage, and disposal of
18 hazardous wastes; and

19 (l) other rules which are necessary to obtain and
20 maintain authorization under the federal program.

21 (2) The department may not adopt rules under this part
22 that are more restrictive than those promulgated by the
23 federal government under the Resource Conservation and
24 Recovery Act of 1976, as amended, except that the
25 department:

1 (a) may require the registration of transporters not
2 otherwise required to register with the state of Montana
3 pursuant to the federal Resource Conservation and Recovery
4 Act of 1976, as amended;

5 (b) may require generators and facilities to report on
6 an annual rather than on a biennial basis;

7 (c) may adopt requirements for the prevention and
8 correction of leakage from underground storage tanks,
9 including:

10 (i) reporting by owners and operators;

11 (ii) financial responsibility;

12 (iii) release detection, prevention, and corrective
13 action;

14 (iv) standards for design, construction, installation,
15 and closure;

16 (v) development of a schedule of fees, not to exceed
17 \$50 for a tank over 1,100 gallons and not to exceed \$20 for
18 a tank 1,100 gallons or less, per tank, for tank
19 notification and permits to defray state and local costs of
20 implementing an underground storage tank program; and

21 (vi) delegation of authority and funds to local agents
22 for inspections and implementation. The delegation of
23 authority to local agents must complement and may not
24 duplicate existing authority for implementation of rules
25 adopted by the state fire marshal that relate to underground

1 storage tanks.

2 (d) may adopt regulatory requirements for hazardous
3 waste transfer facilities; and

4 (e) shall require the owner or manager of any proposed
5 commercial facility for the storage, collection, or transfer
6 of hazardous waste to conduct a public hearing, as provided
7 for in 75-10-441."

8 **Section 3.** Section 75-11-217, MCA, is amended to read:

9 "75-11-217. **Exemption.** The owner or operator of a farm
10 ~~or residential tank with a capacity of 1,100 gallons or less~~
11 ~~that is used for storing motor fuel for noncommercial~~
12 ~~purposes~~ or a tank used for storing heating oil for
13 consumptive use on the premises where stored shall obtain a
14 permit for the installation or closure of the tank but is
15 not required to obtain the services of a licensed
16 installer."

-End-