

MINUTES

MONTANA SENATE
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By Thomas F. Keating, on April 10, 1989, at 1:00 p.m., Room 405, in the State Capitol.

ROLL CALL

Members Present: Senators: Thomas Keating, Loren Jenkins, Loren Stimatz, Pete Story, Bill Yellowtail, Cecil Weeding, Dorothy Eck, and Jerry Noble.

Members Excused: Senator Larry Tveit

Members Absent: Senators: Fred Van Valkenburg, Darryl Meyer, Elmer Severson.

Staff Present: Bob Thompson and Helen McDonald

EXECUTIVE ACTION

HB 757

Senator Weeding moved HB 757 be concurred in. Motion carried.

HB 752

Senator Story said HB 676 and HB 752 were inspired by a problem in Livingston.

Senator Story moved amendments to HB 752 that provided for local approval of disposal of waste generated from outside the region and established a moratorium on out-of-state waste.

Bob Thompson explained the amendments. Mr. Thompson added that federal commerce clause concerns exist with each amendment, but that the significant commerce clause problem would occur with a permanent ban on transporting waste into Montana, which Senator Story is amending.

Senator Jenkins asked if amendments (Exhibits #1 and #2) would coordinate.

Bob Thompson said the amendments would coordinate.

Senator Story moved amendments #1 and #2. Motion carried on #1.

Senator Keating asked for discussion on amendment #2.

Senator Noble asked if it would be illegal if someone brought a load of junk tires into Montana and dumped them?

Senator Story said it might be illegal if the tires were dumped in a landfill.

Senator Noble said getting rid of tires is a big problem. It's getting to be a big business because tires are difficult to dispose of.

Senator Story said there are ways of getting around this law. Someone can buy some cheap property somewhere and put up a sign "used tires for sale".

Motion carried on amendment #2.

Senator Keating asked about the fee of \$1.00 a ton on solid waste and wondered if it shouldn't be higher.

Senator Story said there is some interregional business going on. The state cannot charge a higher fee without interfering with present practices.

Senator Keating asked if the department will get a FTE for this bill.

Senator Story said no, but the department would get an FTE with the infectious waste bill, which has not passed the committee yet.

Senator Story made a motion that HB 752 as amended be concurred in. Senator Tveit and Senator Noble voted no. Motion carried.

HB 676

Bob Thompson said there are two sets of amendments. Representative Raney's amendment (Exhibit #3A) and Montana Dental Association's amendment. (Exhibit #3B)

Senator Keating asked Bonnie Tippy, Montana Funeral Directors, about her objection to mortuaries being included in this act. Mortuaries will be exempt from this bill until 1991. Senator Keating asked her for some research with regard to the controls on morticians.

Bonnie Tippy said funeral homes are now regulated by at least three entities: the State Board of Morticians, OSHA, and the Federal Trade Commission. There is not much infectious waste that comes from funeral homes now. Everything is almost sterile before it leaves the funeral home. The amendment (Exhibit #3D) would take care of a significant problem. On page 11, there was a House amendment offered by the health department. The Department of Health and Environmental Sciences was concerned that someone would dump hazardous or infectious waste in the sewage system. This amendment also included funeral directors, and the mortuaries, which would require holding tanks in order to do embalming. That is basically what the morticians want amended. Mortuaries generate very little infectious waste.

Senator Keating asked if HB 752, which prohibits outside waste, includes infectious waste?

The intent of HB 676 would be to start establishing rules and regulations for the handling of infectious waste instate. Senator Keating commented on Senator Story's remark that "if we passed HB 752, we may not need HB 676". He wondered about that.

Senator Story remarked that the people of Livingston were concerned that HB 752 would not prevent the importation of infectious waste. Senator Story said the amendment will prevent new waste from coming into the state. HB 752 will significantly reduce the amount of plastic that is being burned in Livingston's incinerator and that was the resident's concern. The Montana legislature will probably be passing an infectious waste bill two years from now because probably the Environmental Protection Agency and Congress will require it. If the legislature doesn't pass this bill this session, then they will have two years to do it in the cheapest and most practical way, which will be in accordance with Congress.

Senator Keating said it seemed to him the infectious waste legislation was drafted primarily with a local issue in mind and was trying to involve other parts of the state. Senator Keating said the testimony of the medical people was that, if infectious waste was managed by state rules and regulations, it would increase the cost of hospitalization, particularly in the smaller hospitals. It seemed to him that the bill was focused on doctors, dentists, and medical people who are the generators of infectious waste because they are taking care of sick people. He commented that the medical people are healing the sick and generating a waste product and disposing of it in a way that is not causing more sick people. Senator Keating doesn't see the need for starting a statewide regulatory body over something that isn't causing a problem.

Senator Noble agreed with Senator Keating's comments. Most of the hospitals in the state are losing money and this legislation would charge the hospitals \$2,000 for 5 tons of infectious waste. Senator Noble felt this was excessive regulation.

Senator Yellowtail asked to hear from Chris Kaufman.

Chris Kaufman said no one was aware that this bill, when first drafted, would impact funeral directors. The drafters did not know exactly what kinds of waste were generated by morticians and it was decided to exempt them until more was known about the impact of the industry. She stated that only five or six hospitals in Montana would be charged the \$2,000 fee and the charge for the smaller hospitals would be \$250.

Senator Jenkins asked about the impact of this fee on smaller hospitals?

Chris Kaufman said she contacted Jim Ahern in regard to this situation. With Representative Raney's amendment, the hospitals can continue their current practice of disposing waste in landfills.

Senator Jenkins asked about the disposal of animal carcasses?

Ms. Kaufman said that the professional would know whether or not the carcass was infected with a disease that would be harmful to a human being.

Senator Yellowtail moved Representative Raney's amendment. (Exhibit 3A) Motion carried.


Senator Noble moved amendment proposed by the Montana Dental Association. (Exhibit 3B) Motion carried.

Senator Noble moved amendment Senator Keating's suggestion to exempt morticians permanently. (Exhibit 3C) Motion carried. Senator Yellowtail voted no.

Senator Noble moved that HB 676 as amended not be concurred in. Motion carried. Roll call vote. (Exhibit #4)

ADJOURNMENT

Adjournment At: 1:00 p.m.


Thomas F. Keating, Chairman

ROLL CALL

NATURAL RESOURCES COMMITTEE

50~~st~~ LEGISLATIVE SESSION -- 1989

Date 4-10-89

NAME	PRESENT	ABSENT	EXCUSED
Chairman Tom Keating	✓		
Vice-Chairman Larry Tveit	<i>Attn</i>		✓
Senator Fred VanValkenburg		✓	
Senator Loren Jenkins	✓		
Senator Darryl Meyer		✓	
Senator Lawrence Stimatz	✓		
Senator Pete Story	✓		
Senator Bill Yellowtail	✓		
Senator Elmer Severson		✓	
Senator Cecil Weeding	✓		
Senator Dorothy Eck	✓		
Senator Jerry Noble	✓		

Each day attach to minutes.

SENATE STANDING COMMITTEE REPORT

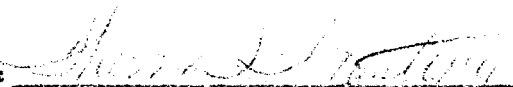
April 11, 1989

MR. PRESIDENT:

We, your committee on Natural Resources, having had under consideration HB 757 (third reading copy -- blue), respectfully report that HB 757 be concurred in.

Sponsor: Giacometto (Weeding)

BE CONCURRED IN

Signed: 

Thomas F. Keating, Chairman

SENATE STANDING COMMITTEE REPORT

April 11, 1989

MR. PRESIDENT:

We, your committee on Natural Resources, having had under consideration HB 752 (third reading copy -- blue), respectfully report that HB 752 be amended and as so amended be concurred in:

Sponsor: Raney (Story)

1. Title, line 12.

Following: "FEE;"

Insert: "REQUIRING LOCAL APPROVAL FOR INCINERATION OR DISPOSAL OF SOLID WASTE GENERATED OUTSIDE THE REGION; ESTABLISHING A MORATORIUM ON TRANSPORT OF SOLID WASTE INTO MONTANA;"

2. Page 9.

Following: line 3

Insert: "NEW SECTION. Section 6. Local approval required for incineration or disposal of solid waste generated outside the region. (1) An owner or operator of a solid waste management facility who proposes to incinerate or dispose of solid waste generated outside the solid waste disposal region in which the facility is located shall, before receiving the waste, apply for and receive approval from the local government or governments having jurisdiction over the facility.

(2) The local government or governments may approve the incineration or disposal of solid waste from outside the region, if the local government or governments find that incineration or disposal of the solid waste is consistent with local and state solid waste management goals and results in equivalent or improved protection of public health, safety, welfare, and the environment within the jurisdiction.

NEW SECTION. Section 7. Moratorium on certain interstate transport of solid waste(1) The state of Montana recognizes the importance of providing for disposal or incineration of solid waste in a manner that protects Montana's public health, safety, welfare, and environment. Although the state of Montana also recognizes that, under appropriate conditions, the transportation of out-of-state solid waste into Montana may not conflict with this goal, it is imperative that the state undertake a legislative study of solid waste regulation and management, further develop regional and statewide solid waste management goals and plans, and adopt rules implementing [this act] before allowing solid waste importation beyond current levels.

(2) Except as provided in subsection (3), a person may not transport solid waste into Montana until October 1, 1991.

(3) A person who transported solid waste into Montana before [the effective date of this act] may continue to transport solid waste into Montana subject to the limitation that the amount he transports into Montana during any calendar year does not significantly exceed the amount he transported into Montana during calendar year 1988."

Renumber: subsequent sections

3. Page 12, line 22.

Strike: "SECTION"

Insert: "Sections"

Following: "6"

Insert: "through 8"

Strike: "IS"

Insert: "are"

4. Page 12, line 25.

Strike: "SECTION"

Insert: "sections"

Following: "6"

Insert: "through 8"

AND AS AMENDED BE CONCURRED IN

Signed: 

Thomas F. Keating, Chairman

SENATE STANDING COMMITTEE REPORT

page 1 of 2
April 12, 1989

MR. PRESIDENT:

We, your committee on Natural Resources, having had under consideration HE 676 (third reading copy -- blue), respectfully report that HB 676 be amended and as so amended be not concurred in:

Sponsor: Raney (Keating)

1. Page 3.

Following: line 8

Insert: "It is the intent of the legislature that gloves, gowns, and other items routinely used in health care procedures are not considered infectious waste unless, in the judgment of a health care professional, the particular circumstances under which the items were used dictates that they be managed as infectious waste."

2. Page 8.

Following: line 11

Insert: "and contaminated"

3. Page 8, lines 13 through 15

Following: "DISEASES" on line 13

Strike: "; AND" on line 13 through "CONTAMINATED" on line 15

4. Page 8, line 20.

Strike: "sterile"

Insert: "noninfectious"

Following: "."

Insert: "Infectious waste also includes any item that is not normally considered infectious waste but, in the judgment of a health care professional, was used in a particular circumstance that dictates that it be managed as infectious waste."

5. Page 11, line 12.

Following: "STEAM"

Insert: "or chemical"

6. Page 17, line 3.

Strike: "A"

Insert: "Except as provided in subsection (4), a"

7. Page 19.

Following: line 1

Insert: "(4) Until July 1, 1991, a landfill is not subject to the infectious waste management fee for the authorized disposal of not more than 2,000 pounds of infectious waste per generator per year."

8. Page 21, lines 17, 22, and 25.

Strike: "50"

Insert: "100"

10. Page 31, line 17.

Strike: "UNTIL JULY 1, 1991"

11. Page 31.

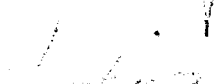
Following: line 17

Insert: " (7) [This act] does not prohibit, before July 1, 1991, the disposal of not more than 2,000 pounds of infectious waste per year in a landfill, with the consent of the landfill operator, by the person generating the waste if the landfill had been disposing of the waste generated by the person prior to January 1, 1989."

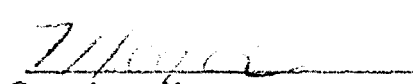


Senator Keating

Senator Tveit




Senator Jenkins



Senator Meyer

Senator Story



Senator Severson

Senator Noble

**MAJORITY REPORT
AND AS AMENDED BE NOT CONCURRED IN**

Signed: 

Thomas F. Keating, Chairman

ADOPT

REJECT

*4/12/89
11:21 p.m.*

SENATE STANDING COMMITTEE REPORT

page 1 of 2
April 12, 1989

MR. PRESIDENT:

We, your committee on Natural Resources, having had under consideration HB 676 (third reading copy -- blue), respectfully report that HB 676 be amended and as so amended be concurred in:

Sponsor: Raney (Eck)

1. Page 3.

Following: line 8

Insert: "It is the intent of the legislature that gloves, gowns, and other items routinely used in health care procedures are not considered infectious waste unless, in the judgment of a health care professional, the particular circumstances under which the items were used dictates that they be managed as infectious waste."

2. Page 8.

Following: line 11

Insert: "and contaminated"

3. Page 8, lines 13 through 15

Following: "DISEASES" on line 13

Strike: "; AND" on line 13 through "CONTAMINATED" on line 15

4. Page 8, line 20.

Strike: "sterile"

Insert: "noninfectious"

Following: "."

Insert: "Infectious waste also includes any item that is not normally considered infectious waste but, in the judgment of a health care professional, was used in a particular circumstance that dictates that it be managed as infectious waste."

5. Page 11, line 12.

Following: "STEAM"

Insert: "or chemical"

6. Page 17, line 3.

Strike: "A"

Insert: "Except as provided in subsection (4), a"

7. Page 19.

Following: line 1

Insert: "(4) Until July 1, 1991, a landfill is not subject to the infectious waste management fee for the authorized disposal of not more than 2,000 pounds of infectious waste per generator per year."

Amendments to House Bill No. 752

Third Reading Copy

Requested by Senator Story

For the Senate Committee on Natural Resources

April 10, 1989

1. Title, line 12.

Following: "FEE;"

Insert: "REQUIRING LOCAL APPROVAL FOR INCINERATION OR DISPOSAL
OF SOLID WASTE GENERATED OUTSIDE THE REGION;

2. Page 9.

Following: line 3

Insert: "NEW SECTION. Section 6. Local approval required for
incineration or disposal of solid waste generated outside
the region. (1) An owner or operator of a solid waste
management system who proposes to incinerate or dispose of
solid waste generated outside the solid waste disposal
region in which the facility is located shall, before
receiving the waste, apply for and receive approval from the
local government or governments having jurisdiction over the
facility.(2) The local government or governments may approve
the incineration or disposal of solid waste from outside the
region if the local government or governments find that
incineration or disposal of the solid waste is consistent
with local and state solid waste management goals and
results in equivalent or improved protection of public
health, safety, welfare, and the environment within the
jurisdiction."

Renumber: subsequent sections

4. Page 12, line 22.

Strike: "SECTION"Insert: "Sections"Following: "6"Insert: "and 7"Strike: "IS"Insert: "are"

5. Page 12, line 25.

Strike: "SECTION"Insert: "sections"Following: "6"Insert: "and 7"

Amendments to House Bill No. 877520 HB 752
Third Reading Copy

Requested by Senator Story
For the Senate Committee on Natural Resources
April 10, 1989

1. Title, line 12.

Following: "FEE;"

Insert: "ESTABLISHING A MORATORIUM ON TRANSPORT OF SOLID WASTE
INTO MONTANA;"

2. Page 9.

Following: line 3

Insert: "NEW SECTION. Section 6. Moratorium on certain interstate transport of solid waste. (1) The state of Montana recognizes the importance of providing for disposal or incineration of solid waste in a manner that protects Montana's public health, safety, welfare, and environment. Although the state of Montana also recognizes that, under appropriate conditions, the transportation of out-of-state solid waste into Montana might not conflict with this goal, it is imperative that the state undertake a legislative study of solid waste regulation and management, further develop regional and statewide solid waste management goals and plans, and adopt rules implementing [this act] before solid waste importation beyond current levels is allowed.

(2) Except as provided in subsection (3), a person may not transport solid waste into Montana until October 1, 1991.

(3) A person who transported solid waste into Montana before [the effective date of this act] may continue to transport solid waste into Montana subject to the limitation that the amount he transports into Montana during any calendar year does not significantly exceed the amount he transported into Montana during calendar year 1988."

Renumber: subsequent sections

4. Page 12, line 22.

Strike: "SECTION"

Insert: "Sections"

Following: "6"

Insert: "and 7"

Strike: "IS"

Insert: "are"

5. Page 12, line 25.

Strike: "SECTION"

Insert: "sections"

Following: "6"

Insert: "and 7"

Amendments to House Bill No. 676
Third Reading CopyRequested by Rep. Raney
For the Senate Committee on Natural Resources

April 5, 1989

1. Page 3.

Following: line 8

Insert: " It is the intent of the legislature that gloves, gowns, and other items routinely used in health care procedures not be considered infectious waste unless in the judgment of the health care professional the particular circumstances under which the items were used dictate that they be managed as infectious waste."

Rationale: Further emphasizes the judgment and discretion of the health care professional to determine if these items need to be managed as infectious waste.

2. Page 8.

Following: line 11

Insert: "contaminated"

Rationale: Clarifies that only contaminated isolation waste is to be defined as infectious.

3. Page 8, line 14.

Following: "KNOWN"

Insert: "by the health care professional"

Rationale: See comments to amendment #1

4. Page 8, line 20.

Strike: "sterile"

Insert: "noninfectious"

Rationale: Provides consistency with remainder of the bill

5. Page 11, line 12.

Following: "STEAM"

Insert: "or chemical"

Rationale: Indicates that chemical sterilization methods are also acceptable.

6. Page 17, line 3.

Strike: "A"

Insert: "Except as provided in subsection (4), a"

Rationale: See amendment #7

7. Page 19.

Following: line 1

Insert: " (4) Until July 1, 1991, a landfill is not subject to the infectious waste management fee for the authorized disposal of not more than 2,000 pounds of infectious waste per generator per year."

Rationale: Exempts landfills from paying the disposal fee for any continued use of landfills for infectious waste disposal, as authorized by amendment #9

8. Page 21, lines 17, 22, and 25.

Strike: "50"

Insert: "100"

Rationale: Applies the annual reporting requirement to facilities generating more than 100 pounds a month, rather to those generating more than 50 pounds a month. This higher limit would generally remove doctors' and dentists' offices from the reporting requirement and is also consistent with other figures in the bill.

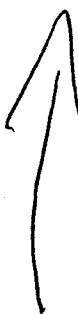
9. Page 31.

Following: line 17

Insert: " (7) [This act] does not prohibit, before July 1, 1991, the disposal of not more than 2,000 pounds of infectious waste per year in a landfill, with the consent of the landfill operator, by the person generating the waste if the landfill had been disposing of the waste generated by the person prior to January 1, 1989."

Rationale: Allows small and medium-sized generators of infectious waste to continue using landfills for disposal during the next biennium.

Amendment to House Bill 676
Proposed by
Montana Dental Association

- 
1. page 8, lines 13 through 15
Strike: "AND" on line 13 through "CONTAMINATED" on line 15
 2. page 8
Following: "Infectious waste also includes any item that might not normally be considered infectious waste but that was, in the judgment of the health care professional, used under particular circumstances that dictate that it be managed as infectious waste."

Rationale: this amendment deletes some extremely vague language about wastes generated in connection with patient care which could certainly include the gloves, masks, and other disposable clothing routinely worn by dental office personnel. No one favoring the passage of this bill has wanted dental office gloves, etc. to be included as infectious wastes in the 99.9% of the situations they are used for. The problem has been how to write language which excludes these items when they should be excluded.

The revised definition of infectious wastes under this amendment will be much closer to the EPA's categories of infectious wastes regulated, in a 10-state area, under the Medical Wastes Tracking Act of 1988. This is also desirable in that record-keeping forms or software will be more readily available in a style which conforms to EPA requirements.

The Dental Association does not favor placing such language in the statement of intent. It should go into the bill itself.

SENATE NATURAL RESOURCES

EXHIBIT NO. 3C

DATE 4-10-89

BILL NO. HB 676

Amendment to House Bill 676 (no. 3)
Proposed By Senator Keating
April 10, 1989

1. Page 31, line 17.
Strike: "UNTIL JULY 1, 1991"

Passed by the Senate Natural Resources Committee. However,
the committee voted to not concur.

Amend HB 676

The funeral directors would urge the Committee to revise the amendment to HB 676 authored by the Health Department on page 11, lines 14-19, so that it reads as follows:

(c) for THE NONCOMMERCIAL DISPOSAL OF ~~SMALL QUANTITIES~~ ~~OF~~ liquid or semiliquid waste GENERATED ~~INCIDENTALLY~~ pursuant TO A HEALTH CARE or mortuary PROCEDURE, provided that secondary treatment is available, that federal, state, or local regulations do not prohibit the discharge, and that aerosol formation does not occur during the discharge;

NOT ACTED ON
IN COMMITTEE

ROLL CALL VOTE

SENATE NATURAL RESOURCES

do not concern #4
4-10-89
BILL NO. HB 676

NATURAL RESOURCES

SENATE COMMITTEE

Date 4-10-89 Bill No. #13676 Time _____

NAME	YES	NO
Vice-Chairman Larry Tveit	✓	KEM
Senator Fred VanValkenburg		✓
Senator Loren Jenkins	✓	
Senator Darryl Meyer	✓	
Senator Lawrence Stimatz		✓
Senator Pete Story	✓	
Senator Bill Yellowtail		✓
Senator Elmer Severson	✓	
Senator Cecil Weeding		✓
Senator Dorothy Eck	✓	✓ Eck
Senator Jerry Noble	✓	
Chairman Tom Keating	✓	
	7	5

Secretary _____

Chairman _____

Motion: do not concern as amended