

1 House BILL NO. 129  
 2 INTRODUCED BY Frank Menahan

3  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT DECLARING CERTAIN  
 5 PRACTICES OF ODORIFEROUS ESTABLISHMENTS SUCH AS FEED LOTS  
 6 AND EGG FARMS TO BE PUBLIC NUISANCES."

7  
 8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9 Section 1. There is a new R.C.M. section numbered  
 10 57-116 that reads as follows:

11 57-116. Definitions. "Odoriferous establishment"  
 12 includes a feed lot, egg farm or rendering plant.

13 Section 2. There is a new R.C.M. section numbered  
 14 57-117 that reads as follows:

15 57-117. Location of new odoriferous establishment. An  
 16 odoriferous establishment located after the effective date  
 17 of this act within two and one-half (2 1/2) miles of an  
 18 existing residence is a public nuisance and may be abated.  
 19 The reopening of any odoriferous establishment closed for  
 20 more than four (4) months is the equivalent of locating a  
 21 new odoriferous establishment.

22 Section 3. There is a new R.C.M. section numbered  
 23 57-118 that reads as follows:

24 57-118. Certain practices of odoriferous  
 25 establishments as nuisances. An odoriferous establishment

1 operating on the effective date of this act within two and  
 2 one-half (2 1/2) miles of a private residence, other than  
 3 the residence of the operator of the establishment or his  
 4 agent, is a public nuisance if the operator:

5 (1) stockpiles or fails to promptly remove excrement  
 6 or dead animals, or

7 (2) permits flies and odors to proliferate through  
 8 failure to observe practical spraying or cleaning methods,  
 9 or

10 (3) contaminates ground water supplies off the  
 11 premises of the establishment.

12 Section 4. Any public nuisance under sections [2 or 3  
 13 of this act] may be abated as provided in this title.

-End-

Objection Raised to  
Adverse Committee Report

1 HOUSE BILL NO. 129  
2 INTRODUCED BY BRAND, MENAHAN  
3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT DECLARING CERTAIN  
5 PRACTICES OF ~~ODORIFEROUS--ESTABLISHMENTS-SUCH-AS-FEED-LOTS~~  
6 ~~AND-EGG-FARMS~~ ANIMAL CONFINEMENT FACILITIES TO BE PUBLIC  
7 NUISANCES."  
8  
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
10 Section 1. There is a new R.C.M. section numbered  
11 57-116 that reads as follows:  
12 57-116. Definitions. "Odoriferous' establishment"  
13 ~~includes-a-feed-lot,-egg-farm-or-rendering-plant~~ MEANS A LOT  
14 OR FACILITY USED OR CAPABLE OF BEING USED FOR FEEDING OR  
15 HOLDING OF LIVESTOCK OR POULTRY, BUT DOES NOT MEAN LAND USED  
16 FOR GROWING VEGETATION FOR FEEDING SUCH ANIMALS.  
17 Section 2. There is a new R.C.M. section numbered  
18 57-117 that reads as follows:  
19 57-117. Location of new odoriferous establishment. An  
20 odoriferous establishment located after the effective date  
21 of this act within ~~two-and-one-half-(2-1/2)-miles~~ ONE (1)  
22 MILE of an existing residence is a public nuisance and may  
23 be abated. The reopening of any odoriferous establishment  
24 closed for more than ~~four--(4)~~ EIGHTY (8) months is the  
25 equivalent of locating a new odoriferous establishment.

1 Section 3. There is a new R.C.M. section numbered  
2 57-118 that reads as follows:  
3 57-118. Certain practices of odoriferous  
4 establishments as nuisances. An odoriferous establishment  
5 operating on the effective date of this act within ~~two-and~~  
6 ~~one-half-(2-1/2)-miles~~ ONE-HALF (1/2) MILE of a private  
7 residence, other than the residence of the operator of the  
8 establishment or his agent, is a public nuisance if the  
9 operator: FAILS TO COMPLY WITH WASTE MANAGEMENT RULES  
10 ADOPTED BY THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL  
11 SCIENCES.  
12 ~~(1)--stockpiles-or-fails-to-promptly-remove--excrement~~  
13 ~~or-dead-animals,-or~~  
14 ~~(2)--permits--flies--and--odors--to-proliferate-through~~  
15 ~~failure-to-observe-practical-spraying-or--cleaning--methods,~~  
16 ~~or~~  
17 ~~(3)--contaminates---ground---water---supplies--off--the~~  
18 ~~premises-of-the-establishment.~~  
19 SECTION 4. THERE IS A NEW R.C.M. SECTION NUMBERED  
20 57-119 THAT READS AS FOLLOWS:  
21 57-119. THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL  
22 SCIENCES, AFTER CONSULTATION WITH THE DEPARTMENT OF  
23 LIVESTOCK, SHALL PROMULGATE RULES FOR THE MANAGEMENT OF  
24 WASTES, ODORS, AND FLIES EMANATING FROM ANIMAL CONFINEMENT  
25 FACILITIES. SUCH REGULATIONS SHALL CONSIDER FACILITY SIZE,

1 FACILITY DISTANCE FROM RESIDENCES AND COMMUNITIES, AND  
2 PREVAILING WIND DIRECTIONS. THE DEPARTMENT MAY ORDER A  
3 PERSON TO CEASE VIOLATING SUCH RULES. RULES SHALL BE MADE  
4 AND ORDERS ISSUED UNDER THIS SECTION IN ACCORDANCE WITH THE  
5 ADMINISTRATIVE PROCEDURE ACT.

6 Section 5. THERE IS A NEW R.C.M. SECTION NUMBERED  
7 57-120 THAT READS AS FOLLOWS:

8 57-120. ACTION FOR ABATEMENT OR DAMAGES. Any public  
9 nuisance CONDITIONS ESTABLISHED under sections [2 or 3 of  
10 this act] may be abated as provided in this title, OR THE  
11 COURT HEARING SUCH SUIT, IN CONSIDERATION OF THE RELATIVE  
12 EQUITIES, MAY, AS AN ALTERNATIVE TO ABATEMENT, AWARD THE  
13 PLAINTIFF DAMAGES EQUAL TO THE DIMINUATION OF VALUE OF HIS  
14 PROPERTY, CAUSED BY THE NUISANCE.

-End-