

CHAPTER NO. 556

HOUSE BILL NO. 494

INTRODUCED BY NATHE

IN THE HOUSE

January 31, 1979	Introduced and referred to Committee on Local Government.
February 20, 1979	Committee recommend bill do pass. Report adopted.
February 21, 1979	Second reading, do pass.  Considered correctly engrossed.
February 22, 1979	Third reading, passed. Transmitted to second house.

IN THE SENATE

February 22, 1979	Introduced and referred to Committee on Local Government.
March 24, 1979	Committee recommend bill be concurrent in as amended. Report adopted.
March 26, 1979	Second reading, pass consideration.
March 27, 1979	Second reading, concurred in.  On motion rules suspended. Bill placed on calendar for third reading this day.  Third reading, concurred in as amended.

IN THE HOUSE

March 28, 1979	Returned from second house. Concurred in as amended.
March 31, 1979	Second reading, amendments adopted.

April 2, 1979

Third reading, amendments  
adopted. Sent to enrolling.

Reported correctly enrolled.

HOUSE BILL NO. 494

INTRODUCED BY DENNIS WATKINS

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE, CLARIFY, AND AMEND THE LAWS RELATING TO PUBLIC WATER SUPPLIES; AMENDING SECTIONS 75-6-102 THROUGH 75-6-104, 75-6-106, 75-6-107, 75-6-112, AND 75-6-113, MCA."

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

Section 1. Section 75-6-102, MCA, is amended to read:

"75-6-102. Definitions. As used in this part, unless the context clearly indicates otherwise, the following definitions apply:

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

(2) "Contamination" means impairment of the quality of state waters by sewage, industrial wastes, or other wastes creating a hazard to human health.

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

(4) "Drainage" means rainfall, surface, and subsoil water.

(5) "Safe Drinking Water Act" means 42 USC 300f and regulations at Title 40, CFR, Parts 141 and 142.

(5)(6) "Industrial waste" means any waste substance from the processes of business or industry or from the development of any natural resource, together with any sewage that may be present.

(7) "Maximum contaminant level" means the maximum permissible level of a contaminant in water which is delivered to any user of a public water supply system.

(6)(8) "Other waste" means garbage, municipal refuse, decayed wood, sawdust, shavings, bark, lime, sand, ashes, offal, night soil, oil, grease, tar, heat, chemicals, dead animals, sediment, wrecked or discarded equipment, radioactive materials, solid waste, and all other substances that may pollute state waters.

(7)(9) "Person" means any individual, firm, corporation, ~~water or ice company, public institution, association, partnership,~~ municipality, or other political subdivision of the state, or federal agency.

(8)(10) "Pollution" means contamination or other alteration of the physical, chemical, or biological properties of any state waters which exceeds that permitted by Montana water quality standards, including but not limited to standards relating to change in temperature, taste, color, turbidity, or odor or the discharge or introduction of any liquid, gaseous, solid, radioactive, or other substance into any state water which will or is likely

1 to create a nuisance or render the waters harmful,  
 2 detrimental, or injurious to public health, recreation,  
 3 safety, welfare, livestock, wild animals, birds, fish, or  
 4 other wildlife. A discharge which is authorized under the  
 5 pollution discharge permit rules of the board is not  
 6 pollution under this chapter.

7 ~~(9)~~(11) "Public water supply system" means a system  
 8 for the provision of water for human consumption from any  
 9 community well, water hauler for cisterns, water bottling  
 10 plant, water dispenser, or other water supply that serves 10  
 11 or more families, or 25 or more persons for daily, or has at  
 12 least 10 service connections at least 60 days out of the  
 13 calendar year.

14 ~~(10)~~(12) "Sewage" means water-carried waste products  
 15 from residences, public buildings, institutions, or other  
 16 buildings, including discharge from human beings, together  
 17 with groundwater infiltration and surface water present.

18 ~~(11)~~(13) "State waters" means any body of water,  
 19 irrigation system, or drainage system, either surface or  
 20 underground."

21 Section 2. Section 75-6-103, MCA, is amended to read:

22 "75-6-103. Duties of the board. (1) The board has  
 23 general supervision over all state waters which are directly  
 24 or indirectly being used by a person for a public water  
 25 supply system or domestic purposes or as a source of ice.

1 (2) The board shall adopt rules and standards  
 2 concerning:

3 (a) maximum contaminant levels for waters that are or  
 4 will be used ~~as~~ for a public water supply system;

5 (b) fees for services rendered by the department in  
 6 analyzing water and conducting inspections;

7 (c) monitoring, recordkeeping, and reporting by  
 8 persons who own or operate a public water supply system;

9 (d) requiring public notice to all users of a public  
 10 water supply system when a person has been granted a  
 11 variance or exemption or is in violation of this part or a  
 12 rule or order issued pursuant to this part;

13 (e) the issuance of licenses by the department to  
 14 laboratories that conduct analysis of public water supplies  
 15 supply systems;

16 (f) the siting, construction, operation, and  
 17 modification of a public water supply system;

18 (g) the collection and analysis of samples of water,  
 19 used for drinking or domestic purposes;

20 (h) the issuance of variances and exemptions as  
 21 authorized by the federal Safe Drinking Water Act and this  
 22 part; and

23 (i) any other requirement necessary for the protection  
 24 of public health as described in this part.

25 (3) The board may issue orders necessary to fully

1 implement the provisions of this part."

2 Section 3. Section 75-6-104, MCA, is amended to read:

3 "75-6-104. Duties of department. The department shall:

4 (1) upon its own initiative or complaint to the  
5 department, to the mayor or health officer of a  
6 municipality, or to the managing board or officer of a  
7 public institution, make an investigation of alleged  
8 pollution of a water supply ~~system~~ and, if required,  
9 prohibit the continuance of the pollution by ordering  
10 removal of the cause of pollution;

11 (2) have waters examined to determine their ~~purty~~  
12 ~~quality~~ and the possibility that they may endanger public  
13 health;

14 (3) consult and advise authorities of cities and towns  
15 and persons having or about to construct systems for water  
16 supply, drainage, wastewater, and sewage as to the most  
17 appropriate source of water supply and the best method of  
18 assuring its ~~purty~~ ~~quality~~;

19 (4) advise persons as to the best method of ~~purifying~~  
20 ~~treating~~ and disposing of their drainage, sewage, or  
21 wastewater with reference to the existing and future needs  
22 of other persons and to prevent pollution;

23 (5) consult with persons engaged in or intending to  
24 engage in manufacturing or other business whose drainage or  
25 sewage may tend to pollute waters as to the best method of

1 preventing pollution;

2 (6) collect fees for services rendered in analyzing  
3 water and conducting inspections to cover costs of the  
4 service and deposit the fees collected in an earmarked  
5 revenue fund for use by the department;

6 (7) establish and maintain experiment stations and  
7 conduct experiments to study the best methods of ~~purifying~~  
8 ~~treating~~ water, drainage, wastewater, sewage, and industrial  
9 waste to prevent ~~pollution~~, including investigation of  
10 methods used in other states;

11 (8) enter on premises at reasonable times to determine  
12 sources of pollution or danger to water ~~supplies~~ ~~supply~~  
13 ~~systems~~ and whether rules and standards of the board are  
14 being obeyed;

15 (9) enforce and administer the provisions of this  
16 part;

17 (10) establish a plan for the provision of safe  
18 drinking water under emergency circumstances;

19 (11) maintain an inventory of public water ~~supplies~~  
20 ~~supply systems~~ and establish a program for conducting  
21 sanitary surveys; and

22 (12) enter into agreements with local boards of health  
23 wherever appropriate for the performance of surveys and  
24 inspections under the provisions of this part."

25 Section 4. Section 75-6-106, MCA, is amended to read:

1       "75-6-106. Licensing of laboratories. (1) No  
2 laboratory analysis of water taken from a public water  
3 supply ~~system~~ or any report of such an analysis required by  
4 this part or a rule adopted under this part may be accepted  
5 by the department or board unless the analysis or report is  
6 made by the laboratory of the department or by a laboratory  
7 licensed by the department for such purposes. The department  
8 shall issue a license to any laboratory that can meet  
9 criteria for licensing established in the rules adopted by  
10 the board.

11       (2) An application for a license under this section  
12 shall be made on forms furnished by the department.

13       (3) A person aggrieved by a decision of the department  
14 to grant, deny, or revoke a license may appeal the  
15 department's decision to the board as provided in the  
16 Montana Administrative Procedure Act."

17       Section 5. Section 75-6-107, MCA, is amended to read:

18       "75-6-107. ~~Variance~~ Variances and exemptions. The  
19 department may grant a variance or exemption from the  
20 requirements of this part or the rules adopted under this  
21 part pursuant to the terms and conditions of the variance  
22 and exemption rules adopted by the board. A variance or  
23 exemption granted pursuant to this section shall be  
24 accompanied by a compliance plan specifying a time schedule  
25 for compliance. A person aggrieved by a decision of the

1 department to grant, deny, revoke, or modify a variance or  
2 exemption may appeal the department's decision to the board  
3 as provided in the Montana Administrative Procedure Act."

4       Section 6. Section 75-6-112, MCA, is amended to read:  
5       "75-6-112. Prohibited acts. A person shall not:

6       (1) discharge ~~polluting--matter--of--any-kind~~ sewage,  
7 drainage, industrial waste, or other wastes that will  
8 ~~pollute--the-quality~~ cause pollution of state waters used by  
9 a person for domestic use or as a source of for a public  
10 water supply by a city, town, public institution, system or  
11 water or ice company;

12       (2) discharge ~~human--excrement,~~ sewage, drainage,  
13 ~~refuse, or polluting-matter~~ industrial waste, or other waste  
14 into any state waters or on the banks of any state waters or  
15 into any abandoned or operating water well unless the  
16 sewage, drainage, ~~refuse, or polluting-water~~ industrial  
17 waste, or other waste is ~~purified-to-render-it-harmless~~  
18 treated as prescribed by the state board;

19       (3) build or operate any railroad, logging road,  
20 logging camp, or electric or manufacturing plant of any kind  
21 on any watershed of a public water supply system unless:

22       (a) the water supply is protected from pollution by  
23 sanitary precautions prescribed by the state board; and

24       (b) a permit has been issued by the department after  
25 approval of detailed plans and specifications for sanitary

1 precautions;

2 (4) construct, alter, or extend any system of water  
3 supply, water distribution, sewer, drainage, wastewater, or  
4 sewage disposal without first submitting necessary maps, and  
5 plans, and specifications to the department for its advice  
6 review and approval;

7 (5) operate or maintain any public water supply system  
8 which exceeds a maximum contaminant level established by the  
9 board unless he has been granted or has an application  
10 pending for a variance or exemption pursuant to this part."

11 Section 7. Section 75-6-113, MCA, is amended to read:

12 "75-6-113. Penalty Penalties. (1) Any A person  
13 violating who violates this part or any rule or order of the  
14 board-or-department issued under the provisions of this part  
15 shall be guilty of a misdemeanor and upon conviction shall  
16 be fined not less than \$50 or more than \$500. Each day upon  
17 which a violation of this part or any rule or order of the  
18 board under it occurs shall be considered a separate  
19 offense.

20 (2) A person who violates this part or any rule or  
21 order of the board issued under the provisions of this part  
22 is subject also to a civil penalty of not less than \$50 or  
23 more than \$500. Each day upon which a violation of this part  
24 or any rule or order of the board under it occurs is a  
25 separate violation.

1 (3) Enforcement remedies under this section are  
2 cumulative, and enforcement of this part or rules or orders  
3 issued under it by injunction or other appropriate remedy is  
4 not barred.

5 (4) Civil fines collected pursuant to this section  
6 shall be deposited in the state general fund."

7 NEW SECTION. Section 8. Review of master planning  
8 areas. Maps, plans and specifications required by  
9 75-6-112(4) may not, be reviewed or approved by the  
10 department for master planning areas adopted pursuant to  
11 Title 76, chapter 3, until the department has received from  
12 the local governing body the lot fees and notices of  
13 certification required by 76-4-105(2) and 76-4-127.

14 Section 9. Saving clause. This act does not affect  
15 rights and duties that matured, penalties that were  
16 incurred, or proceedings that were begun before the  
17 effective date of this act.

18 Section 10. Severability. If a part of this act is  
19 invalid, all valid parts that are severable from the invalid  
20 part remain in effect. If a part of this act is invalid in  
21 one or more of its applications, the part remains in effect  
22 in all valid applications that are severable from the  
23 invalid applications.

-End-

HB 474

1 HOUSE BILL NO. 494  
2 INTRODUCED BY DENNIS NATHAN

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE,  
5 CLARIFY, AND AMEND THE LAWS RELATING TO PUBLIC WATER  
6 SUPPLIES; AMENDING SECTIONS 75-6-102 THROUGH 75-6-104,  
7 75-6-106, 75-6-107, 75-6-112, AND 75-6-113, MCA."

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13 definitions apply:

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

16 (2) "Contamination" means impairment of the quality of  
17 state waters by sewage, industrial wastes, or other wastes  
18 creating a hazard to human health.

19 (3) "Department" means the department of health and  
20 environmental sciences provided for in Title 2, chapter 15,  
21 part 21.

22 (4) "Drainage" means rainfall, surface, and subsoil  
23 water.

24 (5) "Safe Drinking Water Act" means 42 USC 300f and  
25 regulations at Title 40, CFR, Parts 141 and 142.

1 ~~(5)(6)~~ "Industrial waste" means any waste substance  
2 from the processes of business or industry or from the  
3 development of any natural resource, together with any  
4 sewage that may be present.

5 ~~(7) "Maximum contaminant level" means the maximum~~  
6 ~~permissible level of a contaminant in water which is~~  
7 ~~delivered to any user of a public water supply system.~~

8 ~~(8)~~ "Other waste" means garbage, municipal refuse,  
9 decayed wood, sawdust, shavings, bark, lime, sand, ashes,  
10 offal, night soil, oil, grease, tar, heat, chemicals, dead  
11 animals, sediment, wrecked or discarded equipment,  
12 radioactive materials, solid waste, and all other substances  
13 that may pollute state waters.

14 ~~(9)~~ "Person" means any individual, firm,  
15 corporation, ~~water--or--ice--company,--public--institution,~~  
16 ~~association, partnership, municipality, or other political~~  
17 ~~subdivision of the state, or federal agency.~~

18 ~~(10)~~ "Pollution" means contamination or other  
19 alteration of the physical, chemical, or biological  
20 properties of any state waters which exceeds that permitted  
21 by Montana water quality standards, including but not  
22 limited to standards relating to change in temperature,  
23 taste, color, turbidity, or odor or the discharge or  
24 introduction of any liquid, gaseous, solid, radioactive, or  
25 other substance into any state water which will or is likely



1 to create a nuisance or render the waters harmful,  
2 detrimental, or injurious to public health, recreation,  
3 safety, welfare, livestock, wild animals, birds, fish, or  
4 other wildlife. A discharge which is authorized under the  
5 pollution discharge permit rules of the board is not  
6 pollution under this chapter.

7 ~~(9)(11)~~ "Public water supply system" means a system  
8 for the provision of water for human consumption from any  
9 community well, water hauler for cisterns, water bottling  
10 plant, water dispenser, or other water supply that serves 10  
11 or more families, or 25 or more persons for daily, or has at  
12 least 10 service connections at least 60 days out of the  
13 calendar year.

14 ~~(10)(12)~~ "Sewage" means water-carried waste products  
15 from residences, public buildings, institutions, or other  
16 buildings, including discharge from human beings, together  
17 with groundwater infiltration and surface water present.

18 ~~(11)(13)~~ "State waters" means any body of water,  
19 irrigation system, or drainage system, either surface or  
20 underground."

21 Section 2. Section 75-6-103, MCA, is amended to read:  
22 "75-6-103. Duties of the board. (1) The board has  
23 general supervision over all state waters which are directly  
24 or indirectly being used by a person for a public water  
25 supply system or domestic purposes or as a source of ice.

1 (2) The board shall adopt rules and standards  
2 concerning:

3 (a) maximum contaminant levels for waters that are or  
4 will be used ~~as~~ for a public water supply system;

5 (b) fees for services rendered by the department in  
6 analyzing water and conducting inspections;

7 (c) monitoring, recordkeeping, and reporting by  
8 persons who own or operate a public water supply system;

9 (d) requiring public notice to all users of a public  
10 water supply system when a person has been granted a  
11 variance or exemption or is in violation of this part or a  
12 rule or order issued pursuant to this part;

13 (e) the issuance of licenses by the department to  
14 laboratories that conduct analysis of public water supplies  
15 supply systems;

16 (f) the siting, construction, operation, and  
17 modification of a public water supply system;

18 (g) the collection and analysis of samples of water  
19 used for drinking or domestic purposes;

20 (h) the issuance of variances and exemptions as  
21 authorized by the federal Safe Drinking Water Act and this  
22 part; and

23 (i) any other requirement necessary for the protection  
24 of public health as described in this part.

25 (3) The board may issue orders necessary to fully

1 implement the provisions of this part."

2 Section 3. Section 75-6-104, MCA, is amended to read:

3 "75-6-104. Duties of department. The department shall:

4 (1) upon its own initiative or complaint to the  
5 department, to the mayor or health officer of a  
6 municipality, or to the managing board or officer of a  
7 public institution, make an investigation of alleged  
8 pollution of a water supply system and, if required,  
9 prohibit the continuance of the pollution by ordering  
10 removal of the cause of pollution;

11 (2) have waters examined to determine their purity  
12 quality and the possibility that they may endanger public  
13 health;

14 (3) consult and advise authorities of cities and towns  
15 and persons having or about to construct systems for water  
16 supply, drainage, wastewater, and sewage as to the most  
17 appropriate source of water supply and the best method of  
18 assuring its purity quality;

19 (4) advise persons as to the best method of purifying  
20 treating and disposing of their drainage, sewage, or  
21 wastewater with reference to the existing and future needs  
22 of other persons and to prevent pollution;

23 (5) consult with persons engaged in or intending to  
24 engage in manufacturing or other business whose drainage or  
25 sewage may tend to pollute waters as to the best method of

1 preventing pollution;

2 (6) collect fees for services rendered in analyzing  
3 water and conducting inspections to cover costs of the  
4 service and deposit the fees collected in an earmarked  
5 revenue fund for use by the department;

6 (7) establish and maintain experiment stations and  
7 conduct experiments to study the best methods of purifying  
8 treating water, drainage, wastewater, sewage, and industrial  
9 waste to prevent pollution, including investigation of  
10 methods used in other states;

11 (8) enter on premises at reasonable times to determine  
12 sources of pollution or danger to water supplies supply  
13 systems and whether rules and standards of the board are  
14 being obeyed;

15 (9) enforce and administer the provisions of this  
16 part;

17 (10) establish a plan for the provision of safe  
18 drinking water under emergency circumstances;

19 (11) maintain an inventory of public water supplies  
20 supply systems and establish a program for conducting  
21 sanitary surveys; and

22 (12) enter into agreements with local boards of health  
23 wherever appropriate for the performance of surveys and  
24 inspections under the provisions of this part."

25 Section 4. Section 75-6-106, MCA, is amended to read:

1       "75-6-106. Licensing of laboratories. (1) No  
2 laboratory analysis of water taken from a public water  
3 supply ~~system~~ or any report of such an analysis required by  
4 this part or a rule adopted under this part may be accepted  
5 by the department or board unless the analysis or report is  
6 made by the laboratory of the department or by a laboratory  
7 licensed by the department for such purposes. The department  
8 shall issue a license to any laboratory that can meet  
9 criteria for licensing established in the rules adopted by  
10 the board.

11       (2) An application for a license under this section  
12 shall be made on forms furnished by the department.

13       (3) A person aggrieved by a decision of the department  
14 to grant, deny, or revoke a license may appeal the  
15 department's decision to the board as provided in the  
16 Montana Administrative Procedure Act."

17       Section 5. Section 75-6-107, MCA, is amended to read:

18       "75-6-107. Variance ~~Variences and exemptions~~. The  
19 department may grant a variance or exemption from the  
20 requirements of this part or the rules adopted under this  
21 part pursuant to the terms and conditions of the variance  
22 and exemption rules adopted by the board. A variance or  
23 exemption granted pursuant to this section shall be  
24 accompanied by a compliance plan specifying a time schedule  
25 for compliance. A person aggrieved by a decision of the

1 department to grant, deny, revoke, or modify a variance or  
2 exemption may appeal the department's decision to the board  
3 as provided in the Montana Administrative Procedure Act."

4       Section 6. Section 75-6-112, MCA, is amended to read:

5       "75-6-112. Prohibited acts. A person shall not:

6       (1) discharge ~~polluting matter of any kind sewage~~  
7 ~~drainage, industrial waste, or other waste~~ that will  
8 ~~pollute the quality~~ cause pollution of state waters used by  
9 a person for domestic use or as a source of for a public  
10 water supply by a city, town, public institution, system or  
11 water or ice company;

12       (2) discharge ~~human excrement, sewage, drainage,~~  
13 ~~refuse, or polluting matter~~ industrial waste, or other waste  
14 into any state waters or on the banks of any state waters or  
15 into any abandoned or operating water well unless the  
16 sewage, drainage, ~~refuse, or polluting water~~ industrial  
17 waste, or other waste is ~~purified to render it harmless~~  
18 treated as prescribed by the state board;

19       (3) build or operate any railroad, logging road,  
20 logging camp, or electric or manufacturing plant of any kind  
21 on any watershed of a public water supply system unless:

22       (a) the water supply is protected from pollution by  
23 sanitary precautions prescribed by the state board; and

24       (b) a permit has been issued by the department after  
25 approval of detailed plans and specifications for sanitary

1 precautions;

2 (4) construct, alter, or extend any system of water  
3 supply, water distribution, sewer, drainage, wastewater, or  
4 sewage disposal without first submitting necessary maps, and  
5 plans, and specifications to the department for its advice  
6 review and approval;

7 ~~(5) operate or maintain any public water supply system  
8 which exceeds a maximum contaminant level established by the  
9 board unless he has been granted or has an application  
10 pending for a variance or exemption pursuant to this part.~~

11 Section 7. Section 75-6-113, MCA, is amended to read:

12 "75-6-113. Penalty Penalties. (1) Any A person  
13 violating who violates this part or any rule or order of the  
14 board or department issued under the provisions of this part  
15 shall be guilty of a misdemeanor and upon conviction shall  
16 be fined not less than \$50 or more than \$500. Each day upon  
17 which a violation of this part or any rule or order of the  
18 board under it occurs shall be considered a separate  
19 offense.

20 ~~(2) A person who violates this part or any rule or  
21 order of the board issued under the provisions of this part  
22 is subject also to a civil penalty of not less than \$50 or  
23 more than \$500. Each day upon which a violation of this part  
24 or any rule or order of the board under it occurs is a  
25 separate violation.~~

1 ~~(3) Enforcement remedies under this section are  
2 cumulative, and enforcement of this part or rules or orders  
3 issued under it by injunction or other appropriate remedy is  
4 not barred.~~

5 ~~(4) Civil fines collected pursuant to this section  
6 shall be deposited in the state general fund."~~

7 NEW SECTION. Section 8. Review of master planning  
8 areas. Maps, plans and specifications required by  
9 75-6-112(4) may not be reviewed or approved by the  
10 department for master planning areas adopted pursuant to  
11 Title 76, chapter 3, until the department has received from  
12 the local governing body the lot fees and notices of  
13 certification required by 76-4-105(2) and 76-4-127.

14 Section 9. Saving clause. This act does not affect  
15 rights and duties that matured, penalties that were  
16 incurred, or proceedings that were begun before the  
17 effective date of this act.

18 Section 10. Severability. If a part of this act is  
19 invalid, all valid parts that are severable from the invalid  
20 part remain in effect. If a part of this act is invalid in  
21 one or more of its applications, the part remains in effect  
22 in all valid applications that are severable from the  
23 invalid applications.

-End-

HB 494

1 precautions;

2 (4) construct, alter, or extend any system of water  
3 supply, water distribution, sewer, drainage, wastewater, or  
4 sewage disposal without first submitting necessary maps, and  
5 plans, and specifications to the department for its advice  
6 review and approval;

7 (5) operate or maintain any public water supply system  
8 which exceeds a maximum contaminant level established by the  
9 board unless he has been granted or has an application  
10 pending for a variance or exemption pursuant to this part."

11 Section 7. Section 75-6-113, MCA, is amended to read:

12 "75-6-113. Penalty Penalties. (1) Any A person  
13 violating who violates this part or any rule or order of the  
14 board or department issued under the provisions of this part  
15 shall be guilty of a misdemeanor and upon conviction shall  
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17 which a violation of this part or any rule or order of the  
18 board under it occurs shall be considered a separate  
19 offense.

20 (2) A person who violates this part or any rule or  
21 order of the board issued under the provisions of this part  
22 is subject also to a civil penalty of not less than \$50 or  
23 more than \$500. Each day upon which a violation of this part  
24 or any rule or order of the board under it occurs is a  
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21 one or more of its applications, the part remains in effect  
22 in all valid applications that are severable from the  
23 invalid applications.

-End-

HB 494

HOUSE BILL NO. 494  
INTRODUCED BY MATHE

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE,  
CLARIFY, AND AMEND THE LAWS RELATING TO PUBLIC WATER  
SUPPLIES; AMENDING SECTIONS 75-6-102 THROUGH 75-6-104,  
75-6-106, 75-6-107, AND 75-6-112, AND ~~75-6-113~~ MCA."

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

Section 1. Section 75-6-102, MCA, is amended to read:

"75-6-102. Definitions. As used in this part, unless  
the context clearly indicates otherwise, the following  
definitions apply:

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

(2) "Contamination" means impairment of the quality of  
state waters by sewage, industrial wastes, or other wastes  
creating a hazard to human health.

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

(4) "Drainage" means rainfall, surface, and subsoil  
water.

~~(5) "Safe Drinking Water Act" means 42 USC 300f and  
regulations at Title 40, CFR, Parts 141 and 142.~~

~~(5)(6)~~ "Industrial waste" means any waste substance  
from the processes of business or industry or from the  
development of any natural resource, together with any  
sewage that may be present.

~~(7) "Maximum contaminant level" means the maximum  
permissible level of a contaminant in water which is  
delivered to any user of a public water supply system.~~

~~(6)(8)~~ "Other waste" means garbage, municipal refuse,  
decayed wood, sawdust, shavings, bark, lime, sand, ashes,  
offal, night soil, oil, grease, tar, heat, chemicals, dead  
animals, sediment, wrecked or discarded equipment,  
radioactive materials, solid waste, and all other substances  
that may pollute state waters.

~~(7)(9)~~ "Person" means any individual, firm,  
corporation, water--or--fee--company--public--institution,  
~~association, partnership,~~ municipality, or other political  
subdivision of the state, or federal agency.

~~(8)(10)~~ "Pollution" means contamination or other  
alteration of the physical, chemical, or biological  
properties of any state waters which exceeds that permitted  
by Montana water quality standards, including but not  
limited to standards relating to change in temperature,  
taste, color, turbidity, or odor or the discharge or  
introduction of any liquid, gaseous, solid, radioactive, or  
other substance into any state water which will or is likely

1 to create a nuisance or render the waters harmful,  
2 detrimental, or injurious to public health, recreation,  
3 safety, welfare, livestock, wild animals, birds, fish, or  
4 other wildlife. A discharge which is authorized under the  
5 pollution discharge permit rules of the board is not  
6 pollution under this chapter.

7 ~~†9†~~(111) "Public water supply system" means a system  
8 for the provision of water for human consumption from any  
9 community well, water hauler for cisterns, water bottling  
10 plant, water dispenser, or other water supply that serves 10  
11 or more families, or 25 or more persons for daily, or has at  
12 least 10 service connections at least 60 days out of the  
13 calendar year.

14 ~~†10†~~(121) "Sewage" means water-carried waste products  
15 from residences, public buildings, institutions, or other  
16 buildings, including discharge from human beings, together  
17 with groundwater infiltration and surface water present.

18 ~~†11†~~(131) "State waters" means any body of water,  
19 irrigation system, or drainage system, either surface or  
20 underground."

21 Section 2. Section 75-6-103, MCA, is amended to read:

22 "75-6-103. Duties of the board. (1) The board has  
23 general supervision over all state waters which are directly  
24 or indirectly being used by a person for a public water  
25 supply system or domestic purposes or as a source of ice.

1 (2) The board shall adopt rules and standards  
2 concerning:

3 (a) maximum contaminant levels for waters that are or  
4 will be used as for a public water supply system;

5 (b) fees for services rendered by the department in  
6 analyzing water and conducting inspections;

7 (c) monitoring, recordkeeping, and reporting by  
8 persons who own or operate a public water supply system;

9 (d) requiring public notice to all users of a public  
10 water supply system when a person has been granted a  
11 variance or exemption or is in violation of this part or a  
12 rule or order issued pursuant to this part;

13 (e) the issuance of licenses by the department to  
14 laboratories that conduct analysis of public water supplies  
15 supply systems;

16 (f) the siting, construction, operation, and  
17 modification of a public water supply system;

18 (g) the collection and analysis of samples of water  
19 used for drinking or domestic purposes;

20 (h) the issuance of variances and exemptions as  
21 authorized by the federal Safe Drinking Water Act and this  
22 part; and

23 (i) any other requirement necessary for the protection  
24 of public health as described in this part.

25 (3) The board may issue orders necessary to fully

1 implement the provisions of this part."

2 Section 3. Section 75-6-104, MCA, is amended to read:

3 "75-6-104. Duties of department. The department shall:

4 (1) upon its own initiative or complaint to the  
5 department, to the mayor or health officer of a  
6 municipality, or to the managing board or officer of a  
7 public institution, make an investigation of alleged  
8 pollution of a water supply ~~system~~ and, if required,  
9 prohibit the continuance of the pollution by ordering  
10 removal of the cause of pollution;

11 (2) have waters examined to determine their purity  
12 quality and the possibility that they may endanger public  
13 health;

14 (3) consult and advise authorities of cities and towns  
15 and persons having or about to construct systems for water  
16 supply, drainage, wastewater, and sewage as to the most  
17 appropriate source of water supply and the best method of  
18 assuring its purity quality;

19 (4) advise persons as to the best method of purifying  
20 treating and disposing of their drainage, sewage, or  
21 wastewater with reference to the existing and future needs  
22 of other persons and to prevent pollution;

23 (5) consult with persons engaged in or intending to  
24 engage in manufacturing or other business whose drainage or  
25 sewage may tend to pollute waters as to the best method of

1 preventing pollution;

2 (6) collect fees for services rendered in analyzing  
3 water and conducting inspections to cover costs of the  
4 service and deposit the fees collected in an earmarked  
5 revenue fund for use by the department;

6 (7) establish and maintain experiment stations and  
7 conduct experiments to study the best methods of purifying  
8 treating water, drainage, wastewater, sewage, and industrial  
9 waste to prevent pollution, including investigation of  
10 methods used in other states;

11 (8) enter on premises at reasonable times to determine  
12 sources of pollution or danger to water supplies supply  
13 systems and whether rules and standards of the board are  
14 being obeyed;

15 (9) enforce and administer the provisions of this  
16 part;

17 (10) establish a plan for the provision of safe  
18 drinking water under emergency circumstances;

19 (11) maintain an inventory of public water supplies  
20 supply systems and establish a program for conducting  
21 sanitary surveys; and

22 (12) enter into agreements with local boards of health  
23 wherever appropriate for the performance of surveys and  
24 inspections under the provisions of this part."

25 Section 4. Section 75-6-106, MCA, is amended to read:



1       \*75-6-106. Licensing of laboratories. (1) No  
2 laboratory analysis of water taken from a public water  
3 supply ~~system~~ or any report of such an analysis required by  
4 this part or a rule adopted under this part may be accepted  
5 by the department or board unless the analysis or report is  
6 made by the laboratory of the department or by a laboratory  
7 licensed by the department for such purposes. The department  
8 shall issue a license to any laboratory that can meet  
9 criteria for licensing established in the rules adopted by  
10 the board.

11       (2) An application for a license under this section  
12 shall be made on forms furnished by the department.

13       (3) A person aggrieved by a decision of the department  
14 to grant, deny, or revoke a license may appeal the  
15 department's decision to the board as provided in the  
16 Montana Administrative Procedure Act."

17       Section 5. Section 75-6-107, MCA, is amended to read:

18       \*75-6-107. Variance Variances and exemptions. The  
19 department may grant a variance or exemption from the  
20 requirements of this part or the rules adopted under this  
21 part pursuant to the terms and conditions of the variance  
22 and exemption rules adopted by the board. A variance or  
23 exemption granted pursuant to this section shall be  
24 accompanied by a compliance plan specifying a time schedule  
25 for compliance. A person aggrieved by a decision of the

1 department to grant, deny, revoke, or modify a variance or  
2 exemption may appeal the department's decision to the board  
3 as provided in the Montana Administrative Procedure Act."

4       Section 6. Section 75-6-112, MCA, is amended to read:

5       \*75-6-112. Prohibited acts. A person shall not:

6       (1) discharge ~~polluting matter of any kind sewage~~  
7 ~~drainage, industrial waste, or other wastes~~ that will  
8 ~~pollute the quality cause pollution~~ of state waters used by  
9 a person for domestic use or as a source of for a public  
10 water supply by a city, town, public institution, system or  
11 water or ice company;

12       (2) discharge ~~human excrement, sewage, drainage,~~  
13 ~~refuse, or polluting matter~~ industrial waste, or other waste  
14 into any state waters or on the banks of any state waters or  
15 into any abandoned or operating water well unless the  
16 sewage, drainage, ~~refuse, or polluting water~~ industrial  
17 waste, or other waste is ~~purified to render it harmless~~  
18 treated as prescribed by the state board;

19       (3) build or operate any railroad, logging road,  
20 logging camp, or electric or manufacturing plant of any kind  
21 on any watershed of a public water supply system unless:

22       (a) the water supply is protected from pollution by  
23 sanitary precautions prescribed by the state board; and

24       (b) a permit has been issued by the department after  
25 approval of detailed plans and specifications for sanitary

1 precautions;

2 (4) construct, alter, or extend any system of water  
3 supply, water distribution, sewer, drainage, wastewater, or  
4 sewage disposal without first submitting necessary maps, and  
5 plans, and specifications to the department for its advice  
6 review and approval;

7 (5) operate or maintain any public water supply system  
8 which exceeds a maximum contaminant level established by the  
9 board unless he has been granted or has an application  
10 pending for a variance or exemption pursuant to this part.

11 Section 7. Section 75-6-113, MCA, is amended to read:  
12 "75-6-113. Penalty. ~~Penalties.~~ Any person  
13 violating who violates this part or any rule or order of the  
14 board or department issued under the provisions of this part  
15 shall be guilty of a misdemeanor and upon conviction shall  
16 be fined not less than \$50 or more than \$500, each day upon  
17 which a violation of this part or any rule or order of the  
18 board under it occurs shall be considered a separate  
19 offense.

20 ~~(2) A person who violates this part or any rule or~~  
21 ~~order of the board issued under the provisions of this part~~  
22 ~~is subject also to a civil penalty of not less than \$50 or~~  
23 ~~more than \$500, each day upon which a violation of this part~~  
24 ~~or any rule or order of the board under it occurs is a~~  
25 ~~separate violation.~~

1 ~~(3) Enforcement remedies under this section are~~  
2 ~~cumulative, and enforcement of this part or rules or orders~~  
3 ~~issued under it by injunction or other appropriate remedy is~~  
4 ~~not barred.~~

5 ~~(4) Civil fines collected pursuant to this section~~  
6 ~~shall be deposited in the state general funds.~~

7 ~~NEW SECTION. Section 8. Review of master planning~~  
8 ~~areas, maps, plans, and specifications required by~~  
9 ~~75-6-112(4) may not be reviewed or approved by the~~  
10 ~~department for master planning areas adopted pursuant to~~  
11 ~~title 76, chapter 3, until the department has received from~~  
12 ~~the local governing body the total fees and notices of~~  
13 ~~certification required by 76-4-105(2) and 76-4-127.~~

14 Section 7. Saving clause. This act does not affect  
15 rights and duties that matured, penalties that were  
16 incurred, or proceedings that were begun before the  
17 effective date of this act.

18 Section 8. Severability. If a part of this act is  
19 invalid, all valid parts that are severable from the invalid  
20 part remain in effect. If a part of this act is invalid in  
21 one or more of its applications, the part remains in effect  
22 in all valid applications that are severable from the  
23 invalid applications.

-End-

March 24, 1979

SENATE STANDING COMMITTEE REPORT  
(Local Government)

That House Bill No. 494, third reading bill, be amended as follows:

1. Title, line 7.

Following: "75-6-107"

Strike: ", "

Insert: "AND"

Following: "75-6-112"

Strike: "AND 75-6-113,"

2. Page 9, line 11.

Strike: lines 11 through 13 on page 10 in their entirety.