

SENATE BILL 102

IN THE SENATE

January 15, 1979	Introduced and referred to Committee on Local Government.
January 16, 1979	Fiscal note requested.
January 22, 1979	Fiscal note returned.
January 29, 1979	Committee recommend bill, do not pass.

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INTRODUCED BY *Spencer* *Heger Holt Conover* BILL NO. *102*  
BY REQUEST OF THE DEPARTMENT OF HEALTH  
AND ENVIRONMENTAL SCIENCES

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO LICENSURE OF CESSPOOL, SEPTIC TANK, AND PRIVY CLEANING BUSINESSES, ALLOWING THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES TO ESTABLISH REQUIREMENTS FOR DISPOSAL SITES AND INCREASING THE LICENSE FEE; AMENDING SECTIONS 37-41-101, 37-41-103, 37-41-201, 37-41-202, 37-41-211, AND 37-41-212, MCA; AND REPEALING SECTIONS 37-41-102, 37-41-203, AND 37-41-204, MCA."

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

NEW SECTION. Section 1. Definitions. As used in [Title 37, chapter 41], 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) "Department" means the department of health and environmental sciences provided for in Title 2, chapter 15, part 21.
- (3) "Person" means an individual, firm, partnership, association, corporation, city, town, local governmental

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entity, or other governmental or private entity whether organized for profit or not.

Section 2. Section 37-41-101, MCA, is amended to read:  
"37-41-101. License required. No person ~~partnership, firm, or corporation shall~~ may engage in the business of cleaning cesspools, septic tanks, or privies and disposal of waste therefrom unless licensed by the department of ~~health and environmental sciences and the license is voided by the health officer or local sanitarian in each county where business is to be conducted.~~"

Section 3. Section 37-41-103, MCA, is amended to read:  
"37-41-103. Rulemaking power of department. The department shall adopt necessary rules necessary for ~~carrying out the implementation of~~ the provisions of this chapter, including but not limited to rules pertaining to:  
(1) licensure and operation of septic tank, cesspool, and privy cleaning businesses;  
(2) requirements for equipment utilized in the conduct of septic tank, cesspool, and privy cleaning businesses;  
(3) procedures for the inspection and evaluation of equipment utilized in the conduct of septic tank, cesspool, and privy cleaning businesses; and  
(4) requirements for temporary and permanent sites for disposal of wastes from cesspools, septic tanks, or privies."

1 Section 4. Section 37-41-201, MCA, is amended to read:

2 "37-41-201. Application for license -- form and  
3 contents. Application for a license is made to the  
4 department on application forms procured ~~from the local~~  
5 ~~health officer or sanitarian in the county of applicant's~~  
6 residence provided by the department. The application shall  
7 show contain:

8 (1) the name in full, residential address, and ~~if a~~  
9 ~~partnership, the name of each partner~~ business address of  
10 the applicant;

11 (2) ~~place of business and a list of~~ the counties in  
12 which business is to be conducted;

13 ~~(3) place of residence of the applicant or applicant's~~

14 ~~(4) (3) the~~ number of units and type of equipment to  
15 be used;

16 ~~(5) (4) a statement that the applicant will comply~~  
17 ~~with rules adopted by the department under this chapter a~~  
18 description of the site proposed for disposal of wastes and  
19 written consent from the person in charge of the site; and

20 ~~(6) (5) the signature of the individual, authorized~~  
21 ~~officer of the firm or corporation, or managing partner of~~  
22 ~~the partnership applying~~ certification by a health officer  
23 or sanitarian of the county of applicant's business  
24 residence that the proposed disposal site and equipment to  
25 be used meet local government requirements."

1 Section 5. Section 37-41-202, MCA, is amended to read:

2 "37-41-202. Licenses -- nontransferability -- fees.

3 (1) ~~Licenses issued by the department shall be titled~~  
4 ~~"Montana Sanitary License" and numbered consecutively~~  
5 ~~beginning with the number 10.~~ Licenses expire on December 31  
6 of each calendar year. Licenses are not transferable. If a  
7 licensee ceases to do business, the license shall be  
8 surrendered to the department.

9 (2) The fee for each license is ~~\$25~~ \$50, payable at  
10 the time of application for license. ~~Twenty dollars of the~~  
11 ~~fee shall be deposited with the county treasurer in the~~  
12 ~~county of licensee's residence and \$5 forwarded with the~~  
13 ~~application to the department.~~ Federal agencies, cities,  
14 towns, or other local government entities are excluded from  
15 paying the license fee but shall meet all other requirements  
16 of this chapter. The department shall return 80% of the  
17 license fee annually to the county of licensee's business  
18 residence. The state fee shall be deposited in the state  
19 general fund. The county portion of the fee shall be used to  
20 defer cost of a sanitarian to enforce this chapter. ~~The~~  
21 ~~department shall return the license to county of licensee~~  
22 ~~residence for issue."~~

23 Section 6. Section 37-41-211, MCA, is amended to read:

24 "37-41-211. Denial, suspension, or revocation of  
25 license. The department of health and environmental sciences

1 may deny, suspend, or revoke a license for noncompliance  
 2 with this chapter or rules adopted by the department. Upon  
 3 denial, suspension, or revocation, the applicant or licensee  
 4 may request a hearing within 30 days after receipt of  
 5 written notice of the department's action. The hearing shall  
 6 be held before the board and in accordance with the Montana  
 7 Administrative Procedure Act."

8 Section 7. Section 37-41-212, MCA, is amended to read:

9 "37-41-212. Enforcement responsibility -- penalty --  
 10 deposit of fines. State and local health officers or  
 11 sanitarians are responsible for the enforcement of this  
 12 chapter. Any person who fails to comply with provisions of  
 13 this chapter or ~~orders of a health officer or sanitarian~~  
 14 ~~made under rules implementing this chapter for the~~  
 15 ~~protection of human health~~ is guilty of a misdemeanor. Upon  
 16 conviction he shall be fined not more than ~~\$100~~ \$500,  
 17 imprisoned for not more than 30 days, or both, for each  
 18 offense. Each day of violation constitutes a separate  
 19 offense. Fines collected shall be deposited in the general  
 20 fund of the county in which the action is brought."

21 Section 8. Saving clause. This act does not affect  
 22 rights and duties that matured, penalties that were  
 23 incurred, or proceedings that were begun before the  
 24 effective date of this act.

25 Section 9. Severability. If a part of this act is

1 invalid, all valid parts that are severable from the invalid  
 2 part remain in effect. If a part of this act is invalid in  
 3 one or more of its applications, the part remains in effect  
 4 in all valid applications that are severable from the  
 5 invalid applications.

6 Section 10. Codification. It is intended that section  
 7 1 of this act shall be codified as an integral part of Title  
 8 37, chapter 41, part 1, and the provisions of Title 37,  
 9 chapter 41, apply to section 1 of this act.

10 Section 11. Repealer. Sections 37-41-102, 37-41-203,  
 11 and 37-41-204, MCA, are repealed.

-End-

SB 102

STATE OF MONTANA

REQUEST NO. 17-79

FISCAL NOTE

Form BD-15

compliance with a written request received January 18, 19 79, there is hereby submitted a Fiscal Note  
r SB 102 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.  
background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members  
f the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to generally revise and clarify the laws relating to licensure of  
cesspool, septic tank, and privy cleaning businesses.

ASSUMPTION:

There are 100 septic tank pumpers operating in Montana.

FISCAL IMPACT:

Revenue Impact:	<u>FY '80</u>	<u>FY '81</u>
Fee collections under proposed law	\$1,000	\$1,000
Fee collections under current law	<u>500</u>	<u>500</u>
Increased fee collections under proposed law	<u>\$ 500</u>	<u>\$ 500</u>

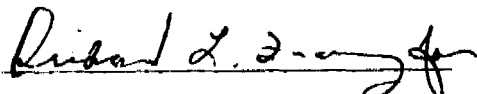
Expenditure Impact:

None.

The additional revenue will be deposited into the State General Fund.

LOCAL IMPACT:

It appears that the fiscal impact on local governments will be minimal.



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1/22/79