

SENATE BILL NO. 410  
INTRODUCED BY HALLIGAN

IN THE SENATE

February 14, 1983	Introduced and referred to Committee on Public Health, Welfare and Safety.
February 18, 1983	Committee recommend bill do pass as amended. Report adopted.
	Statement of Intent attached.
February 19, 1983	Bill printed and placed on members' desks.
February 21, 1983	Second reading, do pass.
February 22, 1983	Correctly engrossed.
February 23, 1983	Third reading, passed. Ayes, 38; Noes, 11. Transmitted to House.

IN THE HOUSE

February 28, 1983	Introduced and referred to Committee on Human Services.
March 15, 1983	Committee recommend bill be concurred in as amended. Report adopted.
March 21, 1983	Second reading, pass consideration.
March 22, 1983	On motion, consideration passed for the day.
March 23, 1983	On motion, consideration passed for the day.

March 24, 1983

On second reading,  
consideration passed for the  
day.

On motion, consideration  
passed until the 69th  
Legislative Day.

March 26, 1983

Second reading, bill and  
Statement of Intent concurred  
in as amended.

March 28, 1983

Third reading, concurred in.

#### IN THE SENATE

March 28, 1983

Returned to Senate with  
amendments and Statement of  
Intent amendments.

April 6, 1983

Second reading, amendments  
and Statement of Intent  
amendments concurred in.

April 7, 1983

Third reading, amendments and  
Statement of Intent amendments  
concurred in. Ayes, 47;  
Noes, 3.

Sent to enrolling.

Reported correctly enrolled.

1 *Sen. Hollen* BILL NO. *410*  
 2 INTRODUCED BY *Hollen*  
 3  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND  
 5 CLARIFY THE LAWS RELATING TO LICENSURE OF CESSPOOL, SEPTIC  
 6 TANK, AND PRIVY CLEANING BUSINESSES; ALLOWING THE DEPARTMENT  
 7 OF HEALTH AND ENVIRONMENTAL SCIENCES TO ESTABLISH  
 8 REQUIREMENTS BY RULE FOR DISPOSAL SITES AND INCREASING THE  
 9 LICENSE FEE; PROVIDING FOR A HEARING AFTER THE DENIAL,  
 10 SUSPENSION, OR REVOCATION OF A LICENSE; PROVIDING FOR  
 11 EXCEPTIONS TO THE LICENSING REQUIREMENT; PROVIDING FOR CIVIL  
 12 AND CRIMINAL PENALTIES; AMENDING SECTIONS 37-41-101,  
 13 37-41-103, 37-41-201, 37-41-202, 37-41-211, AND 37-41-212,  
 14 MCA; AND REPEALING SECTIONS 37-41-102, 37-41-203, AND  
 15 37-41-204, MCA."

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

18 NEW SECTION. Section 1. Definitions. As used in this  
 19 chapter, unless the context clearly indicates otherwise, the  
 20 following definitions apply:

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

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

1 (3) "Disposal" means the discharge, injection,  
 2 deposit, dumping, spilling, leaking, or placing of septage  
 3 into or onto the land or water.

4 (4) "Person" means an individual, firm, partnership,  
 5 association, corporation, city, town, local government  
 6 entity, or other government or private entity, whether  
 7 organized for profit or not.

8 (5) "Septage" means waste material from cesspools,  
 9 septic tanks, or privies.

10 Section 2. Section 37-41-101, MCA, is amended to read:

11 ~~"37-41-101. License required. No person--partnership~~  
 12 ~~firm--or--corporation--shall~~ may engage in the business of  
 13 cleaning cesspools, septic tanks, or privies and disposal of  
 14 waste ~~septage~~ therefrom unless licensed by the department of  
 15 health--and--environmental--sciences--and--the--license--is  
 16 validated--by--the--health--officer--or--local--sanitation--in--each  
 17 county--where--business--is--to--be--conducted."

18 Section 3. Section 37-41-103, MCA, is amended to read:

19 ~~"37-41-103. Rulemaking power of department. The~~  
 20 ~~department shall adopt necessary rules for carrying out the~~  
 21 ~~implementation of the provisions of this chapter, including~~  
 22 ~~but not limited to rules pertaining to:~~

23 (1) licensure and operation of septic tank, cesspool,  
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25 (2) requirements for equipment utilized in the conduct

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 3 equipment utilized in the conduct of septic tank, cesspool,  
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5 (4) requirements for temporary and permanent sites for  
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7 Section 4. Section 37-41-201, MCA, is amended to read:

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14 (1) the full name in full and, if a partnership, the  
 15 name of each partner business address of each applicant;

16 (2) place of business and a list of the counties in  
 17 which business is to be conducted;

18 (3) place of residence of the applicant or applicants;

19 (4) (3) the number of units and type of equipment to be  
 20 used;

21 (5) a statement that the applicant will comply with  
 22 rules adopted by the department under this chapter;

23 (6) the signature of the individual authorized  
 24 officer of the firm or corporation or managing partner of  
 25 the partnership applying.

1 (4) a description of each site proposed for disposal  
 2 of septage and the written consent of the owner or operator  
 3 of each such site to the disposal of septage for the  
 4 duration of the license period;

5 (5) certification by a local health officer or his  
 6 designated representative of the county in which the  
 7 applicant's business is located that the equipment to be  
 8 used by the applicant meets all applicable state and local  
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10 (6) certification by a local health officer or his  
 11 designated representative in each county in which the  
 12 applicant's business is to be conducted that proposed  
 13 disposal sites to be used by the applicant meet all  
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15 Section 5. Section 37-41-202, MCA, is amended to read:

16 "37-41-202. Licenses -- nontransferability -- fees.

17 (1) Licenses issued by the department shall be titled  
 18 "Montana Sanitary License" and numbered consecutively  
 19 beginning with the number 10. Licenses expire on December 31  
 20 of each calendar year. Licenses are not transferable. If a  
 21 licensee ceases to do business, the license shall be  
 22 surrendered to the department.

23 (2) The fee for each license is \$25 \$50, payable at  
 24 the time of application for license. Twenty dollars of the  
 25 fee shall be deposited with the county treasurer in the

1 county--of--licensee--residence--and--\$5--forwarded-with-the  
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 4 license fee, but such agency, including a federal agency if  
 5 allowed by federal law, shall comply with all other  
 6 requirements of this chapter. The department shall annually  
 7 return 80% of the fees collected from a county to that  
 8 county. The state portion of the fee shall be deposited in  
 9 the state general fund. The county portion of the fee shall  
 10 be used to defer cost of a-sanitarion the county to enforce  
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 19 may request a hearing within 30 days after receipt of a  
 20 written notice of the department's action. The hearing must  
 21 be held before the board and in accordance with the Montana  
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23 Section 7. Section 37-41-212, MCA, is amended to read:

24 "37-41-212. Enforcement responsibility -- penalty --  
 25 deposit of fines. (1) State and local health officers or

1 sanitarians--are--responsible--for--the-enforcement-of shall  
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 3 provisions--of-this-chapter-or-orders-of-a-health-officer-or  
 4 sanitarian-made-under-this-chapter--for--the--protection--of  
 5 human-health-is-guilty-of-a-misdemeanor-Upon-conviction-he  
 6 shall-be-fined-not-more-than--\$100-imprisoned-for-not--more  
 7 than--30--days--or--both--for-each-offenses-Fines-collected  
 8 shall-be-deposited-in-the-general-fund--of--the--county--in  
 9 which-the-action-is-brought.

10 (2) A person who violates this chapter or a rule of  
 11 the department is guilty of a misdemeanor and upon  
 12 conviction shall be fined not more than \$500, imprisoned for  
 13 a term not to exceed 30 days, or both. Each day of violation  
 14 constitutes a separate offense.

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22 NEW SECTION. Section 8. Exclusions. This chapter does  
 23 not prohibit the owner or lessee of the property from which  
 24 the septage was removed from disposing or contracting for  
 25 the disposal of his own septage upon land owned or leased by

1 him if it does not create a nuisance or public health  
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8 this act is invalid, all valid parts that are severable from  
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13 NEW SECTION. Section 11. Codification instruction.  
14 Sections 1 and 8 are intended to be codified as an integral  
15 part of Title 37, chapter 41, and the provisions of Title  
16 37, chapter 41, apply to sections 1 and 8.

17 NEW SECTION. Section 12. Repealer. Sections  
18 37-41-102, 37-41-203, and 37-41-204, MCA, are repealed.

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10 cleaning businesses; establish minimum equipment  
11 requirements for licenses; timely procedures for inspection  
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13 health, safety and welfare for disposal of septage.

SECOND READING

SB 410

Approved by Committee  
on Public Health, Welfare  
& Safety

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12 the invalid applications.

13 NEW SECTION. Section 11. Codification instruction.  
14 Sections 1 and 8 are intended to be codified as an integral  
15 part of Title 37, chapter 41, and the provisions of Title  
16 37, chapter 41, apply to sections 1 and 8.

17 NEW SECTION. Section 12. Repealer. Sections  
18 37-41-102, 37-41-203, and 37-41-204, MCA, are repealed.

-End-



HOUSE HUMAN SERVICES COMMITTEE

AMENDMENT TO STATEMENT OF INTENT  
SENATE BILL 410

March 14, 1983

Third Reading Copy (blue)

BE AMENDED AS FOLLOWS:

Statement of Intent, Page 1, line 13.

Following: "septage."

Insert: "It is further the intent of the Legislature that  
rules implementing the provisions of this act be adopted by  
December 31, 1983."

AND AS AMENDED  
BE CONCURRED IN

HOUSE COMMITTEE OF THE WHOLE, March 26, 1983

AMENDMENTS TO SB 410, Third reading, blue copy

1. Title, lines 8 and 9.  
Strike: "AND INCREASING THE LICENSING FEE"
2. Title, lines 11 and 12.  
Strike: "CIVIL AND"
3. Page 2, line 23.  
Strike: "and"  
Insert: "but not"
4. Page 2, line 24.  
Following: ";"  
Insert: "and"
5. Page 2, line 25 through line 4 on page 3.  
Strike: subsections (2) and (3) in their entirety  
Renumber: subsequent subsections accordingly
6. Page 3, line 17.  
Following: ";"  
Insert: "and"
7. Page 3, lines 19 and 20.  
Strike: subsection (3) in its entirety
8. Page 4, lines 1 through 9.  
Strike: subsections (4) and (5) in their entirety  
Renumber: subsequent subsections accordingly
9. Page 4, line 23.  
Strike: "\$50"  
Insert: "\$25"
10. Page 6, lines 15 through 18.  
Strike: subsection (3) in its entirety  
Renumber: subsequent subsections accordingly

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HOUSE COMMITTEE OF THE WHOLE, March 26, 1983,

AMENDMENTS TO STATEMENT OF INTENT FOR SB 410, Third reading, blue,  
as follows:

1. Page 1, lines 10 and 11.  
Strike: "establish minimum equipment requirements for licenses;"
2. Page 1, line 12.  
Following: "evaluation"  
Insert: "of disposal sites"
3. Page 1, line 13.  
Following: "septage"  
Insert: "in accordance with the provisions of the bill"

## 1 STATEMENT OF INTENT

## 2 SENATE BILL 410

3

4 A statement of intent is necessary for Senate Bill 410  
5 because in Section 3 it delineates the rulemaking authority  
6 of the department for licensure under this bill. It is the  
7 intent of the Legislature that the department in making  
8 rules under this authority; provide procedural mechanism for  
9 licensure and operation of septic tank, cesspool, and privy  
10 cleaning businesses; ~~establish---minimum---equipment~~  
11 ~~requirements-for-licenses;~~ timely procedures for inspection  
12 and evaluation OF DISPOSAL SITES; minimum requirements that  
13 protect the public health, safety and welfare for disposal  
14 of sewage IN ACCORDANCE WITH THE PROVISIONS OF THE BILL. IT  
15 IS FURTHER THE INTENT OF THE LEGISLATURE THAT RULES  
16 IMPLEMENTING THE PROVISIONS OF THIS ACT BE ADOPTED BY  
17 DECEMBER 31, 1983.

REFERENCE BILL

SB 410

SENATE BILL NO. 410  
INTRODUCED BY HALLIGAN

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 BY RULE FOR DISPOSAL SITES AND--INCREASING--THE LICENSE--FEE; PROVIDING FOR A HEARING AFTER THE DENIAL, SUSPENSION, OR REVOCATION OF A LICENSE; PROVIDING FOR EXCEPTIONS TO THE LICENSING REQUIREMENT; PROVIDING FOR CIVIL AND CRIMINAL PENALTIES; 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 this chapter, 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) "Disposal" means the discharge, injection, deposit, dumping, spilling, leaking, or placing of septage into or onto the land or water.

(4) "Person" means an individual, firm, partnership, association, corporation, city, town, local government entity, or other government or private entity, whether organized for profit or not.

(5) "Septage" means waste material from cesspools, septic tanks, or privies.

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 septage therefrom unless licensed by the department of health--and--environmental--sciences--and--the--license--is validated--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 for ~~carrying out the implementation of~~ the provisions of this chapter, ~~including but not limited to~~ rules pertaining to:

(1) ~~licensure and BUI~~ NOI operation of septic tanks, cesspools, and privy cleaning businesses; AND

(2) ~~requirements for equipment utilized in the conduct~~

1 ~~of septic tank cesspools and privy cleaning businesses~~  
 2 ~~(3) procedures for the inspection and evaluation of~~  
 3 ~~equipment utilized in the conduct of septic tank cesspools~~  
 4 ~~and privy cleaning businesses and~~

5 ~~§41(2) requirements for temporary and permanent sites~~  
 6 ~~for disposal of seepage."~~

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

8 "37-41-201. Application for license -- form and  
 9 contents. Application for a license is made to the  
 10 department on application forms procured from the local  
 11 health officer or sanitarian in the county of applicant's  
 12 residence provided by the department. The application shall  
 13 show contain:

14 (1) the full name in full and if a partnership the  
 15 name of each partner business address of each applicant;

16 (2) place of business and a list of the counties in  
 17 which business is to be conducted; AND

18 (3) place of residence of the applicant or applicants;

19 (4) ~~(2)~~ the number of units and type of equipment to be  
 20 used;

21 (5) a statement that the applicant will comply with  
 22 rules adopted by the department under this chapter;

23 (6) the signature of the individual authorized  
 24 officer of the firm or corporation or managing partner of  
 25 the partnership applying;

1 ~~§41 a description of each site proposed for disposal~~  
 2 ~~of seepage and the written consent of the owner or operator~~  
 3 ~~of each such site to the disposal of seepage for the~~  
 4 ~~duration of the license period;~~

5 ~~§41 certification by a local health officer or his~~  
 6 ~~designated representative of the county in which the~~  
 7 ~~applicant's business is located that the equipment to be~~  
 8 ~~used by the applicant meets all applicable state and local~~  
 9 ~~government requirements; and~~

10 ~~§41(3) certification by a local health officer or his~~  
 11 ~~designated representative in each county in which the~~  
 12 ~~applicant's business is to be conducted that proposed~~  
 13 ~~disposal sites to be used by the applicant meet all~~  
 14 ~~applicable state and local requirements."~~

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

16 "37-41-202. Licenses -- nontransferability -- fees.

17 (1) licenses issued by the department shall be titled  
 18 "Montana Sanitary License" and numbered consecutively  
 19 beginning with the number 10. Licenses expire on December 31  
 20 of each calendar year. Licenses are not transferable. If a  
 21 licensee ceases to do business, the license shall be  
 22 surrendered to the department;

23 (2) The fee for each license is \$25 ~~250~~ 125, payable  
 24 at the time of application for license. Twenty dollars of  
 25 the fee shall be deposited with the county treasurer in the

1 county-of-licensee--residence--and--\$5--forwarded--with--the  
 2 application-to-the-department. A federal agency, city, town,  
 3 or other political subdivision is not required to pay the  
 4 license fee, but such agency, including a federal agency if  
 5 allowed by federal law, shall comply with all other  
 6 requirements of this chapter. The department shall annually  
 7 return 80% of the fees collected from a county to that  
 8 county. The state portion of the fee shall be deposited in  
 9 the state general fund. The county portion of the fee shall  
 10 be used to defer cost of a sanitarian the county to enforce  
 11 this chapter. The--department--shall--return--the--license--to  
 12 county-of-licensee-residence-for-issue."

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

14 "37-41-211. Denial, suspension, or revocation of  
 15 license. The department of health and environmental sciences  
 16 may deny, suspend, or revoke a license for noncompliance  
 17 with this chapter or rules adopted by the department. Upon  
 18 denial, suspension, or revocation, the applicant or licensee  
 19 may request a hearing within 30 days after receipt of a  
 20 written notice of the department's action. The hearing must  
 21 be held before the board and in accordance with the Montana  
 22 Administrative Procedure Act."

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

24 "37-41-212. Enforcement responsibility -- penalty --  
 25 deposit of fines. (1) State and local health officers or

1 sanitarians are responsible for the enforcement of shall  
 2 enforce this chapter. Any person who fails to comply with  
 3 provisions of this chapter or orders of a health officer or  
 4 sanitarian made under this chapter for the protection of  
 5 human health is guilty of a misdemeanor. Upon conviction, he  
 6 shall be fined not more than \$100 or imprisoned for not more  
 7 than 30 days or both for each offense. Fines collected  
 8 shall be deposited in the general fund of the county in  
 9 which the action is brought.

10 (2) A person who violates this chapter or a rule of  
 11 the department is guilty of a misdemeanor and upon  
 12 conviction shall be fined not more than \$500 or imprisoned for  
 13 a term not to exceed 30 days or both each day of violation  
 14 constitutes a separate offense.

15 (3) A person who violates this chapter or a rule of  
 16 the department is subject to a civil penalty of not more  
 17 than \$20 each day of violation constitutes a separate  
 18 offense.

19 (4) (3) All fines collected under this section shall be  
 20 deposited in the general fund of the county in which the  
 21 action is brought."

22 NEW SECTION. Section 8. Exclusions. This chapter does  
 23 not prohibit the owner or lessee of the property from which  
 24 the septage was removed from disposing or contracting for  
 25 the disposal of his own septage upon land owned or leased by

1 him if it does not create a nuisance or public health  
2 hazard.

3 NEW\_SECTION. Section 9. Saving clause. This act does  
4 not affect rights and duties that matured, penalties that  
5 were incurred, or proceedings that were begun before the  
6 effective date of this act.

7 NEW\_SECTION. Section 10. Severability. If a part of  
8 this act is invalid, all valid parts that are severable from  
9 the invalid part remain in effect. If a part of this act is  
10 invalid in one or more of its applications, the part remains  
11 in effect in all valid applications that are severable from  
12 the invalid applications.

13 NEW\_SECTION. Section 11. Codification instruction.  
14 Sections 1 and 8 are intended to be codified as an integral  
15 part of Title 37, chapter 41, and the provisions of Title  
16 37, chapter 41, apply to sections 1 and 8.

17 NEW\_SECTION. Section 12. Repealer. Sections  
18 37-41-102, 37-41-203, and 37-41-204, MCA, are repealed.

-End-