

HB 347 INTRODUCED BY HARPER, ET AL.
INCREASE AUTHORITY OF DEPARTMENT OF HEALTH &
ENVIRONMENTAL SCIENCES TO ENFORCE LAWS
PROTECTING PUBLIC WATER SUPPLIES
BY REQUEST OF DEPARTMENT OF HEALTH &
ENVIRONMENTAL SCIENCES

1/21 INTRODUCED
1/21 REFERRED TO HUMAN SERVICES & AGING
1/29 HEARING
1/29 COMMITTEE REPORT--BILL NOT PASSED AS AMENDED
1/30 REREFERRED TO HUMAN SERVICES & AGING
2/16 TABLED IN COMMITTEE

1 House BILL NO. 347
 2 INTRODUCED BY Harold Speth
 3 BY REQUEST OF THE DEPARTMENT OF HEALTH AND
 4 ENVIRONMENTAL SCIENCES
 5

6 A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING THE
 7 AUTHORITY OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL
 8 SCIENCES TO ENFORCE THE LAWS PROTECTING PUBLIC WATER
 9 SUPPLIES; ALLOWING THE DEPARTMENT TO TAKE ADMINISTRATIVE
 10 ENFORCEMENT ACTION TO IMPLEMENT THOSE LAWS; ADDING A CIVIL
 11 PENALTY FOR VIOLATION OF PUBLIC WATER SUPPLY LAWS OR OF A
 12 RULE, ORDER, OR CONDITION OF APPROVAL ISSUED PURSUANT TO
 13 THOSE LAWS; AND ALLOWING THE DEPARTMENT TO REQUIRE
 14 NONCONFORMING OR UNSAFE WATER OR WASTEWATER SYSTEMS TO TAKE
 15 CORRECTIVE ACTION."
 16

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

18 Section 1. Administrative enforcement. (1) If the
 19 department believes that a violation of this part, a rule
 20 adopted under this part, or a condition of approval issued
 21 under this part has occurred, it may serve written notice of
 22 the violation, by certified mail, on the alleged violator or
 23 his agent. The notice must specify the provision of this
 24 part, the rule, or the condition of approval alleged to have
 25 been violated and the facts alleged to constitute a

1 violation. The notice must include an order to take
 2 necessary corrective action within a reasonable period of
 3 time, which must be stated in the order. Unless within 30
 4 days after the notice is served the alleged violator
 5 requests in writing a hearing before the board, the order
 6 becomes final. Service by mail is complete on the date of
 7 mailing.

8 (2) Upon receipt of the request, the board shall
 9 schedule a hearing. After a hearing is held, the board may:

10 (a) affirm or modify the department's order issued
 11 under subsection (1) if the board finds that a violation has
 12 occurred; or

13 (b) rescind the department's order if the board finds
 14 no violation has occurred.

15 (3) An order issued by the department or the board may
 16 set a date by which the violation must cease and set a time
 17 limit for action to correct a violation.

18 (4) As an alternative to issuing an order pursuant to
 19 subsection (1), the department may:

20 (a) require the alleged violator to appear before the
 21 board for a hearing, at a time and place specified in the
 22 notice, to answer the charges complained of; or

23 (b) initiate an action under 75-6-111(2), 75-6-113, or
 24 [section 2].

25 Section 2. Civil penalties. (1) A person who violates



1 this part or a rule, order, or condition of approval issued
 2 under this part is subject to a civil penalty not to exceed
 3 \$5,000.

4 (2) Each day of violation constitutes a separate
 5 violation.

6 (3) Action under this section does not bar enforcement
 7 of this part or of a rule, order, or condition of approval
 8 issued under this part by injunction or other appropriate
 9 remedy.

10 (4) Civil penalties collected pursuant to this section
 11 must be deposited in the state general fund.

12 Section 3. Nonconforming or unsafe systems --
 13 authority to require corrective measures. (1) If the
 14 department determines that a public water supply system or a
 15 public wastewater system has been constructed, altered, or
 16 extended without required department approval, the
 17 department may require that any necessary corrective
 18 measures be taken to ensure the protection of public health
 19 and safety, including compliance with standards currently
 20 applicable to those systems.

21 (2) If the department determines that a public water
 22 supply system or a public wastewater system that was
 23 approved by the department has not been constructed or
 24 operated in accordance with the approved plans and
 25 specifications, the department may require that the

1 construction and operation of the system conform to the
 2 terms and conditions of the department's approval.

3 (3) If the department determines that a public water
 4 supply system is at imminent risk of contamination or that
 5 the condition of a public wastewater system poses an
 6 imminent risk to a public water supply used for human
 7 consumption, the department shall require that any necessary
 8 measures be taken to ensure the protection of public health
 9 or safety, including compliance with the most recent
 10 standards adopted by the board that are applicable to the
 11 system.

12 (4) The department may seek an injunction or use any
 13 other authority granted under this part to enforce
 14 imposition of the corrective measures authorized by this
 15 section.

16 Section 4. Codification instruction. Sections 1
 17 through 3 are intended to be codified as an integral part of
 18 Title 75, chapter 6, part 1, and the provisions of Title 75,
 19 chapter 6, part 1, apply to sections 1 through 3.

20 Section 5. Saving clause. This act does not affect
 21 rights and duties that matured, penalties that were
 22 incurred, or proceedings that were begun before the
 23 effective date of this act.

24 Section 6. Severability. If a part of this act is
 25 invalid, all valid parts that are severable from the invalid

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

5 Section 7. Extension of authority. Any existing
6 authority of the board of health and environmental sciences
7 to make rules on the subject of the provisions of this act
8 is extended to the provisions of this act.

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