

HOUSE BILL 672

Introduced by Cohen, et al.

2/13	Introduced
2/13	Referred to Natural Resources
2/17	Hearing
2/18	Committee Report--Bill Passed as Amended
2/21	2nd Reading Passed
2/22	3rd Reading Passed

Transmitted to Senate

2/28	Referred to Natural Resources
3/10	Hearing
3/13	Fiscal Note Requested
3/15	Fiscal Note Received
3/16	Fiscal Note Printed
3/20	Committee Report--Bill Not Concurred
3/20	Adverse Committee Report Adopted

1 *HOUSE* BILL NO. *672*
2 INTRODUCED BY *McKee* *Burke* *Adley* *Kodg. Smith* *Rang*
3 *McKee* *Burke* *Adley* *Kodg. Smith* *Rang*
4 A BILL FOR AN ACT ENTITLED: "AN ACT SPECIFYING THAT THE
5 EXCLUSION IN THE MONTANA SOLID WASTE MANAGEMENT ACT APPLIES
6 ONLY TO AN INDIVIDUAL DISPOSING OF SOLID WASTE THAT WAS
7 GENERATED IN REASONABLE ASSOCIATION WITH THE INDIVIDUAL'S
8 HOUSEHOLD OR AGRICULTURAL OPERATIONS; PROVIDING A CIVIL
9 PENALTY FOR VIOLATIONS OF SOLID WASTE DISPOSAL LAWS AND
10 RULES; AMENDING SECTION 75-10-214, MCA; AND PROVIDING AN
11 APPLICABILITY DATE AND AN IMMEDIATE EFFECTIVE DATE."

12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 **Section 1.** Section 75-10-214, MCA, is amended to read:

15 "75-10-214. Exclusions -- exceptions to exclusions. (1)
16 This part may not be construed to prohibit a--person an
17 individual from disposing of his own solid waste that was
18 generated in reasonable association with his household or
19 agricultural operations upon land owned or leased by that
20 person individual or covered by easement or permit as long
21 as it the disposal does not create a nuisance or public
22 health hazard.

23 (2) The exclusion contained in subsection (1) of this
24 section does not apply to a division of land of 5 acres or
25 less made after July 1, 1977, which falls within the

1 definition of subdivision in Title 76, chapter 4, part 1, or
2 the Montana Subdivision and Platting Act in Title 76,
3 chapter 3."

4 **NEW SECTION. Section 2.** Civil penalties. (1) A person
5 who violates any provision of this part, a rule adopted
6 under this part, or a license provision is subject to a
7 civil penalty not to exceed \$1,000. Each day of violation
8 constitutes a separate violation.

9 (2) The department may institute and maintain in the
10 name of the state any enforcement proceedings under this
11 section. Upon request of the department, the attorney
12 general or the county attorney of the county where the
13 violation occurred shall petition the district court to
14 impose, assess, and recover the civil penalty.

15 **NEW SECTION. Section 3.** Extension of authority. Any
16 existing authority to make rules on the subject of the
17 provisions of [this act] is extended to the provisions of
18 [this act].

19 **NEW SECTION. Section 4.** Codification instruction.
20 [Section 2] is intended to be codified as an integral part
21 of Title 75, chapter 10, part 2, and the provisions of Title
22 75, chapter 10, part 2, apply to [section 2].

23 **NEW SECTION. Section 5.** Applicability. A person who
24 disposed of solid waste under the exclusion provided in
25 75-10-214 before [the effective date of this act] and who

LC 0966/01

1 loses his exclusion by virtue of [this act] shall have until
2 [1 year after the effective date of this act] to comply with
3 solid waste disposal regulations made applicable by the loss
4 of the exclusion. However, the person may not dispose of
5 additional solid waste in violation of solid waste disposal
6 regulations.

7 NEW SECTION. **Section 6. Effective date.** [This act] is
8 effective on passage and approval.

-End-

APPROVED BY COMM. ON
NATURAL RESOURCES

HOUSE BILL NO. 672

INTRODUCED BY COHEN, WEEDING, MCDONOUGH, BROOKE,
ADDY, KADAS, O'KEEFE, GRADY, RANEY

A BILL FOR AN ACT ENTITLED: "AN ACT SPECIFYING THAT THE EXCLUSION IN THE MONTANA SOLID WASTE MANAGEMENT ACT APPLIES ONLY TO AN-INDIVIDUAL-DISPOSING THE DISPOSAL OF SOLID WASTE THAT WAS GENERATED IN REASONABLE ASSOCIATION WITH THE AN INDIVIDUAL'S HOUSEHOLD OR AGRICULTURAL OPERATIONS OR WITH A CORPORATION'S AGRICULTURAL OR FOREST PRODUCTS OPERATIONS; PROVIDING A CIVIL PENALTY FOR VIOLATIONS OF SOLID WASTE DISPOSAL LAWS AND RULES; AMENDING SECTION 75-10-214, MCA; AND PROVIDING AN APPLICABILITY DATE AND AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 75-10-214, MCA, is amended to read:**"75-10-214. Exclusions -- exceptions to exclusions.**

(1) (A) This part may not be construed to prohibit a--person an individual from disposing of his own solid waste that was generated in reasonable association with his household or agricultural operations upon land owned or leased by that person individual or covered by easement or permit as long as it the disposal does not create a nuisance or public health hazard OR VIOLATE LAWS GOVERNING THE DISPOSAL OF

HAZARDOUS OR DELETERIOUS SUBSTANCES.

(B) THIS PART MAY NOT BE CONSTRUED TO PROHIBIT A CORPORATION FROM DISPOSING OF ITS OWN SOLID WASTE THAT WAS GENERATED IN REASONABLE ASSOCIATION WITH ITS AGRICULTURAL OR FOREST PRODUCTS OPERATIONS UPON LAND OWNED OR LEASED BY THAT CORPORATION AS LONG AS THE DISPOSAL DOES NOT CREATE A NUISANCE OR PUBLIC HEALTH HAZARD OR VIOLATE LAWS GOVERNING THE DISPOSAL OF HAZARDOUS OR DELETERIOUS SUBSTANCES.

(2) The ~~exclusion~~ EXCLUSIONS contained in subsection (1) of this section ~~does~~ DO not apply to a division of land of 5 acres or less made after July 1, 1977, ~~which~~ THAT falls within the definition of subdivision in Title 76, chapter 4, part 1, or the Montana Subdivision and Platting Act in Title 76, chapter 3."

NEW SECTION. Section 2. Civil penalties. (1) A person who violates any provision of this part, a rule adopted under this part, or a license provision is subject to a civil penalty not to exceed \$1,000. Each day of violation constitutes a separate violation.

(2) The department may institute and maintain in the name of the state any enforcement proceedings under this section. Upon request of the department, the attorney general or the county attorney of the county where the violation occurred shall petition the district court to impose, assess, and recover the civil penalty.

1 NEW SECTION. **Section 3.** Extension of authority. Any
2 existing authority to make rules on the subject of the
3 provisions of [this act] is extended to the provisions of
4 [this act].

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7 of Title 75, chapter 10, part 2, and the provisions of Title
8 75, chapter 10, part 2, apply to [section 2].

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10 disposed of solid waste under the exclusion provided in
11 75-10-214 before [the effective date of this act] and who
12 loses his exclusion by virtue of [this act] shall have until
13 [1 year after the effective date of this act] to comply with
14 solid waste disposal regulations made applicable by the loss
15 of the exclusion. However, the person may not dispose of
16 additional solid waste in violation of solid waste disposal
17 regulations.

18 NEW SECTION. **Section 6.** Effective date. [This act] is
19 effective on passage and approval.

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ADDY, KADAS, O'KEEFE, GRADY, RANEY

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EXCLUSION IN THE MONTANA SOLID WASTE MANAGEMENT ACT APPLIES
ONLY TO AN-INDIVIDUAL-DISPOSING THE DISPOSAL OF SOLID WASTE
THAT WAS GENERATED IN REASONABLE ASSOCIATION WITH THE AN
INDIVIDUAL'S HOUSEHOLD OR AGRICULTURAL OPERATIONS OR WITH A
CORPORATION'S AGRICULTURAL OR FOREST PRODUCTS OPERATIONS;
PROVIDING A CIVIL PENALTY FOR VIOLATIONS OF SOLID WASTE
DISPOSAL LAWS AND RULES; AMENDING SECTION 75-10-214, MCA;
AND PROVIDING AN APPLICABILITY DATE AND AN IMMEDIATE
EFFECTIVE DATE."

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Section 1. Section 75-10-214, MCA, is amended to read:

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an individual from disposing of his own solid waste that was
generated in reasonable association with his household or
agricultural operations upon land owned or leased by that
person individual or covered by easement or permit as long
as it the disposal does not create a nuisance or public
health hazard OR VIOLATE LAWS GOVERNING THE DISPOSAL OF

HAZARDOUS OR DELETERIOUS SUBSTANCES.

(B) THIS PART MAY NOT BE CONSTRUED TO PROHIBIT A
CORPORATION FROM DISPOSING OF ITS OWN SOLID WASTE THAT WAS
GENERATED IN REASONABLE ASSOCIATION WITH ITS AGRICULTURAL OR
FOREST PRODUCTS OPERATIONS UPON LAND OWNED OR LEASED BY THAT
CORPORATION AS LONG AS THE DISPOSAL DOES NOT CREATE A
NUISANCE OR PUBLIC HEALTH HAZARD OR VIOLATE LAWS GOVERNING
THE DISPOSAL OF HAZARDOUS OR DELETERIOUS SUBSTANCES.

(2) The ~~exclusion~~ EXCLUSIONS contained in subsection
(1) of this section does DO not apply to a division of land
of 5 acres or less made after July 1, 1977, which THAT falls
within the definition of subdivision in Title 76, chapter 4,
part 1, or the Montana Subdivision and Platting Act in Title
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constitutes a separate violation.

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15 of the exclusion. However, the person may not dispose of
16 additional solid waste in violation of solid waste disposal
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19 effective on passage and approval.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB672, on third reading.

DESCRIPTION OF PROPOSED LEGISLATION:

A bill for an act entitled: "An act specifying that the exclusion in the Montana Solid Waste Management act applies only to the disposal of solid waste that was generated in reasonable association with an individual's household or agricultural operations or with a corporation's agricultural or forest products operations. Providing a civil penalty for violations of solid waste disposal laws and rules; amending Section 75-10-214, MCA; and providing an applicability date and an immediate effective date."

ASSUMPTIONS:

1. The Department of Health and Environmental Sciences feels it needs 3.5 FTE to administer, two environmental specialists, one-half FTE hydrogeologist, and one clerical FTE. Upon review, the Office of Budget and Program and Planning feels this legislation can be done with 2 FTE, the two environmental specialists.
2. There will be ten existing sites/county which could fail under regulation and licensing. Of these, 1/2 (280) will close and take waste to existing landfill sites, 1/2 (280) will request licensing or require enforcement procedures to come into compliance. One half of these (140) will obtain licenses, and the other 140 will also eventually close, but require some enforcement in order to do so.

FISCAL IMPACT:

	<u>FY90</u>			<u>FY91</u>		
	Current	Proposed		Current	Proposed	
	Law	Law	Difference	Law	Law	Difference
<u>Revenues:</u>	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-
<u>Expenditures:</u>	\$ -0-	\$126,526	\$ 126,526	\$ -0-	\$126,526	\$ 126,526
<u>Net Effect:</u>	\$ -0-	(\$126,526)	(\$ 126,526)	\$ -0-	(\$126,526)	(\$ 126,526)
<u>General Fund:</u>	\$ -0-	(\$126,526)	(\$ 126,526)	\$ -0-	(\$126,526)	(\$ 126,526)

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

The majority of sites affected by this legislation would be on privately owned or operated land, and would be the individual or corporation's responsibility to license or eliminate. Some number of sites would be publicly owned/operated and require some expenditure of local money to come into compliance, but it is impossible to quantify this cost due to lack of information. The majority of the publicly operated sites would need minimal expense due to the nature of the wastes being landfilled. Some of the commercial/industrial facilities would be more expensive to license due to the nature of the wastes, location of the disposal, monitoring requirements, etc. It is anticipated that this legislation would transfer some of the responsibilities of the groundwater permitting program to the solid waste management program, creating a need for a half-time hydrogeologist to evaluate sites having potential groundwater impact.

Dave Lewis

DATE 3/15/89

DAVE LEWIS, BUDGET DIRECTOR
OFFICE OF BUDGET AND PROGRAM PLANNING

Ben Cohen

DATE 3/15/89

BEN COHEN, PRIMARY SPONSOR

Fiscal Note for HB672, on third reading

HB 672

Fiscal Note Request HB672, on third reading

Form BD-15

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LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

This legislation would minimize environmental problems created by currently unregulated sites. Over the long-term the legislation would increase the need for licensed and approved solid waste disposal facilities. In addition, much of the solid waste disposal currently occurring on private ground and previously unregulated will be coming under closer scrutiny, undoubtedly revealing environmental problems which need to be adequately regulated.

HB 672