

HOUSE BILL 84

Introduced by Barnett, et al.

12/09	Introduced
12/09	Referred to Appropriations
12/09	First Reading
12/09	Fiscal Note Requested
12/31	Hearing
12/15	Fiscal Note Received
	Died in Committee

1 House BILL NO. 84  
2 INTRODUCED BY Sen. E. Bergman  
3 BY REQUEST OF THE DEPARTMENT OF HEALTH Jack Hays  
4 AND ENVIRONMENTAL SCIENCES Theresa M. Hill  
5 Shirley Anderson

6 A BILL FOR AN ACT ENTITLED: "AN ACT TRANSFERRING FROM THE  
7 DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES TO LOCAL  
8 HEALTH BOARDS THE LICENSURE OF PERSONS ENGAGED IN THE  
9 BUSINESS OF EITHER CLEANING OR DISPOSING OF SEPTAGE FROM  
10 CESSPOOLS, SEPTIC TANKS, OR PRIVIES; AMENDING SECTIONS  
11 37-41-101, 37-41-103, 37-41-104, 37-41-211, AND 37-41-212,  
12 MCA; REPEALING SECTIONS 37-41-201, 37-41-202, AND 37-41-205,  
13 MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

14  
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

16 **Section 1.** Section 37-41-101, MCA, is amended to read:  
17 "37-41-101. License required. No If a license is  
18 required by the local health board, a person may not engage  
19 in the business of cleaning cesspools, septic tanks, or  
20 privies and--disposal or disposing of septage therefrom  
21 within the jurisdiction of the local health board unless  
22 licensed by the department."

23 **Section 2.** Section 37-41-103, MCA, is amended to read:  
24 "37-41-103. Rulemaking power of department Authority of  
25 local health board. (1) A local health board may license

1 persons engaged in the business of either cleaning or  
2 disposing of septage from cesspools, septic tanks, or  
3 privies within its jurisdiction.

4 (2) The department local health board shall adopt  
5 necessary rules for the implementation of the provisions of  
6 this chapter, including rules pertaining to:

7 (1)(a) licensure but not operation of septic tank,  
8 cesspool, and privy cleaning and disposal businesses; and

9 (2)(b) requirements for temporary and permanent sites  
10 for disposal of septage;

11 (c) the duration of the license; and

12 (d) hearings held under this chapter.

13 (3) The local health board may charge a fee for a  
14 license and for a late renewal of a license."

15 **Section 3.** Section 37-41-104, MCA, is amended to read:

16 "37-41-104. **Definitions.** As used in this chapter,  
17 unless the context clearly indicates otherwise, the  
18 following definitions apply:

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

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

24 (3) "Disposal" means the discharge, injection, deposit,  
25 dumping, spilling, leaking, or placing of septage into or

1 onto the land or water.

2 (2) "Local health board" means a county, city,  
3 city-county, or district board of health provided for in  
4 Title 50, chapter 2, part 1.

5 (3) "Local health officer" means a county, city,  
6 city-county, or district health officer appointed by the  
7 local health board.

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

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

14 **Section 4.** Section 37-41-211, MCA, is amended to read:

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

1 **Section 5.** Section 37-41-212, MCA, is amended to read:

2 "37-41-212. Enforcement responsibility -- penalty --  
3 deposit of fines. (1) ~~State-and The~~ local health officers  
4 officer shall enforce this chapter and rules adopted by the  
5 local health board.

6 (2) A person who violates this chapter or a rule of the  
7 department local health board is guilty of a misdemeanor and  
8 upon conviction shall be fined not more than \$500.

9 (3) All fines collected under this section, except  
10 those collected by a justice's court, ~~shall~~ must be  
11 deposited in the general fund of the county in which the  
12 action is brought."

13 NEW SECTION. **Section 6.** Repealer. Sections 37-41-201,  
14 37-41-202, and 37-41-205, MCA, are repealed.

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

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