

1 SENATE BILL NO. 14

2 INTRODUCED BY SWYSGOOD

3 BY REQUEST OF THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT TRANSFERRING CERTAIN RESPONSIBILITIES RELATED TO
6 VECTOR-BORNE ILLNESS AND PESTICIDE REGISTRATION FROM THE DEPARTMENT OF ENVIRONMENTAL
7 QUALITY TO THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES; CLARIFYING THAT THE
8 STATE LABORATORY IS LOCATED WITHIN THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN
9 SERVICES; ALLOWING THE DEPARTMENT TO SET FEES WHEN NECESSARY INSTEAD OF ANNUALLY;
10 AMENDING SECTIONS 7-22-2403, 7-22-2409, 7-22-2418, 40-1-206, 50-1-202, 75-6-106, AND 80-8-201,
11 MCA; AND PROVIDING AN EFFECTIVE DATE."

12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
1415 **Section 1.** Section 7-22-2403, MCA, is amended to read:

16 **"7-22-2403. Petition to create mosquito control district -- hearing required.** (1) When a petition,
17 signed by ~~not less than~~ at least 25% of the qualified electors of the proposed district or 25% of the owners
18 of any property within the boundaries whose names appear as property owners ~~upon~~ on the last-completed
19 assessment roll of the county in which the proposed district is situated, is presented to the board of
20 commissioners of the county asking for the creation of a mosquito control district, the commissioners shall
21 set a day for a hearing on the petition and order notice of the hearing to be given to all persons interested.

22 (2) The commissioners by resolution shall fix a time for a hearing ~~upon~~ on the petition at not less
23 than 2 or more than 4 weeks from the time of presentation of the petition unless additional time is needed
24 to prepare a survey and study as authorized by this subsection. Before setting a time for a hearing, the
25 commissioners may cause a survey and study of the area sought to be included in the district to be made
26 by competent personnel and may submit a report of the study to the department of ~~environmental quality~~
27 public health and human services for its review and recommendations."
28

29 **Section 2.** Section 7-22-2409, MCA, is amended to read:30 **"7-22-2409. Adjournment of hearing.** (1) The hearing may be adjourned for determination of facts,

1 but an adjournment may not exceed a total of 2 weeks in all from ~~and after~~ the date originally noticed and
2 published for the hearing.

3 (2) (a) If at the time of the hearing the commissioners find that a geographical area desires
4 exclusion from the area contained within the boundaries of the proposed district, the hearing may be
5 adjourned to permit the commissioners to consult the department of ~~environmental quality~~ public health and
6 human services to determine if it would be advisable to exclude the geographical area from the district.

7 (b) Upon reconvening, the commissioners shall define and establish the boundaries that are
8 advisable."
9

10 **Section 3.** Section 7-22-2418, MCA, is amended to read:

11 **"7-22-2418. Relationship of mosquito control districts and boards with department of**
12 **~~environmental quality~~ public health and human services and department of agriculture.** (1) The department
13 of ~~environmental quality~~ public health and human services shall advise the commissioners of a county with
14 regard to the creation of mosquito control districts within the county and upon request advise the boards
15 of the districts in connection with their control programs.

16 (2) On or before February 1 of each year, the board of each district shall submit to the department
17 of ~~environmental quality~~ public health and human services and the department of agriculture, for their
18 review and advice, a written report of its operations for the preceding year and a written plan covering its
19 control program for the ensuing year."
20

21 **Section 4.** Section 40-1-206, MCA, is amended to read:

22 **"40-1-206. Premarital test -- approved laboratories -- rules.** (1) For the purpose of 40-1-203
23 through 40-1-209, a standard serological test is a test for rubella immunity that is approved by the
24 department of public health and human services.

25 (2) The standard serological test is acceptable for the purposes of 40-1-203 through 40-1-209 only
26 if it is performed by one of the following:

27 (a) the laboratory of the department of ~~environmental quality~~ public health and human services;

28 (b) a laboratory approved by the department of public health and human services;

29 (c) a laboratory operated by any other state; or

30 (d) a laboratory operated by the United States public health service or the United States armed

1 forces.

2 (3) The standard serological test may be made on request at the laboratory of the department of
3 ~~environmental quality~~ public health and human services.

4 (4) The department of public health and human services shall adopt reasonable rules for:

5 (a) reports to be submitted by any laboratory making tests and the manner of furnishing the reports
6 to the certifying physician and the state; and

7 (b) exemptions, on medical grounds, from the premarital serological test."
8

9 **Section 5.** Section 50-1-202, MCA, is amended to read:

10 **"50-1-202. General powers and duties.** The department shall:

11 (1) study conditions affecting the citizens of the state by making use of birth, death, and sickness
12 records;

13 (2) make investigations, disseminate information, and make recommendations for control of
14 diseases and improvement of public health to persons, groups, or the public;

15 (3) at the request of the governor, administer any federal health program for which responsibilities
16 are delegated to states;

17 (4) inspect and work in conjunction with custodial institutions and Montana university system units
18 periodically as necessary and at other times on request of the governor;

19 (5) after each inspection made under subsection (4), submit a written report on sanitary conditions
20 to the governor and to the director of the department of corrections or the commissioner of higher
21 education and include recommendations for improvement in conditions if necessary;

22 (6) advise state agencies on location, drainage, water supply, disposal of excreta, heating,
23 plumbing, sewer systems, and ventilation of public buildings;

24 (7) develop and administer activities for the protection and improvement of dental health and
25 supervise dentists employed by the state, local boards of health, or schools;

26 (8) develop, adopt, and administer rules setting standards for participation in and operation of
27 programs to protect the health of mothers and children, which rules may include programs for nutrition,
28 family planning services, improved pregnancy outcome, and those authorized by Title X of the federal Public
29 Health Service Act and Title V of the federal Social Security Act;

30 (9) conduct health education programs;

1 (10) provide consultation to school and local community health nurses in the performance of their
2 duties;

3 (11) consult with the superintendent of public instruction on health measures for schools;

4 (12) develop, adopt, and administer rules setting standards for a program to provide services to
5 handicapped children, including standards for:

6 (a) diagnosis;

7 (b) medical, surgical, and corrective treatment;

8 (c) aftercare and related services; and

9 (d) eligibility;

10 (13) provide consultation to local boards of health;

11 (14) bring actions in court for the enforcement of the health laws and defend actions brought
12 against the board or department;

13 (15) accept and expend federal funds available for public health services;

14 (16) have the power to use personnel of local departments of health to assist in the administration
15 of laws relating to public health;

16 (17) adopt rules imposing fees for the tests and services performed by the department's laboratory
17 ~~of the department of environmental quality. Fees, established on an annual basis,~~ should reflect the actual
18 costs of the tests or services provided. The department may not establish fees exceeding the costs incurred
19 in performing tests and services. All fees must be deposited in the state special revenue fund for the use
20 of the department in performing tests and services.

21 (18) adopt and enforce rules regarding the definition of communicable diseases and the reporting
22 and control of communicable diseases;

23 (19) adopt and enforce rules regarding the transportation of dead human bodies; and

24 (20) adopt and enforce minimum sanitation requirements for tattooing as provided in 50-2-116,
25 including regulation of premises, equipment, and methods of operation, solely oriented to the protection
26 of public health and the prevention of communicable disease."

27

28 **Section 6.** Section 75-6-106, MCA, is amended to read:

29 "75-6-106. **Licensing of laboratories.** (1) ~~Ne~~ A laboratory analysis of water taken from a public
30 water supply system or any report of ~~such~~ an analysis required by this part or a rule adopted under this part

1 may not be accepted by the department or board unless the analysis or report is made by the department
2 of public health and human services' laboratory ~~of the department~~ or by a laboratory licensed by the
3 department of environmental quality for ~~such~~ water analysis purposes. The department shall issue a license
4 to any laboratory that can meet criteria for licensing established in the rules adopted by the board.

5 (2) An application for a license under this section ~~shall~~ must be made on forms furnished by the
6 department.

7 (3) A person aggrieved by a decision of the department to grant, deny, or revoke a license may
8 appeal the department's decision to the board as provided in the Montana Administrative Procedure Act."
9

10 **Section 7.** Section 80-8-201, MCA, is amended to read:

11 **"80-8-201. Registration.** (1) Each pesticide distributed, sold, or offered for sale within the state
12 or delivered for transportation or transported in intrastate commerce or between points within the state
13 must be registered with the department. The registration must be renewed annually by the manufacturer,
14 formulator, or distributor of the pesticide. The department shall register all federally approved pesticides,
15 and those registered are subject to registration fees and all other provisions of this chapter. All registrations
16 of pesticides expire on December 31 following the date of issuance unless otherwise terminated.

17 (2) The applicant for registration shall file with the department a statement that includes:

18 (a) the name and address of the applicant and the name and address of the person whose name
19 will appear on the label, if other than the registrant;

20 (b) a complete copy of the label of the pesticide, the United States environmental protection agency
21 registration number if the pesticide is registered, and a statement of all claims to be made for it, including
22 directions for use;

23 (c) the trade and chemical name of the pesticide;

24 (d) if requested by the department, a full description of tests made and the results upon which the
25 claims are based. In the case of renewal of registration, a statement is required only for information that
26 is different from that furnished when the pesticide was registered or last reregistered.

27 (3) A pesticide imported into the state that is subject to and has been registered under the
28 provisions of a federal act providing for the registration of pesticides must be registered in the state.
29 However, the state may restrict the sale or use and application of the pesticide by type of dealer,
30 applicator, time, and place and may establish special registrations of pesticides as outlined in 80-8-105(3)

1 and in subsection (8) of this section. The annual registration fee must also be paid, and registration
2 information required by the department must be provided.

3 (4) The applicant shall pay an annual fee of \$70 for each pesticide registered. A registration fee
4 is not required to register a federally approved experimental use permit.

5 (5) The department may require the submission of the complete formula and certified analytical
6 standards of any pesticide. If it appears to the department that the composition of the pesticide warrants
7 the proposed claims for it and if the pesticide, its labeling, and other material required to be submitted
8 comply with the requirements of 80-8-202, the department shall register the pesticide.

9 (6) If it does not appear to the department that the pesticide warrants the proposed claims for it
10 or if the pesticide, its labeling, and other material required to be submitted do not comply with this chapter,
11 the department shall notify the applicant of the manner in which the pesticide, labeling, or other material
12 required to be submitted fails to comply with the chapter to provide the applicant an opportunity to make
13 the necessary corrections. If the applicant does not make the corrections upon receipt of the notice, the
14 department may refuse to register the pesticide. The department may suspend or cancel the registration
15 of a pesticide whenever it does not appear that the pesticide or its labeling comply with this chapter or
16 whenever scientific evidence proves that the pesticide endangers humans or the general environment
17 afforded protection under 80-8-105(3)(a). When an application for registration is refused or the department
18 proposes to suspend or cancel a registration, the registrant may pursue administrative remedies under the
19 Montana Administrative Procedure Act and rules of the department.

20 (7) Registration is not required in the case of a pesticide shipped from one plant in the state to
21 another plant in the state by the same person.

22 (8) (a) The department, the department of ~~environmental quality~~ public health and human services,
23 and the department of fish, wildlife, and parks shall review all applications for registration of an
24 experimental-use permit or a registration for special local needs. The applicant shall pay a one-time fee of
25 \$70 for a special local need or experimental-use permit registration. The departments shall ~~utilize~~ use the
26 same requirements and standards for reviewing registrations established by the Federal Insecticide,
27 Fungicide, and Rodenticide Act, as amended, and regulations adopted under the act. The department shall
28 provide the departments of ~~environmental quality~~ public health and human services and fish, wildlife, and
29 parks with a complete copy of the application, related correspondence, and a statement of the department's
30 proposed action on the application. The department, the department of ~~environmental quality~~ public health

1 and human services, and the department of fish, wildlife, and parks shall approve or disapprove the
2 application within 10 days after the receipt of the application. If the department, the department of
3 ~~environmental quality~~ public health and human services, and the department of fish, wildlife, and parks are
4 in agreement with the proposed registration, the department shall issue the registration.

5 (b) The department shall establish a time and place for an interagency conference for the purposes
6 of resolving the registration of any pesticide or device. If two of the departments approve the proposed
7 registration, the department shall issue the registration.

8 (c) The registrant applying for registration must be notified as to proposed changes in registration.
9 If the departments cannot resolve the proposed registration following the interagency conference, the
10 registrant may request a joint administrative hearing before the departments of agriculture, ~~environmental~~
11 ~~quality~~ public health and human services, and fish, wildlife, and parks.

12 (d) Following the interagency conference and, if requested, the administrative hearing, if the
13 proposed registration of a pesticide or device has not been resolved, the department of agriculture shall
14 appoint an advisory council as outlined in 80-8-108 to resolve by majority vote the registration of any
15 pesticide. The advisory council's recommendations on the registration must be accepted by the departments
16 and implemented by the department of agriculture.

17 (9) (a) Pesticides registered under any federal law when canceled for sale and use in total or in part
18 by a federal agency responsible for registration are considered canceled in total or in part for sale and use
19 in Montana. The cancellation is effective on the final date of sale or use allowed under the federal law and
20 rules or orders of the federal agency. Except as provided in subsection (9)(b), if the federal cancellation
21 allows existing stock to be used past the final date of cancellation, the sale or use in this state may not
22 exceed 2 years. The department shall provide technical assistance to any person in possession of the
23 products to ensure their proper disposal, relabeling, or removal.

24 (b) Pesticide products canceled under the Federal Insecticide, Fungicide, and Rodenticide Act, 7
25 U.S.C. 136a-1(i)(5) may be sold and used according to environmental protection agency labeling
26 requirements or other requirements for a period not to exceed 6 years from the date that distribution from
27 the registrant, manufacturer, formulator, or distributor is terminated."
28

29 **NEW SECTION. Section 8. Effective date.** [This act] is effective July 1, 1997.

30 -END-

APPROVED BY COM ON PUBLIC
HEALTH, WELFARE & SAFETY

1 SENATE BILL NO. 14

2 INTRODUCED BY SWYSGOOD

3 BY REQUEST OF THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY AMENDING LAWS PERTAINING TO THE
6 DEPARTMENTS OF PUBLIC HEALTH AND HUMAN SERVICES AND ENVIRONMENTAL QUALITY BY
7 TRANSFERRING CERTAIN RESPONSIBILITIES RELATED TO LABORATORY LICENSING, RADIOACTIVE
8 SUBSTANCES, VECTOR-BORNE ILLNESS, AND PESTICIDE REGISTRATION FROM THE DEPARTMENT OF
9 ENVIRONMENTAL QUALITY TO THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES;
10 CLARIFYING THAT THE STATE LABORATORY IS LOCATED WITHIN THE DEPARTMENT OF PUBLIC
11 HEALTH AND HUMAN SERVICES; ALLOWING THE DEPARTMENT TO SET FEES WHEN NECESSARY
12 INSTEAD OF ANNUALLY; AMENDING SECTIONS 7-22-2403, 7-22-2409, 7-22-2418, 40-1-206, 50-1-202,
13 75-3-103, 75-3-502, 75-6-103, 75-6-106, 75-6-109, AND 80-8-201, MCA; AND PROVIDING AN
14 EFFECTIVE DATE."

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

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18 **Section 1.** Section 7-22-2403, MCA, is amended to read:

19 **"7-22-2403. Petition to create mosquito control district -- hearing required.** (1) When a petition,
20 signed by ~~not less than~~ at least 25% of the qualified electors of the proposed district or 25% of the owners
21 of any property within the boundaries whose names appear as property owners ~~upon~~ on the last-completed
22 assessment roll of the county in which the proposed district is situated, is presented to the board of
23 commissioners of the county asking for the creation of a mosquito control district, the commissioners shall
24 set a day for a hearing on the petition and order notice of the hearing to be given to all persons interested.

25 (2) The commissioners by resolution shall fix a time for a hearing ~~upon~~ on the petition at not less
26 than 2 or more than 4 weeks from the time of presentation of the petition unless additional time is needed
27 to prepare a survey and study as authorized by this subsection. Before setting a time for a hearing, the
28 commissioners may cause a survey and study of the area sought to be included in the district to be made
29 by competent personnel and may submit a report of the study to the department of ~~environmental quality~~
30 public health and human services for its review and recommendations."

1 **Section 2.** Section 7-22-2409, MCA, is amended to read:

2 **"7-22-2409. Adjournment of hearing.** (1) The hearing may be adjourned for determination of facts,
3 but an adjournment may not exceed a total of 2 weeks in all from ~~and after~~ the date originally noticed and
4 published for the hearing.

5 (2) (a) If at the time of the hearing the commissioners find that a geographical area desires
6 exclusion from the area contained within the boundaries of the proposed district, the hearing may be
7 adjourned to permit the commissioners to consult the department of ~~environmental quality~~ public health and
8 human services to determine if it would be advisable to exclude the geographical area from the district.

9 (b) Upon reconvening, the commissioners shall define and establish the boundaries that are
10 advisable."

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12 **Section 3.** Section 7-22-2418, MCA, is amended to read:

13 **"7-22-2418. Relationship of mosquito control districts and boards with department of**
14 **environmental quality public health and human services and department of agriculture.** (1) The department
15 of ~~environmental quality~~ public health and human services shall advise the commissioners of a county with
16 regard to the creation of mosquito control districts within the county and upon request advise the boards
17 of the districts in connection with their control programs.

18 (2) On or before February 1 of each year, the board of each district shall submit to the department
19 of ~~environmental quality~~ public health and human services and the department of agriculture, for their
20 review and advice, a written report of its operations for the preceding year and a written plan covering its
21 control program for the ensuing year."

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23 **Section 4.** Section 40-1-206, MCA, is amended to read:

24 **"40-1-206. Premarital test -- approved laboratories -- rules.** (1) For the purpose of 40-1-203
25 through 40-1-209, a standard serological test is a test for rubella immunity that is approved by the
26 department of public health and human services.

27 (2) The standard serological test is acceptable for the purposes of 40-1-203 through 40-1-209 only
28 if it is performed by one of the following:

29 (a) the laboratory of the department of ~~environmental quality~~ public health and human services;

30 (b) a laboratory approved by the department of public health and human services;

1 (c) a laboratory operated by any other state; or

2 (d) a laboratory operated by the United States public health service or the United States armed
3 forces.

4 (3) The standard serological test may be made on request at the laboratory of the department of
5 ~~environmental quality~~ public health and human services.

6 (4) The department of public health and human services shall adopt reasonable rules for:

7 (a) reports to be submitted by any laboratory making tests and the manner of furnishing the reports
8 to the certifying physician and the state; and

9 (b) exemptions, on medical grounds, from the premarital serological test."
10

11 **Section 5.** Section 50-1-202, MCA, is amended to read:

12 **"50-1-202. General powers and duties.** The department shall:

13 (1) study conditions affecting the citizens of the state by making use of birth, death, and sickness
14 records;

15 (2) make investigations, disseminate information, and make recommendations for control of
16 diseases and improvement of public health to persons, groups, or the public;

17 (3) at the request of the governor, administer any federal health program for which responsibilities
18 are delegated to states;

19 (4) inspect and work in conjunction with custodial institutions and Montana university system units
20 periodically as necessary and at other times on request of the governor;

21 (5) after each inspection made under subsection (4), submit a written report on sanitary conditions
22 to the governor and to the director of the department of corrections or the commissioner of higher
23 education and include recommendations for improvement in conditions if necessary;

24 (6) advise state agencies on location, drainage, water supply, disposal of excreta, heating,
25 plumbing, sewer systems, and ventilation of public buildings;

26 (7) develop and administer activities for the protection and improvement of dental health and
27 supervise dentists employed by the state, local boards of health, or schools;

28 (8) develop, adopt, and administer rules setting standards for participation in and operation of
29 programs to protect the health of mothers and children, which rules may include programs for nutrition,
30 family planning services, improved pregnancy outcome, and those authorized by Title X of the federal Public

- 1 Health Service Act and Title V of the federal Social Security Act;
- 2 (9) conduct health education programs;
- 3 (10) provide consultation to school and local community health nurses in the performance of their
- 4 duties;
- 5 (11) consult with the superintendent of public instruction on health measures for schools;
- 6 (12) develop, adopt, and administer rules setting standards for a program to provide services to
- 7 handicapped children, including standards for:
- 8 (a) diagnosis;
- 9 (b) medical, surgical, and corrective treatment;
- 10 (c) aftercare and related services; and
- 11 (d) eligibility;
- 12 (13) provide consultation to local boards of health;
- 13 (14) bring actions in court for the enforcement of the health laws and defend actions brought
- 14 against the board or department;
- 15 (15) accept and expend federal funds available for public health services;
- 16 (16) have the power to use personnel of local departments of health to assist in the administration
- 17 of laws relating to public health;
- 18 (17) adopt rules imposing fees for the tests and services performed by the department's laboratory
- 19 ~~of the department of environmental quality. Fees, established on an annual basis,~~ should reflect the actual
- 20 costs of the tests or services provided. The department may not establish fees exceeding the costs incurred
- 21 in performing tests and services. All fees must be deposited in the state special revenue fund for the use
- 22 of the department in performing tests and services.
- 23 (18) adopt and enforce rules regarding the definition of communicable diseases and the reporting
- 24 and control of communicable diseases;
- 25 (19) adopt and enforce rules regarding the transportation of dead human bodies; ~~and~~
- 26 (20) ADOPT AND ENFORCE RULES AND STANDARDS CONCERNING THE ISSUANCE OF LICENSES
- 27 TO LABORATORIES THAT CONDUCT ANALYSIS OF PUBLIC WATER SUPPLY SYSTEMS; AND
- 28 ~~(20)~~(21) adopt and enforce minimum sanitation requirements for tattooing as provided in 50-2-116,
- 29 including regulation of premises, equipment, and methods of operation, solely oriented to the protection
- 30 of public health and the prevention of communicable disease."

1 **SECTION 6. SECTION 75-3-103, MCA, IS AMENDED TO READ:**

2 **"75-3-103. Definitions.** The definitions used in this chapter are intended to be consistent with
3 those used in 10 CFR 1-199 and 49 CFR 173.389-173.399. Unless the context requires otherwise, in this
4 chapter, the following definitions apply:

5 (1) "Byproduct material" means:

6 (a) any radioactive material (except special nuclear material) yielded in, or made radioactive by
7 exposure to the radiation incident to, the process of producing or using special nuclear material; and

8 (b) the tailings or wastes produced by the extraction or concentration of uranium or thorium from
9 any ore processed primarily for its source material content.

10 (2) "Department" means the department of ~~environmental quality~~ public health and human services.

11 (3) "Disposal" means burial in soil, release through the sanitary sewerage system, incineration, or
12 permanent long-term storage with no intention of or provision for subsequent removal.

13 (4) "General license" means a license effective pursuant to rules promulgated by the department
14 without the filing of an application to transfer, acquire, own, possess, or use quantities of or devices or
15 equipment using quantities of byproduct, source, special nuclear materials, or other radioactive material
16 occurring naturally or produced artificially. General licenses are effective without the filing of applications
17 with the department or the issuing of licensing documents to the user.

18 (5) "Ionizing radiation" means gamma rays and x-rays, alpha and beta particles, high-speed
19 electrons, neutrons, protons, and other nuclear particles, but not sound or radio waves or visible, infrared,
20 or ultraviolet light.

21 (6) "Large quantity radioactive material" is that quantity of radioactive material defined in 49 CFR
22 173.389(b).

23 (7) "Person" means an individual, corporation, partnership, firm, association, trust, estate, public
24 or private institution, group, agency, political subdivision or agency of a political subdivision, and any legal
25 successor, representative, agent, or agency of the foregoing, other than the United States nuclear
26 regulatory commission, any successor, or federal agencies licensed by the nuclear regulatory commission.

27 (8) "Registration" means the registering with the department by the legal owner, user, or authorized
28 representative of sources of ionizing radiation in the manner prescribed by rule.

29 (9) "Source material" means uranium, thorium, or any other material that the department or the
30 United States nuclear regulatory commission declares by order to be source material or ores containing one

1 or more of the foregoing materials in a concentration that the department or the nuclear regulatory
 2 commission declares by order to be source material after the nuclear regulatory commission has determined
 3 the material in that concentration to be source material.

4 (10) "Special nuclear material" means plutonium, uranium 233, uranium enriched in the isotope 233
 5 or in the isotope 235, and any other material that the department or the United States nuclear regulatory
 6 commission or any successor declares by order to be special nuclear material or any material artificially
 7 enriched by any of the foregoing but does not include source material.

8 (11) "Specific license" means a license issued after application to use, manufacture, produce,
 9 transfer, receive, acquire, own, or possess quantities of or devices or equipment using quantities of
 10 byproduct, special nuclear materials, or other radioactive material occurring naturally or produced
 11 artificially."

12
 13 **SECTION 7. SECTION 75-3-502, MCA, IS AMENDED TO READ:**

14 **"75-3-502. Administration of compact -- fees.** (1) The department of ~~environmental quality~~ public
 15 health and human services, as the state radiation control agency, shall administer the provisions of the
 16 compact.

17 (2) The department may assess and collect fees for services rendered in inspecting and regulating
 18 low-level radioactive waste generators, transporters, and disposal facilities. The fees must cover the
 19 department's costs for those services and must be deposited in the state special revenue fund for use by
 20 the department. State and local government agencies, including the university system, are exempt from
 21 the payment of fees.

22 (3) The department may adopt rules under the authority contained in 75-3-201(3)(b) to implement
 23 the provisions of this compact."
 24

25 **SECTION 8. SECTION 75-6-103, MCA, IS AMENDED TO READ:**

26 **"75-6-103. Duties of board.** (1) The board has general supervision over all state waters that are
 27 directly or indirectly being used by a person for a public water supply system or domestic purposes or as
 28 a source of ice.

29 (2) The board shall, subject to the provisions of 75-6-116, adopt rules and standards concerning:

30 (a) maximum contaminant levels for waters that are or will be used for a public water supply

1 system;

2 (b) fees, as described in 75-6-108, for services rendered by the department;

3 (c) monitoring, recordkeeping, and reporting by persons who own or operate public water supply
4 systems;

5 (d) requiring public notice to all users of a public water supply system when a person has been
6 granted a variance or exemption or is in violation of this part or a rule or order issued pursuant to this part;

7 ~~(e) the issuance of licenses by the department to laboratories that conduct analysis of public water~~
8 ~~supply systems;~~

9 ~~(f) the siting, construction, operation, and modification of a public water supply system or public~~
10 ~~sewage system;~~

11 ~~(g)(f)~~ the review of financial viability of a proposed public water supply system or public sewage
12 system, as necessary to ensure the capability of the system to meet the requirements of this part;

13 ~~(h)(g)~~ the collection and analysis of samples of water used for drinking or domestic purposes;

14 ~~(i)(h)~~ the issuance of variances and exemptions as authorized by the federal Safe Drinking Water
15 Act and this part;

16 ~~(j)(i)~~ administrative enforcement procedures and administrative penalties authorized under this part;

17 ~~(k)(j)~~ standards and requirements for the review and approval of programs that may be voluntarily
18 submitted by suppliers of public water supply systems to prevent water supply contamination from a
19 cross-connection, including provisions to exempt cross-connections from the standards and requirements
20 if all connected systems are department-approved public water supply systems; and

21 ~~(l)(k)~~ any other requirement necessary for the protection of public health as described in this part.

22 (3) The board may issue orders necessary to fully implement the provisions of this part."
23

24 **Section 9.** Section 75-6-106, MCA, is amended to read:

25 **"75-6-106. ~~Licensing of laboratories.~~ LABORATORY LICENSE REQUIRED.** ~~(1) No~~ A laboratory
26 analysis of water taken from a public water supply system or any report of ~~such~~ an analysis required by
27 this part or a rule adopted under this part may not be accepted by the department or board unless the
28 analysis or report is made by the department of public health and human services' laboratory ~~of the~~
29 ~~department~~ or by a laboratory licensed by the department of environmental quality **PUBLIC HEALTH AND**
30 **HUMAN SERVICES** for such water analysis purposes. ~~The department shall issue a license to any laboratory~~

1 ~~that can meet criteria for licensing established in the rules adopted by the board.~~

2 ~~(2) An application for a license under this section shall must be made on forms furnished by the~~
3 ~~department.~~

4 ~~(3) A person aggrieved by a decision of the department to grant, deny, or revoke a license may~~
5 ~~appeal the department's decision to the board as provided in the Montana Administrative Procedure Act."~~

6
7 **SECTION 10. SECTION 75-6-109, MCA, IS AMENDED TO READ:**

8 **"75-6-109. Administrative enforcement.** (1) If the department believes that a violation of this part,
9 a rule adopted under this part, or a condition of approval issued under this part has occurred, it may serve
10 written notice of the violation, by certified mail, on the alleged violator or the violator's agent. The notice
11 must specify the provision of this part, the rule, or the condition of approval alleged to have been violated
12 and the facts alleged to constitute a violation. The notice must include an order to take necessary corrective
13 action within a reasonable period of time. The time period must be stated in the order. Service by mail is
14 complete on the date of filing.

15 (2) If the alleged violator does not request a hearing before the board within 30 days of the date
16 of service, the order becomes final. Failure to comply with a final order may subject the violator to an action
17 commenced pursuant to 75-6-104, 75-6-113, or 75-6-114.

18 (3) If the alleged violator requests a hearing before the board within 30 days of the date of service,
19 the board shall schedule a hearing. After the hearing is held, the board may:

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

22 (b) rescind the department's order if the board finds that a violation has not occurred.

23 (4) An order issued by the department or the board may set a date by which the violation must
24 cease and set a time limit for action to correct a violation.

25 (5) As an alternative to issuing an order pursuant to subsection (1), the department may:

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

28 (b) initiate an action under 75-6-111(2), 75-6-113, or 75-6-114.

29 (6) An action initiated under this part may include an administrative penalty not to exceed \$500
30 for each day of violation. Administrative penalties collected under this section must be deposited in the

1 state general fund.

2 (7) In determining the amount of penalty to be assessed to a person, the department or the board,
3 as appropriate, shall consider the criteria stated in 75-6-114 and the rules promulgated under
4 75-6-103(2)(i).

5 (8) The contested case provisions of the Montana Administrative Procedure Act, provided for in
6 Title 2, chapter 4, part 6, apply to a hearing under 75-6-108 or this section."

7

8 **Section 11.** Section 80-8-201, MCA, is amended to read:

9 **"80-8-201. Registration.** (1) Each pesticide distributed, sold, or offered for sale within the state
10 or delivered for transportation or transported in intrastate commerce or between points within the state
11 must be registered with the department. The registration must be renewed annually by the manufacturer,
12 formulator, or distributor of the pesticide. The department shall register all federally approved pesticides,
13 and those registered are subject to registration fees and all other provisions of this chapter. All registrations
14 of pesticides expire on December 31 following the date of issuance unless otherwise terminated.

15 (2) The applicant for registration shall file with the department a statement that includes:

16 (a) the name and address of the applicant and the name and address of the person whose name
17 will appear on the label, if other than the registrant;

18 (b) a complete copy of the label of the pesticide, the United States environmental protection agency
19 registration number if the pesticide is registered, and a statement of all claims to be made for it, including
20 directions for use;

21 (c) the trade and chemical name of the pesticide;

22 (d) if requested by the department, a full description of tests made and the results upon which the
23 claims are based. In the case of renewal of registration, a statement is required only for information that
24 is different from that furnished when the pesticide was registered or last reregistered.

25 (3) A pesticide imported into the state that is subject to and has been registered under the
26 provisions of a federal act providing for the registration of pesticides must be registered in the state.
27 However, the state may restrict the sale or use and application of the pesticide by type of dealer,
28 applicator, time, and place and may establish special registrations of pesticides as outlined in 80-8-105(3)
29 and in subsection (8) of this section. The annual registration fee must also be paid, and registration
30 information required by the department must be provided.

1 (4) The applicant shall pay an annual fee of \$70 for each pesticide registered. A registration fee
2 is not required to register a federally approved experimental use permit.

3 (5) The department may require the submission of the complete formula and certified analytical
4 standards of any pesticide. If it appears to the department that the composition of the pesticide warrants
5 the proposed claims for it and if the pesticide, its labeling, and other material required to be submitted
6 comply with the requirements of 80-8-202, the department shall register the pesticide.

7 (6) If it does not appear to the department that the pesticide warrants the proposed claims for it
8 or if the pesticide, its labeling, and other material required to be submitted do not comply with this chapter,
9 the department shall notify the applicant of the manner in which the pesticide, labeling, or other material
10 required to be submitted fails to comply with the chapter to provide the applicant an opportunity to make
11 the necessary corrections. If the applicant does not make the corrections upon receipt of the notice, the
12 department may refuse to register the pesticide. The department may suspend or cancel the registration
13 of a pesticide whenever it does not appear that the pesticide or its labeling comply with this chapter or
14 whenever scientific evidence proves that the pesticide endangers humans or the general environment
15 afforded protection under 80-8-105(3)(a). When an application for registration is refused or the department
16 proposes to suspend or cancel a registration, the registrant may pursue administrative remedies under the
17 Montana Administrative Procedure Act and rules of the department.

18 (7) Registration is not required in the case of a pesticide shipped from one plant in the state to
19 another plant in the state by the same person.

20 (8) (a) The department, the department of ~~environmental quality~~ public health and human services,
21 and the department of fish, wildlife, and parks shall review all applications for registration of an
22 experimental-use permit or a registration for special local needs. The applicant shall pay a one-time fee of
23 \$70 for a special local need or experimental-use permit registration. The departments shall ~~utilize~~ use the
24 same requirements and standards for reviewing registrations established by the Federal Insecticide,
25 Fungicide, and Rodenticide Act, as amended, and regulations adopted under the act. The department shall
26 provide the departments of ~~environmental quality~~ public health and human services and fish, wildlife, and
27 parks with a complete copy of the application, related correspondence, and a statement of the department's
28 proposed action on the application. The department, the department of ~~environmental quality~~ public health
29 and human services, and the department of fish, wildlife, and parks shall approve or disapprove the
30 application within 10 days after the receipt of the application. If the department, the department of

1 ~~environmental quality~~ public health and human services, and the department of fish, wildlife, and parks are
2 in agreement with the proposed registration, the department shall issue the registration.

3 (b) The department shall establish a time and place for an interagency conference for the purposes
4 of resolving the registration of any pesticide or device. If two of the departments approve the proposed
5 registration, the department shall issue the registration.

6 (c) The registrant applying for registration must be notified as to proposed changes in registration.
7 If the departments cannot resolve the proposed registration following the interagency conference, the
8 registrant may request a joint administrative hearing before the departments of agriculture, ~~environmental~~
9 ~~quality~~ public health and human services, and fish, wildlife, and parks.

10 (d) Following the interagency conference and, if requested, the administrative hearing, if the
11 proposed registration of a pesticide or device has not been resolved, the department of agriculture shall
12 appoint an advisory council as outlined in 80-8-108 to resolve by majority vote the registration of any
13 pesticide. The advisory council's recommendations on the registration must be accepted by the departments
14 and implemented by the department of agriculture.

15 (9) (a) Pesticides registered under any federal law when canceled for sale and use in total or in part
16 by a federal agency responsible for registration are considered canceled in total or in part for sale and use
17 in Montana. The cancellation is effective on the final date of sale or use allowed under the federal law and
18 rules or orders of the federal agency. Except as provided in subsection (9)(b), if the federal cancellation
19 allows existing stock to be used past the final date of cancellation, the sale or use in this state may not
20 exceed 2 years. The department shall provide technical assistance to any person in possession of the
21 products to ensure their proper disposal, relabeling, or removal.

22 (b) Pesticide products canceled under the Federal Insecticide, Fungicide, and Rodenticide Act, 7
23 U.S.C. 136a-1(i)(5) may be sold and used according to environmental protection agency labeling
24 requirements or other requirements for a period not to exceed 6 years from the date that distribution from
25 the registrant, manufacturer, formulator, or distributor is terminated."
26

27 NEW SECTION. SECTION 12. LICENSING OF LABORATORIES. (1) TO AUTHORIZE A
28 LABORATORY TO SUBMIT ANALYSES AND REPORTS TO THE DEPARTMENT OF ENVIRONMENTAL
29 QUALITY UNDER TITLE 75, CHAPTER 6, PART 1, THE DEPARTMENT SHALL ISSUE A LICENSE TO ANY
30 LABORATORY THAT INTENDS TO CONDUCT ANALYSIS OF PUBLIC WATER SUPPLY SYSTEMS AND

1 THAT FILES A LICENSE APPLICATION, ON A FORM FURNISHED BY THE DEPARTMENT,
2 DEMONSTRATING THAT IT MEETS THE CRITERIA FOR LICENSING ESTABLISHED BY DEPARTMENT
3 RULES.

4 (2) A PERSON AGGRIEVED BY A DECISION OF THE DEPARTMENT TO GRANT, DENY, OR
5 REVOKE A LICENSE MAY APPEAL THE DECISION UNDER THE CONTESTED CASE PROVISIONS OF THE
6 MONTANA ADMINISTRATIVE PROCEDURE ACT.

7

8 NEW SECTION. SECTION 13. CODIFICATION INSTRUCTIONS. (1) TITLE 75, CHAPTER 3, PARTS
9 1 THROUGH 5, ARE INTENDED TO BE RENUMBERED AND CODIFIED AS AN INTEGRAL PART OF TITLE
10 50.

11 (2) [SECTION 12] IS INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 50, CHAPTER
12 1, PART 2, AND THE PROVISIONS OF TITLE 50, CHAPTER 1, PART 2, APPLY TO [SECTION 12].

13

14 NEW SECTION. Section 14. Effective date. [This act] is effective July 1, 1997.

15

-END-

1 SENATE BILL NO. 14

2 INTRODUCED BY SWYSGOOD

3 BY REQUEST OF THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY AMENDING LAWS PERTAINING TO THE
6 DEPARTMENTS OF PUBLIC HEALTH AND HUMAN SERVICES AND ENVIRONMENTAL QUALITY BY
7 TRANSFERRING CERTAIN RESPONSIBILITIES RELATED TO LABORATORY LICENSING, RADIOACTIVE
8 SUBSTANCES, VECTOR-BORNE ILLNESS, AND PESTICIDE REGISTRATION FROM THE DEPARTMENT OF
9 ENVIRONMENTAL QUALITY TO THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES;
10 CLARIFYING THAT THE STATE LABORATORY IS LOCATED WITHIN THE DEPARTMENT OF PUBLIC
11 HEALTH AND HUMAN SERVICES; ALLOWING THE DEPARTMENT TO SET FEES WHEN NECESSARY
12 INSTEAD OF ANNUALLY; AMENDING SECTIONS 7-22-2403, 7-22-2409, 7-22-2418, 40-1-206, 50-1-202,
13 75-3-103, 75-3-502, 75-6-103, 75-6-106, 75-6-109, AND 80-8-201, MCA; AND PROVIDING AN
14 EFFECTIVE DATE."

**THERE ARE NO CHANGES IN THIS BILL AND IT WILL NOT BE
REPRINTED. PLEASE REFER TO SECOND READING COPY
(YELLOW) FOR COMPLETE TEXT.**

1 SENATE BILL NO. 14

2 INTRODUCED BY SWYSGOOD

3 BY REQUEST OF THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY AMENDING LAWS PERTAINING TO THE

6 DEPARTMENTS OF PUBLIC HEALTH AND HUMAN SERVICES AND ENVIRONMENTAL QUALITY BY

7 TRANSFERRING CERTAIN RESPONSIBILITIES RELATED TO LABORATORY LICENSING, RADIOACTIVE

8 SUBSTANCES, VECTOR-BORNE ILLNESS, AND PESTICIDE REGISTRATION FROM THE DEPARTMENT OF

9 ENVIRONMENTAL QUALITY TO THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES;

10 CLARIFYING THAT THE STATE LABORATORY IS LOCATED WITHIN THE DEPARTMENT OF PUBLIC

11 HEALTH AND HUMAN SERVICES; ALLOWING THE DEPARTMENT TO SET FEES WHEN NECESSARY

12 INSTEAD OF ANNUALLY; AMENDING SECTIONS 7-22-2403, 7-22-2409, 7-22-2418, 40-1-206, 50-1-202,

13 75-3-103, 75-3-502, 75-6-103, 75-6-106, 75-6-109, AND 80-8-201, MCA; AND PROVIDING AN

14 EFFECTIVE DATE."

15

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

THERE ARE NO CHANGES IN THIS BILL AND IT WILL NOT BE REPRINTED. PLEASE REFER TO THIRD READING COPY (BLUE) FOR COMPLETE TEXT.

1 SENATE BILL NO. 14

2 INTRODUCED BY SWYSGOOD

3 BY REQUEST OF THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY AMENDING LAWS PERTAINING TO THE
6 DEPARTMENTS OF PUBLIC HEALTH AND HUMAN SERVICES AND ENVIRONMENTAL QUALITY BY
7 TRANSFERRING CERTAIN RESPONSIBILITIES RELATED TO LABORATORY LICENSING, RADIOACTIVE
8 SUBSTANCES, VECTOR-BORNE ILLNESS, AND PESTICIDE REGISTRATION FROM THE DEPARTMENT OF
9 ENVIRONMENTAL QUALITY TO THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES;
10 CLARIFYING THAT THE STATE LABORATORY IS LOCATED WITHIN THE DEPARTMENT OF PUBLIC
11 HEALTH AND HUMAN SERVICES; ALLOWING THE DEPARTMENT TO SET FEES WHEN NECESSARY
12 INSTEAD OF ANNUALLY; AMENDING SECTIONS 7-22-2403, 7-22-2409, 7-22-2418, 40-1-206, 50-1-202,
13 75-3-103, 75-3-502, 75-6-103, 75-6-106, 75-6-109, AND 80-8-201, MCA; AND PROVIDING AN
14 EFFECTIVE DATE."

15
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
1718 **Section 1.** Section 7-22-2403, MCA, is amended to read:

19 **"7-22-2403. Petition to create mosquito control district -- hearing required.** (1) When a petition,
20 signed by ~~not less than~~ at least 25% of the qualified electors of the proposed district or 25% of the owners
21 of any property within the boundaries whose names appear as property owners ~~upon~~ on the last-completed
22 assessment roll of the county in which the proposed district is situated, is presented to the board of
23 commissioners of the county asking for the creation of a mosquito control district, the commissioners shall
24 set a day for a hearing on the petition and order notice of the hearing to be given to all persons interested.

25 (2) The commissioners by resolution shall fix a time for a hearing ~~upon~~ on the petition at not less
26 than 2 or more than 4 weeks from the time of presentation of the petition unless additional time is needed
27 to prepare a survey and study as authorized by this subsection. Before setting a time for a hearing, the
28 commissioners may cause a survey and study of the area sought to be included in the district to be made
29 by competent personnel and may submit a report of the study to the department of ~~environmental quality~~
30 public health and human services for its review and recommendations."

1 **Section 2.** Section 7-22-2409, MCA, is amended to read:

2 **"7-22-2409. Adjournment of hearing.** (1) The hearing may be adjourned for determination of facts,
3 but an adjournment may not exceed a total of 2 weeks in all from ~~and after~~ the date originally noticed and
4 published for the hearing.

5 (2) (a) If at the time of the hearing the commissioners find that a geographical area desires
6 exclusion from the area contained within the boundaries of the proposed district, the hearing may be
7 adjourned to permit the commissioners to consult the department of ~~environmental quality~~ public health and
8 human services to determine if it would be advisable to exclude the geographical area from the district.

9 (b) Upon reconvening, the commissioners shall define and establish the boundaries that are
10 advisable."
11

12 **Section 3.** Section 7-22-2418, MCA, is amended to read:

13 **"7-22-2418. Relationship of mosquito control districts and boards with department of**
14 **~~environmental quality~~ public health and human services and department of agriculture.** (1) The department
15 of ~~environmental quality~~ public health and human services shall advise the commissioners of a county with
16 regard to the creation of mosquito control districts within the county and upon request advise the boards
17 of the districts in connection with their control programs.

18 (2) On or before February 1 of each year, the board of each district shall submit to the department
19 of ~~environmental quality~~ public health and human services and the department of agriculture, for their
20 review and advice, a written report of its operations for the preceding year and a written plan covering its
21 control program for the ensuing year."
22

23 **Section 4.** Section 40-1-206, MCA, is amended to read:

24 **"40-1-206. Premarital test -- approved laboratories -- rules.** (1) For the purpose of 40-1-203
25 through 40-1-209, a standard serological test is a test for rubella immunity that is approved by the
26 department of public health and human services.

27 (2) The standard serological test is acceptable for the purposes of 40-1-203 through 40-1-209 only
28 if it is performed by one of the following:

29 (a) the laboratory of the department of ~~environmental quality~~ public health and human services;

30 (b) a laboratory approved by the department of public health and human services;

- 1 (c) a laboratory operated by any other state; or
2 (d) a laboratory operated by the United States public health service or the United States armed
3 forces.

4 (3) The standard serological test may be made on request at the laboratory of the department of
5 ~~environmental quality~~ public health and human services.

6 (4) The department of public health and human services shall adopt reasonable rules for:

7 (a) reports to be submitted by any laboratory making tests and the manner of furnishing the reports
8 to the certifying physician and the state; and

9 (b) exemptions, on medical grounds, from the premarital serological test."
10

11 **Section 5.** Section 50-1-202, MCA, is amended to read:

12 **"50-1-202. General powers and duties.** The department shall:

13 (1) study conditions affecting the citizens of the state by making use of birth, death, and sickness
14 records;

15 (2) make investigations, disseminate information, and make recommendations for control of
16 diseases and improvement of public health to persons, groups, or the public;

17 (3) at the request of the governor, administer any federal health program for which responsibilities
18 are delegated to states;

19 (4) inspect and work in conjunction with custodial institutions and Montana university system units
20 periodically as necessary and at other times on request of the governor;

21 (5) after each inspection made under subsection (4), submit a written report on sanitary conditions
22 to the governor and to the director of the department of corrections or the commissioner of higher
23 education and include recommendations for improvement in conditions if necessary;

24 (6) advise state agencies on location, drainage, water supply, disposal of excreta, heating,
25 plumbing, sewer systems, and ventilation of public buildings;

26 (7) develop and administer activities for the protection and improvement of dental health and
27 supervise dentists employed by the state, local boards of health, or schools;

28 (8) develop, adopt, and administer rules setting standards for participation in and operation of
29 programs to protect the health of mothers and children, which rules may include programs for nutrition,
30 family planning services, improved pregnancy outcome, and those authorized by Title X of the federal Public

1 Health Service Act and Title V of the federal Social Security Act;

2 (9) conduct health education programs;

3 (10) provide consultation to school and local community health nurses in the performance of their
4 duties;

5 (11) consult with the superintendent of public instruction on health measures for schools;

6 (12) develop, adopt, and administer rules setting standards for a program to provide services to
7 handicapped children, including standards for:

8 (a) diagnosis;

9 (b) medical, surgical, and corrective treatment;

10 (c) aftercare and related services; and

11 (d) eligibility;

12 (13) provide consultation to local boards of health;

13 (14) bring actions in court for the enforcement of the health laws and defend actions brought
14 against the board or department;

15 (15) accept and expend federal funds available for public health services;

16 (16) have the power to use personnel of local departments of health to assist in the administration
17 of laws relating to public health;

18 (17) adopt rules imposing fees for the tests and services performed by the department's laboratory
19 ~~of the department of environmental quality. Fees, established on an annual basis,~~ should reflect the actual
20 costs of the tests or services provided. The department may not establish fees exceeding the costs incurred
21 in performing tests and services. All fees must be deposited in the state special revenue fund for the use
22 of the department in performing tests and services.

23 (18) adopt and enforce rules regarding the definition of communicable diseases and the reporting
24 and control of communicable diseases;

25 (19) adopt and enforce rules regarding the transportation of dead human bodies; ~~and~~

26 (20) ADOPT AND ENFORCE RULES AND STANDARDS CONCERNING THE ISSUANCE OF LICENSES
27 TO LABORATORIES THAT CONDUCT ANALYSIS OF PUBLIC WATER SUPPLY SYSTEMS; AND

28 ~~(20)(21)~~ adopt and enforce minimum sanitation requirements for tattooing as provided in 50-2-116,
29 including regulation of premises, equipment, and methods of operation, solely oriented to the protection
30 of public health and the prevention of communicable disease."

1 **SECTION 6. SECTION 75-3-103, MCA, IS AMENDED TO READ:**

2 **"75-3-103. Definitions.** The definitions used in this chapter are intended to be consistent with
3 those used in 10 CFR 1-199 and 49 CFR 173.389-173.399. Unless the context requires otherwise, in this
4 chapter, the following definitions apply:

5 (1) "Byproduct material" means:

6 (a) any radioactive material (except special nuclear material) yielded in, or made radioactive by
7 exposure to the radiation incident to, the process of producing or using special nuclear material; and

8 (b) the tailings or wastes produced by the extraction or concentration of uranium or thorium from
9 any ore processed primarily for its source material content.

10 (2) "Department" means the department of ~~environmental quality~~ public health and human services.

11 (3) "Disposal" means burial in soil, release through the sanitary sewerage system, incineration, or
12 permanent long-term storage with no intention of or provision for subsequent removal.

13 (4) "General license" means a license effective pursuant to rules promulgated by the department
14 without the filing of an application to transfer, acquire, own, possess, or use quantities of or devices or
15 equipment using quantities of byproduct, source, special nuclear materials, or other radioactive material
16 occurring naturally or produced artificially. General licenses are effective without the filing of applications
17 with the department or the issuing of licensing documents to the user.

18 (5) "Ionizing radiation" means gamma rays and x-rays, alpha and beta particles, high-speed
19 electrons, neutrons, protons, and other nuclear particles, but not sound or radio waves or visible, infrared,
20 or ultraviolet light.

21 (6) "Large quantity radioactive material" is that quantity of radioactive material defined in 49 CFR
22 173.389(b).

23 (7) "Person" means an individual, corporation, partnership, firm, association, trust, estate, public
24 or private institution, group, agency, political subdivision or agency of a political subdivision, and any legal
25 successor, representative, agent, or agency of the foregoing, other than the United States nuclear
26 regulatory commission, any successor, or federal agencies licensed by the nuclear regulatory commission.

27 (8) "Registration" means the registering with the department by the legal owner, user, or authorized
28 representative of sources of ionizing radiation in the manner prescribed by rule.

29 (9) "Source material" means uranium, thorium, or any other material that the department or the
30 United States nuclear regulatory commission declares by order to be source material or ores containing one

1 or more of the foregoing materials in a concentration that the department or the nuclear regulatory
2 commission declares by order to be source material after the nuclear regulatory commission has determined
3 the material in that concentration to be source material.

4 (10) "Special nuclear material" means plutonium, uranium 233, uranium enriched in the isotope 233
5 or in the isotope 235, and any other material that the department or the United States nuclear regulatory
6 commission or any successor declares by order to be special nuclear material or any material artificially
7 enriched by any of the foregoing but does not include source material.

8 (11) "Specific license" means a license issued after application to use, manufacture, produce,
9 transfer, receive, acquire, own, or possess quantities of or devices or equipment using quantities of
10 byproduct, special nuclear materials, or other radioactive material occurring naturally or produced
11 artificially."
12

13 **SECTION 7. SECTION 75-3-502, MCA, IS AMENDED TO READ:**

14 "75-3-502. Administration of compact -- fees. (1) The department of ~~environmental quality~~ public
15 health and human services, as the state radiation control agency, shall administer the provisions of the
16 compact.

17 (2) The department may assess and collect fees for services rendered in inspecting and regulating
18 low-level radioactive waste generators, transporters, and disposal facilities. The fees must cover the
19 department's costs for those services and must be deposited in the state special revenue fund for use by
20 the department. State and local government agencies, including the university system, are exempt from
21 the payment of fees.

22 (3) The department may adopt rules under the authority contained in 75-3-201(3)(b) to implement
23 the provisions of this compact."
24

25 **SECTION 8. SECTION 75-6-103, MCA, IS AMENDED TO READ:**

26 "75-6-103. Duties of board. (1) The board has general supervision over all state waters that are
27 directly or indirectly being used by a person for a public water supply system or domestic purposes or as
28 a source of ice.

29 (2) The board shall, subject to the provisions of 75-6-116, adopt rules and standards concerning:

30 (a) maximum contaminant levels for waters that are or will be used for a public water supply

1 system;

2 (b) fees, as described in 75-6-108, for services rendered by the department;

3 (c) monitoring, recordkeeping, and reporting by persons who own or operate public water supply
4 systems;

5 (d) requiring public notice to all users of a public water supply system when a person has been
6 granted a variance or exemption or is in violation of this part or a rule or order issued pursuant to this part;

7 ~~(e) the issuance of licenses by the department to laboratories that conduct analysis of public water
8 supply systems;~~

9 ~~(f) the siting, construction, operation, and modification of a public water supply system or public
10 sewage system;~~

11 ~~(g)(f)~~ the review of financial viability of a proposed public water supply system or public sewage
12 system, as necessary to ensure the capability of the system to meet the requirements of this part;

13 ~~(h)(g)~~ the collection and analysis of samples of water used for drinking or domestic purposes;

14 ~~(i)(h)~~ the issuance of variances and exemptions as authorized by the federal Safe Drinking Water
15 Act and this part;

16 ~~(j)(i)~~ administrative enforcement procedures and administrative penalties authorized under this part;

17 ~~(k)(j)~~ standards and requirements for the review and approval of programs that may be voluntarily
18 submitted by suppliers of public water supply systems to prevent water supply contamination from a
19 cross-connection, including provisions to exempt cross-connections from the standards and requirements
20 if all connected systems are department-approved public water supply systems; and

21 ~~(l)(k)~~ any other requirement necessary for the protection of public health as described in this part.

22 (3) The board may issue orders necessary to fully implement the provisions of this part."
23

24 **Section 9.** Section 75-6-106, MCA, is amended to read:

25 "**75-6-106. ~~Licensing of laboratories.~~ LABORATORY LICENSE REQUIRED.** ~~(1) No~~ A laboratory
26 analysis of water taken from a public water supply system or any report of ~~such~~ an analysis required by
27 this part or a rule adopted under this part may not be accepted by the department or board unless the
28 analysis or report is made by the department of public health and human services' laboratory ~~of the~~
29 ~~department~~ or by a laboratory licensed by the department of environmental quality **PUBLIC HEALTH AND**
30 **HUMAN SERVICES** for ~~such~~ water analysis purposes. ~~The department shall issue a license to any laboratory~~

1 ~~that can meet criteria for licensing established in the rules adopted by the board.~~

2 ~~(2) An application for a license under this section shall must be made on forms furnished by the~~
3 ~~department.~~

4 ~~(3) A person aggrieved by a decision of the department to grant, deny, or revoke a license may~~
5 ~~appeal the department's decision to the board as provided in the Montana Administrative Procedure Act."~~

6
7 **SECTION 10. SECTION 75-6-109, MCA, IS AMENDED TO READ:**

8 **"75-6-109. Administrative enforcement.** (1) If the department believes that a violation of this part,
9 a rule adopted under this part, or a condition of approval issued under this part has occurred, it may serve
10 written notice of the violation, by certified mail, on the alleged violator or the violator's agent. The notice
11 must specify the provision of this part, the rule, or the condition of approval alleged to have been violated
12 and the facts alleged to constitute a violation. The notice must include an order to take necessary corrective
13 action within a reasonable period of time. The time period must be stated in the order. Service by mail is
14 complete on the date of filing.

15 (2) If the alleged violator does not request a hearing before the board within 30 days of the date
16 of service, the order becomes final. Failure to comply with a final order may subject the violator to an action
17 commenced pursuant to 75-6-104, 75-6-113, or 75-6-114.

18 (3) If the alleged violator requests a hearing before the board within 30 days of the date of service,
19 the board shall schedule a hearing. After the hearing is held, the board may:

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

22 (b) rescind the department's order if the board finds that a violation has not occurred.

23 (4) An order issued by the department or the board may set a date by which the violation must
24 cease and set a time limit for action to correct a violation.

25 (5) As an alternative to issuing an order pursuant to subsection (1), the department may:

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

28 (b) initiate an action under 75-6-111(2), 75-6-113, or 75-6-114.

29 (6) An action initiated under this part may include an administrative penalty not to exceed \$500
30 for each day of violation. Administrative penalties collected under this section must be deposited in the

1 state general fund.

2 (7) In determining the amount of penalty to be assessed to a person, the department or the board,
3 as appropriate, shall consider the criteria stated in 75-6-114 and the rules promulgated under
4 75-6-103~~(2)(i)~~(2)(i).

5 (8) The contested case provisions of the Montana Administrative Procedure Act, provided for in
6 Title 2, chapter 4, part 6, apply to a hearing under 75-6-108 or this section."

7

8 **Section 11.** Section 80-8-201, MCA, is amended to read:

9 **"80-8-201. Registration.** (1) Each pesticide distributed, sold, or offered for sale within the state
10 or delivered for transportation or transported in intrastate commerce or between points within the state
11 must be registered with the department. The registration must be renewed annually by the manufacturer,
12 formulator, or distributor of the pesticide. The department shall register all federally approved pesticides,
13 and those registered are subject to registration fees and all other provisions of this chapter. All registrations
14 of pesticides expire on December 31 following the date of issuance unless otherwise terminated.

15 (2) The applicant for registration shall file with the department a statement that includes:

16 (a) the name and address of the applicant and the name and address of the person whose name
17 will appear on the label, if other than the registrant;

18 (b) a complete copy of the label of the pesticide, the United States environmental protection agency
19 registration number if the pesticide is registered, and a statement of all claims to be made for it, including
20 directions for use;

21 (c) the trade and chemical name of the pesticide;

22 (d) if requested by the department, a full description of tests made and the results upon which the
23 claims are based. In the case of renewal of registration, a statement is required only for information that
24 is different from that furnished when the pesticide was registered or last reregistered.

25 (3) A pesticide imported into the state that is subject to and has been registered under the
26 provisions of a federal act providing for the registration of pesticides must be registered in the state.
27 However, the state may restrict the sale or use and application of the pesticide by type of dealer,
28 applicator, time, and place and may establish special registrations of pesticides as outlined in 80-8-105(3)
29 and in subsection (8) of this section. The annual registration fee must also be paid, and registration
30 information required by the department must be provided.

1 (4) The applicant shall pay an annual fee of \$70 for each pesticide registered. A registration fee
2 is not required to register a federally approved experimental use permit.

3 (5) The department may require the submission of the complete formula and certified analytical
4 standards of any pesticide. If it appears to the department that the composition of the pesticide warrants
5 the proposed claims for it and if the pesticide, its labeling, and other material required to be submitted
6 comply with the requirements of 80-8-202, the department shall register the pesticide.

7 (6) If it does not appear to the department that the pesticide warrants the proposed claims for it
8 or if the pesticide, its labeling, and other material required to be submitted do not comply with this chapter,
9 the department shall notify the applicant of the manner in which the pesticide, labeling, or other material
10 required to be submitted fails to comply with the chapter to provide the applicant an opportunity to make
11 the necessary corrections. If the applicant does not make the corrections upon receipt of the notice, the
12 department may refuse to register the pesticide. The department may suspend or cancel the registration
13 of a pesticide whenever it does not appear that the pesticide or its labeling comply with this chapter or
14 whenever scientific evidence proves that the pesticide endangers humans or the general environment
15 afforded protection under 80-8-105(3)(a). When an application for registration is refused or the department
16 proposes to suspend or cancel a registration, the registrant may pursue administrative remedies under the
17 Montana Administrative Procedure Act and rules of the department.

18 (7) Registration is not required in the case of a pesticide shipped from one plant in the state to
19 another plant in the state by the same person.

20 (8) (a) The department, the department of ~~environmental quality~~ public health and human services,
21 and the department of fish, wildlife, and parks shall review all applications for registration of an
22 experimental-use permit or a registration for special local needs. The applicant shall pay a one-time fee of
23 \$70 for a special local need or experimental-use permit registration. The departments shall ~~utilize~~ use the
24 same requirements and standards for reviewing registrations established by the Federal Insecticide,
25 Fungicide, and Rodenticide Act, as amended, and regulations adopted under the act. The department shall
26 provide the departments of ~~environmental quality~~ public health and human services and fish, wildlife, and
27 parks with a complete copy of the application, related correspondence, and a statement of the department's
28 proposed action on the application. The department, the department of ~~environmental quality~~ public health
29 and human services, and the department of fish, wildlife, and parks shall approve or disapprove the
30 application within 10 days after the receipt of the application. If the department, the department of

1 ~~environmental quality~~ public health and human services, and the department of fish, wildlife, and parks are
 2 in agreement with the proposed registration, the department shall issue the registration.

3 (b) The department shall establish a time and place for an interagency conference for the purposes
 4 of resolving the registration of any pesticide or device. If two of the departments approve the proposed
 5 registration, the department shall issue the registration.

6 (c) The registrant applying for registration must be notified as to proposed changes in registration.
 7 If the departments cannot resolve the proposed registration following the interagency conference, the
 8 registrant may request a joint administrative hearing before the departments of agriculture, ~~environmental~~
 9 quality public health and human services, and fish, wildlife, and parks.

10 (d) Following the interagency conference and, if requested, the administrative hearing, if the
 11 proposed registration of a pesticide or device has not been resolved, the department of agriculture shall
 12 appoint an advisory council as outlined in 80-8-108 to resolve by majority vote the registration of any
 13 pesticide. The advisory council's recommendations on the registration must be accepted by the departments
 14 and implemented by the department of agriculture.

15 (9) (a) Pesticides registered under any federal law when canceled for sale and use in total or in part
 16 by a federal agency responsible for registration are considered canceled in total or in part for sale and use
 17 in Montana. The cancellation is effective on the final date of sale or use allowed under the federal law and
 18 rules or orders of the federal agency. Except as provided in subsection (9)(b), if the federal cancellation
 19 allows existing stock to be used past the final date of cancellation, the sale or use in this state may not
 20 exceed 2 years. The department shall provide technical assistance to any person in possession of the
 21 products to ensure their proper disposal, relabeling, or removal.

22 (b) Pesticide products canceled under the Federal Insecticide, Fungicide, and Rodenticide Act, 7
 23 U.S.C. 136a-1(i)(5) may be sold and used according to environmental protection agency labeling
 24 requirements or other requirements for a period not to exceed 6 years from the date that distribution from
 25 the registrant, manufacturer, formulator, or distributor is terminated."
 26

27 NEW SECTION. SECTION 12. LICENSING OF LABORATORIES. (1) TO AUTHORIZE A
 28 LABORATORY TO SUBMIT ANALYSES AND REPORTS TO THE DEPARTMENT OF ENVIRONMENTAL
 29 QUALITY UNDER TITLE 75, CHAPTER 6, PART 1, THE DEPARTMENT SHALL ISSUE A LICENSE TO ANY
 30 LABORATORY THAT INTENDS TO CONDUCT ANALYSIS OF PUBLIC WATER SUPPLY SYSTEMS AND

1 THAT FILES A LICENSE APPLICATION, ON A FORM FURNISHED BY THE DEPARTMENT,
2 DEMONSTRATING THAT IT MEETS THE CRITERIA FOR LICENSING ESTABLISHED BY DEPARTMENT
3 RULES.

4 (2) A PERSON AGGRIEVED BY A DECISION OF THE DEPARTMENT TO GRANT, DENY, OR
5 REVOKE A LICENSE MAY APPEAL THE DECISION UNDER THE CONTESTED CASE PROVISIONS OF THE
6 MONTANA ADMINISTRATIVE PROCEDURE ACT.

7
8 NEW SECTION. SECTION 13. CODIFICATION INSTRUCTIONS. (1) TITLE 75, CHAPTER 3, PARTS
9 1 THROUGH 5, ARE INTENDED TO BE RENUMBERED AND CODIFIED AS AN INTEGRAL PART OF TITLE
10 50.

11 (2) [SECTION 12] IS INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 50, CHAPTER
12 1, PART 2, AND THE PROVISIONS OF TITLE 50, CHAPTER 1, PART 2, APPLY TO [SECTION 12].

13
14 NEW SECTION. Section 14. Effective date. [This act] is effective July 1, 1997.

15 -END-