

SUBSTITUTE FOR
SENATE BILL NO. 54

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending sections 2848 and 13807 (MCL 333.2848 and 333.13807),
section 2848 as amended by 2002 PA 562 and section 13807 as added
by 1990 PA 21, and by adding sections 2836 and 2854.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 2836. (1) ALL FETAL REMAINS RESULTING FROM ABORTIONS
2 SHALL BE DISPOSED OF BY MEANS LAWFUL FOR OTHER DEAD BODIES,
3 INCLUDING BURIAL, CREMATION, OR INTERMENT. IF THE FETAL REMAINS
4 RESULTING FROM AN ABORTION ARE DISPOSED OF BY CREMATION, THE FETAL
5 REMAINS SHALL BE INCINERATED SEPARATELY FROM ANY OTHER MEDICAL
6 WASTE. HOWEVER, THIS SUBSECTION DOES NOT PROHIBIT THE SIMULTANEOUS
7 CREMATION OF FETAL REMAINS WITH PRODUCTS OF CONCEPTION OR OTHER

1 FETAL REMAINS RESULTING FROM ABORTIONS.

2 (2) THIS SECTION DOES NOT REQUIRE A PHYSICIAN TO DISCUSS THE
3 FINAL DISPOSITION OF THE FETAL REMAINS WITH THE MOTHER PRIOR TO
4 PERFORMING THE ABORTION, NOR DOES IT REQUIRE A PHYSICIAN TO OBTAIN
5 AUTHORIZATION FROM THE MOTHER FOR THE FINAL DISPOSITION OF THE
6 FETAL REMAINS UPON COMPLETION OF THE ABORTION.

7 Sec. 2848. (1) Except as provided in sections 2844 and 2845, a
8 funeral director or person acting as a funeral director, who first
9 assumes custody of a dead body, not later than 72 hours after death
10 or the finding of a dead body and before final disposition of the
11 body, shall obtain authorization for the final disposition. The
12 authorization for final disposition of a dead body shall be issued
13 on a form prescribed by the state registrar and signed by the local
14 registrar or the state registrar.

15 (2) ~~Before~~ **UNLESS WRITTEN CONSENT FOR RESEARCH HAS BEEN**
16 **OBTAINED IN ACCORDANCE WITH SECTION 2688, BEFORE** final disposition
17 of a dead fetus, irrespective of the duration of pregnancy, **OR**
18 **BEFORE FINAL DISPOSITION OF FETAL REMAINS RESULTING FROM A**
19 **MISCARRIAGE**, the funeral director or person assuming responsibility
20 for the final disposition of the fetus **OR FETAL REMAINS** shall
21 obtain from the parents, or parent in case of an unmarried mother,
22 an authorization for final disposition on a form prescribed and
23 furnished or approved by the state registrar. The authorization may
24 allow final disposition to be by a funeral director, the individual
25 in charge of the institution where the fetus was delivered **OR**
26 **MISCARRIED**, or an institution or agency authorized to accept
27 donated bodies, ~~or~~ fetuses, **OR FETAL REMAINS** under this ~~code~~ **ACT**.

1 THE FUNERAL DIRECTOR, INDIVIDUAL IN CHARGE OF THE INSTITUTION, OR
2 OTHER PERSON MAKING THE FINAL DISPOSITION SHALL TAKE INTO ACCOUNT
3 THE EXPRESS WISHES OF THE PARENTS, OR PARENT IN CASE OF AN
4 UNMARRIED MOTHER, AS LONG AS THOSE WISHES DO NOT CONFLICT WITH ANY
5 STATE OR FEDERAL LAW, RULE, OR REGULATION. After final disposition,
6 the funeral director, the individual in charge of the institution,
7 or other person making the final disposition shall retain the
8 permit for not less than 7 years. NOTHING IN THIS SECTION AS
9 AMENDED BY THE AMENDATORY ACT THAT ADDED THIS SENTENCE REQUIRES A
10 RELIGIOUS SERVICE OR CEREMONY AS PART OF THE FINAL DISPOSITION OF
11 FETAL REMAINS.

12 (3) If final disposition is by cremation, the medical examiner
13 of the county in which death occurred shall sign the authorization
14 for final disposition.

15 (4) A body may be moved from the place of death to be prepared
16 for final disposition with the consent of the physician or county
17 medical examiner who certifies the cause of death.

18 (5) A permit for disposition issued under the law of another
19 state that accompanies a dead body or dead fetus brought into this
20 state is authorization for final disposition of the dead body or
21 dead fetus in this state.

22 SEC. 2854. A PERSON WHO VIOLATES THIS PART BY FAILING TO
23 DISPOSE OF FETAL REMAINS RESULTING FROM AN ABORTION AS PRESCRIBED
24 IN SECTION 2836 OR BY FAILING TO OBTAIN THE PROPER AUTHORIZATION
25 FOR FINAL DISPOSITION OF A DEAD BODY AS PROVIDED UNDER SECTION 2848
26 IS RESPONSIBLE FOR A STATE CIVIL INFRACTION AS PROVIDED UNDER
27 CHAPTER 88 OF THE REVISED JUDICATURE ACT OF 1961, 1961 PA 236, MCL

1 600.8801 TO 600.8835, AND MAY BE ORDERED TO PAY A CIVIL FINE OF NOT
2 MORE THAN \$1,000.00 PER VIOLATION.

3 Sec. 13807. (1) "Pathogen" means a microorganism that produces
4 disease.

5 (2) "Pathological waste" means human organs, tissues, body
6 parts other than teeth, products of conception, and fluids removed
7 by trauma or during surgery or autopsy or other medical procedure,
8 and not fixed in formaldehyde.

9 (3) "Point of generation" means the point at which medical
10 waste leaves the producing facility site.

11 (4) "Producing facility" means a facility that generates,
12 stores, decontaminates, or incinerates medical waste.

13 (5) **"PRODUCTS OF CONCEPTION" MEANS ANY TISSUES OR FLUIDS,**
14 **PLACENTA, UMBILICAL CORD, OR OTHER UTERINE CONTENTS RESULTING FROM**
15 **A PREGNANCY. PRODUCTS OF CONCEPTION DO NOT INCLUDE A FETUS OR FETAL**
16 **BODY PARTS.**

17 (6) ~~(5)~~—"Release" means any spilling, leaking, pumping,
18 pouring, emitting, emptying, discharging, injecting, escaping,
19 leaching, dumping, or disposing of medical waste into the
20 environment in violation of this part.

21 (7) ~~(6)~~—"Response activity" means an activity necessary to
22 protect the public health, safety, welfare, and the environment,
23 and includes, but is not limited to, evaluation, cleanup, removal,
24 containment, isolation, treatment, monitoring, maintenance,
25 replacement of water supplies, and temporary relocation of people.

26 (8) ~~(7)~~—"Sharps" means needles, syringes, scalpels, and
27 intravenous tubing with needles attached.

1 (9) ~~(8)~~—"Storage" means the containment of medical waste in a
2 manner that does not constitute disposal of the medical waste.

3 (10) ~~(9)~~—"Transport" means the movement of medical waste from
4 the point of generation to any intermediate point and finally to
5 the point of treatment or disposal. Transport does not include the
6 movement of medical waste from a health facility or agency to
7 another health facility or agency for the purposes of testing and
8 research.

9 Enacting section 1. This amendatory act takes effect 90 days
10 after the date it is enacted into law.

11 Enacting section 2. This amendatory act does not take effect
12 unless Senate Bill No. 25 of the 96th Legislature is enacted into
13 law.