

SENATE BILL No. 54

January 20, 2011, Introduced by Senator JONES and referred to the Committee on Judiciary.

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) UNLESS THE MOTHER HAS PROVIDED WRITTEN CONSENT
2 FOR RESEARCH ON THE FETAL REMAINS IN ACCORDANCE WITH SECTION 2688,
3 A PHYSICIAN WHO PERFORMS AN ABORTION SHALL ARRANGE FOR THE FINAL
4 DISPOSITION OF THE FETAL REMAINS RESULTING FROM THE ABORTION. IF
5 THE FETAL REMAINS ARE DISPOSED OF BY CREMATION, THE FETAL REMAINS

1 SHALL BE INCINERATED SEPARATELY FROM ANY OTHER MEDICAL WASTE.
2 HOWEVER, THIS SUBSECTION DOES NOT PROHIBIT THE CREMATION OF FETAL
3 REMAINS WITH OTHER FETAL REMAINS RESULTING FROM AN ABORTION.

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

9 (3) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A FELONY
10 PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 3 YEARS OR A FINE OF
11 NOT MORE THAN \$5,000.00, OR BOTH.

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

20 (2) ~~Before~~—UNLESS WRITTEN CONSENT FOR RESEARCH HAS BEEN
21 OBTAINED IN ACCORDANCE WITH SECTION 2688, BEFORE final disposition
22 of a dead fetus, irrespective of the duration of pregnancy, OR
23 BEFORE FINAL DISPOSITION OF FETAL REMAINS RESULTING FROM A
24 MISCARRIAGE, the funeral director or person assuming responsibility
25 for the final disposition of the fetus OR FETAL REMAINS shall
26 obtain from the parents, or parent in case of an unmarried mother,
27 an authorization for final disposition on a form prescribed and

1 furnished or approved by the state registrar. The authorization may
2 allow final disposition to be by a funeral director, the individual
3 in charge of the institution where the fetus was delivered **OR WHERE**
4 **THE FETAL REMAINS WERE MISCARRIED**, or an institution or agency
5 authorized to accept donated bodies, ~~or~~ fetuses, **OR FETAL REMAINS**
6 under this ~~code~~ **ACT**. After final disposition, the funeral director,
7 the individual in charge of the institution, or other person making
8 the final disposition shall retain the permit for not less than 7
9 years. **NOTHING IN THIS SECTION AS AMENDED BY THE AMENDATORY ACT**
10 **THAT ADDED THIS SENTENCE REQUIRES A RELIGIOUS SERVICE OR CEREMONY**
11 **AS PART OF THE FINAL DISPOSITION OF 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. (1) A PERSON WHO VIOLATES THIS PART BY FAILING TO**
23 **OBTAIN THE PROPER AUTHORIZATION FOR FINAL DISPOSITION AS PROVIDED**
24 **UNDER SECTION 2848 IS RESPONSIBLE FOR A STATE CIVIL INFRACTION AS**
25 **PROVIDED UNDER CHAPTER 88 OF THE REVISED JUDICATURE ACT OF 1961,**
26 **1961 PA 236, MCL 600.8801 TO 600.8835, AND MAY BE ORDERED TO PAY A**
27 **CIVIL FINE OF NOT MORE THAN \$1,000.00 PER VIOLATION.**

1 (2) A PERSON WHO SUFFERS INJURY OR DAMAGES AS A RESULT OF A
2 PERSON VIOLATING THIS PART AS DESCRIBED UNDER SUBSECTION (1) MAY
3 BRING A CIVIL CAUSE OF ACTION AGAINST THAT PERSON TO SECURE ACTUAL
4 DAMAGES, INCLUDING DAMAGES FOR EMOTIONAL DISTRESS, OR OTHER
5 APPROPRIATE RELIEF.

6 Sec. 13807. (1) "Pathogen" means a microorganism that produces
7 disease.

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

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

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

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

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

24 (7) ~~(6)~~—"Response activity" means an activity necessary to
25 protect the public health, safety, welfare, and the environment,
26 and includes, but is not limited to, evaluation, cleanup, removal,
27 containment, isolation, treatment, monitoring, maintenance,

1 replacement of water supplies, and temporary relocation of people.

2 (8) ~~(7)~~—"Sharps" means needles, syringes, scalpels, and
3 intravenous tubing with needles attached.

4 (9) ~~(8)~~—"Storage" means the containment of medical waste in a
5 manner that does not constitute disposal of the medical waste.

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

12 Enacting section 1. This amendatory act takes effect July 1,
13 2011.

14 Enacting section 2. This amendatory act does not take effect
15 unless all of the following bills of the 96th Legislature are
16 enacted into law:

17 (a) Senate Bill No. 25.

18
19 (b) Senate Bill No. 55.