

Testimony
House Bill 1114
Senate Energy and Natural Resources Committee
March 20, 2015, 8:30 a.m.
North Dakota Department of Health

Good morning, Chairman Schaible and members of the Energy and Natural Resources Committee. My name is Scott Radig, and I am director of the Waste Management Division of the North Dakota Department of Health. I am here today to testify in support of Engrossed House Bill 1114, which primarily addresses a number of housekeeping issues in the Solid Waste Management law, and makes the Solid Waste Management law consistent with other environmental regulations.

Section 1 changes the definition of littering to exclude the illegal dumping of special waste or industrial waste. The Department believes that dumping these materials has a much greater potential for harm to the public or environment and should not be considered ordinary littering. In addition, the definition for resource recovery was changed to include the reuse or recycling of any solid waste, not just municipal waste. This amendment would allow for the recycling of a wide range of non-hazardous wastes, including oilfield waste materials.

Section 2 increases the fine for littering one cubic foot or less from \$100 to \$200, while remaining an infraction. The bill adds a civil penalty for littering larger volumes of waste that is consistent with the civil penalty for other solid waste violations, while the criminal penalty remains a Class B misdemeanor.

Section 3 increases the maximum civil penalty for all solid waste violations from \$1,000 per day per violation to \$12,500 per day per violation. It also adds criminal penalties up to a Class C felony for any person who willfully or knowingly violates provisions of the solid waste law, consistent with other state environmental laws. These changes make the penalty provisions of the Solid Waste Management law consistent with the penalties in water quality, air quality, hazardous waste and oil and gas law.

Section 4 of the bill repeals two sections in the solid waste law that are outdated and difficult to enforce. Section 23-29-09 requires that any notice, order or “official correspondence” of the department under the solid waste law be sent by certified mail. This section was implemented in 1975, but is no longer workable in today’s era of electronic communication. The department is moving to providing online services that are much more efficient for the public

and the department, making the requirement for certified mail cumbersome, inefficient and unnecessary.

Section 23-29-16, Environmental Protection Act, was enacted as a result of an initiated measure in 1996. It was declared unconstitutional in North Dakota District Federal Court in Municipal Services Corporation v. State of North Dakota, Docket No. A4-96-80, on October 9, 1996, and is therefore unenforceable. The Department recommends that it be repealed.

This concludes my testimony. I am happy to answer any questions you may have.