

1989

## Session Law 89-138

Florida Senate & House of Representatives

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**S 224 GENERAL BILL/CS/CS/1ST ENG by Judiciary-Criminal;  
Health Care; D.C. Childers (Similar CS/H 1345)**

**Biohazardous Waste:** requires tracking of biohazardous waste from generator to treatment facility; provides for tracking system, for inspections, & for monitoring & testing; provides penalties; provides for standards for segregation, safe packaging, placement, & labeling of biohazardous waste; provides for immunity for generators contracting with certain transporters. Creates 403.7084; amends 381.80. Effective Date: 01/01/90.

02/10/89 SENATE Prefiled

02/17/89 SENATE Referred to Health and Rehabilitative Services; Judiciary-Criminal

04/04/89 SENATE Introduced, referred to Health and Rehabilitative Services; Judiciary-Criminal -SJ 26; Withdrawn from Health and Rehabilitative Services; Judiciary-Criminal; Rereferred to Health Care; Judiciary-Criminal -SJ 3

04/14/89 SENATE Extension of time granted Committee Health Care

04/27/89 SENATE On Committee agenda—Health Care, 05/01/89, 12:45 pm, Room-A-(LL-37)

04/28/89 SENATE Extension of time granted Committee Health Care

05/01/89 SENATE Comm. Report: CS by Health Care -SJ 242

05/02/89 SENATE CS read first time -SJ 244; Now in Judiciary-Criminal -SJ 242

05/04/89 SENATE On Committee agenda—Judiciary-Criminal, 05/08/89, 3:15 pm, Room-2C-(301)

05/08/89 SENATE Comm. Report: CS/CS by Judiciary-Criminal, placed on Calendar -SJ 293

05/10/89 SENATE CS read first time -SJ 294

05/24/89 SENATE Placed on Special Order Calendar -SJ 402; CS passed as amended; YEAS 36 NAYS 0 -SJ 442

05/25/89 HOUSE In Messages

06/01/89 HOUSE Received, placed on Calendar; Read second time; Read third time; CS passed; YEAS 108 NAYS 0 -HJ 1066

06/01/89 Ordered enrolled -SJ 691

06/12/89 Signed by Officers and presented to Governor

06/27/89 Approved by Governor; Chapter No. 89-138

**NOTES:** Above bill history from Division of Legislative Information's *FINAL LEGISLATIVE BILL INFORMATION, 1989 SESSIONS*. Staff Analyses for bills amended beyond final committee action may not be in accordance with the enacted law. Journal page numbers (HJ & SJ) refer to daily Journals and may not be the same as final bound Journals.

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1. <u>Williams</u>	<u>Wilson</u>	1. <u>HC</u>	<u>Fav/CS</u>
2. <del>Skary</del>	<u>Liepshutz</u>	2. <u>JCR</u>	<u>FAV/CS</u>
3. _____	_____	3. _____	_____
4. _____	_____	4. _____	_____

SUBJECT:

Environmental Control

BILL NO. AND SPONSOR:

CS/CS/SB 224 by Committee on Judiciary Criminal, Committee on Health-Care, and Senator Don Childers

I. SUMMARY:

A. Present Situation:

Part IV of chapter 403, Florida Statutes, relating to resource recovery and management, was amended during the 1988 legislative session. Chapter 88-130, Laws of Florida, the Solid Waste Act, contained provisions which established definitions, general standards, and agency responsibilities for the management of biohazardous waste.

Pursuant to section 381.80, Florida Statutes (1988 Supplement), the Department of Health and Rehabilitative Services (HRS) has responsibility for regulating the packaging, storage, and treatment of biohazardous waste at facilities which generate such waste. The Department of Environmental Regulation (DER) has the responsibility for regulating biohazardous waste from the point at which the waste is transported from the facility where it was generated. Regulation of on-site and off-site incineration of biohazardous waste and its off-site transport, storage, treatment, or disposal is also the responsibility of DER. An interagency agreement between DER and HRS is required "to ensure maximum efficiency in coordinating, administering, and regulating biohazardous wastes."

Section 381.80, Florida Statutes (1988 Supplement), also provides definitions for "biohazardous waste," "biohazardous waste generator," "sharps," and "treatment." This section of statute required HRS to develop rules for the HRS duties by March 1, 1989. A draft rule was published in the Florida Administrative Weekly on March 17, 1989. That rule relates to segregation, handling, storage, treatment, and disposal of biohazardous waste and provides for a statewide, uniform interpretation on how biohazardous waste is to be handled on the generator's premises.

Section 403.704, Florida Statutes (1988 Supplement), required DER to initiate rulemaking by February 1, 1989, to address the management of biohazardous waste and biological waste within the state. A proposed DER rule was published in the Florida Administrative Weekly on February 17, 1989.

In response to a number of instances of medical wastes being discovered on Florida beaches, the Florida Cabinet and the Governor on August 5, 1988, directed the Department of Natural Resources, DER, HRS, and the Florida Game and Fresh Water Fish Commission to prepare a report on refuse washing up on Florida beaches. Their report, submitted September 27, 1988, concluded that: small amounts of medical wastes had washed ashore in 7 of 35 of Florida's coastal counties; the risk of disease transmission is exceedingly small; and the passage of the 1988

Solid Waste Act and its implementation will result in a "cradle-to-grave" biohazardous waste tracking program.

The federal Medical Waste Tracking Act of 1988 requires the Environmental Protection Agency to establish a two-year demonstration program for tracking medical waste generated in states, even if wastes are ultimately taken out of the generating state for treatment and disposal. The regulations established under the program must include a list of medical wastes to be tracked and minimum standards for segregation from other wastes, packaging, and labeling before transport to treatment and/or disposal facilities. The act designates Connecticut, New Jersey, New York, and those states bordering the Great Lakes as being subject to the demonstration project. In addition, any other state may participate in the program. An interim final rule and request for comments was published in the Federal Register on March 24, 1989.

**B. Effect of Proposed Changes:**

Committee Substitute for Senate Bill 224 establishes a tracking system for biohazardous wastes and provides for the development of rules by DER which provide details relating to the establishment of such a system including tracking, packaging, amounts, and inspections; and modifies the existing HRS operating standards for biohazardous waste regulation by HRS.

**Sectional Analysis**

Section 1. Creates section 403.7084, Florida Statutes, to establish a biohazardous waste tracking system in DER. Directs DER to promulgate rules for such a system, which will at a minimum provide for the tracking of the transportation of the waste from generator to the treatment facility, including a means for providing the generator with assurance that the waste is received by the treatment facility and including identification on the container of waste indicating the entity which transports the waste. The CS/CS authorizes DER to establish transportation criteria for generators of small quantities of biohazardous waste, allowing DER to exempt from these criteria the transportation of less than 25 pounds transported on any single occasion. Authorizes DER to conduct compliance inspections pursuant to this section. Directs DER to complete such inspections "with reasonable promptness" and directs DER to provide a receipt describing any sample obtained during inspection.

Provides a penalty of misdemeanor of the second degree, punishable by imprisonment for up to 60 days or a fine of up to \$500, for failure to comply with these provisions.

Section 2. Amends subsections (3) and (4) of section 381.80, Florida Statutes, 1988 Supplement, to modify existing directives regarding HRS rules establishing operating standards for the handling of biohazardous waste. Specific added requirements relate to the segregation of waste at the point of generation; the safe packaging of sharps; the placement of waste in containers that will protect waste handlers and the public from exposure; and the appropriate labeling of containers of waste to identify the generator.

The CS/CS adds a new paragraph (b) to subsection (4) to clarify that, in the case of a contract for the disposal of biohazardous waste between a transporter who is an independent contractor but regulated by DER, and a generator, the generator would not be jointly and severally liable for actions of the transporter.

Section 3. Provides an effective date of January 1, 1990.

**II. ECONOMIC IMPACT AND FISCAL NOTE:****A. Public:**

An actual cost to the public of implementing this bill is indeterminate. To the extent that the tracking requirements of this bill add to the cost of handling biohazardous waste, these costs will be passed on to the generators through price increases.

**B. Government:**

An actual cost to the government for implementing this bill is limited to those minimal costs associated with rule development by HRS and DER.

**III. COMMENTS:**

The packaging and labeling requirements of this bill should make it easier to identify the source of any biohazardous waste that could potentially present any exposure hazards to the public.

**IV. AMENDMENTS:**

None.

STORAGE NAME: h1345f.hrs\ldm\dv  
DATE: June 6, 1989

HOUSE OF REPRESENTATIVES  
COMMITTEE ON HEALTH & REHABILITATIVE SERVICES  
FINAL STAFF ANALYSIS & ECONOMIC IMPACT STATEMENT

BILL #: CS/HB 1345 (Passed as CS/CS/SB 224)

RELATING TO: Biohazardous Waste Tracking

SPONSOR(S): HRS Committee and Representative Easterly

EFFECTIVE DATE: January 1, 1990

DATE BECAME LAW: June 27, 1989

CHAPTER #: 89-138, Laws of Florida

COMPANION BILL(S): CS/CS/SB 224

OTHER COMMITTEES OF REFERENCE: (1) Appropriations

(2)

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I. SUMMARY:

A. PRESENT SITUATION:

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The federal Medical Waste Tracking Act of 1988 requires the Environmental Protection Agency (EPA) to establish a two-year program for tracking medical waste generated in states, even if wastes are ultimately taken out of the state for treatment and disposal. The regulations established under the program must include a list of medical wastes to be tracked and minimum standards for segregation from other wastes, packaging, and labeling before transport to treatment and/or disposal facilities. The act designates Connecticut, New Jersey, New York, and those states bordering the Great Lakes as being subject to the demonstration program. Under certain conditions, however, these states may opt out of the program. In addition, any other state may participate in the program. An interim final rule and request for comments was published in the Federal Register on March 24, 1989.

Part IV of Chapter 403, F.S., relating to resource recovery and management, was amended during the 1988 Legislative Session. Chapter 88-130, F.S., Laws of Florida, contained provisions that established definitions, general standards, and agency responsibilities for the management of biohazardous waste. The Department of Health and Rehabilitative Services (HRS) has responsibility for regulating the packaging, storage, and treatment of biohazardous waste at facilities which generate such waste.

The Department of Environmental Regulation (DER) has

responsibility for regulating the transport of biohazardous waste from the point where the waste leaves the facility where it is generated. DER is also responsible for the regulation of on-site and off-site incineration of biohazardous waste and its off-site transport, storage, treatment or disposal. Section 403.704, F.S., 1988 Supplement, requires DER to initiate rulemaking by February 1, 1989, to address the management of biohazardous waste. The contents of the rule are specified and include provisions for a system of registering the transporters of biohazardous waste. After July 1, 1990 any person who transports biohazardous waste within the state must register with DER prior to engaging in the transport of the waste. Section 403.708, F.S., 1988 Supplement, prohibits the transportation of biohazardous waste without first having registered with DER.

Section 381.80, F.S., 1988 Supplement, defines biohazardous waste as any solid or liquid waste which may present a threat of infection to humans. The definition of biohazardous waste replaced the definition of infectious waste in s. 395.002 (13)(c), F.S. Paragraph (b) of s. 381.80, F.S., 1988 Supplement, defines a biohazardous waste generator as a facility or person that produces or generates biohazardous waste. The term includes but is not limited to hospitals, skilled nursing or convalescent hospitals, intermediate care facilities, clinics, dialysis clinics, dental offices, health maintenance organizations, surgical clinics, medical buildings, physicians' offices, laboratories, veterinary clinics, and funeral homes. These definitions also appear in s. 403.703, F.S., 1988 Supplement.

A proposed rule by the Department of Environmental Regulation was published in the Florida Administrative Weekly on February 17, 1989, and relates to the changes made during the 1988 Legislative Session.

**B. EFFECT OF PROPOSED CHANGES:**

The bill requires a system for tracking the transportation of biohazardous waste from the generator to the treatment facility. The bill requires DER to promulgate rules for the tracking system. The bill specifies requirements related to tracking, small quantities of waste, and inspections.

The bill provides a penalty (a second degree misdemeanor) for failure to comply with the provisions of subsection (1), punishable as provided in s. 775.082, F.S. (imprisonment not to exceed 60 days), or s. 775.083, F.S. (a fine not to exceed \$500).

The bill amends s. 381.80, F.S., 1988 Supplement.

**C. SECTION-BY-SECTION ANALYSIS:**

**Section 1.** Creates s. 403.7084, F.S., related to a biohazardous waste tracking system. Requires the Department of Environmental Regulation (DER) to promulgate rules for the tracking system. Specifies the minimum provisions of the system. The provisions are to include: tracking of the transportation of the waste from

the generator to the treatment facility; assuring the generator of the receipt of the waste by the treatment facility; and including other requirements.

Authorizes DER to establish transportation criteria for generators of small quantities of biohazardous waste as defined in s. 403.703(39), F.S. Provides an exemption. Those who transport below a specific threshold may be exempt.

Authorizes inspections. Requires inspection to be started and completed with reasonable promptness. Requires DER officers, employees, or representatives to provide a receipt, prior to leaving, to the owner, operator, or agent in charge if any samples are obtained.

Provides a penalty for failure to comply with the provisions of subsection (1).

Amends s. 381.80, F.S., 1988 Supplement, related to operating standards by the Department of HRS, to include specific requirements.

Section 2. Provides an effective date of January 1, 1990.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring or First Year Start-Up Effects:

Indeterminate. It is likely that there will be costs related to rule promulgation for DER and HRS due to the provisions of the bill. There may some cost for the receipt for samples.

2. Recurring or Annualized Continuation Effects:

Indeterminate.

3. Long Run Effects Other Than Normal Growth:

Unknown at this time.

4. Appropriations Consequences:

Indeterminate. Revenues generated from fines are unknown.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring or First Year Start-Up Effects:

Unknown at this time.

2. Recurring or Annualized Continuation Effects:

Unknown at this time.



3. Long Run Effects Other Than Normal Growth:

None anticipated.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

Indeterminate. Generators will be affected by the provisions of the bill.

2. Direct Private Sector Benefits:

The public may be better protected.

3. Effects on Competition, Private Enterprise, and Employment Markets:

None anticipated.

D. FISCAL COMMENTS:

III. LONG RANGE CONSEQUENCES:

To the extent that the proper management of biohazardous waste is promoted, provisions of the bill are consistent with goal 13 of the State Comprehensive Plan related to hazardous and nonhazardous materials.

IV. COMMENTS:

In November, 1988, HRS estimated that there were nearly 46,000 potential generators of biohazardous waste in the state. Included among the 46,000 potential generators were: 30,000 physicians; 8,000 dentists; 3,000 veterinarians; 2,000 funeral home directors; 850 clinical laboratories; 300 hospitals; 200 acupuncturists; 30 hospices; and 70 ambulatory surgical centers.

The bill is consistent with the Speaker's Conference Policy Statement on structural and natural resources in that it seeks to protect the health of the citizenry and protect the quality of the natural environment.

V. SIGNATURES:

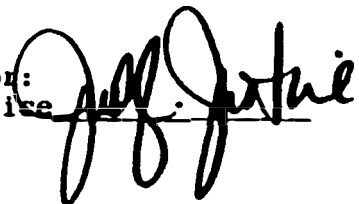
SUBSTANTIVE COMMITTEE:

Prepared by:

Lynda deMarsh-Mathues

Staff Director:

Judy C. Justice



**STORAGE NAME:** h1345f.hrs\ldm\dv  
**DATE:** June 6, 1989  
**PAGE:** 5

**SECOND COMMITTEE OF REFERENCE:**  
**Prepared by:**

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**Staff Director:**

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**APPROPRIATIONS:**  
**Prepared by:**

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**Staff Director:**

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