

1 SENATE BILL 132

2 **49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009**

3 INTRODUCED BY

4 Peter Wirth

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10 AN ACT

11 RELATING TO WATER QUALITY; REQUIRING A DENTAL OFFICE TO REMOVE
12 DENTAL AMALGAM PRIOR TO DISCHARGE OF ITS WASTEWATER;
13 RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN
14 LAWS 2003.

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16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

17 Section 1. [NEW MATERIAL] SHORT TITLE.--Sections 1
18 through 6 of this act may be cited as the "Dental Amalgam Waste
19 Reduction Act".

20 Section 2. [NEW MATERIAL] DEFINITIONS.--As used in the
21 Dental Amalgam Waste Reduction Act:

22 A. "amalgam" means a dental restorative material
23 that is typically composed of mercury, silver, tin and copper,
24 along with other metallic elements, and that is used by a
25 dentist to restore a cavity in teeth;

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1 B. "amalgam separator" means a device that removes
2 dental amalgam from the waste stream prior to discharge into
3 either the local public wastewater system or a private septic
4 system and that meets a minimum removal efficiency in
5 accordance with international standards contained in *ISO 11143*,
6 *Dental Equipment-Amalgam Separators*, published by the
7 international organization for standardization; and

8 C. "dental office" means a fixed physical structure
9 in which dental services are provided to patients by dentists
10 and dental professionals licensed or certified by the New
11 Mexico board of dental health care under the management of a
12 licensed owner, operator or designee.

13 Section 3. [NEW MATERIAL] INSTALLATION OF AMALGAM
14 SEPARATOR REQUIRED.--By December 31, 2010, a dental office
15 shall install an appropriately sized amalgam separator system
16 and, upon inspection for cause, shall demonstrate to the New
17 Mexico board of dental health care proper installation,
18 operation, maintenance and amalgam waste recycling or disposal
19 in accordance with an amalgam separator manufacturer's
20 recommendations. The New Mexico board of dental health care
21 shall consider noncompliance with the Dental Amalgam Waste
22 Reduction Act as unprofessional conduct subject to the
23 penalties and discipline of the board pursuant to the Uniform
24 Licensing Act and the Dental Health Care Act.

25 Section 4. [NEW MATERIAL] EXEMPTION FOR CERTAIN DENTAL
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1 OFFICES.--An amalgam separator system shall not be required for
2 the offices or clinical site of:

3 A. a dental office that is not engaged in amalgam
4 placement, removal or modification;

5 B. an orthodontist;

6 C. a periodontist;

7 D. an oral maxillofacial surgeon;

8 E. an oral maxillofacial radiologist;

9 F. an oral pathologist;

10 G. a dentist who will no longer operate a dental
11 office after December 31, 2009; or

12 H. a portable dental office without a fixed
13 connection for wastewater discharge.

14 Section 5. [NEW MATERIAL] REPORTING.--A dental office
15 shall report the model and size of its amalgam separator system
16 within ninety days of installation to its local publicly owned
17 water treatment facility, where applicable, and to the New
18 Mexico board of dental health care. A dental office shall
19 report its compliance and maintain records of the operation,
20 maintenance and recycling or disposal of amalgam waste for
21 every consecutive three-year period following the installation
22 of its amalgam separator system and shall report the
23 information upon request for cause to the New Mexico board of
24 dental health care. The New Mexico board of dental health care
25 shall retain the reported information for review coincident

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1 with the board's licensing and renewal functions.

2 Section 6. [NEW MATERIAL] ENFORCEMENT.--The New Mexico
3 board of dental health care shall initiate disciplinary
4 proceedings for willful and persistent noncompliance with the
5 provisions of the Dental Amalgam Waste Reduction Act.

6 Section 7. Section 61-5A-10 NMSA 1978 (being Laws 1994,
7 Chapter 55, Section 10, as amended by Laws 2003, Chapter 408,
8 Section 6 and by Laws 2003, Chapter 409, Section 8) is amended
9 to read:

10 "61-5A-10. POWERS AND DUTIES OF THE BOARD AND
11 COMMITTEE.--In addition to any other authority provided by law,
12 the board and the committee, [~~where~~] when designated, shall
13 have the power to:

14 A. enforce and administer the provisions of the
15 Dental Health Care Act and the Dental Amalgam Waste Reduction
16 Act;

17 B. adopt, publish, file and revise, in accordance
18 with the Uniform Licensing Act and the State Rules Act, all
19 rules as may be necessary to:

20 (1) regulate the examination and licensure of
21 dentists and, through the committee, regulate the examination
22 and licensure of dental hygienists;

23 (2) provide for the examination and
24 certification of dental assistants by the board;

25 (3) provide for the regulation of dental

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1 technicians by the board;

2 (4) regulate the practice of dentistry, dental
3 assisting and, through the committee, regulate the practice of
4 dental hygiene; and

5 (5) provide for the regulation and licensure
6 of non-dentist owners by the board;

7 C. adopt and use a seal;

8 D. administer oaths to all applicants, witnesses
9 and others appearing before the board or the committee, as
10 appropriate;

11 E. keep an accurate record of all meetings,
12 receipts and disbursements;

13 F. grant, deny, review, suspend and revoke licenses
14 and certificates to practice dentistry, dental assisting and,
15 through the committee, dental hygiene and censure, reprimand,
16 fine and place on probation and stipulation dentists, dental
17 assistants and, through the committee, dental hygienists, in
18 accordance with the Uniform Licensing Act for any cause stated
19 in the Dental Health Care Act and the Dental Amalgam Waste
20 Reduction Act;

21 G. grant, deny, review, suspend and revoke licenses
22 to own dental practices and censure, reprimand, fine and place
23 on probation and stipulation non-dentist owners, in accordance
24 with the Uniform Licensing Act, for any cause stated in the
25 Dental Health Care Act and the Dental Amalgam Waste Reduction

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1 Act;

2 H. maintain records of the name, address, license
3 number and such other demographic data as may serve the needs
4 of the board of licensees, together with a record of license
5 renewals, suspensions, revocations, probations, stipulations,
6 censures, reprimands and fines. The board shall make available
7 composite reports of demographic data, but shall limit public
8 access to information regarding individuals to their names,
9 addresses, license numbers and license actions or as required
10 by statute;

11 I. establish ad hoc committees whose members shall
12 be appointed by the [~~chairman~~] chair with the advice and
13 consent of the board or committee and shall include at least
14 one member of the board or committee, as it deems necessary for
15 carrying on its business;

16 J. have the authority to pay per diem and mileage
17 to individuals who are appointed by the board or the committee
18 to serve on ad hoc committees;

19 K. have the authority to hire or contract with
20 investigators to investigate possible violations of the Dental
21 Health Care Act and the Dental Amalgam Waste Reduction Act;

22 L. have the authority to issue investigative
23 subpoenas prior to the issuance of a notice of contemplated
24 action for the purpose of investigating complaints against
25 dentists, dental assistants and, through the committee, dental

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1 hygienists licensed under the Dental Health Care Act and the
2 Dental Amalgam Waste Reduction Act; and

3 M. establish continuing education or continued
4 competency requirements for dentists, certified dental
5 assistants in expanded functions, dental technicians and,
6 through the committee, dental hygienists."

7 Section 8. TEMPORARY PROVISION--RULEMAKING BY THE BOARD
8 OF DENTAL HEALTH CARE.--The New Mexico board of dental health
9 care shall promulgate rules by June 30, 2010 to require that a
10 dental office maintain records of maintenance and inspection
11 for the three years following the most recent inspection of an
12 amalgam separator. Use of an amalgam separation method or
13 technology that is approved by the department of environment,
14 the water quality control commission or the New Mexico board of
15 dental health care is in compliance with the requirements of
16 this section.

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