APPROVED AND SIGNED BY THE GOVERNOR

Date 3-24-80 Time 12:45 g.m.

### WEST VIRGINIA LEGISLATURE

**REGULAR SESSION, 1980** 

# ENROLLED Committee Substitute for HOUSE BILL NO. 986

(By Mr. Stephens + m. Shaffer)

Passed March 8, 1980 In Effect Minety Days From Passage

C-44

10: 986

### ENROLLED

### COMMITTEE SUBSTITUTE

FOR

### **H. B. 986**

(By MR. STEPHENS and MR. SHAFFER)

(Originating in the House Committee on the Judiciary.)

[Passed March 8, 1980; in effect ninety days from passage.]

AN ACT to amend chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article twenty-seven, relating to prohibiting the storage and disposal of radioactive waste material within the state; defining certain terms; providing exceptions for radioactive waste material produced within the state as a result of medical, educational, research or industrial activities; providing exceptions for transportation of radioactive waste material out of or through the state; providing for the authority of the director of health; and providing penalties for violations.

### Be it enacted by the Legislature of West Virginia:

That chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article twenty-seven, to read as follows:

## ARTICLE 27. STORAGE AND DISPOSAL OF RADIOACTIVE WASTE MATERIALS.

### §16-27-1. Definitions.

1 As used in this article:

2 (1) "Byproduct material" means (i) any radioactive ma-

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3 terial (except special nuclear material) yielded in or made 4 radioactive by exposure to the radiation incident to the pro-5 cess of producing or utilizing special nuclear material, and 6 (ii) the tailings or wastes produced by the extraction or con-7 centration of uranium or thorium from any ore processed 8 primarily for its source material content;

9 (2) "Dispose" or "disposal" means the discharge, deposit, 10 injection, dumping, spilling, leaking or placing of a substance 11 into or on any land, water or air;

(3) "Radioactive waste material" means any discarded
radioactive material in the form of, or resulting from the use
of, any byproduct material, source material or special nuclear
material;

(4) "Source material" means (i) uranium or thorium, or
any combination thereof, in any physical or chemical form; or
(ii) ores which contain by weight one-twentieth of one percent
(0.05%) or more of (a) uranium, (b) thorium or (c) any combination thereof. Source material does not include special nuclear material;

(5) "Special nuclear material" means (i) plutonium, uranium 233, uranium enriched in the isotope 233 or in the isotope
24 235; or (ii) any material artificially enriched by any of the
foregoing but does not include source material;

(6) "Store" or "storage" means the containment of a substance, either on a temporary basis or for a period of years,
in such a manner as not to constitute disposal or transportation; and

30 (7) "Transport" or "transportation" means any movement
31 of a substance and any loading, unloading or storage incidental
32 thereto.

The governor shall have the authority to add, by executive order, to the listing of materials constituting "source material" or "special nuclear material" by including such additional like material as may be determined by the federal Nuclear Regulatory Commission to constitute "source material" or "special nuclear material."

# §16-27-2. Storage or disposal of radioactive waste material within the state prohibited; exceptions.

1 No person shall store or dispose of any radioactive waste 2 material within the state: Provided, That the provisions of this section shall not be deemed to prohibit (1) the storage 3 4 or disposal of such material produced within the state as a 5 result of medical, educational, research or industrial activities and so stored or disposed of in compliance with all applicable 6 7 state and federal laws, or (2) the transportation of such 8 material out of or through the state when done in compliance 9 with all applicable state and federal laws: Provided, however, 10 That such waste from industrial activities shall not include, 11 for the purpose of this article, such material produced from 12 the operation of any nuclear power generation facility, nuclear 13 processing facility, or nuclear reprocessing facility.

#### §16-27-3. Authority of director of health.

1 The director of health shall initiate investigations into any 2 use of radioactive material or disposal of radioactive waste 3 material that might be in violation of the provisions of this 4 article. The director of health shall also be empowered to file complaints for alleged violations of this article and shall 5 assist local law enforcement officers and prosecuting attorneys 6 in the investigation and prosecution of all violations of this 7 8 act.

#### §16-27-4. Penalties.

1 Any person who violates the provisions of section two of this article is guilty of a felony, and, upon conviction thereof, 2 shall be fined not less than one thousand dollars nor more 3 4 than twenty-five thousand dollars for each day of such violation, or imprisoned in the penitentiary not less than one 5 nor more than five years, or both fined and imprisoned. If 6 7 the conviction is for a violation committed after a first conviction of such person under this subsection, the person shall 8 be guilty of a felony, and, upon conviction thereof, shall be 9 fined not less than five thousand dollars nor more than fifty 10 thousand dollars for each day of such violation, or shall be 11 imprisoned not less than two nor more than ten years, or 12 both fined and imprisoned. 13

Enr. H. B. 986]

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

NIL P.

Clerk of the Senate

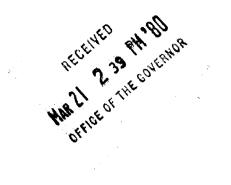
aler Clerk of the House of Delegates

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