

APPROVED AND SIGNED BY THE GOVERNOR

Date 3-24-80

Time 12:45 p.m.

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1980



ENROLLED

Committee Substitute for
HOUSE BILL No. 986

(By Mr. Stephens + Mr. Shaffer)



Passed March 8, 1980

In Effect Ninety Days From Passage



HO: 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-

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;

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

16 (4) "Source material" means (i) uranium or thorium, or
17 any combination thereof, in any physical or chemical form; or
18 (ii) ores which contain by weight one-twentieth of one percent
19 (0.05%) or more of (a) uranium, (b) thorium or (c) any com-
20 bination thereof. Source material does not include special nu-
21 clear material;

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

26 (6) "Store" or "storage" means the containment of a sub-
27 stance, either on a temporary basis or for a period of years,
28 in such a manner as not to constitute disposal or transpor-
29 tation; and

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

33 The governor shall have the authority to add, by executive
34 order, to the listing of materials constituting "source material"
35 or "special nuclear material" by including such additional like
36 material as may be determined by the federal Nuclear Regu-
37 latory Commission to constitute "source material" or "special
38 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
3 this section shall not be deemed to prohibit (1) the storage
4 or disposal of such material produced within the state as a
5 result of medical, educational, research or industrial activities
6 and so stored or disposed of in compliance with all applicable
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
5 file complaints for alleged violations of this article and shall
6 assist local law enforcement officers and prosecuting attorneys
7 in the investigation and prosecution of all violations of this
8 act.

§16-27-4. Penalties.

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

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

James L. Lewis
Chairman Senate Committee

Clarence C. Chestnut Jr.
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

Judd C. Mills
Clerk of the Senate

C. Blankenship
Clerk of the House of Delegates

W. T. Brotherton Jr.
President of the Senate

Clide N. Lee Jr.
Speaker House of Delegates

The within *is approved* this the *20*
day of *March*, 1980.

Paul R. Taylor
Governor

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OFFICE OF THE GOVERNOR

COMMONWEALTH OF MASSACHUSETTS
GOVERNOR

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