

No: 649 ✓

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1985

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SECRETARY OF STATE

ENROLLED
Committee Substitute for
SENATE BILL NO. 649

(By Mr. *Whitacre*)

PASSED *April 13,* 1985

In Effect *from* Passage



ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 649

(MR. WHITACRE, *original sponsor*)

(Originating in the Committee on Health and Human Resources.)

[Passed April 13, 1985; in effect from passage.]

AN ACT to amend sections seven, eight, twelve, thirteen, fifteen and twenty-one, article five-e, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to authority and jurisdiction of the state board of health in establishing standards regarding hazardous waste; ownership of hazardous waste sites or facilities requiring permit; employee access to records regarding generation and transportation of hazardous waste; authority of chief of division of water resources to issue order requiring elimination of hazard, or risk of hazard, where potential hazard to human health or environment exists; criminal penalties.

Be it enacted by the Legislature of West Virginia:

That sections seven, eight, twelve, thirteen, fifteen and twenty-one, article five-e, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 5E. HAZARDOUS WASTE MANAGEMENT ACT.

§20-5E-7. Authority and jurisdiction of other state agencies.

1 (a) The commissioner of highways, in consultation with
2 the director, and avoiding inconsistencies with and
3 avoiding duplication to the maximum extent practicable
4 with rules and regulations required to be promulgated
5 pursuant to this article by the director or any other rule-
6 making authority, and in accordance with the provisions of
7 chapter twenty-nine-a of this code, shall promulgate, as
8 necessary, rules and regulations governing the
9 transportation of hazardous wastes by vehicle upon the
10 roads and highways of this state. Such rules and regulations
11 shall be consistent with applicable rules and regulations
12 issued by the federal department of transportation and
13 consistent with this article: *Provided*, That such rules and
14 regulations shall apply to the interstate transportation of
15 hazardous wastes as well as the intrastate transportation of
16 such waste within the boundaries of this state.

17 In lieu of those enforcement and inspection powers
18 conferred upon the commissioner of highways elsewhere by
19 law with respect to the transportation of hazardous waste,
20 the commissioner of highways has the same enforcement
21 and inspection powers as those granted to the chief, his
22 authorized representative or agent, or any authorized
23 employee or agent of the department of natural resources,
24 as the case may be, under sections eleven, twelve, thirteen,
25 fourteen, fifteen, sixteen and seventeen of this article. The
26 limitations of this subsection shall not affect in any way the
27 powers of the department of highways with respect to
28 weight enforcement.

29 (b) The public service commission, in consultation with
30 the director, and avoiding inconsistencies with and
31 avoiding duplication to the maximum extent practicable
32 with rules and regulations required to be promulgated
33 pursuant to this article by the director or any other rule-
34 making authority, and in accordance with the provisions of
35 chapter twenty-nine-a of this code, shall promulgate, as
36 necessary, rules and regulations governing the
37 transportation of hazardous wastes by railroad in this state.
38 Such rules and regulations shall be consistent with
39 applicable rules and regulations issued by the federal
40 department of transportation and consistent with this

41 article: *Provided*, That such rules and regulations apply to
42 the interstate transportation of hazardous wastes as well as
43 the intrastate transportation of such wastes within the
44 boundaries of this state.

45 In lieu of those enforcement and inspection powers
46 conferred upon the public service commission elsewhere by
47 law with respect to the transportation of hazardous waste,
48 the public service commission has the same enforcement
49 and inspection powers as those granted to the chief, his
50 authorized representative or agent or any authorized
51 employee or agent of the department of natural resources,
52 as the case may be, under sections eleven, twelve, thirteen,
53 fourteen, fifteen, sixteen and seventeen of this article.

54 (c) The rules and regulations required to be
55 promulgated pursuant to subsections (a) and (b) of this
56 section shall apply equally to those persons transporting
57 hazardous wastes generated by others and to those
58 transporting hazardous wastes they have generated
59 themselves or combinations thereof. Such rules and
60 regulations shall establish such standards, applicable to
61 transporters of hazardous waste identified or listed under
62 this article, as may be necessary to protect public health,
63 safety and the environment. Such standards shall include,
64 but need not be limited to, requirements respecting (A)
65 record keeping concerning such hazardous waste
66 transported, and their source and delivery points, (B)
67 transportation of such waste only if properly labeled, (C)
68 compliance with the manifest system referred to in
69 subdivision (3), subsection (a), section six of this article, and
70 (D) transportation of all such hazardous waste only to the
71 hazardous waste treatment, storage or disposal facilities
72 which the shipper designates on the manifest form to be a
73 facility holding a permit issued under: (1) This article or any
74 rule and regulation required by this article to be
75 promulgated; (2) Subtitle C of the federal Solid Waste
76 Disposal Act, as amended; (3) the laws of any other state
77 which has an authorized hazardous waste program
78 pursuant to Section 3006 of the federal Solid Waste
79 Disposal Act, as amended; or (4) Title I of the federal Marine
80 Protection, Research and Sanctuaries Act.

81 (d) The state board of health of the state department of

82 health, in consultation with the director of the department
83 of natural resources, and avoiding inconsistencies with, and
84 avoiding duplication to the maximum extent practicable
85 with rules and regulations required to be promulgated
86 pursuant to this article by the director of the department of
87 natural resources or any other rule-making authority, shall
88 promulgate rules and regulations establishing standards
89 applicable to permitting, licensing and operation of
90 facilities that treat, store or dispose of hazardous wastes
91 with infectious characteristics. Such rules and regulations
92 shall specify the terms, conditions and procedures under
93 which the state director of health or his authorized
94 representative shall issue, modify, suspend, revoke or deny
95 such permits required pursuant to those regulations. Such
96 permits as the board of health regulations may require shall
97 be issued by the state director of health or his authorized
98 representative. All rules and regulations promulgated
99 under this subsection shall be promulgated in accordance
100 with the provisions of chapter twenty-nine-a of this code.
101 Nothing in this subsection shall be construed to diminish or
102 alter the authority of the air pollution control commission
103 or its director under this article or article twenty, chapter
104 sixteen of this code: *Provided*, That such permitting or
105 licensing required by this subsection shall be in addition to
106 those permits required by section eight of this article. Such
107 rules and regulations shall be consistent with this article
108 and shall be promulgated within six months of the effective
109 date of this article.

110 Any person aggrieved or adversely affected by an order of
111 the state director of health pursuant to this article, or the
112 denial or issuance of a permit, or the failure or refusal of
113 said director to act within a reasonable time on an
114 application for a permit or the terms or conditions of a
115 permit granted under the provisions of this article, may
116 appeal to a special hearing examiner appointed to hear
117 contested cases in accordance with the provisions of
118 chapter twenty-nine-a of this code. All procedures for
119 appeal and conduct of hearings shall comply with rules and
120 regulations promulgated by the state board of health.
121 Unless the board of health directs otherwise, the appeal
122 hearing shall be held in the city of Charleston, Kanawha
123 County.

124 In lieu of those enforcement and inspection powers
125 conferred upon the state director of health elsewhere by law
126 with respect to hazardous waste with infectious
127 characteristics, the state director of health shall have the
128 same enforcement and inspection powers as those granted
129 to the chief, his authorized representative or agent or any
130 authorized employee or agent of the department of natural
131 resources, as the case may be, under sections eleven, twelve,
132 thirteen, fourteen, fifteen, sixteen and seventeen of this
133 article.

134 (e) The director shall rely, to the maximum extent
135 practicable, on the department of health for expertise on
136 the adverse effects of toxic hazardous waste on human
137 health.

138 (f) The air pollution control commission, in consultation
139 with the director, and avoiding inconsistencies with and
140 avoiding duplication to the maximum extent practicable
141 with rules and regulations required to be promulgated
142 pursuant to this article by the director or any other rule-
143 making authority, and in accordance with the provisions of
144 article twenty, chapter sixteen and chapter twenty-nine-a
145 of this code, shall promulgate such rules and regulations
146 establishing air pollution performance standards and
147 permit requirements and procedures as may be necessary to
148 comply with the requirements of this article. Such permits
149 shall be in addition to those permits required by section
150 eight of this article. All rules and regulations promulgated
151 pursuant to this subsection shall be consistent with this
152 article.

153 With respect to this article, and any rules or regulations
154 promulgated pursuant thereto, the director of the air
155 pollution control commission has the same enforcement
156 and inspection powers as those of the chief under sections
157 eleven, twelve, thirteen, fourteen, fifteen, sixteen and
158 seventeen of this article: *Provided*, That no action for
159 penalties may be initiated by the director of the air
160 pollution control commission without the approval of that
161 commission. Any person aggrieved or adversely affected by
162 an order of the director of the air pollution control
163 commission made and entered in accordance with the
164 provisions of this article, or by the failure or refusal of said
165 director to act within a reasonable time on an application

166 for a permit or by the issuance or denial of or by the terms
167 and conditions of a permit granted under the provisions of
168 this article, may appeal to the air pollution control
169 commission in accordance with the procedure set forth in
170 section six, article twenty, chapter sixteen of this code, and
171 orders made and entered by said commission shall be
172 subject to judicial review in accordance with the
173 procedures set forth in section seven, article twenty,
174 chapter sixteen of this code, except that as to cases
175 involving an order granting or denying an application for a
176 permit, revoking or suspending a permit or approving or
177 modifying the terms and conditions of a permit or the
178 failure to act within a reasonable time on an application for
179 a permit, the petition for judicial review shall be filed in the
180 circuit court of Kanawha County.

181 (g) The director of the department of natural resources
182 has exclusive responsibility for carrying out any
183 requirement of this article with respect to coal mining
184 wastes or overburden for which a permit is issued under the
185 surface coal mining and reclamation act of 1980, article six
186 of this chapter.

187 (h) To the extent that this article relates to activities
188 with respect to oil and gas wells, liquid injection wells and
189 waste disposal wells now regulated by articles four, four-b
190 and seven, chapter twenty-two of this code, the
191 administrator of the office of oil and gas and the shallow
192 gas-well review board has the jurisdiction with respect to
193 the regulation of such activities and shall promulgate such
194 rules and regulations as may be necessary to comply with
195 the requirements of this article: *Provided*, That nothing in
196 this subsection may be construed to diminish or alter the
197 authority and responsibility of the chief or the water
198 resources board under articles five and five-a, chapter
199 twenty of this code.

200 In lieu of those enforcement and inspection powers
201 conferred upon the administrator of the office of oil and gas
202 and the shallow gas-well review board elsewhere by law,
203 with respect to hazardous wastes, the administrator of the
204 office of oil and gas and the shallow gas-well review board
205 have the same enforcement and inspection powers as those
206 granted to the chief, his authorized representative or agent

207 or any authorized employee or agent of the department of
208 natural resources, as the case may be, under sections eleven,
209 twelve, thirteen, fourteen, fifteen, sixteen and seventeen of
210 this article.

211 (i) The water resources board, in consultation with the
212 director, and avoiding inconsistency with and avoiding
213 duplication to the maximum extent practicable with rules
214 and regulations required to be promulgated pursuant to
215 this article by the director or any other rule-making
216 authority, and in accordance with the provisions of chapter
217 twenty-nine-a of this code, shall, as necessary, promulgate
218 rules and regulations governing discharges into the waters
219 of this state of hazardous waste resulting from the
220 treatment, storage or disposal of hazardous waste as may be
221 required by this article. Such rules and regulations shall be
222 consistent with this article.

223 (j) All rules and regulations promulgated pursuant to
224 this section shall be consistent with rules and regulations
225 promulgated by the federal environmental protection
226 agency pursuant to the federal Solid Waste Disposal Act, as
227 amended.

228 (k) The director shall submit his written comments to
229 the legislative rule-making review committee regarding all
230 rules and regulations promulgated pursuant to this article.

§20-5E-8. Permit process; undertaking activities without a permit.

1 (a) No person may own, construct, modify, operate or
2 close any facility or site for the treatment, storage or
3 disposal of hazardous waste identified or listed under this
4 article, nor shall any person store, treat or dispose of any
5 such hazardous waste without first obtaining a permit from
6 the chief for such facility, site or activity and all other
7 permits as required by law. Such permit shall be issued,
8 after public notice and opportunity for public hearing,
9 upon such reasonable terms and conditions as the chief may
10 direct if the application, together with all supporting
11 information and data and other evidence establishes that
12 the construction, modification, operation or closure, as the
13 case may be, of the hazardous waste facility, site or activity
14 will not violate any provisions of this article or any of the
15 rules and regulations promulgated by the director as

16 required by this article: *Provided*, That in issuing the
17 permits required by this subsection, the chief shall not
18 regulate those aspects of a hazardous waste treatment,
19 storage or disposal facility which are the subject of the
20 permitting or licensing requirements of section seven of this
21 article, and which need not be regulated in order for the
22 chief to perform his duties under this article.

23 (b) The chief shall prescribe a form of application for all
24 permits issued by the chief.

25 (c) The chief may require a plan for the closure of such
26 facility or site to be submitted along with an application for
27 a permit which plan for closure shall comply in all respects
28 with the requirements of this article and any rules and
29 regulations promulgated hereunder. Such plan of closure
30 shall be subject to modification upon application by the
31 permit holder to the chief and approval of such
32 modification by the chief.

33 (d) An environmental analysis shall be submitted with
34 the permit application for all hazardous waste treatment,
35 storage or disposal facilities which are major facilities as
36 that term may be defined by rules and regulations
37 promulgated by the director: *Provided*, That facilities in
38 existence on the nineteenth day of November, one thousand
39 nine hundred eighty, need not comply with this subsection.
40 Such environmental analysis shall contain information of
41 the type, quality and detail that will permit adequate
42 consideration of the environmental, technical and
43 economic factors involved in the establishment and
44 operation of such facilities:

45 (1) The portion of the applicant's environmental
46 analysis dealing with environmental assessments shall
47 contain, but not be limited to:

48 (A) The potential impact of the method and route of
49 transportation of hazardous waste to the site and the
50 potential impact of the establishment and operation of such
51 facilities on air and water quality, existing land use,
52 transportation and natural resources in the area affected by
53 such facilities;

54 (B) A description of the expected effect of such
55 facilities; and

56 (C) Recommendations for minimizing any adverse
57 impact.

58 (2) The portion of the applicant's environmental
59 analysis dealing with technical and economic assessments
60 shall contain, but not be limited to:

61 (A) Detailed descriptions of the proposed site and
62 facility, including site location and boundaries and facility
63 purpose, type, size, capacity and location on the site and
64 estimates of the cost and charges to be made for material
65 accepted, if any;

66 (B) Provisions for managing the site following cessation
67 of operation of the facility; and

68 (C) Qualifications of owner and operation, including a
69 description of the applicant's prior experience in hazardous
70 waste management operations.

71 (e) Any person undertaking, without a permit, any of
72 the activities for which a permit is required under this
73 section or under section seven of this article, or any person
74 violating any term or condition under which a permit has
75 been issued pursuant to this section or pursuant to section
76 seven of this article, shall be subject to the enforcement
77 procedures of this article.

78 (f) Notwithstanding any provision to the contrary in
79 subsections (a) through (e) of this section or section seven of
80 this article, any surface coal mining and reclamation permit
81 covering any coal mining wastes or overburden which has
82 been issued or approved under the surface coal mining and
83 reclamation act of 1980, article six of this chapter, shall be
84 considered to have all necessary permits issued pursuant to
85 this article with respect to the treatment, storage or
86 disposal of such wastes or overburden. Rules and
87 regulations promulgated under this article are not
88 applicable to treatment, storage or disposal of coal mining
89 wastes and overburden which are covered by such a permit.

§20-5E-12. Inspections; right of entry; sampling; reports and analyses; subpoenas.

1 (a) The chief or any authorized representative,
2 employee or agent of the division, upon the presentation of
3 proper credentials and at reasonable times, may enter any
4 building, property, premises, place, vehicle or permitted
5 facility where hazardous wastes are or have been generated,
6 treated, stored, transported or disposed of for the purpose

7 of making an investigation with reasonable promptness to
8 ascertain the compliance by any person with the provisions
9 of this article or the rules and regulations promulgated by
10 the director or permits issued by the chief hereunder.

11 (b) The chief or his authorized representative, employee
12 or agent shall make periodic inspections at every permitted
13 facility as necessary to effectively implement and enforce
14 the requirements of this article or the rules and regulations
15 promulgated by the director or permits issued by the chief
16 hereunder. After an inspection is made, a report shall be
17 prepared and filed with the chief and a copy of such
18 inspection report shall be promptly furnished to the person
19 in charge of such building, property, premises, place,
20 vehicle or facility. Such inspection reports shall be
21 available to the public in accordance with the provisions of
22 article one, chapter twenty-nine-b of this code.

23 (c) Whenever the chief has cause to believe that any
24 person is in violation of any provision of this article, any
25 condition of a permit issued by the chief, any order or any
26 regulation promulgated by the director under this article,
27 he shall immediately order an inspection of the building,
28 property, premises, place, vehicle or permitted facility at
29 which the alleged violation is occurring.

30 (d) The chief or any authorized representative,
31 employee or agent of the division may, upon presentation of
32 proper credentials and at reasonable times, enter any
33 establishment, building, property, premises, vehicle or
34 other place maintained by any person where hazardous
35 wastes are being or have been generated, transported,
36 stored, treated or disposed of to inspect and take samples of
37 wastes, soils, air, surface water and ground water and
38 samples of any containers or labelings for such wastes. In
39 taking such samples, the division may utilize such sampling
40 methods as it determines to be necessary, including, but not
41 limited to, soil borings and monitoring wells. If the
42 representative, employee or agent obtains any such
43 samples, prior to leaving the premises, he shall give to the
44 owner, operator or agent in charge a receipt describing the
45 sample obtained and, if requested, a portion of each such
46 sample equal in volume or weight to the portion retained.
47 The division shall promptly provide a copy of any analysis
48 made to the owner, operator or agent in charge.

49 (e) Upon presentation of proper credentials and at
50 reasonable times, the chief or any authorized
51 representative, employee or agent of the division shall be
52 given access to all records relating to the generation,
53 transportation, storage, treatment or disposal of hazardous
54 waste in the possession of any person who generates, stores,
55 treats, transports, disposes of, or otherwise handles or has
56 handled such waste, the chief or an authorized
57 representative, employee or agent shall be furnished with
58 copies of all such records or given the records for the
59 purpose of making copies. If the chief, upon inspection,
60 investigation or through other means, observes or learns of
61 a violation or probable violation of this article, he is
62 authorized to issue subpoenas and subpoenas duces tecum
63 and to order the attendance and testimony of witnesses and
64 to compel the production of any books, papers, documents,
65 manifests and other physical evidence pertinent to such
66 investigation or inspection.

§20-5E-13. Monitoring, analysis and testing.

1 (a) If the chief determines, upon receipt of any
2 information, that (1) the presence of any hazardous waste at
3 a facility or site at which hazardous waste is, or has been,
4 stored, treated or disposed of, or (2) the release of any such
5 waste from such facility or site may present a substantial
6 hazard to human health or the environment, he may issue an
7 order requiring the owner or operator of such facility or site
8 to conduct such monitoring, testing, analysis and reporting
9 with respect to such facility or site as the chief deems
10 reasonable to ascertain the nature and extent of such
11 hazard.

12 (b) In the case of any facility or site not in operation at
13 the time a determination is made under subsection (a) of
14 this section with respect to the facility or site, if the chief
15 finds that the owner of such facility or site could not
16 reasonably be expected to have actual knowledge of the
17 presence of hazardous waste at such facility or site and of its
18 potential for release, he may issue an order requiring the
19 most recent previous owner or operator of such facility or
20 site who could reasonably be expected to have such actual
21 knowledge to carry out the actions referred to in subsection
22 (a) of this section.

23 (c) An order under subsection (a) or (b) of this section
24 shall require the person to whom such order is issued to
25 submit to the chief within thirty days from the issuance of
26 such order a proposal for carrying out the required
27 monitoring, testing, analysis and reporting. The chief may,
28 after providing such person with an opportunity to confer
29 with the chief respecting such proposal, require such person
30 to carry out such monitoring, testing, analysis and
31 reporting in accordance with such proposal, and such
32 modifications in such proposal as the chief deems
33 reasonable to ascertain the nature and extent of the hazard.

34 (d) The following duties shall be carried out by the
35 chief:

36 (1) If the chief determines that no owner or operator
37 referred to in subsection (a) or (b) of this section is able to
38 conduct monitoring, testing, analysis or reporting
39 satisfactory to the chief, if the chief deems any such action
40 carried out by an owner or operator to be unsatisfactory or
41 if the chief cannot initially determine that there is an owner
42 or operator referred to in subsection (a) or (b) of this section
43 who is able to conduct such monitoring, testing, analysis or
44 reporting, he may conduct monitoring, testing or analysis
45 (or any combination thereof) which he deems reasonable to
46 ascertain the nature and extent of the hazard associated
47 with the site concerned, or authorize a state or local
48 authority or other person to carry out any such action, and
49 require, by order, the owner or operator referred to in
50 subsection (a) or (b) of this section to reimburse the chief or
51 other authority or person for the costs of such activity.

52 (2) No order may be issued under this subsection
53 requiring reimbursement of the costs of any action carried
54 out by the chief which confirms the results of the order
55 issued under subsection (a) or (b) of this section.

56 (e) If the monitoring, testing, analysis and reporting
57 conducted pursuant to this section indicates that a
58 potential hazard to human health or the environment may
59 or does exist, the chief may issue an appropriate order
60 requiring that the hazard or risk of hazard be eliminated.

61 (f) The chief may commence a civil action against any
62 person who fails or refuses to comply with any order issued
63 under this section. Such action shall be brought in the

64 circuit court in which the defendant is located, resides or is
65 doing business. Such court has jurisdiction to require
66 compliance with such order and to assess a civil penalty of
67 not to exceed five thousand dollars for each day during
68 which such failure or refusal occurs.

§20-5E-15. Criminal penalties.

1 (a) If any person knowingly (1) transports any
2 hazardous waste identified or listed under this article to a
3 facility which does not have a permit required by this
4 article, Section 3005 of the federal Solid Waste Disposal
5 Act, as amended, the laws of any other state which has an
6 authorized hazardous waste program pursuant to Section
7 3006 of the federal Solid Waste Disposal Act, as amended,
8 or Title I of the federal Marine Protection, Research and
9 Sanctuaries Act; (2) treats, stores or disposes of any such
10 hazardous waste either (A) without having obtained a
11 permit required by this article, or by Title I of the Federal
12 Marine Protection, Research and Sanctuaries Act, or by
13 Section 3005 or 3006 of the federal Solid Waste Disposal
14 Act, as amended, or (B) in knowing violation of a material
15 condition or requirement of such permit, he shall be guilty
16 of a felony, and, upon conviction thereof, shall be fined not
17 to exceed fifty thousand dollars for each day of violation or
18 confined in the penitentiary not less than one nor more than
19 two years, or both such fine and imprisonment or, in the
20 discretion of the court, be confined in jail not more than one
21 year in addition to the above fine.

22 (b) If any person knowingly (1) makes any false material
23 statement or representation in any application, label,
24 manifest, record, report, permit or other document filed,
25 maintained or used for purposes of compliance with this
26 article; or (2) generates, stores, treats, transports, disposes
27 of or otherwise handles any hazardous waste identified or
28 listed under this article (whether such activity took place
29 before or takes place after the effective date of this article)
30 and who knowingly destroys, alters or conceals any record
31 required to be maintained under regulations promulgated
32 by the director pursuant to this article, he shall be guilty of a
33 misdemeanor, and, upon conviction thereof, shall be fined
34 not to exceed twenty-five thousand dollars, or sentenced to
35 imprisonment for a period not to exceed one year, or both

36 fined and sentenced to imprisonment for each violation.

37 (c) Any person convicted of a second or subsequent
38 violation of subsections (a) and (b) of this section, shall be
39 guilty of a felony, and, upon such conviction, shall be
40 confined in the penitentiary not less than one nor more than
41 three years, or fined not more than fifty thousand dollars for
42 each day of violation, or both such fine and imprisonment.

43 (d) Any person who knowingly transports, treats, stores
44 or disposes of any hazardous waste identified or listed
45 pursuant to this article in violation of subsection (a) of this
46 section, or having applied for a permit pursuant to sections
47 seven and eight of this article, and knowingly either (1) fails
48 to include in a permit application any material information
49 required pursuant to this article, or rules and regulations
50 promulgated hereunder, or (2) fails to comply with
51 applicable interim status requirements as provided in
52 section ten of this article and who thereby exhibits an
53 unjustified and inexcusable disregard for human life or the
54 safety of others and he thereby places another person in
55 imminent danger of death or serious bodily injury, shall be
56 guilty of a felony, and, upon conviction thereof, shall be
57 fined not more than two hundred fifty thousand dollars or
58 imprisoned not less than one year nor more than four years
59 or both such fine and imprisonment.

60 (e) As used in subsection (d) of this section, the term
61 "serious bodily injury" means:

62 (1) Bodily injury which involves a substantial risk of
63 death;

64 (2) Unconsciousness;

65 (3) Extreme physical pain;

66 (4) Protracted and obvious disfigurement; or

67 (5) Protracted loss or impairment of the function of a
68 bodily member, organ or mental faculty.

**§20-5E-21. Appropriation of funds; hazardous waste
management fund created.**

1 The net proceeds of all fines, penalties and forfeitures
2 collected under this article shall be appropriated as
3 directed by Article XII, Section 5 of the Constitution of
4 West Virginia. For the purposes of this section, the net
5 proceeds of such fines, penalties and forfeitures shall be
6 deemed the proceeds remaining after deducting therefrom

7 those sums appropriated by the Legislature for defraying
8 the cost of administering this article. All permit application
9 fees collected under this article shall be paid into the state
10 treasury into a special fund designated "The Hazardous
11 Waste Management Fund." In making the appropriation for
12 defraying the cost of administering this article, the
13 Legislature shall first take into account the sums included
14 in such special fund prior to deducting such additional
15 sums as may be needed from the fines, penalties and
16 forfeitures collected pursuant to this article.

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

Nassir E. Akhavan
.....
Chairman Senate Committee

Floyd Fuller
.....
Chairman House Committee

Originated in the Senate.

In effect from passage.

Judd C. Welch
.....
Clerk of the Senate

Donald L. Koff
.....
Clerk of the House of Delegates

Dan Tomberlin
.....
President of the Senate

Joseph P. Albright
.....
Speaker House of Delegates

The within *appeared* this the *2nd*
day of *May* 1985.

Anna R. Hanson
.....
Governor



PRESENTED TO THE

GOVERNOR

Date 4/30/85

Time 6:37 p.m.