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OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 1991

— ● —

## ENROLLED

Com. Sub. for

HOUSE BILL No. 2508

(By ~~the~~ Speaker, Mr. Chambers & Del. D. Miller)

— ● —

Passed March 5, 1991

In Effect 90 Days From Passage

**ENROLLED**  
**COMMITTEE SUBSTITUTE**  
**FOR**

**H. B. 2508**

(By MR. SPEAKER, MR. CHAMBERS, AND DELEGATE D. MILLER)

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[Passed March 5, 1991; in effect ninety days from passage.]

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AN ACT to amend and reenact sections one and two, article twenty-seven, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to radioactive waste; defining "low-level waste"; amending the definition of "radioactive waste material"; requiring treatment of low-level radioactive waste the same as radioactive waste material regardless of a determination that such waste is classified as below regulatory concern; and prohibiting the disposal of radioactive waste material in a solid waste facility or commercial solid waste facility.

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

That sections one and two, article twenty-seven, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, all 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

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

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

13 (3) "Low-level waste" means radioactive waste that:

14 (A) Is neither high-level waste or transuranic, nor  
15 spent nuclear fuel, nor by-product material as defined  
16 in section 11 (e)(2) of the Atomic Energy Act of 1954,  
17 as amended; and

18 (B) Is any radioactive material that the United States  
19 nuclear regulatory commission classified as low-level  
20 radioactive waste on or after the first day of January,  
21 one thousand nine hundred eighty-nine: *Provided*, That  
22 any material classified as low-level radioactive waste on  
23 or after the first day of January, one thousand nine  
24 hundred eighty-nine, shall be considered low-level  
25 radioactive waste without regard to a nuclear regula-  
26 tory commission determination that such material is  
27 below regulatory concern; and

28 (C) Is any radioactive material produced after the  
29 first day of January, one thousand nine hundred eighty-  
30 nine, which would have been classified as a low-level  
31 radioactive waste, utilizing the standards in effect on  
32 that date, without regard to a determination by an  
33 agency of the United States government that such  
34 material is below regulatory concern;

35 (4) "Radioactive waste material" means any discarded  
36 radioactive material in the form of, or resulting from  
37 the use of, any byproduct material, source material or  
38 special nuclear material and includes low-level waste;

39 (5) "Source material" means (i) uranium or thorium,  
40 or any combination thereof, in any physical or chemical  
41 form; or (ii) ores which contain by weight one twentieth

42 of one percent (0.05%) or more of (a) uranium, (b)  
43 thorium or (c) any combination thereof. Source material  
44 does not include special nuclear material;

45 (6) "Special nuclear material" means (i) plutonium,  
46 uranium 233, uranium enriched in the isotope 233 or in  
47 the isotope 235; or (ii) any material artificially enriched  
48 by any of the foregoing but does not include source  
49 material;

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

54 (8) "Transport" or "transportation" means any move-  
55 ment of a substance and any loading, unloading or  
56 storage incidental thereto.

57 The governor shall have the authority to add, by  
58 executive order, to the listing of materials constituting  
59 "source material" or "special nuclear material" by  
60 including such additional like materials as may be  
61 determined by the federal Nuclear Regulatory Commis-  
62 sion to constitute "source material" or "special nuclear  
63 material."

**§16-27-2. Storage or disposal of radioactive waste mate-  
rial within the state prohibited; exceptions.**

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

16       (b) The disposal of radioactive waste material in a  
17 solid waste facility or in a commercial solid waste  
18 facility, as defined in section four, article five-f, chapter  
19 twenty of this code, is prohibited.

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

*Somer Heck*  
Chairman Senate Committee

*Ernest C. Meade*  
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

*Russell E. Milnes*  
Clerk of the Senate

*Donald L. Hopp*  
Clerk of the House of Delegates

*Walter Funtt*  
President of the Senate

*Bob C. Ch*  
Speaker of the House of Delegates

The within *is* approved this the *12th*  
day of *March*, 1991.

*Gaston Caperton*  
Governor

PRESENTED TO THE

GOVERNOR

Date 3/11/91

Time 10:15 Am