WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 1991

ENROLLED
Comm. Sub. for
HOUSE BILL No. 2508

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

Passed March 5, 1991
In Effect 90 Days From Passage
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
material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material, and (ii) the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content;

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

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

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

(B) Is any radioactive material that the United States nuclear regulatory commission classified as low-level radioactive waste on or after the first day of January, one thousand nine hundred eighty-nine. Provided, That any material classified as low-level radioactive waste on or after the first day of January, one thousand nine hundred eighty-nine, shall be considered low-level radioactive waste without regard to a nuclear regulatory commission determination that such material is below regulatory concern; and

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

(4) "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 and includes low-level waste;

(5) "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;

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

(7) "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

(8) "Transport" or "transportation" means any movement of a substance and any loading, unloading or storage incidental 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 materials 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.

(a) No person shall store or dispose of any radioactive waste material within the state: Provided, That the provisions of this section shall not be deemed to prohibit (1) the storage or disposal of such material produced within the state as a result of medical, educational, research or industrial activities and so stored or disposed of in compliance with all applicable state and federal laws, or (2) the transportation of such material out of or through the state when done in compliance with all applicable state and federal laws: Provided, however, That such waste from industrial activities shall not include, for the purpose of this article, such material produced from the operation of any nuclear power generation facility, nuclear processing facility, or nuclear reprocessing facility.
(b) The disposal of radioactive waste material in a solid waste facility or in a commercial solid waste facility, as defined in section four, article five-f, chapter twenty of this code, is prohibited.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signatures]

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

[Signatures]

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within bill was approved this the ___ day of March, 1991.

[Signature]

Governor