

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**
4 **By: Representatives Flanagin, Jones and Wyrick**

A Bill

HOUSE BILL 1047

For An Act To Be Entitled

8 "AN ACT TO PROVIDE CITIES AND COUNTIES WITH THE AUTHORITY
9 TO ADOPT ZONING ORDINANCES FOR THE REGULATION OF
10 *COMMERCIAL* MEDICAL WASTE INCINERATORS; TO DECLARE AN
11 EMERGENCY; AND FOR OTHER PURPOSES."

Subtitle

14 "AN ACT TO ALLOW CITIES AND COUNTIES TO ADOPT ZONING
15 ORDINANCES FOR THE REGULATION OF *COMMERCIAL* MEDICAL WASTE
16 INCINERATORS."

17
18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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20 SECTION 1. (a) Notwithstanding any and all laws regarding municipal
21 planning and zoning, all cities of the first and second class and all
22 incorporated towns in Arkansas are authorized to establish, by ordinance,
23 zones to limit or to regulate the construction or operation, or both, of
24 *commercial* medical waste incinerators within the corporate limits of the city
25 or town.

26 (b) The *commercial* medical waste incinerator zoning ordinance shall be
27 enforced through the issuance or denial of building and use permits in
28 accordance with the conditions and terms of the limitations and regulations
29 established by the ordinance.

30 (c) When the city or town council shall have laid off zones, by
31 ordinance, to limit or to regulate the construction or operation, or both, of
32 *commercial* medical waste incinerators, it shall be unlawful for anyone to
33 construct or to operate a *commercial* medical waste incinerator within a given
34 zone except in accordance with any building and use permits issued for the
35 incinerator.

1 (d) Violations of any provision of an ordinance adopted as authorized
 2 by this act shall be considered a misdemeanor. Each day's violation shall be
 3 considered a separate offense. The city or town adopting the ordinance or any
 4 individual aggrieved by a violation of the ordinance may request an injunction
 5 against any *commercial* medical waste incinerator or property owner who is in
 6 violation of the ordinance.

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8 SECTION 2. (a) Notwithstanding any and all laws regarding county
 9 planning and zoning, all counties in Arkansas are authorized to establish, by
 10 ordinance, zones to limit or to regulate the construction or operation, or
 11 both, of *commercial* medical waste incinerators within their boundaries.

12 (b) The *commercial* medical waste incinerator zoning ordinance shall be
 13 enforced through the issuance or denial of building and use permits in
 14 accordance with the conditions and terms of the limitations and regulations
 15 established by the ordinance.

16 (c) When the county quorum court shall have laid off zones, by
 17 ordinance, to limit or to regulate the construction or operation, or both, of
 18 *commercial* medical waste incinerators, it shall be unlawful for anyone to
 19 construct or to operate a *commercial* medical waste incinerator within a given
 20 zone except in accordance with any building and use permits issued for the
 21 incinerator.

22 (d) Violations of any provision of an ordinance adopted as authorized
 23 by this act shall be considered a misdemeanor. Each day's violation shall be
 24 considered a separate offense. The county adopting the ordinance or any
 25 individual aggrieved by a violation of the ordinance may request injunction
 26 against any *commercial* medical waste incinerator or property owner who is in
 27 violation of the ordinance.

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29 SECTION 3. *"Commercial medical waste" means any medical waste*
 30 *transported from a generator to an off-site facility for disposal and such*
 31 *off-site disposal facility is engaged in medical waste disposal for profit.*

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33 SECTION 4. All provisions of this act of general and permanent nature
 34 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
 35 Revision Commission shall incorporate the same in the Code.

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SECTION 5. If any provisions of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provisions or application, and to this end the provisions of this act are declared to be severable.

SECTION 6. All laws and parts of laws in conflict with this act are hereby repealed.

SECTION 7. Emergency. It is hereby found and determined by the Seventy-Ninth General Assembly of the State of Arkansas that the powers of local governments in Arkansas to regulate the construction or operation of commercial medical waste incinerators are vague or incomplete; that the unregulated incineration of commercial medical waste poses a threat to the health and safety of the citizens of Arkansas cities and counties; and therefore commercial medical waste incinerators should be made subject to the regulation by and control of local governments in Arkansas. Therefore, in order to clearly establish the authority of local governments to limit and regulate commercial medical waste incinerators, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval.

/s/Pat Flanagan, et al

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