

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**

A Bill

HOUSE BILL 1377

4 **By: Representatives Flanagan, Jones, Wagner, Wyrick and Walker**

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For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE 8-6-1302 ARKANSAS CODE 20-
9 32-101, ET SEQ., RELATING TO COMMERCIAL MEDICAL WASTE
10 FACILITIES; AND FOR OTHER PURPOSES."

11

Subtitle

12
13 "AN ACT TO AMEND SECTIONS OF THE ARKANSAS CODE RELATING TO
14 COMMERCIAL MEDICAL WASTE FACILITIES."

15

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

17

18 SECTION 1. Arkansas Code 8-6-1302(1) is amended to read as follows:

19 "(1) Commercial medical waste incineration facility means any
20 facility accepting medical waste materials for treatment and disposal by
21 incineration from an off-site source and operating the treatment/disposal
22 facility as a business for profit;"

23

24 SECTION 2. Arkansas Code 20-32-101 is amended to read as follows:

25 "20-32-101. Definitions.

26 (a) Commercial medical waste means any medical waste transported from
27 a generator to an off-site facility for disposal and such off-site disposal
28 facility is engaged in medical waste disposal for profit.

29 (b) Department means the Arkansas Department of Health.

30 (c) Facility means all contiguous land and structures, other
31 appurtenances, and improvements on the land, used for treating, destroying,
32 storing, or disposing of infectious waste. A facility may consist of several
33 treatment, destruction, storage, or disposal operational units.

34 (d) Generator means any person producing medical waste.

35 (e) Medical waste means a waste from health care related facilities

1 which if improperly treated, handled, or disposed of may serve to transmit an
2 infectious disease and which includes the following:

3 (1) Pathological wastes - all human unfixed tissues, organs, and
4 anatomical parts, other than intact skin, which emanate from surgeries,
5 obstetrical procedures, dental procedures, autopsies, and laboratories. Such
6 waste shall be exclusive of bulk formaldehyde and other preservative agents;

7 (2) Liquid or semiliquid blood such as human blood, human blood
8 components and products made from human blood, e.g., serum and plasma, and
9 other potentially infectious materials to include regulated human body fluids
10 such as semen, vaginal secretion, cerebrospinal fluid, pleural fluid,
11 pericardial fluid, peritoneal fluid, amniotic fluid, saliva in dental
12 procedures, any body fluid that is visibly contaminated with blood and all
13 body fluid where it is difficult or impossible to differentiate between body
14 fluids, not to include urine or feces, which cannot be discharged into the
15 collection system of a publicly owned treatment works within the generating
16 facility;

17 (3) Contaminated items to include dressings, bandages, packings,
18 gauze, sponges, wipes, cotton rolls and balls, etc., which cannot be laundered
19 and from which blood, blood components, or regulated body fluids drip freely,
20 or that would release blood or regulated body fluids in a liquid or semiliquid
21 state if compressed or that are caked with dried blood or regulated body
22 fluids and are capable of releasing these materials during handling:

23 (A) Disposable, single use, gloves such as surgical or
24 examination gloves shall not be washed or decontaminated for reuse and are
25 handled as a contaminated item;

26 (B) Protective coverings such as plastic wrap and aluminum
27 foil used to cover equipment and environmental surfaces when removed following
28 their contamination are considered a contaminated item;

29 (4) Microbiological waste - includes, but is not limited to,
30 cells and tissue cultures, culture medium or other solution and stocks of
31 infectious agents, organ cultures, cultures dishes, devices used to transfer,
32 inoculate and mix cultures, paper and cloth which has come in contact with
33 specimens or cultures and discarded live vaccines;

34 (5) Contaminated sharps - includes, but is not limited to,
35 hypodermic needles, intravenous tubing with needles attached, syringes with

1 attached needles, razor blades used in surgery, scalpel blades, Pasteur
2 pipettes, broken glass from laboratories and dental wires.

3 (f) Off-site means any facility which is not on-site.

4 (g) (1) On-site means a facility on the same or adjacent property.

5 (2) Adjacent as used in subdivision (g) (1) means real property
6 within four hundred (400) yards from the property boundary of the existing
7 facility.

8 (h) Person means an individual or any legal entity.

9 (i) Transport means the movement of medical waste from the generator
10 to any intermediate point and finally to the point of treatment or disposal.

11 (j) Treater/disposer means any facility as defined in Arkansas Code
12 20-32-101(c) or commercial medical waste incineration facility as defined in
13 Arkansas Code 8-6-1302(1)."

14

15 SECTION 3. Arkansas Code 20-32-106 is amended to read as follows:

16 "20-32-106. Rules and regulations.

17 (a) The Arkansas Department of Health is authorized to regulate the
18 segregation, packaging, storage, transportation, treatment, and disposal of
19 commercial medical waste from health care related facilities.

20 (b) These regulations shall include:

21 (1) Criteria for issuing operational licenses to
22 treaters/disposers and transporters of commercial medical waste;

23 (2) Criteria for issuing permits and permit modifications to
24 facilities;

25 (3) Developing a system for record keeping by any person
26 generating, transporting, receiving, treating, or disposing of commercial
27 medical waste;

28 (4) Acceptable methods of treatment and disposal of commercial
29 medical waste;

30 (5) Requirements for the segregation, packaging, and storage of
31 commercial medical waste;

32 (6) Criteria for the development of an operating plan for the
33 handling and disposal of commercial medical waste; and

34 (7) Requirements for the inspection of any facility generating,
35 storing, incinerating, or disposing of commercial medical waste.

1 (c) All rules and regulations promulgated pursuant to this chapter shall
2 be reviewed by the Joint Interim Committee on Public Health, Welfare and Labor
3 or an appropriate subcommittee thereof."
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5 SECTION 4. Arkansas Code 20-32-107 is amended to read as follows:

6 "20-32-107. License to transport, treat or dispose.

7 (a) No person may transport, treat or dispose of commercial medical
8 waste without first obtaining an operating license from the department.

9 (b) The treater/disposer or transporter shall submit an application for
10 an operating license and an application fee of two hundred fifty dollars
11 (\$250).

12 (c) Upon issuance of the operating license, the treater/disposer or
13 transporter shall pay a license fee of no more than five dollars (\$5.00) per
14 ton.

15 (d) The department shall issue operating licenses for a period of one
16 (1) year.

17 (e) (1) If the treater/disposer or transporter has a history of
18 noncompliance with any law or regulation of this state or any other
19 jurisdiction, particularly those laws or regulations pertaining to the
20 environment and the protection of the health and safety of the public, the
21 department may refuse to issue an operating license.

22 (2) If a history of noncompliance is discovered after the
23 operating license has been issued, the department may revoke the license."
24

25 SECTION 5. Chapter 32 of Title 20 of the Arkansas Code is amended by
26 adding the following sections:

27 "20-32-108. Applications - Procedure generally.

28 (a) This section shall not apply to commercial medical waste
29 incineration facilities which are required to comply with the provisions for
30 obtaining a permit under Arkansas Code 8-6-1301, et seq.

31 (b) No person shall operate or construct a *commercial medical waste*
32 facility without submitting an application for a permit or permit modification
33 to the department. No permit or permit modification shall be issued by the
34 department for any facility unless the department approves both the site of
35 the facility and the technological process to be used by the facility for the

1 treatment and disposal of commercial medical waste.

2 (c) A five thousand dollar (\$5,000) fee shall accompany the application
3 for a permit or permit modification. In addition, the department may levy up
4 to one hundred dollars (\$100) per hour not to exceed fifty thousand dollars
5 (\$50,000) for application processing costs incurred by the department.

6 (d) Any person applying for a permit or a permit modification to
7 construct and operate a facility shall complete the following criteria at
8 least thirty (30) days prior to submitting a permit application to the
9 department:

10 (1) Written notification by certified mail to each property owner
11 and resident of any property adjacent to the proposed site of the intent to
12 apply for a permit or permit modification;

13 (2) Publication of a public notice in the largest newspaper
14 published in each county where the property which is the subject matter of the
15 proposed facility permit or permit modification is located, and in at least
16 one (1) newspaper of statewide circulation of the intent to apply for a permit
17 or permit modification to construct and operate a facility.

18 (e) The department shall provide written notice by certified mail of
19 the proposed permit or permit modification to the mayor of the city and the
20 county judge of the county where the property which is the subject matter of
21 the permit application is located.

22 (f) The department shall conduct a public hearing in the county in
23 which the facility is to be located prior to the issuance of a final permit.

24 20-32-109. (a) No applications shall be accepted nor permits shall be
25 issued pursuant to Arkansas Code 20-32-108 by the department for the
26 construction or operation of a facility in which any of the following factors
27 are present:

28 (1) The location of the facility is within a _regulatory
29 floodway_ as adopted by communities participating in the National Flood
30 Program managed by the Federal Emergency Management Administration Commission;
31 or

32 (2) The location of the facility overlies any portion of a
33 significant surface or subsurface sand and gravel aquifer for its primary
34 recharge zone or a high yield bed rock aquifer;

35 (3) The location of the facility could pose a threat to

1 fisheries, wildlife, or other natural resources; or

2 (4) *The location of the facility does not comply with zoning*
3 *regulations of the locality in which the facility is proposed.*

4 20-32-110. (a) No operational licenses shall be issued to any
5 transporter of commercial medical waste unless that transporter shows evidence
6 that:

7 (1) Each vehicle used for the transportation of commercial
8 medical waste is covered by liability insurance in an amount specified by the
9 Arkansas Department of Health; and

10 (2) The liability insurance is issued by a company authorized to
11 do business in this state by the Arkansas Insurance Department.

12 (b) Companies providing liability insurance for any transporter of
13 commercial medical waste shall notify the department of the cancellation of
14 any policy providing liability coverage to a transporter at least thirty (30)
15 days prior to cancellation.

16 20-32-111. *Nothing in this subchapter shall be construed to affect the*
17 *authority of cities and counties to enact zoning regulations or procedures*
18 *that control the location of medical waste facilities or sites."*

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20 SECTION 6. All provisions of this act of a general and permanent nature
21 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
22 Revision Commission shall incorporate the same in the Code.

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24 SECTION 7. If any provision of this act or the application thereof to
25 any person or circumstance is held invalid, such invalidity shall not affect
26 other provisions or applications of the act which can be given effect without
27 the invalid provision or application, and to this end the provisions of this
28 act are declared to be severable.

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30 SECTION 8. All laws and parts of laws in conflict with this act are
31 hereby repealed.

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/s/P. Flanagan, et al

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As Engrossed: 2/10/93 3/5/93

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