

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**
4 **By: Representative Flanagin**

A Bill

HOUSE BILL 1622

For An Act To Be Entitled

8 "AN ACT RELATING TO THE DESTRUCTION AND DISPOSAL OF
9 HAZARDOUS WASTE FROM CHEMICAL WARFARE AGENTS AND CHEMICAL
10 WEAPONS OF THE U. S. GOVERNMENT AND TO PROHIBIT THE
11 TRANSPORTATION OF CHEMICAL WARFARE AGENTS AND CHEMICAL
12 WEAPONS WITHIN THE STATE; AND FOR OTHER PURPOSES."

Subtitle

15 "AN ACT RELATING TO THE DISPOSAL AND TRANSPORTATION OF
16 HAZARDOUS WASTE FROM CHEMICAL WARFARE AGENTS AND CHEMICAL
17 WEAPONS OF THE U.S. GOVERNMENT."

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

21 SECTION 1. The compounds listed in this act were designed and
22 configured to be utilized for warfare, with the purpose of incapacitating or
23 inducing lethality in persons who come in contact with the compounds, and the
24 compounds have no legitimate civilian use.

25 The State of Arkansas owes to its residents a duty of utmost care to
26 assure that no person will be exposed to these compounds through the
27 purposeful or accidental release of the compounds to the air, land, or water
28 of the State, and also owes a duty to utilize the police powers of the State
29 to guarantee the safe demilitarization, decommissioning, dismantling, and
30 disposal of weapons containing these compounds and to minimize the potential
31 risks of exposure due to the transportation, treatment, storage, and disposal
32 of these compounds.

33 The Arkansas Hazardous Waste Management Act, Arkansas Code §§ 8-7-201,
34 et seq., provides the Department of Pollution Control and Ecology with ample
35 authority to impose reasonable restrictions directly relating to protection of

1 human health and the environment with respect to the management of hazardous
2 wastes.

3 The United States Congress has directed the Department of Defense to
4 destroy certain chemicals, of which the compounds listed in this act are a
5 part, through the Chemical Stockpile Disposal Program (CSDP).

6 The Department of the Army, with cooperation of the United States
7 Environmental Protection Agency, the Department of Health and Human Services,
8 and the Federal Emergency Management Agency has undertaken extensive studies
9 and evaluations regarding the most effective and safe method of destruction of
10 the stockpile of the compounds subject to this act. The Department of the
11 Army's findings as published in its Final Programmatic Environmental Impact
12 Statement and the Record of Decision, Chemical Stockpile Disposal Program
13 conclude that none of the chemical agents or munitions will be transported
14 from their present stockpile locations to other locations for storage or
15 destruction due to the unwarranted and unreasonable risk to public safety and
16 the environment. Additionally, Congress has directed the Department of the
17 Army to assure the continued enhancement of the emergency preparedness of
18 state and local authorities.

19 The State of Arkansas concurs with and supports these particular
20 conclusions.

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22 SECTION 2. Arkansas Code § 8-7-218 is hereby amended to read as
23 follows:

24 "8-7-218. Permits - Compliance with subchapter, state and federal
25 standards, regulations, etc.

26 (a) No permits shall be issued by the Arkansas Department of Pollution
27 Control and Ecology for any facility unless the department, after opportunity
28 for public comment, has determined that the facility has been designed and
29 will be operated in such manner that any emission from the facility will
30 comply with the provisions of this subchapter, and all applicable state and
31 federal standards and regulations concerning air and water quality, and that
32 the transfer, handling, and storage of materials within the facility will not
33 cause conditions which would violate state and federal standards concerning
34 worker safety or create unreasonable hazards to the environment or to the
35 health and welfare of the people living and working in or near the facility.

1 (b) (1) No permit shall be issued by the department for any commercial
2 disposal or storage facility off the site where the hazardous waste is
3 generated until the department has adopted rules, regulations, standards, and
4 procedures pursuant to § 8-7-209.

5 (2) The rules, regulations, standards, procedures, or other
6 requirements adopted and imposed by the department shall not be less stringent
7 than the regulations promulgated or revised by the Environmental Protection
8 Agency pursuant to the federal Resource Conservation and Recovery Act of 1976,
9 as amended.

10 (c) No permit shall be issued for hazardous waste treatment, storage,
11 or disposal facilities except under the terms of regulations of the department
12 which conform to the provisions of § 3005 of the federal Resource Conservation
13 and Recovery Act, as amended.

14 (d) (1) Notwithstanding any law to the contrary, the Department of
15 Pollution Control and Ecology shall list the following substances as hazardous
16 wastes for the purpose of regulation under this subchapter, Arkansas Code §§
17 8-7-201, et seq.,: Nerve Agents GB [isopropyl methyl phosphonoflouridate] and
18 VX [o-ethyl-S-(diisopropylaminoethyl) methylphosphonothiolate]; and Blister
19 Agents HD [bis (2-chloroethyl) sulfide] and HT [60% Bis-(2-chloroethyl)
20 sulfide and 40% Bis[2(2-chloroethylthio) ethyl] ether].

21 (2) The Department of Pollution Control and Ecology shall
22 require, as a condition of any hazardous waste management permit granted
23 relating to the treatment, storage, or disposal of any of the compounds
24 indicated above, that an emergency response plan be developed and adequate
25 funding be made available by the permittee to state and local emergency
26 response personnel for training and equipment to be utilized in the event of a
27 release from the facility. Said plan shall be developed and approved, with
28 opportunity for public review and comment, and the appropriate funding made
29 available prior to the effective date of the permit."
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31 SECTION 3. Arkansas Code § 8-7-224 is hereby amended to read as
32 follows:

33 "8-7-224. Rules for transporting hazardous waste.

34 (a) Following notice and public hearing, the Arkansas State Highway and
35 Transportation Department, in consultation with the department, shall issue

1 rules and regulations for the transportation of hazardous wastes. The rules
2 and regulations shall be consistent with applicable rules and regulations
3 issued by the United States Department of Transportation and with any rules,
4 regulations, and standards issued by the department pursuant to this
5 subchapter.

6 (b) The provisions of this section shall apply equally to those persons
7 transporting hazardous wastes generated by others and to those transporting
8 hazardous wastes they have generated themselves, or combinations thereof.

9 (c) *Except as provided in subsections (d) and (e), transportation of*
10 *the compounds listed in § 8-7-218(d)(1) [Agents GB, VX, HD, and HT and*
11 *munitions containing same] shall be prohibited within or through the State of*
12 *Arkansas except for the purposes of routine inspection, maintenance, movement*
13 *within the facilities boundary to an on-site waste management unit, or safety*
14 *considerations regarding the stockpile of such compounds as exist in the State*
15 *as of the enactment of this act or as deemed necessary during the course of an*
16 *emergency response action involving such compounds.*

17 (d) *In the event that chemical warfare agents or chemical weapons are*
18 *discovered in this state after the enactment of this act, it shall be*
19 *permissible to transport such previously undiscovered chemical warfare agents*
20 *or chemical weapons to a hazardous waste treatment, storage or disposal*
21 *facility determined by the Department of Pollution, Control and Ecology as*
22 *suitable for treatment, storage or disposal of such chemical warfare agents or*
23 *chemical weapons.*

24 (e) *The prohibition of transportation addressed above shall not apply*
25 *to Non-Chemical Stockpile Disposal Program munitions which may be discovered*
26 *as a result of past disposal practices."*

27

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

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

1 act are declared to be severable.

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

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/s/Pat Flanagan

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