

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

# **A Bill**

**ACT 491 OF 1993**  
**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;"

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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  
36 which if improperly treated, handled, or disposed of may serve to transmit an

1 infectious disease and which includes the following:

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

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

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

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

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

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

33           (5) Contaminated sharps - includes, but is not limited to,  
34 hypodermic needles, intravenous tubing with needles attached, syringes with  
35 attached needles, razor blades used in surgery, scalpel blades, Pasteur

1 pipettes, broken glass from laboratories and dental wires.

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

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

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

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

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

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

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

15 "20-32-106. Rules and regulations.

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

19 (b) These regulations shall include:

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

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

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

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

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

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

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

35 (c) All rules and regulations promulgated pursuant to this chapter shall

1 be reviewed by the Joint Interim Committee on Public Health, Welfare and Labor  
2 or an appropriate subcommittee thereof."

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4 SECTION 4. Arkansas Code 20-32-107 is amended to read as follows:

5 "20-32-107. License to transport, treat or dispose.

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

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

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

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

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

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

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

26 "20-32-108. Applications - Procedure generally.

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

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

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

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

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

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

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

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

23 20-32-109. (a) No applications shall be accepted nor permits shall be  
24 issued pursuant to Arkansas Code 20-32-108 by the department for the  
25 construction or operation of a facility in which any of the following factors  
26 are present:

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

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

34 (3) The location of the facility could pose a threat to  
35 fisheries, wildlife, or other natural resources; or

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

3           20-32-110. (a) No operational licenses shall be issued to any  
4 transporter of commercial medical waste unless that transporter shows evidence  
5 that:

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

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

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

15           20-32-111. *Nothing in this subchapter shall be construed to affect the*  
16 *authority of cities and counties to enact zoning regulations or procedures*  
17 *that control the location of medical waste facilities or sites."*

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

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

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

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*/s/P. Flanagan, et al*

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APPROVED: 03/12/93

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

**HB 1377**

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