

*.As Engrossed: 2/25/92*

*.As Engrossed: 2/28/92*

1 **State of Arkansas**  
2 **78th General Assembly**  
3 **First Extraordinary Session, 1992**  
4 **By: Representative Flanagin**

**Call Item II**

# **A Bill**

**HOUSE BILL 1040**

## **For An Act To Be Entitled**

8 *"AN ACT TO AUTHORIZE THE DEPARTMENT OF HEALTH TO REGULATE*  
9 *THE SEGREGATION, PACKAGING, STORAGE, TRANSPORTATION,*  
10 *TREATMENT AND DISPOSAL OF COMMERCIAL MEDICAL WASTE; TO*  
11 *AUTHORIZE THE ARKANSAS STATE POLICE AND THE HIGHWAY POLICE*  
12 *DIVISION OF THE STATE HIGHWAY AND TRANSPORTATION*  
13 *DEPARTMENT TO ENFORCE ALL LAWS AND REGULATIONS REGARDING*  
14 *THE TRANSPORTING OF COMMERCIAL MEDICAL WASTE; AND FOR*  
15 *OTHER PURPOSES."*

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

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19 **SECTION 1. Definitions.**

20 (a) *"Commercial medical waste" means any medical waste transported from*  
21 *a generator to an off-site facility for disposal and such off-site disposal*  
22 *facility is engaged in medical waste disposal for profit.*

23 (b) *"Department" means the Arkansas Department of Health.*

24 (c) *"Facility" means all contiguous land and structures, other*  
25 *appurtenances, and improvements on the land, used for treating, destroying,*  
26 *storing, or disposing of infectious waste. A facility may consist of several*  
27 *treatment, destruction, storage, or disposal operational units.*

28 (d) *"Generator" means any person producing medical waste.*

29 (e) *"Medical waste" means a waste from health care related facilities*  
30 *which if improperly treated, handled or disposed of may serve to transmit an*  
31 *infectious disease(s) and which includes the following:*

32 (1) *pathological wastes - all human unfixed tissues, organs, and*  
33 *anatomical parts (other than intact skin) which emanate from surgery,*  
34 *obstetrical procedures, dental procedures, autopsy and laboratory. Such waste*  
35 *shall be exclusive of bulk formaldehyde and other preservative agents.*

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

10           (3) contaminated items to include dressings, bandages, packings,  
11 gauze, sponges, wipes, cotton rolls and balls, etc., which cannot be laundered  
12 and from which blood, blood components, or regulated body fluids drip freely,  
13 or that would release blood or regulated body fluids in a liquid or semi-  
14 liquid state if compressed or that are caked with dried blood or regulated  
15 body fluids and are capable of releasing these materials during handling:

16                   (A) disposable (single use) gloves such as surgical or  
17 examination gloves shall not be washed or decontaminated for reuse and are  
18 handled as a contaminated item.

19                   (B) protective coverings such as plastic wrap and aluminum  
20 foil used to cover equipment and environmental surfaces when removed following  
21 their contamination are considered a contaminated item.

22           (4) microbiological waste - includes, but is not limited to,  
23 cells and tissue cultures, culture medium or other solution and stocks of  
24 infectious agents, organ cultures, cultures dishes, devices used to transfer,  
25 inoculate and mix cultures, paper and cloth which has come in contact with  
26 specimens or cultures and discarded live vaccines.

27           (5) contaminated sharps - includes, but is not limited to,  
28 hypodermic needles, IV tubing with needles attached, syringes with attached  
29 needles, razor blades used in surgery, scalpel blades, pasteur pipettes,  
30 broken glass from laboratories and dental wires.

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

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

33                   (2) "Adjacent" as used in subdivision (1) means real property  
34 within four hundred (400) yards from the property boundary of the existing  
35 facility.

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

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

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4 SECTION 2. (a) No person may transport commercial medical waste without  
5 first obtaining a permit from the department.

6 (b) The transporter shall submit an application for a permit and an  
7 application fee of two hundred-fifty dollars (\$250.00).

8 (c) Upon issuance of the permit, the transporter shall pay a permit fee  
9 of no more than five dollars (\$5.00) per ton.

10 (d) The department shall issue permits for a period of one (1) year.

11 (e) (1) If the transporter has a history of noncompliance with any law or  
12 regulation of this state or any other jurisdiction, particularly those laws or  
13 regulations pertaining to the environment and the protection of the health and  
14 safety of the public, the department may refuse to issue a permit.

15 (2) If a history of noncompliance is discovered after the permit  
16 has been issued, the department may revoke the permit.

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18 SECTION 3. A health care facility accepting medical waste for disposal  
19 from the physicians and surgeons who are on the staff of the health care  
20 facility shall be classified as an on-site facility and shall not be subject  
21 to the provisions of this act.

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23 SECTION 4. (a) Any person who violates any provision of this act shall  
24 be guilty of a felony. Upon conviction, that person shall be subject to  
25 imprisonment for not more than one (1) year or a fine of not more than twenty-  
26 five thousand dollars (\$25,000) or both.

27 (b) In addition, any person who violates any provision of this act may  
28 be subject to a civil penalty by the board. The penalty shall not exceed ten  
29 thousand dollars (\$10,000) for each violation.

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31 SECTION 5. (a) All fees and fines levied and collected under the  
32 provisions of Section 3 and Section 4 of this act are declared to be special  
33 revenues and shall be deposited in the State Treasury and credited to the  
34 Public Health Fund to be used exclusively for the enforcement of laws and  
35 regulations pertaining to the segregation, packaging, storage, transportation,

1 treatment and disposal of medical waste.

2 (b) Subject to such rules and regulations as may be implemented by the  
3 Chief Fiscal Officer of the State, the disbursing officer for the Department  
4 of Health is authorized to transfer all unexpended funds relative to the  
5 regulation of commercial medical waste that pertain to fees and fines  
6 collected, as certified by the Chief Fiscal Officer of the State, to be  
7 carried forward and made available for expenditures for the same purpose for  
8 any following fiscal year.

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10 SECTION 6. All rules and regulations promulgated pursuant to this act  
11 shall be reviewed by the Joint Interim Committee on Public Health, Welfare and  
12 Labor or an appropriate subcommittee thereof.

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14 SECTION 7. The Arkansas State Police and the enforcement officers of  
15 the Arkansas Highway Police Division of the Arkansas State Highway and  
16 Transportation Department are hereby authorized to stop vehicles suspected of  
17 transporting commercial medical waste to assure that all required permits for  
18 transporting the commercial medical waste have been obtained and to enforce  
19 all laws and regulations relating to the transportation of commercial medical  
20 waste.

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22 SECTION 8. Nothing in this act shall be construed to amend or repeal  
23 any of the provisions of the Arkansas Solid Waste Management Act, Ark. Code  
24 Ann. §8-6-601, et seq., the Arkansas Hazardous Waste Management Act of 1979,  
25 as amended, Ark. Code Ann. §8-7-201, et seq., or the Hazardous Materials  
26 Transportation Act of 1977, as amended.

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28 SECTION 9. All provisions of this act of a 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 10. If any provision of this act or the application thereof to  
33 any person or circumstance is held invalid, such invalidity shall not affect  
34 other provisions or applications of the act which can be given effect without  
35 the invalid provision or application, and to this end the provisions of this

1 act are declared to be severable.

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3       SECTION 11. All laws and parts of laws in conflict with this act are  
4 hereby repealed.

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*/s/Pat Flanagin*

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