

SENATE BILL 255

By Marrero

AN ACT to amend Tennessee Code Annotated, Title 68,
relative to radioactive waste.

WHEREAS, it is the policy of this state to promote, protect, and improve the health of persons living in, working in, or visiting the state; and

WHEREAS, it is the mission of this state to safeguard human health and the environment for all Tennesseans by protecting and improving the quality of our land, air, and water for present and future generations; and

WHEREAS, man-made so-called "low-level" radioactive waste from the nuclear power fuel cycle and weapons production is not always "low-risk" and can have radioactive isotopes such as plutonium and radioiodines that remain radioactive and biologically active for thousands to millions of years; and

WHEREAS, federal regulatory agencies are once again moving to generically deregulate some man-made so-called "low-level" radioactive waste and such deregulation could result in dissemination and release into air, water, commercial recycling systems, land disposal sites, incinerators, sewage systems, consumer products, and other parts of the environment and food chain; and

WHEREAS, such dissemination of radioactive material into the environment represents an avoidable risk to the health, safety, and welfare of the citizens of the state and environment and necessitate costly and widespread monitoring; and

WHEREAS, monitoring and verification of the absence of radiation risks resulting from deregulation and release of radioactive wastes and materials will be more costly to the state than prevention; now, therefore:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 68, Chapter 202, Part 2, is amended by adding the following as a new, appropriately designated section thereto:

68-202-2__.

It is the policy of this state that radioactive materials that are by-product materials as defined in § 68-202-202, source materials as defined in § 68-202-202, or special nuclear materials as defined in § 68-202-202 shall continue to be subject to regulatory control in this state and shall be stored, managed, and disposed of only in specifically licensed radioactive waste storage or radioactive disposal facilities.

SECTION 2. Tennessee Code Annotated, Section 68-211-106, is amended by adding the following as a new, appropriately designated subsection:

(k)

(1) No regulation promulgated by the board nor any action taken by the commissioner shall allow the acceptance, processing, storage, or disposal of any by-product material as defined in § 68-202-202, source material as defined in § 68-202-202, or special nuclear material as defined in § 68-202-202 in any landfill located in this state.

(2)

(A) Subdivision (k)(1) shall apply to any applicant or existing licensee, and any material transferred from any applicant or an existing licensee in any of the classes required to provide financial assurance, including:

(i) Major processors;

(ii) Waste handlers;

(iii) Ore refineries;

(iv) Former United States army environmental command or United States nuclear regulatory commission licensed facilities;
and

(v) Other persons with specific licenses or applicants for such licenses as determined by the commissioner.

(B) Notwithstanding subdivision (k)(2)(A) the following persons are exempt from subdivision (k)(1):

(i) State and local government agencies;

(ii) Educational institutions accredited by the Southern Association of Colleges and Schools;

(iii) Licensees of the state licensing boards for the healing arts and those medical facilities possessing or utilizing radioactive materials for medical purposes when supervised by such licensees;

(iv) Veterinarians possessing or utilizing radioactive materials in their veterinary practice;

(v) Persons possessing or utilizing radioactive materials for in vitro medical purposes; and

(vi) Persons possessing or utilizing only generally licensed quantities of radioactive materials.

(3) This subsection (k) shall not be construed to prohibit a federal entity from accepting, processing, or disposing of radioactive waste on sites wholly-owned and controlled by a federal entity as permitted under federal law and as otherwise allowed by and in compliance with state law.

(4) This subsection (k) shall not be construed to require monitoring by the department or by the operator of a landfill that does not currently have such monitoring; provided, however, that the commissioner may establish a program of monitoring by rule making under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5. Any rule requiring monitoring by the department or any landfill operator shall be supported by a finding that monitoring is necessary and appropriate to protect health, safety, and welfare. The cost of such monitoring shall be defrayed fees upon the licensees identified in subdivision (k)(2)(A) and may include annual licensing fees, license for delivery fees, and per pound fees on all items contaminated or potentially contaminated with radioactive material or on low-level radioactive waste received at a processing, storage, disposal, or refurbishing facility in this state.

SECTION 3. Tennessee Code Annotated, Section 68-212-105, is amended by adding the following as a new, appropriately designated subdivision:

() Accept, process, store, or dispose of any by-product material as defined in § 68-202-202, source material as defined in § 68-202-202, or special nuclear material as defined in § 68-202-202 in any landfill operated in accordance with this part except as permitted in § 68-11-106(k).

SECTION 4. Tennessee Code Annotated, Section 68-212-104, is amended by deleting subdivision (20) in its entirety and by substituting instead the following:

(20) "Waste" means any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities, or source, special nuclear, or byproduct material as defined in § 68-202-202; but does not

include source, special nuclear, or byproduct material as defined in § 68-202-202, or solid or dissolved material in domestic sewage, solid or dissolved materials in irrigation return flows, or industrial discharges which are point sources subject to permits under § 402 of the federal Water Pollution Control Act or under the Clean Water Act; and

SECTION 5. This act shall take effect upon becoming a law, the public welfare requiring it.