

SB 409

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SENATE WEST VIRGINIA

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1997



# ENROLLED

SENATE BILL NO. 409

(By Senator SNYDER, ET AL)



PASSED APRIL 12, 1997

In Effect FROM Passage

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SENATE OF WEST VIRGINIA

**ENROLLED**

**Senate Bill No. 409**

(BY SENATORS SNYDER, ANDERSON AND BALL)

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[Passed April 12, 1997; in effect from passage.]

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AN ACT to amend chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article five-k, relating to public participation in the decision to locate commercial infectious medical waste management facilities; defining terms; and setting forth procedure for public participation in decision to locate commercial infectious medical waste management facilities.

*Be it enacted by the Legislature of West Virginia:*

That chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article five-k, to read as follows:

**ARTICLE 5K. COMMERCIAL INFECTIOUS MEDICAL WASTE FACILITY SITING APPROVAL.**

**§20-5K-1. Legislative purpose.**

- 1 The purpose of this article is to provide the opportunity
- 2 for public participation in the decision to locate commer-
- 3 cial infectious medical waste management facilities.

**§20-5K-2. Definitions.**

- 1 Unless the context clearly requires a different meaning,
- 2 as used in this article the terms:

- 3 (a) "Commercial infectious medical waste facility"
- 4 means any infectious medical waste management facility
- 5 at which thirty-five percent or more by weight of the total
- 6 infectious medical waste stored, treated or disposed of by
- 7 the facility in any calendar year is generated off-site.

- 8 (b) "Infectious medical waste" means medical waste
- 9 identified as capable of producing an infectious disease.
- 10 Medical waste shall be considered capable of producing an
- 11 infectious disease if it has been, or is likely to have been,
- 12 contaminated by an organism likely to be pathogenic to
- 13 healthy humans, if such organism is not routinely and
- 14 freely available in the community, and such organism has
- 15 a significant probability of being present in sufficient
- 16 quantities and with sufficient virulence to transmit
- 17 disease. For the purposes of this article, infectious
- 18 medical waste includes the following:

- 19 (1) Cultures and stocks of microorganisms and biologi-
- 20 cals;

- 21 (2) Blood and blood products;

- 22 (3) Pathological wastes;

- 23 (4) Sharps;

- 24 (5) Animal carcasses, body parts, bedding and related
- 25 wastes;

- 26 (6) Isolation wastes;

- 27 (7) Any residue or contaminated soil, water or other
- 28 debris resulting from the cleanup of a spill of any infec-
- 29 tious medical waste; and

- 30 (8) Any waste contaminated by or mixed with infectious

31 medical waste.

32 (c) "Off-site" means a facility or area for the collection,  
33 storage, transfer, processing, treatment or disposal of  
34 infectious medical waste that is not on the generator's site,  
35 or a facility or area that received infectious medical waste  
36 for storage or treatment that has not been generated on-  
37 site.

38 (d) "Secretary" means the secretary of the department  
39 of health and human resources or his or her designee.

**§20-5K-3. Procedure for public participation.**

1 (a) From and after the effective date of this article, in  
2 order to obtain approval to locate a commercial infectious  
3 medical waste facility, currently not under permit to  
4 operate, an applicant shall:

5 (1) File a pre-siting notice with the county commission  
6 and local solid waste authority of the county or counties  
7 in which the facility is to be located or proposed. Such  
8 notice shall be submitted on forms prescribed by the  
9 secretary;

10 (2) File a pre-siting notice with the secretary; and

11 (3) File a pre-siting notice with the division of environ-  
12 mental protection.

13 (b) If a pre-siting notice is filed in accordance with  
14 subsection (a) of this section, the county commission shall  
15 publish a Class II legal advertisement in compliance with  
16 the provisions of article three, chapter fifty-nine of this  
17 code, in a newspaper of general circulation in the counties  
18 wherein the commercial infectious medical waste facility  
19 is to be located. Upon an affirmative vote of the majority  
20 of the county commissioners or upon the written petition  
21 of registered voters residing in the county equal to not less  
22 than fifteen percent of the number of votes cast within the  
23 county for governor at the preceding gubernatorial  
24 election, which petition shall be filed with the county  
25 commission within sixty days after the last date of publi-  
26 cation of the notice provided in this section, the county  
27 commission shall, upon verification of the required

28 number of signatures on the petition, and not less than  
29 fifty-six days before the election, order a referendum be  
30 placed upon the ballot. Any referendum conducted  
31 pursuant to this section shall be held at the next primary,  
32 general or other county-wide election:

33 (1) Such referendum is to determine whether it is the  
34 will of the voters of the county that a commercial infec-  
35 tious medical waste management facility be located in the  
36 county. Any election at which such question of locating a  
37 commercial infectious medical waste management facility  
38 is voted upon shall be held at the voting precincts estab-  
39 lished for holding primary or general elections. All of the  
40 provisions of the general election laws, when not in  
41 conflict with the provisions of this article, apply to voting  
42 and elections hereunder, insofar as practicable. The  
43 secretary of state shall prescribe the form of the petition  
44 which shall include the printed name, address and date of  
45 birth of each person whose signature appears on the  
46 petition.

47 (2) The ballot, or the ballot labels where voting machines  
48 are used, shall have printed thereon substantially the  
49 following depending upon the type of facility to be located  
50 within the county:

51 Shall a commercial infectious medical waste manage-  
52 ment facility be located within \_\_\_\_\_  
53 County.

54 [ ] For the facility

55 [ ] Against the facility

56 (Place a cross mark in the square opposite your choice.)

57 (3) If a majority of the legal votes cast upon the question  
58 is against the facility, then the county commission shall  
59 notify the local solid waste authority, the division of  
60 environmental protection and the secretary of the depart-  
61 ment of health and human resources of the result and the  
62 commercial infectious medical waste management facility  
63 may not proceed any further with the application. If a  
64 majority of the legal votes cast upon the question is for the  
65 facility, then the application process as set forth in article

66 five-j of this chapter may proceed: *Provided*, That such  
67 vote is not binding on nor does it require the secretary to  
68 issue the permit. If the majority of the legal votes cast is  
69 against the question, the question may be submitted to a  
70 vote at any subsequent election in the manner herein  
71 specified: *Provided, however*, That the question may not  
72 be resubmitted to a vote until two years after the date of  
73 the previous referendum.

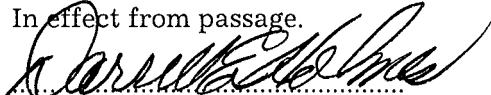
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

  
.....  
Chairman Senate Committee

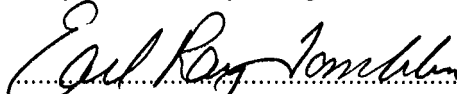
  
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Chairman House Committee

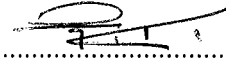
Originated in the Senate.

In effect from passage.

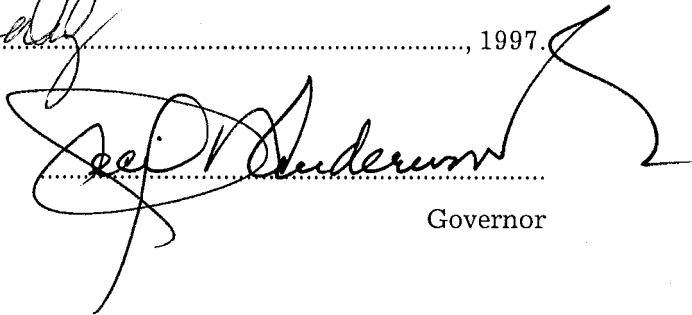
  
.....  
Clerk of the Senate

  
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Clerk of the House of Delegates

  
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President of the Senate

  
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Speaker House of Delegates

The within is approved this the 7<sup>th</sup>  
May day of ....., 1997.

  
.....  
Governor

PRESENTED TO THE  
GOVERNOR

Date 4/22/97

Time 3:11 pm