

# HOUSE BILL No. 4795

June 11, 1999, Introduced by Reps. Middaugh, DeVuyst, Law, Koetje, Hager, Kowall, Basham, Neumann, Sheltroun, Bovin, Toy, Pappageorge, LaSata, Godchaux, Birkholz, Lemmons and Scranton and referred to the Committee on Conservation and Outdoor Recreation.

A bill to regulate the transportation of high-level radioactive waste; to provide for radiation safety and emergency response planning; and to prescribe the powers and duties of certain state officers and entities.

## **THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 1. As used in this act:

2       (a) "Department" means the department of environmental  
3 quality.

4       (b) "Director" means the director of the department.

5       (c) "Emergency management coordinator" means that term as  
6 defined in the emergency management act, 1976 PA 390, MCL 30.401  
7 to 30.420.

8       (d) "Fund" means the transportation planning and  
9 preparedness fund created in section 5.

1 (e) "High-level radioactive waste" means any of the  
2 following, other than materials shipped by or for the federal  
3 government for military, national security, or national defense  
4 purposes:

5 (i) Irradiated reactor fuel.

6 (ii) Wastes that result from reprocessing irradiated reactor  
7 fuel.

8 (iii) Radioactive waste that contains alpha emitting trans-  
9 uranic elements with half-lives of greater than 20 years whose  
10 combined activity level is equal to or greater than 100 nanocu-  
11 ries per gram of waste.

12 (iv) Radioactive waste that meets the definition of "highway  
13 route-controlled quantity", as defined in 49 C.F.R. 173.403.

14 (f) "Plan" means the plan provided for in section 2.

15 Sec. 2. (1) Within 1 year after the effective date of this  
16 act, the director shall prepare a plan for safe, routine trans-  
17 portation of high-level radioactive waste and for emergency  
18 response to a high-level radioactive waste transportation acci-  
19 dent in this state. In preparing the plan, the director shall  
20 consult with all of the following:

21 (a) The director of the department of community health.

22 (b) The director of the state transportation department.

23 (c) The director of the department of state police. The  
24 director of the department of state police shall review a plan  
25 proposed under this act to ensure that it is coordinated with the  
26 Michigan emergency management plan and other aspects of state

1 emergency response planning and operations under the emergency  
2 management act, 1976 PA 390, MCL 30.401 to 30.420.

3 (d) A representative of the United States nuclear regulatory  
4 commission.

5 (e) A representative of the federal emergency management  
6 agency.

7 (f) A representative of the United States department of  
8 transportation.

9 (g) A representative of the United States department of  
10 energy.

11 (h) Generators and carriers of high-level radioactive  
12 waste.

13 (2) The director shall report to the governor and members of  
14 the legislature each year on the status of the plan.

15 Sec. 3. (1) The director shall annually review preferred  
16 routes for the highway transportation of high-level radioactive  
17 waste, as defined by 49 C.F.R. 397.101.

18 (2) Under 49 C.F.R. 397.103, the director shall designate  
19 preferred routes, including restrictions on times and dates for  
20 transporting high-level radioactive waste, if, in the director's  
21 opinion, the preferred routes would minimize overall risk to the  
22 public. To evaluate preferred routes, the director shall use  
23 "guidelines for selecting preferred highway routes for highway  
24 route controlled quantity shipments of radioactive materials"  
25 published by the federal highway administration in November 1996,  
26 or equivalent routing analysis which, in the director's opinion,  
27 adequately considers overall risk to the public. The director

1 shall conduct route evaluations in consultation with the director  
2 of the state transportation department. Before designating pre-  
3 ferred routes, the director shall also consult with all of the  
4 following:

5 (a) The emergency management coordinator of each affected  
6 county or municipality.

7 (b) The county road commission for each affected county.

8 (c) The director of the department of state police.

9 (d) Affected generators of high-level radioactive waste.

10 (e) Affected motor carriers of high-level radioactive  
11 waste.

12 (3) If preferred routes are chosen as a result of an evalu-  
13 ation under subsection (2), the director of the state transporta-  
14 tion department shall register the state-designated routes with  
15 the associate administrator for safety and system applications,  
16 federal highway administration, under 49 C.F.R. 397.103(c)(1).

17 (4) The director shall notify all of the following of the  
18 director's decision concerning a new state designated route at  
19 least 10 days before the date upon which the state designated  
20 route takes effect:

21 (a) The persons described in subsection (2)(a) to (e).

22 (b) The director of the department of community health.

23 (c) The United States nuclear regulatory commission.

24 (d) The United States department of energy.

25 (5) A local ordinance or permit requirement or other local  
26 requirement shall not prohibit, restrict, or regulate the

1 transportation of high-level radioactive waste on routes  
2 established under this section.

3 (6) This state does not incur any liability by designating  
4 preferred routes, including instituting restrictions on times or  
5 dates for transporting high-level radioactive waste, under this  
6 section.

7 Sec. 4. A person shall not transport high-level radioactive  
8 waste in this state unless the person has submitted to the direc-  
9 tor a notice of the shipment under 10 C.F.R. 73.37(f).

10 Sec. 5. (1) The transportation planning and preparedness  
11 fund is created within the state treasury.

12 (2) The state treasurer may receive money or other assets  
13 from any source for deposit into the fund. The state treasurer  
14 shall receive funds made available to this state under section  
15 180(c) of subtitle H of title I of the nuclear waste policy act  
16 of 1982, Public Law 97-425, 42 U.S.C. 10175, and any unexpended  
17 balances of funds appropriated to the low-level radioactive waste  
18 authority established under the low-level radioactive waste  
19 authority act, 1987 PA 204, MCL 333.26201 to 333.26226, at the  
20 end of each fiscal year for deposit into the fund. The state  
21 treasurer shall direct the investment of the fund. The state  
22 treasurer shall credit to the fund interest and earnings from  
23 fund investments.

24 (3) Money in the fund at the close of the fiscal year shall  
25 remain in the fund and shall not lapse to the general fund.

26 (4) The department shall expend money from the fund, upon  
27 appropriation, for 1 or more of the following:

1       (a) To provide training for state, county, and municipal  
2 personnel who may be involved in emergency response to a  
3 high-level radioactive waste transportation accident in this  
4 state.

5       (b) To provide response and monitoring equipment to imple-  
6 ment this act.

7       (c) For other purposes that the director considers appropri-  
8 ate to implement this act.

9       Sec. 6. Upon the request of the director, any department or  
10 agency of this state shall assist the department in implementing  
11 this act. The assisting department or agency shall be reimbursed  
12 for costs associated with that assistance.

13       Sec. 7. This chapter does not require the disclosure of  
14 defense information or restricted data as defined in section 11  
15 of chapter 2 of title I of the atomic energy act of 1954, chapter  
16 1073, 68 Stat. 922, 42 U.S.C. 2014.