



# SENATE BILL No. 21

January 13, 1993, Introduced by Senator EHLERS and referred to the Committee on Natural Resources and Environmental Affairs.

A bill to amend sections 13702, 13708, 13709, 13710, 13724, and 13740 of Act No. 368 of the Public Acts of 1978, entitled as amended

"Public health code,"

as added by Act No. 203 of the Public Acts of 1987, being sections 333.13702, 333.13708, 333.13709, 333.13710, 333.13724, and 333.13740 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 13702, 13708, 13709, 13710, 13724, and  
2 13740 of Act No. 368 of the Public Acts of 1978, as added by Act  
3 No. 203 of the Public Acts of 1987, being sections 333.13702,  
4 333.13708, 333.13709, 333.13710, 333.13724, and 333.13740 of the  
5 Michigan Compiled Laws, are amended to read as follows:

6 Sec. 13702. (1) "Above ground vault" means an engineered  
7 structure with a floor, walls, and a roof constructed at least

1 partially above grade that is designed in a manner that is  
2 compatible with the requirements of this part and the rules  
3 promulgated under this part.

4 (2) "Above or below ground canisters" are individual, engi-  
5 neered modular containers that contain 1 or more waste packages  
6 that are approved by the department, in compliance with applica-  
7 ble federal law, and designed in a manner that meets all of the  
8 requirements of this part and the rules promulgated under this  
9 part.

10 (3) "Authority" means the low-level radioactive waste  
11 authority created in the low-level radioactive waste authority  
12 act, ACT NO. 204 OF THE PUBLIC ACTS OF 1987, BEING SECTIONS  
13 333.26201 TO 333.26226 OF THE MICHIGAN COMPILED LAWS.

14 (4) "Below ground vault" means an engineered structure with  
15 a floor, walls, and a roof constructed entirely below grade that  
16 is designed in a manner that is compatible with the requirements  
17 of this part and the rules promulgated under this part.

18 (5) "Candidate site" means a site designated by the author-  
19 ity as a possible host site.

20 (6) "Carrier" means a person authorized pursuant to this  
21 part who is engaged in the transportation of waste by air, rail,  
22 highway, or water.

23 (7) "Collector" means a person authorized pursuant to this  
24 part who receives prepackaged waste from a generator and who does  
25 not treat or repackage that waste.

26 ~~(8) "Commission" means the midwest interstate low level~~  
27 ~~radioactive waste commission created in Act No. 460 of the Public~~

~~1 Acts of 1982, being sections 3.751 to 3.752 of the Michigan~~  
~~2 Compiled Laws.~~

3       (8) ~~-(9)-~~ "Compact" means ~~the midwest interstate low level~~  
4 ~~radioactive waste compact entered into by this state pursuant to~~  
5 ~~Act No. 460 of the Public Acts of 1982~~ A CONTRACTUAL, COOPERA-  
6 TIVE AGREEMENT AMONG 2 OR MORE STATES TO PROVIDE FOR THE DISPOSAL  
7 OF LOW-LEVEL RADIOACTIVE WASTE, THAT IS REFLECTED IN THE PASSAGE  
8 OF STATUTES BY THE PARTICIPATING STATES.

9       (9) ~~-(10)-~~ "Disposal" means the isolation of waste from the  
10 biosphere by emplacement in the disposal site or as otherwise  
11 authorized in section 13709(3).

12       (10) ~~-(11)-~~ "Disposal site" means a geographic location in  
13 this state upon which the disposal unit and any other structures  
14 and appurtenances are located, the property upon which any moni-  
15 toring equipment is located, and the isolation distance from the  
16 disposal unit to adjacent property lines.

17       (11) ~~-(12)-~~ "Disposal unit" means the portion of the dis-  
18 posal site into which waste is placed for disposal.

19       (12) "HOST SITE" MEANS THE CANDIDATE SITE THAT IS DESIGNATED  
20 BY THE COMMISSIONER AS THE LOCATION FOR THE DISPOSAL SITE IN THIS  
21 STATE.

22       Sec. 13708. The director or the director's designee, with  
23 the assistance of other state departments and agencies, shall do  
24 all of the following:

25       (a) Implement a regulatory, inspection, and enforcement pro-  
26 gram to carry out the provisions of this part.

1 (b) Issue a construction and operating license to the  
2 authority upon the submittal by the authority of an application  
3 for a license for the construction and operation of the disposal  
4 unit on the disposal site that is in compliance with the require-  
5 ments of this part and with rules promulgated under this part.

6 (c) Issue permits to generators, carriers, collectors, and  
7 processors if all the requirements of this part and rules promul-  
8 gated under this part are met.

9 (d) Assure that the authority fulfills ~~his or her~~ ITS  
10 responsibilities under this act and under the low-level radioac-  
11 tive waste authority act.

12 (e) ~~Promulgated~~ PROMULGATE rules and take any other action  
13 considered necessary by the department as authorized under the  
14 administrative procedures act of 1969, Act No. 306 of the Public  
15 Acts of 1969, being sections 24.201 to 24.328 of the Michigan  
16 Compiled Laws. In fulfilling the requirement to promulgate  
17 rules, the director shall promulgate rules necessary to implement  
18 the provisions of this part that pertain to the issuance of per-  
19 mits to generators, transporters, collectors, and processors,  
20 including rules pertaining to the possession of waste by a gener-  
21 ator, transporter, collector, or processor that is incidental to  
22 the regulated activity of the permit holder.

23 (f) Contract as necessary for research and services to  
24 assist in the implementation of the department's powers and  
25 duties under this part.

26 (g) Insure the permanent maintenance of records that are  
27 sufficient to assure a complete accounting of all waste that is

1 generated, transported, processed, collected, and disposed of in  
2 this state, and which includes the maintenance of records per-  
3 taining to the operation of the disposal site, the site, site  
4 closure and stabilization, and institutional control.

5 (h) Review the monthly report submitted by the authority to  
6 the department as required in section 18 of the low-level radio-  
7 active waste authority act.

8 (i) Take responsive action regarding any discrepancy or  
9 other matter considered necessary by the department after review-  
10 ing the monthly report described in subdivision (h).

11 (j) Biannually audit all of the records pertaining to mani-  
12 fests that are maintained by the authority.

13 (k) Develop and implement policies and programs to insure  
14 adequate and informed public participation in matters pertaining  
15 to the regulation of the disposal site.

16 (l) Review and comment on the site selection process devel-  
17 oped by the authority pursuant to the low-level radioactive waste  
18 authority act.

19 (m) Review and approve or disapprove the weekly construction  
20 inspection submitted by the authority during the construction of  
21 the disposal site.

22 (n) Review for completeness only the contracts entered into  
23 by the authority pursuant to the low-level radioactive waste  
24 authority act.

25 (o) Review the authority's recommendation regarding sanc-  
26 tions against a generator, carrier, collector, or processor who  
27 the authority suspects has violated this part, rules promulgated

1 under this part, or a permit issued under this part and respond  
2 by taking appropriate regulatory action.

3 (p) Assure that the authority charges just and reasonable  
4 fees and surcharges for the disposal of waste and obtains  
5 ~~through the commission~~ sufficient funds to cover expenses  
6 incurred under this part and as required in the low-level radio-  
7 active waste authority act.

8 (q) Seek appropriations from the general fund and from the  
9 low-level radioactive waste management fund from the legislature  
10 in amounts that are sufficient to fulfill the department's  
11 responsibilities under this part.

12 (r) Approve or disapprove a waiver by the authority of 1 or  
13 more of the criteria for the selection of 3 candidate sites pro-  
14 vided for in section 11(4) of the low-level radioactive waste  
15 authority act. If the director approves the waiver, the approval  
16 shall indicate why the director concludes that the waiver will  
17 not compromise the public health, safety, or welfare, or the  
18 environment and that a candidate site for which a waiver is  
19 sought is an appropriate candidate site despite the site's  
20 inability to meet 1 or more of the criteria in section 11(3) of  
21 the low-level radioactive waste authority act. Prior to approv-  
22 ing a waiver under this subdivision, the director shall forward  
23 the proposed approval and supporting documentation to the depart-  
24 ment of natural resources for review and written comments.

25 Sec. 13709. (1) A person shall not possess, generate, col-  
26 lect, process, package, store, transport, or dispose of waste in  
27 this state without complying with the requirements of this part.

1       (2) Except as otherwise provided in subsection (3), if this  
2 state has not obtained full agreement state status with the fed-  
3 eral government, a person shall not dispose of waste in this  
4 state except in the disposal site licensed by the United States  
5 nuclear regulatory commission, or its successor agency, and by  
6 the director through the issuance of a construction and operating  
7 license under this part. Except as otherwise provided in  
8 subsection (3), if this state has full agreement state status, a  
9 person shall not dispose of waste in this state except at the  
10 disposal site licensed by the director through the issuance of a  
11 construction and operating license under this part.

12       (3) Prior to ~~January 1, 1993~~ THE ISSUANCE OF A CONSTRUC-  
13 TION AND OPERATING LICENSE UNDER THIS PART, if a person obtains a  
14 waiver pursuant to 10 C.F.R. 20.302, the requirement that waste  
15 be disposed of only in the disposal site shall be waived by the  
16 director upon receipt of notice and evidence of such a waiver.  
17 ~~On and after January 1, 1993~~ FOLLOWING THE ISSUANCE OF A CON-  
18 STRUCTION AND OPERATING LICENSE UNDER THIS PART, the director  
19 with the written concurrence of the authority may grant or deny  
20 an application for a waiver of the requirement that waste be dis-  
21 posed of only in the disposal site if either of the following  
22 occurs:

23       (a) If this state has obtained full agreement state status  
24 with the federal government, the department approves the disposal  
25 of the waste in a location other than the disposal site and con-  
26 cludes that the waiver will not harm the public health, safety,  
27 or welfare, or the environment and will not substantially impact

1 on the volume of waste available for disposal in the disposal  
2 site or the financial solvency of the disposal site.

3 (b) If this state has not obtained a full agreement state  
4 status with the federal government, the department concludes that  
5 any waiver granted by the nuclear regulatory commission will not  
6 harm the public health, safety, or welfare, or the environment  
7 and will not substantially impact on the volume of waste avail-  
8 able for disposal in the disposal site or the financial solvency  
9 of the disposal site.

10 (4) The department shall assure that waste THAT IS NOT gen-  
11 erated in ~~a~~ THIS state ~~that is not a member of the compact~~ OR  
12 IN A STATE WITH WHICH THIS STATE MAY ELECT TO ENTER A COMPACT  
13 shall not be accepted for disposal at the disposal site. ~~except~~  
14 ~~upon the affirmative vote of the commission as required in the~~  
15 ~~compact and with the concurrence of the commissioner of the~~  
16 ~~authority.~~ In addition, IF THIS STATE IS A MEMBER OF A COMPACT  
17 the department shall assure that this state does not accept waste  
18 for disposal from any member of the compact ~~who~~ THAT does  
19 either of the following:

20 (a) Is delinquent in paying **dues** or fees payable under the  
21 compact.

22 (b) Fails to establish or maintain a permitting and regula-  
23 tory system, including penalties and remedies, that equals or  
24 exceeds the laws and rules of this state as they apply to genera-  
25 tors, carriers, processors, and collectors.

26 (5) If this state ~~withdraws from the compact and does not~~  
27 ~~enter any other~~ IS NOT A MEMBER OF A compact, the department



1 shall assure that the disposal site accepts only waste generated  
2 in this state.

3 ~~(6) After December 31, 2013, the department shall not~~  
4 ~~authorize the acceptance of waste at the disposal site.~~

5 Sec. 13710. (1) ~~No later than September 1, 1988, the~~ THE  
6 director, following consultation with the department of natural  
7 resources, shall establish minimum criteria for the design, con-  
8 struction, and operation of the disposal site. ~~Prior to estab-~~  
9 ~~lishing the minimum criteria for the design, construction, and~~  
10 ~~operation of the disposal site, the director shall obtain from~~  
11 ~~the commission a certified statement from each compact member~~  
12 ~~state detailing the anticipated disposal needs of each compact~~  
13 ~~member state until December 31, 2013, including information about~~  
14 ~~the amount, type, class, and curie count of the waste that may be~~  
15 ~~disposed of in the disposal site, and such other information as~~  
16 ~~the director may consider necessary to establish the minimum cri-~~  
17 ~~teria for the design, construction, and operation of the disposal~~  
18 ~~site.~~ The minimum criteria shall reflect and shall be updated to  
19 include state-of-the-art technology in regard to disposal site  
20 design, construction, operation, and waste disposal technology.  
21 The criteria shall be developed and prepared in the form of spec-  
22 ifications to be included in the construction and operating  
23 license issued to the authority pursuant to sections 13712 to  
24 13714 and in any modification of that license. The criteria at a  
25 minimum shall comply with criteria adopted under the atomic  
26 energy act of 1954, 42 U.S.C. 2011 to 2296 and regulations  
27 pertaining to licensing requirements for land disposal of waste

1 under 10 C.F.R. 61.1 to 61.81 and shall require that the  
2 isolation distance between the disposal unit and adjacent prop-  
3 erty lines be at least 3,000 feet.

4 (2) Shallow land burial shall not be permitted. Acceptable  
5 disposal technologies shall be limited to above and below ground  
6 canisters or above and below ground vaults, or both. The cri-  
7 teria shall also include provisions for monitoring at the dis-  
8 posal site and within the disposal unit and provisions for the  
9 recoverability of waste that has been disposed of in the disposal  
10 site.

11 Sec. 13724. (1) ~~By September 1, 1992~~ IF THIS STATE IS A  
12 MEMBER OF A COMPACT, the department shall obtain from ~~the~~  
13 ~~commission~~ EACH COMPACT MEMBER a list of generators, carriers,  
14 processors, and collectors who hold permits to generate, trans-  
15 port, process, or collect waste in each compact member state.  
16 The department shall ALSO obtain ~~from the commission~~ an updated  
17 list of the generators, carriers, processors, and collectors as  
18 necessary. In addition, ~~by September 1, 1992,~~ the department  
19 shall obtain from ~~the commission~~ EACH STATE THAT IS A MEMBER OF  
20 A COMPACT WITH THIS STATE the state laws and rules that regulate  
21 generators, carriers, processors, and collectors in each compact  
22 member state. ~~that are submitted to the commission by the com-~~  
23 ~~pact member states.~~

24 (2) The department shall compile AND MAINTAIN a list of all  
25 generators, carriers, processors, and collectors who hold valid  
26 permits issued in this state under this part, ~~. A copy of this~~  
27 ~~list shall be submitted to the commission prior to August 1,~~

1 ~~1992. The department shall immediately supply the compact with~~  
2 INCLUDING updated information regarding any change in the status  
3 of a permit issued in this state under this part.

4 (3) ~~The~~ IF THIS STATE IS A MEMBER OF A COMPACT, THE  
5 department shall determine which compact member states have  
6 established and maintained to the satisfaction of the department  
7 a permitting and regulatory system, including penalties and reme-  
8 dies, that equals or exceeds the laws and rules of this state as  
9 they apply to generators, carriers, processors, and collectors,  
10 and the department shall prepare a master list that includes only  
11 the names of generators, carriers, processors, and collectors who  
12 hold permits in those compact member states and the names of gen-  
13 erators, carriers, processors, and collectors who hold permits  
14 under this part.

15 (4) The department shall permit the authority to receive  
16 waste only from a generator, carrier, processor, or collector  
17 whose name is on the master list and who holds a valid permit  
18 issued in this state under this part or who holds a valid permit  
19 issued by a compact member state that has equivalent privileges  
20 in this state because the state in which that person generates,  
21 carries, processes, or collects waste has established and main-  
22 tains to the satisfaction of the department a permitting and  
23 regulatory system, including penalties and remedies, that equals  
24 or exceeds the laws and rules of this state as they pertain to  
25 generators, carriers, processors, and collectors. ~~A~~ IF THIS  
26 STATE IS A MEMBER OF A COMPACT, A compact member state that  
27 establishes and maintains a permitting and regulatory system that

1 the department determines equals or exceeds this state's system  
2 as provided in subsection (3) shall, by accepting equivalent  
3 privileges in this state as provided in this subsection, give its  
4 consent to the requirements of this part, the rules promulgated  
5 under this part, and the provisions of the low-level radioactive  
6 waste authority act. In addition, each of the compact member  
7 states shall be considered to have consented to share with this  
8 state and ~~the~~ ANY other compact member states the expenses  
9 incurred in the construction, operation, site closure and stabi-  
10 lization, postclosure observation and maintenance, and institu-  
11 tional control of the disposal site and liabilities incurred as a  
12 result of the locating of the disposal site in this state.

13 (5) A carrier, processor, or collector whose primary place  
14 of business is in this state shall be eligible to seek a permit  
15 from the department under this part to transport, process, or  
16 collect waste in this state. A carrier, processor, or collector  
17 whose primary place of business is in a state that is not a com-  
18 pact member state shall be eligible to seek a permit from the  
19 department under this part to transport, process, or collect  
20 waste generated in this state. The department shall issue a  
21 permit only to a generator who generates waste in this state.

22 Sec. 13740. (1) The department shall deposit all receipts  
23 from civil fines and fees collected pursuant to this part and  
24 from judgments, settlements, and any other payments collected  
25 pursuant to this part in the state treasury to the credit of the  
26 general fund.

1 (2) Funds credited to the general fund as required by this  
2 section shall be appropriated for the purposes provided in this  
3 section and if insufficient funds are available or appropriated  
4 from the general fund, the department may seek appropriations by  
5 the legislature from the low-level radioactive waste management  
6 fund for purposes authorized by this part, including, but not  
7 limited to, any of the following:

8 (a) Hiring personnel and any other operating and contingent  
9 expenses necessary for the proper administration of this part, to  
10 fulfill the state's obligations under the low-level radioactive  
11 waste policy act, Public Law 96-573, 42 U.S.C. 2021b to 2021d,  
12 and IF THIS STATE IS A MEMBER OF A COMPACT to assure adequate  
13 involvement by this state in ~~commission and~~ ANY compact activi-  
14 ties and responsibilities.

15 (b) Regulatory costs, including, but not limited to, the  
16 costs of promulgating and enforcing administrative rules if this  
17 state enters into an agreement with the United States nuclear  
18 regulatory commission as provided in section 13707.

19 (c) Contracting with any person or vendor for the purpose of  
20 carrying out this part and the rules promulgated under this  
21 part.

22 (d) Taking any actions necessary to protect the public  
23 health, safety, and welfare, and the environment from actual or  
24 threatened harm from activities regulated under this part.

25 (3) This section shall not be construed to limit the finan-  
26 cial responsibilities of a person who holds a permit or license

1 under this part, or establish or imply any liability on the part  
2 of the state.

3       (4) If expenditures are required as a result of a release or  
4 threatened release, the department, the attorney general on  
5 behalf of the department, the department of natural resources,  
6 and the authority shall seek to obtain funds from a responsible  
7 party including a surety bond, secured trust fund, or other  
8 instrument, mechanism, fund, or liability insurance held by that  
9 party.