

HOUSE BILL NO. 218

INTRODUCED BY BOOKOUT-REINICKE

BY REQUEST OF THE STATE ADMINISTRATION AND VETERANS' AFFAIRS INTERIM COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THAT THE OWNER OF HIGH-LEVEL RADIOACTIVE WASTE OR TRANSURANIC WASTE PAY FEES AND OBTAIN A PERMIT BEFORE SHIPPING THE WASTE THROUGH MONTANA; DEFINING TERMS; CREATING THE RADIOACTIVE WASTE TRANSPORTATION MONITORING, EMERGENCY RESPONSE, AND TRAINING ACCOUNT IN THE STATE SPECIAL REVENUE FUND; SPECIFYING HOW MONEY IN THE ACCOUNT MUST BE USED; REQUIRING THAT INITIAL NOTICE OF SHIPMENTS BE PROVIDED TO THE DISASTER AND EMERGENCY SERVICES DIVISION OF THE DEPARTMENT OF MILITARY AFFAIRS AND TO THE DEPARTMENT OF TRANSPORTATION; REQUIRING THAT THE DISASTER AND EMERGENCY SERVICES DIVISION NOTIFY CERTAIN OTHER AGENCIES WHEN IT IS INFORMED THAT WASTE WILL BE ROUTED THROUGH MONTANA; REQUIRING THE DEPARTMENT OF TRANSPORTATION TO COLLECT THE FEES AND ISSUE PERMITS; REQUIRING THAT THE PERMIT REMAIN WITH THE TRANSPORTER OF WASTE AS IT TRAVELS THROUGH THE STATE; REQUIRING THE HIGHWAY PATROL TO MONITOR OR ESCORT MOTOR CARRIERS THAT ARE CARRYING THE WASTE; PROVIDING FOR THE COORDINATION OF INSPECTIONS OF MOTOR CARRIERS; ALLOWING THE HIGHWAY PATROL TO BE REIMBURSED FOR COSTS INCURRED IN MONITORING OR ESCORTING THE MOTOR CARRIERS; SPECIFYING THAT THE PUBLIC SERVICE COMMISSION IS RESPONSIBLE FOR INSPECTING RAILS OR TRAINS THAT WILL BE INVOLVED IN CARRYING THE WASTE; ALLOWING THE PUBLIC SERVICE COMMISSION TO ENTER INTO RECIPROCAL AGREEMENTS WITH ADJACENT STATES AND CANADIAN PROVINCES FOR INSPECTION; REQUIRING THE PUBLIC SERVICE COMMISSION TO ESTABLISH RULES FOR CARRYING OUT THESE PROVISIONS; AND PROVIDING A PENALTY."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Short title.** [Sections 1 through 9] may be cited as the "Montana High-Level Radioactive Waste and Transuranic Waste Transportation Act".

NEW SECTION. **Section 2. Purpose.** The purpose of [sections 1 through 9] is to enhance the safety of Montana's citizens by requiring a special permit, inspections, and monitoring of shipments of high-level

radioactive waste and transuranic waste that travel through Montana by motor carrier or railroad.

NEW SECTION. Section 3. Definitions. As used in [sections 1 through 9], the following definitions apply:

(1) "High-level radioactive waste" means:

(a) the highly radioactive material resulting from the reprocessing of spent nuclear fuel, including liquid waste produced directly in reprocessing and any solid material derived from the liquid waste that contains fission products in sufficient concentrations;

(b) irradiated reactor fuel; or

(c) other highly radioactive waste material that the U.S. nuclear regulatory commission has determined by rule requires permanent isolation.

(2) "Spent nuclear fuel" means fuel that has been withdrawn from a nuclear reactor following irradiation, the constituent elements of which have not been separated by reprocessing.

(3) "Transuranic waste" means material contaminated with elements that have an atomic number greater than 92, including neptunium, plutonium, americium, and curium, and that are in concentrations greater than 10 nanocuries per gram or in other concentrations that the U.S. nuclear regulatory commission may prescribe.

NEW SECTION. Section 4. Radioactive waste transportation monitoring, emergency response, and training account -- purpose -- disbursement. (1) There is an account in the state special revenue fund to be known as the radioactive waste transportation monitoring, emergency response, and training account administered by the disaster and emergency services division of the department of military affairs.

(2) The money deposited into this account by the department of transportation pursuant to [section 6] may be used only for the following purposes:

(a) to reimburse the highway patrol for expenses incurred in monitoring or providing escorts for motor carriers transporting high-level radioactive waste or transuranic waste through the state;

(b) to provide funding for training local emergency response personnel in handling radioactive waste accidents, spills, and other related emergencies; and

(c) to reimburse local emergency response entities for costs incurred in the event that an accident, spill, or other related emergency occurs.

NEW SECTION. Section 5. Transportation of radioactive waste through state -- notification --

responsibilities of division. (1) A person or entity may not ship high-level radioactive waste or transuranic waste through the state by rail or motor carrier unless the person or entity first notifies the disaster and emergency services division and the department of transportation, pays the appropriate fees, and obtains a permit.

(2) Upon receiving the notification required under subsection (1), the disaster and emergency services division shall notify the highway patrol and the public service commission.

(3) The disaster and emergency services division shall reimburse the highway patrol for expenses incurred in monitoring or escorting motor carriers, as provided in [section 7], from money collected in the radioactive waste transportation monitoring, emergency response, and training account created in [section 4].

NEW SECTION. Section 6. Responsibilities of department of transportation -- assessment and collection of fees -- issuance of permits -- inspection of motor carriers. (1) After receiving notification from the person or entity that plans to ship high-level radioactive waste or transuranic waste through the state, the department of transportation shall:

(a) assess fees according to the following schedule:

(i) a fee of \$2,500 must be assessed for each CASK THAT IS BEING TRANSPORTED ON HIGHWAYS BY motor carrier; and

(ii) a fee of \$4,500 must be assessed for the first cask that is being transported by rail through the state and a fee of \$3,000 for each additional cask that is shipped by the same person or entity in the same shipment.

(2) Payment of the fees provided in subsection (1) is the responsibility of the person or entity who owns and is shipping the waste.

(3) Upon receipt of the fees provided in subsection (1), the department of transportation shall issue to the owner of the waste a permit that must be carried with the waste as it is traveling through the state.

(4) The department of transportation shall deposit all of the fees collected under this section in the radioactive waste transportation monitoring, emergency response, and training account created in [section 4].

(5) If the waste is to be transported through the state by motor carrier, the department of transportation shall coordinate with the highway patrol on the inspection of the motor carrier by the motor carrier services division.

(6) This section does not exempt the operator of a motor carrier from any of the provisions of Title 61, chapter 10, from Title 69, chapter 12, or from any other law that applies to the operation of motor vehicles in Montana.

NEW SECTION. Section 7. Responsibilities of highway patrol -- monitoring of motor carriers -- billing. (1) After receiving notification from the disaster and emergency services division that a motor carrier will be transporting high-level radioactive waste or transuranic waste through the state, the highway patrol shall establish a plan for monitoring the shipment.

(2) Monitoring a shipment by motor carrier may include escorting the vehicle through the state, establishing checkpoints, shadowing the vehicle, electronically following the vehicle's movements, or any other method determined by the highway patrol to be effective and safe.

(3) The highway patrol shall coordinate inspection of the motor carrier with the department of transportation's motor carrier services division.

(4) The highway patrol shall determine the cost that it has incurred in monitoring each motor carrier and shall submit a bill for reimbursement to the disaster and emergency services division.

NEW SECTION. Section 8. Responsibilities of public service commission -- inspection of rails and trains -- agreements with neighboring states AND PROVINCES -- rulemaking. (1) After receiving notification from the disaster and emergency services division that high-level radioactive waste or transuranic waste will be shipped by railroad through the state, the public service commission shall establish a plan for inspecting the rails and the trains, as authorized in Title 69, chapter 14, part 2, that will be involved in the transportation of the waste.

(2) The public service commission may enter into reciprocal agreements with adjacent states and bordering Canadian provinces that Montana's inspectors may inspect trains while they are stopped in those states or provinces before they cross the Montana border.

(3) The public service commission shall, in cooperation with the department of transportation, the disaster and emergency services division, and the highway patrol, establish rules to carry out the provisions of [sections 1 through 9]. The rules must address:

(a) the process by which local authorities will be notified when a motor carrier or a train carrying high-level radioactive waste or transuranic waste is approaching their jurisdictions;

(b) which local authorities will receive notification;

(c) the process by which local governments and local emergency response entities may apply for and receive training and reimbursement money from the radioactive waste transportation monitoring, emergency response, and training account, as provided in [section 4];

(d) the criteria for qualifying to receive money from the account;

(e) acceptable means for monitoring a train that is carrying high-level radioactive waste or transuranic

waste; and

(f) other processes or procedures that the public service commission, the department of transportation, the disaster and emergency services division, and the highway patrol determine are necessary to efficiently carry out the provisions of [sections 1 through 9] and to ensure the safe transportation of high-level radioactive waste or transuranic waste through Montana.

NEW SECTION. **Section 9. Penalty.** A person or entity found to be in violation of the provisions of [sections 5 through 8] shall be fined an amount of not more than \$10,000 for each violation. The public service commission is responsible for imposing and determining the amount of a fine.

NEW SECTION. **Section 10. Codification instruction.** [Sections 1 through 9] are intended to be codified as an integral part of Title 10, chapter 3, and the provisions of Title 10, chapter 3, apply to [sections 1 through 9].

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