

(c) Also means any act of sexual contact between persons involving the sex organs of one person and the mouth or anus of another whether such persons are of the same or opposite sex.

(2) "Married" means one who is legally married to another, but does not include a person who is living separate and apart from his or her spouse and who has filed in an appropriate court for legal separation or for dissolution of his or her marriage.

(3) "Mental incapacity" is that condition existing at the time of the offense which prevents a person from understanding the nature or consequences of the act of sexual intercourse whether that condition is produced by illness, defect, the influence of a substance or from some other cause;

(4) "Physically helpless" means a person who is unconscious or for any other reason is physically unable to communicate unwillingness to an act;

(5) "Forcible compulsion" means physical force which overcomes resistance, or a threat, express or implied, that places a person in fear of death or physical injury to herself or himself or another person, or in fear that she or he or another person will be kidnaped;

(6) "Consent" means that at the time of the act of sexual intercourse there are actual words or conduct indicating freely given agreement to have sexual intercourse.

Passed the Senate April 26, 1981.

Passed the House April 22, 1981.

Approved by the Governor May 8, 1981.

Filed in Office of Secretary of State May 8, 1981.

CHAPTER 124

[Engrossed Substitute Senate Bill No. 4182]

NORTHWEST INTERSTATE COMPACT ON LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT

AN ACT Relating to low-level nuclear waste management; creating a new chapter in Title 43 RCW; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Section 1. The Northwest Interstate Compact on Low-Level Radioactive Waste Management is hereby enacted into law and entered into by the state of Washington as a party, and is in full force and effect between the state and other states joining the compact in accordance with the terms of the compact.

NORTHWEST INTERSTATE COMPACT ON LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT ARTICLE I—Policy and Purpose

The party states recognize that low-level radioactive wastes are generated by essential activities and services that benefit the citizens of the states.

It is further recognized that the protection of the health and safety of the citizens of the party states and the most economical management of low-level radioactive wastes can be accomplished through cooperation of the states in minimizing the amount of handling and transportation required to dispose of such wastes and through the cooperation of the states in providing facilities that serve the region. It is the policy of the party states to undertake the necessary cooperation to protect the health and safety of the citizens of the party states and to provide for the most economical management of low-level radioactive wastes on a continuing basis. It is the purpose of this compact to provide the means for such a cooperative effort among the party states so that the protection of the citizens of the states and the maintenance of the viability of the states' economies will be enhanced while sharing the responsibilities of radioactive low-level waste management.

ARTICLE II—Definitions

As used in this compact:

(1) "Facility" means any site, location, structure, or property used or to be used for the storage, treatment, or disposal of low-level waste, excluding federal waste facilities;

(2) "Low-level waste" means waste material which contains radioactive nuclides emitting primarily beta or gamma radiation, or both, in concentrations or quantities which exceed applicable federal or state standards for unrestricted release. Low-level waste does not include waste containing more than ten nanocuries of transuranic contaminants per gram of material, nor spent reactor fuel, nor material classified as either high-level waste or waste which is unsuited for disposal by near-surface burial under any applicable federal regulations;

(3) "Generator" means any person, partnership, association, corporation, or any other entity whatsoever which, as a part of its activities, produces low-level radioactive waste;

(4) "Host state" means a state in which a facility is located.

ARTICLE III—Regulatory Practices

Each party state hereby agrees to adopt practices which will require low-level waste shipments originating within its borders and destined for a facility within another party state to conform to the applicable packaging and transportation requirements and regulations of the host state. Such practices shall include:

(1) Maintaining an inventory of all generators within the state that have shipped or expect to ship low-level waste to facilities in another party state;

(2) Periodic unannounced inspection of the premises of such generators and the waste management activities thereon;

(3) Authorization of the containers in which such waste may be shipped, and a requirement that generators use only that type of container authorized by the state;

(4) Assurance that inspections of the carriers which transport such waste are conducted by proper authorities, and appropriate enforcement action taken for violations;

(5) After receiving notification from a host state that a generator within the party state is in violation of applicable packaging or transportation standards, the party state will take appropriate action to assure that such violations do not recur. Such action may include inspection of every individual low-level waste shipment by that generator.

Each party state may impose fees upon generators and shippers to recover the cost of the inspections and other practices under this Article. Nothing in this Article shall be construed to limit any party state's authority to impose additional or more stringent standards on generators or carriers than those required under this Article.

ARTICLE IV—Regional Facilities

Section 1. Facilities located in any party state, other than facilities established or maintained by individual low-level waste generators for the management of their own low-level waste, shall accept low-level waste generated in any party state if such waste has been packaged and transported according to applicable laws and regulations.

Section 2. No facility located in any party state may accept low-level waste generated outside of the region comprised of the party states, except as provided in Article V.

Section 3. Until such time as Section 2 takes effect as provided in Article VI, facilities located in any party state may accept low-level waste generated outside of any of the party states only if such waste is accompanied by a certificate of compliance issued by an official of the state in which such waste shipment originated. Such certificate shall be in such form as may be required by the host state, and shall contain at least the following:

(1) The generator's name and address;

(2) A description of the contents of the low-level waste container;

(3) A statement that the low-level waste being shipped has been inspected by the official who issued the certificate or by his agent or by a representative of the United States Nuclear Regulatory Commission, and found to have been packaged in compliance with applicable federal regulations and such additional requirements as may be imposed by the host state;

(4) A binding agreement by the state of origin to reimburse any party state for any liability or expense incurred as a result of an accidental release of such waste during shipment or after such waste reaches the facility.

Section 4. Each party state shall cooperate with the other party states in determining the appropriate site of any facility that might be required within the region comprised of the party states, in order to maximize public health and safety while minimizing the use of any one party state as the host of such facilities on a permanent basis. Each party state further agrees

that decisions regarding low-level waste management facilities in their region will be reached through a good faith process which takes into account the burdens borne by each of the party states as well as the benefits each has received.

Section 5. The party states recognize that the issue of hazardous chemical waste management is similar in many respects to that of low-level waste management. Therefore, in consideration of the state of Washington allowing access to its low-level waste disposal facility by generators in other party states, party states such as Oregon and Idaho which host hazardous chemical waste disposal facilities will allow access to such facilities by generators within other party states. Nothing in this compact may be construed to prevent any party state from limiting the nature and type of hazardous chemical or low-level wastes to be accepted at facilities within its borders or from ordering the closure of such facilities, so long as such action by a host state is applied equally to all generators within the region composed of the party states.

Section 6. Any host state may establish a schedule of fees and requirements related to its facility, to assure that closure, perpetual care, and maintenance and contingency requirements are met, including adequate bonding.

ARTICLE V—Northwest Low-level Waste Compact Committee

The governor of each party state shall designate one official of that state as the person responsible for administration of this compact. The officials so designated shall together comprise the Northwest low-level waste compact committee. The committee shall meet as required to consider matters arising under this compact. The parties shall inform the committee of existing regulations concerning low-level waste management in their states, and shall afford all parties a reasonable opportunity to review and comment upon any proposed modifications in such regulations. Notwithstanding any provision of Article IV to the contrary, the committee may enter into arrangements with states, provinces, individual generators, or regional compact entities outside the region comprised of the party states for access to facilities on such terms and conditions as the committee may deem appropriate. However, it shall require a two-thirds vote of all such members, including the affirmative vote of the member of any party state in which a facility affected by such arrangement is located, for the committee to enter into such arrangement.

ARTICLE VI—Eligible Parties and Effective Date

Section 1. Each of the following states is eligible to become a party to this compact: Alaska, Hawaii, Idaho, Montana, Oregon, Utah, Washington, and Wyoming. As to any eligible party, this compact shall become effective

upon enactment into law by that party, but it shall not become initially effective until enacted into law by two states. Any party state may withdraw from this compact by enacting a statute repealing its approval.

Section 2. After the compact has initially taken effect pursuant to Section 1, any eligible party state may become a party to this compact by the execution of an executive order by the governor of the state. Any state which becomes a party in this manner shall cease to be a party upon the final adjournment of the next general or regular session of its legislature or July 1, 1983, whichever occurs first, unless the compact has by then been enacted as a statute by that state.

Section 3. Section 2 of Article IV of this compact shall take effect on July 1, 1983, if consent is given by Congress. As provided in Public Law 96-573, Congress may withdraw its consent to the compact after every five-year period.

ARTICLE VII—Severability

If any provision of this compact, or its application to any person or circumstance, is held to be invalid, all other provisions of this compact, and the application of all of its provisions to all other persons and circumstances, shall remain valid; and to this end the provisions of this compact are severable.

NEW SECTION. Sec. 2. The person designated as the Washington representative to the committee as specified in Article V shall adhere to all provisions of the low-level radioactive waste compact. In considering special conditions or arrangements for access to the state's facilities from wastes generated outside of the region, the committee member shall ensure at a minimum, that the provisions of Article IV, Section 3 are complied with. The Washington representative shall approve access of such wastes to the state's facility only if there is no other feasible alternative available.

****NEW SECTION. Sec. 3. The official designated as the person responsible for administration of this compact shall be subject to confirmation by the senate.***

*Sec. 3. was vetoed, see message at end of chapter.

NEW SECTION. Sec. 4. Sections 1 through 3 of this act constitute a new chapter in Title 43 RCW.

NEW SECTION. Sec. 5. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate April 2, 1981.

Passed the House April 15, 1981.

Approved by the Governor May 8, 1981 with the exception of Section 3 which is vetoed.

Filed in Office of Secretary of State May 8, 1981.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith without my approval as to Section 3 Substitute Senate Bill No. 4182 entitled:

"AN ACT relating to low-level nuclear waste management."

This bill adopts the Northwest Interstate Compact on Low-Level Radioactive Waste Management. Insofar as the Governor's designee to administer the Compact is already a government official, there is no need for the designee to be confirmed by the Senate. I have therefore vetoed Section 3.

With the exception of Section 3, which I have vetoed, the remainder of Substitute Senate Bill No. 4182 is approved."

CHAPTER 125

[House Bill No. 105]

PORT DISTRICT PROPERTY LEASES—RENT SECURITY WAIVER

AN ACT Relating to the lease of port district property; and amending section 2, chapter 87, Laws of 1973 as amended by section 1, chapter 41, Laws of 1977 and RCW 53.08.085.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 2, chapter 87, Laws of 1973 as amended by section 1, chapter 41, Laws of 1977 and RCW 53.08.085 are each amended to read as follows:

Every lease of all lands, wharves, docks, and real and personal property of a port district for a term of more than one year shall have the rent secured by rental insurance, bond, or other security satisfactory to the port commission, in an amount equal to one-sixth the total rent, but in no case shall such security be less than an amount equal to one year's rent or more than an amount equal to three years' rent. Evidence of the existence of such insurance, bonds, or security shall be on file with the commission at all times during the term of the lease: **PROVIDED**, That nothing in this section shall prevent the port commission from requiring additional security on leases or provisions thereof, or on other agreements to use port facilities: **PROVIDED FURTHER**, That any security agreement may provide for termination on the anniversary date of such agreement on not less than one year's written notice to the port if said lease is not in default at the time of said notice: **PROVIDED FURTHER**, That if the security as required herein is not maintained throughout the full term of the lease, said lease shall be considered in default: **PROVIDED, HOWEVER**, That the port commission may in its discretion waive the rent security requirement or lower the amount of such requirement on the lease of real and/or personal port property ~~((to organizations which are organized and/or function under the provisions of chapter 24.03 RCW, the Washington Nonprofit Corporation Act, as now existing or hereafter amended and which organization has received a declaration of tax-exempt status from the department of internal~~