

**As Introduced**

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**H. B. No. 373**

**Representative Skindell**

**Cosponsors: Representatives Foley, Hagan, R., Harwood, Healy, Letson,  
Williams, B., DeBose, Stewart, D., Williams, S., Fessler, Yates, Yuko,  
Otterman, Boyd, Bolon**

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**A B I L L**

To amend sections 4163.01 and 4163.07 and to enact 1  
sections 4163.08 and 4163.09 of the Revised Code 2  
to require a person shipping certain radioactive 3  
material within or through this state to provide 4  
the Emergency Management Agency with notice of the 5  
shipment and pay the Department of Public Safety a 6  
fee for each shipment, and to establish the 7  
Radiation Response Fund. 8

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 4163.01 and 4163.07 be amended and 9  
sections 4163.08 and 4163.09 of the Revised Code be enacted to 10  
read as follows: 11

**Sec. 4163.01.** As used in Chapter 4163. of the Revised Code: 12

(A) "Atomic energy" means all forms of energy released in the 13  
course of nuclear fission or nuclear transformation. 14

(B) "By-product material" ~~means any radioactive material~~ 15  
~~(except special nuclear material) yielded in, or made radioactive~~ 16

~~by exposure to the radiation incident to, the process of producing~~ 17  
~~or utilizing special nuclear materials~~ has the same meaning as in 18  
Section 11(e)(2) of the "Atomic Energy Act of 1954," 68 Stat. 922, 19  
42 U.S.C.A. 2014, as amended. 20

(C) "Production facility" means any equipment or device 21  
capable of the production of special nuclear material in such 22  
quantity as to be of significance to the common defense and 23  
security, or in such manner as to affect the health and safety of 24  
the public; or any important component part especially designed 25  
for such equipment or device. 26

(D) "Special nuclear material" means plutonium or uranium 27  
enriched in the isotope 233 or in the isotope 235, or any other 28  
material which the governor declares by order to be special 29  
nuclear material. 30

(E) "Utilization facility" means any equipment or device, 31  
except an atomic weapon, capable of making use of special nuclear 32  
materials in such quantity as to be of significance to the common 33  
defense and security, or in such manner as to affect the health 34  
and safety of the public, or peculiarly adapted for making use of 35  
atomic energy in such quantity as to be of significance to the 36  
common defense and security, or in such manner as to affect the 37  
health and safety of the public; or any important component part 38  
especially designed for such equipment or device. 39

(F) "Radiation" means gamma rays and X-rays, alpha and beta 40  
particles, high-speed electrons, neutrons, protons, and other 41  
nuclear particles; but not sound or radio waves, or visible, 42  
infrared, or ultraviolet light. 43

~~(G) "Large quantity" has the meaning set forth in Part 71 of~~ 44  
~~Title 10, section 71.4(f), of the Code of Federal Regulations~~ 45  
"Highway route controlled quantity" has the same meaning as in 46  
C.F.R. 173.403. 47

(H) "High-level radioactive waste" means any of the 48  
following: 49

(1) Irradiated reactor fuel; 50

(2) Liquid wastes resulting from the operation of the first 51  
cycle solvent extraction system, or equivalent, and the 52  
concentrated wastes from subsequent extraction cycles, or 53  
equivalent, in a facility for reprocessing irradiated reactor 54  
fuel; 55

(3) Solids into which such liquid wastes have been converted; 56

(4) Any other highly radioactive waste material that the 57  
United States nuclear regulatory commission or the United States 58  
department of energy determines by law requires permanent 59  
isolation; 60

(5) Any by-product material. 61

(I) "Spent nuclear fuel" means fuel that has been withdrawn 62  
from a nuclear reactor following irradiation, the constituent 63  
elements of which have not been separated by reprocessing. 64

(J) "Transuranic waste" means material containing elements 65  
that have an atomic number greater than 92, including neptunium, 66  
plutonium, americium, and curium, and that are in concentrations 67  
greater than 10 nanocuries per gram or in other concentrations 68  
that the United States nuclear regulatory commission may 69  
prescribe. 70

**Sec. 4163.07.** (A)(1) Prior to transporting any large 71  
high-level radioactive waste, spent nuclear fuel, transuranic 72  
waste, or any quantity of special nuclear material ~~or by-product~~ 73  
material that meets or exceeds the highway route controlled 74  
quantity, within, into, or through the state, the carrier or 75  
shipper of the material shall notify the executive director of the 76  
emergency management agency established under section 5502.22 of 77

the Revised Code of the shipment. The notice shall be in writing 78  
and be sent by certified mail and shall include the name of the 79  
shipper; the name of the carrier; the type and quantity of the 80  
~~special nuclear material or by-product material~~; the 81  
transportation mode of the shipment; the proposed date and time of 82  
shipment of the material within, into, or through the state; and 83  
the starting point, termination or exit point, scheduled route, 84  
and each alternate route, if any, of the shipment. In order to 85  
constitute effective notification under division (A)(1) of this 86  
section, notification shall be received by the executive director 87  
at least ~~forty-eight hours~~ four days prior to ~~entry of the~~ 88  
shipment within, into, or through the state. 89

(2) The carrier or shipper of any shipment subject to 90  
division (A)(1) of this section shall immediately notify the 91  
executive director of any change in the date and time of the 92  
shipment or in the route of the shipment within, into, or through 93  
the state. 94

(B) Upon receipt of a notice of any shipment of ~~a large~~ 95  
~~quantity of special nuclear material or by-product material~~ that 96  
is subject to division (A)(1) of this section within, into, or 97  
through the state, the executive director of the emergency 98  
management agency shall immediately notify the director of public 99  
safety, the director of environmental protection, the chairperson 100  
of the public utilities commission, and the sheriff of each county 101  
along the proposed route, or any alternate route, of the shipment. 102

(C) The executive director of the emergency management agency 103  
shall not disclose to any person other than those persons 104  
enumerated in division (B) of this section any information 105  
pertaining to any shipment of special nuclear material or 106  
by-product material prior to the time that the shipment is 107  
completed. 108

(D) This section does not apply to radioactive materials, 109

other than by-products, shipped by or for the United States 110  
department of defense and United States department of energy for 111  
military or national defense purposes. Nothing in this section 112  
requires the disclosure of any defense information or restricted 113  
data as defined in the "Atomic Energy Act of 1954," 68 Stat. 919, 114  
42 U.S.C.A. 2011, as amended. 115

(E) No person shall transport or cause to be transported 116  
within, into, or through the state any large quantity of special 117  
or by-product material that is subject to division (A)(1) of this 118  
section without first providing the notice required in that 119  
division (A) of this section. 120

(F) Whoever violates division (E) of this section, in 121  
addition to any penalty imposed under section 4163.99 of the 122  
Revised Code, is liable for a civil penalty in an amount not to 123  
exceed ten times the amount of the fee due under section 4163.08 124  
of the Revised Code. The attorney general, upon the request of the 125  
executive director of the emergency management agency, shall bring 126  
a civil action to collect the penalty. Fines collected pursuant to 127  
this section shall be deposited into the state treasury to the 128  
credit of the radiation response fund. 129

**Sec. 4163.08.** (A) No person shall transport high-level 130  
radioactive waste, spent nuclear fuel, transuranic waste, or any 131  
quantity of special nuclear material that meets or exceeds the 132  
highway route controlled quantity, within, into, or through this 133  
state by rail or motor carrier unless the person, at least four 134  
days prior to the date of the shipment, pays the department of 135  
public safety the following fees for each shipment of high-level 136  
radioactive waste, spent nuclear fuel, transuranic waste, or any 137  
quantity of special nuclear material that meets or exceeds the 138  
highway route controlled quantity, as applicable: 139

(1) For each shipment originating in this state: 140

(a) Two thousand five hundred dollars for each cask 141  
designated for transport by motor carrier; 142

(b) Four thousand five hundred dollars for the first cask 143  
designated for transport by rail and three thousand dollars for 144  
each additional cask designated for transport by rail that is 145  
shipped by the same person or entity in the same shipment. 146

(2) For each shipment originating outside this state: 147

(a) Three thousand five hundred dollars for each cask 148  
designated for transport by motor carrier; 149

(b) Five thousand five hundred dollars for the first cask 150  
designated for transport by rail and four thousand dollars for 151  
each additional cask designated for transport by rail that is 152  
shipped by the same person or entity in the same shipment. 153

(B) This section does not apply to any shipment of high-level 154  
radioactive waste, spent nuclear fuel, transuranic waste, or any 155  
quantity of special nuclear material that meets or exceeds the 156  
highway route controlled quantity by or for the United States 157  
government for military or national defense purposes. This section 158  
applies to all other shipments of high-level radioactive waste, 159  
spent nuclear fuel, transuranic waste, or any quantity of special 160  
nuclear material that meets or exceeds the highway route 161  
controlled quantity by or for the United States government, to the 162  
extent permitted by federal law. 163

(C) Whoever violates division (A) of this section is liable 164  
for a civil penalty in an amount not to exceed ten times the 165  
amount of the fee due under this section. The attorney general, 166  
upon the request of the director of public safety, shall bring a 167  
civil action to collect the penalty. Fines collected pursuant to 168  
this section shall be deposited into the state treasury to the 169  
credit of the radiation response fund. 170

Sec. 4163.09. (A)(1) The department of public safety shall 171  
deposit all fees collected under section 4163.08 of the Revised 172  
Code in the radiation response fund, which is hereby created in 173  
the state treasury. All investment earnings of the fund shall be 174  
credited to it. 175

(2) Money in the radiation response fund shall be used only 176  
for the following purposes, as determined by the director of 177  
public safety: 178

(a) State and local expenses related to the shipment of 179  
high-level radioactive waste, spent nuclear fuel, transuranic 180  
waste, or any quantity of special nuclear material that meets or 181  
exceeds the highway route controlled quantity in this state, 182  
including inspections, escorts, security, emergency management 183  
services, and accident response; 184

(b) Planning, coordination, education, and training of 185  
emergency response providers, law enforcement agencies, and other 186  
appropriate state or local entities; 187

(c) Purchase and maintenance of monitoring, medical, safety, 188  
or emergency response equipment and supplies; 189

(d) Administrative costs of the department and other state or 190  
local entities related to the shipping of high-level radioactive 191  
waste, spent nuclear fuel, transuranic waste, or any quantity of 192  
special nuclear material that meets or exceeds the highway route 193  
controlled quantity; 194

(e) Other similar expenses determined by the director to be 195  
appropriate. 196

(B)(1) The director may adopt rules as necessary to implement 197  
sections 4163.08 and 4163.09 of the Revised Code. 198

(2) In administering section 4163.08 of the Revised Code, the 199  
director shall work with any department or agency of federal, 200

state, or local government that also regulates the shipment of 201  
high-level radioactive waste, spent nuclear fuel, transuranic 202  
waste, or any quantity of special nuclear material that meets or 203  
exceeds the highway route controlled quantity. 204

(3) Subject to division (C) of section 4163.07 of the Revised 205  
Code, the department, consistent with national security 206  
requirements, may notify any law enforcement agency or other state 207  
or local entity affected by the shipment, as the director 208  
considers necessary for public safety. 209

(4) Beginning December 31, 2008, and every two years 210  
thereafter, the director shall prepare and submit to both houses 211  
of the general assembly a report on the radiation response fund. 212  
The report shall include information on the fees received and 213  
expenditures made from the fund. 214

**Section 2.** That existing sections 4163.01 and 4163.07 of the 215  
Revised Code are hereby repealed. 216