



Eric Vendel

*Bill Analysis*  
*Legislative Service Commission*

## **H.B. 490**

125th General Assembly  
(As Introduced)

**Reps. Skindell, D. Stewart, Cirelli, Fessler, Miller, Brown, Barrett, Harwood, S. Smith, Key, Domenick, S. Patton, Perry, Chandler, Ujvagi, Carano, Jerse**

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### **BILL SUMMARY**

- Requires a person shipping certain radioactive material within, into, or through Ohio by motor carrier or rail to pay a fee to the Department of Public Safety at least four days prior to the date of the shipment.
- Creates the Radiation Response Fund for the deposit of shipment fees, and establishes the purposes for which money in the Fund must be used.
- Revises the requirements governing the notice that must be provided to the Executive Director of the Emergency Management Agency prior to the shipment of certain radioactive material within, into, or through Ohio.

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### **CONTENT AND OPERATION**

#### **Fees for shipment of certain radioactive material within, into, or through Ohio**

The bill prohibits a person from transporting high-level radioactive waste, spent nuclear fuel, transuranic waste, or any quantity of special nuclear material that meets or exceeds the highway route controlled quantity within, into, or through Ohio by rail or motor carrier unless the person, at least four days prior to the date of shipment, pays the Department the fees shown in the table below for each shipment that meets or exceeds the highway route controlled quantity, as applicable (sec. 4163.08(A)).<sup>1</sup> Under the bill, "high-level radioactive waste" means any of the following:

- (1) Irradiated reactor fuel;

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<sup>1</sup> The bill refers only to "the Department." Presumably, the Department of Public Safety is intended.

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

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

(4) Any other highly radioactive waste material that the United States Nuclear Regulatory Commission or the United States Department of Energy determines by law requires permanent isolation; or

(5) Any by-product material (sec. 4163.01(H)).

In addition, "spent nuclear fuel" is defined as fuel that has been withdrawn from a nuclear reactor following irradiation, the constituent elements of which have not been separated by reprocessing (sec. 4163.01(I)). The bill also defines "transuranic waste" as material containing 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 United States Nuclear Regulatory Commission may prescribe (sec. 4163.01(J)). Current law defines "special nuclear material" as plutonium or uranium enriched in the isotope 233 or in the isotope 235 or any other material that the Governor declares by order to be special nuclear material (sec. 4163.01(D)). Finally, the bill states that "highway route controlled quantity" has the same meaning as in applicable federal regulations (sec. 4163.01(G)).

**Table: Fees for shipment of certain radioactive material**

<b>Origin of shipment</b>	<b>Fee for each cask designated for transport by motor carrier<sup>2</sup></b>	<b>Fee for each cask designated for transport by rail<sup>3</sup></b>
<b>Within Ohio</b>	\$2,500	\$4,500 for the first cask and \$3,000 for each additional cask shipped by the same person or entity in the same shipment
<b>Outside Ohio</b>	\$3,500	\$5,500 for the first cask and \$4,000 for each additional cask shipped by the same person or entity in the same shipment

<sup>2</sup> R.C. 4163.08(A)(1)(a) and (2)(a).

<sup>3</sup> R.C. 4163.08(A)(1)(b) and (2)(b).

However, the above fees do not apply to any shipment of high-level radioactive waste, spent nuclear fuel, transuranic waste, or any quantity of special nuclear material that meets or exceeds the highway route controlled quantity by or for the United States government for military or national defense purposes. The bill specifically states that the fees apply to all other shipments of high-level radioactive waste, spent nuclear fuel, transuranic waste, or any quantity of special nuclear material that meets or exceeds the highway route controlled quantity by or for the United States government, to the extent permitted by federal law. (Sec. 4163.08(B).)

The bill requires the Director of Public Safety, in administering the bill's fee provisions, to work with any department or agency of federal, state, or local government that also regulates the shipment of high-level radioactive waste, spent nuclear fuel, transuranic waste, or any quantity of special nuclear material that meets or exceeds the highway route controlled quantity (sec. 4163.09(B)(2)).

### **Radiation Response Fund**

The bill requires the Department of Public Safety to deposit all fees collected under the bill in the Radiation Response Fund, which the bill creates in the state treasury. All investment earnings of the Fund must be credited to it. (Sec. 4163.09(A)(1).)

Money in the Fund can be used only for the following purposes, as determined by the Director:

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

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

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

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

(5) Other similar expenses determined by the Director to be appropriate (sec. 4163.09(A)(2)).

The bill authorizes the Director to adopt rules as necessary to implement the bill's provisions governing shipment fees and the Fund (sec. 4163.09(B)(1)).

**Notification requirements prior to shipping certain radioactive material**

Current law requires the carrier or shipper of any large quantity of special nuclear material or by-product material, prior to transporting the material into or through Ohio, to notify the Executive Director of the Emergency Management Agency of the shipment. Existing law defines "large quantity" to have the same meaning as in applicable federal regulations and defines "by-product material" as any radioactive material (except special nuclear material) yielded in, or made radioactive by exposure to the radiation incident to, the process of producing or utilizing special nuclear materials.

The bill instead requires a carrier or shipper, prior to transporting any high-level radioactive waste, spent nuclear fuel, transuranic waste, or any quantity of special nuclear material that meets or exceeds the highway route controlled quantity within, into, or through the state, to notify the Executive Director of the Emergency Management Agency of the shipment (sec. 4163.07(A)(1)). It eliminates the definition of "large quantity" and revises the definition of "by-product material" by stating that the term has the same meaning as in the Atomic Energy Act (sec. 4163.01(B) and (G)).

Current law requires the notice to be in writing and be sent by certified mail and to include the name of the shipper; the name of the carrier; the type and quantity of the special nuclear material or by-product material; the transportation mode of the shipment; the proposed date and time of shipment of the material into or through the state; and the starting point, termination or exit point, scheduled route, and each alternate route, if any, of the shipment. The bill generally retains the requirements governing the content of the notice with two changes. First, it eliminates the specific references to special nuclear material and by-product material in the notice provision indicating the type and quantity of the material to be shipped, thus requiring notice of only the type and quantity of material to be shipped. The bill also requires the proposed date and time of shipment of material within the state to be included in the notice. (Sec. 4163.07(A)(1).)

Under existing law, in order to constitute effective notification, the notice must be received by the Executive Director at least 48 hours prior to entry of the shipment into the state. The bill revises this requirement by requiring the notice to be received by the Executive Director at least four days prior to shipment within, into, or through the state. (Sec. 4163.07(A)(1).)

Currently, upon receipt of a notice of any shipment of a large quantity of special nuclear material or by-product material into or through Ohio, the Executive Director must immediately notify the Director of Public Safety, the Director of

Environmental Protection, the chairperson of the Public Utilities Commission, and the sheriff of each county along the proposed route, or any alternate route, of the shipment. The bill instead states that upon receipt of a notice of any shipment of material that is subject to the bill, the Executive Director must notify the designated officials. It also applies the requirement to shipments within the state in addition to shipments into or through the state. (Sec. 4163.07(B).)

Current law precludes the Executive Director from disclosing to any person other than the designated officials identified above any information pertaining to any shipment of special nuclear material or by-product material prior to the time that the shipment is completed (sec. 4163.07(C)). The bill authorizes the Department of Public Safety, subject to this preclusion and consistent with national security requirements, to notify any law enforcement agency or other state or local entity affected by the shipment as the Director of Public Safety considers necessary for public safety (sec. 4163.09(B)(3)).

Under current law, the carrier or shipper of any shipment that is subject to the notice requirements must immediately notify the Executive Director of any change in the date and time of the shipment or in the route of the shipment into or through the state. The bill also applies this requirement to shipments within the state (sec. 4163.07(A)(2)).

Existing law states that the notice requirements do not apply to radioactive materials, other than by-products, shipped by or for the United States Department of Defense and the United States Department of Energy. The bill revises the exemption by adding that shipments by the Departments of Defense and Energy must be for military or national defense purposes. (Sec. 4163.07(D).)

Finally, current law prohibits a person from transporting or causing to be transported into or through the state any large quantity of special or by-product material without first providing the notice described above. The bill revises the prohibition by eliminating the reference to any large quantity of special or by-product and instead prohibiting a person from transporting or causing to be transported into or through the state any material that is subject to the bill without first providing the required notice. (Sec. 4163.07(E).)

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## HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	05-11-04	pp. 1874-1875

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