

As Engrossed: 2/15/91 2/15/91

1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**
4 **By: Representative Gibson**
5 *Representatives Watts, Mitchum, Dowd*

A BILL ACT 750 OF 1991
HOUSE BILL 1171

For An Act To Be Entitled

8 "AN ACT TO AMEND TITLE 8, CHAPTER 6 OF THE ARKANSAS CODE
9 OF 1987, ANNOTATED; TO CONSERVE AND PROTECT THE WATER AND
10 AIR AND PROTECT THE PUBLIC HEALTH OF THE STATE; TO PROVIDE
11 FOR THE CLASSIFYING OF PUBLIC AND PRIVATE SANITARY
12 LANDFILLS; TO REQUIRE THE EXAMINATION OF OPERATORS AND
13 CERTIFICATION OF THEIR COMPETENCY TO SUPERVISE THE
14 OPERATION OF SUCH FACILITIES; TO PRESCRIBE THE POWERS AND
15 DUTIES OF THE ARKANSAS POLLUTION CONTROL AND ECOLOGY
16 COMMISSION IN THESE MATTERS; TO CREATE A LICENSING
17 COMMITTEE; TO PRESCRIBE PENALTIES FOR VIOLATIONS OF THE
18 ACT; AND FOR OTHER PURPOSES."

19
20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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22 SECTION 1. Arkansas Code Title 8, Chapter 6 is amended to add the
23 following new subchapter:

24
25 "SUBCHAPTER 9.

26
27 8-6-901. As used in this subchapter, unless the context otherwise
28 requires:

29 (1) 'Commission' means the Arkansas Pollution Control and Ecology
30 Commission;

31 (2) 'Department' means the Arkansas Department of Pollution Control
32 and Ecology;

33 (3) 'Director' means the director of the Arkansas Department of
34 Pollution Control and Ecology;

35 (4) 'Licensing committee' means the committee of sanitary landfill
36 operators or technicians hereinafter established to assist and advise the

1 Arkansas Pollution Control and Ecology Commission and the Arkansas Department
2 of Pollution Control and Ecology in the examining and licensing of operators;

3 (5) 'License' means a certificate of competency issued by the director
4 to sanitary landfill operators who have met the requirements of the licensing
5 program;

6 (6) 'Sanitary landfill' means any place for which a permit for
7 disposal of solid waste on land is required under the provisions of this
8 chapter;

9 (7) 'Operator' means any person who is in responsible charge of the
10 operation of a sanitary landfill, in whole or in part, and who, during the
11 performance of his regular duties, exercises individual judgment which
12 directly or indirectly may affect the proper operation of the sanitary
13 landfill. 'Operator' shall not be deemed to include an official solely
14 exercising general administrative supervision.

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16 8-6-902. Penalties and Procedure.

17 (a) Any person who violates any provision of this subchapter, or of any
18 rule, regulation or order issued pursuant thereto, shall be subject to the
19 same penalty and enforcement provisions as are contained in the Arkansas Solid
20 Waste Management Act at § 8-6-204, as amended.

21 (b) Except as otherwise provided in this subchapter, the procedure of
22 the commission for issuance of rules and regulations, conduct of hearings,
23 notice, power of subpoena, review of action on permits, right of appeal,
24 presumptions, finality of actions, and related matters shall be as provided in
25 §§ 8-4-101 -- 8-4-106 and 8-4-201 -- 8-4-229 of the Arkansas Water and Air
26 Pollution Control Act, as amended, including without limitation §§ 8-4-205,
27 8-4-210, 8-4-212 -- 8-4-214, and 8-4-218 -- 8-4-229.

28 (c) *All rules and regulations adopted under this subchapter shall be*
29 *reviewed by the Joint Interim Committee on Public Health, Welfare and Labor or*
30 *an appropriate subcommittee of the committee.*

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32 8-6-903. It shall be unlawful for any county, municipality,
33 governmental subdivision, public or private corporation, or other person to
34 operate a sanitary landfill unless the competency of the operator is duly
35 licensed by the director under the provisions of this subchapter. It shall

1 further be unlawful for any person to perform the duties of an operator of any
2 such sanitary landfill without being duly licensed under this subchapter.

3

4 8-6-904. (a) There is created and established a licensing committee to
5 advise and assist the commission and the department in the administration of
6 the licensing program, which shall be composed of seven (7) members:

7 (1) Three (3) members, to be appointed by the commission, shall
8 be sanitary landfill operators licensed by the commission. The operators
9 initially appointed to the licensing committee shall hold valid certificates
10 under the existing voluntary certification program;

11 (2) One (1) member, to be appointed by the commission, shall be
12 an employee of a county operating a sanitary landfill who holds the position
13 of landfill on-site operator or supervisor;

14 (3) One (1) member, to be appointed by the commission, shall be
15 an employee of a municipality operating a sanitary landfill who holds the
16 position of landfill on-site operator or supervisor;

17 (4) One (1) member, to be appointed by the commission and to
18 serve ex officio with no vote, shall be a faculty member of, or other
19 qualified person associated with, an accredited college, university, or
20 professional school in the state whose major field is related to environmental
21 education;

22 (5) One (1) member, to be appointed by the director, shall be a
23 qualified member of his staff, who shall serve ex officio with no vote as
24 executive secretary of the licensing committee.

25 (b) (1) The committee members who do not serve ex officio shall serve
26 staggered five (5) year terms and until their successor has been appointed,
27 except the initial terms for these members shall be as follows: one (1) member
28 shall serve for three (3) years, two (2) members for four (4) years, and two
29 (2) members for five (5) years. The expiration for the terms of these initial
30 members shall be decided by lot at the first meeting of the committee. In the
31 event of a vacancy, a new member shall be appointed by the commission to serve
32 out the unexpired term.

33

34 (2) No voting member shall serve more than two (2) consecutive
35 five (5) year terms.

1 (c) The committee shall select a member to serve as chairman each year
2 and shall meet as necessary to carry out its duties under this subchapter and
3 at the call of the chair.

4 (d)(1) State agency members of the licensing committee shall receive no
5 additional salary or per diem for their services as members of the committee,
6 but they shall be allowed their travel and maintenance expenses while
7 attending meetings away from Little Rock.

8 (2) The members appointed by the commission shall be allowed
9 twenty-five dollars (\$25.00) per day, plus their travel and maintenance
10 expenses while attending meetings.

11 (e) No member of the committee shall participate in any licensing
12 decision involving the firm or organization by which that member is employed
13 or in which that member has a direct or indirect financial interest.

14
15 8-6-905. (a) The commission, with the advice and assistance of the
16 licensing committee, is given and charged with the power and duty to adopt
17 rules and regulations implementing and effectuating such powers and duties of
18 the department under this subchapter as may be necessary for the
19 administration and enforcement thereof.

20 (b) The department is charged with the responsibility of administering
21 and enforcing this subchapter, with the advice and assistance of the licensing
22 committee, and is given and charged with the following powers and duties:

23 (1) To conduct examinations for licensing, which shall be held at
24 least annually and more frequently as the commission shall deem necessary;

25 (2) To issue licenses to qualified sanitary landfill operators, to
26 renew these licenses, and to suspend or revoke the licenses for cause, after
27 due notice and opportunity for hearing;

28 (3) To institute court proceedings to compel compliance with the
29 provisions of this subchapter and rules and regulations issued pursuant
30 thereto.

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32 8-6-906. (a) The commission shall classify sanitary landfills, taking
33 into account the size, type, and complexity of the sanitary landfill; the
34 character and volume of waste managed; the population served; the skill,
35 knowledge, and experience reasonably required to supervise the proper

1 operation of the sanitary landfill; and such other factors as the commission
2 shall deem appropriate.

3 (b) The director, with the advice and assistance of the licensing
4 committee, shall license persons according to their qualifications to
5 supervise successfully the proper operation of sanitary landfills within the
6 classifications established by the commission.

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8 8-6-907. In order to safeguard the public health and protect the
9 state's environment, all operators in responsible charge of public and private
10 sanitary landfills shall be duly licensed and certified as competent by the
11 director under the provisions of this subchapter and under such rules and
12 regulations as the commission may adopt, with the advice and assistance of the
13 licensing committee, pursuant to the authority of this subchapter.

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15 8-6-908. (a) The director shall license and certify all applicants for
16 licenses under this subchapter who satisfy the requirements of the subchapter
17 and the rules and regulations issued pursuant thereto. Licenses shall be
18 granted according to the classification of sanitary landfills established
19 under this subchapter. Licenses shall be valid for a period of one (1) year
20 and shall be renewable upon application if the applicant meets the renewal
21 requirements established by commission regulation.

22 (b) All operators of sanitary landfills within the state shall apply to
23 the department for a license. The director may, at his discretion, without
24 examination, issue appropriate licenses to all holders of certificates of
25 competency heretofore issued under the voluntary licensing program of this
26 state. Those applicants who do not hold voluntary certificates of competency
27 may, without examination, be granted limited operator's licenses valid only
28 for the facility where then employed for a period of one (1) year after the
29 effective date of this subchapter.

30 (c) The director may, at his discretion, waive the requirements, or any
31 part of the requirements, for formal examination of an applicant for license
32 if the applicant holds a valid license or certificate from another state in
33 which the requirements for license in the appropriate classification are at
34 least equal to the requirements set forth in this subchapter and the rules and
35 regulations issued pursuant thereto.

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8-6-909. (a) The commission shall have the authority to set fees in an amount to cover the cost of the administration of this subchapter. These fees shall not exceed twenty-five dollars (\$25.00) for examination, ten dollars (\$10.00) for licensing, and ten dollars (\$10.00) for annual renewal of licenses.

(b) All of the fees shall be deposited in the Arkansas Department of Pollution Control and Ecology Fee Fund, as established in § 8-1-105."

SECTION 2. All provisions of this Act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 3. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

SECTION 4. All laws or parts of laws in conflict with this Act are hereby repealed.

/s/B. Gibson, et al

APPROVED: 3-26-91