

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

Act 1166 of the Regular Session

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005
4

As Engrossed: S3/1/05 S3/3/05

A Bill

SENATE BILL 599

5 By: Senators Womack, *J. Taylor*
6 By: Representatives Key, *Burriss, Glidewell, Petrus*
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For An Act To Be Entitled

9
10 AN ACT TO AMEND THE ARKANSAS HAZARDOUS WASTE
11 MANAGEMENT ACT *OF 1979* TO CLARIFY THAT THE
12 ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY HAS
13 AUTHORITY TO REQUIRE CORRECTIVE ACTION AT
14 PERMITTED AND INTERIM STATUS FACILITIES; AND FOR
15 OTHER PURPOSES.
16

Subtitle

17
18 TO AMEND THE ARKANSAS HAZARDOUS WASTE
19 MANAGEMENT ACT *OF 1979* TO CLARIFY THAT
20 THE ARKANSAS DEPARTMENT OF ENVIRONMENTAL
21 QUALITY HAS AUTHORITY TO REQUIRE
22 CORRECTIVE ACTION AT PERMITTED AND
23 INTERIM STATUS FACILITIES.
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26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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28 *SECTION 1. Arkansas Code Title 8, Chapter 7, Subchapter 2 is amended*
29 *to add an additional section to read as follows:*

30 8-7-227. Corrective action at permitted facilities and interim status
31 facilities.

32 (a)(1) Any permit issued under this subchapter for any hazardous waste
33 treatment, storage, or disposal facility shall require corrective action for
34 all releases of hazardous waste or constituents from any solid waste
35 management unit at the treatment, storage, or disposal facility seeking the



1 permit under this subchapter, regardless of the time at which waste was
2 placed in the unit.

3 (2) The corrective action component of the permit shall contain
4 schedules of compliance for the corrective action when the corrective action
5 cannot be completed prior to issuance of the permit and assurances of
6 financial responsibility for completing the corrective action.

7 (3) The corrective action component of the permit shall also
8 require that corrective action be taken beyond the facility boundary when
9 necessary to protect human health and the environment unless the owner or
10 operator of the facility concerned demonstrates to the satisfaction of the
11 Director of the Arkansas Department of Environmental Quality that, despite
12 the owner or operator's best efforts, the owner or operator was unable to
13 obtain the necessary permission to undertake the action.

14 (b)(1) Whenever the director determines that there is or has been a
15 release of hazardous waste into the environment from a facility authorized to
16 operate under interim operating authority pursuant to this subchapter, the
17 director may:

18 (A) Issue an order requiring corrective action or such
19 other response measure as the director deems necessary to protect human
20 health or the environment; or

21 (B) Commence a civil action in the circuit court in the
22 county in which the facility is located for appropriate relief, including a
23 temporary or permanent injunction.

24 (2)(A) Any order issued under this subsection:

25 (i) Shall state with reasonable specificity the
26 nature of the required corrective action or other response measure;

27 (ii) Shall specify a time for compliance; and

28 (iii) May include a suspension or revocation of the
29 interim authority to operate under this subchapter.

30 (B) If any person named in an order issued under this
31 section fails to comply with the order, the director may assess a civil
32 penalty in an amount not to exceed twenty-five thousand dollars (\$25,000) for
33 each day of noncompliance with the order.

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35 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the
36 General Assembly of the State of Arkansas that a decision of the Arkansas

1 Supreme Court has called into question the authority of the Arkansas
 2 Department of Environmental Quality to enforce provisions of hazardous waste
 3 management permits; that this authority is necessary for the department to
 4 receive delegation from the United States Environmental Protection Agency to
 5 administer the federal hazardous waste management permit program; and that
 6 this act is immediately necessary to allow the State of Arkansas to continue
 7 to administer the federal hazardous waste management permit program, to
 8 continue to receive federal grants, and to prevent the State of Arkansas from
 9 losing approximately one million dollars (\$1,000,000) in federal grant money.
 10 Therefore, an emergency is declared to exist and this act being immediately
 11 necessary for the preservation of the public peace, health, and safety shall
 12 become effective on:

- 13 (1) The date of its approval by the Governor;
 14 (2) If the bill is neither approved nor vetoed by the Governor,
 15 the expiration of the period of time during which the Governor may veto the
 16 bill; or
 17 (3) If the bill is vetoed by the Governor and the veto is
 18 overridden, the date the last house overrides the veto.

/s/ Womack

APPROVED: 3/22/2005

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