

As Engrossed: 1/23/91, 3/18/91

1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**

A BILL ACT 769 OF 1991
SENATE BILL 81

4 **By: Committee on Public Transportation**

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For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE 27-2-103 TO REQUIRE THAT
9 PERSONS DIRECTLY ENGAGED IN THE APPLICATION OF PESTICIDES
10 OR RODENTICIDES ON BEHALF OF RESIDENTIAL, COMMERCIAL,
11 INDUSTRIAL, AND AGRICULTURAL CUSTOMERS UNDER A LICENSE FOR
12 SUCH ACTIVITY ISSUED BY THE STATE PLANT BOARD, WHICH ARE
13 CURRENTLY EXEMPT FROM REGULATION BY THE 'HAZARDOUS
14 MATERIALS TRANSPORTATION ACT OF 1977,' BE EXEMPTED ONLY IF
15 SUCH ACTIVITY IS LIMITED TO INTRASTATE TRANSPORTATION SO
16 THAT ARKANSAS LAWS ARE COMPATIBLE WITH FEDERAL MOTOR
17 CARRIER SAFETY REGULATIONS, THUS INSURING THE CONTINUED
18 RECEIPT OF FEDERAL FUNDS WHICH ARE ESSENTIAL TO ARKANSAS
19 HIGHWAY SAFETY PROGRAMS; AND FOR OTHER PURPOSES."

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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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23 SECTION 1. Arkansas Code 27-2-103 is hereby amended to read as follows:

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25 "27-2-103. Prohibited acts - Exceptions.

26 (a) It shall be unlawful for any person to knowingly:

27 (1) Transport, or cause to be transported, within this state
28 hazardous material in an immediate container which does not bear a label which
29 provides an adequate warning;

30 (2) Transport, or cause to be transported, within this state
31 hazardous material in an immediate container without carrying adequate
32 emergency equipment;

33 (3) Transport, or cause to be transported, within this state a
34 hazardous material in a container other than an adequate immediate container;

35 (4) Fail to utilize adequate emergency equipment promptly and
36 properly, to the extent possible without serious risk of personal injury, to

1 deal with the escape of a hazardous material from its immediate container when
2 the person is the operator of the transporting equipment;

3 (5) Fail to notify the Arkansas State Police, as promptly as
4 reasonably possible, of the escape of a hazardous material from its immediate
5 container when the person is the carrier or is the operator of the
6 transporting equipment;

7 (6) *Violate any regulation promulgated by the Arkansas State*
8 *Highway Commission pursuant to this chapter.*

9 (b) The provisions of subdivisions (a) (1), (a) (2), (a) (3), and (a) (4)
10 shall not apply to persons while operating farm vehicles with less than ten
11 thousand pounds (10,000 lbs.) gross vehicle weight where such vehicles are
12 used in the distribution or application of hazardous materials in immediate
13 intrastate farming operations.

14 (c) The provisions of subdivision (a) (5) shall not apply to persons
15 while operating farm vehicles of whatever size upon agricultural land owned,
16 leased, or rented by the person or their employers.

17 (d) The provisions of subsection (a) shall not apply to persons
18 directly engaged in the application of pesticides or rodenticides on behalf of
19 residential, commercial, industrial, and agricultural customers under a
20 license for such activity issued by the State Plant Board, provided, such
21 activity is limited to the transportation of such pesticides or rodenticides
22 by a wholly intrastate carrier."

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24 SECTION 2. If any provision of this act or the application thereof to
25 any person or circumstance is held invalid, such invalidity shall not affect
26 other provisions or applications of the act which can be given effect without
27 the invalid provision or application, and to this end the provisions of this
28 act are declared to be severable.

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30 SECTION 3. All provisions of this act of a general and permanent nature
31 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
32 Revision Commission shall incorporate the same in the Code.

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34 SECTION 4. All laws and parts of laws in conflict with this act are
35 hereby repealed.

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SECTION 5. Emergency. It is hereby found and determined by the Seventy-Eighth General Assembly of the State of Arkansas that Arkansas Code 27-2-103 is incompatible with Federal Motor Carrier Safety Regulations; that unless Arkansas Code 27-2-103 is amended, the federal funds received by the State for highway safety programs of this State will be in jeopardy; that such federal funds are essential to the highway safety programs of this State, in particular federal funds received by the State under the Motor Carrier Safety Assistance Program (MCSAP) which funds are utilized in assisting the monitoring and enforcement of the safety of trucks on this State's highways, roads, and streets; and that in the event of an extension of the Regular Session, the delay in the effective date of this act beyond July 1, 1991, could work irreparable harm upon the proper administration and provision of this essential highway safety program. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall be in full force and effect from and after July 1, 1991.

/s/Walters

APPROVED: 3/26/91