

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.

1 State of Arkansas
2 84th General Assembly
3 Regular Session, 2003
4

As Engrossed: H2/3/03
A Bill

Act 133 of 2003
HOUSE BILL 1183

5 By: Representatives Jacobs, Verkamp
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For An Act To Be Entitled

9 AN ACT TO AMEND ARKANSAS CODE § 8-4-103 TO
10 REQUIRE NOTIFICATION OF MUNICIPAL GOVERNMENTS
11 REGARDING CERTAIN ENVIRONMENTAL VIOLATIONS
12 OCCURRING WITHIN THE CORPORATE LIMITS AND CIVIL
13 PENALTIES BEING IMPOSED; AND FOR OTHER PURPOSES.
14

Subtitle

15 TO REQUIRE NOTIFICATION OF MUNICIPAL
16 GOVERNMENTS REGARDING ENVIRONMENTAL
17 VIOLATIONS OCCURRING WITHIN THE CITIES.
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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 § 8-4-103(d), concerning criminal and civil
24 penalties for violations of the Arkansas Water and Air Pollution Control Act,
25 is amended to read as follows:

26 (d)(1)(A) Before assessing a civil penalty under subsection (c) of
27 this section, the Director of the Arkansas Department of Environmental
28 Quality shall provide public notice of and a reasonable opportunity to
29 comment on the proposed issuance of such order.

30 (B) If the civil penalty is being assessed under an order
31 on consent, the order shall not be effective until thirty (30) days after the
32 publication of notice of such order.

33 (C) Notice shall also be given to each member of the
34 commission.

35 (D) If a civil penalty is being assessed for a violation
36 that occurs within the corporate limits of any municipality in Arkansas, a



1 copy of the public notice shall be delivered to the chief executive officer
2 of the municipality in which the alleged violation occurred along with a copy
3 of any proposed order concerning the violation, and the municipality shall be
4 given a reasonable opportunity to comment on the proposed order consistent
5 with the public notice and comment requirements of the Arkansas Water and Air
6 Pollution Control Act and regulations promulgated thereunder.

7 (2) Notice of any administrative enforcement order shall contain
8 the following:

9 (A) The identity of the person or facility alleged to be
10 in violation;

11 (B) The location by city or county of the alleged
12 violation;

13 (C) A brief description by environmental media, i.e.,
14 water, air, solid waste, hazardous waste, impacted by the alleged violation;

15 (D) The type of administrative action proposed, i.e.,
16 consent order, notice of violation, emergency order; and

17 (E) The amount of penalty to be assessed.

18 (3)(A) Any person who comments on a proposed assessment of a
19 penalty under this subsection shall be given notice of any hearing held under
20 this subsection.

21 (B) In any hearing held under this subsection, such person
22 shall have a right to intervene upon timely application.

23 (4)(A)(i) If no adjudicatory hearing is held on a proposed
24 order, any person who commented on the proposed order may petition the
25 commission to set aside the order and provide an adjudicatory hearing.

26 (ii) A petition to set aside such an order must be
27 filed with the commission within thirty (30) days of service of the order.

28 (B) If the evidence presented by the petitioner is
29 material and was not considered in the issuance of the order and the
30 commission finds in light of the new evidence that the order is not
31 reasonable and appropriate, it may set aside such order and provide a
32 hearing.

33 (C) If the commission denies a hearing under this
34 subdivision, it shall provide to the petitioner notice of and its reasons for
35 such denial. The denial of such a hearing may be appealed pursuant to § 8-4-
36 222.

