

1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**
4 **By: Representative Gibson**
5 *Representatives Watts, Mitchum, Dowd*
6

A Bill

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:

21

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

1 operators or technicians hereinafter established to assist and advise the
2 Arkansas Pollution Control and Ecology Commission and the Arkansas Department
3 of Pollution Control and Ecology in the examining and licensing of operators;

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

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

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

16

17 8-6-902. Penalties and Procedure.

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

22 (b) Except as otherwise provided in this subchapter, the procedure of
23 the commission for issuance of rules and regulations, conduct of hearings,
24 notice, power of subpoena, review of action on permits, right of appeal,
25 presumptions, finality of actions, and related matters shall be as provided in
26 §§ 8-4-101 -- 8-4-106 and 8-4-201 -- 8-4-229 of the Arkansas Water and Air
27 Pollution Control Act, as amended, including without limitation §§ 8-4-205,
28 8-4-210, 8-4-212 -- 8-4-214, and 8-4-218 -- 8-4-229.

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

32

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

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

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

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

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

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

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

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

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

34
35 (2) No voting member shall serve more than two (2) consecutive

1 five (5) year terms.

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

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

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

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

15

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

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

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

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

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

32

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

1 knowledge, and experience reasonably required to supervise the proper
2 operation of the sanitary landfill; and such other factors as the commission
3 shall deem appropriate.

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

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

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

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

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

1 regulations issued pursuant thereto.

2

3 8-6-909. (a) The commission shall have the authority to set fees in an
4 amount to cover the cost of the administration of this subchapter. These fees
5 shall not exceed twenty-five dollars (\$25.00) for examination, ten dollars
6 (\$10.00) for licensing, and ten dollars (\$10.00) for annual renewal of
7 licenses.

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

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

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

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

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24 */s/B. Gibson, et al*

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