

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**
4 **By: Senator Snyder**

A Bill

SENATE BILL 578

For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE §§ 8-1-103, 8-1-105, 8-7-
9 226, AND 8-9-404 TO ALLOW FOR CHANGES IN THE FEE
10 STRUCTURES OF THE DEPARTMENT OF POLLUTION CONTROL AND
11 ECOLOGY; AND FOR OTHER PURPOSES."

Subtitle

14 "TO ALLOW FOR CHANGES IN THE FEE STRUCTURES OF THE
15 DEPARTMENT OF POLLUTION CONTROL AND ECOLOGY."

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

19 SECTION 1. Arkansas Code 8-1-103 is amended to read as follows:

20 "8-1-103. Powers and duties.

21 The department and commission shall have the following powers and
22 duties, respectively:

23 (1) Following a public hearing and based upon a record calculating the
24 reasonable administrative costs of evaluating and taking action on permit
25 applications and of implementing and enforcing the terms and conditions of
26 permits and variances, the commission shall establish, by regulation,
27 reasonable fees for initial issuance, annual review, and modification of
28 water, air, or solid waste permits required by §§ 8-4-101 - 8-4-106, 8-4-201 -
29 8-4-229, 8-4-301 - 8-4-313, and 8-6-201 - 8-6-217. These fees shall consist of
30 initial fees, annual review fees, and modification fees, as defined in §
31 8-1-102. *All fees will be capped at no more than the appropriation. Provided*
32 *however, in setting reasonable permit fees, the Commission shall not set water*
33 *permit fees calculated to generate revenues in any fiscal year that exceed*
34 *3.25 times the total amount collected from water permit fees in fiscal year*
35 *1992-93, nor set fees for solid waste permit fees calculated to generate*

1 revenues in any fiscal year that exceed 4.25 times the total amount collected
2 from solid waste permit fees in fiscal year 1992-93. Should the amount of
3 permit fees levied on and/or received from permit holders exceed the amounts
4 specified above in a fiscal year, the over-collections may be retained by the
5 department to be used to reduce permit fees in subsequent years by relative
6 amounts. With the exception of major underground injection control wells,
7 fees for no-discharge state permits will be capped at five hundred dollars
8 (\$500).

9 (2) (A) The regulations shall provide that the fees shall be assessed on
10 a per-facility basis for the following categories of permits:

- 11 (i) Air;
- 12 (ii) Water; and
- 13 (iii) Solid waste.

14 (B) All annual fees for air permits issued under the state
15 implementation plan or the regulations promulgated pursuant to the Federal
16 Clean Air Act shall be assessed in accordance with the Federal Clean Air Act.

17 (C) The regulations may include a provision for appropriate
18 adjustments in the fees to reflect carryover fee collections in excess of the
19 administrative costs of issuance, renewal, inspection, modification, and
20 monitoring associated with these permits.

21 (3) The department shall collect the permit fees as established by the
22 commission and shall deny the issuance of an initial permit, a renewal permit,
23 or a modification permit if and when any facility subject to control by the
24 department fails or refuses to pay the fees after reasonable notice as
25 established by the regulations promulgated under this chapter.

26 (4) The department shall require that any fee defined in this chapter
27 shall be paid prior to the issuance of any permit."

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29 SECTION 2. Arkansas Code 8-1-105 is amended to read as follows:

30 "8-1-105. Fee fund.

31 (a) An Arkansas Department of Pollution Control and Ecology Fee Fund is
32 established on the books of the State Treasurer, State Auditor, and Chief
33 Fiscal Officer.

34 (b) All fees collected under the provisions of all laws administered by
35 the department shall be deposited in this fund, unless otherwise provided by

1 law. The department shall use these funds to defray the costs of operating the
2 department."

3

4 SECTION 3. Arkansas Code 8-7-226 is amended to read as follows:

5 "8-7-226. Fees.

6 (a) The department shall have authority to establish by regulation a
7 schedule of fees to recover the costs of processing permit applications and
8 permit renewal proceedings, on-site inspections and monitoring, the
9 certification of personnel to operate hazardous waste treatment, storage, or
10 disposal facilities, and other activities of department personnel which are
11 reasonably necessary to assure that generators and transporters of hazardous
12 waste and hazardous waste management facilities are complying with the
13 provisions of this subchapter, and which reasonably should be borne by the
14 transporter, generator, or owner or operator of the hazardous waste management
15 facility.

16 (b) All fees collected pursuant to this section shall be dedicated to
17 enabling the department to receive authorization to administer a hazardous
18 waste management program in Arkansas pursuant to the federal Resource
19 Conservation and Recovery Act of 1979, as amended by the Hazardous and Solid
20 Waste Amendments of 1984.

21 (c) The Hazardous Waste Permit Fund is established on the books of the
22 State Treasurer, State Auditor, and Chief Fiscal Officer. All fees collected
23 under the provisions of this section shall be deposited in this fund."

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25 SECTION 4. Arkansas Code 8-9-404 is amended to read as follows:

26 "8-9-404. Waste tire fees.

27 (a) There shall be imposed a fee upon the sale of each new motor
28 *vehicle tire sold at retail.*

29 (1) The fee shall be charged by the tire retailer to the person
30 who purchases a motor vehicle tire for use on a motor vehicle and not for
31 resale.

32 (2) *Such fee shall be imposed at the rate of one dollar and fifty*
33 *cents (\$1.50) per tire.*

34 (3) Such fee shall be added to the total cost to the purchaser at
35 retail after all applicable sales taxes on the tires have been computed and

1 shall be separately stated on the invoice or bill of sale.

2 (4) The fee imposed, less seven and one-half percent (7.5%) of
3 fees collected, which shall be retained by the tire retailer as administration
4 cost, shall be paid monthly to the Director of the Department of Finance and
5 Administration.

6 (5) (A) The fee shall be collected by the Director of the
7 Department of Finance and Administration and shall be subject to the Arkansas
8 *Tax Procedure Act, § 26-18-101 et seq.*

9 (B) (i) Each tire retailer shall file a return with the
10 Director of the Department of Finance and Administration on or before the
11 twentieth of each month showing the total fees collected during the preceding
12 calendar month and shall remit the fees with the return.

13 (ii) The director shall prescribe the form and
14 contents of the return.

15 (6) The fee imposed by this section does not apply to recapped
16 *tires or tires included as part of the equipment of a new motor vehicle.*

17 (7) The terms *_sold at retail_* and *_retail sales_* do not include
18 the sale of new tires to a person solely for the purpose of resale, provided
19 the subsequent retail sale in this state is subject to the fee.

20 (b) (1) The Department of Finance and Administration shall deposit the
21 proceeds of the waste tire fee in the State Treasury as special revenues and
22 shall credit the proceeds to the following special funds created on the books
23 of the State Treasurer, the State Auditor, and the Chief Fiscal Officer of the
24 State in the following proportions:

25 (A) A total of seventy-three percent (73%) of the proceeds
26 to be deposited into the fund known as the *_Waste Tire Grant Fund_* herein
27 created.

28 (B) A total of twenty-seven percent (27%) of the proceeds
29 to be deposited into the Arkansas Department of Pollution Control and Ecology
30 Fee Fund created under § 8-1-105.

31 (2) In addition to all moneys appropriated by the General
32 Assembly to the Waste Tire Grant Fund, there shall be deposited in the Waste
33 Tire Grant Fund any federal government moneys designated to enter the Waste
34 Tire Grant Fund, any moneys received by the state as a gift or donation to the
35 Waste Tire Grant Fund, and all interest upon money deposited in the Waste Tire

1 Grant Fund.

2 (3) The Waste Tire Grant Fund shall be administered by the
3 department, which shall authorize grants from the fund according to the
4 provisions of this subchapter.

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6 (c) For the purposes of this section, proceeds of the fee shall mean
7 all funds collected and received by the Department of Finance and
8 Administration under this section, and interest and penalties on delinquent
9 waste tire fees.

10 (d) In addition to the fee imposed on new tires, a fee shall be imposed
11 at the rate of one dollar (\$1.00) on all waste tires that are imported into
12 Arkansas.

13 (1) The fee imposed shall be paid by the importer to the
14 Department of Finance and Administration in accordance with § 26-18-101 et
15 seq. and any regulations promulgated by the Department of Finance and
16 Administration.

17 (2) The Department of Finance and Administration shall deposit
18 the proceeds of this fee in the State Treasury as special revenues and shall
19 credit the proceeds to the special fund created on the books of the State
20 Treasurer, the State Auditor, and the Chief Fiscal Officer of the State to be
21 known as the Waste Tire Grant Fund, as described in subsection (b) of this
22 section.

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24 SECTION 5. The Department of Pollution Control and Ecology is hereby
25 authorized to promulgate such rules and regulations necessary to administer
26 the fees, rates, tolls, or charges for services established by the act and is
27 directed to prescribe and collect such fees, rates, tolls, or charges for the
28 services delivered by the Department in such manner as may be necessary to
29 support the programs of the Department as directed by the Governor and the
30 General Assembly.

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32 SECTION 6. All provisions of this act of a general and permanent nature
33 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
34 Revision Commission shall incorporate the same in the Code.

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1 SECTION 7. If any provision of this act or the application thereof to
2 any person or circumstance is held invalid, such invalidity shall not affect
3 other provisions or applications of the act which can be given effect without
4 the invalid provision or application, and to this end the provisions of this
5 act are declared to be severable.

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7 SECTION 8. All laws and parts of laws in conflict with this act are
8 hereby repealed.

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10 SECTION 9. EMERGENCY. It is hereby found and determined by the
11 Seventy-Ninth General Assembly meeting in Regular Session, that the provisions
12 of this Act are of critical importance to the state_s ability to provide
13 efficient and effective programs in the protection of the state_s environment
14 as mandated through the activities of the Department of Pollution Control and
15 Ecology. Therefore, an emergency is hereby declared to exist, and this Act
16 being necessary for the immediate preservation of the public peace, health,
17 and safety shall be in full force and effect from and after *July 1, 1993*.

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/s/Senator Snyder

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As Engrossed: 3/4/93 3/9/93 3/22/93 3/26/93 4/8/93

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