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4

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A Bill

SENATE BILL 359

5 By: Senator Rapert
6 By: Representative Gazaway
7

For An Act To Be Entitled

9 AN ACT TO MAKE TECHNICAL CORRECTIONS TO TITLE 8 OF
10 THE ARKANSAS CODE CONCERNING ENVIRONMENTAL LAW; AND
11 FOR OTHER PURPOSES.
12
13

Subtitle

15 TO MAKE TECHNICAL CORRECTIONS TO TITLE 8
16 OF THE ARKANSAS CODE CONCERNING
17 ENVIRONMENTAL LAW.
18
19

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

22 SECTION 1. Arkansas Code § 8-1-101(a), concerning the purpose of § 8-
23 1-101 et seq., is amended to read as follows to repeal obsolete language and
24 conform to Code style:

25 (a) It is the purpose of this chapter to authorize the Arkansas
26 Pollution Control and Ecology Commission to establish a system of fees for
27 the issuance of permits required by §§ 8-4-101 – 8-4-106, 8-4-201 – 8-4-229,
28 8-4-301 – 8-4-314, 8-6-201 – 8-6-212, ~~8-6-213 [repealed]~~, 8-6-214, ~~8-6-215—~~
29 ~~8-6-217 [superseded]~~, and 8-9-403, to defray costs of other services provided
30 and to authorize the Arkansas Department of Environmental Quality to collect
31 and enforce ~~these~~ the fees.
32

33 SECTION 2. Arkansas Code § 8-1-102(6), concerning the definitions to
34 be used in § 8-1-101 et seq., is amended to read as follows to repeal
35 obsolete language and conform to Code style:

36 (6) “Initial fee” means ~~that~~ the fee required by this chapter to



1 be submitted with all applications for water, air, and solid waste permits
2 required by §§ 8-4-101 – 8-4-106, 8-4-201 – 8-4-229, 8-4-301 – 8-4-314, 8-6-
3 201 – 8-6-212, ~~8-6-213 [repealed]~~, 8-6-214, ~~8-6-215 – 8-6-217 [superseded]~~,
4 or 8-9-403; and

5
6 SECTION 3. Arkansas Code § 8-1-103(1)(A), concerning the powers and
7 duties of the Arkansas Department of Environmental Quality and the Arkansas
8 Pollution Control and Ecology Commission, is amended to read as follows to
9 repeal obsolete language:

10 (1)(A) Following a public hearing and based upon a record
11 calculating the reasonable administrative costs of evaluating and taking
12 action on permit applications and of implementing and enforcing the terms and
13 conditions of permits and variances, the commission shall establish, by
14 regulation, reasonable fees for initial issuance, annual review, and
15 modification of water, air, or solid waste permits required by §§ 8-4-101 –
16 8-4-106, 8-4-201 – 8-4-229, 8-4-301 – 8-4-314, 8-6-201 – 8-6-212, ~~8-6-213~~
17 ~~[repealed]~~, 8-6-214, ~~8-6-215 – 8-6-217 [superseded]~~, and 8-9-403. These fees
18 shall consist of initial fees, annual review fees, and modification fees, as
19 defined in § 8-1-102.

20
21 SECTION 4. Arkansas Code § 8-1-107(d) and (e), concerning
22 administrative inspection warrants executed by the Arkansas Department of
23 Environmental Quality, are amended to read as follows to clarify references
24 and conform to Code style:

25 (d) Administrative Inspection Warrants. If consent to inspect is
26 denied, the department may obtain an administrative inspection warrant from a
27 judicial officer. Issuance and execution of administrative inspection
28 warrants shall be as follows:

29 (1) Any judicial officer otherwise authorized to issue search
30 warrants within his or her jurisdiction may, upon proper oath or affirmation
31 showing probable cause as defined by this section, issue administrative
32 inspection warrants for the purpose of conducting administrative inspections
33 authorized by any law or regulation administered by the department;

34 (2) A An administrative inspection warrant shall issue only upon
35 an affidavit of a department official, employee, or agent having knowledge of
36 the facts alleged, sworn to before the judge or magistrate and establishing

1 the grounds for issuing the administrative inspection warrant. If the judge
2 or magistrate is satisfied that grounds for the application exist or that
3 there is probable cause to believe they exist, he or she shall issue a an
4 administrative inspection warrant identifying the facility to be inspected,
5 and the purpose of the inspection. The administrative inspection warrant
6 shall:

7 (A) State the grounds for its issuance and the name of
8 each person whose affidavit has been taken in support ~~thereof~~ of the
9 administrative inspection warrant;

10 (B) Be directed to a department officer or employee;

11 (C) Command the person to whom it is directed to inspect
12 the area, premises, building, or conveyance identified for the purpose
13 specified;

14 (D) Specifically identify any documents or samples to be
15 gathered during the administrative inspection;

16 (E) Direct that it be served during normal business hours
17 unless emergency or extraordinary circumstances compel otherwise; and

18 (F) Designate the judge or magistrate to whom it shall be
19 returned;

20 (3) If appropriate, the administrative inspection warrant may
21 authorize the review and copying of documents which may be relevant to the
22 purpose of the administrative inspection. If documents must be seized for the
23 purpose of copying, the person serving the administrative inspection warrant
24 shall prepare an inventory of documents taken. The inventory shall be made in
25 the presence of the person executing the administrative inspection warrant
26 and of the person from whose possession or facility the documents were taken,
27 if present, or in the presence of at least one (1) credible person other than
28 the person executing the administrative inspection warrant. A copy of the
29 inventory shall be delivered to the person from whom or from whose facility
30 the documents were taken. The seized documents shall be copied as soon as
31 feasible under circumstances preserving their authenticity, then returned to
32 the person from whom the documents were taken;

33 (4) The administrative inspection warrant may authorize the
34 taking of samples of materials generated, stored, or treated at the facility,
35 or of the water, air, or soils within the facility's control or that may have
36 been affected by the facility's operations. The person executing the

1 administrative inspection warrant shall prepare an inventory of all samples
2 taken. In any inspection conducted pursuant to an administrative inspection
3 warrant in which ~~such~~ the samples are taken, the department shall make split
4 samples available to the person whose facility is being inspected;

5 (5) A An administrative inspection warrant issued pursuant to
6 this section must be executed and returned within ten (10) days of its date
7 unless, upon a showing of a need for additional time, the court orders
8 otherwise. The return of the administrative inspection warrant shall be made
9 promptly, accompanied by a written inventory of any documents or samples
10 taken;

11 (6) The judge or magistrate who has issued ~~a~~ an administrative
12 inspection warrant shall attach ~~thereto~~ to the administrative inspection
13 warrant a copy of the return and all papers returnable in connection
14 ~~therewith~~ with the administrative inspection warrant and file them with the
15 clerk of the circuit court for the judicial district in which the
16 administrative inspection was made;

17 (7) This subsection does not prevent the inspection without a
18 warrant of books and records pursuant to an administrative subpoena issued in
19 accordance with duly adopted administrative procedures; and

20 (8) A copy of the administrative inspection warrant and all
21 supporting affidavits shall be provided to the person served, or left at the
22 entry of the facility inspected.

23 (e) Administrative Inspection Warrants – Exceptions. Notwithstanding
24 ~~the previous subsection~~ subsection (d) of this section, an administrative
25 inspection warrant shall not be required for any inspection, including the
26 review and copying of documents and taking of samples, under the following
27 circumstances:

28 (1) For pervasively regulated facilities or activities as
29 defined by this section whose permit, license, certification, or operational
30 approval from the department provides notice that the department may inspect
31 regulated activities to assure compliance. If the department has reason to
32 believe that a violation of any law has or is occurring, the basis for such
33 belief shall be communicated at the time of the inspection;

34 (2) If the owner, operator, or agent in charge of the facility
35 consents;

36 (3) In situations presenting imminent danger to public health

1 and safety or the environment;

2 (4) In situations involving inspection of conveyances, if there
3 is reasonable cause to believe that the mobility of the conveyance makes it
4 impracticable to obtain a an administrative inspection warrant;

5 (5) In any other exception or emergency circumstance when time
6 or opportunity to apply for a an administrative inspection warrant is
7 lacking;

8 (6) In situations involving conditions that may be observed in
9 an open field, from an area practically open to public access, or in plain
10 view; or

11 (7) In all other situations in which a an administrative
12 inspection warrant is not constitutionally required.

13

14 SECTION 5. Arkansas Code § 8-4-103(1)(1) and (2), concerning the
15 unlawful use of a cleaning agent under the Arkansas Water and Air Pollution
16 Control Act, are amended to read as follows to clarify a criminal offense:

17 (1)(1) A person that uses a cleaning agent in violation of this
18 chapter ~~is guilty of a misdemeanor and~~ upon conviction is guilty of a
19 violation and is subject to a fine not exceeding one hundred dollars (\$100).

20 (2) A person that sells, distributes, or manufactures a cleaning
21 agent in violation of this chapter ~~is guilty of a misdemeanor and~~ upon
22 conviction is guilty of a violation and is subject to a fine not exceeding
23 one thousand dollars (\$1,000).

24

25 SECTION 6. Arkansas Code § 8-4-207(4), concerning the powers and
26 duties of the Director of the Arkansas Department of Environmental Quality
27 under the Arkansas Water and Air Pollution Control Act, is amended to read as
28 follows to clarify references and to make a stylistic change:

29 (4) The director ~~is authorized to~~ may apply and enforce toxic
30 effluent standards and pretreatment standards against industrial users of
31 publicly owned treatment works for the introduction into ~~such~~ the publicly
32 owned treatment works of sewage, industrial wastes, or other wastes which
33 interfere with, pass through, or otherwise are incompatible with ~~such~~ the
34 publicly owned treatment works;

35

36 SECTION 7. Arkansas Code § 8-4-234(b), concerning short-term activity

1 authorization by the Director of the Arkansas Department of Environmental
2 Quality, is amended to read as follows to clarify references:

3 (b)(1) The Arkansas Department of Environmental Quality may collect a
4 ~~processing fee for a~~ short-term activity authorization fee.

5 (2) The short-term activity authorization fee shall not exceed
6 two hundred dollars (\$200) for each stream crossing, in-stream activity, or
7 other eligible activity under subdivision (a)(2) of this section at each site
8 identified in the application.

9 (3) The Arkansas Pollution Control and Ecology Commission may
10 establish a fee schedule for short-term activity authorization fees imposed
11 on a state agency, board, or commission or municipality, city, or county for
12 a short-term activity not covered under subsection (c) of this section to
13 include without limitation:

14 (A) Routine maintenance; or

15 (B) Road construction.

16 (4)(A) The department shall enter into an agreement with a state
17 agency, board, or commission or municipality, city, or county that creates an
18 alternative payment structure in lieu of short-term activity authorization
19 fees authorized under subdivision (b)(2) of this section.

20 (B) An agreement entered into under subdivision (b)(4)(A)
21 of this section shall include:

22 (i) A provision regarding waiver of short-term
23 activity authorization fees under this section; and

24 (ii) A process under which the department provides
25 notice to the state agency, board, or commission or municipality, city, or
26 county of planned actions under this section that affect the state agency,
27 board, or commission or municipality, city, or county.

28 (5) The department shall waive twenty-five percent (25%) of a
29 short-term activity authorization fee assessed under this section to a state
30 agency, board, or commission or municipality, city, or county in a fiscal
31 year.

32
33 SECTION 8. Arkansas Code § 8-4-305(7), concerning exceptions to air
34 pollution standards, is amended to read as follows to clarify references:

35 (7) Fires set or permitted by any public officer, board,
36 council, or commission when the fire is set or permission to burn is given in

1 the performance of the duty of the public officer, board, council, or
2 commission for the purpose of weed abatement, the prevention or elimination
3 of a fire hazard, or the instruction of employees in the methods of fire
4 fighting, which is necessary in the opinion of the public officer, board,
5 council, or commission, or from fires set pursuant to permit for the purpose
6 of instruction of employees of private industrial concerns in methods of fire
7 fighting, or for civil defense instruction; or

8
9 SECTION 9. Arkansas Code § 8-4-308(b), concerning the confidentiality
10 of industrial secrets under the Arkansas Water and Air Pollution Control Act,
11 is amended to read as follows to clarify a criminal offense:

12 (b) Any violation of this section ~~shall be unlawful and constitutes a~~
13 is a misdemeanor punishable under § 8-4-103.

14
15 SECTION 10. Arkansas Code § 8-4-310(a), concerning unlawful actions
16 under the Arkansas Water and Air Pollution Control Act, is amended to read as
17 follows to clarify a criminal offense:

18 (a) It ~~shall be unlawful and constitute a~~ is a misdemeanor punishable
19 under § 8-4-103:

20 (1) To knowingly cause air pollution as defined in § 8-4-303;

21 (2) To construct, install, use, or operate any source capable of
22 emitting air contaminants without having first obtained a permit to do so, if
23 required by the regulations of the Arkansas Pollution Control and Ecology
24 Commission, or to do so contrary to the provisions of any permit issued by
25 the Arkansas Department of Environmental Quality or after any such permit has
26 been suspended or revoked; or

27 (3) To violate any rule, regulation, or order of the commission
28 issued pursuant to this chapter.

29
30 SECTION 11. Arkansas Code § 8-5-209 is amended to read as follows to
31 clarify references, repeal language duplicated in Title 19, and make
32 stylistic changes:

33 8-5-209. Fees – Wastewater Licensing Fund.

34 (a)(1) The Arkansas Pollution Control and Ecology Commission shall
35 have the authority to set fees in an amount to cover the cost of the
36 administration of this subchapter.

1 (2)(A) Licensing and examination fees shall be set forth ~~in the~~
2 by regulation.

3 (B) However, the licensing and examination fees shall not
4 exceed:

5 (i) A combined examination and license fee of forty
6 dollars (\$40.00); and

7 (ii) An annual license renewal fee of twenty dollars
8 (\$20.00).

9 (b) ~~The Wastewater Licensing Fund is hereby established on the books~~
10 ~~of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer~~
11 ~~of the State.~~ All fees collected under ~~the provisions of~~ this section shall
12 be deposited into ~~this fund~~ the Wastewater Licensing Fund and may be used
13 only for the administration of this subchapter.
14

15 SECTION 12. Arkansas Code § 8-5-803(5) and (6), concerning the
16 definitions to be used under the Small Business Revolving Loan Fund for
17 Pollution Control and Prevention Technologies Act, are amended to read as
18 follows to repeal a defined term that is not used in the subchapter, to
19 clarify references, and to make stylistic changes:

20 ~~(5) "Mandated environmental control" means any change in a~~
21 ~~commercial process that is required by federal or state environmental law or~~
22 ~~duly adopted regulation;~~

23 ~~(6)(A)(5)(A)~~ (5)(A) "Pollution prevention" means reducing or
24 eliminating the generation of pollutants and waste at the source.

25 (B) "Pollution prevention" ~~shall be expanded to also~~
26 ~~include process~~ includes:

27 (i) Process modifications and equipment acquisitions
28 that promote the recovery and reuse of pollutants; and

29 (ii) The acquisition and installation of capital
30 equipment, a process change, or a combination of capital equipment and
31 process change.

32 (C) ~~Specifically excluded from this definition of eligible~~
33 ~~activities are~~ "Pollution prevention" does not include investments in waste
34 treatment processes or equipment, unless the waste treatment involves the
35 recovery and reuse of pollutants-

36 ~~(D) "Pollution prevention" also may include the~~

1 ~~acquisition and installation of capital equipment, a process change, or a~~
2 ~~combination of capital equipment and process change; and~~

3
4 SECTION 13. Arkansas Code § 8-6-219(c), concerning applications for
5 permits under the Arkansas Solid Waste Management Act, is repealed as
6 obsolete.

7 ~~(c) This section shall apply to permit applications submitted after~~
8 ~~July 15, 1991.~~

9
10 SECTION 14. Arkansas Code § 8-6-418(c), concerning the possession or
11 use of glass containers on navigable waterways under the Litter Control Act,
12 is amended to read as follows to clarify a criminal offense:

13 (c)(1) A violation of this section ~~shall be a misdemeanor~~ is a
14 violation and each violation may be prosecuted as a separate offense.

15 (2) Each violation ~~shall be~~ of this section is punishable by a
16 fine of not more than five hundred dollars (\$500).

17
18 SECTION 15. Arkansas Code § 8-6-615(d)(1), concerning the distribution
19 of funds to regional solid waste management districts under the Solid Waste
20 Management and Recycling Fund Act, is amended to read as follows to repeal
21 obsolete language:

22 ~~(d)(1) After August 1, 2017, and for each subsequent fiscal year, each~~
23 For each fiscal year, each regional solid waste management board that
24 receives funds under this section shall provide a report by November 1 to the
25 department that explains how the board spent the funding received under this
26 section in the previous fiscal year.

27
28 SECTION 16. Arkansas Code § 8-6-720(a), concerning recycling programs
29 administered by regional solid waste management boards, is amended to read as
30 follows to repeal obsolete language and make a stylistic change:

31 (a)(1) ~~Beginning July 1, 1992, each~~ Each regional solid waste
32 management board shall ensure that its residents have an opportunity to
33 recycle. ~~“Opportunity to recycle” means availability of curbside pickup or~~
34 ~~collection centers for recyclable materials at sites that are convenient for~~
35 ~~persons to use.~~

36 (2) ~~Beginning July 1, 1993, at~~ At least one (1) recyclable

1 materials collection center shall be available in each county of a regional
2 solid waste management district unless the Arkansas Pollution Control and
3 Ecology Commission grants the district an exemption. An exemption may be
4 granted if a county is adequately served by a recyclable materials collection
5 center in another county.

6 (3) Boards shall assess the operation of existing and proposed
7 recycling centers and materials recovery facilities to determine the adequacy
8 of ~~these~~ the existing and proposed recycling centers and materials recovery
9 facilities for the collection and recovery of recyclable materials. Boards
10 shall give due consideration to existing recycling facilities in ensuring the
11 opportunity to recycle and are encouraged to use, to the extent practicable,
12 persons engaged in the business of recycling on March 26, 1991, whether or
13 not the persons were operating for profit.

14 (4) As used in this subsection, "opportunity to recycle" means
15 availability of curbside pickup or collection centers for recyclable
16 materials at sites that are convenient for persons to use.

17
18 SECTION 17. Arkansas Code § 8-6-1602(2), concerning the definitions to
19 be used under the financial assurance laws for solid waste management
20 facilities, is repealed to remove a definition that is not used in the
21 subchapter.

22 ~~(2) "Active portion" means that part of a facility or unit that~~
23 ~~has received or is receiving wastes and that has not been closed;~~

24
25 SECTION 18. Arkansas Code § 8-7-209(a)(12), concerning the powers and
26 duties of the Arkansas Department of Environmental Quality under the Arkansas
27 Hazardous Waste Management Act of 1979, is amended to read as follows to
28 clarify a reference:

29 (12) In addition to the powers enumerated ~~above~~ in subdivisions
30 (a)(1)-(11) of this section, the Arkansas Department of Environmental Quality
31 shall have and may use in the administration and enforcement of this
32 subchapter all of the powers which the Arkansas Department of Environmental
33 Quality has under other laws administered by the Arkansas Department of
34 Environmental Quality, including the Arkansas Water and Air Pollution Control
35 Act, § 8-4-101 et seq., and the Arkansas Solid Waste Management Act, § 8-6-
36 201 et seq.

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SECTION 19. Arkansas Code § 8-7-225(d)(3), concerning records and examinations under the Arkansas Hazardous Waste Management Act of 1979, is amended to read as follows to clarify a criminal offense:

(3) Any violation of this subsection ~~shall be unlawful and constitute a~~ is a Class A misdemeanor.

SECTION 20. Arkansas Code § 8-7-509(c), concerning the Hazardous Substance Remedial Action Trust Fund, is amended to read as follows to repeal obsolete language and conform to Code style:

(c)(1) ~~Any moneys remaining in the Emergency Response Fund [abolished] as of June 30, 2005, shall be transferred in their entirety to the Hazardous Substance Remedial Action Trust Fund.~~

~~(2)~~ Beginning July 1, 2005, the The Hazardous Substance Remedial Action Trust Fund shall consist of all moneys received as penalties under §§ 8-4-101 – 8-4-106, 8-4-201 – 8-4-229, 8-4-301 – 8-4-313, 8-6-201 – 8-6-214, 8-7-201 – 8-7-226, 8-7-504, and § 20-27-1001 et seq.

~~(3)~~(2) In addition to all moneys appropriated by the General Assembly to the ~~Hazardous Substance Remedial Action Trust Fund~~ fund, there shall be deposited into the ~~Hazardous Substance Remedial Action Trust Fund~~ fund:

(A) Any moneys received by the state as a gift or donation to the ~~Hazardous Substance Remedial Action Trust Fund~~ fund;

(B) All interest earned upon moneys deposited into the ~~Hazardous Substance Remedial Action Trust Fund~~ fund;

(C) All fees assessed under § 8-7-518;

~~(D) All costs recovered from the Emergency Response Fund [abolished];~~

~~(E)~~ All punitive damages collected pursuant to § 8-7-517;

and

~~(F)~~(E) Any other moneys legally designated for the ~~Hazardous Substance Remedial Action Trust Fund~~ fund.

~~(4)~~ (3) In addition, there is authorized to be deposited into the ~~Hazardous Substance Remedial Action Trust Fund~~ fund all moneys recovered pursuant to § 8-7-514 and all moneys received as penalties pursuant to § 8-7-504.

1
2 SECTION 21. Arkansas Code § 8-7-511(c), concerning furnishing
3 information under the Remedial Action Trust Fund Act, is amended to read as
4 follows to clarify a criminal offense:

5 (c) Any violation of this section ~~shall be unlawful and constitute a~~
6 is a Class A misdemeanor.

7
8 SECTION 22. Arkansas Code § 8-7-520(f), concerning claims for
9 contribution under the Remedial Action Trust Fund Act, is repealed as
10 obsolete.

11 ~~(f) This section shall apply to any claim for contribution initiated~~
12 ~~after March 9, 1989.~~

13
14 SECTION 23. Arkansas Code § 8-7-811(d), concerning trade secrets
15 related to regulated substance storage tanks, is amended to read as follows
16 to clarify a criminal offense:

17 (d) Any violation of this section ~~shall be unlawful and shall~~
18 ~~constitute a~~ is a Class A misdemeanor.

19
20 SECTION 24. Arkansas Code § 8-7-909(d), concerning confidential
21 treatment of information under the Petroleum Storage Tank Trust Fund Act, is
22 amended to read as follows:

23 (d) Any violation of this section ~~shall be unlawful and shall~~
24 ~~constitute a~~ is a Class A misdemeanor.

25
26 SECTION 25. Arkansas Code § 8-7-1007(b), concerning workplace chemical
27 lists under the Public Employees' Chemical Right to Know Act, is amended to
28 read as follows to repeal obsolete language and add clarifying language:

29 (b) Each public employer ~~shall file the workplace chemical list with~~
30 ~~the Director of the Department of Labor no later than ninety (90) days after~~
31 ~~July 1, 1991, and shall update the workplace chemical list~~ with the Director
32 of the Department of Labor as necessary, but in any case by July 1 of each
33 ~~subsequent~~ year.

34
35 SECTION 26. Arkansas Code § 8-7-1008(b)(1), concerning employee
36 information and training under the Public Employees' Chemical Right to Know

1 Act, is amended to read as follows to repeal obsolete language:

2 (b)(1) The information and training program provided pursuant to this
3 section shall be developed in accordance with regulations to be promulgated
4 by the Director of the Department of Labor pursuant to § 8-7-1011 ~~within six~~
5 ~~(6) months after July 1, 1991.~~

6

7 SECTION 27. Arkansas Code § 8-7-1008(e), concerning employee
8 information and training under the Public Employees' Chemical Right to Know
9 Act, is amended to read as follows to repeal obsolete language and add
10 clarifying language:

11 (e) ~~Each public employer shall conduct the initial information and~~
12 ~~training program required pursuant to this section within one (1) year after~~
13 ~~July 1, 1991. This~~ The information and training program required under this
14 section may be conducted with the assistance of the director pursuant to § 8-
15 7-1009.

16

17 SECTION 28. Arkansas Code § 8-7-1009(b), concerning outreach
18 activities of the Director of the Department of Labor under the Public
19 Employees' Chemical Right to Know Act, is amended to read as follows to
20 repeal obsolete language and provide clarification:

21 (b) The director shall develop and maintain a general information and
22 training assistance program to aid public employers. ~~Such information and~~
23 ~~assistance~~ The general information and training assistance program shall be
24 made available to all public employers. As part of the general information
25 and training assistance program, the director may develop and distribute a
26 supply of informational leaflets on public employers' duties, public
27 employees' rights, and the effects of hazardous chemicals. ~~The director shall~~
28 ~~make available the basic materials for this program within nine (9) months~~
29 ~~after July 1, 1991.~~

30

31 SECTION 29. Arkansas Code § 8-7-1011(b), concerning rulemaking under
32 the Public Employees' Chemical Right to Know Act, is amended to read as
33 follows to repeal obsolete language:

34 (b) The director shall promulgate regulations ~~within six (6) months~~
35 ~~after July 1, 1991,~~ requiring public employers to carry out information and
36 training programs for their public employees and specifying the minimum

1 content of education and training programs as provided in § 8-7-1008.

2

3 SECTION 30. Arkansas Code § 8-7-1102(b), concerning the definitions to
4 be used in relation to voluntary cleanup of hazardous substances, is amended
5 to read as follows to repeal obsolete language:

6 (b) Any other terms of this subchapter not expressly defined shall
7 have the same definitions as provided in § 8-7-203, § 8-7-304, ~~§ 8-7-403~~
8 ~~{repealed}~~, or § 8-7-503, unless manifestly inconsistent with the provisions
9 and remedial intent of this subchapter.

10

11 SECTION 31. Arkansas Code § 8-7-1402(a), concerning the professional
12 cleanup of properties contaminated through the manufacture of controlled
13 substances under the Controlled Substances Contaminated Property Cleanup Act,
14 is amended to read as follows to repeal obsolete language and provide a
15 clarification:

16 (a) The Arkansas Department of Environmental Quality shall:

17 (1) Establish and administer a certification program to:

18 (A) Certify contractors who choose to undertake the
19 inspection, sampling, remediation, and removal of contaminated materials from
20 property contaminated through the manufacture of controlled substances; and

21 (B) Require as a condition of certification that the
22 contractors demonstrate that they have the qualifications required to
23 undertake inspection, sampling, remediation, and removal of contaminated
24 materials from property contaminated through the manufacture of controlled
25 substances;

26 (2) ~~Have established the certification program no later than May~~
27 ~~1, 2008;~~

28 ~~(3) By March 1, 2008, establish~~ Establish standards for the
29 remediation of properties contaminated through the manufacture of controlled
30 substances;

31 ~~(4)(3)~~ (3) Make the certification program rules and the remediation
32 standards available to law enforcement officials and the public:

33 (A) On the department's website; and

34 (B) In hard copy upon request to the department; and

35 ~~(5)(4)~~ (4) Annually review and update the remediation standards.

36

1 SECTION 32. Arkansas Code § 8-9-104(6), concerning the definitions to
2 be used in relation to recycling, is repealed to remove a defined term that
3 is not used in the chapter.

4 ~~(6) “Recyclable materials collection center” or “collection center”~~
5 ~~means a facility which receives or stores recyclable materials prior to~~
6 ~~timely transportation to material recovery facilities, markets for recycling,~~
7 ~~or disposal;~~

8
9 SECTION 33. Arkansas Code § 8-9-304 is amended to read as follows to
10 repeal obsolete language and make a grammatical correction:

11 8-9-304. Used motor oil.

12 ~~No later than December 31, 1992, the~~ The Arkansas Pollution Control and
13 Ecology Commission shall adopt, after notice and public hearing, reasonable
14 regulations ~~which~~ that are protective of the public health and environment
15 for the collection, storage, and disposal, reuse, or recycling of used motor
16 oil.

17
18 SECTION 34. Arkansas Code § 8-9-404(a)(1), concerning rim removal
19 fees, import fees, and commercial generator fees under the Used Tire
20 Recycling and Accountability Act, is amended to read as follows to repeal
21 obsolete language:

22 (a)(1) ~~Beginning on January 1, 2018, there shall be~~ There is imposed a
23 rim removal fee upon the transaction of removing a tire from a rim that is
24 related to the sale of a replacement tire by a tire retailer.

25
26 SECTION 35. Arkansas Code § 8-9-404(a)(3)(E), concerning rim removal
27 fees, import fees, and commercial generator fees under the Used Tire
28 Recycling and Accountability Act, is amended to read as follows to repeal
29 obsolete language:

30 (E) Each tire retailer ~~who was not registered with the~~
31 ~~Department of Finance and Administration on August 1, 2017, shall be~~
32 ~~registered~~ shall register with the Department of Finance and Administration
33 ~~on or before December 1, 2017,~~ and shall comply with all requirements related
34 to collecting and reporting rim removal fees.

35
36 SECTION 36. Arkansas Code § 8-9-404(c)(1)(A), concerning rim removal

1 fees, import fees, and commercial generator fees under the Used Tire
2 Recycling and Accountability Act, is amended to read as follows to repeal
3 obsolete language:

4 (c)(1)(A) ~~Beginning on January 1, 2018, there~~ There is imposed an
5 import fee of one dollar (\$1.00) on each used tire that is imported into
6 Arkansas.

7

8 SECTION 37. Arkansas Code § 8-9-404(d)(1), concerning rim removal
9 fees, import fees, and commercial generator fees under the Used Tire
10 Recycling and Accountability Act, is amended to read as follows to repeal
11 obsolete language:

12 (d)(1) ~~Beginning on January 1, 2018, there shall be~~ There is imposed a
13 commercial generator fee upon the transaction of a commercial generator
14 selling or delivering a new tire as part of fleet services.

15

16 SECTION 38. Arkansas Code § 8-9-404(d)(3)(D), concerning rim removal
17 fees, import fees, and commercial generator fees under the Used Tire
18 Recycling and Accountability Act, is amended to read as follows to repeal
19 obsolete language:

20 (D) Each commercial generator ~~who was not registered with~~
21 ~~the Department of Finance and Administration on August 1, 2017, shall be~~
22 ~~registered~~ shall register with the Department of Finance and Administration
23 ~~on or before December 1, 2017,~~ and shall comply with all requirements related
24 to collecting and reporting commercial generator fees.

25

26 SECTION 39. Arkansas Code § 8-9-405(a), concerning used tire program
27 reimbursements under the Used Tire Recycling and Accountability Act, is
28 amended to read as follows to repeal obsolete language:

29 (a) ~~By January 1, 2018, the~~ The Arkansas Department of Environmental
30 Quality shall establish the Used Tire Recycling and Accountability Program
31 to:

32 (1) Reimburse used tire programs for used tire recycling and
33 disposal costs;

34 (2) Incentivize recycling used tires collected under this
35 subchapter;

36 (3) Provide accountability for the disbursement of moneys to

1 used tire programs; and

2 (4) Otherwise improve the sustainability of used tire programs.

3

4 SECTION 40. Arkansas Code § 8-9-407(a), concerning the electronic
5 uniform used tire manifest system under the Used Tire Recycling and
6 Accountability Act, is amended to read as follows to repeal obsolete
7 language:

8 (a) ~~Beginning on January 1, 2018, the~~ The following entities shall use
9 the electronic uniform used tire manifest system to accurately report all
10 information related to the collection, transportation, distribution, and
11 recycling or disposal of recyclable tires, waste tires, and used tires culled
12 for resale:

13 (1) Used tire programs;

14 (2) Tire generators;

15 (3) Tire collection centers;

16 (4) Any person who:

17 (A) Removes a tire from the used tire program after it is
18 collected; or

19 (B) Imports a tire under § 8-9-404(c); and

20 (5) Commercial generators.

21

22 SECTION 41. Arkansas Code § 8-9-409(c), concerning performance and
23 efficiency evaluations under the Used Tire Recycling and Accountability Act,
24 is amended to read as follows to repeal obsolete language:

25 (c) The evaluations under this section shall be completed on a
26 biennial basis for each used tire program ~~with the first evaluations to be~~
27 ~~completed on or before December 31, 2018.~~

28

29 SECTION 42. Arkansas Code § 8-9-411(a), concerning requirements for
30 tire transporters under the Used Tire Recycling and Accountability Act, is
31 amended to read as follows:

32 (a) ~~For all tire transporters licensed on or after January 1, 2018, a~~
33 A tire transporter shall meet the following requirements to perform or be
34 compensated for any duties under this subchapter related to the
35 administration and operation of a used tire program:

36 (1) Obtain for each vehicle a license;

1 (2) Obtain for each vehicle a tire transporter number provided
2 by the Arkansas Department of Environmental Quality used for the electronic
3 uniform used tire manifest system;

4 (3) Provide proof that each vehicle has passed an annual safety
5 inspection;

6 (4) Provide proof of financial responsibility for each vehicle
7 and authorized driver;

8 (5) Provide a bond in the amount of ten thousand dollars
9 (\$10,000);

10 (6) Establish that each authorized driver has completed training
11 for the electronic uniform used tire manifest system; and

12 (7) Pay a fee of fifty dollars (\$50.00) for each vehicle that is
13 licensed.

14
15 SECTION 43. Arkansas Code § 8-9-604(a), concerning mercury
16 minimization plans of vehicle manufacturers under the Mercury Switch Removal
17 Act of 2005, is amended to read as follows to repeal obsolete language:

18 (a) ~~Within ninety (90) days after August 12, 2005, every~~ Every
19 manufacturer of vehicles sold within this state, individually or as part of a
20 group, shall develop in consultation with the Arkansas Department of
21 Environmental Quality a mercury minimization plan prepared pursuant to this
22 section and shall submit the mercury minimization plan to the Director of the
23 Arkansas Department of Environmental Quality for review and approval pursuant
24 to § 8-9-605.

25
26 SECTION 44. Arkansas Code § 8-9-604(e), concerning mercury
27 minimization plans of vehicle manufacturers under the Mercury Switch Removal
28 Act of 2005, is amended to read as follows to repeal obsolete language:

29 (e) ~~Within thirty (30) days after August 12, 2005, every~~ Every
30 manufacturer of vehicles sold within the state, individually or as part of a
31 group, shall provide to vehicle recyclers and scrap recycling facilities
32 containers suitable for storing mercury switches until such time that vehicle
33 recyclers and scrap recycling facilities can be reimbursed pursuant to this
34 section.

35
36 SECTION 45. Arkansas Code § 8-9-605(b), concerning the implementation

1 and approval of mercury minimization plans of vehicle manufacturers under the
2 Mercury Switch Removal Act of 2005, is repealed as obsolete.

3 ~~(b) At the conclusion of a time period two hundred forty (240) days~~
4 ~~after August 12, 2005, the director shall reserve the right to complete on~~
5 ~~behalf of a manufacturer any portion of a mercury minimization plan that has~~
6 ~~not been approved pursuant to this section.~~

7
8 SECTION 46. Arkansas Code § 8-14-104(a), concerning prohibitions and
9 exemptions related to shielded outdoor lighting under the Shielded Outdoor
10 Lighting Act, is amended to read as follows to repeal obsolete language and
11 conform to Code style:

12 ~~(a) After January 1, 2006:~~

13 ~~(1)(A)~~ (a)(1)(A) No public funds shall be used to install an
14 outdoor lighting fixture unless it is shielded.

15 (B) Subdivision (a)(1)(A) of this section ~~shall~~ does not
16 apply to any municipality or county if the governing body of the municipality
17 or county determines by ordinance or to a municipally owned utility if the
18 municipal employee responsible for procurement determines that the cost of
19 acquiring a shielded outdoor lighting fixture will be prohibitive after
20 comparing:

21 (i) The cost of the fixtures; and

22 (ii) The projected energy cost of the operation of
23 the fixtures~~;~~.

24 (2) The Arkansas Department of Environmental Quality shall
25 promulgate regulations prohibiting any person or entity from knowingly
26 placing or disposing of the bulb or tube portion of an electric lighting
27 device containing hazardous levels of mercury in a landfill ~~after January 1,~~
28 ~~2008,~~ if:

29 (A) The electric lighting device contains more than two-
30 tenths milligram per liter (0.2 mg/l) of leachable mercury as measured by the
31 Toxicity Characteristic Leaching Procedure as set out in EPA Test Method
32 1311; and

33 (B) Adequate facilities exist for the public to properly
34 dispose of the electric lighting device described in subdivision (a)(2)(A) of
35 this section~~;~~ ~~and~~.

36 (3)(A) Each electric public utility shall offer a shielded

1 lighting service option.

2 (B) ~~Not later than January 1, 2006, each~~ Each electric
3 public utility shall file an application with the Arkansas Public Service
4 Commission to establish a schedule of rates and charges for the provision of
5 a shielded lighting service option to the utility's customers.

6 (C) The commission shall require each electric public
7 utility to inform its customers of the availability of the shielded lighting
8 service.

9
10 SECTION 47. DO NOT CODIFY. CONSTRUCTION AND LEGISLATIVE INTENT.

11 It is the intent of the General Assembly that:

12 (1) The enactment and adoption of this act shall not expressly
13 or impliedly repeal an act passed during the regular session of the Ninety-
14 Second General Assembly;

15 (2) To the extent that a conflict exists between an act of the
16 regular session of the Ninety-Second General Assembly and this act:

17 (A) The act of the regular session of the Ninety-Second
18 General Assembly shall be treated as a subsequent act passed by the General
19 Assembly for the purposes of:

20 (i) Giving the act of the regular session of the
21 Ninety-Second General Assembly its full force and effect; and

22 (ii) Amending or repealing the appropriate parts of
23 the Arkansas Code of 1987; and

24 (B) Section 1-2-107 shall not apply; and

25 (3) This act shall make only technical, not substantive, changes
26 to the Arkansas Code of 1987.

27
28 /s/Rapert
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