

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

A BILL ACT 917 OF 1991
HOUSE BILL 1845

4 **By: Representatives McCoy, Collier, Tullis, and Arnold**

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For An Act To Be Entitled

8 "AN ACT TO ESTABLISH AND MAINTAIN AN EMERGENCY SERVICES
9 REPORTING SYSTEM TO NOTIFY EMERGENCY FIRST RESPONDERS AND
10 RECOVERY PERSONNEL FOR ACCIDENTS AND INCIDENTS INVOLVING
11 HAZARDOUS AND TOXIC MATERIALS RELEASED INTO THE
12 ENVIRONMENT; TO DECLARE AN EMERGENCY; AND FOR OTHER
13 PURPOSES."

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

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17 SECTION 1. This act may be known and cited as the "Arkansas Hazardous
18 and Toxic Materials Emergency Notification Act".

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20 SECTION 2. Because of the existing and increasing possibility of a
21 major disaster or emergency from the release of hazardous and toxic substances
22 into the environment while in transport, during manufacturing and in storage
23 and because of the immediate need to notify state and local emergency response
24 and recovery forces and other governmental entities mandated to perform
25 certain actions related to a release of hazardous or toxic substances into the
26 environment, it is hereby found and declared to be necessary to:

27 (1) create within the State Office of Emergency Services a system to
28 notify local, state and federal emergency response and recovery forces and
29 those other governmental and private sector entities with a mandated
30 responsibility for emergency services; and

31 (2) require any business, manufacturer, refiner, retailer, wholesaler,
32 transporter in the private sector or governmental entity at the local, state,
33 or federal level report as soon as possible any known incident involving the
34 release of hazardous and toxic materials into the environment which requires,
35 or may require, emergency response or recovery actions by public safety forces
36 of local or state governmental entities, including volunteer emergency

1 services such as, but not limited to, fire fighters, law enforcement,
2 emergency medical services and other first responders.

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4 SECTION 3. As used in this act, unless the context otherwise requires:

5 (1) "Director" means the Director of the State Office of Emergency
6 Services established under the Arkansas Emergency Services Act, Arkansas Code
7 §§ 12-75-101 et seq.

8 (2) "Hazardous and toxic materials" means:

9 (A) those substances, *except natural gas*, manufactured, refined,
10 or found in their natural state which, when released into the environment, by
11 any means, have an immediate or potential threat to human, animal, or plant
12 life and meet other criteria established under federal regulations,
13 guidelines, or laws defining hazardous and toxic substances in a quantity and
14 form which may pose an unreasonable risk to health and safety or property when
15 transported in commerce, and which is designated as "hazardous material" in
16 regulations prescribed by the United States Secretary of Transportation under
17 Title 49 of the Code of Federal Regulations; and

18 (B) any other substance or pollutant designated by regulations of
19 the director promulgated under this act.

20 (3) "HAZMAT" means the abbreviation of "Hazardous and toxic materials".

21 (4) "Incident" or "accident" means the spilling, leaking, pouring,
22 emitting, emptying, discharging, injecting, escaping, leaching, dumping, or
23 disposing of hazardous and toxic materials into the environment.

24 (5) "System for notification" means those communications facilities
25 currently existing, or that may be later established, for direction, warning
26 and control of emergency response and recovery forces at the federal, state,
27 and local levels.

28 (6) "Transporter" means any person, firm, association, partnership,
29 corporation, or other legal entity who transports or ships in a motor vehicle,
30 rail freight car, freight container, cargo tank, rail tank car, pipeline *other*
31 *than a natural gas pipeline*, aircraft, vessel, or other means of
32 transportation any hazardous and toxic materials as a common carrier, contract
33 carrier, carrier for private use.

34 (7) "Transport" means the movement of any hazardous and toxic material
35 regardless of the mode of transportation from one place to another place and
36 any loading, unloading and storage incidental thereto.

1 (8) "Fixed facility" means any refinery, factory, storage site,
2 assembly plant, warehouse, wholesaler, retailer or other facility which
3 receives, stores, processes or ships hazardous and toxic materials.
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5 SECTION 4. (a) The Director of the State Office of Emergency Services
6 shall:

7 (1) in cooperation with the State Emergency Response Commission,
8 establish a HAZMAT incident or accident reporting system within the State
9 Emergency Operations Center for disseminating information to the appropriate
10 agencies and emergency first responders for any release of a hazardous and
11 toxic material that might present either an immediate or potential threat to
12 the safety, health and welfare of the public; and

13 (2) shall operate and maintain on a continuing basis emergency
14 direction, control and warning systems sufficient to meet the minimum
15 requirements of this act.

16 (b) The HAZMAT incident or accident reporting systems shall meet the
17 minimum federal requirements specified in federal regulations and guidelines
18 for hazardous and toxic materials emergency reporting and shall operate within
19 the provisions established under the Arkansas Emergency Services Act, Arkansas
20 Code §§ 12-75-101 et seq., and the State of Arkansas Emergency Operations Plan
21 to provide the most expeditious and practical means to notify state, local and
22 private sector entities assigned an emergency response or recovery role under
23 this act.

24 (c) Each agency, office, bureau or commission of the State of Arkansas
25 or its political subdivisions having a role or responsibility for HAZMAT
26 planning, response, recovery or mitigation, or providing public safety
27 services or having regulatory or oversight authority shall establish
28 guidelines and procedures to insure prompt and accurate reporting of any
29 accident, incident, or known or suspected release of toxic or hazardous
30 materials within the State of Arkansas in violation of any state or federal
31 environmental or health protective statutes, regulations or guidelines.
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33 SECTION 5. Any fixed facility operator or any transporter involved in
34 an accident or incident during refining, manufacturing, processing, storage,
35 loading, unloading, transporting or a related activity which involves the

1 release of hazardous and toxic materials into the environment or any public
2 safety emergency first responders from the local, state or federal level, who
3 have confirmed that the incident or accident has not been previously reported
4 to the State Emergency Operations Center shall report immediately, by
5 telephone, radio, or the most expeditious means available to the State
6 Emergency Operations Center any incident or accident which:

7 (1) involves a fatality due to fire, explosion, or exposure to any
8 hazardous and toxic materials;

9 (2) results in the hospitalization of any person due to fire,
10 explosion, or exposure to any hazardous and toxic materials;

11 (3) results in a continuing danger to life, health, or property at the
12 place of the accident or incident; and

13 (4) results in the release of hazardous and toxic materials, in any
14 amount, by any transporter onto public or private property, including roads,
15 highways or thoroughfares maintained by local, state, and federal government
16 entities and upon regulated commerce right of ways.

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18 SECTION 6. Any person who pleads guilty, nolo contendere, or is found
19 guilty of violating any provisions of this act or any regulation promulgated
20 hereunder shall be guilty of a misdemeanor and be fined not more than five
21 hundred dollars (\$500) per day of violation or imprisoned for not more than
22 one (1) year or both.

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24 SECTION 7. All provisions of this act of a general and permanent nature
25 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
26 Revision Commission shall incorporate the same in the Code.

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28 SECTION 8. If any provision of this act or the application thereof to
29 any person or circumstance is held invalid, such invalidity shall not affect
30 other provisions or applications of the act which can be given effect without
31 the invalid provision or application, and to this end the provisions of this
32 act are declared to be severable.

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34 SECTION 9. All laws and parts of laws in conflict with this act are
35 hereby repealed.

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SECTION 10. EMERGENCY. It is hereby found and determined by the General Assembly of the State of Arkansas that hazardous and toxic materials are being transported along our public streets and highways in Arkansas; that accidents and incidents involving the release of these hazardous and toxic materials periodically occur and threatens the public health and safety of the citizens of Arkansas; and that there is no current system of centralized reporting and response for these HAZMAT emergencies. Therefore, in order to create a centralized reporting to relieve the threat to the public health and safety, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval.

/s/ J. McCoy et al

APPROVED: 3/29/91

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