

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

A Bill

ACT 1254 OF 1993
HOUSE BILL 1785

For An Act To Be Entitled

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

Subtitle

14 "TO AMEND VARIOUS FEE STRUCTURES OF THE DEPARTMENT OF
15 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. Permit Fees.

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.*
32 *Provided, however, in setting reasonable permit fees, the Commission shall not*
33 *set water permit fees calculated to generate revenues in any fiscal year that*
34 *exceed 3.25 times the total amount collected from water permit fees in fiscal*
35 *year 1992-93, nor set fees for solid waste permit fees calculated to generate*
36 *revenues in any fiscal year that exceed 4.25 times the total amount collected*

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

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

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

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

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

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

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

27

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

29 "8-1-105. Fee fund.

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

33 (b) All fees collected under the provisions of all laws administered by
34 the department shall be deposited in this fund, unless otherwise provided by
35 law. The department shall use these funds to defray the costs of operating

1 the department."

2

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

4 "8-7-226. Fees.

5 (a) (1) The department shall have authority to establish by regulation a
6 schedule of fees to recover the costs of processing permit applications and
7 permit renewal proceedings, on-site inspections and monitoring, the
8 certification of personnel to operate hazardous waste treatment, storage, or
9 disposal facilities, and other activities of department personnel which are
10 reasonably necessary to assure that generators and transporters of hazardous
11 waste and hazardous waste management facilities are complying with the
12 provisions of this subchapter, and which reasonably should be borne by the
13 transporter, generator, or owner or operator of the hazardous waste management
14 facility.

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

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

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

25 "8-9-404. Waste tire fees.

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

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

30 (2) *Such fee shall be imposed at the rate of one dollar and fifty cents*
31 *(\$1.50) per tire.*

32 (3) Such fee shall be added to the total cost to the purchaser at
33 retail after all applicable sales taxes on the tires have been computed and
34 shall be separately stated on the invoice or bill of sale.

35 (4) The fee imposed, less seven and one-half percent (7.5%) of fees

1 collected, which shall be retained by the tire retailer as administration
2 cost, shall be paid monthly to the Director of the Department of Finance and
3 Administration.

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

7 (B) (1) Each tire retailer and each new motor vehicle dealer shall file
8 a return with the Director of the Department of Finance and Administration on
9 or before the twentieth of each month showing the total fees collected during
10 the preceding calendar month and shall remit the fees with the return.

11 (2) The director shall prescribe the form and contents of the
12 return.

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

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

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

23 A total of *ninety percent (90%)* of the proceeds to be deposited into the
24 fund known as the *_Waste Tire Grant Fund_* herein created;

25 A total of *ten percent (10%)* of the proceeds to be deposited into the
26 Arkansas Department of Pollution Control and Ecology Fee Fund as created in §
27 8-1-105.

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

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

1 subchapter.

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

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

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

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

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19 SECTION 5. The Department of Pollution Control and Ecology is hereby
20 authorized to promulgate such rules and regulations necessary to administer
21 the fees, rates, tolls, or charges for services established by this act and is
22 directed to prescribe and collect such fees, rates, tolls, or charges for the
23 services delivered by the Department of Pollution Control and Ecology in such
24 manner as may be necessary to support the programs of the Department as
25 directed by the Governor and legislature.

26

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

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31 SECTION 7. If any provision of this act or the application thereof to
32 any person or circumstance is held invalid, such invalidity shall not affect
33 other provisions or applications of the act which can be given effect without
34 the invalid provision or application, and to this end the provisions of this
35 act are declared to be severable.

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

SECTION 9. EMERGENCY. It is hereby found and determined by the General Assembly that the provisions of this act are of critical importance to the state's ability to provide efficient and effective programs in the protection of the state's environment as mandated through the activities of the Department of Pollution Control and Ecology. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1993.

/s/Randy Thurman

APPROVED: 4/20/93

As Engrossed: 3/15/93 3/31/93 4/1/93 4/1/93 4/5/93

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