

As Engrossed: 1/18/95

1 **State of Arkansas**
2 **80th General Assembly**
3 **Regular Session, 1995**
4 **By: Representatives Malone, Dietz, and Wallis**

A Bill

ACT 165 OF 1995
HOUSE BILL 1098

For An Act To Be Entitled

8 "AN ACT TO AMEND SUBCHAPTER 9 OF CHAPTER 6 OF TITLE 8 OF
9 THE ARKANSAS CODE PERTAINING TO THE LICENSING OF THE
10 OPERATORS OF SOLID WASTE MANAGEMENT FACILITIES; AND FOR
11 OTHER PURPOSES."

Subtitle

14 "AMEND SUBCHAPTER 9 OF CHAPTER 6 OF
15 TITLE 8 OF THE ARKANSAS CODE PERTAINING
16 TO THE LICENSING OF THE OPERATORS OF
17 SOLID WASTE MANAGEMENT FACILITIES."

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

21 SECTION 1. Subchapter 9 of Chapter 6 of Title 8 of the Arkansas Code is
22 amended to read as follows:

23 "SUBCHAPTER 9 - Licensing of Operators of Solid Waste Management
24 Facilities.

25 § 8-6-901. Definitions.

26 As used in this subchapter, unless the context otherwise requires:

27 (1) Commission means the Arkansas Pollution Control and Ecology
28 Commission;

29 (2) Department means the Department of Pollution Control and Ecology;

30 (3) Director means the Director of the Department of Pollution
31 Control and Ecology;

32 (4) Licensing committee means the committee of solid waste management
33 facility managers, operators, or technicians hereinafter established to assist
34 and advise the commission and the department in the examining and licensing of
35 operators of solid waste management facilities;

36 (5) License means a certificate of competency issued by the director

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1 to solid waste management facilities operators who have met the requirements
2 of the licensing program;

3 (6) *_Operator_* means any person who is in responsible charge of the
4 operation of a solid waste management facility, in whole or in part, and who,
5 during the performance of his regular duties *at the solid waste management*
6 *facility*, exercises individual judgment which directly or indirectly may
7 affect the proper operation of the solid waste management facility. *_Operator_*
8 shall not be deemed to include an official solely exercising general
9 administrative supervision;

10 (7) *_Operator in training_* means an employee of a solid waste
11 management facility that has been issued an apprenticeship license by the
12 director;

13 (8) *'Recovered materials'* means *metal, paper, glass, plastic, textile,*
14 *yard trimmings not destined for composting, or rubber materials which are not*
15 *waste tires or waste tire residuals, that have known recycling potential, can*
16 *be feasibly recycled, and have been diverted and source separated or have been*
17 *removed from the solid waste stream for sale, use, or reuse as raw materials,*
18 *whether or not the materials require subsequent processing or separation from*
19 *each other, but does not include materials destined for any use that*
20 *constitutes disposal. For the purpose of this subchapter, recovered materials*
21 *as described are not solid waste.*

22 (9) *_Sanitary landfill_* means any place for which a permit for disposal
23 of solid waste on land is required under the provisions of this chapter;

24 (10) *_Solid waste disposal facility_* means any place at which solid
25 waste is dumped, abandoned, or accepted or disposed of for final disposition
26 by incineration, landfilling, composting or other method. Wastewater
27 treatment plants permitted under the National Pollutant Discharge Elimination
28 System (NPDES) and *units at hazardous waste management facilities permitted*
29 *under the Arkansas Hazardous Waste Management Act and Code shall not be deemed*
30 *to be disposal sites or facilities for the purpose of this subchapter; and*

31 (11) *_Solid waste management facility_* means all contiguous land and
32 structures, other appurtenances, and improvements on the land used for
33 storage, collection, transportation, processing, treatment, and/or disposal of
34 *solid waste. For purposes of this subchapter, facilities solely engaged in*
35 *the recycling of source separated materials are excluded; also excluded are*

1 processes, operations and/or facilities that are regulated pursuant to
2 hazardous waste rules and regulations which are not also regulated pursuant to
3 solid waste rules and regulations.

4 § 8-6-902. Penalties - Procedures.

5 (a) Any person who violates any provision of this subchapter, or of any
6 rule, regulation, or order issued pursuant thereto, shall be subject to the
7 same penalty and enforcement provisions as are contained in the Arkansas Solid
8 Waste Management Act, § 8-6-201 et seq., as amended.

9 (b) Except as otherwise provided in this subchapter, the procedure of
10 the commission for issuance of rules and regulations, conduct of hearings,
11 notice, power of subpoena, review of action on permits, right of appeal,
12 presumptions, finality of actions, and related matters shall be as provided in
13 §§ 8-4-101 - 8-4-106 and 8-4-201 - 8-4-229 of the Arkansas Water and Air
14 Pollution Control Act, § 8-4-101 et seq., as amended, including, without
15 limitation, §§ 8-4-205, 8-4-210, 8-4-212 - 8-4-214, and 8-4-218 - 8-4-229.

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

19 § 8-6-903. Licenses required.

20 (a) It shall be illegal for any county, municipality, governmental
21 subdivision, public or private corporation, or other person to operate a solid
22 waste management facility unless the competency of the operator is duly
23 licensed by the director under the provisions of this subchapter.

24 (b) It shall further be illegal for any person to perform the duties of
25 an operator of any such solid waste management facility without being duly
26 licensed under this subchapter.

27 § 9-6-904. *Licensing Committee - Members Compensation - Restrictions.*

28 (a) There is created and established a licensing committee, to advise
29 and assist the commission and the department in the administration of the
30 licensing program, which shall be composed of ten (10) members:

31 (1) Three (3) members, to be appointed by the commission, shall
32 be sanitary landfill operators licensed by the department;

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

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

4 (4) One (1) member, to be appointed by the commission, shall be a
5 representative of one of the duly constituted regional solid waste management
6 boards.

7 (5) One (1) member, to be appointed by the commission, shall be an on-
8 site operator or supervisor of a waste tire processing facility.

9 (6) One (1) member, to be appointed by the commission, shall be an on-
10 site operator or supervisor of a non-segregated materials recovery, transfer,
11 or composting facility.

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

16 (8) One (1) member, to be appointed by the director, shall be a
17 qualified member of his staff, who shall serve ex officio with no vote as
18 executive secretary of the licensing committee.

19 (b)(1) The committee members who do not serve ex officio shall serve
20 five-year terms and until their successors have been appointed.

21 (2) In the event of a vacancy, a new member shall be appointed by
22 the commission to serve out the unexpired term.

23 (3) No voting member shall serve more than two (2) consecutive
24 five-year terms.

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

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

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

35 (e) No member of the committee shall participate in any licensing

1 decision involving the firm or organization by which that member is employed
2 or in which that member has a direct or indirect financial interest.

3 § 8-6-905. Rules and regulations - Administration - Enforcement -
4 Duties.

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

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

13 (1) To conduct examinations for licensing, which shall be held at
14 least annually and more frequently as the commission shall deem necessary.
15 This duty may be delegated by the department to the administrator of any
16 approved course;

17 (2) To issue licenses to qualified solid waste management
18 facility operators, to renew these licenses, to suspend or revoke the licenses
19 for cause, after due notice and opportunity for hearing and to issue one (1)
20 year apprenticeship licenses to operators in training; and

21 (3) To initiate enforcement actions and/or institute court
22 proceedings to compel compliance with the provisions of this subchapter and
23 rules and regulations issued pursuant thereto.

24 § 8-6-906. Classification of licenses.

25 (a) The commission shall classify solid waste management facility
26 operator licenses, taking into account the *type and* complexity of the solid
27 waste management facility, the character and volume of waste managed, the
28 skill, knowledge, and experience reasonably required to successfully operate
29 the solid waste management facility, and such other factors as the commission
30 shall deem appropriate.

31 (b) The director, with the advice and assistance of the licensing
32 committee, shall license persons according to their qualifications to
33 successfully operate solid waste management facilities within the
34 classifications established and effectuated by rules and regulations
35 promulgated by the commission.

1 § 8-6-907. Licensing.

2 All operators in responsible charge of public and private solid waste
3 management facilities shall be duly licensed and certified as competent by the
4 director under the provisions of this subchapter and under such rules and
5 regulations as the commission may adopt, with the advice and assistance of the
6 licensing committee, pursuant to the authority of this subchapter.

7 § 8-6-908. Licensing - Eligibility - Reciprocity.

8 (a) The director shall license and certify all applicants for licenses
9 under this subchapter who satisfy the requirements of this subchapter and the
10 rules and regulations issued pursuant thereto.

11 (1) Licenses shall be granted according to the classifications of
12 operator licenses established in the rules and regulations promulgated by the
13 commission.

14 (2) Licenses shall be valid for a period of one (1) year and,
15 with the exception of the apprenticeship license, shall be renewable upon
16 application if the applicant meets the renewal requirements established by
17 commission regulation.

18 (b) All operators of solid waste management facilities within the state
19 shall apply to the department for a license.

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21 (c) The director may, at his discretion, waive the requirements, or any
22 part of the requirements, for formal examination of an applicant for license
23 if the applicant holds a valid license or certificate from another state in
24 which the requirements for license in the appropriate classification are at
25 least equal to the requirements set forth in this subchapter and the rules and
26 regulations issued pursuant thereto.

27 (d) The director shall issue an apprenticeship license to operators in
28 training as established under this subchapter and in rules and regulations
29 promulgated by the commission.

30 § 8-6-909. Fees.

31 (a) The commission shall have the authority to set fees in an amount to
32 cover the cost of the administration of this subchapter. These fees shall not
33 exceed twenty-five dollars (\$25.00) for the licensing examination, ten dollars
34 (\$10.00) for licensing, ten dollars (\$10.00) for annual renewal of licenses,
35 and a ten dollar (\$10.00) penalty for late renewal.

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

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4 SECTION 2. All provisions of this act of a general and permanent nature
5 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
6 Revision Commission shall incorporate the same in the Code.

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8 SECTION 3. If any provision of this act or the application thereof to
9 any person or circumstance is held invalid, such invalidity shall not affect
10 other provisions or applications of the act which can be given effect without
11 the invalid provision or application, and to this end the provisions of this
12 act are declared to be severable.

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14 SECTION 4. All laws and parts of laws in conflict with this act are
15 hereby repealed.

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17 /s/Rep. Malone, et al

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19 APPROVED: 2-6-95

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