

As Engrossed: 2/3/95 2/16/95

1 **State of Arkansas**
2 **80th General Assembly**
3 **Regular Session, 1995**
4 **By: Senator Smith, Fitch**

A Bill

ACT 634 OF 1995
SENATE BILL 188

For An Act To Be Entitled

7 "AN ACT TO ESTABLISH A STATE OFFICE OF HAZARDOUS MATERIALS
8 EMERGENCY MANAGEMENT TO IMPLEMENT AND CARRY OUT THE
9 REQUIREMENTS SPECIFIED IN THE EMERGENCY PLANNING AND
10 COMMUNITY RIGHT-TO-KNOW ACT OF 1986 (TITLE III OF PUBLIC
11 LAW 99-499, 42 U.S.C. 11001, ET SEQ.) ON BEHALF OF THE
12 STATE EMERGENCY RESPONSE COMMISSION AND IN SUPPORT OF
13 LOCAL EMERGENCY PLANNING COMMITTEES AND AS RELATED TO
14 PROVIDING SPECIFIC DISASTER/EMERGENCY PLANNING,
15 MITIGATION, RESPONSE AND RECOVERY ACTIONS TO PROVIDE FOR
16 THE PUBLIC HEALTH, SAFETY AND WELFARE AS RELATED TO
17 HAZARDOUS/TOXIC MATERIALS INCIDENTS, ACCIDENTS AND EVENTS
18 OCCURRING WITHIN THE STATE OF ARKANSAS; AND FOR OTHER
19 PURPOSES."

Subtitle

22 "TO ESTABLISH A STATE OFFICE OF
23 HAZARDOUS MATERIALS EMERGENCY
24 MANAGEMENT."

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

28 SECTION 1. This act may be known and cited as the "Arkansas HAZMAT
29 Emergency Management Act."

31 SECTION 2. DEFINITIONS. As used in this act:

32 (1) "Emergency Management" means those activities related to
33 disaster/emergency planning, mitigation, training, response and recovery as
34 prescribed in Arkansas Code 12-75-101 et seq.;

35 (2) "Hazardous/Toxic Materials" or "HAZMATs" means those extremely
36 hazardous substances described under Section 313 of SARA, Title III and such

1 other hazardous/toxic substances as may later be designated by federal
2 regulatory agencies;

3 (3) "Local Emergency Planning Committee" or "LEPC" refers to those
4 local entities authorized under the provisions of Arkansas Code 12-82-101 et
5 seq. and in accordance with the Federal Emergency Planning and Community
6 Right-to-Know Act of 1986, (Title III of Public Law 99-499, 42 U.S.C., et
7 seq);

8 (4) "SARA, Title III" refers to Title III of the Superfund Amendments
9 and Reauthorization Act of 1986 (P.L. 99-499) and activities mandated,
10 therein;

11 (5) "State Emergency Response Commission" or "SERC" refers to that
12 entity created under the provisions of Arkansas Code 12-82-101 et seq. and in
13 accordance with the Federal Emergency Planning and Community Right-to-Know Act
14 of 1986 (Title III of Public Law 99-499, 42 U.S.C., et seq.).

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16 SECTION 3. There is created by this act a State Office of Hazardous
17 Materials Emergency Management within, and under the administrative and
18 operational control of the State Office of Emergency Services, which shall
19 perform the necessary actions and activities as required under current federal
20 and state laws, rules and regulations related to emergency planning, training,
21 response and recovery, and as specified in Arkansas Code, 12-75-101 et seq.
22 relating to accidental, deliberate or Acts of God releases of hazardous/toxic
23 materials which might threaten the public health, safety, welfare, environment
24 and/or property of the citizens of Arkansas.

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26 SECTION 4. The State Office of Hazardous Materials Emergency Management
27 shall:

28 (1) Collect, file and establish an accessible database and make
29 available, information derived from the required reports in Sections 312 and
30 313 of SARA, Title III and in accordance with said laws, regulations and
31 guidelines established by the federal government and the State of Arkansas;

32 (2) Establish, staff and manage an administrative, fiscal and
33 operational office to manage all programs and funds required under this act
34 and in accordance with the current, accepted practices prescribed by the State
35 of Arkansas and participating federal agencies;

1 (3) Establish and manage a system to train and certify emergency first
2 responders at the minimum prescribed levels of competency and proficiency as
3 required by federal and/or state law or regulation;

4 (4) Assist, as requested or directed by the SERC, Local Emergency
5 Planning Committees in meeting the minimum standards for planning, training
6 and/or exercising as required under the provisions of SARA, Title III;

7 (5) Establish a system to certify LEPCs as being in compliance with
8 required actions and activities, as prescribed by SARA, Title III and other
9 governing directives, laws and/or regulations;

10 (6) Manage federal and/or state funding programs that provide direct
11 fiscal assistance to certified LEPCs for planning, training, exercising and/or
12 administration, to insure program and/or fiscal compliance with current
13 federal and/or state law;

14 (7) Perform, manage and oversee such other HAZMATS emergency management
15 related functions as may later be implemented, as directed by the Governor,
16 SERC and/or other state authority;

17 (8) Collect and administer fees provided in this act, and such federal
18 funding as may be specifically earmarked for the program of the Office of
19 Hazardous Materials Emergency Management, in accordance with current federal
20 and state laws, regulations and rules and as recommended by the State
21 Emergency Response Commission to insure minimum compliance with federal
22 mandates related to hazardous/toxic materials emergency preparedness;

23 (9) Provide a point of contact for state agencies, offices and bureaus
24 to assist with the coordination of specific emergency planning and training
25 and other hazardous/toxic materials emergency management related activities;

26 (10) Provide direct emergency management support to Local Emergency
27 Planning Committees to assist them with local hazardous/toxic materials
28 emergency management activities and to assist them with reaching and
29 maintaining compliance with federal mandates for these programs;

30 (11) Manage, as designated by the Governor or the State Emergency
31 Response Commission, such other hazardous/toxic materials emergency management
32 programs as may later be mandated by federal or state law, regulation or
33 guidance.

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35 SECTION 5. (a) Each facility required to report to the State Emergency

1 Response Commission under the provisions of Sections 312 and 313 of SARA,
2 Title III shall pay the following annual fees to the Office of Hazardous
3 Materials Emergency Management:

4 (1) For each facility required to file one (1) or more Hazardous
5 Chemical Inventory Reports, under the provisions of Section 312 of said SARA,
6 Title III, an annual fee of twenty-five dollars (\$25.00) and an additional fee
7 of five dollars (\$5.00) for each report filed, annually, with a maximum limit
8 of two-hundred dollars (\$200.00) annually for each reporting facility;

9 (2) For each facility required to file one (1) or more Toxic Chemical
10 Release Forms, under the provisions of Section 313 of SARA, Title III an
11 annual fee of *one hundred fifty dollars (\$150)* and an additional fee of
12 twenty-five dollars (\$25.00) for each report, with a maximum limit of four
13 hundred dollars (\$400.00) annually for each reporting facility.

14 (3) *Any business or other outlet which sells gasoline, diesel and other*
15 *motor fuel only at retail to the public shall be exempt from paying the fees*
16 *outlined in the preceding subsections.*

17 (b) The SERC shall periodically assess the adequacy of the fees
18 established in this section, and may, through the public hearing process,
19 modify the fees imposed for each individual report not to exceed the stated
20 maximum limit for each reporting facility as indicated above.

21 (c) Reports under the provisions of Sections 312 and/or 313 of
22 SARA, Title III shall be submitted to the State Office of Hazardous Materials
23 Emergency Management in accordance with, and within the specified time frames
24 o,f SARA, Title III and shall include a company check, issued by the facility
25 or its parent corporation, for the appropriate amount of each submission, as
26 specified in this section, and the check shall be made payable to the Office
27 of Hazardous Materials Emergency Management.

28 (d) Any facility or person failing to provide the reports and pay
29 the fees, as specified in this section, shall be liable for civil penalties in
30 such amount as the Office of Hazardous Materials Emergency Management shall
31 find appropriate, not to exceed ten-thousand dollars (\$10,000.00) per
32 violation and for payment of any expenses reasonably incurred by the state
33 therefrom.

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35 SECTION 6. There is hereby created on the books of the State Treasurer,

1 State Auditor and Chief Fiscal Officer of the State a special revenue fund
2 account to be known as the Office of Hazardous Materials Emergency Management
3 revolving fund. All monies collected under this act shall be deposited to the
4 credit of that account as special revenues and shall be used by the State
5 Office of Hazardous Materials Emergency Management to operate the office and
6 enforce this act.

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8 SECTION 7. Nothing in this act shall be construed as regulatory
9 authority over acts, laws, rules, regulations or guidelines of other state or
10 federal agencies related to their designated responsibilities and duties as
11 regulatory authority over concerns of environment, health, law enforcement,
12 fire fighting, medical, or other areas of responsibility.

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14 SECTION 8. The provisions of this act are intended to be supplemental
15 to current provisions of Arkansas law, and shall not be construed as repealing
16 or superseding any other laws applicable thereto.

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18 SECTION 9. All provisions of this act of a general and permanent nature
19 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
20 Revision Commission shall incorporate the same in the Code.

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22 SECTION 10. If any provision of this act or the application thereof to
23 any person or circumstance is held invalid, such invalidity shall not affect
24 other provisions or applications of the act which can be given effect without
25 the invalid provision or application, and to this end the provisions of this
26 act are declared to be severable.

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28 SECTION 11. All laws and parts of laws in conflict with this act are
29 hereby repealed.

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31 SECTION 12. EMERGENCY. It is hereby found and determined by the General
32 Assembly that due to the potential danger posed to the citizens of the State
33 of Arkansas by the transport and storage of hazardous materials within the
34 State of Arkansas it has been found and declared by the General Assembly that
35 there is an immediate need to implement the provisions of this act in the

1 interests of public safety and welfare. Therefore, an emergency is hereby
2 declared to exist and this act being necessary for the immediate preservation
3 of the public peace, health and safety shall be in full force and effect from
4 and after its passage and approval.

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/s/Smith, Fitch

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APPROVED: 3-14-95

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