

"AN ACT TO AMEND SECTION 9(c) OF ACT 472 OF 1949, AS AMENDED, AND SECTION 11(d) OF ACT 237 OF 1971, AS AMENDED, TO PROVIDE THAT IN CIVIL ACTIONS INSTITUTED BY THE ARKANSAS DEPARTMENT OF POLLUTION CONTROL AND ECOLOGY UNDER SUCH ACTS THE COURT MAY ASSESS A CIVIL PENALTY FOR VIOLATIONS OF SUCH ACTS AND THE REGULATIONS ISSUED THEREUNDER; AND FOR OTHER PURPOSES."

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

SECTION 1. Section 9(c) of Act 472 of 1949, as amended, the same being codified as Ark. Stat. Ann. 82-1909(c), is hereby amended to read as follows:

"(c) Any person who violates any provision of this Act, or the regulations issued pursuant to this Act, or who violates any condition of a permit issued hereunder, may:

(1) in accordance with the regulations issued by the Commission be assessed a civil penalty by the Commission. Such penalty shall not exceed Five Thousand Dollars (\$5,000.00) for each violation. Each day of a continuing violation may be deemed a separate violation for purposes of penalty assessments provided that no civil penalty may be assessed until the person charged with the violation has been given the opportunity for a hearing on such violation pursuant to Ark. Stat. Ann. 82-1906. Appeal of the Commission's decision may be taken in accordance with the appellate procedures specified in Ark. Stat. Ann. 82-1906;

(2) in any civil action instituted by the Department under this Act, be assessed a civil penalty by the court. Such penalty shall not exceed Five Thousand Dollars (\$5,000.00) for each violation. Each day of a continuing violation may be deemed a separate violation for purposes of penalty assessments."

SECTION 2. Section 11(d) of Act 237 of 1971, as amended, the same being codified as Ark. Stat. Ann. 82-2711(d), is hereby amended to read as follows:

"(d) Any person who violates any provision of this Act, or the regulations issued pursuant to this Act, or who violates any condition of a permit issued hereunder, may:

(1) in accordance with the regulations issued by the Commission be assessed a civil penalty by the Commission. Such penalty shall not exceed Five Thousand Dollars (\$5,000.00) for each violation. Each day of a continuing violation may be deemed a separate violation for purposes of penalty assessments provided that no civil penalty may be assessed until the person charged with the violation has been given the opportunity for a hearing on such violation pursuant to Ark. Stat. Ann. 82-1906. Appeal of the Commission's decision may be taken in accordance with the appellate procedures specified in Ark. Stat. Ann. 82-1906;

(2) in any civil action instituted by the Department under this Act, be assessed a civil penalty by the court. Such penalty shall not exceed Five Thousand Dollars (\$5,000.00) for each violation. Each day of a continuing violation may be deemed a separate violation for purposes of penalty assessment."

SECTION 3. Repealer. All laws and parts of laws in conflict herewith are hereby repealed to the extent of such conflict.

