

1 **State of Arkansas**
2 **80th General Assembly**
3 **Regular Session, 1995**

A Bill

ACT 502 OF 1995
SENATE BILL 429

4 **By: Committee on Public Health, Welfare, and Labor**

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For An Act To Be Entitled

8 "AN ACT TO AMEND SUBCHAPTER 5 OF CHAPTER 6 OF TITLE 8 OF
9 THE ARKANSAS CODE TO SET FORTH POLICY TO ELIMINATE ILLEGAL
10 DUMPING OF SOLID WASTE; AND FOR OTHER PURPOSES."

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Subtitle

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"TO PROVIDE ENFORCEMENT AND POLICY

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MECHANISM FOR ILLEGAL DUMPING."

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

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18 SECTION 1. Subchapter 5 of Chapter 6 of Title 8 of Arkansas Code
19 Annotated is amended to read as follows:

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"8-6-501. Purpose.

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(a) This subchapter shall be known and may be cited as The Illegal

22 Dumps Control Act.

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(b) It is the purpose of this subchapter to set forth the policy of the

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State to eliminate the illegal dumping of solid waste. This subchapter

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defines illegal dumps and establishes elimination proceedings.

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8-6-502. Definitions.

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

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(1) Commission means the Arkansas Department of Pollution Control and

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Ecology Commission;

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

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(3) Director means the Director of the Department of Pollution

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Control and Ecology;

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(4) Illegal dump means any place at which solid waste is placed,

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deposited, abandoned, dumped, or otherwise disposed of in a manner that is

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prohibited by this subchapter or other statutes, rules, or regulations, and

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which constitute one of and/or any of the following: attractive nuisances,

1 fire, health, or safety hazards, potential sources of surface and/or
2 groundwater contamination, or other contamination that is hazardous to the
3 public health or endangers the environment;

4 (5) Illegal dumping of solid waste means the illegal placing,
5 depositing, dumping, or causing to be placed, deposited, or dumped by any
6 person in or upon any public or private highway or road, including any portion
7 of the right-of-way thereof, in or upon any private property into or upon
8 which the public is admitted by easement or license, or any private property,
9 in or upon any public park, or other public property, other than the property
10 designated or set aside for such purpose by the governing board or body having
11 charge thereof or upon any property for which a permit has not been issued by
12 the department.

13 (6) Landfill means all landfills permitted under the Arkansas Solid
14 Waste Management Act, § 8-6-201, et seq., except those landfills where a
15 private industry bears the expense of operating and maintaining the landfill
16 solely for the disposal of wastes generated by the industry or wastes of a
17 similar kind or character;

18 (7) Person means any individual, corporation, company, firm,
19 partnership, association, trust, state agency, government instrumentality or
20 agency, institution, county, city, town, municipal authority or trust,
21 venture, or other legal entity, however organized;

22 (8) Solid waste means any garbage, or refuse, sludge from a
23 wastewater treatment plant, water supply treatment plant, or air pollution
24 control facility and other discarded material, including solid, liquid,
25 semi-solid, or contained gaseous material resulting from industrial,
26 commercial, mining, and agricultural operations, and from community
27 activities, but does not include solid or dissolved materials in domestic
28 sewage, or solid or dissolved materials in irrigation return flows or
29 industrial discharges that are point sources subject to permit under 33 U.S.C.
30 1342, or source, special nuclear, or by-product material as defined by the
31 Atomic Energy Act of 1954, as amended (68 Stat. 923).

32 8-6-503. Proceedings generally.

33 (a) Any government official or employee or any person who has knowledge
34 of, or information of, the illegal dumping of solid waste on any public or
35 private property in this state may file a complaint thereof in the county

1 court of the county in which the illegal dumping of solid waste has taken
2 place or in the county of residence of the person who is accused of being
3 liable for the illegal dumping of the solid waste.

4 (b) Upon the filing of a verified complaint, noting on the complaint
5 the person against whom the claim is filed, the county court shall enter a
6 temporary order directing that the accused person remove from the described
7 public or private property the solid waste that has been illegally dumped on
8 the property and properly dispose of the solid waste within ten (10) days from
9 the date of the order. The sheriff of the county shall serve the order. Upon
10 the order being served, the accused party shall remove the solid waste in
11 question from the public or private property as described in the order. If
12 the person wishes to challenge the order, the person may file a petition
13 challenging the order with the court within ten (10) days from the date the
14 order is served.

15 (c) Upon the filing of a petition challenging the order, the court
16 shall hold a hearing on it within fourteen (14) days after the filing of the
17 petition and shall serve notice upon the accusing party and upon the accused.
18 At the hearing, which may be continued from time to time as determined by the
19 county court, the court shall hear all evidence and testimony and, after
20 hearing it, shall enter an order either dismissing the original or temporary
21 order or making the order permanent. The parties represented at the hearing
22 may be represented by counsel.

23 (d) If the order is made permanent, the accused party shall, within ten
24 (10) days thereafter, cause the solid waste which has been illegally dumped on
25 private or public property to be removed therefrom and disposed of properly.
26 If, after ten (10) days from the date of the order, the person against whom
27 the order is directed has not removed the solid waste from the public or
28 private property and properly disposed of it as noted in the order, the
29 governmental agency or the owner of the property may cause it to be moved and
30 shall file with the county court a verified statement in writing of the cost
31 of removal. After reviewing the statement, if the court determines it to be
32 reasonable, the court shall enter an order upon the judgment docket of the
33 county court of the amount thereof, which shall be a judgment against the
34 party against whom the judgment was issued and may be enforced as any other
35 judgment.

1 (e) Any party aggrieved by any order of the county court under this
2 subchapter may appeal therefrom to the circuit court, and the circuit court
3 shall try the cause de novo.

4 8-6-504. Criminal, civil, and administrative penalties.

5 In addition to the proceedings described in § 8-6-503, every person
6 convicted of a violation of this subchapter shall be subject to the criminal,
7 civil, or administrative penalties as specified in § 8-6-204.

8 8-6-505. Consequences of unpaid fines and costs.

9 In all convictions for violations of the provisions of this subchapter
10 when the fine and costs are not paid, the person convicted shall be subject to
11 administrative or civil enforcement action. Sanctions may include
12 administrative, civil, or criminal penalties as provided in the Arkansas Solid
13 Waste Management Act, § 8-6-201 et seq."

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

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19 SECTION 3. If any provision of this act or the application thereof to
20 any person or circumstance is held invalid, such invalidity shall not affect
21 other provisions or applications of the act which can be given effect without
22 the invalid provision or application, and to this end the provisions of this
23 act are declared to be severable.

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

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28 APPROVED: 3-1-95

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