

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

Act 1199 of the Regular Session

1 State of Arkansas  
2 87th General Assembly  
3 Regular Session, 2009  
4

As Engrossed: S3/10/09

A Bill

SENATE BILL 65

5 By: Senator Madison  
6  
7

8 **For An Act To Be Entitled**

9 AN ACT TO MAKE VARIOUS CORRECTIONS TO TITLE 8 OF  
10 THE ARKANSAS CODE OF 1987 ANNOTATED; AND FOR  
11 OTHER PURPOSES.  
12

13 **Subtitle**

14 AN ACT TO MAKE VARIOUS CORRECTIONS TO  
15 TITLE 8 OF THE ARKANSAS CODE OF 1987  
16 ANNOTATED.  
17  
18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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21 SECTION 1. Arkansas Code § 8-1-106(b)(2)(A)(i) is amended to read as  
22 follows to correct a reference:

23 (A)(i) Governmental entities, consisting only of  
24 subdivisions or agencies of the federal government, agencies of the state  
25 government, counties, municipalities, or duly authorized regional solid waste  
26 ~~authorities~~ management boards as defined by § 8-6-707 § 8-6-702.  
27

28 SECTION 2. Arkansas Code § 8-1-106(b)(5) is amended to read as follows  
29 to make stylistic changes:

30 (5) For a person or an entity seeking a renewal of an expiring  
31 permit, license, certification, or operational authorization the disclosure  
32 requirements of this section shall be met if the person or entity:

33 (A) Discloses any change in previously submitted  
34 information; or

35 ~~(B) Verifies~~ verifies that the previously submitted



1 information remains accurate; and

2 ~~(C)-(B)~~ Submits the information on forms developed by the  
3 department.

4  
5 SECTION 3. Arkansas Code § 8-1-312 is amended to read as follows to  
6 make stylistic changes:

7 8-1-312. Scope.

8 ~~(a)~~ Nothing in this subchapter may limit, waive, or abrogate:

9 (1) the ~~The~~ scope of any statutory or common law privilege,  
10 including the work product doctrine and the attorney-client privilege; ~~or~~

11 ~~(b) Nothing in this subchapter may limit, waive, or abrogate~~ (2) the  
12 The rights of the public as provided ~~for~~ in the Freedom of Information Act of  
13 1967, § 25-19-101 et seq.

14  
15 SECTION 4. Arkansas Code § 8-3-102 is amended to read as follows to  
16 make stylistic changes:

17 8-3-102. Ambient air quality standards - Hydrogen sulfide.

18 (a) After review of scientific literature and similar standards in  
19 other states, the Arkansas Pollution Control and Ecology Commission shall  
20 promulgate, through procedures set out in § 8-4-202, ambient air quality  
21 standards or other appropriate regulatory controls that will protect the  
22 public health and the environment from the emission of hydrogen sulfide.

23 (b)(1) Before the commission proposes an ambient standard or  
24 regulatory mechanism concerning hydrogen sulfide that will result in more  
25 stringent or restrictive control provisions than are currently provided by  
26 Arkansas Department of Environmental Quality permitting practices, the  
27 commission shall direct the department to prepare, with the assistance and  
28 *cooperation of state agencies with appropriate expertise, a ~~cost/benefit~~ an*  
29 *economic impact and environmental benefit analysis justifying more stringent*  
30 *or restrictive operating conditions.*

31 (2) *The economic impact and environmental benefit analysis ~~will~~*  
32 *shall include, but not be limited to, without limitation:*

33 (A) ~~the~~ The *benefit to the public health; ~~and~~*

34 (B) ~~the~~ The *preservation of environmental quality; ~~and~~*

35 (C) ~~the~~ The *cost to the regulated community and the*  
36 *department.*

1           (3) The conclusions of ~~this~~ an economic impact and environmental  
2 benefit analysis shall be included in any public notice of the proposed  
3 rulemaking and shall be subject to public comment.

4  
5           SECTION 5. Arkansas Code § 8-4-408(1) is amended to read as follows to  
6 make a stylistic change:

7           (1) To conduct lead-based paint activities without having first  
8 obtained a license ~~and/or certification~~ or certification, or both, from the  
9 Arkansas Department of Environmental Quality when acting as a contractor,  
10 consultant, training provider, inspector, project designer, risk assessor,  
11 supervisor, or worker;

12  
13           SECTION 6. Arkansas Code § 8-6-205(c) is amended to read as follows to  
14 make a stylistic change:

15           (c) No person shall be liable for any violation of this subchapter or  
16 of any rule, regulation, or order of the commission issued pursuant to this  
17 subchapter if the violation results solely from the act or omission of a  
18 third party, unless the person has knowingly allowed the violation to occur  
19 through acquiescence, acts, ~~and/or~~ or omissions.

20  
21           SECTION 7. Arkansas Code § 8-6-503(4) is amended to read as follows to  
22 make a stylistic change:

23           (4) "Illegal dump" means any place at which solid waste is  
24 placed, deposited, abandoned, dumped, or otherwise disposed of in a manner  
25 that is prohibited by this subchapter or other statutes, rules, or  
26 regulations, and which constitute one (1) of ~~and/or any of~~ the following:

27                   (A) An attractive nuisance;

28                   (B) A fire, health, or safety hazard;

29                   (C) A potential source of surface ~~and/or~~ or groundwater  
30 contamination; or

31                   (D) Other contamination that is hazardous to the public  
32 health or endangers the environment;

33  
34           SECTION 8. Arkansas Code § 8-6-704(a)(13) and (14) is amended to read  
35 as follows to make terminology consistent:

36           (13)(A) To enter into agreements with another solid waste

1 management district to allow a district or any person within that district to  
2 transfer solid waste into another district.

3 (B) However, notice of all such authorizations shall be  
4 submitted to the Arkansas Department of Environmental Quality within thirty  
5 (30) days and shall be incorporated into the ~~district~~ regional needs  
6 assessment in its next regular update; and

7 (14)(A) To authorize a disposal facility within a district to  
8 accept the receipt of solid waste from an adjoining district upon request by  
9 the generator of that solid waste, provided that the request specifies the  
10 disposal facility and the nature and estimated annual volume of solid waste  
11 to be received.

12 (B) However, notice of all such authorizations shall be  
13 submitted to the department within thirty (30) days and shall be incorporated  
14 into the ~~district~~ regional needs assessment in its next regular update.

15  
16 SECTION 9. Arkansas Code § 8-6-901(13) is amended to read as follows  
17 to make stylistic changes:

18 (13)(A) "Solid waste management facility" means all contiguous  
19 land and structures, other appurtenances, and improvements on the land used  
20 for storage, collection, transportation, processing, treatment, ~~and/or~~ or  
21 disposal of solid waste.

22 (B)(i) For purposes of this subchapter, facilities engaged  
23 solely in the recycling of source-separated materials are excluded.

24 (ii) Also excluded are processes, operations, ~~and/or~~  
25 and facilities that are regulated pursuant to hazardous waste rules and  
26 regulations which are not regulated pursuant to solid waste rules and  
27 regulations.

28  
29 SECTION 10. Arkansas Code § 8-7-1404(b)(3) is amended to read as  
30 follows to make stylistic changes:

31 (3) Not determine that a property has been adequately remediated  
32 unless:

33 (A)~~(i)~~ The inspection, sampling, remediation, and removal  
34 of contaminated materials is performed:

35 (i) By performed by or under the direction and  
36 responsible charge of an individual who has obtained a certification under

1 the rules established by the Arkansas Pollution Control and Ecology  
2 Commission under this subchapter; or

3 (ii) ~~The inspection, sampling, remediation, and~~  
4 ~~removal of contaminated materials is performed by~~ By an employee of a public  
5 agency that has the responsibility of regulatory enforcement, emergency  
6 response, the protection of public health and welfare, or the protection of  
7 the environment while the employee is acting in the course of that  
8 employment; and

9 (B) The property has met the remediation standards  
10 developed by the department;

11  
12 SECTION 11. Arkansas Code § 8-7-1405(d)(7)(D)(ii) is amended to read  
13 as follows to make stylistic changes:

14 (ii) ~~As used in subdivision (d)(7)(D)(i) of this~~  
15 ~~section, "authorized person" means~~ The following persons are authorized to  
16 enter a residually contaminated property or in the case of a space-rental  
17 mobile home or recreational vehicle park the unit located on the property:

18 (a) An employee of the ~~Arkansas Department of~~  
19 ~~Environmental Quality~~ department;

20 (b) A law enforcement officer;

21 (c) The owner of a residually contaminated  
22 property; and

23 (d) A representative of an owner of a  
24 residually contaminated property if the representative has signed a waiver of  
25 liability;

26  
27 SECTION 12. The enactment and adoption of this act shall not repeal,  
28 expressly or impliedly, the acts passed at the regular session of the 87th  
29 General Assembly. All such acts shall have full effect and, so far as those  
30 acts intentionally vary from or conflict with any provision contained in this  
31 act, those acts shall have the effect of subsequent acts and as amending or  
32 repealing the appropriate parts of the Arkansas Code of 1987.

33  
34 /s/ Madison

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36 **APPROVED: 4/7/2009**