

1 State of Arkansas  
2 92nd General Assembly  
3 Regular Session, 2019  
4

# A Bill

HOUSE BILL 1967

5 By: Representative Watson  
6

## For An Act To Be Entitled

8 AN ACT TO MODERNIZE, SIMPLIFY, AND CLARIFY THE LAW TO  
9 ENSURE LOCAL GOVERNMENTS AND OTHER STATE AGENCIES  
10 HAVE ADEQUATE RESOURCES TO ADDRESS ILLEGAL DUMPS AND  
11 OTHER ISSUES THAT AFFECT THE PUBLIC HEALTH, SAFETY,  
12 AND WELFARE; TO CREATE THE ENVIRONMENTAL COMPLIANCE  
13 RESOURCE ACT; TO REPEAL THE ILLEGAL DUMP ERADICATION  
14 AND CORRECTIVE ACTION PROGRAM ACT; TO TRANSFER  
15 COMPONENTS OF THE ILLEGAL DUMP ERADICATION AND  
16 CORRECTIVE ACTION PROGRAM TO THE ENVIRONMENTAL  
17 COMPLIANCE RESOURCE ACT AND THE ARKANSAS SOLID WASTE  
18 MANAGEMENT ACT; AND FOR OTHER PURPOSES.  
19  
20

## Subtitle

21 TO CREATE THE ENVIRONMENTAL COMPLIANCE  
22 RESOURCE ACT.  
23  
24  
25

26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
27

28 SECTION 1. Arkansas Code Title 8, Chapter 6, is amended to add an  
29 additional subchapter to read as follows:

30 Subchapter 20 – Environmental Compliance Resource Act  
31

32 8-6-2001. Title.

33 This subchapter shall be known and may be cited as the “Environmental  
34 Compliance Resource Act”.  
35

36 8-6-2002. Purpose.



1       The purpose of this subchapter is to protect the public health, safety,  
 2 and welfare of the state by:

3               (1) Improving the operational efficiency of the Arkansas  
 4 Department of Environmental Quality concerning the resources provided to  
 5 local governments and other state agencies, boards, and commissions;

6               (2) Creating the Environmental Compliance Resource Program as a  
 7 consolidated program to be administered by the department to provide  
 8 resources to local governments and other state agencies, boards, and  
 9 commissions;

10              (3) Ensuring that cities, municipalities, counties, regional  
 11 solid waste management districts, and state agencies, boards, and commissions  
 12 have sufficient resources;

13              (4) Authorizing the department to develop, implement, and  
 14 administer an Environmental Compliance Resource Program; and

15              (5) Modernizing, simplifying, and clarifying the law related to  
 16 illegal dumping of solid waste and other similar issues that affect the  
 17 public health, safety, and welfare.

18  
 19       8-6-2003. Definitions.

20       As used in this subchapter:

21              (1) "Alleged violator" means a person that has been issued an  
 22 environmental citation under this subchapter by an environmental officer;

23              (2) "Cost statement" means a verified written statement that  
 24 accounts for the cost of solid waste removal or other remediation, including  
 25 without limitation receipts, and establishes that:

26                      (A) The solid waste was removed from the location or the  
 27 environmental violation at the location was otherwise remediated; and

28                      (B) The solid waste was properly disposed of at one (1) or  
 29 more of the following facilities:

30                              (i) A permitted solid waste disposal facility;

31                              (ii) A permitted solid waste processing facility;

32                              (iii) A recycling center;

33                              (iv) A scrap yard that purchases iron, steel,  
 34 aluminum, or other metals; or

35                              (v) Any other facility that an environmental officer  
 36 finds to be a proper disposal facility for the solid waste;

1           (3) “Environmental officer” means an employee of a city, county,  
2 municipality, regional solid waste management district created under § 8-6-  
3 701 et seq., or state agency, board, or commission who has:

4           (A) Completed all requirements under this subchapter,  
5 including without limitation completing required training and passing the  
6 required examination, obtaining certification, being sworn in, and  
7 maintaining certification through continuing education; and

8           (B) Authority to enter land to investigate and inspect as  
9 provided under § 8-1-107 to enforce environmental laws under the authority of  
10 the Arkansas Department of Environmental Quality;

11           (4) “Environmental violation” means an act or omission that:

12           (A) Is prohibited under § 8-6-2005; or

13           (B) Causes or results in the violation of a state law,  
14 rule, or order that is:

15           (i) Designed to protect the public health, safety,  
16 or welfare; and

17           (ii) Applicable to this subchapter under § 8-6-2004;

18           (5) “Illegal dumping of solid waste” means the illegal placing,  
19 depositing, dumping, or causing to be placed, deposited, or dumped by a  
20 person any solid waste that is prohibited by this chapter:

21           (A) In or upon a public or private highway, road, or  
22 street, including a portion of the right-of-way in or upon a public or  
23 private highway, road, or street;

24           (B) In or upon private property into or upon which the  
25 public is admitted by easement or license of the private property;

26           (C) In or upon a public park or other public property; or

27           (D) Upon property for which a permit has not been issued  
28 by the department;

29           (6)(A) “Illegal dump site” means a place where solid waste is  
30 disposed of in a manner that is prohibited by this chapter.

31           (B) “Illegal dump site” includes a place where one (1) or  
32 more of the following exists:

33           (i) An attractive nuisance;

34           (ii) A fire, health, or safety hazard;

35           (iii) A potential source of surface or groundwater  
36 contamination;

1                   (iv) A waste tire site as defined in § 8-9-402; or  
 2                   (v) Other contamination that is hazardous to the  
 3 public health or endangers the environment; and

4                   (7) "Person" means an individual, municipality, other  
 5 governmental entity, or other entity that is recognized by law with rights  
 6 and duties.

7  
 8                   8-6-2004. Applicability.

9                   This subchapter applies to the enforcement of illegal dumping of solid  
 10 waste in violation of this subchapter and the Used Tire Recycling and  
 11 Accountability Act, § 8-9-401 et seq.

12  
 13                   8-6-2005. Prohibited conduct.

14                   An act or omission that results in one (1) or more of the following in  
 15 this state is prohibited by this subchapter:

16                   (1) The illegal dumping of solid waste on public or private  
 17 property;

18                   (2) The creation or participation in the creation or furtherance  
 19 of an illegal dump site;

20                   (3) The disposal of solid waste has resulted from a property  
 21 owner's own household activities on his or her own land if the disposal:

22                   (A) Creates a public or private nuisance;

23                   (B) Is a hazard to health; or

24                   (C) Involves the open dumping of garbage; or

25                   (4) Any other environmental violation applicable to this  
 26 subchapter under § 8-6-2004.

27  
 28                   8-6-2006. Commission power and duties.

29                   The Arkansas Pollution Control and Ecology Commission shall promulgate  
 30 rules for the administration of the Environmental Compliance Resource Program  
 31 under this subchapter.

32  
 33                   8-6-2007. Department power and duties.

34                   (a) The Arkansas Department of Environmental Quality shall develop,  
 35 implement, and administer an Environmental Compliance Resource Program as  
 36 provided under this subchapter and pursuant to the rules promulgated by the

1 Arkansas Pollution Control and Ecology Commission.

2 (b)(1) The department shall designate at least one (1) employee as a  
 3 program coordinator.

4 (2) A program coordinator shall obtain the equivalent academic  
 5 training and pass the equivalent test as an environmental officer under § 8-  
 6 6-2010.

7 (3) If an employee designated under subdivision (b)(1) of this  
 8 section has met the requirements under subdivision (b)(2) of this section,  
 9 the Director of the Arkansas Department of Environmental Quality shall issue  
 10 a technical certificate that establishes that the employee holds the  
 11 equivalent credentials as an individual who is certified as an environmental  
 12 officer under § 8-6-2010.

13 (4) An employee who is certified as an environmental officer and  
 14 is a program coordinator may perform the duties of an environmental officer  
 15 within the state as well as other duties assigned by the director.

16  
 17 8-6-2008. Environmental Compliance Resource Program.

18 (a) The Director of the Arkansas Department of Environmental Quality  
 19 or his or her designee shall develop, implement, and administer the  
 20 Environmental Compliance Resource Program.

21 (b) The program shall provide:

22 (1) Guidance and resources to all certified environmental  
 23 officers;

24 (2) Evaluation of all applicants for initial training as an  
 25 environmental officer;

26 (3) Coordination of training and examination of all potential  
 27 environmental officers;

28 (4) Certification to individuals who have completed the required  
 29 environmental officer training and examination;

30 (5) Coordination of continuing education for all certified  
 31 environmental officers; and

32 (6) Other services as determined necessary by the Director of  
 33 the Arkansas Department of Environmental Quality.

34  
 35 8-6-2009. Promulgation of uniform environmental citation form.

36 (a)(1) The Arkansas Department of Environmental Quality shall develop

1 and promulgate a uniform environmental citation form based on the laws  
2 applicable to this subchapter under § 8-6-2004 and conduct prohibited under §  
3 8-6-2005 in consultation with the Attorney General.

4 (2) The uniform environmental citation form shall be used  
5 exclusively by all environmental officers in this state in issuing citations  
6 for environmental violations.

7 (b) Subsection (a) of this section does not prohibit a municipality,  
8 city, county, or regional solid waste management district from promulgating  
9 citation forms for use in enforcement of violations of their local ordinances  
10 or bylaws for violations other than environmental violations.

11  
12 8-6-2010. Applicant eligibility – Training and examination –  
13 Certification fees.

14 (a)(1) An individual is eligible to apply for initial training as an  
15 environmental officer if the individual is a current employee of a  
16 municipality, city, county, regional solid waste management district, or  
17 state agency, board, or commission.

18 (2) The Director of the Arkansas Department of Environmental  
19 Quality shall make the final determination on eligibility.

20 (b)(1) The Arkansas Department of Environmental Quality shall  
21 designate approved environmental officer training and examination programs  
22 for eligible applicants and for annual renewals of the environmental  
23 certificate of a certified environmental officer.

24 (2) An eligible applicant or a certified environmental officer  
25 is responsible for payment of costs associated with his or her required  
26 training and examination.

27 (c)(1) For initial certification of an environmental officer, the  
28 department shall require from an applicant:

29 (A) Proof of completed training and a passing score on the  
30 examination from a department-approved environmental officer training and  
31 examination program; and

32 (B) Payment of a fee of fifty dollars (\$50.00).

33 (2) For annual renewal of the environmental officer certificate,  
34 the department shall require from a certified environmental officer:

35 (A) Proof of completed continuing education from an  
36 approved environmental officer training program in compliance with all

1 applicable rules of the Arkansas Pollution Control and Ecology Commission;  
 2 and

3 (B) Payment of a fee of twenty-five dollars (\$25.00).

4  
 5 8-6-2011. Environmental officer authority.

6 (a) An environmental officer under this subchapter may perform one (1)  
 7 or more of the following duties to ensure compliance with and enforcement of  
 8 this subchapter:

9 (1) Enter public or private property within the state to inspect  
 10 suspected illegal dump sites, littering, or related complaints;

11 (2) Enter public or private property to collect evidence of  
 12 illegal dumping of solid waste and littering and present the evidence to the  
 13 prosecuting attorney or a court of competent jurisdiction where the offense  
 14 was committed; and

15 (3) Perform all other duties specified in this subchapter  
 16 necessary for the administration and enforcement of this chapter.

17 (b) An environmental officer shall not have the power of arrest.

18  
 19 8-6-2012. Issuing an environmental citation.

20 (a) An environmental officer shall use the uniform environmental  
 21 citation form under § 8-6-2009 to issue a citation for an alleged  
 22 environmental violation under this subchapter.

23 (b) An environmental officer may issue a citation for an alleged  
 24 environmental violation of this subchapter to an alleged violator within the  
 25 territorial jurisdiction of the environmental officer's employer.

26  
 27 8-6-2013. Filing an environmental citation.

28 A citation for an alleged environmental violation issued by an  
 29 environmental officer shall be filed in a district court of competent  
 30 jurisdiction in the county where the alleged environmental violation was  
 31 committed.

32  
 33 8-6-2014. Serving an environmental citation.

34 A citation for an alleged environmental violation issued under this  
 35 subchapter shall be served in person or by mailing a copy of the citation by  
 36 certified mail, restricted delivery, to either the address obtained from

1 evidence collected from the environmental violation location or to the last  
2 known address of the alleged violator.

3 8-6-2015. Hearing on an environmental citation – Penalties.

4 (a)(1)(A) Except as provided under subdivision (a)(2) of this section,  
5 the alleged violator shall appear before the district court named within the  
6 citation at the location and time designated in the citation.

7 (B) The initial hearing shall occur no later than thirty  
8 (30) days after the time period expires for remediation of the alleged  
9 environmental violation.

10 (2) If the alleged environmental violation is remediated by the  
11 alleged violator within the time period established under § 8-6-2016 using  
12 the procedure under this subchapter, the district court shall dismiss the  
13 matter from the docket without hearing.

14 (3) If the environmental officer extends the time period for  
15 remediation under § 8-6-2016(c), the district court shall reschedule the  
16 hearing for not more than thirty (30) days after the extension for  
17 remediation.

18 (b) A district court having jurisdiction over a citation issued by an  
19 environmental officer may issue penalties under § 8-6-204 and may grant an  
20 available remedy referenced in this subchapter unless the remedy is not  
21 available to the district court.

22 (c)(1) A judgment entered under this subchapter:

23 (A) May be enforced in the same manner as any other  
24 judgment; and

25 (B) Is a final decision for purposes of appellate review.

26 (2) A person against which the judgment is entered may appeal  
27 the decision to circuit court.

28 (d) A judgment entered under this subchapter does not preclude claims  
29 under § 8-6-206 by another person.

30  
31 8-6-2016. Remediation procedures for environmental citations.

32 (a)(1) The environmental officer shall set the time period an alleged  
33 violator has to remove the solid waste or otherwise remediate the  
34 environmental violation.

35 (2) The time period shall not exceed thirty (30) days from the  
36 date of the environmental citation.



1           (b) To determine the time period, the environmental officer shall  
2 consider without limitation:

3                   (1) The severity of the environmental violation;

4                   (2) The size of the environmental violation;

5                   (3) The ability of the alleged violator to remove the solid  
6 waste and otherwise remediate the environmental violation; and

7                   (4) Any other factor that affects the alleged violator's  
8 capability to remove the solid waste and otherwise remediate the  
9 environmental violation.

10           (c)(1) The environmental officer may extend the time period under  
11 subsection (a) of this section if the alleged violator has exercised due  
12 diligence to remediate the environmental violation but cannot complete the  
13 remediation within the time period set due to one (1) or more of the factors  
14 under subsection (b) of this section.

15                   (2) If the environmental officer extends the time period under  
16 subdivision (c)(1) of this section, the environmental officer shall notify  
17 the district court with jurisdiction over the environmental citation hearing  
18 under § 8-6-2015 and request rescheduling of the hearing.

19           (d) If the alleged violator removes the solid waste from the location  
20 or otherwise remediates the environmental violation, the alleged violator  
21 shall present to the environmental officer a cost statement.

22           (e)(1) If the alleged violator has removed the solid waste or  
23 remediated the environmental violation and presented a cost statement to the  
24 environmental officer, the environmental officer shall file an affidavit with  
25 the district court that establishes that the environmental violation has been  
26 remediated and the environmental citation is withdrawn.

27                   (2) The affidavit shall include the cost statement and the  
28 results of an investigation that the environmental officer has completed at  
29 the location of the environmental violation.

30           (f) After filing the affidavit under subsection (e) of this section,  
31 the environmental officer shall notify the district court that the hearing  
32 required under § 8-6-2015 is unnecessary and the environmental citation has  
33 been withdrawn.

34           (g) The environmental officer shall provide a copy of the affidavit  
35 under subsection (e) of this section to the Environmental Compliance Resource  
36 Program.

1  
2 8-6-2017. Fines and costs.

3 (a) If fines and costs are not paid for judgments for violations of  
4 this subchapter, the party that has not paid the fines and costs is subject  
5 to an administrative or civil enforcement action under law or rule, or both.

6 (b) Sanctions for nonpayment may include administrative, civil, or  
7 criminal penalties as provided in the applicable law or rule, or both.

8  
9 8-6-2018. Other authority unaffected.

10 This subchapter does not limit the authority of an employee of:

11 (1) A municipality, city, county, or regional solid waste  
12 management district to issue a citation for a violation of a local ordinance  
13 or bylaw; or

14 (2) A state agency, board, or commission with the statutory duty  
15 to enforce other state laws or rules, federal laws or regulations, or local  
16 ordinances.

17  
18 8-6-2019. Agriculture exemption.

19 (a) Except as provided under subsection (b) of this section, the  
20 Arkansas Solid Waste Management Act, § 8-6-201, et seq., this subchapter, and  
21 § 8-6-901 et seq. do not apply to:

22 (1) The disposal of solid waste if the disposal:

23 (A) Results from operations of farms, grain elevators,  
24 cotton gins, and similar industries;

25 (B) Is at a place where agricultural gleanings and crop  
26 residue that result from operations of farms, grain elevators, cotton gins,  
27 and similar industries are being land applied in accordance with current  
28 management practices of the industries or the agricultural community; and

29 (C) Has been authorized and consented to by the landowner;  
30 or

31 (2) A landowner who disposes of solid waste on the property  
32 where the solid waste results from agricultural or farming operations or  
33 household operations.

34 (b) The exemptions under subsection (a) of this section do not apply  
35 to a disposal of solid waste if the disposal:

36 (1) Creates:

- 1                   (A) An illegal dump site;
- 2                   (B) A public or private nuisance; or
- 3                   (C) A fire, health, or safety hazard to the public; or
- 4                   (2) Involves the open dumping of garbage.

5

6           SECTION 2. Arkansas Code § 8-6-203(5)(B), concerning exclusions from  
 7 the definition of "household hazardous waste storage or processing center",  
 8 is amended to read as follows:

9                   (B) "Household hazardous waste storage or processing  
 10 center" does not include:

- 11                           (i) Hazardous waste treatment, storage, and disposal  
 12 facilities permitted by the department under the Resource Conservation and  
 13 Recovery Act of 1976, 42 U.S.C. § 6901 et seq.;
- 14                           (ii) ~~Agricultural operations as defined in § 8-6-509~~  
 15 Facilities with an agriculture exemption under § 8-6-2019; or
- 16                           (iii) De minimis amounts of household hazardous  
 17 waste that have not been removed from the municipal solid waste stream;

18

19           SECTION 3. Arkansas Code § 8-6-206, as amended by Acts 2019, No. 315,  
 20 is amended to read as follows:

21           8-6-206. ~~Private right of action~~ Proceedings in circuit court.

22           (a) Any Except as provided under subsection (b) of this section, a  
 23 person adversely affected by a violation of this subchapter or of any rules  
 24 or orders issued pursuant ~~thereto~~ to this subchapter shall have a private  
 25 right of action for relief against the violation.

26           (b)(1) A person may file a verified complaint in a circuit court of  
 27 competent jurisdiction as described in subdivision (b)(2) of this section  
 28 against a defendant if facts establish that the defendant engaged in an act  
 29 or omission that results in any one (1) or more of the following in this  
 30 state:

- 31                           (A) The illegal dumping of solid waste;
- 32                           (B) The creation or participation in the creation or  
 33 furtherance of an illegal dump site;
- 34                           (C) The disposal of solid waste that results from the  
 35 property owner's own household activities on his or her land if the disposal:  
 36                           (i) Creates a public or private nuisance or a hazard

1 to health; or

2 (ii) Involves the open dumping of garbage; and

3 (D) Any other environmental violation concerning the  
 4 illegal dumping of solid waste in violation of this chapter or the Used Tire  
 5 Recycling and Accountability Act, § 8-9-401 et seq.

6 (2) The verified complaint shall be filed in the circuit court  
 7 of the county where the:

8 (A) Activity described in the verified complaint occurs;

9 (B) Situation described in the verified complaint exists;

10 or

11 (C) Defendant resides.

12 (3)(A) If the plaintiff is seeking a preliminary injunction or  
 13 temporary restraining order without notice to the defendant, the requirements  
 14 of Rule 65(b)(1) and (c) of the Arkansas Rules of Civil Procedure shall be  
 15 met and the procedures in this subdivision (b)(3) apply.

16 (B) The circuit court shall enter a temporary order that  
 17 directs the defendant to perform the following within ten (10) days from the  
 18 date the temporary order is served on the defendant:

19 (i) Remove the solid waste from the public or  
 20 private property or otherwise remediate the environmental violation;

21 (ii) Dispose of any solid waste or other material  
 22 at:

23 (a) A permitted solid waste transfer station,  
 24 landfill, composting facility, or incinerator; or

25 (b) A recycling center; and

26 (iii) File with the circuit court a disposal receipt  
 27 from the permitted solid waste transfer station, landfill, composting  
 28 facility, or incinerator where the solid waste was disposed.

29 (C) The plaintiff shall have the temporary order served on  
 30 the defendant and file proof of service with the circuit court.

31 (D)(i) To request relief from the temporary order, the  
 32 defendant may file a motion with the circuit court within ten (10) days from  
 33 the date the temporary order is served.

34 (ii) The circuit court shall hold a hearing within  
 35 fourteen (14) days after the motion is filed and serve notice on all parties  
 36 subject to the temporary order.

1                   (iii) At the hearing, the circuit court shall hear  
2 all evidence and testimony and enter an order to either dismiss the original  
3 or temporary order or make the temporary order permanent.

4                   (E) The circuit court may grant a continuance for the  
5 hearing.

6                   (F) The parties at the hearing may be represented by  
7 counsel.

8                   (4) If subdivision (b)(3)(A) of this section does not apply and  
9 notice is required, then the plaintiff shall comply with the applicable  
10 notice provisions in the Arkansas Rules of Civil Procedure before issuance of  
11 a temporary order.

12                   (5)(A) If the temporary order is made permanent by the circuit  
13 court after a hearing on the merits or because the defendant failed to timely  
14 file a motion requesting a hearing on the served temporary order, the  
15 defendant shall within ten (10) days after its filing:

16                   (i) Remove or cause to be removed from the public or  
17 private property the solid waste that has been illegally dumped on the public  
18 or private property; and

19                   (ii) Properly dispose of the solid waste in a  
20 permitted landfill or other facility approved for disposal by the Arkansas  
21 Department of Environmental Quality.

22                   (B)(i) If the defendant has not removed the solid waste  
23 from the public or private property and properly disposed of it after ten  
24 (10) days from the date of the filing of the order, the plaintiff or the  
25 owner of the property may cause the solid waste to be removed or otherwise  
26 remediated and file a cost statement with the circuit court.

27                   (ii) The circuit court shall review the cost  
28 statement and determine whether the cost statement is reasonable.

29                   (iii) If the circuit court determines the cost  
30 statement is reasonable, the circuit court shall enter an order on the  
31 judgment docket of the circuit court in the amount of the cost statement as a  
32 judgment against the defendant.

33                   (c) A judgment entered under this section may be enforced in the same  
34 manner as any other judgment.

35                   (d) A judgment entered under this section is a final decision for  
36 purposes of appellate review.

1       (e) In addition to any judgment ordered under this section, a party  
 2 against whom a judgment has been entered under this section is subject to any  
 3 other applicable criminal, civil, or administrative penalties under law or  
 4 rule, or both.

5       (f) The limitations and exemptions under §§ 8-6-2018 and 8-6-2019  
 6 apply to subsection (b) of this section.

7  
 8       SECTION 4. Arkansas Code § 8-6-412(b), concerning enforcement under  
 9 the Litter Control Act, is repealed effective May 1, 2020.

10       ~~(b)(1) Illegal dumps control officers licensed and certified in~~  
 11 ~~accordance with § 8-6-905 and code enforcement officers as defined by~~  
 12 ~~municipal ordinance may:~~

13               ~~(A) Enforce this subchapter; and~~

14               ~~(B) Issue citations to persons violating this subchapter.~~

15       ~~(2) However, illegal dumps control officers licensed and~~  
 16 ~~certified in accordance with § 8-6-905 and code enforcement officers as~~  
 17 ~~defined by municipal ordinance shall not:~~

18               ~~(A) Have the powers of arrest;~~

19               ~~(B) Carry firearms; or~~

20               ~~(C) Take any other official law enforcement actions.~~

21  
 22       SECTION 5. Arkansas Code Title 8, Chapter 6, Subchapter 5, as amended  
 23 by Acts 2019, No. 315, is repealed effective May 1, 2020.

24       ~~Subchapter 5—Illegal Dump Eradication and Corrective Action Program Act~~

25  
 26       ~~8-6-501.—Title.~~

27 ~~This subchapter shall be known and may be cited as the “Illegal Dump~~  
 28 ~~Eradication and Corrective Action Program Act”.~~

29  
 30       ~~8-6-502.—Purpose.~~

31 ~~It is the purpose of this subchapter to set forth the policy of the~~  
 32 ~~state to eliminate the illegal dumping of solid waste and to provide a means~~  
 33 ~~of funding the Illegal Dump Eradication and Corrective Action Program. This~~  
 34 ~~subchapter defines illegal dumps and establishes elimination proceedings and~~  
 35 ~~provides a mechanism for funding.~~

1           ~~8-6-503. Definitions.~~

2           ~~As used in this subchapter:~~

3                   ~~(1) "Commission" means the Arkansas Pollution Control and~~  
4 ~~Ecology Commission;~~

5                   ~~(2) "Department" means the Arkansas Department of Environmental~~  
6 ~~Quality;~~

7                   ~~(3) "Director" means the Director of the Arkansas Department of~~  
8 ~~Environmental Quality;~~

9                   ~~(4) "Illegal dump" means any place at which solid waste is~~  
10 ~~placed, deposited, abandoned, dumped, or otherwise disposed of in a manner~~  
11 ~~that is prohibited by this subchapter or other statutes or rules, and which~~  
12 ~~constitutes one (1) of the following:~~

13                           ~~(A) An attractive nuisance;~~

14                           ~~(B) A fire, health, or safety hazard;~~

15                           ~~(C) A potential source of surface or groundwater~~  
16 ~~contamination; or~~

17                           ~~(D) Other contamination that is hazardous to the public~~  
18 ~~health or endangers the environment;~~

19                   ~~(5) "Illegal dumping of solid waste" means the illegal placing,~~  
20 ~~depositing, dumping, or causing to be placed, deposited, or dumped by any~~  
21 ~~person any solid waste that is prohibited by this chapter:~~

22                           ~~(A) In or upon any public or private highway or road,~~  
23 ~~including any portion of the right-of-way thereof;~~

24                           ~~(B) In or upon any private property into or upon which the~~  
25 ~~public is admitted by easement or license or any private property;~~

26                           ~~(C) In or upon any public park or other public property,~~  
27 ~~other than the property designated or set aside for such purpose by the~~  
28 ~~governing board or body having charge thereof; or~~

29                           ~~(D) Upon any property for which a permit has not been~~  
30 ~~issued by the department;~~

31                   ~~(6) "Illegal dumps control officer" means an individual employed~~  
32 ~~by a duly authorized regional solid waste management district within this~~  
33 ~~state, a county government within this state, or a pollution control~~  
34 ~~inspector or other authorized representative of the department who is~~  
35 ~~empowered to ensure compliance with the provisions of this subchapter;~~

36                   ~~(7) "Landfill" means a landfill permitted under the Arkansas~~

1 ~~Solid Waste Management Act, § 8-6-201 et seq., except a landfill where a~~  
2 ~~private industry bears the expense of operating and maintaining the landfill~~  
3 ~~solely for the disposal of wastes generated by the industry or wastes of a~~  
4 ~~similar kind or character;~~

5 ~~(8) "Person" means any individual, corporation, company, firm,~~  
6 ~~partnership, association, trust, state agency, government instrumentality or~~  
7 ~~agency, institution, county, city, town, municipal authority, or trust,~~  
8 ~~venture, or other legal entity, however organized; and~~

9 ~~(9) "Solid waste" means any garbage or refuse, sludge from a~~  
10 ~~wastewater treatment plant, water supply treatment plant, or air pollution~~  
11 ~~control facility, and other discarded material, including solid, liquid,~~  
12 ~~semisolid, or contained gaseous material resulting from industrial,~~  
13 ~~commercial, mining, and agricultural operations and from community~~  
14 ~~activities, but does not include solid or dissolved materials in domestic~~  
15 ~~sewage or solid or dissolved materials in irrigation return flows or~~  
16 ~~industrial discharges that are point sources subject to permit under 33~~  
17 ~~U.S.C. § 1342, or source, special nuclear, or by-product material as defined~~  
18 ~~by the Atomic Energy Act of 1954.~~

19  
20 ~~8-6-504. Illegal Dump Eradication and Corrective Action Program.~~

21 ~~The Illegal Dump Eradication and Corrective Action Program shall be~~  
22 ~~administered by the Arkansas Department of Environmental Quality.~~

23  
24 ~~8-6-505. Proceedings generally.~~

25 ~~(a) Any government official or employee or any person who has~~  
26 ~~knowledge of or information on the illegal dumping of solid waste on any~~  
27 ~~public or private property in this state may file a complaint in a court of~~  
28 ~~competent jurisdiction of the county in which the illegal dumping of solid~~  
29 ~~waste has taken place or in the county of residence of the person who is~~  
30 ~~accused of being liable for the illegal dumping of solid waste.~~

31 ~~(b)(1) Upon the filing of a verified complaint, noting on the~~  
32 ~~complaint the person against whom the claim is filed, the court shall enter a~~  
33 ~~temporary order directing that the accused person remove from the described~~  
34 ~~public or private property the solid waste that has been illegally dumped on~~  
35 ~~the property and properly dispose of the solid waste in a permitted landfill~~  
36 ~~or other facility within ten (10) days from the date of the order.~~



1           ~~(2) The county sheriff shall serve the order.~~

2           ~~(3) Upon the order's being served, the accused party shall:~~

3                   ~~(A) Remove the solid waste in question from the public or~~  
4 ~~private property as described in the order;~~

5                   ~~(B) Dispose of the solid waste at a properly permitted~~  
6 ~~solid waste transfer station, landfill, recycling center, or incinerator; and~~

7                   ~~(C) Return to the court a disposal receipt from the~~  
8 ~~facility where the solid waste was disposed.~~

9           ~~(4) If the person wishes to challenge the order, the person may~~  
10 ~~file a petition challenging the order with the court within ten (10) days~~  
11 ~~from the date the order is served.~~

12           ~~(c)(1) Upon the filing of a petition challenging the order, the court~~  
13 ~~shall hold a hearing on it within fourteen (14) days after the filing of the~~  
14 ~~petition and shall serve notice upon the accusing party and upon the accused.~~

15                   ~~(2) At the hearing, which may be continued from time to time as~~  
16 ~~determined by the court, the court shall hear all evidence and testimony and~~  
17 ~~after hearing it shall enter an order either dismissing the original or~~  
18 ~~temporary order or making the order permanent.~~

19                   ~~(3) The parties represented at the hearing may be represented by~~  
20 ~~counsel.~~

21           ~~(d)(1) If the order is made permanent, within ten (10) days thereafter~~  
22 ~~the accused party shall cause the solid waste which has been illegally dumped~~  
23 ~~on private or public property to be removed from the property and disposed of~~  
24 ~~properly in a permitted landfill or other facility.~~

25                   ~~(2)(A) If after ten (10) days from the date of the order the~~  
26 ~~person against whom the order is directed has not removed the solid waste~~  
27 ~~from the public or private property and properly disposed of it as noted in~~  
28 ~~the order, the governmental agency or the owner of the property may cause it~~  
29 ~~to be moved and shall file with a court a verified statement in writing of~~  
30 ~~the cost of removal.~~

31                   ~~(B) After reviewing the statement, if the court determines~~  
32 ~~it to be reasonable, the court shall enter an order upon the judgment docket~~  
33 ~~of the court of the amount of the statement, which shall be a judgment~~  
34 ~~against the party against whom the judgment was issued and may be enforced as~~  
35 ~~any other judgment.~~

36           ~~(e)(1) Any party aggrieved by any order of a court under this~~

1 ~~subchapter may appeal from the order.~~

2 ~~(2) If an aggrieved party appeals to a circuit court of~~  
 3 ~~competent jurisdiction, then the circuit court shall try the cause de novo.~~

4  
 5 ~~8-6-506. Criminal, civil, and administrative penalties.~~

6 ~~In addition to the proceedings described in § 8-6-505, every person~~  
 7 ~~convicted of a violation of this subchapter shall be subject to the criminal,~~  
 8 ~~civil, or administrative penalties as specified in § 8-6-204.~~

9  
 10 ~~8-6-507. Consequences of unpaid fines and costs.~~

11 ~~(a) In all convictions for violations of the provisions of this~~  
 12 ~~subchapter when the fine and costs are not paid, the person convicted shall~~  
 13 ~~be subject to administrative or civil enforcement action.~~

14 ~~(b) Sanctions may include administrative, civil, or criminal penalties~~  
 15 ~~as provided in the Arkansas Solid Waste Management Act, § 8-6-201 et seq.~~

16  
 17 ~~8-6-508. Enforcement generally.~~

18 ~~(a)(1) Illegal dumps control officers are empowered to ensure~~  
 19 ~~compliance with the provisions of this subchapter by having the right and~~  
 20 ~~duty to:~~

21 ~~(A) Inspect suspected illegal dumps;~~

22 ~~(B) Collect evidence of open dumping and littering and~~  
 23 ~~present the evidence to the prosecuting attorney or a court of competent~~  
 24 ~~jurisdiction where the offense was committed; and~~

25 ~~(C) Issue and serve citations for violations of provisions~~  
 26 ~~of the Arkansas Solid Waste Management Act, § 8-6-201 et seq., prohibiting~~  
 27 ~~illegal dumping, subject to exemptions under § 8-6-205 and the agricultural~~  
 28 ~~exemptions under § 8-6-509, and for violations of the Litter Control Act, §~~  
 29 ~~8-6-401 et seq., prohibiting unlawful littering.~~

30 ~~(2) Citations issued by illegal dumps control officers shall be~~  
 31 ~~filed in any court having jurisdiction in the county where the offense is~~  
 32 ~~committed.~~

33 ~~(3)(A) Citations may be served in person or by mailing a copy of~~  
 34 ~~the citation by certified mail, restricted delivery, to either the address~~  
 35 ~~obtained from evidence collected from the illegal dump or to the person's~~  
 36 ~~last known address. Persons receiving citations shall appear before the court~~

1 ~~named within the citation at the time designation in the citation.~~

2 ~~(B) Courts having jurisdiction over citations issued by~~  
 3 ~~illegal dumps control officers may issue penalties as specified in § 8-6-~~  
 4 ~~204(a).~~

5 ~~(4) Illegal dumps control officers may require violators to~~  
 6 ~~present signed and dated disposal receipts as evidence that the solid waste~~  
 7 ~~has been:~~

8 ~~(A) Removed from the illegal dump; and~~

9 ~~(B) Properly disposed of in one (1) or more of the~~  
 10 ~~following facilities:~~

11 ~~(i) A permitted landfill;~~

12 ~~(ii) A solid waste transfer station;~~

13 ~~(iii) A recycling center;~~

14 ~~(iv) An incinerator;~~

15 ~~(v) A scrap yard that purchases iron, steel,~~  
 16 ~~aluminum, or other metals;~~

17 ~~(vi) A permitted waste tire collection center or~~  
 18 ~~waste tire processing facility; or~~

19 ~~(vii) Any other facility that the illegal dumps~~  
 20 ~~control officer finds to be a proper disposal of the solid waste.~~

21 ~~(b) All illegal dumps control officers shall be licensed and certified~~  
 22 ~~in accordance with § 8-6-901 et seq.~~

23 ~~(c) Illegal dumps control officers shall not have powers of arrest.~~

24  
 25 ~~8-6-509. Agricultural operations.~~

26 ~~The Arkansas Solid Waste Management Act, § 8-6-201 et seq., this~~  
 27 ~~subchapter, and § 8-6-901 et seq. do not apply to:~~

28 ~~(1) Any place at which agricultural gleanings and crop residue~~  
 29 ~~resulting from operations of farms, grain elevators, cotton gins, and similar~~  
 30 ~~industries are being land applied according to current management practices~~  
 31 ~~of such industries or the agricultural community and with the consent of the~~  
 32 ~~landowner is not an illegal dump; and~~

33 ~~(2) Any landowner who disposes of solid waste on the property on~~  
 34 ~~which waste results from such agricultural or farming operations or household~~  
 35 ~~operations and such disposal does not constitute a fire, health, or safety~~  
 36 ~~hazard to the public.~~

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~~8-6-510. Effectiveness of regulations and orders.~~

~~None of the provisions of this act are intended to supersede any of the reuse, recycling, or fill provisions of state law of Regulation 22 of the Solid Waste Management Division of the Arkansas Department of Environmental Quality.~~

SECTION 6. Arkansas Code § 8-6-704(b)(2), concerning the authority of regional solid waste management boards, is repealed effective May 1, 2020.

~~(2)(A) If a regional solid waste management board employs an environmental officer under this subsection, then the environmental officer may complete the training course for law enforcement officers at the Arkansas Law Enforcement Training Academy.~~

~~(B) After satisfactory completion of the training course, the environmental officer shall be a law enforcement officer.~~

~~(C) After satisfactory completion of the training course, the environmental officer may:~~

- ~~(i) Carry firearms;~~
- ~~(ii) Execute and serve a warrant or other processes issued under the authority of the district and related to violations of district regulations; and~~
- ~~(iii) Make arrests and issue citations for violations of district regulations regarding environmental protection.~~

SECTION 7. Arkansas Code § 8-6-714(a)(1)(B)(i)(a), as amended by Acts 2019, No. 315 and concerning allowable rents, fees, and charges fixed by a regional solid waste management board, is amended to read as follows:

- (a) Enforce all local ordinances, statutes, rules, and regulations for which the district has been previously given enforcement authority regarding solid waste, including the Illegal Dump Eradication and Corrective Action Program Act, § 8-6-501 et seq. Environmental Compliance Resource Act, § 8-6-2001 et seq.; and

SECTION 8. Arkansas Code § 8-6-901(4), concerning the definition of "illegal dumps control officer" related to solid waste licensing law, is repealed.

