

State of Arkansas

76th General Assembly

Regular Session, 1987

HOUSE BILL 1482

By: Representative M. Wilson

"AN ACT TO AMEND SECTION 13 OF ACT 406 OF 1979, AS AMENDED, TO PROVIDE THAT ANY PERSON WHO FAILS TO COMPLY WITH THE REQUIREMENTS OF THE ACT AND REGULATIONS ISSUED THEREUNDER IN THE TRANSPORTATION, TREATMENT, STORAGE, OR DISPOSAL OF HAZARDOUS WASTE AND WHO THEREBY KNOWINGLY ENDANGERS ANOTHER PERSON IS GUILTY OF A CLASS A FELONY; AND TO PROVIDE THAT IN CIVIL ACTIONS INSTITUTED BY THE ARKANSAS DEPARTMENT OF POLLUTION CONTROL AND ECOLOGY UNDER THE ACT THE COURT MAY ASSESS A CIVIL PENALTY FOR VIOLATIONS OF THE ACT OR REGULATIONS ISSUED THEREUNDER; AND FOR OTHER PURPOSES."

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

SECTION 1. Section 13 of Act 406 of 1979, as amended, codified as Ark. Stat. §82-4213, is hereby amended to read as follows:

"Section 13. (a) Any person who violates any provision of this Act or commits any unlawful act thereunder or violates any rule, regulation or order of the Commission shall be guilty of a misdemeanor and upon conviction thereof, shall be subject to imprisonment for not more than one (1) year, or a fine of not more than Ten Thousand Dollars (\$10,000.00), or by both such fine and imprisonment. Each day or part of a day during which such violation is continued or repeated shall constitute a separate offense.

(b) Any person who violates any provision of this Act or commits any unlawful act thereunder or violates any rule, regulation or order of the Commission and leaves the State or removes his person from the jurisdiction of the State shall be guilty of a felony and upon conviction thereof shall be subject to imprisonment for not more than five (5) years, and a fine of not more than Ten Thousand Dollars (\$10,000.00), or by both such fine and imprisonment. Each day or part of a day during which such violation was continued

or repeated within the State shall constitute a separate offense.

(c) Any person who knowingly transports, treats, stores, or disposes of any hazardous waste in violation of any provision of this Act or commits any unlawful act thereunder or violates any rule, regulation or order of the Commission and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury and if his conduct in the circumstances manifests an extreme indifference or unjustified and unexcusable disregard for human life shall be guilty of a felony and upon conviction thereof shall be subject to imprisonment for not less than six (6) years nor more than thirty (30) years and a fine of not more than One Hundred Thousand Dollars (\$100,000.00), or by both such fine and imprisonment. A defendant that is a corporation, company, association, firm, partnership, joint stock company, foundation, institution, trust, society, union, or any other association of persons, shall, upon conviction of violating this subsection be subject to a fine of not more than One Million Dollars (\$1,000,000.00). Each day or part of a day during which such violation was continued or repeated within the State shall constitute a separate offense.

(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 Twenty-Five Thousand Dollars (\$25,000.00) 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 Twenty-Five Thousand Dollars (\$25,000.00) for each violation. Each day of a continuing violation may be deemed a separate violation for purposes of penalty assessments."

SECTION 2. REPEALER. All laws and parts of laws in conflict herewith

are hereby repealed to the extent of such conflict.