

State of Arkansas
76th General Assembly
Regular Session, 1987
By: Senator Moooe

SENATE BILL 248

"AN ACT TO AUTHORIZE COUNTIES IN WHICH ACUTE HAZARDOUS WASTES ARE STORED OR DISPOSED TO LEVY A TAX ON ACUTE HAZARDOUS WASTES; AND FOR OTHER PURPOSES."

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

SECTION 1. As used herein, the following words have the following meanings:

(a) "Acute hazardous waste" means a solid or liquid waste or combination of solid wastes or solid wastes and liquid wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness and which includes but is not limited to those substances identified by the United States Environmental Protection Agency as an acute hazardous waste at 40 CFR §261.30(d) (United States Environmental Protection Agency Hazardous Waste Nos. FO20, FO21, FO22, FO23, FO26, and FO27) pursuant to the United States Environmental Protection Agency's authority under the Resource Conservation and Recovery Act of 1976 (P.L. 94-580) and which contains more than one (1) parts per billion of 2,3,7,8 tetrachlorodibenzo-P-dioxin.

(b) "Disposal" means the discharge, deposit, dumping, spilling, leaking or placing of any acute hazardous waste into or on any land or water in whatever manner so that such hazardous waste or any constituent thereof might or might not enter the environment or be emitted into the air, or discharged into any waters, including groundwaters.

(c) "Facility" means any land and appurtenances, thereon and thereto, used for the storage or disposal of acute hazardous waste.

(d) "Person" means any individual, corporation, company, firm, partnership, association, trust or joint stock company or any other non-govern-

mental legal entity, however organized.

(e) "Storage" means the containment of acute hazardous wastes, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal of such hazardous wastes. Storage by means of burial shall be deemed to constitute disposal within the meaning of this Act.

SECTION 2. In counties in Arkansas in which an acute hazardous waste storage or disposal facility is located, the quorum court may, by ordinance, levy against every person engaged in the business or occupation of storage or disposal of acute hazardous waste an excise tax for each pound of waste stored or disposed of within that county up to and not to exceed the following amounts:

(a) For acute hazardous waste which is disposed of on the site of generation, one and five-tenths cents (1.5_) a pound.

(b) For acute hazardous waste which is stored on the site of generation for more than ninety (90) days, but less than six (6) calendar months, and for each six (6) calendar month time period thereafter or portion thereof, seventy-five hundredths of a cent (.75_) a pound.

(c) For acute hazardous waste generated off site which is transported to the facility for treatment or disposal, two cents (2_) a pound.

(d) For acute hazardous waste generated off site which is transported to the facility for storage but not for treatment or disposal, for each six (6) month time period of storage or any portion thereof, one and five tenths cents (1.5_) a pound.

SECTION 3. Every person who operates a facility which stores or disposes of more than one ton of acute hazardous waste during any calendar month within a county which levies such tax shall report to the County Tax Collector quarterly:

(a) the total pounds by type of acute hazardous waste generated at the facility, and thereafter disposed of on site;

(b) the total pounds by type of acute hazardous waste generated off site but transported to the facility to be disposed of at the facility;

(c) the total pounds by type of acute hazardous waste being stored which was:

(1) generated at the facility and the length of time stored in six

(6) month increments if at the site for more than ninety (90) days; and

(2) generated off site and transported to the facility in six (6) month increments.

SECTION 4. On or before April 1 of each year, the County Tax Collector shall send to each person subject to the tax a notice of the amount of tax due for the previous year.

SECTION 5. On or before June 1 of each year, the person subject to the tax shall pay to the County Tax Collector the amount of the tax as stated in the notice.

SECTION 6. The Department of Pollution Control and Ecology of the State of Arkansas shall cooperate with any collectors of counties which have imposed this tax by making such records and reports available to the collector to assist in evaluating the accuracy of the report required by this Act.

SECTION 7. All taxes and penalties collected by the county under the provisions of this Act shall be general revenues and shall be deposited in the county treasury to the credit of the County General Fund.

SECTION 8. It shall be unlawful for any person:

(a) To knowingly make a false statement, representation or certification in any report or other document required by this Act.

(b) To fail to make the report required by this Act if the facility the person operates is located in a county which has imposed this tax.

(c) To fail to pay the tax prescribed by this Act.

SECTION 9. (a) If the taxes imposed herein are not paid within fifteen (15) days after the same have become due, they shall be deemed delinquent, and a penalty of twenty per centum (20%) on the amount of tax due shall attach.

(b) Any person who shall violate any of the provisions of this Act shall be guilty of a misdemeanor and upon a plea of guilty or nolo contendere, or a finding of guilt, shall be fined not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1,000.00) for each day of violation, and

any permit which has been issued by the Department of Pollution Control and Ecology to the facility, shall be revoked until such time as the tax plus interest and fine and penalty are paid.

SECTION 10. The various provisions and parts of this Act are hereby declared severable and if any section or part of a section, provision or part of a provision, herein is declared unconstitutional, inappropriate or invalid by any court of competent jurisdiction, such holding shall not invalidate or affect the remainder of this Act.

SECTION 11. All laws and parts of laws in conflict with this Act are hereby repealed.

SECTION 12. EMERGENCY. It is hereby found and determined by the General Assembly that the counties of this State in which hazardous waste facilities are located are currently placed in a potentially disastrous position because low revenues have threatened their ability to maintain adequate response teams should an accident involving hazardous waste occur, and that the immediate passage of this Act is necessary to establish a means by which counties can obtain badly needed revenues. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.

