

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

A Bill

HOUSE BILL 1098

4 By: Representatives Malone, Dietz, and Wallis

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For An Act To Be Entitled

8 "AN ACT TO AMEND SUBCHAPTER 9 OF CHAPTER 6 OF TITLE 8 OF
9 THE ARKANSAS CODE PERTAINING TO THE LICENSING OF THE
10 OPERATORS OF SOLID WASTE MANAGEMENT FACILITIES; AND FOR
11 OTHER PURPOSES."

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Subtitle

14 "AMEND SUBCHAPTER 9 OF CHAPTER 6 OF
15 TITLE 8 OF THE ARKANSAS CODE PERTAINING
16 TO THE LICENSING OF THE OPERATORS OF
17 SOLID WASTE MANAGEMENT FACILITIES."

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

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21 SECTION 1. Subchapter 9 of Chapter 6 of Title 8 of the Arkansas Code
22 is amended to read as follows:

23 "SUBCHAPTER 9 - Licensing of Operators of Solid Waste Management
24 Facilities.

25 § 8-6-901. Definitions.

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

27 (1) Commission means the Arkansas Pollution Control and Ecology
28 Commission;

29 (2) Department means the Department of Pollution Control and
30 Ecology; (3) Director means the Director of the Department of
31 Pollution Control and Ecology;

32 (4) Licensing committee means the committee of solid waste
33 management facility managers, operators, or technicians hereinafter
34 established to assist and advise the commission and the department in the
35 examining and licensing of operators of solid waste management facilities;

1 (5) License means a certificate of competency issued by the director
2 to solid waste management facilities operators who have met the requirements
3 of the licensing program;

4 (6) Operator means any person who is in responsible charge of the
5 operation of a solid waste management facility, in whole or in part, and who,
6 during the performance of his regular duties *at the solid waste management*
7 *facility*, exercises individual judgment which directly or indirectly may
8 affect the proper operation of the solid waste management facility.
9 Operator shall not be deemed to include an official solely exercising
10 general administrative supervision;

11 (7) Operator in training means an employee of a solid waste
12 management facility that has been issued an apprenticeship license by the
13 director;

14 (8) *'Recovered materials' means metal, paper, glass, plastic, textile,*
15 *yard trimmings not destined for composting, or rubber materials which are not*
16 *waste tires or waste tire residuals, that have known recycling potential, can*
17 *be feasibly recycled, and have been diverted and source separated or have*
18 *been removed from the solid waste stream for sale, use, or reuse as raw*
19 *materials, whether or not the materials require subsequent processing or*
20 *separation from each other, but does not include materials destined for any*
21 *use that constitutes disposal. For the purpose of this subchapter, recovered*
22 *materials as described are not solid waste.*

23 (9) Sanitary landfill means any place for which a permit for
24 disposal of solid waste on land is required under the provisions of this
25 chapter;

26 (10) Solid waste disposal facility means any place at which solid
27 waste is dumped, abandoned, or accepted or disposed of for final disposition
28 by incineration, landfilling, composting or other method. Wastewater
29 treatment plants permitted under the National Pollutant Discharge Elimination
30 System (NPDES) and *units at hazardous waste management facilities permitted*
31 *under the Arkansas Hazardous Waste Management Act and Code shall not be*
32 *deemed to be disposal sites or facilities for the purpose of this subchapter;*
33 *and*

34 (11) Solid waste management facility means all contiguous land and
35 structures, other appurtenances, and improvements on the land used for

1 storage, collection, transportation, processing, treatment, and/or disposal
2 of solid waste. For purposes of this subchapter, facilities solely engaged
3 in the recycling of source separated materials are excluded; also excluded
4 are processes, operations and/or facilities that are regulated pursuant to
5 hazardous waste rules and regulations which are not also regulated pursuant
6 to solid waste rules and regulations.

7 § 8-6-902. Penalties - Procedures.

8 (a) Any person who violates any provision of this subchapter, or of
9 any rule, regulation, or order issued pursuant thereto, shall be subject to
10 the same penalty and enforcement provisions as are contained in the Arkansas
11 Solid Waste Management Act, § 8-6-201 et seq., as amended.

12 (b) Except as otherwise provided in this subchapter, the procedure of
13 the commission for issuance of rules and regulations, conduct of hearings,
14 notice, power of subpoena, review of action on permits, right of appeal,
15 presumptions, finality of actions, and related matters shall be as provided
16 in §§ 8-4-101 - 8-4-106 and 8-4-201 - 8-4-229 of the Arkansas Water and Air
17 Pollution Control Act, § 8-4-101 et seq., as amended, including, without
18 limitation, §§ 8-4-205, 8-4-210, 8-4-212 - 8-4-214, and 8-4-218 - 8-4-229.

19 (c) All rules and regulations adopted under this subchapter shall be
20 reviewed by the Joint Interim Committee on Public Health, Welfare, and Labor
21 or an appropriate subcommittee of the committee.

22 § 8-6-903. Licenses required.

23 (a) It shall be illegal for any county, municipality, governmental
24 subdivision, public or private corporation, or other person to operate a
25 solid waste management facility unless the competency of the operator is duly
26 licensed by the director under the provisions of this subchapter.

27 (b) It shall further be illegal for any person to perform the duties
28 of an operator of any such solid waste management facility without being duly
29 licensed under this subchapter.

30 § 9-6-904. Licensing Committee - Members Compensation - Restrictions.

31 (a) There is created and established a licensing committee, to advise
32 and assist the commission and the department in the administration of the
33 licensing program, which shall be composed of ten (10) members:

34 (1) Three (3) members, to be appointed by the commission, shall
35 be sanitary landfill operators licensed by the department;

1 (2) One (1) member, to be appointed by the commission, shall be an
2 employee of a county operating a sanitary landfill who holds the position of
3 landfill on-site operator or supervisor;

4 (3) One (1) member, to be appointed by the commission, shall be an
5 employee of a municipality operating a sanitary landfill who holds the
6 position of landfill on-site operator or supervisor;

7 (4) One (1) member, to be appointed by the commission, shall be a
8 representative of one of the duly constituted regional solid waste management
9 boards.

10 (5) *One (1) member, to be appointed by the commission, shall be an on-*
11 *site operator or supervisor of a waste tire processing facility.*

12 (6) *One (1) member, to be appointed by the commission, shall be an on-*
13 *site operator or supervisor of a non-segregated materials recovery, transfer,*
14 *or composting facility.*

15 (7) One (1) member, to be appointed by the commission and to serve ex
16 officio with no vote, shall be a faculty member of, or other qualified person
17 associated with, an accredited college, university, or professional school in
18 the state whose major field is related to environmental education;

19 (8) One (1) member, to be appointed by the director, shall be a
20 qualified member of his staff, who shall serve ex officio with no vote as
21 executive secretary of the licensing committee.

22 (b)(1) The committee members who do not serve ex officio shall serve
23 five-year terms and until their successors have been appointed.

24 (2) In the event of a vacancy, a new member shall be appointed
25 by the commission to serve out the unexpired term.

26 (3) No voting member shall serve more than two (2) consecutive
27 five-year terms.

28 (c) The committee shall select a member to serve as chairman each year
29 and shall meet as necessary to carry out its duties under this subchapter and
30 at the call of the chair.

31 (d)(1) State agency members of the licensing committee shall receive
32 no additional salary or per diem for their services as members of the
33 committee, but they shall be allowed their travel and maintenance expenses
34 while attending meetings away from Little Rock.

35 (2) The members appointed by the commission shall be allowed

1 twenty-five dollars (\$25.00) per day, plus their travel and maintenance
2 expenses while attending meetings.

3 (e) No member of the committee shall participate in any licensing
4 decision involving the firm or organization by which that member is employed
5 or in which that member has a direct or indirect financial interest.

6 § 8-6-905. Rules and regulations - Administration - Enforcement -
7 Duties.

8 (a) The commission, with the advice and assistance of the licensing
9 committee, is given and charged with the power and duty to adopt rules and
10 regulations implementing and effectuating such powers and duties of the
11 department under this subchapter as may be necessary for the administration
12 and enforcement thereof.

13 (b) The department is charged with the responsibility of administering
14 and enforcing this subchapter, with the advice and assistance of the
15 licensing committee, and is given and charged with the following powers and
16 duties:

17 (1) To conduct examinations for licensing, which shall be held
18 at least annually and more frequently as the commission shall deem necessary.
19 This duty may be delegated by the department to the administrator of any
20 approved course;

21 (2) To issue licenses to qualified solid waste management
22 facility operators, to renew these licenses, to suspend or revoke the
23 licenses for cause, after due notice and opportunity for hearing and to issue
24 one (1) year apprenticeship licenses to operators in training; and

25 (3) To initiate enforcement actions and/or institute court
26 proceedings to compel compliance with the provisions of this subchapter and
27 rules and regulations issued pursuant thereto.

28 § 8-6-906. Classification of licenses.

29 (a) The commission shall classify solid waste management facility
30 operator licenses, taking into account the *type and* complexity of the solid
31 waste management facility, the character and volume of waste managed, the
32 skill, knowledge, and experience reasonably required to successfully operate
33 the solid waste management facility, and such other factors as the commission
34 shall deem appropriate.

35 (b) The director, with the advice and assistance of the licensing

1 committee, shall license persons according to their qualifications to
2 successfully operate solid waste management facilities within the
3 classifications established and effectuated by rules and regulations
4 promulgated by the commission.

5 § 8-6-907. Licensing.

6 All operators in responsible charge of public and private solid waste
7 management facilities shall be duly licensed and certified as competent by
8 the director under the provisions of this subchapter and under such rules and
9 regulations as the commission may adopt, with the advice and assistance of
10 the licensing committee, pursuant to the authority of this subchapter.

11 § 8-6-908. Licensing - Eligibility - Reciprocity.

12 (a) The director shall license and certify all applicants for licenses
13 under this subchapter who satisfy the requirements of this subchapter and the
14 rules and regulations issued pursuant thereto.

15 (1) Licenses shall be granted according to the classifications
16 of operator licenses established in the rules and regulations promulgated by
17 the commission.

18 (2) Licenses shall be valid for a period of one (1) year and,
19 with the exception of the apprenticeship license, shall be renewable upon
20 application if the applicant meets the renewal requirements established by
21 commission regulation.

22 (b) All operators of solid waste management facilities within the
23 state shall apply to the department for a license.

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25 (c) The director may, at his discretion, waive the requirements, or
26 any part of the requirements, for formal examination of an applicant for
27 license if the applicant holds a valid license or certificate from another
28 state in which the requirements for license in the appropriate classification
29 are at least equal to the requirements set forth in this subchapter and the
30 rules and regulations issued pursuant thereto.

31 (d) The director shall issue an apprenticeship license to operators in
32 training as established under this subchapter and in rules and regulations
33 promulgated by the commission.

34 § 8-6-909. Fees.

35 (a) The commission shall have the authority to set fees in an amount

1 to cover the cost of the administration of this subchapter. These fees shall
2 not exceed twenty-five dollars (\$25.00) for the licensing examination, ten
3 dollars (\$10.00) for licensing, ten dollars (\$10.00) for annual renewal of
4 licenses, and a ten dollar (\$10.00) penalty for late renewal.

5 (b) All of the fees shall be deposited in the Arkansas Department of
6 Pollution Control and Ecology Fee Fund, as established in § 8-1-105."

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

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12 SECTION 3. If any provision of this act or the application thereof to
13 any person or circumstance is held invalid, such invalidity shall not affect
14 other provisions or applications of the act which can be given effect without
15 the invalid provision or application, and to this end the provisions of this
16 act are declared to be severable.

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

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21 */s/Rep. Malone, et al*

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