

1 State of Arkansas
2 80th General Assembly
3 Regular Session, 1995
4 By: Senator Smith, Fitch

A Bill

SENATE BILL 188

For An Act To Be Entitled

7 "AN ACT TO ESTABLISH A STATE OFFICE OF HAZARDOUS MATERIALS
8 EMERGENCY MANAGEMENT TO IMPLEMENT AND CARRY OUT THE
9 REQUIREMENTS SPECIFIED IN THE EMERGENCY PLANNING AND
10 COMMUNITY RIGHT-TO-KNOW ACT OF 1986 (TITLE III OF PUBLIC
11 LAW 99-499, 42 U.S.C. 11001, ET SEQ.) ON BEHALF OF THE
12 STATE EMERGENCY RESPONSE COMMISSION AND IN SUPPORT OF
13 LOCAL EMERGENCY PLANNING COMMITTEES AND AS RELATED TO
14 PROVIDING SPECIFIC DISASTER/EMERGENCY PLANNING,
15 MITIGATION, RESPONSE AND RECOVERY ACTIONS TO PROVIDE FOR
16 THE PUBLIC HEALTH, SAFETY AND WELFARE AS RELATED TO
17 HAZARDOUS/TOXIC MATERIALS INCIDENTS, ACCIDENTS AND EVENTS
18 OCCURRING WITHIN THE STATE OF ARKANSAS; AND FOR OTHER
19 PURPOSES."

Subtitle

22 "TO ESTABLISH A STATE OFFICE OF
23 HAZARDOUS MATERIALS EMERGENCY
24 MANAGEMENT."

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

28 SECTION 1. This act may be known and cited as the "Arkansas HAZMAT
29 Emergency Management Act."

31 SECTION 2. DEFINITIONS. As used in this act:

32 (1) "Emergency Management" means those activities related to
33 disaster/emergency planning, mitigation, training, response and recovery as
34 prescribed in Arkansas Code 12-75-101 et seq.;

35 (2) "Hazardous/Toxic Materials" or "HAZMATS" means those extremely

1 hazardous substances described under Section 313 of SARA, Title III and such
2 other hazardous/toxic substances as may later be designated by federal
3 regulatory agencies;

4 (3) "Local Emergency Planning Committee" or "LEPC" refers to those
5 local entities authorized under the provisions of Arkansas Code 12-82-101 et
6 seq. and in accordance with the Federal Emergency Planning and Community
7 Right-to-Know Act of 1986, (Title III of Public Law 99-499, 42 U.S.C., et
8 seq);

9 (4) "SARA, Title III" refers to Title III of the Superfund Amendments
10 and Reauthorization Act of 1986 (P.L. 99-499) and activities mandated,
11 therein;

12 (5) "State Emergency Response Commission" or "SERC" refers to that
13 entity created under the provisions of Arkansas Code 12-82-101 et seq. and in
14 accordance with the Federal Emergency Planning and Community Right-to-Know
15 Act of 1986 (Title III of Public Law 99-499, 42 U.S.C., et seq.).

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17 SECTION 3. There is created by this act a State Office of Hazardous
18 Materials Emergency Management within, and under the administrative and
19 operational control of the State Office of Emergency Services, which shall
20 perform the necessary actions and activities as required under current
21 federal and state laws, rules and regulations related to emergency planning,
22 training, response and recovery, and as specified in Arkansas Code, 12-75-101
23 et seq. relating to accidental, deliberate or Acts of God releases of
24 hazardous/toxic materials which might threaten the public health, safety,
25 welfare, environment and/or property of the citizens of Arkansas.

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27 SECTION 4. The State Office of Hazardous Materials Emergency
28 Management shall:

29 (1) Collect, file and establish an accessible database and make
30 available, information derived from the required reports in Sections 312 and
31 313 of SARA, Title III and in accordance with said laws, regulations and
32 guidelines established by the federal government and the State of Arkansas;

33 (2) Establish, staff and manage an administrative, fiscal and
34 operational office to manage all programs and funds required under this act
35 and in accordance with the current, accepted practices prescribed by the

1 State of Arkansas and participating federal agencies;

2 (3) Establish and manage a system to train and certify emergency first
3 responders at the minimum prescribed levels of competency and proficiency as
4 required by federal and/or state law or regulation;

5 (4) Assist, as requested or directed by the SERC, Local Emergency
6 Planning Committees in meeting the minimum standards for planning, training
7 and/or exercising as required under the provisions of SARA, Title III;

8 (5) Establish a system to certify LEPCs as being in compliance with
9 required actions and activities, as prescribed by SARA, Title III and other
10 governing directives, laws and/or regulations;

11 (6) Manage federal and/or state funding programs that provide direct
12 fiscal assistance to certified LEPCs for planning, training, exercising
13 and/or administration, to insure program and/or fiscal compliance with
14 current federal and/or state law;

15 (7) Perform, manage and oversee such other HAZMATS emergency
16 management related functions as may later be implemented, as directed by the
17 Governor, SERC and/or other state authority;

18 (8) Collect and administer fees provided in this act, and such federal
19 funding as may be specifically earmarked for the program of the Office of
20 Hazardous Materials Emergency Management, in accordance with current federal
21 and state laws, regulations and rules and as recommended by the State
22 Emergency Response Commission to insure minimum compliance with federal
23 mandates related to hazardous/toxic materials emergency preparedness;

24 (9) Provide a point of contact for state agencies, offices and bureaus
25 to assist with the coordination of specific emergency planning and training
26 and other hazardous/toxic materials emergency management related activities;

27 (10) Provide direct emergency management support to Local Emergency
28 Planning Committees to assist them with local hazardous/toxic materials
29 emergency management activities and to assist them with reaching and
30 maintaining compliance with federal mandates for these programs;

31 (11) Manage, as designated by the Governor or the State Emergency
32 Response Commission, such other hazardous/toxic materials emergency
33 management programs as may later be mandated by federal or state law,
34 regulation or guidance.

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1 SECTION 5. (a) Each facility required to report to the State Emergency
2 Response Commission under the provisions of Sections 312 and 313 of SARA,
3 Title III shall pay the following annual fees to the Office of Hazardous
4 Materials Emergency Management:

5 (1) For each facility required to file one (1) or more Hazardous
6 Chemical Inventory Reports, under the provisions of Section 312 of said SARA,
7 Title III, an annual fee of twenty-five dollars (\$25.00) and an additional
8 fee of five dollars (\$5.00) for each report filed, annually, with a maximum
9 limit of two-hundred dollars (\$200.00) annually for each reporting facility;

10 (2) For each facility required to file one (1) or more Toxic Chemical
11 Release Forms, under the provisions of Section 313 of SARA, Title III an
12 annual fee of *one hundred fifty dollars (\$150) and an additional fee of*
13 *twenty-five dollars (\$25.00) for each report, with a maximum limit of four*
14 *hundred dollars (\$400.00) annually for each reporting facility.*

15 (3) *Any business or other outlet which sells gasoline, diesel and*
16 *other motor fuel only at retail to the public shall be exempt from paying the*
17 *fees outlined in the preceding subsections.*

18 (b) The SERC shall periodically assess the adequacy of the fees
19 established in this section, and may, through the public hearing process,
20 modify the fees imposed for each individual report not to exceed the stated
21 maximum limit for each reporting facility as indicated above.

22 (c) Reports under the provisions of Sections 312 and/or 313 of
23 SARA, Title III shall be submitted to the State Office of Hazardous Materials
24 Emergency Management in accordance with, and within the specified time frames
25 o,f SARA, Title III and shall include a company check, issued by the facility
26 or its parent corporation, for the appropriate amount of each submission, as
27 specified in this section, and the check shall be made payable to the Office
28 of Hazardous Materials Emergency Management.

29 (d) Any facility or person failing to provide the reports and
30 pay the fees, as specified in this section, shall be liable for civil
31 penalties in such amount as the Office of Hazardous Materials Emergency
32 Management shall find appropriate, not to exceed ten-thousand dollars
33 (\$10,000.00) per violation and for payment of any expenses reasonably
34 incurred by the state therefrom.

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1 SECTION 6. There is hereby created on the books of the State
2 Treasurer, State Auditor and Chief Fiscal Officer of the State a special
3 revenue fund account to be known as the Office of Hazardous Materials
4 Emergency Management revolving fund. All monies collected under this act
5 shall be deposited to the credit of that account as special revenues and
6 shall be used by the State Office of Hazardous Materials Emergency Management
7 to operate the office and enforce this act.

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9 SECTION 7. Nothing in this act shall be construed as regulatory
10 authority over acts, laws, rules, regulations or guidelines of other state or
11 federal agencies related to their designated responsibilities and duties as
12 regulatory authority over concerns of environment, health, law enforcement,
13 fire fighting, medical, or other areas of responsibility.

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15 SECTION 8. The provisions of this act are intended to be supplemental
16 to current provisions of Arkansas law, and shall not be construed as
17 repealing or superseding any other laws applicable thereto.

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

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23 SECTION 10. If any provision of this act or the application thereof to
24 any person or circumstance is held invalid, such invalidity shall not affect
25 other provisions or applications of the act which can be given effect without
26 the invalid provision or application, and to this end the provisions of this
27 act are declared to be severable.

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29 SECTION 11. All laws and parts of laws in conflict with this act are
30 hereby repealed.

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32 SECTION 12. EMERGENCY. It is hereby found and determined by the
33 General Assembly that due to the potential danger posed to the citizens of
34 the State of Arkansas by the transport and storage of hazardous materials
35 within the State of Arkansas it has been found and declared by the General

1 Assembly that there is an immediate need to implement the provisions of this
2 act in the interests of public safety and welfare. Therefore, an emergency
3 is hereby declared to exist and this act being necessary for the immediate
4 preservation of the public peace, health and safety shall be in full force
5 and effect from and after its passage and approval.

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/s/Smith, Fitch

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