

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

# A Bill

SENATE BILL 429

4 By: Committee on Public Health, Welfare, and Labor

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## For An Act To Be Entitled

8 "AN ACT TO AMEND SUBCHAPTER 5 OF CHAPTER 6 OF TITLE 8 OF  
9 THE ARKANSAS CODE TO SET FORTH POLICY TO ELIMINATE ILLEGAL  
10 DUMPING OF SOLID WASTE; AND FOR OTHER PURPOSES."

11

## Subtitle

12  
13 "TO PROVIDE ENFORCEMENT AND POLICY  
14 MECHANISM FOR ILLEGAL DUMPING."

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

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18 SECTION 1. Subchapter 5 of Chapter 6 of Title 8 of Arkansas Code  
19 Annotated is amended to read as follows:

20 "8-6-501. Purpose.

21 (a) This subchapter shall be known and may be cited as The Illegal  
22 Dumps Control Act.

23 (b) It is the purpose of this subchapter to set forth the policy of  
24 the State to eliminate the illegal dumping of solid waste. This subchapter  
25 defines illegal dumps and establishes elimination proceedings.

26 8-6-502. Definitions.

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

28 (1) Commission means the Arkansas Department of Pollution Control  
29 and Ecology Commission;

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

32 (3) Director means the Director of the Department of Pollution  
33 Control and Ecology;

34 (4) Illegal dump means any place at which solid waste is placed,  
35 deposited, abandoned, dumped, or otherwise disposed of in a manner that is

1 prohibited by this subchapter or other statutes, rules, or regulations, and  
2 which constitute one of and/or any of the following: attractive nuisances,  
3 fire, health, or safety hazards, potential sources of surface and/or  
4 groundwater contamination, or other contamination that is hazardous to the  
5 public health or endangers the environment;

6 (5) Illegal dumping of solid waste means the illegal placing,  
7 depositing, dumping, or causing to be placed, deposited, or dumped by any  
8 person in or upon any public or private highway or road, including any  
9 portion of the right-of-way thereof, in or upon any private property into or  
10 upon which the public is admitted by easement or license, or any private  
11 property, in or upon any public park, or other public property, other than  
12 the property designated or set aside for such purpose by the governing board  
13 or body having charge thereof or upon any property for which a permit has not  
14 been issued by the department.

15 (6) Landfill means all landfills permitted under the Arkansas Solid  
16 Waste Management Act, § 8-6-201, et seq., except those landfills where a  
17 private industry bears the expense of operating and maintaining the landfill  
18 solely for the disposal of wastes generated by the industry or wastes of a  
19 similar kind or character;

20 (7) Person means any individual, corporation, company, firm,  
21 partnership, association, trust, state agency, government instrumentality or  
22 agency, institution, county, city, town, municipal authority or trust,  
23 venture, or other legal entity, however organized;

24 (8) Solid waste means any garbage, or refuse, sludge from a  
25 wastewater treatment plant, water supply treatment plant, or air pollution  
26 control facility and other discarded material, including solid, liquid,  
27 semi-solid, or contained gaseous material resulting from industrial,  
28 commercial, mining, and agricultural operations, and from community  
29 activities, but does not include solid or dissolved materials in domestic  
30 sewage, or solid or dissolved materials in irrigation return flows or  
31 industrial discharges that are point sources subject to permit under 33  
32 U.S.C. 1342, or source, special nuclear, or by-product material as defined by  
33 the Atomic Energy Act of 1954, as amended (68 Stat. 923).

34 8-6-503. Proceedings generally.

35 (a) Any government official or employee or any person who has

1 knowledge of, or information of, the illegal dumping of solid waste on any  
2 public or private property in this state may file a complaint thereof in the  
3 county court of the county in which the illegal dumping of solid waste has  
4 taken place or in the county of residence of the person who is accused of  
5 being liable for the illegal dumping of the solid waste.

6 (b) Upon the filing of a verified complaint, noting on the complaint  
7 the person against whom the claim is filed, the county court shall enter a  
8 temporary order directing that the accused person remove from the described  
9 public or private property the solid waste that has been illegally dumped on  
10 the property and properly dispose of the solid waste within ten (10) days  
11 from the date of the order. The sheriff of the county shall serve the order.  
12 Upon the order being served, the accused party shall remove the solid waste  
13 in question from the public or private property as described in the order.  
14 If the person wishes to challenge the order, the person may file a petition  
15 challenging the order with the court within ten (10) days from the date the  
16 order is served.

17 (c) Upon the filing of a petition challenging the order, the court  
18 shall hold a hearing on it within fourteen (14) days after the filing of the  
19 petition and shall serve notice upon the accusing party and upon the accused.  
20 At the hearing, which may be continued from time to time as determined by  
21 the county court, the court shall hear all evidence and testimony and, after  
22 hearing it, shall enter an order either dismissing the original or temporary  
23 order or making the order permanent. The parties represented at the hearing  
24 may be represented by counsel.

25 (d) If the order is made permanent, the accused party shall, within  
26 ten (10) days thereafter, cause the solid waste which has been illegally  
27 dumped on private or public property to be removed therefrom and disposed of  
28 properly. If, after ten (10) days from the date of the order, the person  
29 against whom the order is directed has not removed the solid waste from the  
30 public or private property and properly disposed of it as noted in the order,  
31 the governmental agency or the owner of the property may cause it to be moved  
32 and shall file with the county court a verified statement in writing of the  
33 cost of removal. After reviewing the statement, if the court determines it  
34 to be reasonable, the court shall enter an order upon the judgment docket of  
35 the county court of the amount thereof, which shall be a judgment against the

1 party against whom the judgment was issued and may be enforced as any other  
2 judgment.

3 (e) Any party aggrieved by any order of the county court under this  
4 subchapter may appeal therefrom to the circuit court, and the circuit court  
5 shall try the cause de novo.

6 8-6-504. Criminal, civil, and administrative penalties.

7 In addition to the proceedings described in § 8-6-503, every person  
8 convicted of a violation of this subchapter shall be subject to the criminal,  
9 civil, or administrative penalties as specified in § 8-6-204.

10 8-6-505. Consequences of unpaid fines and costs.

11 In all convictions for violations of the provisions of this subchapter  
12 when the fine and costs are not paid, the person convicted shall be subject  
13 to administrative or civil enforcement action. Sanctions may include  
14 administrative, civil, or criminal penalties as provided in the Arkansas  
15 Solid Waste Management Act, § 8-6-201 et seq."

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

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21 SECTION 3. If any provision of this act or the application thereof to  
22 any person or circumstance is held invalid, such invalidity shall not affect  
23 other provisions or applications of the act which can be given effect without  
24 the invalid provision or application, and to this end the provisions of this  
25 act are declared to be severable.

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

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