

1 State of Arkansas  
2 80th General Assembly  
3 Regular Session, 1995  
4 By: Senators Ross and Bradford

# A Bill

SENATE BILL

48

## For An Act To Be Entitled

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

## Subtitle

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

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

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

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

§ 8-6-901. Definitions.

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

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

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

(4) Licensing committee means the committee of solid waste  
management facility managers, operators, or technicians hereinafter  
established to assist and advise the commission and the department in the  
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 in  
3 the recycling of source separated materials are excluded; also excluded are  
4 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 -  
31 Restrictions.

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

35 (1) Three (3) members, to be appointed by the commission, shall

1 be sanitary landfill operators licensed by the department;

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

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

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

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

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

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

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

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

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

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

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

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

1           (2) The members appointed by the commission shall be allowed  
2 twenty-five dollars (\$25.00) per day, plus their travel and maintenance  
3 expenses while attending meetings.

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

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

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

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

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

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

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

29           § 8-6-906. Classification of licenses.

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

1 (b) The director, with the advice and assistance of the licensing  
2 committee, shall license persons according to their qualifications to  
3 successfully operate solid waste management facilities within the  
4 classifications established and effectuated by rules and regulations  
5 promulgated by the commission.

6 § 8-6-907. Licensing.

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

12 § 8-6-908. Licensing - Eligibility - Reciprocity.

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

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

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

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

25

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

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

35 § 8-6-909. Fees.

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

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

8

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

12

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

18

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

21

22

*/s/Ross*

23

24

25

26

27

28

29

30

31

32

33

34

35

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10