

1 State of Arkansas
2 82nd General Assembly
3 Regular Session, 1999

A Bill

SENATE BILL 618

4
5 By: Senator Fitch
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For An Act To Be Entitled

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9 "AN ACT TO AMEND ARKANSAS CODE SECTION 27-2-103 TO
10 PROVIDE LIMITED EXEMPTIONS FOR CERTAIN TRANSPORTERS OF
11 HAZARDOUS MATERIALS WITHIN THIS STATE, INCLUDING, BUT
12 NOT LIMITED TO, THE TRANSPORTATION OF AGRICULTURAL
13 PRODUCTS, PETROLEUM PRODUCTS, AND A MATERIAL OF TRADE,
14 WHICH EXEMPTIONS ARE ALLOWABLE IN ACCORDANCE WITH
15 UNITED STATES DEPARTMENT OF TRANSPORTATION
16 REGULATIONS; TO DECLARE AN EMERGENCY; AND FOR OTHER
17 PURPOSES. "

Subtitle

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19 "TO AMEND ARKANSAS CODE SECTION 27-2-103
20 TO PROVIDE LIMITED EXEMPTIONS FOR
21 CERTAIN TRANSPORTERS OF HAZARDOUS
22 MATERIALS. "

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26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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28 SECTION 1. Arkansas Code § 27-2-103 is amended to read as follows:

29 "27-2-103. Prohibited acts – Exceptions.

30 (a) It shall be unlawful for any person to knowingly:

31 (1) Transport, or cause to be transported, within this state
32 hazardous material in an immediate container which does not bear a label which
33 provides an adequate warning;

34 (2) Transport, or cause to be transported, within this state
35 hazardous material in an immediate container without carrying adequate
36 emergency equipment;

1 (3) Transport, or cause to be transported, within this state a
2 hazardous material in a container other than an adequate immediate container;

3 (4) Fail to utilize adequate emergency equipment promptly and
4 properly, to the extent possible without serious risk of personal injury, to
5 deal with the escape of a hazardous material from its immediate container when
6 the person is the operator of the transporting equipment;

7 (5) Fail to notify the Department of Arkansas State Police, as
8 promptly as reasonably possible, of the escape of a hazardous material from
9 its immediate container when the person is the carrier or is the operator of
10 the transporting equipment;

11 (6) Violate any regulation promulgated by the State Highway
12 Commission pursuant to this chapter.

13 ~~(b) The provisions of subdivisions (a)(1)-(4) of this section shall not~~
14 ~~apply to persons while operating farm vehicles with less than ten thousand~~
15 ~~pounds (10,000 lbs.) gross vehicle weight where such vehicles are used in the~~
16 ~~distribution or application of hazardous materials in immediate intrastate~~
17 ~~farming operations~~ Any and all exceptions to the requirements contained in
18 subsection (a) allowed transporters of agricultural products, petroleum
19 products, a material of trade, or any others, as set out in 49 CFR § 173,
20 including, but not limited to, 49 CFR §§ 173.5, 173.6, and 173.8, shall be
21 allowable to such transporters, provided all the requirements to avail these
22 transporters of those exemptions, which requirements are set out in these
23 United States Department of Transportation regulations, are met by such
24 transporters. Further provided, if the United States Department of
25 Transportation or the United States Congress adopts exceptions greater than
26 those currently allowed transporters of hazardous materials in 49 CFR § 173,
27 the State Highway Commission may adopt such comparable exemptions as
28 applicable to such transporters while utilizing the highways of this state.

29 (c) The provisions of subdivision (a)(5) shall not apply to persons
30 while operating farm vehicles of whatever size upon agricultural land owned,
31 leased, or rented by the person or their employers.

32 ~~(d) The provisions of subsection (a) shall not apply to persons directly~~
33 ~~engaged in the application of pesticides or rodenticides on behalf of~~
34 ~~residential, commercial, industrial, and agricultural customers under a~~
35 ~~license for such activity issued by the State Plant Board, provided such~~
36 ~~activity is limited to the transportation of such pesticides or rodenticides~~

1 ~~by a wholly intrastate carrier."~~

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 3 SECTION 2. All provisions of this Act of a general and permanent nature
 4 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
 5 Revision Commission shall incorporate the same in the Code.

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 7 SECTION 3. If any provision of this Act or the application thereof to
 8 any person or circumstance is held invalid, such invalidity shall not affect
 9 other provisions or applications of the Act which can be given effect without
 10 the invalid provision or application, and to this end the provisions of this
 11 Act are declared to be severable.

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 13 SECTION 4. All laws and parts of laws in conflict with this Act are
 14 hereby repealed.

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 16 SECTION 5. EMERGENCY CLAUSE. It is hereby found and determined by the
 17 Eighty-second General Assembly that unless certain limited exemptions
 18 available to transporters of hazardous materials, which exemptions are
 19 allowable in accordance with United States Department of Transportation
 20 regulations, are specifically authorized by state law, these exemptions will
 21 not be available to such transporters. It is further found that unless these
 22 exemptions are authorized, a hardship will result to such transporters,
 23 including farmers transporting agricultural products, as well as transporters
 24 of petroleum products, and, in order to avoid this hardship, this act should
 25 take effect immediately upon its passage and approval. Therefore, an emergency
 26 is declared to exist and this act being immediately necessary for the
 27 preservation of the public peace, health and safety shall become effective on
 28 the date of its approval by the Governor. If the bill is neither approved nor
 29 vetoed by the Governor, it shall become effective on the expiration of the
 30 period of time during which the Governor may veto the bill. If the bill is
 31 vetoed by the Governor and the veto is overridden, it shall become effective
 32 on the date the last house overrides the veto.