

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 85th General Assembly  
3 Regular Session, 2005

# A Bill

HOUSE BILL 2447

4  
5 By: Representative Pace  
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## For An Act To Be Entitled

9 AN ACT TO REQUIRE WRITTEN AND VERIFIED COMPLAINTS  
10 BEFORE A WARRANT MAY BE ISSUED TO AN EMPLOYEE OF  
11 THE ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY;  
12 AND FOR OTHER PURPOSES.  
13

## Subtitle

14 AN ACT TO REQUIRE WRITTEN AND VERIFIED  
15 COMPLAINTS BEFORE A WARRANT MAY BE  
16 ISSUED TO AN EMPLOYEE OF THE ARKANSAS  
17 DEPARTMENT OF ENVIRONMENTAL QUALITY.  
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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23 SECTION 1. Arkansas Code § 8-1-107(b), concerning definitions for  
24 Arkansas Department of Environmental Quality investigations, is amended to  
25 read as follows:

26 (b) Definitions. As used in this section, the following terms shall  
27 have these ascribed meanings:

28 (1) "Administrative inspections" means investigation by  
29 department personnel at facilities operating within the department's apparent  
30 regulatory jurisdiction;

31 (2) "Facility" means the public or private area, premises,  
32 cartilage, building, or conveyance described as the subject of administrative  
33 inspection;

34 (3) "Pervasively regulated facility or activity" means the  
35 activity or facility which is the location of activity authorized by the  
36 department through a permit, license, certification, or operational status



1 approval; and

2 (4)(A) "Probable cause" means showing through a written  
 3 complaint as described in subsection (g) of this section that an  
 4 administrative search limited in scope is necessary to ensure compliance with  
 5 or enforcement of laws, regulations, or orders charged to the department for  
 6 implementation.

7 (B) For the purpose of conducting administrative  
 8 inspections or applying for administrative warrants, probable cause may be  
 9 provided to the department through complaints or other means which reasonably  
 10 justify a limited and controlled administrative inspection.

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 12 SECTION 2. Arkansas Code § 8-1-107(c)(1)(A), concerning administrative  
 13 investigations by the Arkansas Department of Environmental Quality, is  
 14 amended to read as follows:

15 (1)(A) Whenever the department ~~obtains information~~ receives a  
 16 written complaint as described in subsection (g) of this section which  
 17 supports reasonable cause to believe that a violation of any law within its  
 18 regulatory authority is being or has been violated, or that unauthorized  
 19 regulated conduct is occurring or has occurred, department personnel or its  
 20 agents may demand entry onto any property, public or private, to inspect any  
 21 facility.

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 23 SECTION 3. Arkansas Code § 8-1-107(c)(2), concerning administrative  
 24 warrants for the Arkansas Department of Environmental Quality, is amended to  
 25 read as follows:

26 (2)(A) A warrant shall issue only upon ~~an affidavit of a~~  
 27 ~~department official, employee, or agent having knowledge of the facts~~  
 28 ~~alleged,~~ a written complaint as described in subsection (g) of this section  
 29 sworn to before the judge or magistrate and establishing the grounds for  
 30 issuing the warrant.

31 (B) If the judge or magistrate is satisfied that grounds  
 32 for the application exist or that there is probable cause to believe they  
 33 exist, he shall issue a warrant identifying the facility to be inspected, and  
 34 the purpose of the inspection.

35 (C) The warrant shall:

36 ~~(A)(i)~~ State the grounds for its issuance and the

1 name of each person whose affidavit has been taken in support thereof;

2 ~~(B)(ii)~~ Be directed to a department officer or  
3 employee;

4 ~~(C)(iii)~~ Command the person to whom it is directed  
5 to inspect the area, premises, building, or conveyance identified for the  
6 purpose specified;

7 ~~(D)(iv)~~ Specifically identify any documents or  
8 samples to be gathered during the inspection;

9 ~~(E)(v)~~ Direct that it be served during normal  
10 business hours unless emergency or extraordinary circumstances compel  
11 otherwise; and

12 ~~(F)(vi)~~ Designate the judge or magistrate to whom it  
13 shall be returned;

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15 SECTION 4. Arkansas Code § 8-1-107, concerning warrants for  
16 investigations by the Arkansas Department of Environmental Quality, and  
17 warrants, is amended to read as follows:

18 (g)(1) A person who provides information to the Arkansas Department of  
19 Environmental Quality concerning any law charged to the authority of the  
20 department shall provide:

21 (A) A written complaint to the commission or department;

22 and

23 (B) His or her:

24 (i) Legal name; and

25 (ii) Current mailing address at which the

26 complainant may be contacted.

27 (2) All complaints provided under this section shall be open to

28 public inspection under the Freedom of Information Act of 1967, § 25-19-101

29 et seq.

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