

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 86th General Assembly
3 Regular Session, 2007
4

As Engrossed: H3/21/07 H3/23/07

A Bill

HOUSE BILL 2762

5 By: Representative Saunders
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For An Act To Be Entitled

9 AN ACT TO CLARIFY THE APPLICABILITY OF
10 ENVIRONMENTAL DISCLOSURE REQUIREMENTS TO ARKANSAS
11 BUSINESSES; AND FOR OTHER PURPOSES.
12

Subtitle

13 TO CLARIFY THE APPLICABILITY OF
14 ENVIRONMENTAL DISCLOSURE REQUIREMENTS TO
15 ARKANSAS BUSINESSES.
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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21 SECTION 1. Arkansas Code § 8-1-106(b), concerning environmental
22 disclosure requirements is amended to read as follows:

23 (b)(1) Except as provided in ~~subdivision (4)~~ subdivisions (b)(2) and
24 (b)(4) of this section, all applicants for the issuance or transfer of any
25 permit, license, certification, or operational authority issued by the
26 Arkansas Department of Environmental Quality shall file a disclosure
27 statement with their applications. Deliberate falsification or omission of
28 relevant information from disclosure statements shall be grounds for civil or
29 criminal enforcement action or administrative denial of a permit, license,
30 certification, or operational authorization.

31 (2) The following persons or entities are not required to file a
32 disclosure statement pursuant to this section:

33 (A)(i) Governmental entities, consisting only of
34 subdivisions or agencies of the federal government, agencies of the state
35 government, counties, municipalities, or duly authorized regional solid waste
36 authorities as defined by § 8-6-707.



1 (ii) This exemption shall not extend to improvement
2 districts or any other subdivision of government which is not specifically
3 instituted by an act of the General Assembly; ~~and~~

4 (B) Applicants for a general permit to be issued by the
5 department pursuant to its authority to implement the National Pollutant
6 Discharge Elimination System for storm water discharge; and

7 (3) Nothing in this subsection, including the exemptions in
8 ~~subdivision (2) of this subsection~~ subdivision (b)(2) of this section, shall
9 be construed as a limitation upon the authority of the director to deny a
10 permit based upon a history of noncompliance to any applicant or for other
11 just cause.

12 (4) If the applicant is a publicly held company required to file
13 periodic reports under the Securities and Exchange Act of 1934 or a wholly
14 owned subsidiary of a publicly held company, the applicant shall not be
15 required to submit a disclosure statement, but shall submit the most recent
16 annual and quarterly reports required by the Securities and Exchange
17 Commission which provide information regarding legal proceedings in which the
18 applicant has been involved. The applicant shall submit such other
19 information as the director may require that relates to the competency,
20 reliability, or responsibility of the applicant and affiliated persons.

21 (5) For a person or entity seeking a renewal of an expiring
22 permit, license, certification, or operational authorization the disclosure
23 requirements of this section shall be met if the entity:

24 (A) Discloses any change in previously submitted
25 information; or

26 (B) Verifies that the previously submitted information
27 remains accurate; and

28 (C) Submits the information on forms developed by the
29 Arkansas Department of Environmental Quality.

30 (6) The commission may adopt regulations exempting certain
31 permits, licenses, certifications, or operational authorizations from the
32 disclosure requirements and establish reasonable and appropriate disclosure
33 information, if any, required for specific types of permits, licenses,
34 certifications, or operational authorizations based on:

35 (A) The scope of a permit, license, certification, or
36 operational authorization; and

1 (B) The person or entity that would receive a permit,
2 license, certification, or operational authorization.

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4 SECTION 2. Arkansas Code § 8-1-106(a)(1), concerning environmental
5 disclosure requirements, is amended to read as follows:

6 (a) For the purposes of this section:

7 (1) "Affiliated person" ~~includes, but is not limited to~~ means:

8 (A) Any officer, director, or partner of the applicant;

9 (B) Any person employed by the applicant in a supervisory
10 capacity over operations of the facility which is the subject of the
11 application which may adversely impact the environment, or with discretionary
12 authority over such operations;

13 (C) Any person owning or controlling more than five
14 percent (5%) of the applicant's debt or equity; and

15 (D) Any person who is not now in compliance or has a
16 history of noncompliance with the environmental laws or regulations of this
17 state or any other jurisdiction and who through relationship by affinity or
18 consanguinity or through any other relationship could be reasonably expected
19 to significantly influence the applicant in a manner which could adversely
20 affect the environment;

21 (2) "Disclosure statement" means a written statement by the
22 applicant which contains:

23 (A) The full name, business address, and social security
24 number of the applicant and all affiliated persons;

25 (B) The full name and business address of any legal entity
26 in which the applicant holds a debt or equity interest of at least five
27 percent (5%) or which is a parent company or subsidiary of the applicant, and
28 a description of the ongoing organizational relationships as they may impact
29 operations within the state;

30 (C) A description of the experience and credentials of the
31 applicant, including any past or present permits, licenses, certifications,
32 or operational authorizations relating to environmental regulation;

33 (D) A listing and explanation of any civil or criminal
34 legal actions by government agencies involving environmental protection laws
35 or regulations against the applicant and affiliated persons in the ten (10)
36 years immediately preceding the filing of the application, including

1 administrative enforcement actions resulting in the imposition of sanctions,
2 permit or license revocations or denials issued by any state or federal
3 authority, actions that have resulted in a finding or a settlement of a
4 violation, and actions that are pending;

5 (E) A listing of any federal environmental agency and any
6 other environmental agency outside this state that has or has had regulatory
7 responsibility over the applicant; and

8 (F) Any other information the Director of the Arkansas
9 Department of Environmental Quality may require that relates to the
10 competency, reliability, or responsibility of the applicant and affiliated
11 persons; and

12 (3) "History of noncompliance" means past operations by an
13 applicant which clearly indicate a disregard for environmental regulation, or
14 a demonstrated pattern of prohibited conduct which could reasonably be
15 expected to result in adverse environmental impact if a permit were issued.

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17 /s/ Saunders
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