

1 State of Arkansas
2 88th General Assembly
3 Regular Session, 2011
4

A Bill

SENATE BILL 835

5 By: Senator Burnett
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For An Act To Be Entitled

8 AN ACT TO AMEND THE SOLID WASTE MANAGEMENT ACT; TO
9 REGULATE HOUSEHOLD HAZARDOUS WASTE STORAGE AND
10 PROCESSING CENTERS; AND FOR OTHER PURPOSES.
11

Subtitle

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13 AN ACT TO AMEND THE SOLID WASTE
14 MANAGEMENT ACT AND TO REGULATE HOUSEHOLD
15 HAZARDOUS WASTE STORAGE AND PROCESSING
16 CENTERS.
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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22 SECTION 1. Arkansas Code § 8-6-203 is amended to read as follows:
23 8-6-203. Definitions.

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

25 ~~(1) "Commission" means the Arkansas Pollution Control and~~
26 ~~Ecology Commission;~~

27 ~~(2) "Department" means the Arkansas Department of Environmental~~
28 ~~Quality;~~

29 (1) "Disposal site" means any place at which solid waste is
30 dumped, abandoned, or accepted or disposed of for final disposition by
31 incineration, landfilling, composting, or any other method;

32 (2)(A) "Hazardous waste" means any waste or combination of
33 wastes of a solid, liquid, contained gaseous, or semisolid form that, because
34 of its quantity, concentration, or physical, chemical, or infectious
35 characteristics, may in the judgment of the department:

36 (i) Cause or significantly contribute to an increase



1 in mortality or an increase in serious irreversible or incapacitating
2 reversible illness; or

3 (ii) Pose a substantial present or potential hazard
4 to human health or the environment if improperly treated, stored,
5 transported, or disposed of , or otherwise improperly managed.

6 (B) "Hazardous waste" includes without limitation, waster
7 that is

8 (i) Radioactive;

9 (ii) Toxic;

10 (iii) Corrosive;

11 (iv) Flammable;

12 (v) Irritants or strong sensitizers;

13 (vi) That generate pressure through decomposition,
14 heat, or other means;

15 (3) "Household" means a single or multiple residence, hotel or
16 motel, bunkhouse, ranger station, crew quarters, campground, picnic ground,
17 and day-use recreation area;

18 (4)(A) "Household hazardous waste" means any hazardous waste
19 derived from a household that is no longer under the control of the
20 household.

21 (B) "Household hazardous waste" includes without
22 limitation:

23 (i) Household cleaners;

24 (ii) Gasoline;

25 (iii) Paint, paint strippers, and paint thinners;

26 (iv) Motor oil; and

27 (v) Herbicides and pesticides, excluding
28 antimicrobial and disinfectant products;

29 (5)(A) "Household hazardous waste storage or processing center"
30 means a facility that stores, accumulates, or processes household hazardous
31 waste.

32 (B) "Household hazardous waste storage or processing
33 center" does not include:

34 (i) Hazardous waste treatment, storage, and disposal
35 facilities permitted by the Arkansas Department of Environmental Quality
36 under the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq.;

1 (ii) Agricultural operations as defined in §8-6-509;
 2 or

3 (iii) De minimis amounts of household hazardous
 4 waste that have not been removed from the municipal solid waste stream;

5 ~~(4)~~(6) “Municipality” means a city of the first class, a city of
 6 the second class, or an incorporated town;

7 ~~(5)~~(7) “Person” means any individual, corporation, company,
 8 firm, partnership, association, trust, state agency, government
 9 instrumentality or agency, institution, county, city, town, municipal
 10 authority or trust, venture, or other legal entity, however organized;

11 (8)(A) “Pesticide” means a substance or mixture of substances
 12 intended for preventing, destroying, repelling, or mitigating any pest, or
 13 for use as a plant regulator, defoliant, or desiccant.

14 (B) “Pesticide” does not include:

15 (i) A new animal drug under the Federal Food, Drug,
 16 and Cosmetic Act, 21 U.S.C. 301 §201(w);

17 (ii) An animal drug that has been determined by
 18 regulation of the Secretary of the United States Department of Health and
 19 Human Services not to be a new animal drug; or

20 (iii) An animal feed under the Federal Food, Drug,
 21 and Cosmetic Act, 21 U.S.C. 301 §201(x);

22 ~~(6)~~(9) “Solid waste” means any garbage or refuse, sludge from a
 23 wastewater treatment plant, water supply treatment plant, or air pollution
 24 control facility, and other discarded material, including solid, liquid,
 25 semisolid, or contained gaseous material resulting from industrial,
 26 commercial, mining, and agricultural operations, and from community
 27 activities, but does not include solid or dissolved materials in domestic
 28 sewage, or solid or dissolved materials in irrigation return flows or
 29 industrial discharges that are point sources subject to permit under 33
 30 U.S.C. § 1342, or source, special nuclear, or by-products material as defined
 31 by the Atomic Energy Act of 1954, 68 Stat. 923;

32 ~~(7)~~(10) “Solid waste board” or “board” means a regional solid
 33 waste planning board or a solid waste service area board, or its successor,
 34 created under § 8-6-701 et seq.;

35 ~~(8)~~(11) “Solid waste management system” means the entire process
 36 of source reduction, storage, collection, transportation, processing, waste

1 minimization, recycling, and disposal of solid wastes by any person engaging
 2 in the process as a business or by any municipality, authority, trust,
 3 county, or by any combination thereof a municipality, authority, trust, or
 4 county; and

5 ~~(9)~~(12) "Transfer station" means a facility that is used to
 6 manage the removal, compaction, and transfer of solid waste from collection
 7 vehicles and other small vehicles to greater capacity transport vehicles.
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9 SECTION 2. Arkansas Code Title 8, Chapter 6, Subchapter 2 is amended
 10 to add an additional section to read as follows:

11 8-6-223. Household hazardous waste storage or processing centers
 12 - Permit required.

13 (a) It is unlawful for a person to own or operate a household
 14 hazardous waste storage or processing center, as defined in §8-6-203, without
 15 first obtaining from the Arkansas Department of Environmental Quality a
 16 transfer station permit or another permit that the department deems
 17 appropriate and that meets the requirements of this section.

18 (b)(1) The department shall not issue, modify, or renew a permit for a
 19 household hazardous waste storage or processing center regulated under this
 20 section without the permit applicant first demonstrating to the department's
 21 satisfaction the applicant's financial ability to ensure proper removal and
 22 disposal of household hazardous waste located at the household hazardous
 23 waste storage or processing center under this section.

24 (2) The amount of financial assurance required under this
 25 section shall be equal to or greater than one hundred fifty percent (150%) of
 26 a third party's cost of disposal of the maximum permitted amount of household
 27 hazardous waste at a facility permitted under the Resource Conservation and
 28 Recovery Act, 42 U.S.C. § 6901 et seq., for the treatment, storage, and
 29 disposal of hazardous waste.

30 (3) A detailed disposal estimate under this section shall be
 31 prepared by an independent professional consultant.

32 (c) The permittee or applicant shall demonstrate financial ability to
 33 ensure proper removal and disposal of the household hazardous waste at its
 34 household hazardous waste storage or processing center by:

35 (1) Obtaining insurance that specifically covers the costs of
 36 disposal as required by this section;

- 1 (2) Obtaining a letter of credit;
- 2 (3) Obtaining a bond or other surety instrument;
- 3 (4) Creating a trust fund or escrow account;
- 4 (5) Combining any of the instruments in subdivisions (c)(1)-(4)
 5 of this section; or

6 (6) Any other financial instrument approved by the Director of
 7 the Arkansas Department of Environmental Quality.

8 (d) A financial instrument required by this section shall:

- 9 (1) Be posted to the benefit of the department;
- 10 (2) Provide that the financial instrument cannot be cancelled
 11 without sixty (60) days prior written notice addressed to the department's
 12 legal division chief as evidenced by a signed, certified mail with a return
 13 receipt request; and

14 (3) Be reviewed by the department upon receipt of the
 15 cancellation notice to determine whether the department should initiate
 16 procedures to revoke or suspend the household hazardous waste storage or
 17 processing center's permit, and whether the department should take possession
 18 of the funds guaranteed by the financial assurance mechanism.

19 (e) Before the department may release a financial assurance mechanism,
 20 the department shall inspect the household hazardous waste storage or
 21 processing center to determine to the department's satisfaction that no
 22 household hazardous waste is located at the household hazardous waste storage
 23 or processing center.

24 (f) The department is not responsible for the removal or disposal of
 25 household hazardous waste regulated under this section.

26 (g) Before an application for a permit is submitted to the department,
 27 a household hazardous waste storage or processing center shall apply for a
 28 certificate of need from the regional solid waste management board that has
 29 jurisdiction over the proposed site and shall follow the procedures and rules
 30 established under § 8-6-708.

31 (h) A household hazardous waste storage or processing center shall
 32 submit a permit application to the department within ninety (90) days of the
 33 approval of the certificate of need.

34 (i) If a certificate of need is not approved under subsection (j) of
 35 this section or a final determination is made by the department denying the
 36 permit application, the household hazardous waste storage or processing

1 center shall cease all collection, storage, or processing activity and
2 properly dispose of or recycle all materials within ninety (90) days.

3 (j) By October 1, 2011, each household hazardous waste storage or
4 processing center operating before the effective date of this act shall:

5 (1) Submit to the department a plan to remove and dispose of all
6 household hazardous waste located at the household hazardous waste storage or
7 processing center in accordance with this section;

8 (2) Submit to the department a detailed cost estimate to remove
9 and dispose of the household hazardous waste located at the household
10 hazardous waste storage or processing center that meets the requirements of
11 this section and is approved by the department; and

12 (3) Obtain financial assurance in accordance with subdivision
13 (b)(2) of this section.

14 (k) A household hazardous waste storage or processing center that is
15 operating before the effective date of this section is exempt from obtaining
16 a certificate of need under subsection (g) of this section.

17 (l) A permit under this section is not required for recyclable
18 materials collection centers or systems that are provided by a city, county,
19 solid waste district, or regional solid waste management district that stores
20 household hazardous waste in quantities of less than one hundred ten gallons
21 (110 gal.) of each household hazardous waste, not to exceed an accumulated
22 waste amount of five thousand gallons (5,000 gal.) of liquid waste or ten
23 thousand pounds (10,000 lbs.) of nonliquid waste.

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