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2 92nd General Assembly
3 Regular Session, 2019
4

A Bill

SENATE BILL 359

5 By: Senator Rapert
6 By: Representative Gazaway
7

For An Act To Be Entitled

9 AN ACT TO MAKE TECHNICAL CORRECTIONS TO TITLE 8 OF
10 THE ARKANSAS CODE CONCERNING ENVIRONMENTAL LAW; AND
11 FOR OTHER PURPOSES.
12
13

Subtitle

15 TO MAKE TECHNICAL CORRECTIONS TO TITLE 8
16 OF THE ARKANSAS CODE CONCERNING
17 ENVIRONMENTAL LAW.
18
19

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
21

22 SECTION 1. Arkansas Code § 8-1-101(a), concerning the purpose of § 8-
23 1-101 et seq., is amended to read as follows to repeal obsolete language and
24 conform to Code style:

25 (a) It is the purpose of this chapter to authorize the Arkansas
26 Pollution Control and Ecology Commission to establish a system of fees for
27 the issuance of permits required by §§ 8-4-101 – 8-4-106, 8-4-201 – 8-4-229,
28 8-4-301 – 8-4-314, 8-6-201 – 8-6-212, ~~8-6-213 [repealed]~~, 8-6-214, ~~8-6-215—~~
29 ~~8-6-217 [superseded]~~, and 8-9-403, to defray costs of other services provided
30 and to authorize the Arkansas Department of Environmental Quality to collect
31 and enforce ~~these~~ the fees.
32

33 SECTION 2. Arkansas Code § 8-1-102(6), concerning the definitions to
34 be used in § 8-1-101 et seq., is amended to read as follows to repeal
35 obsolete language and conform to Code style:

36 (6) “Initial fee” means ~~that~~ the fee required by this chapter to



1 be submitted with all applications for water, air, and solid waste permits
 2 required by §§ 8-4-101 – 8-4-106, 8-4-201 – 8-4-229, 8-4-301 – 8-4-314, 8-6-
 3 201 – 8-6-212, ~~8-6-213 [repealed]~~, 8-6-214, ~~8-6-215 – 8-6-217 [superseded]~~,
 4 or 8-9-403; and

5
 6 SECTION 3. Arkansas Code § 8-1-103(1)(A), concerning the powers and
 7 duties of the Arkansas Department of Environmental Quality and the Arkansas
 8 Pollution Control and Ecology Commission, is amended to read as follows to
 9 repeal obsolete language:

10 (1)(A) Following a public hearing and based upon a record
 11 calculating the reasonable administrative costs of evaluating and taking
 12 action on permit applications and of implementing and enforcing the terms and
 13 conditions of permits and variances, the commission shall establish, by
 14 regulation, reasonable fees for initial issuance, annual review, and
 15 modification of water, air, or solid waste permits required by §§ 8-4-101 –
 16 8-4-106, 8-4-201 – 8-4-229, 8-4-301 – 8-4-314, 8-6-201 – 8-6-212, ~~8-6-213~~
 17 ~~[repealed]~~, 8-6-214, ~~8-6-215 – 8-6-217 [superseded]~~, and 8-9-403. These fees
 18 shall consist of initial fees, annual review fees, and modification fees, as
 19 defined in § 8-1-102.

20
 21 SECTION 4. Arkansas Code § 8-1-107(d) and (e), concerning
 22 administrative inspection warrants executed by the Arkansas Department of
 23 Environmental Quality, are amended to read as follows to clarify references
 24 and conform to Code style:

25 (d) Administrative Inspection Warrants. If consent to inspect is
 26 denied, the department may obtain an administrative inspection warrant from a
 27 judicial officer. Issuance and execution of administrative inspection
 28 warrants shall be as follows:

29 (1) Any judicial officer otherwise authorized to issue search
 30 warrants within his or her jurisdiction may, upon proper oath or affirmation
 31 showing probable cause as defined by this section, issue administrative
 32 inspection warrants for the purpose of conducting administrative inspections
 33 authorized by any law or regulation administered by the department;

34 (2) A An administrative inspection warrant shall issue only upon
 35 an affidavit of a department official, employee, or agent having knowledge of
 36 the facts alleged, sworn to before the judge or magistrate and establishing

1 the grounds for issuing the administrative inspection warrant. If the judge
 2 or magistrate is satisfied that grounds for the application exist or that
 3 there is probable cause to believe they exist, he or she shall issue a an
 4 administrative inspection warrant identifying the facility to be inspected,
 5 and the purpose of the inspection. The administrative inspection warrant
 6 shall:

7 (A) State the grounds for its issuance and the name of
 8 each person whose affidavit has been taken in support ~~thereof~~ of the
 9 administrative inspection warrant;

10 (B) Be directed to a department officer or employee;

11 (C) Command the person to whom it is directed to inspect
 12 the area, premises, building, or conveyance identified for the purpose
 13 specified;

14 (D) Specifically identify any documents or samples to be
 15 gathered during the administrative inspection;

16 (E) Direct that it be served during normal business hours
 17 unless emergency or extraordinary circumstances compel otherwise; and

18 (F) Designate the judge or magistrate to whom it shall be
 19 returned;

20 (3) If appropriate, the administrative inspection warrant may
 21 authorize the review and copying of documents which may be relevant to the
 22 purpose of the administrative inspection. If documents must be seized for the
 23 purpose of copying, the person serving the administrative inspection warrant
 24 shall prepare an inventory of documents taken. The inventory shall be made in
 25 the presence of the person executing the administrative inspection warrant
 26 and of the person from whose possession or facility the documents were taken,
 27 if present, or in the presence of at least one (1) credible person other than
 28 the person executing the administrative inspection warrant. A copy of the
 29 inventory shall be delivered to the person from whom or from whose facility
 30 the documents were taken. The seized documents shall be copied as soon as
 31 feasible under circumstances preserving their authenticity, then returned to
 32 the person from whom the documents were taken;

33 (4) The administrative inspection warrant may authorize the
 34 taking of samples of materials generated, stored, or treated at the facility,
 35 or of the water, air, or soils within the facility's control or that may have
 36 been affected by the facility's operations. The person executing the

1 administrative inspection warrant shall prepare an inventory of all samples
 2 taken. In any inspection conducted pursuant to an administrative inspection
 3 warrant in which ~~such~~ the samples are taken, the department shall make split
 4 samples available to the person whose facility is being inspected;

5 (5) A An administrative inspection warrant issued pursuant to
 6 this section must be executed and returned within ten (10) days of its date
 7 unless, upon a showing of a need for additional time, the court orders
 8 otherwise. The return of the administrative inspection warrant shall be made
 9 promptly, accompanied by a written inventory of any documents or samples
 10 taken;

11 (6) The judge or magistrate who has issued ~~a~~ an administrative
 12 inspection warrant shall attach ~~thereto~~ to the administrative inspection
 13 warrant a copy of the return and all papers returnable in connection
 14 ~~therewith~~ with the administrative inspection warrant and file them with the
 15 clerk of the circuit court for the judicial district in which the
 16 administrative inspection was made;

17 (7) This subsection does not prevent the inspection without a
 18 warrant of books and records pursuant to an administrative subpoena issued in
 19 accordance with duly adopted administrative procedures; and

20 (8) A copy of the administrative inspection warrant and all
 21 supporting affidavits shall be provided to the person served, or left at the
 22 entry of the facility inspected.

23 (e) Administrative Inspection Warrants – Exceptions. Notwithstanding
 24 ~~the previous subsection~~ subsection (d) of this section, an administrative
 25 inspection warrant shall not be required for any inspection, including the
 26 review and copying of documents and taking of samples, under the following
 27 circumstances:

28 (1) For pervasively regulated facilities or activities as
 29 defined by this section whose permit, license, certification, or operational
 30 approval from the department provides notice that the department may inspect
 31 regulated activities to assure compliance. If the department has reason to
 32 believe that a violation of any law has or is occurring, the basis for such
 33 belief shall be communicated at the time of the inspection;

34 (2) If the owner, operator, or agent in charge of the facility
 35 consents;

36 (3) In situations presenting imminent danger to public health

1 and safety or the environment;

2 (4) In situations involving inspection of conveyances, if there
 3 is reasonable cause to believe that the mobility of the conveyance makes it
 4 impracticable to obtain a an administrative inspection warrant;

5 (5) In any other exception or emergency circumstance when time
 6 or opportunity to apply for a an administrative inspection warrant is
 7 lacking;

8 (6) In situations involving conditions that may be observed in
 9 an open field, from an area practically open to public access, or in plain
 10 view; or

11 (7) In all other situations in which a an administrative
 12 inspection warrant is not constitutionally required.

13
 14 SECTION 5. Arkansas Code § 8-4-103(1)(1) and (2), concerning the
 15 unlawful use of a cleaning agent under the Arkansas Water and Air Pollution
 16 Control Act, are amended to read as follows to clarify a criminal offense:

17 (1)(1) A person that uses a cleaning agent in violation of this
 18 chapter ~~is guilty of a misdemeanor and~~ upon conviction is guilty of a
 19 violation and is subject to a fine not exceeding one hundred dollars (\$100).

20 (2) A person that sells, distributes, or manufactures a cleaning
 21 agent in violation of this chapter ~~is guilty of a misdemeanor and~~ upon
 22 conviction is guilty of a violation and is subject to a fine not exceeding
 23 one thousand dollars (\$1,000).

24
 25 SECTION 6. Arkansas Code § 8-4-205(c)(4), concerning review of certain
 26 permit decisions by the Arkansas Pollution Control and Ecology Commission, is
 27 amended to read as follows to clarify a reference:

28 (4) The commission shall review the ~~director's~~ administrative
 29 law judge's decision de novo.

30
 31 SECTION 7. Arkansas Code § 8-4-207(4), concerning the powers and
 32 duties of the Director of the Arkansas Department of Environmental Quality
 33 under the Arkansas Water and Air Pollution Control Act, is amended to read as
 34 follows to clarify references and to make a stylistic change:

35 (4) The director ~~is authorized to~~ may apply and enforce toxic
 36 effluent standards and pretreatment standards against industrial users of

1 publicly owned treatment works for the introduction into ~~such~~ the publicly
2 owned treatment works of sewage, industrial wastes, or other wastes which
3 interfere with, pass through, or otherwise are incompatible with ~~such~~ the
4 publicly owned treatment works;

5
6 SECTION 8. Arkansas Code § 8-4-234(b), concerning short-term activity
7 authorization by the Director of the Arkansas Department of Environmental
8 Quality, is amended to read as follows to clarify references:

9 (b)(1) The Arkansas Department of Environmental Quality may collect a
10 ~~processing fee for a~~ short-term activity authorization fee.

11 (2) The short-term activity authorization fee shall not exceed
12 two hundred dollars (\$200) for each stream crossing, in-stream activity, or
13 other eligible activity under subdivision (a)(2) of this section at each site
14 identified in the application.

15 (3) The Arkansas Pollution Control and Ecology Commission may
16 establish a fee schedule for short-term activity authorization fees imposed
17 on a state agency, board, or commission or municipality, city, or county for
18 a short-term activity not covered under subsection (c) of this section to
19 include without limitation:

- 20 (A) Routine maintenance; or
- 21 (B) Road construction.

22 (4)(A) The department shall enter into an agreement with a state
23 agency, board, or commission or municipality, city, or county that creates an
24 alternative payment structure in lieu of short-term activity authorization
25 fees authorized under subdivision (b)(2) of this section.

26 (B) An agreement entered into under subdivision (b)(4)(A)
27 of this section shall include:

28 (i) A provision regarding waiver of short-term
29 activity authorization fees under this section; and

30 (ii) A process under which the department provides
31 notice to the state agency, board, or commission or municipality, city, or
32 county of planned actions under this section that affect the state agency,
33 board, or commission or municipality, city, or county.

34 (5) The department shall waive twenty-five percent (25%) of a
35 short-term activity authorization fee assessed under this section to a state
36 agency, board, or commission or municipality, city, or county in a fiscal

1 year.

2

3 SECTION 9. Arkansas Code § 8-4-305(7), concerning exceptions to air
4 pollution standards, is amended to read as follows to clarify references:

5 (7) Fires set or permitted by any public officer, board,
6 council, or commission when the fire is set or permission to burn is given in
7 the performance of the duty of the public officer, board, council, or
8 commission for the purpose of weed abatement, the prevention or elimination
9 of a fire hazard, or the instruction of employees in the methods of fire
10 fighting, which is necessary in the opinion of the public officer, board,
11 council, or commission, or from fires set pursuant to permit for the purpose
12 of instruction of employees of private industrial concerns in methods of fire
13 fighting, or for civil defense instruction; or

14

15 SECTION 10. Arkansas Code § 8-4-308(b), concerning the confidentiality
16 of industrial secrets under the Arkansas Water and Air Pollution Control Act,
17 is amended to read as follows to clarify a criminal offense:

18 (b) Any violation of this section ~~shall be unlawful and constitutes a~~
19 is a Class A misdemeanor.

20

21 SECTION 11. Arkansas Code § 8-4-310(a), concerning unlawful actions
22 under the Arkansas Water and Air Pollution Control Act, is amended to read as
23 follows to clarify a criminal offense:

24 (a) It ~~shall be unlawful and constitute a~~ is a Class A misdemeanor:

25 (1) To knowingly cause air pollution as defined in § 8-4-303;

26 (2) To construct, install, use, or operate any source capable of
27 emitting air contaminants without having first obtained a permit to do so, if
28 required by the regulations of the Arkansas Pollution Control and Ecology
29 Commission, or to do so contrary to the provisions of any permit issued by
30 the Arkansas Department of Environmental Quality or after any such permit has
31 been suspended or revoked; or

32 (3) To violate any rule, regulation, or order of the commission
33 issued pursuant to this chapter.

34

35 SECTION 12. Arkansas Code § 8-5-209 is amended to read as follows to
36 clarify references, repeal language duplicated in Title 19, and make

1 stylistic changes:

2 8-5-209. Fees – Wastewater Licensing Fund.

3 (a)(1) The Arkansas Pollution Control and Ecology Commission shall
 4 have the authority to set fees in an amount to cover the cost of the
 5 administration of this subchapter.

6 (2)(A) Licensing and examination fees shall be set forth ~~in the~~
 7 by regulation.

8 (B) However, the licensing and examination fees shall not
 9 exceed:

10 (i) A combined examination and license fee of forty
 11 dollars (\$40.00); and

12 (ii) An annual license renewal fee of twenty dollars
 13 (\$20.00).

14 (b) ~~The Wastewater Licensing Fund is hereby established on the books~~
 15 ~~of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer~~
 16 ~~of the State.~~ All fees collected under ~~the provisions of~~ this section shall
 17 be deposited into ~~this fund~~ the Wastewater Licensing Fund and may be used
 18 only for the administration of this subchapter.

19
 20 SECTION 13. Arkansas Code § 8-5-803(5) and (6), concerning the
 21 definitions to be used under the Small Business Revolving Loan Fund for
 22 Pollution Control and Prevention Technologies Act, are amended to read as
 23 follows to repeal a defined term that is not used in the subchapter, to
 24 clarify references, and to make stylistic changes:

25 ~~(5) “Mandated environmental control” means any change in a~~
 26 ~~commercial process that is required by federal or state environmental law or~~
 27 ~~duly adopted regulation;~~

28 ~~(6)(A)(5)(A)~~ (5)(A) “Pollution prevention” means reducing or
 29 eliminating the generation of pollutants and waste at the source.

30 (B) “Pollution prevention” ~~shall be expanded to also~~
 31 ~~include process~~ includes:

32 (i) Process modifications and equipment acquisitions
 33 that promote the recovery and reuse of pollutants; and

34 (ii) The acquisition and installation of capital
 35 equipment, a process change, or a combination of capital equipment and
 36 process change.

1 (C) ~~Specifically excluded from this definition of eligible~~
2 ~~activities are~~ "Pollution prevention" does not include investments in waste
3 treatment processes or equipment, unless the waste treatment involves the
4 recovery and reuse of pollutants.

5 (D) ~~"Pollution prevention" also may include the~~
6 ~~acquisition and installation of capital equipment, a process change, or a~~
7 ~~combination of capital equipment and process change; and~~

8
9 SECTION 14. Arkansas Code § 8-6-219(c), concerning applications for
10 permits under the Arkansas Solid Waste Management Act, is repealed as
11 obsolete.

12 ~~(c) This section shall apply to permit applications submitted after~~
13 ~~July 15, 1991.~~

14
15 SECTION 15. Arkansas Code § 8-6-418(c), concerning the possession or
16 use of glass containers on navigable waterways under the Litter Control Act,
17 is amended to read as follows to clarify a criminal offense:

18 (c)(1) A violation of this section ~~shall be a misdemeanor~~ is a
19 violation and each violation may be prosecuted as a separate offense.

20 (2) Each violation ~~shall be~~ of this section is punishable by a
21 fine of not more than five hundred dollars (\$500).

22
23 SECTION 16. Arkansas Code § 8-6-615(d)(1), concerning the distribution
24 of funds to regional solid waste management districts under the Solid Waste
25 Management and Recycling Fund Act, is amended to read as follows to repeal
26 obsolete language:

27 (d)(1) ~~After August 1, 2017, and for each subsequent fiscal year, each~~
28 For each fiscal year, each regional solid waste management board that
29 receives funds under this section shall provide a report by November 1 to the
30 department that explains how the board spent the funding received under this
31 section in the previous fiscal year.

32
33 SECTION 17. Arkansas Code § 8-6-720(a), concerning recycling programs
34 administered by regional solid waste management boards, is amended to read as
35 follows to repeal obsolete language and make a stylistic change:

36 (a)(1) ~~Beginning July 1, 1992, each~~ Each regional solid waste

1 management board shall ensure that its residents have an opportunity to
2 recycle. ~~“Opportunity to recycle” means availability of curbside pickup or~~
3 ~~collection centers for recyclable materials at sites that are convenient for~~
4 ~~persons to use.~~

5 (2) ~~Beginning July 1, 1993, at~~ At least one (1) recyclable
6 materials collection center shall be available in each county of a regional
7 solid waste management district unless the Arkansas Pollution Control and
8 Ecology Commission grants the district an exemption. An exemption may be
9 granted if a county is adequately served by a recyclable materials collection
10 center in another county.

11 (3) Boards shall assess the operation of existing and proposed
12 recycling centers and materials recovery facilities to determine the adequacy
13 of ~~these~~ the existing and proposed recycling centers and materials recovery
14 facilities for the collection and recovery of recyclable materials. Boards
15 shall give due consideration to existing recycling facilities in ensuring the
16 opportunity to recycle and are encouraged to use, to the extent practicable,
17 persons engaged in the business of recycling on March 26, 1991, whether or
18 not the persons were operating for profit.

19 (4) As used in this subsection, “opportunity to recycle” means
20 availability of curbside pickup or collection centers for recyclable
21 materials at sites that are convenient for persons to use.

22
23 SECTION 18. Arkansas Code § 8-6-1602(2), concerning the definitions to
24 be used under the financial assurance laws for solid waste management
25 facilities, is repealed to remove a definition that is not used in the
26 subchapter.

27 ~~(2) “Active portion” means that part of a facility or unit that~~
28 ~~has received or is receiving wastes and that has not been closed;~~

29
30 SECTION 19. Arkansas Code § 8-7-209(a)(12), concerning the powers and
31 duties of the Arkansas Department of Environmental Quality under the Arkansas
32 Hazardous Waste Management Act of 1979, is amended to read as follows to
33 clarify a reference:

34 (12) In addition to the powers enumerated ~~above~~ in subdivisions
35 (a)(1)-(11) of this section, the Arkansas Department of Environmental Quality
36 shall have and may use in the administration and enforcement of this

1 subchapter all of the powers which the Arkansas Department of Environmental
2 Quality has under other laws administered by the Arkansas Department of
3 Environmental Quality, including the Arkansas Water and Air Pollution Control
4 Act, § 8-4-101 et seq., and the Arkansas Solid Waste Management Act, § 8-6-
5 201 et seq.

6
7 SECTION 20. Arkansas Code § 8-7-225(d)(3), concerning records and
8 examinations under the Arkansas Hazardous Waste Management Act of 1979, is
9 amended to read as follows to clarify a criminal offense:

10 (3) Any violation of this subsection ~~shall be unlawful and~~
11 ~~constitute a~~ is a Class A misdemeanor.

12
13 SECTION 21. Arkansas Code § 8-7-509(c), concerning the Hazardous
14 Substance Remedial Action Trust Fund, is amended to read as follows to repeal
15 obsolete language and conform to Code style:

16 (c)(1) ~~Any moneys remaining in the Emergency Response Fund [abolished]~~
17 ~~as of June 30, 2005, shall be transferred in their entirety to the Hazardous~~
18 ~~Substance Remedial Action Trust Fund.~~

19 ~~(2) Beginning July 1, 2005, the~~ The Hazardous Substance Remedial
20 Action Trust Fund shall consist of all moneys received as penalties under §§
21 8-4-101 – 8-4-106, 8-4-201 – 8-4-229, 8-4-301 – 8-4-313, 8-6-201 – 8-6-214,
22 8-7-201 – 8-7-226, 8-7-504, and § 20-27-1001 et seq.

23 ~~(3)(2)~~ In addition to all moneys appropriated by the General
24 Assembly to the ~~Hazardous Substance Remedial Action Trust Fund~~ fund, there
25 shall be deposited into the ~~Hazardous Substance Remedial Action Trust Fund~~
26 fund:

27 (A) Any moneys received by the state as a gift or donation
28 to the ~~Hazardous Substance Remedial Action Trust Fund~~ fund;

29 (B) All interest earned upon moneys deposited into the
30 ~~Hazardous Substance Remedial Action Trust Fund~~ fund;

31 (C) All fees assessed under § 8-7-518;

32 (D) ~~All costs recovered from the Emergency Response Fund~~
33 ~~[abolished];~~

34 ~~(E)~~ All punitive damages collected pursuant to § 8-7-517;
35 and

36 ~~(F)~~ (E) Any other moneys legally designated for the

1 ~~Hazardous Substance Remedial Action Trust Fund~~ fund.

2 ~~(4)~~ (3) In addition, there is authorized to be deposited into
3 the ~~Hazardous Substance Remedial Action Trust Fund~~ fund all moneys recovered
4 pursuant to § 8-7-514 and all moneys received as penalties pursuant to § 8-7-
5 504.

6
7 SECTION 22. Arkansas Code § 8-7-511(c), concerning furnishing
8 information under the Remedial Action Trust Fund Act, is amended to read as
9 follows to clarify a criminal offense:

10 (c) Any violation of this section ~~shall be unlawful and constitute a~~
11 is a Class A misdemeanor.

12
13 SECTION 23. Arkansas Code § 8-7-520(f), concerning claims for
14 contribution under the Remedial Action Trust Fund Act, is repealed as
15 obsolete.

16 ~~(f) This section shall apply to any claim for contribution initiated~~
17 ~~after March 9, 1989.~~

18
19 SECTION 24. Arkansas Code § 8-7-811(d), concerning trade secrets
20 related to regulated substance storage tanks, is amended to read as follows
21 to clarify a criminal offense:

22 (d) Any violation of this section ~~shall be unlawful and shall~~
23 ~~constitute a~~ is a Class A misdemeanor.

24
25 SECTION 25. Arkansas Code § 8-7-909(d), concerning confidential
26 treatment of information under the Petroleum Storage Tank Trust Fund Act, is
27 amended to read as follows:

28 (d) Any violation of this section ~~shall be unlawful and shall~~
29 ~~constitute a~~ is a Class A misdemeanor.

30
31 SECTION 26. Arkansas Code § 8-7-1007(b), concerning workplace chemical
32 lists under the Public Employees' Chemical Right to Know Act, is amended to
33 read as follows to repeal obsolete language and add clarifying language:

34 (b) Each public employer ~~shall file the workplace chemical list with~~
35 ~~the Director of the Department of Labor no later than ninety (90) days after~~
36 ~~July 1, 1991, and shall update the workplace chemical list~~ with the Director

1 of the Department of Labor as necessary, but in any case by July 1 of each
2 ~~subsequent~~ year.

3
4 SECTION 27. Arkansas Code § 8-7-1008(b)(1), concerning employee
5 information and training under the Public Employees' Chemical Right to Know
6 Act, is amended to read as follows to repeal obsolete language:

7 (b)(1) The information and training program provided pursuant to this
8 section shall be developed in accordance with regulations to be promulgated
9 by the Director of the Department of Labor pursuant to § 8-7-1011 ~~within six~~
10 ~~(6) months after July 1, 1991.~~

11
12 SECTION 28. Arkansas Code § 8-7-1008(e), concerning employee
13 information and training under the Public Employees' Chemical Right to Know
14 Act, is amended to read as follows to repeal obsolete language and add
15 clarifying language:

16 (e) ~~Each public employer shall conduct the initial information and~~
17 ~~training program required pursuant to this section within one (1) year after~~
18 ~~July 1, 1991. This~~ The information and training program required under this
19 section may be conducted with the assistance of the director pursuant to § 8-
20 7-1009.

21
22 SECTION 29. Arkansas Code § 8-7-1009(b), concerning outreach
23 activities of the Director of the Department of Labor under the Public
24 Employees' Chemical Right to Know Act, is amended to read as follows to
25 repeal obsolete language and provide clarification:

26 (b) The director shall develop and maintain a general information and
27 training assistance program to aid public employers. ~~Such information and~~
28 ~~assistance~~ The general information and training assistance program shall be
29 made available to all public employers. As part of the general information
30 and training assistance program, the director may develop and distribute a
31 supply of informational leaflets on public employers' duties, public
32 employees' rights, and the effects of hazardous chemicals. ~~The director shall~~
33 ~~make available the basic materials for this program within nine (9) months~~
34 ~~after July 1, 1991.~~

35
36 SECTION 30. Arkansas Code § 8-7-1011(b), concerning rulemaking under

1 the Public Employees' Chemical Right to Know Act, is amended to read as
 2 follows to repeal obsolete language:

3 (b) The director shall promulgate regulations ~~within six (6) months~~
 4 ~~after July 1, 1991,~~ requiring public employers to carry out information and
 5 training programs for their public employees and specifying the minimum
 6 content of education and training programs as provided in § 8-7-1008.

7
 8 SECTION 31. Arkansas Code § 8-7-1102(b), concerning the definitions to
 9 be used in relation to voluntary cleanup of hazardous substances, is amended
 10 to read as follows to repeal obsolete language:

11 (b) Any other terms of this subchapter not expressly defined shall
 12 have the same definitions as provided in § 8-7-203, § 8-7-304, ~~§ 8-7-403~~
 13 ~~{repealed}~~, or § 8-7-503, unless manifestly inconsistent with the provisions
 14 and remedial intent of this subchapter.

15
 16 SECTION 32. Arkansas Code § 8-7-1402(a), concerning the professional
 17 cleanup of properties contaminated through the manufacture of controlled
 18 substances under the Controlled Substances Contaminated Property Cleanup Act,
 19 is amended to read as follows to repeal obsolete language and provide a
 20 clarification:

- 21 (a) The Arkansas Department of Environmental Quality shall:
- 22 (1) Establish and administer a certification program to:
 - 23 (A) Certify contractors who choose to undertake the
 - 24 inspection, sampling, remediation, and removal of contaminated materials from
 - 25 property contaminated through the manufacture of controlled substances; and
 - 26 (B) Require as a condition of certification that the
 - 27 contractors demonstrate that they have the qualifications required to
 - 28 undertake inspection, sampling, remediation, and removal of contaminated
 - 29 materials from property contaminated through the manufacture of controlled
 - 30 substances;
 - 31 (2) ~~Have established the certification program no later than May~~
 32 ~~1, 2008;~~
 - 33 ~~(3) By March 1, 2008, establish~~ Establish standards for the
 34 remediation of properties contaminated through the manufacture of controlled
 35 substances;
 - 36 ~~(4)~~ (3) Make the certification program rules and the remediation

standards available to law enforcement officials and the public:

(A) On the department’s website; and

(B) In hard copy upon request to the department; and

~~(5)~~(4) Annually review and update the remediation standards.

SECTION 33. Arkansas Code § 8-9-104(6), concerning the definitions to be used in relation to recycling, is repealed to remove a defined term that is not used in the chapter.

~~(6) “Recyclable materials collection center” or “collection center” means a facility which receives or stores recyclable materials prior to timely transportation to material recovery facilities, markets for recycling, or disposal;~~

SECTION 34. Arkansas Code § 8-9-304 is amended to read as follows to repeal obsolete language and make a grammatical correction:

8-9-304. Used motor oil.

~~No later than December 31, 1992, the~~ The Arkansas Pollution Control and Ecology Commission shall adopt, after notice and public hearing, reasonable regulations ~~which~~ that are protective of the public health and environment for the collection, storage, and disposal, reuse, or recycling of used motor oil.

SECTION 35. Arkansas Code § 8-9-404(a)(1), concerning rim removal fees, import fees, and commercial generator fees under the Used Tire Recycling and Accountability Act, is amended to read as follows to repeal obsolete language:

(a)(1) ~~Beginning on January 1, 2018, there shall be~~ There is imposed a rim removal fee upon the transaction of removing a tire from a rim that is related to the sale of a replacement tire by a tire retailer.

SECTION 36. Arkansas Code § 8-9-404(a)(3)(E), concerning rim removal fees, import fees, and commercial generator fees under the Used Tire Recycling and Accountability Act, is amended to read as follows to repeal obsolete language:

(E) Each tire retailer ~~who was not registered with the Department of Finance and Administration on August 1, 2017, shall be~~

1 ~~registered shall register~~ with the Department of Finance and Administration
 2 ~~on or before December 1, 2017,~~ and shall comply with all requirements related
 3 to collecting and reporting rim removal fees.

4
 5 SECTION 37. Arkansas Code § 8-9-404(c)(1)(A), concerning rim removal
 6 fees, import fees, and commercial generator fees under the Used Tire
 7 Recycling and Accountability Act, is amended to read as follows to repeal
 8 obsolete language:

9 (c)(1)(A) ~~Beginning on January 1, 2018, there~~ There is imposed an
 10 import fee of one dollar (\$1.00) on each used tire that is imported into
 11 Arkansas.

12
 13 SECTION 38. Arkansas Code § 8-9-404(d)(1), concerning rim removal
 14 fees, import fees, and commercial generator fees under the Used Tire
 15 Recycling and Accountability Act, is amended to read as follows to repeal
 16 obsolete language:

17 (d)(1) ~~Beginning on January 1, 2018, there shall be~~ There is imposed a
 18 commercial generator fee upon the transaction of a commercial generator
 19 selling or delivering a new tire as part of fleet services.

20
 21 SECTION 39. Arkansas Code § 8-9-404(d)(3)(D), concerning rim removal
 22 fees, import fees, and commercial generator fees under the Used Tire
 23 Recycling and Accountability Act, is amended to read as follows to repeal
 24 obsolete language:

25 (D) Each commercial generator ~~who was not registered with~~
 26 ~~the Department of Finance and Administration on August 1, 2017, shall be~~
 27 ~~registered shall register~~ with the Department of Finance and Administration
 28 ~~on or before December 1, 2017,~~ and shall comply with all requirements related
 29 to collecting and reporting commercial generator fees.

30
 31 SECTION 40. Arkansas Code § 8-9-405(a), concerning used tire program
 32 reimbursements under the Used Tire Recycling and Accountability Act, is
 33 amended to read as follows to repeal obsolete language:

34 (a) ~~By January 1, 2018, the~~ The Arkansas Department of Environmental
 35 Quality shall establish the Used Tire Recycling and Accountability Program
 36 to:

1 (1) Reimburse used tire programs for used tire recycling and
2 disposal costs;

3 (2) Incentivize recycling used tires collected under this
4 subchapter;

5 (3) Provide accountability for the disbursement of moneys to
6 used tire programs; and

7 (4) Otherwise improve the sustainability of used tire programs.
8

9 SECTION 41. Arkansas Code § 8-9-407(a), concerning the electronic
10 uniform used tire manifest system under the Used Tire Recycling and
11 Accountability Act, is amended to read as follows to repeal obsolete
12 language:

13 (a) ~~Beginning on January 1, 2018, the~~ The following entities shall use
14 the electronic uniform used tire manifest system to accurately report all
15 information related to the collection, transportation, distribution, and
16 recycling or disposal of recyclable tires, waste tires, and used tires culled
17 for resale:

18 (1) Used tire programs;

19 (2) Tire generators;

20 (3) Tire collection centers;

21 (4) Any person who:

22 (A) Removes a tire from the used tire program after it is
23 collected; or

24 (B) Imports a tire under § 8-9-404(c); and

25 (5) Commercial generators.
26

27 SECTION 42. Arkansas Code § 8-9-409(c), concerning performance and
28 efficiency evaluations under the Used Tire Recycling and Accountability Act,
29 is amended to read as follows to repeal obsolete language:

30 (c) The evaluations under this section shall be completed on a
31 biennial basis for each used tire program ~~with the first evaluations to be~~
32 ~~completed on or before December 31, 2018.~~
33

34 SECTION 43. Arkansas Code § 8-9-411(a), concerning requirements for
35 tire transporters under the Used Tire Recycling and Accountability Act, is
36 amended to read as follows:

1 containers suitable for storing mercury switches until such time that vehicle
 2 recyclers and scrap recycling facilities can be reimbursed pursuant to this
 3 section.

4

5 SECTION 46. Arkansas Code § 8-9-605(b), concerning the implementation
 6 and approval of mercury minimization plans of vehicle manufacturers under the
 7 Mercury Switch Removal Act of 2005, is repealed as obsolete.

8 ~~(b) At the conclusion of a time period two hundred forty (240) days~~
 9 ~~after August 12, 2005, the director shall reserve the right to complete on~~
 10 ~~behalf of a manufacturer any portion of a mercury minimization plan that has~~
 11 ~~not been approved pursuant to this section.~~

12

13 SECTION 47. Arkansas Code § 8-14-104(a), concerning prohibitions and
 14 exemptions related to shielded outdoor lighting under the Shielded Outdoor
 15 Lighting Act, is amended to read as follows to repeal obsolete language and
 16 conform to Code style:

17 ~~(a) After January 1, 2006:~~

18 ~~(1)(A)~~ (a)(1)(A) No public funds shall be used to install an
 19 outdoor lighting fixture unless it is shielded.

20 (B) Subdivision (a)(1)(A) of this section ~~shall~~ does not
 21 apply to any municipality or county if the governing body of the municipality
 22 or county determines by ordinance or to a municipally owned utility if the
 23 municipal employee responsible for procurement determines that the cost of
 24 acquiring a shielded outdoor lighting fixture will be prohibitive after
 25 comparing:

- 26 (i) The cost of the fixtures; and
- 27 (ii) The projected energy cost of the operation of
- 28 the fixtures~~+~~.

29 (2) The Arkansas Department of Environmental Quality shall
 30 promulgate regulations prohibiting any person or entity from knowingly
 31 placing or disposing of the bulb or tube portion of an electric lighting
 32 device containing hazardous levels of mercury in a landfill ~~after January 1,~~
 33 ~~2008,~~ if:

34 (A) The electric lighting device contains more than two-
 35 tenths milligram per liter (0.2 mg/l) of leachable mercury as measured by the
 36 Toxicity Characteristic Leaching Procedure as set out in EPA Test Method

1 1311; and

2 (B) Adequate facilities exist for the public to properly
3 dispose of the electric lighting device described in subdivision (a)(2)(A) of
4 this section, ~~and.~~

5 (3)(A) Each electric public utility shall offer a shielded
6 lighting service option.

7 (B) ~~Not later than January 1, 2006, each~~ Each electric
8 public utility shall file an application with the Arkansas Public Service
9 Commission to establish a schedule of rates and charges for the provision of
10 a shielded lighting service option to the utility's customers.

11 (C) The commission shall require each electric public
12 utility to inform its customers of the availability of the shielded lighting
13 service.

14

15 SECTION 48. DO NOT CODIFY. CONSTRUCTION AND LEGISLATIVE INTENT.

16 It is the intent of the General Assembly that:

17 (1) The enactment and adoption of this act shall not expressly
18 or impliedly repeal an act passed during the regular session of the Ninety-
19 Second General Assembly;

20 (2) To the extent that a conflict exists between an act of the
21 regular session of the Ninety-Second General Assembly and this act:

22 (A) The act of the regular session of the Ninety-Second
23 General Assembly shall be treated as a subsequent act passed by the General
24 Assembly for the purposes of:

25 (i) Giving the act of the regular session of the
26 Ninety-Second General Assembly its full force and effect; and

27 (ii) Amending or repealing the appropriate parts of
28 the Arkansas Code of 1987; and

29 (B) Section 1-2-107 shall not apply; and

30 (3) This act shall make only technical, not substantive, changes
31 to the Arkansas Code of 1987.

32

33

34

35

36