

Stricken language would be deleted from and underlined language would be added to present law.
Act 693 of the Regular Session

State of Arkansas
92nd General Assembly
Regular Session, 2019

As Engrossed: H3/25/19
A Bill

SENATE BILL 359

By: Senator Rapert
By: Representative Gazaway

For An Act To Be Entitled

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

Subtitle

TO MAKE TECHNICAL CORRECTIONS TO TITLE 8
OF THE ARKANSAS CODE CONCERNING
ENVIRONMENTAL LAW.

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

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

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of permits required by §§ 8-4-101 – 8-4-106, 8-4-201 – 8-4-229, 8-4-301 – 8-4-314, 8-6-201 – 8-6-212, ~~8-6-213 [repealed]~~, 8-6-214, ~~8-6-215 – 8-6-217 [superseded]~~, and 8-9-403, to defray costs of other services provided and to authorize the Arkansas Department of Environmental Quality to collect and enforce ~~these~~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

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

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



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waste permits required by §§ 8-4-101 – 8-4-106, 8-4-201 – 8-4-229, 8-4-301 – 8-4-314, 8-6-201 – 8-6-212, ~~8-6-213 [repealed]~~, 8-6-214, ~~8-6-215 — 8-6-217 [superseded]~~, or 8-9-403; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) In situations presenting imminent danger to public health

and safety or the environment;

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

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

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

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

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

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

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

SECTION 6. Arkansas Code § 8-4-207(4), concerning the powers and duties of the Director of the Arkansas Department of Environmental Quality under the Arkansas Water and Air Pollution Control Act, is amended to read as follows to clarify references and to make a stylistic change:

(4) The director ~~is authorized to~~ may apply and enforce toxic effluent standards and pretreatment standards against industrial users of publicly owned treatment works for the introduction into ~~such~~ the publicly owned treatment works of sewage, industrial wastes, or other wastes which interfere with, pass through, or otherwise are incompatible with ~~such the~~ publicly owned treatment works;

SECTION 7. Arkansas Code § 8-4-234(b), concerning short-term activity

authorization by the Director of the Arkansas Department of Environmental Quality, is amended to read as follows to clarify references:

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

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

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

(A) Routine maintenance; or

(B) Road construction.

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

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

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

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

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

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

(7) Fires set or permitted by any public officer, board, council, or commission when the fire is set or permission to burn is given in

the performance of the duty of the public officer, board, council, or commission for the purpose of weed abatement, the prevention or elimination of a fire hazard, or the instruction of employees in the methods of fire fighting, which is necessary in the opinion of the public officer, board, council, or commission, or from fires set pursuant to permit for the purpose of instruction of employees of private industrial concerns in methods of fire fighting, or for civil defense instruction; or

SECTION 9. Arkansas Code § 8-4-308(b), concerning the confidentiality of industrial secrets under the Arkansas Water and Air Pollution Control Act, is amended to read as follows to clarify a criminal offense:

(b) Any violation of this section ~~shall be unlawful and constitutes a~~ is a misdemeanor punishable under § 8-4-103.

SECTION 10. Arkansas Code § 8-4-310(a), concerning unlawful actions under the Arkansas Water and Air Pollution Control Act, is amended to read as follows to clarify a criminal offense:

(a) It ~~shall be unlawful and constitute a~~ is a misdemeanor punishable under § 8-4-103:

- (1) To knowingly cause air pollution as defined in § 8-4-303;
- (2) To construct, install, use, or operate any source capable of emitting air contaminants without having first obtained a permit to do so, if required by the regulations of the Arkansas Pollution Control and Ecology Commission, or to do so contrary to the provisions of any permit issued by the Arkansas Department of Environmental Quality or after any such permit has been suspended or revoked; or
- (3) To violate any rule, regulation, or order of the commission issued pursuant to this chapter.

SECTION 11. Arkansas Code § 8-5-209 is amended to read as follows to clarify references, repeal language duplicated in Title 19, and make stylistic changes:

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

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

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

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

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

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

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

SECTION 12. Arkansas Code § 8-5-803(5) and (6), concerning the definitions to be used under the Small Business Revolving Loan Fund for Pollution Control and Prevention Technologies Act, are amended to read as follows to repeal a defined term that is not used in the subchapter, to clarify references, and to make stylistic changes:

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

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

(B) "Pollution prevention" ~~shall be expanded to also include process~~ includes:

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

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

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

~~(D) "Pollution prevention" also may include the~~

~~acquisition and installation of capital equipment, a process change, or a combination of capital equipment and process change; and~~

SECTION 13. Arkansas Code § 8-6-219(c), concerning applications for permits under the Arkansas Solid Waste Management Act, is repealed as obsolete.

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

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

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

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

SECTION 15. Arkansas Code § 8-6-615(d)(1), concerning the distribution of funds to regional solid waste management districts under the Solid Waste Management and Recycling Fund Act, is amended to read as follows to repeal obsolete language:

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

SECTION 16. Arkansas Code § 8-6-720(a), concerning recycling programs administered by regional solid waste management boards, is amended to read as follows to repeal obsolete language and make a stylistic change:

(a)(1) ~~Beginning July 1, 1992, each~~ Each regional solid waste management board shall ensure that its residents have an opportunity to recycle. ~~“Opportunity to recycle” means availability of curbside pickup or collection centers for recyclable materials at sites that are convenient for persons to use.~~

(2) ~~Beginning July 1, 1993, at~~ At least one (1) recyclable

materials collection center shall be available in each county of a regional solid waste management district unless the Arkansas Pollution Control and Ecology Commission grants the district an exemption. An exemption may be granted if a county is adequately served by a recyclable materials collection center in another county.

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

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

SECTION 17. Arkansas Code § 8-6-1602(2), concerning the definitions to be used under the financial assurance laws for solid waste management facilities, is repealed to remove a definition that is not used in the subchapter.

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

SECTION 18. Arkansas Code § 8-7-209(a)(12), concerning the powers and duties of the Arkansas Department of Environmental Quality under the Arkansas Hazardous Waste Management Act of 1979, is amended to read as follows to clarify a reference:

(12) In addition to the powers enumerated ~~above~~ in subdivisions (a)(1)-(11) of this section, the Arkansas Department of Environmental Quality shall have and may use in the administration and enforcement of this subchapter all of the powers which the Arkansas Department of Environmental Quality has under other laws administered by the Arkansas Department of Environmental Quality, including the Arkansas Water and Air Pollution Control Act, § 8-4-101 et seq., and the Arkansas Solid Waste Management Act, § 8-6-201 et seq.

SECTION 19. Arkansas Code § 8-7-225(d)(3), concerning records and examinations under the Arkansas Hazardous Waste Management Act of 1979, is amended to read as follows to clarify a criminal offense:

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

SECTION 20. Arkansas Code § 8-7-509(c), concerning the Hazardous Substance Remedial Action Trust Fund, is amended to read as follows to repeal obsolete language and conform to Code style:

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

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

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

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

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

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

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

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

and

~~(F)~~(E) Any other moneys legally designated for the ~~Hazardous Substance Remedial Action Trust Fund~~ fund.

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

SECTION 21. Arkansas Code § 8-7-511(c), concerning furnishing information under the Remedial Action Trust Fund Act, is amended to read as follows to clarify a criminal offense:

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

SECTION 22. Arkansas Code § 8-7-520(f), concerning claims for contribution under the Remedial Action Trust Fund Act, is repealed as obsolete.

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

SECTION 23. Arkansas Code § 8-7-811(d), concerning trade secrets related to regulated substance storage tanks, is amended to read as follows to clarify a criminal offense:

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

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

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

SECTION 25. Arkansas Code § 8-7-1007(b), concerning workplace chemical lists under the Public Employees' Chemical Right to Know Act, is amended to read as follows to repeal obsolete language and add clarifying language:

(b) Each public employer ~~shall file the workplace chemical list with the Director of the Department of Labor no later than ninety (90) days after July 1, 1991, and~~ shall update the workplace chemical list with the Director of the Department of Labor as necessary, but in any case by July 1 of each ~~subsequent~~ year.

SECTION 26. Arkansas Code § 8-7-1008(b)(1), concerning employee information and training under the Public Employees' Chemical Right to Know

Act, is amended to read as follows to repeal obsolete language:

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

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

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

SECTION 28. Arkansas Code § 8-7-1009(b), concerning outreach activities of the Director of the Department of Labor under the Public Employees' Chemical Right to Know Act, is amended to read as follows to repeal obsolete language and provide clarification:

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

SECTION 29. Arkansas Code § 8-7-1011(b), concerning rulemaking under the Public Employees' Chemical Right to Know Act, is amended to read as follows to repeal obsolete language:

(b) The director shall promulgate regulations ~~within six (6) months after July 1, 1991,~~ requiring public employers to carry out information and training programs for their public employees and specifying the minimum

content of education and training programs as provided in § 8-7-1008.

SECTION 30. Arkansas Code § 8-7-1102(b), concerning the definitions to be used in relation to voluntary cleanup of hazardous substances, is amended to read as follows to repeal obsolete language:

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

SECTION 31. Arkansas Code § 8-7-1402(a), concerning the professional cleanup of properties contaminated through the manufacture of controlled substances under the Controlled Substances Contaminated Property Cleanup Act, is amended to read as follows to repeal obsolete language and provide a clarification:

(a) The Arkansas Department of Environmental Quality shall:

(1) Establish and administer a certification program to:

(A) Certify contractors who choose to undertake the inspection, sampling, remediation, and removal of contaminated materials from property contaminated through the manufacture of controlled substances; and

(B) Require as a condition of certification that the contractors demonstrate that they have the qualifications required to undertake inspection, sampling, remediation, and removal of contaminated materials from property contaminated through the manufacture of controlled substances;

~~(2) Have established the certification program no later than May 1, 2008;~~

~~(3) By March 1, 2008, establish~~ Establish standards for the remediation of properties contaminated through the manufacture of controlled substances;

~~(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 32. 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 33. 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 34. 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 35. 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 registered~~ shall register with the Department of Finance and Administration ~~on or before December 1, 2017,~~ and shall comply with all requirements related to collecting and reporting rim removal fees.

SECTION 36. Arkansas Code § 8-9-404(c)(1)(A), 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:

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

SECTION 37. Arkansas Code § 8-9-404(d)(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:

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

SECTION 38. Arkansas Code § 8-9-404(d)(3)(D), 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:

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

SECTION 39. Arkansas Code § 8-9-405(a), concerning used tire program reimbursements under the Used Tire Recycling and Accountability Act, is amended to read as follows to repeal obsolete language:

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

- (1) Reimburse used tire programs for used tire recycling and disposal costs;
- (2) Incentivize recycling used tires collected under this subchapter;
- (3) Provide accountability for the disbursement of moneys to

used tire programs; and

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

SECTION 40. Arkansas Code § 8-9-407(a), concerning the electronic uniform used tire manifest system under the Used Tire Recycling and Accountability Act, is amended to read as follows to repeal obsolete language:

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

- (1) Used tire programs;
- (2) Tire generators;
- (3) Tire collection centers;
- (4) Any person who:
 - (A) Removes a tire from the used tire program after it is collected; or
 - (B) Imports a tire under § 8-9-404(c); and
- (5) Commercial generators.

SECTION 41. Arkansas Code § 8-9-409(c), concerning performance and efficiency evaluations under the Used Tire Recycling and Accountability Act, is amended to read as follows to repeal obsolete language:

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

SECTION 42. Arkansas Code § 8-9-411(a), concerning requirements for tire transporters under the Used Tire Recycling and Accountability Act, is amended to read as follows:

(a) ~~For all tire transporters licensed on or after January 1, 2018, a~~ A tire transporter shall meet the following requirements to perform or be compensated for any duties under this subchapter related to the administration and operation of a used tire program:

- (1) Obtain for each vehicle a license;

- (2) Obtain for each vehicle a tire transporter number provided by the Arkansas Department of Environmental Quality used for the electronic uniform used tire manifest system;
- (3) Provide proof that each vehicle has passed an annual safety inspection;
- (4) Provide proof of financial responsibility for each vehicle and authorized driver;
- (5) Provide a bond in the amount of ten thousand dollars (\$10,000);
- (6) Establish that each authorized driver has completed training for the electronic uniform used tire manifest system; and
- (7) Pay a fee of fifty dollars (\$50.00) for each vehicle that is licensed.

SECTION 43. Arkansas Code § 8-9-604(a), concerning mercury minimization plans of vehicle manufacturers under the Mercury Switch Removal Act of 2005, is amended to read as follows to repeal obsolete language:

(a) ~~Within ninety (90) days after August 12, 2005, every~~ Every manufacturer of vehicles sold within this state, individually or as part of a group, shall develop in consultation with the Arkansas Department of Environmental Quality a mercury minimization plan prepared pursuant to this section and shall submit the mercury minimization plan to the Director of the Arkansas Department of Environmental Quality for review and approval pursuant to § 8-9-605.

SECTION 44. Arkansas Code § 8-9-604(e), concerning mercury minimization plans of vehicle manufacturers under the Mercury Switch Removal Act of 2005, is amended to read as follows to repeal obsolete language:

(e) ~~Within thirty (30) days after August 12, 2005, every~~ Every manufacturer of vehicles sold within the state, individually or as part of a group, shall provide to vehicle recyclers and scrap recycling facilities containers suitable for storing mercury switches until such time that vehicle recyclers and scrap recycling facilities can be reimbursed pursuant to this section.

SECTION 45. Arkansas Code § 8-9-605(b), concerning the implementation

and approval of mercury minimization plans of vehicle manufacturers under the Mercury Switch Removal Act of 2005, is repealed as obsolete.

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

SECTION 46. Arkansas Code § 8-14-104(a), concerning prohibitions and exemptions related to shielded outdoor lighting under the Shielded Outdoor Lighting Act, is amended to read as follows to repeal obsolete language and conform to Code style:

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

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

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

(i) The cost of the fixtures; and

(ii) The projected energy cost of the operation of the fixtures~~;~~.

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

(A) The electric lighting device contains more than two-tenths milligram per liter (0.2 mg/l) of leachable mercury as measured by the Toxicity Characteristic Leaching Procedure as set out in EPA Test Method 1311; and

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

(3)(A) Each electric public utility shall offer a shielded

lighting service option.

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

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

SECTION 47. DO NOT CODIFY. CONSTRUCTION AND LEGISLATIVE INTENT.

It is the intent of the General Assembly that:

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

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

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

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

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

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

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

/s/Rapert

APPROVED: 4/4/19