

ENGROSSED HOUSE AMENDMENTS  
TO  
ENGROSSED SENATE BILL NO. 891

BY: CAIN and CAPPS of the  
SENATE

and

BENSON of the HOUSE

AN ACT RELATING TO CONTROLLED INDUSTRIAL WASTE;

AMENDING 17 O.S. 1991, SECTIONS 303 AND 304, 62  
O.S. 1991, SECTION 139.47, 63 O.S. 1991, SECTIONS  
1-2001, 1-2001.1, 1-2002, 1-2003, 1-2003.1, 1-2004,  
1-2004.1, 1-2004.2, 1-2005, 1-2005.2, 1-2005.3, 1-  
2005.3A, 1-2005.3B, 1-2005.3C, 1-2005.4, 1-2006, 1-  
2006.1, 1-2007, 1-2008, 1-2008.1, 1-2009, 1-2009.1,  
1-2010, 1-2012, 1-2012.1, 1-2012.2, 1-2012.3, 1-  
2012.4, 1-2014, 1-2014.1, 1-2014.2, 1-2014.3, 1-  
2015, 1-2016, 1-2017, 1-2018, 1-2019, 1-2414, 1-  
2416.1 AND 1-2417, 68 O.S. 1991, SECTIONS 1359,  
2357.15, 2357.16 AND 2357.17, AND 82 O.S. 1991,  
SECTION 1266, WHICH RELATE TO CONTROLLED INDUSTRIAL  
WASTE; CHANGING TERM CONTROLLED INDUSTRIAL WASTE TO  
HAZARDOUS WASTE; AND PROVIDING AN EFFECTIVE DATE.

AUTHORS: Add the following House Coauthors: HUDSON, VAUGHN  
(George), MITCHELL, SMITH (Bill), SULLIVAN and HOWARD

AMENDMENT NO. 1. Page 1, line 7 1/2, strike the title to read

" ( CONTROLLED INDUSTRIAL WASTE - AMENDING SECTIONS  
IN TITLES 17, 62, 63, 68 AND 82 - CHANGING TERM  
CONTROLLED INDUSTRIAL WASTE TO HAZARDOUS WASTE -

EFFECTIVE DATE ) "

AMENDMENT NO. 2. Page 1, line 18, strike the enacting clause

AMENDMENT NO. 3. Page 21, line 19, through page 25, line 8, delete Section 15 and insert a new Section 15 to read

"SECTION 15. AMENDATORY 63 O.S. 1991, Section 1-2005.3A, is amended to read as follows:

Section 1-2005.3A A. Every ~~controlled industrial~~ hazardous waste treatment facility, storage facility, underground injection facility, disposal facility, or off-site facility that recycles ~~controlled industrial~~ hazardous waste subject to the provisions of the Oklahoma ~~Controlled Industrial~~ Hazardous Waste Disposal Act shall pay an annual fee on the amount of ~~controlled industrial~~ hazardous waste managed by such facility to the Oklahoma State Department of Health for deposit in the Public Health Special Fund.

1. Such fees shall be, subject to the qualifications provided in ~~subparagraph~~ paragraph 2 of this subsection:

- a. ~~Six Dollars and fifty cents (\$6.50)~~ Eighteen Dollars (\$18.00) per ton for the on-site or off-site storage, treatment or land disposal of ~~controlled industrial~~ hazardous waste. If the hazardous waste is generated outside of Oklahoma and is stored, treated or disposed of in Oklahoma, the fees levied in this subsection shall be levied as reciprocal fees at the rate of and in accordance with the method of imposition of the tax or fee imposed on the storage, treatment or disposal of such waste in the state, country or territory where the waste was generated, as determined by the Oklahoma State Department of Health. In no case, however, shall the fee levied in this subsection on hazardous waste generated outside Oklahoma be less than the rate charged at the time of its storage, treatment or disposal for hazardous waste generated and stored, treated or disposed of in Oklahoma. Any person

storing, treating or disposing of such waste in Oklahoma shall file with the Oklahoma State Department of Health an affidavit showing the applicable tax or fee for any waste received from another state, country or territory had it been stored, treated or disposed of in a like manner in that state, country or territory. The reciprocal fee levied in this subsection shall become effective on September 1, 1992, unless the United States Supreme Court renders an opinion prior to September 1, 1992, that reciprocal fees are unconstitutional or the United States Congress enacts laws prior to September 1, 1992, declaring reciprocal fees to be unlawful.

- b. Four Dollars (\$4.00) per ton for the off-site recycling of ~~controlled industrial~~ hazardous waste.
  - c. Three cents (\$0.03) per gallon for the on-site or off-site underground injection of ~~controlled industrial~~ hazardous waste.
2. There shall be a minimum fee per facility as follows:
- a. Any person owning<sub>7</sub> or operating<sub>7</sub> an off-site ~~controlled industrial~~ hazardous waste treatment facility, storage facility, or disposal facility shall pay a total fee of not less than Fifty Thousand Dollars (\$50,000.00) each state fiscal year.
  - b. Any person owning<sub>7</sub> or operating<sub>7</sub> an on-site ~~controlled industrial~~ hazardous waste treatment facility, storage facility, or disposal facility shall pay a total fee of not less than Twenty Thousand Dollars (\$20,000.00) each state fiscal year.
  - c. Any person owning<sub>7</sub> or operating<sub>7</sub> an off-site facility for the recycling of ~~controlled industrial~~ hazardous

waste shall pay a total fee of not less than Fifty  
Thousand Dollars (\$50,000.00) each state fiscal year.

3. The minimum fees ~~provided for in~~ specified by paragraph 2 of this subsection shall not apply to treatment facilities accepting ~~controlled industrial~~ hazardous waste exclusively for the purpose of conducting treatment research and design tests.

4. ~~Facilities are hereby authorized to~~ Off-site facilities may charge ~~the person~~ persons contracting for the services of the facility their proportional share of the fees required by the provisions of this section.

5. The facility shall become liable for payment of the fee on each ton or gallon of ~~controlled industrial~~ hazardous waste at the time it is received. The fee shall be payable by the facility to the Department of Health only as provided for in subsection C of this section.

6. The fee imposed by the provisions of this section shall be payable only once without regard to any subsequent handling ~~and of~~ the hazardous waste. The fee shall be based on the purpose for which the waste ~~has been~~ was generated ~~by~~ or brought to the facility. In no event shall a facility be required to pay a fee on each step or process involved in the storage, treatment, or disposal of the waste at the facility or a related facility under common control.

B. The following facilities shall not be required to pay the fee required by the provisions of this section:

1. ~~Those facilities~~ Facilities engaged only in the on-site recycling of ~~controlled industrial~~ hazardous waste; and

2. ~~Those facilities~~ Facilities which have not generated or received new ~~controlled industrial~~ hazardous waste within the preceding state fiscal year.

C. Payment of the fees required by this section shall be due quarterly for ~~controlled industrial~~ hazardous waste received by the

facility during the prior quarter. Such quarterly payments shall be due on the first day of the month of the following quarter during the state fiscal year in which the ~~controlled industrial~~ hazardous waste is received. All payments shall be made within thirty (30) days from the date it becomes due.

D. The fees ~~provided for in~~ required by this section shall be paid in lieu of the monitoring fees imposed in paragraph 2 of subsection A of Section 1-2005.2 of this title. All facilities subject to the provisions of this section shall not be required to pay or collect any additional fees for waste disposal unless specifically ~~provided for in~~ required by the Oklahoma ~~Controlled Industrial~~ Hazardous Waste Disposal Act.

E. All fees and other monies received by the Department pursuant to the provisions of this section shall be expended solely for the purposes specified in this section.

1. Ten percent (10%) of the fees collected pursuant to the provisions of this section shall be deposited to the credit of the Special Economic Development Trust Funds established pursuant to Section ~~6~~ 1-2005.3C of this ~~act~~ title. The funds for the Trusts accruing pursuant to the provisions of this section shall be distributed to each Trust established in proportion to the fees generated by the ~~controlled industrial~~ hazardous waste facilities within the Trust area.

2. The State Commissioner of Health shall expend monies received pursuant to the provisions of this section for one or more of the following purposes:

- a. The administration of the provisions of the Oklahoma ~~Controlled Industrial~~ Hazardous Waste Disposal Act,
- b. The development of an inventory of ~~controlled industrial~~ hazardous wastes currently produced in Oklahoma and management needs for the identified wastes,

- c. The implementation of information exchange, technical assistance, public information, and educational programs,
- d. The development and encouragement of waste reduction plans for Oklahoma waste generators, or
- e. Increased inspection of ~~controlled industrial~~ hazardous waste facilities which may include full time inspectors at off-site ~~controlled industrial~~ hazardous waste facilities.

F. To the extent that fees received pursuant to this section shall exceed the purposes specified in subsection E of this section, the Commissioner ~~may~~ shall only expend such funds for one or more of the following purposes:

1. Contributions required from the state pursuant to the federal Comprehensive Environmental Response, Compensation and Liability Act for remediation or related action upon a site within the state;

2. Response, ~~(including but not limited to~~ including ~~containment and removal),~~ to ~~the~~ emergency situations involving spillage, leakage, emissions or other discharge of ~~controlled industrial~~ hazardous waste or ~~controlled industrial~~ hazardous waste constituents to the environment where a responsible party cannot be timely identified or found or compelled to take appropriate emergency action to adequately protect human health and the environment;

3. State-funded remediation of sites contaminated by ~~controlled industrial~~ hazardous waste or ~~controlled industrial~~ hazardous waste constituents so as to present a threat to human health or the environment, to the extent that a responsible party cannot be timely identified or found or compelled to take such action, or is unable to take such action;

4. Costs incurred in pursuing an enforcement action to compel a responsible party to undertake appropriate response or remedial

actions, or to recover from a responsible party monies expended by the state, as described in paragraphs 1 through 3 of this subsection; or

5. Financial assistance to municipalities or counties for the purposes and under the conditions specified in Section 1-2019 of this title."

AMENDMENT NO. 4. Page 57, Section 48, line 2 1/2 insert the following paragraph

"Backhauling of food products, other than those protected by sealed glass or metal containers, is prohibited in trucks which transport hazardous waste for disposal in Oklahoma."

Passed the House of Representatives the 2nd day of April, 1992.

Speaker of the House of Representatives

Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 1992.

President of the Senate