

ENROLLED SENATE
BILL NO. 922

BY: WILLIAMS (Don) and CAPPS of
the SENATE

and

MAXEY and VAUGHN (George)
of the HOUSE

AN ACT RELATING TO WASTE; AMENDING 63 O.S. 1991, SECTION 1-2005.3C, WHICH RELATES TO CONTROLLED INDUSTRIAL WASTE FACILITIES; CREATING THE ENVIRONMENTAL CRIMES ACT; PROVIDING SHORT TITLE; DEFINING TERMS; CREATING OFFENSE OF UNLAWFUL HAZARDOUS WASTE TRANSPORTATION; CREATING OFFENSE OF UNLAWFUL WASTE MANAGEMENT; CREATING OFFENSE OF UNLAWFUL MISREPRESENTATION OF WASTE; CREATING OFFENSE OF UNLAWFUL DISPOSAL OF HAZARDOUS WASTE; STATING CERTAIN PERSONS FAILING TO PREVENT UNLAWFUL DISPOSAL OF HAZARDOUS WASTE SHALL BE GUILTY OF OFFENSE; CREATING OFFENSE OF UNLAWFUL CONCEALMENT OF HAZARDOUS WASTE; PROVIDING FINES AND SENTENCES FOR PERSONS CONVICTED OF ENVIRONMENTAL CRIMES; PROVIDING FOR FINES TO BE DOUBLED FOR MULTIPLE VIOLATIONS OF ACT; STATING VIOLATIONS IN ACT SHALL BE IN ADDITION TO ANY CIVIL OR ADMINISTRATIVE PENALTIES PROVIDED BY LAW; REQUIRING CERTAIN AMOUNT OF FEES COLLECTED FROM OFF-SITE CONTROLLED INDUSTRIAL WASTE FACILITIES TO BE DEPOSITED IN CERTAIN ECONOMIC DEVELOPMENT TRUST FUNDS; AUTHORIZING COMMISSIONER OF HEALTH TO EXPEND FUNDS FOR SPECIFIC PURPOSES; CLARIFYING AREA WITHIN TRUST FUND FOR EXPENDITURES; UPDATING STATUTORY REFERENCES; PROVIDING FOR CODIFICATION; AND DECLARING AN EMERGENCY.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1230.1 of Title 21, unless there is created a duplication in numbering, reads as follows:

Sections 1 through 10 of this act shall be known and may be cited as the "Environmental Crimes Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1230.2 of Title 21, unless there is created a duplication in numbering, reads as follows:

As used in this act:

1. "Waste" means at least twenty-eight (28) gallons or two hundred twenty (220) pounds, whether liquid or solid, of discarded materials and by-products including but not limited to trash, refuse, garbage, biomedical waste, sewage, ash, sludge, deleterious substances, oil field wastes, commercial and industrial waste and chemical waste; and

2. "Hazardous waste" means:

- a. waste that is subject to regulation as a hazardous waste under the federal Resource Conservation and Recovery Act, Title 42 U.S.C., Section 6901 et seq., and regulations adopted pursuant thereto,
- b. waste that is subject to regulation as a controlled industrial waste under the Oklahoma Controlled Industrial Waste Disposal Act, Section 1-2001 et seq. of Title 63 of the Oklahoma Statutes, or
- c. waste that is ignitable, corrosive, reactive or toxic as determined by testing for the characteristics of ignitability, corrosivity, reactivity or toxicity as provided in 40 Code of Federal Regulations, Sections 261.21 through 261.24,

but shall not include the handling, hauling, storage and disposition of salt water, mineral brines, waste oil and other deleterious substances produced from or obtained or used in connection with the drilling, development, producing and processing of oil and gas, including reclaiming of oil from tank bottoms located on leases and tank farms located outside the boundaries of a refinery.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1230.3 of Title 21, unless there is created a duplication in numbering, reads as follows:

Any person who knowingly and willfully transports or causes the transportation of hazardous waste within the State of Oklahoma without a proper manifest, as prescribed in Section 1-2010 of Title 63 of the Oklahoma Statutes, commits the offense of unlawful hazardous waste transportation.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1230.4 of Title 21, unless there is created a duplication in numbering, reads as follows:

Any person required by law to have a permit or authorization from the State Department of Health, the Oklahoma Corporation Commission or the Oklahoma Water Resources Board to receive, store, treat, process, recycle or dispose of waste, who without such permit or authorization knowingly and willfully receives, stores, treats, processes, recycles or disposes of waste, commits the offense of unlawful waste management.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1230.5 of Title 21, unless there is created a duplication in numbering, reads as follows:

A. It shall be unlawful to knowingly and willfully:

1. Make false statements, include false data or omit material information in an application for a waste permit, or for a waste authorization, from the State Department of Health, the Oklahoma Corporation Commission or the Oklahoma Water Resources Board;
2. Make false statements, include false data or omit material information in a waste manifest, waste label, or other waste compliance document, record or plan required by law to be created, maintained or submitted to any state agency;
3. Submit a false sample of waste for laboratory analysis;
4. Make false statements or include false data in, or omit material information from, a laboratory analysis of waste;
5. Tamper with an environmental monitoring device to compromise or impair the accuracy of the device; or
6. Provide hazardous waste to another person for transportation without providing a proper manifest as prescribed in Section 1-2010 of Title 63 of the Oklahoma Statutes.

B. Any person who violates the provisions of this section commits the offense of unlawful misrepresentation of waste.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1230.6 of Title 21, unless there is created a duplication in numbering, reads as follows:

Any person who knowingly and willfully fails to secure a permit and who, without lawful permit or authorization, knowingly and willfully disposes, directs the disposal or aids and abets the disposal of hazardous waste into a sanitary sewer system without appropriate pretreatment, or at a solid waste landfill, transfer station or processing facility, or at any unpermitted disposal place commits the offense of unlawful disposal of hazardous waste.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1230.7 of Title 21, unless there is created a duplication in numbering, reads as follows:

Any person commits the offense of unlawful concealment of hazardous waste who knowingly and willfully subjects any other person, including peace officers, emergency responders or clean-up crews, to the potential for immediate or long-term risk to their health or safety by exposure to chemical wastes, by knowingly and willfully:

1. Concealing or causing other persons to conceal the unlawful abandonment or disposal of hazardous waste;
2. Concealing or causing other persons to conceal that hazardous waste is being transported; or
3. Misrepresenting or causing other persons to misrepresent the type of hazardous waste being transported.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1230.8 of Title 21, unless there is created a duplication in numbering, reads as follows:

Any person convicted of the offense of:

1. Unlawful hazardous waste transportation is guilty of a felony punishable by imprisonment for not more than five (5) years or a fine of not more than Twenty-five Thousand Dollars (\$25,000.00) or both such fine and imprisonment;
2. Unlawful waste management with respect to:
 - a. waste other than hazardous waste is guilty of a misdemeanor punishable by a fine of not more than Ten Thousand Dollars (\$10,000.00), and
 - b. hazardous waste is guilty of a felony punishable by imprisonment for not more than five (5) years or a fine of not more than Fifty Thousand Dollars (\$50,000.00) or both such fine and imprisonment;
3. Unlawful waste misrepresentation with respect to:
 - a. waste other than hazardous waste is guilty of a misdemeanor punishable by a fine of not more than Five Thousand Dollars (\$5,000.00), and
 - b. hazardous waste is guilty of a felony punishable by imprisonment for not more than five (5) years or a fine of not more than Twenty-five Thousand Dollars (\$25,000.00) or both such fine and imprisonment;
4. Unlawful disposal of hazardous waste is guilty of a felony punishable by imprisonment for not more than five (5) years or a fine of not more than Twenty-five Thousand Dollars (\$25,000.00) or both such fine and imprisonment; and
5. Unlawful concealment of hazardous waste is guilty of a felony punishable by imprisonment for not less than two (2) years nor more than ten (10) years and a fine of not more than One Hundred Thousand Dollars (\$100,000.00).

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1230.9 of Title 21, unless there is created a duplication in numbering, reads as follows:

The fines provided for in Section 8 of this act shall be doubled for any person convicted of any violation of the provisions of this act where:

1. The conviction is for a second or subsequent violation of the same or another provision of this act; or

2. The convicted person profited from or received any remuneration for the actions leading to the conviction.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1230.10 of Title 21, unless there is created a duplication in numbering, reads as follows:

Nothing in Sections 1 through 10 of this act is intended to repeal any existing law. Any penalty imposed under Section 8 of this act shall be in addition to, and not in lieu of, any civil or administrative penalty or sanction otherwise authorized by law.

SECTION 11. AMENDATORY 63 O.S. 1991, Section 1-2005.3C, is amended to read as follows:

Section 1-2005.3C A. The county commissioners of the counties which are within a ten-mile radius of a controlled industrial waste facility which is subject to the provisions of Section 1-2005.3A of ~~Title 63 of the Oklahoma Statutes~~ this title may establish a Special Economic Development Trust Fund for ~~that area~~ those counties.

B. The trust fund shall be used to market advantages of industrial development and to promote industrial development within the counties located within the trust area. Such uses shall allow the authority to acquire assets, develop property, and to contract with local municipalities or economic development trusts or authorities to promote economic development in the counties located within the area.

C. The trust fund shall consist of:

1. All monies received pursuant to Section 1-2005.3A of ~~Title 63 of the Oklahoma Statutes~~ this title;

2. All income from the investment of monies held in the trust fund;

3. Interest resulting from the deposit of such monies; and

4. Any other sums designated for deposit to the fund from any source, public or private.

D. Any trust established pursuant to the provisions of this section shall be governed by the provisions of Sections 176 through 180.4 of Title 60 of the Oklahoma Statutes.

E. 1. Such Trust shall be governed by a Board of Trustees of not less than six (6) nor more than ten (10) members. Each county within the Trust area shall be represented equally on the Board of Trustees.

2. Each Trustee shall be appointed by a majority vote of the county commissioners of the county that the Trustee represents. A Trustee may be removed prior to the expiration of the term of office by a majority vote of the county commissioners of the county that the Trustee represents. In the event there are two or more Trustees from each county, the initial appointments shall be made so that the terms are staggered. After the initial appointment, each Trustee shall serve a term of two (2) years and may be reappointed.

3. The Trustees shall receive no compensation for service on the Board of Trustees, but may be reimbursed for actual and necessary expenses incurred in the performance of their duties as a Trustee in accordance with the State Travel Reimbursement Act, Section 500.1 et seq. of Title 74 of the Oklahoma Statutes.

4. Any action of the Board of Trustees must be approved by a two-thirds (2/3) vote of the total authorized membership of the Board.

5. The Trustees shall have authority to exercise such powers as are necessary to perform the duties and functions imposed by the provisions of this section.

F. The Board of Trustees shall meet not less than twice each calendar year. At the first meeting in a new calendar year the members shall elect a chairman, a vice chairman, a secretary, and a treasurer.

SECTION 12. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 14th day of May, 1992.

President of the Senate

Passed the House of Representatives the 25th day of May, 1992.

Speaker of the House of Representatives