

STATE OF OKLAHOMA

2nd Session of the 43rd Legislature (1992)

SENATE BILL NO. 922

BY: WILLIAMS (Don) of the
SENATE

and

MAXEY of the HOUSE

AS INTRODUCED

AN ACT RELATING TO ENVIRONMENTAL CRIMES; CREATING THE ENVIRONMENTAL CRIMES ACT; PROVIDING SHORT TITLE; DEFINING TERMS; CREATING OFFENSE OF UNLAWFUL 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; PROVIDING FOR LAWFUL DISPOSAL OF CERTAIN WASTES; STATING VIOLATIONS IN ACT SHALL BE IN ADDITION TO ANY CIVIL OR ADMINISTRATIVE PENALTIES PROVIDED BY LAW; 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:

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.

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 required by the Oklahoma Solid Waste Management Act, Section 1-2300 et seq. of Title 63 of the Oklahoma Statutes, the Oklahoma Controlled Industrial Waste Disposal Act, Section 1-2001 et seq. of Title 63 of the Oklahoma Statutes or by the provisions of Sections 177.2 and 177.3 of Title 47 of the Oklahoma Statutes to have a registration, license, manifest or disposal plan to transport waste, who knowingly transports or causes the transportation of waste within the State of Oklahoma without proper registration, license, manifest or disposal plan, commits the offense of unlawful 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 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:

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; or

5. Tamper with an environmental monitoring device to compromise or impair the accuracy of the device.

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, without lawful permit or authorization, knowingly 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. Any officer of a firm or company who has knowledge of but fails to prevent any subordinate or employee of the company from unlawfully disposing of hazardous waste also 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 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:

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, or pleading guilty or nolo contendere to, the offense of:

1. Unlawful waste transportation with respect to:

a. waste other than hazardous waste is guilty of a misdemeanor punishable by confinement for not more than one (1) year and 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 less than one (1) year nor more than two (2) years and a fine of not more than Twenty-five Thousand Dollars (\$25,000.00);

2. Unlawful waste management with respect to:

a. waste other than hazardous waste is guilty of a felony punishable by imprisonment for not less than one (1) year nor more than two (2) years and a fine of not more than Twenty-five Thousand Dollars (\$25,000.00), and

b. hazardous waste is guilty of a felony punishable by imprisonment for not less than two (2) years nor more than three (3) years and a fine of not more than Fifty Thousand Dollars (\$50,000.00);

3. Unlawful waste misrepresentation with respect to:

- a. waste other than hazardous waste is guilty of a misdemeanor punishable by confinement for not more than one (1) year and 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 less than one (1) year nor more than two (2) years and a fine of not more than Twenty-five Thousand Dollars (\$25,000.00);

4. Unlawful disposal of hazardous waste is guilty of a felony punishable by imprisonment for not less than one (1) year nor more than two (2) years and a fine of not more than Twenty-five Thousand Dollars (\$25,000.00); and

5. Unlawful concealment of hazardous waste is guilty of a felony punishable by imprisonment for not less than five (5) years nor more than ten (10) years and a fine of not more than One Million Dollars (\$1,000,000.00).

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:

It is not a crime to properly:

1. Discharge household domestic sewage into a sanitary sewer system or into an individual sewer disposal system that has been approved by the State Health Department or a county health department;

2. Place household domestic trash, refuse or garbage in a collection system used for solid waste disposal;

3. Dispose of one's personal household or farm wastes on one's own property;

4. Discharge domestic sewage and waste from business or industry into a sanitary sewer system or into a publicly or privately owned industrial treatment works in compliance with a permit or specific authorization from a governmental agency;

5. Place trash, refuse and garbage, other than hazardous waste, from business or industry in a collection system for solid waste disposal; and

6. Recycle waste other than hazardous waste by source-separating scrap materials for collection and processing as industrial raw materials.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1230.11 of Title 21, unless there is created a duplication in numbering, reads as follows:

Nothing in 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 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.

