

THE HOUSE OF REPRESENTATIVES
Monday, February 23, 2009

House Bill No. 1487

HOUSE BILL NO. 1487 - By: DEWITT of the House and BINGMAN of the Senate.

An Act relating to environment and natural resources; requiring certain owners or operators of commercial incinerators to install scales; specifying installation; requiring an owner or operator to weigh and record waste received; providing procedures when scales are inoperable; providing for certain notice; requiring record of certain solid waste; excepting certain persons from scale location restriction; providing for certain assessments; specifying use; adjusting assessments upon certain recoupment; providing for certain returns; requiring specific records with returns; exempting certain waste from assessment; allowing certain deduction from tonnage of solid waste; requiring record of deduction; authorizing the assessment to be passed through to disposers of waste who use that facility; specifying content of returns; specifying time return is due; providing for extension; establishing penalty for late returns; providing for suspension of permit upon certain circumstance; providing for the expenditure of funds; providing for codification; and providing an effective date.

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

- 1 SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma
- 2 Statutes as Section 2-10-802.2 of Title 27A, unless there is created a duplication in
- 3 numbering, reads as follows:
- 4 A. 1. Owners or operators of commercial incinerators which are not generator-
- 5 owned and -operated shall install scales. The scales shall be installed within five (5)
- 6 miles of the incinerator and shall be tested and certified as required by Section 14-35 of
- 7 Title 2 of the Oklahoma Statutes relating to the authority of the Board of Agriculture to

1 test the standards of weights and measures within the state and to approve if found to be
2 correct.

3 2. The owner or operator shall, upon receipt, weigh all waste received and record
4 the weight in writing. If scales at an incinerator are not operative, tonnage shall be
5 estimated on a volume basis whereby the volume reported shall be no less than the
6 volume capacity of the containers or, if none, of the vehicles delivering the waste, and one
7 (1) cubic yard of solid waste shall be calculated to weigh one-third (1/3) ton. The owner
8 or operator shall place notice in the operating record of the facility of the time and date
9 at which the scales became inoperable, describe the steps taken to repair them, and note
10 the date use was resumed. If daily use has not resumed within thirty (30) days after the
11 scales became inoperable, the owner or operator shall give written notice to the
12 Department of Environmental Quality.

13 3. The owner or operator shall also maintain a written record of the weight or
14 volume of any solid waste received which is productively reused or recovered and sold in
15 accordance with the permit of the facility.

16 4. The scale location restriction of this subsection shall not apply to federal or state
17 military installations so long as:

18 a. the scales are located within the physical boundary of that installation,
19 and

20 b. the incinerator receives waste only from that military installation.

21 B. 1. Except as otherwise provided by this subsection:

- 1 a. owners and operators of commercial incinerators which receive an
2 average of less than one hundred (100) tons of solid waste per
3 operating day shall assess a fee of One Dollar and fifty cents (\$1.50)
4 per ton of solid waste received for disposal. A total of fifty cents (\$.50)
5 per ton of such fee shall be retained by the owner or operator and used
6 exclusively for capital improvement to facilities and for the projects
7 required pursuant to the Oklahoma Solid Waste Management Act or
8 the incinerator's permit for such period of time necessary to recoup a
9 capital investment, plus the interest costs expended in purchasing the
10 scales, of a total of Forty Thousand Dollars (\$40,000.00),
11 b. when the owner or operators have recouped a capital investment of the
12 total specified in subparagraph a of this paragraph, the fee to be
13 assessed shall be One Dollar and twenty-five cents (\$1.25) per ton of
14 solid waste received for disposal. At such time, for a return with
15 remittance filed on or before the due date, the owner or operator may
16 deduct and retain ten percent (10%) of the fees collected, and
17 c. records documenting the projects and use of the funds shall be
18 included with each return.
- 19 2. a. Owners and operators of commercial incinerators which receive an
20 average of more than one hundred (100) tons of solid waste per
21 operating day shall assess a fee of One Dollar and fifty cents (\$1.50)
22 per ton of solid waste received for disposal, retaining twenty-five cents

1 (\$0.25) per ton for a period of time necessary to recoup a capital
2 investment, plus the interest costs expended in purchasing the scales,
3 of Forty Thousand Dollars (\$40,000.00). At the end of such period, the
4 fee shall revert to One Dollar and twenty-five cents (\$1.25) per ton.
5 For a return with remittance filed on or before the due date, the owner
6 or operator may deduct and retain ten percent (10%) of the fees
7 collected.

8 b. Records documenting the capital investment and the use of the funds
9 shall be included with each return.

10 3. The fee shall not be imposed on:

11 a. the solid waste received which is productively reused or recovered in
12 accordance with the permit of the facility. The owner or operator shall
13 include records pertaining to this fee exemption in the quarterly return
14 of fees to the Department, and

15 b. waste subject to a fee pursuant to Section 2-10-803 of Title 27A of the
16 Oklahoma Statutes. For emergencies and other special events, the
17 Department and the owner or operator of a commercial incinerator
18 subject to this section may enter into a formal agreement to waive the
19 fee.

20 4. The weight of ash generated as a result of incineration of solid waste may be
21 deducted from the tonnage of solid waste received by the facility. The owner or operator

1 shall include a written record of the weight of the generated ash in the quarterly return
2 of fees to the Department.

3 5. The fee assessed by this subsection is to be a charge to waste producers in
4 addition to any charges specified in any contract or elsewhere. The fee shall be imposed
5 upon and passed through to disposers of waste using the facility.

6 6. The owner or operator of a commercial incinerator shall collect the fee levied
7 pursuant to this subsection as trustee for the state and shall prepare and file with the
8 Department quarterly returns indicating:

- 9 a. the total tonnage of solid wastes received for disposal at the gate of the
10 facility,
11 b. the total tonnage of ash generated by the facility, and
12 c. the total amount of the fees collected pursuant to this section.

13 7. Not later than thirty (30) days after the end of the quarter to which such a
14 return applies, the owner or operator shall mail to the Department the return for that
15 quarter together with the fees collected during that quarter as indicated on the return.

16 8. The owner or operator may receive an extension of not more than thirty (30) days
17 for filing the return and remitting the fees, provided that:

- 18 a. the owner or operator has submitted a request for an extension in
19 writing to the Department together with a detailed description of why
20 the extension is requested,
21 b. the Department has received the request not later than the day on
22 which the return is required to be filed, and

1 c. the Department has approved the request.

2 9. For any quarterly return filed more than thirty (30) days after the last day of the
3 quarter or extension date, the owner or operator shall remit an additional five percent
4 (5%) of the fees collected during the month to which the return applies. If the fees are
5 not remitted within sixty (60) days of the last day of the quarter during which they were
6 collected, the owner or operator shall pay an additional fifteen percent (15%) of the
7 amount of fees for each month that they are late.

8 10. If the owner or operator misrepresents, or fails to properly measure or record,
9 the amount of waste received or fails to remit fees within sixty (60) days after the last
10 day of the quarter during which they were collected, the commercial incinerator's permit
11 shall be summarily suspended by order and the Department shall initiate the process of
12 revoking the permit and may require closure of the incinerator.

13 C. The Department shall expend funds collected pursuant to the provisions of this
14 section in accordance with subsection C of Section 2-10-802 of Title 27A of the Oklahoma
15 Statutes, and shall include the funds in the report prepared pursuant to subsection E of
16 Section 2-10-802 of Title 27A of the Oklahoma Statutes.

17 SECTION 2. This act shall become effective November 1, 2009.

18 COMMITTEE REPORT BY: COMMITTEE ON AGRICULTURE AND RURAL
19 DEVELOPMENT, dated 02-19-09 - DO PASS, As Coauthored.