

EHB 1487

1 THE STATE SENATE
2 Monday, April 6, 2009

3 ENGROSSED

4 House Bill No. 1487

5 As Amended

6 ENGROSSED HOUSE BILL NO. 1487 - By: DeWitt of the House and Bingman
7 and Ivester of the Senate.

8 [environment and natural resources - codification -
9 effective date]

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

11 SECTION 1. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 2-10-802.2 of Title 27A, unless
13 there is created a duplication in numbering, reads as follows:

14 A. 1. Owners or operators of commercial incinerators which are
15 not generator-owned and -operated shall install scales. The scales
16 shall be installed within five (5) miles of the incinerator and
17 shall be tested and certified as required by Section 14-35 of Title
18 2 of the Oklahoma Statutes relating to the authority of the Board of
19 Agriculture to test the standards of weights and measures within the
20 state and to approve if found to be correct.

21 2. The owner or operator shall, upon receipt, weigh all waste
22 received and record the weight in writing. If scales at an
23 incinerator are not operative, tonnage shall be estimated on a
24 volume basis whereby the volume reported shall be no less than the

1 volume capacity of the containers or, if none, of the vehicles
2 delivering the waste, and one (1) cubic yard of solid waste shall be
3 calculated to weigh one-third (1/3) ton. The owner or operator
4 shall place notice in the operating record of the facility of the
5 time and date at which the scales became inoperable, describe the
6 steps taken to repair them, and note the date use was resumed. If
7 daily use has not resumed within thirty (30) days after the scales
8 became inoperable, the owner or operator shall give written notice
9 to the Department of Environmental Quality.

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

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

16 a. the scales are located within the physical boundary of
17 that installation, and

18 b. the incinerator receives waste only from that military
19 installation.

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

21 a. owners and operators of commercial incinerators which
22 receive an average of less than one hundred (100) tons
23 of solid waste per operating day shall assess a fee of

1 One Dollar and fifty cents (\$1.50) per ton of solid
2 waste received for disposal. A total of fifty cents
3 (\$.50) per ton of such fee shall be retained by the
4 owner or operator and used exclusively for capital
5 improvement to facilities and for the projects
6 required pursuant to the Oklahoma Solid Waste
7 Management Act or the incinerator's permit for such
8 period of time necessary to recoup a capital
9 investment, plus the interest costs expended in
10 purchasing the scales, of a total of Forty Thousand
11 Dollars (\$40,000.00),

12 b. when the owner or operators have recouped a capital
13 investment of the total specified in subparagraph a of
14 this paragraph, the fee to be assessed shall be One
15 Dollar and twenty-five cents (\$1.25) per ton of solid
16 waste received for disposal. At such time, for a
17 return with remittance filed on or before the due
18 date, the owner or operator may deduct and retain ten
19 percent (10%) of the fees collected, and

20 c. records documenting the projects and use of the funds
21 shall be included with each return.

22 2. a. Owners and operators of commercial incinerators which
23 receive an average of more than one hundred (100) tons

1 of solid waste per operating day shall assess a fee of
2 One Dollar and fifty cents (\$1.50) per ton of solid
3 waste received for disposal, retaining twenty-five
4 cents (\$0.25) per ton for a period of time necessary
5 to recoup a capital investment, plus the interest
6 costs expended in purchasing the scales, of Forty
7 Thousand Dollars (\$40,000.00). At the end of such
8 period, the fee shall revert to One Dollar and twenty-
9 five cents (\$1.25) per ton. For a return with
10 remittance filed on or before the due date, the owner
11 or operator may deduct and retain ten percent (10%) of
12 the fees collected.

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

15 3. The fee shall not be imposed on:

16 a. the solid waste received which is productively reused
17 or recovered in accordance with the permit of the
18 facility. The owner or operator shall include records
19 pertaining to this fee exemption in the quarterly
20 return of fees to the Department, and

21 b. waste subject to a fee pursuant to Section 2-10-803 of
22 Title 27A of the Oklahoma Statutes. For emergencies
23 and other special events, the Department and the owner

1 or operator of a commercial incinerator subject to
2 this section may enter into a formal agreement to
3 waive the fee.

4 4. The weight of ash generated as a result of incineration of
5 solid waste may be deducted from the tonnage of solid waste received
6 by the facility. The owner or operator shall include a written
7 record of the weight of the generated ash in the quarterly return of
8 fees to the Department.

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

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

- 17 a. the total tonnage of solid wastes received for
18 disposal at the gate of the facility,
19 b. the total tonnage of ash generated by the facility,
20 and
21 c. the total amount of the fees collected pursuant to
22 this section.

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

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

8 a. the owner or operator has submitted a request for an
9 extension in writing to the Department together with a
10 detailed description of why the extension is
11 requested,

12 b. the Department has received the request not later than
13 the day on which the return is required to be filed,
14 and

15 c. the Department has approved the request.

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

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

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

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

14 COMMITTEE REPORT BY: COMMITTEE ON ENERGY & ENVIRONMENT, dated 4-2-09
15 - DO PASS, As Amended and Coauthored.