

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 HOUSE BILL 1487

By: DeWitt

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5
6 AS INTRODUCED

7 An Act relating to environment and natural resources;
8 requiring certain owners or operators of commercial
9 incinerators to install scales; specifying
10 installation; requiring an owner or operator to weigh
11 and record waste received; providing procedures when
12 scales are inoperable; providing for certain notice;
13 requiring record of certain solid waste; excepting
14 certain persons from scale location restriction;
15 providing for certain assessments; specifying use;
16 adjusting assessments upon certain recoupment;
17 providing for certain returns; requiring specific
18 records with returns; exempting certain waste from
19 assessment; allowing certain deduction from tonnage
20 of solid waste; requiring record of deduction;
21 authorizing the assessment to be passed through to
22 disposers of waste who use that facility; specifying
23 content of returns; specifying time return is due;
24 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:

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

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

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

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

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

- 3 a. the scales are located within the physical boundary of
4 that installation, and
- 5 b. the incinerator receives waste only from that military
6 installation.

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

- 8 a. owners and operators of commercial incinerators which
9 receive an average of less than one hundred (100) tons
10 of solid waste per operating day shall assess a fee of
11 One Dollar and fifty cents (\$1.50) per ton of solid
12 waste received for disposal. A total of fifty cents
13 (\$.50) per ton of such fee shall be retained by the
14 owner or operator and used exclusively for capital
15 improvement to facilities and for the projects
16 required pursuant to the Oklahoma Solid Waste
17 Management Act or the incinerator's permit for such
18 period of time necessary to recoup a capital
19 investment, plus the interest costs expended in
20 purchasing the scales, of a total of Forty Thousand
21 Dollars (\$40,000.00),
- 22 b. when the owner or operators have recouped a capital
23 investment of the total specified in subparagraph a of
24 this paragraph, the fee to be assessed shall be One

1 Dollar and twenty-five cents (\$1.25) per ton of solid
2 waste received for disposal. At such time, for a
3 return with remittance filed on or before the due
4 date, the owner or operator may deduct and retain ten
5 percent (10%) of the fees collected, and

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

8 2. a. Owners and operators of commercial incinerators which
9 receive an average of more than one hundred (100) tons
10 of solid waste per operating day shall assess a fee of
11 One Dollar and fifty cents (\$1.50) per ton of solid
12 waste received for disposal, retaining twenty-five
13 cents (\$0.25) per ton for a period of time necessary
14 to recoup a capital investment, plus the interest
15 costs expended in purchasing the scales, of Forty
16 Thousand Dollars (\$40,000.00). At the end of such
17 period, the fee shall revert to One Dollar and twenty-
18 five cents (\$1.25) per ton. For a return with
19 remittance filed on or before the due date, the owner
20 or operator may deduct and retain ten percent (10%) of
21 the fees collected.

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

24 3. The fee shall not be imposed on:

1 a. the solid waste received which is productively reused
2 or recovered in accordance with the permit of the
3 facility. The owner or operator shall include records
4 pertaining to this fee exemption in the quarterly
5 return of fees to the Department, and

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

12 4. The weight of ash generated as a result of incineration of
13 solid waste may be deducted from the tonnage of solid waste received
14 by the facility. The owner or operator shall include a written
15 record of the weight of the generated ash in the quarterly return of
16 fees to the Department.

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

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

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

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

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

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

9. For any quarterly return filed more than thirty (30) days after the last day of the quarter or extension date, the owner or operator shall remit an additional five percent (5%) of the fees

1 collected during the month to which the return applies. If the fees
2 are not remitted within sixty (60) days of the last day of the
3 quarter during which they were collected, the owner or operator
4 shall pay an additional fifteen percent (15%) of the amount of fees
5 for each month that they are late.

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

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

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

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20 52-1-5774 SAB 01/08/09

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