

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 HOUSE BILL 1240

By: Key

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5
6 AS INTRODUCED

7 An Act relating to environment and natural resources;
8 creating the Oklahoma Environmental Authority Act;
9 stating legislative findings; making legislative
10 declaration that certain environmental regulation
11 activities are not subject to federal laws or
12 regulation; authorizing state environmental agencies
13 to cooperate with federal environmental agencies;
14 prohibiting enforcement of certain federal laws and
15 regulations; declaring certain federal laws to be
16 invalid and to have no effect; establishing penalty
17 for certain officials and employees for certain acts;
18 providing for codification; and declaring an
19 emergency.

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

21 SECTION 1. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 1-1-208 of Title 27A, unless
23 there is created a duplication in numbering, reads as follows:

24 This act shall be known and may be cited as the "Oklahoma
Environmental Authority Act".

SECTION 2. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 1-1-209 of Title 27A, unless
there is created a duplication in numbering, reads as follows:

1 The Legislature finds that the:

2 1. Tenth Amendment to the United States Constitution defines
3 the total scope of federal power as being that which has been
4 delegated by the people of the several states to the federal
5 government, and all power not delegated to the federal government in
6 the Constitution of the United States is reserved to the states,
7 respectively or to the people themselves. The powers reserved to
8 the people and the State of Oklahoma are those powers as they were
9 understood at the time that Oklahoma was admitted to statehood,
10 excluding amendments. The reservation of those powers is a matter
11 of contract between the state and people of Oklahoma and the United
12 States as of the time that the compact with the United States was
13 agreed upon and adopted by Oklahoma and the United States;

14 2. Ninth Amendment to the United States Constitution prohibits
15 the federal government from violating or infringing upon rights not
16 specifically enumerated in the Constitution of the United States and
17 reserves to the people of Oklahoma certain rights as they were
18 understood at the time that Oklahoma was admitted to statehood,
19 excluding amendments. The guarantee of those rights is a matter of
20 contract between the people and the State of Oklahoma and the United
21 States as of the time that the compact with the United States was
22 agreed upon and adopted by Oklahoma and the United States;

23 3. Power to regulate interstate commerce was delegated to the
24 federal government in the United States Constitution. As understood

1 at the time of the founding, the regulation of commerce was meant to
2 empower Congress to regulate the buying and selling of products made
3 by others, and sometimes land, associated finance and financial
4 instruments and navigation and other carriage, across state
5 jurisdictional lines. The regulation of interstate commerce did not
6 include agriculture, manufacturing, mining, malum in se crime, or
7 land use, nor did it include activities that merely "substantially
8 affected" commerce;

9 4. Power vested in Congress to regulate an activity does not
10 include the power to prohibit the activity; and

11 5. Regulation of intrastate commerce is reserved to the states
12 or the people under the Ninth and Tenth Amendments to the United
13 States Constitution.

14 SECTION 3. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 1-1-210 of Title 27A, unless
16 there is created a duplication in numbering, reads as follows:

17 A. The Legislature of the State of Oklahoma declares that the
18 regulation of the transportation and disposal of hazardous waste;
19 the regulation of the release of emissions, substances and
20 pollutants into the air in the state; the regulation of the release
21 of pollutants into bodies of water in the state; the regulation of
22 public water supplies in the state; the regulation of wastewater
23 systems in the state; and the regulation of production, exploration,
24 drilling, development, operation, transportation and processing of

1 oil, natural gas, petroleum, and petroleum products and products,
2 materials or substances used in the production, exploration,
3 drilling, development, operation, transportation and processing of
4 oil and natural gas that originate and remain inside the State of
5 Oklahoma and have not been proven and adjudicated by the Oklahoma
6 court system or the federal court system to specifically be causing,
7 or to have caused, quantifiable harm to any persons or places beyond
8 the borders of Oklahoma shall be intrastate commerce and shall not
9 be subject to federal law or federal regulation under the authority
10 of the United States Congress to regulate interstate commerce.

11 B. Each state environmental agency and each state agency with
12 limited environmental responsibilities, within its areas of
13 environmental jurisdiction, shall to the extent deemed necessary
14 cooperate with federal environmental agencies in the regulation of
15 the transportation and disposal of hazardous waste; the regulation
16 of the release of emissions, substances and pollutants into the air
17 in the state; the regulation of the release of pollutants into
18 bodies of water in the state; the regulation of public water
19 supplies in the state; the regulation of wastewater systems in the
20 state; and the regulation of production, exploration, drilling,
21 development, operation, transportation and processing of oil,
22 natural gas, petroleum, and petroleum products and products,
23 materials or substances used in the production, exploration,
24 drilling, development, operation, transportation and processing of

1 oil and natural gas but shall not be required to enforce federal
2 laws or regulations relating to such environmental resources and
3 activities.

4 C. Any federal law, rule, order, or other act by the federal
5 government violating the provisions of this section is hereby
6 declared to be invalid in this state, shall not be recognized by
7 this state, is specifically rejected by this state, and shall be
8 considered null and void and of no effect in this state.

9 D. Any official, agent, or employee of the United States
10 government or any employee of a corporation providing services to
11 the United States government that enforces or attempts to enforce an
12 act, order, law, statute, rule or regulation of the government of
13 the United States in violation of this act shall be guilty of a
14 misdemeanor punishable by imprisonment in the county jail not
15 exceeding one (1) year or by a fine not exceeding Five Hundred
16 Dollars (\$500.00) or both such fine and imprisonment.

17 E. Any public officer or employee of the State of Oklahoma that
18 enforces or attempts to enforce an act, order, law, statute, rule or
19 regulation of the government of the United States in violation of
20 this act shall be guilty of a misdemeanor punishable by imprisonment
21 in the county jail not exceeding two (2) years or by a fine not
22 exceeding One Thousand Dollars (\$1,000.00) or both such fine and
23 imprisonment.

24

1 SECTION 4. It being immediately necessary for the preservation
2 of the public peace, health and safety, an emergency is hereby
3 declared to exist, by reason whereof this act shall take effect and
4 be in full force from and after its passage and approval.

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