

State of Arizona
Senate
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1996

FILED

**Jane Dee Hull
Secretary of State**

CHAPTER 190

SENATE BILL 1271

AN ACT

AMENDING SECTIONS 28-1085.09, 28-2402, 49-852, 49-854 AND 49-855, ARIZONA REVISED STATUTES; REPEALING SECTIONS 28-1085.08, 28-2807, 41-1515 AND 49-853, ARIZONA REVISED STATUTES; RELATING TO THE REPEAL OF CERTAIN STATUTORY PROVISIONS.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Repeal

Section 28-1085.08, Arizona Revised Statutes, is repealed.

Sec. 2. Section 28-1085.09, Arizona Revised Statutes, is amended to read:

28-1085.09. Third party permit issuance

The director may adopt rules ~~in consultation with the envelope permit advisory council~~ to authorize third parties to issue permits pursuant to article 18 of this chapter and this article.

Sec. 3. Section 28-2402, Arizona Revised Statutes, is amended to read:
28-2402. Administration and enforcement

A. In the administration and enforcement of this chapter, the motor vehicle division shall adopt reasonable rules it deems proper governing the safety operations of every motor carrier including rules governing safety operations of motor carriers, shippers and vehicles transporting hazardous materials, hazardous substances or hazardous waste and prescribe forms as are necessary. In determining reasonable rules, the motor vehicle division shall give due consideration to the nature of the operations and regulation of public service corporations as defined in article XV, sections 2 and 10, Constitution of Arizona and the ~~recommendations of the special waste best management practices advisory committee pursuant to section 49-854 or rules adopted by the department of environmental quality pursuant to section 49-855, whichever is applicable.~~

1 B. Rules adopted by the motor vehicle division also apply to a
2 manufacturer, shipper, motor carrier and driver.

3 C. In addition to the provisions of section 28-2412, subsection A, the
4 department of public safety shall and a political subdivision may enforce the
5 provisions of this chapter and any rule promulgated under this chapter by the
6 motor vehicle division. Any person acting for a political subdivision in
7 enforcing the provisions of this chapter shall be certified by the department
8 of public safety as qualified for such enforcement activities.

9 D. This section does not apply to a lightweight motor vehicle carrying
10 hazardous material in an amount less than one thousand pounds or not more
11 than one hundred ten gallons of combustible liquid as listed in 49 Code of
12 Federal Regulations section 172.504(A), table 2.

13 Sec. 4. Repeal

14 Section 28-2807, Arizona Revised Statutes, is repealed.

15 Sec. 5. Repeal

16 Section 41-1515, Arizona Revised Statutes, is repealed.

17 Sec. 6. Section 49-852, Arizona Revised Statutes, is amended to read:

18 49-852. Statutory list of special wastes; best management
19 practices rules; applicability of hazardous waste
20 designation

21 ~~A. The advisory committee established in section 49-853 shall~~
22 ~~recommend~~ PURSUANT TO SECTION 49-855, THE DIRECTOR SHALL ADOPT RULES FOR THE
23 best management practices for the following special wastes unless those
24 wastes are classified as hazardous pursuant to the resource conservation and
25 recovery act of 1976 (P.L. 94-580), as amended, or section 49-921 or 49-922:

- 26 1. Asbestos or materials containing asbestos.
- 27 2. Waste from shredding motor vehicles.

28 ~~B. The director shall establish rules for best management practices~~
29 ~~for these special wastes pursuant to section 49-855.~~

30 ~~C.~~ 8. Notwithstanding section 49-856, the wastes listed pursuant to
31 subsection A of this section are required to comply with those manifest
32 requirements within three months of the adoption of the best management
33 practices.

34 Sec. 7. Repeal

35 Section 49-853, Arizona Revised Statutes, is repealed.

36 Sec. 8. Section 49-854, Arizona Revised Statutes, is amended to read:

37 49-854. Schedule for designation of wastes; designation

38 A. By January 1, 1997, the director, ~~after consulting with the~~
39 ~~advisory committee,~~ shall determine whether or not to designate any of the
40 following wastes as special wastes:

- 41 1. Waste that contains petroleum contaminated soils.
- 42 2. Incinerator ash.
- 43 3. Sludges from the pretreatment of categorical industrial
- 44 wastewaters.

1 4. Septic system waste transported from commercial or industrial
2 sources but excluding solids and effluent discharged from publicly or
3 privately owned wastewater treatment plants.

4 5. Petroleum refining wastes.

5 6. Used antifreeze.

6 7. Waste that contains slag and refractory materials.

7 8. Waste that contains industrial sands excluding waste material
8 produced in connection with a mining or mineral processing operation.

9 9. Waste that contains uranium ore tailings.

10 10. Waste produced from the demolition or dismantling of contaminated
11 process equipment.

12 11. Waste from precious metals recycling.

13 12. Sludges that are transported from wastewater treatment facilities
14 for treatment, storage or disposal and that are not otherwise regulated by
15 permits under section 402 or 307(b) of the clean water act (P.L. 92-500), as
16 amended, or by regulations adopted under sections 1008(a)(3), 4004(a) or 4010
17 of the resource conservation and recovery act (P.L. 94-580).

18 13. Waste that contains catalysts from industrial processes.

19 14. Waste that contains other industrial sludges.

20 15. Aluminum dross and its processing techniques.

21 B. By December 1, 1997 and annually thereafter, the director shall
22 prepare a list of wastes that have been designated as hazardous or special
23 wastes by statute or rule in another state and are not designated as
24 hazardous, special or medical wastes in this state. The director shall give
25 public notice pursuant to title 41, chapter 6 of the decision to formally
26 study a waste for possible designation as a special waste pursuant to the
27 criteria established in subsection F of this section.

28 C. ~~The director, after consulting with the advisory committee,~~ may
29 designate as special wastes those wastes on the list compiled pursuant to
30 subsection B of this section.

31 D. If the director ~~or the advisory committee~~ has studied a waste for
32 possible designation as a special waste and the waste was not designated as
33 a special waste, the director may reexamine that waste for possible
34 designation as a special waste if the director determines that either of the
35 following has occurred since the waste was last studied:

36 1. There is a change in the waste stream in this state which creates
37 potential adverse effects on public health or the environment from the
38 treatment, storage, transportation or disposal of the waste in this state.

39 2. There is newly identified scientifically reliable evidence which
40 demonstrates that there are potential adverse effects of the waste on the
41 public health or the environment from the treatment, storage, transportation
42 or disposal of the waste in this state.

43 E. If the director determines that a waste should be reexamined for
44 possible designation as a special waste, the director shall include in the

1 public notice required pursuant to subsection B of this section the change
2 or changes justifying the reexamination of the waste.

3 F. In determining whether a waste shall be designated as a special
4 waste, the director ~~and the advisory committee~~ shall consider the potential
5 adverse effects on public health or the environment from the treatment,
6 storage, transportation or disposal of each waste based upon:

7 1. The acute and chronic toxicity for those wastes including the human
8 or animal data for the following exposures:

9 (a) Aquatic.

10 (b) Dermal.

11 (c) Inhalation.

12 (d) Oral.

13 2. The carcinogenic, mutagenic or teratogenic effects of those wastes
14 on humans or other life forms.

15 3. The degree to which the wastes or degradation products of those
16 wastes are persistent or bioaccumulative in the environment.

17 4. Information and studies from other states and the federal
18 government if the committee or director finds them to be derived from
19 standard protocols.

20 5. Other appropriate scientific data, environmental testing or
21 analytical data.

22 G. The director shall give public notice pursuant to title 41, chapter
23 6 of the decision to designate or not to designate a waste as a special
24 waste.

25 H. The director shall by rule, designate a waste as a special waste
26 and adopt best management practices concerning the special waste pursuant to
27 section 49-855 within eighteen months after giving public notice pursuant to
28 subsection G of this section that a waste will be designated as a special
29 waste.

30 I. The designation of a waste as a special waste and the adoption of
31 best management practices pursuant to section 49-855 shall occur in the same
32 rule making process.

33 Sec. 9. Section 49-855, Arizona Revised Statutes, is amended to read:
34 49-855. Best management practices; criteria

35 A. ~~After consulting with the advisory committee,~~ The director shall
36 adopt, by rule, best management practices for the treatment, storage and
37 disposal of each waste to be designated as a special waste pursuant to this
38 article.

39 B. In adopting best management practices for a special waste, the
40 director shall consider:

41 1. The availability, effectiveness, economic feasibility and technical
42 feasibility of alternative handling or management technologies and practice.

43 2. The potential nature and severity of the effect on public health
44 and the environment resulting from the special waste.

1 3. Circumstances under which the practices shall be applied including
2 climatological, geological and hydrogeological conditions.

3 4. Consistency with other federal and state laws, rules and
4 regulations in an effort to avoid practices or requirements that duplicate,
5 are inconsistent with or result in dual regulation under other federal and
6 state laws, rules and regulations.

7 C. The best management practices adopted by the director shall contain
8 procedures necessary for the protection of public health and the environment
9 for the transportation, treatment, storage and disposal of special wastes.
10 Additional items to be contained in the best management practices shall
11 include at least:

12 1. A designated time of not less than ninety days beyond which a waste
13 may not be stored.

14 2. A fee for each special waste of not more than two dollars per ton
15 and beginning from and after January 1, 1995, not more than twenty thousand
16 dollars per generator site per year for special waste that is transported to
17 a facility in this state for treatment, storage or disposal.

18 D. The director may adopt special waste best management practices that
19 apply to the treatment, storage or disposal of those wastes that are not
20 regulated as hazardous wastes under federal laws or regulations.

21 E. The director may enact special waste best management practices that
22 are more stringent than federal laws or regulations that govern
23 polychlorinated biphenyls pursuant to the toxic substances control act (15
24 United States Code section 2605) if the director determines in writing that:

25 1. The additional regulation is necessary to protect public health or
26 the environment.

27 2. There is a scientific basis for the additional regulation based
28 upon appropriate environment testing and analytical data.

29 3. The additional regulation is technically feasible.

30 F. Nothing in this section shall preclude the director from adopting
31 best management practices under this article which incorporate management
32 practices applicable to the treatment, storage or disposal of those wastes
33 that are not regulated as hazardous wastes under federal laws or regulations.

APPROVED BY THE GOVERNOR APRIL 16, 1996

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