

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

AN ACT

RELATING TO THE ENVIRONMENT; PROVIDING CRIMINAL PENALTIES FOR CERTAIN TRANSPORTATION, TREATMENT, STORAGE AND DISPOSAL OF USED OIL.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 74-4-11 NMSA 1978 (being Laws 1977, Chapter 313, Section 11, as amended) is amended to read:

"74-4-11. PENALTY--CRIMINAL.--

A. No person:

(1) shall knowingly transport or cause to be transported any hazardous waste identified or listed pursuant to the Hazardous Waste Act to a facility that does not have a permit under that act or the federal Resource Conservation and Recovery Act of 1976;

(2) shall knowingly treat, store or dispose of any hazardous waste identified or listed pursuant to the Hazardous Waste Act:

(a) without having obtained a hazardous waste permit pursuant to that act or the federal Resource Conservation and Recovery Act of 1976;

(b) in knowing violation of any material condition or requirement of a hazardous waste permit; or

(c) in knowing violation of any

1 material condition or requirement of any applicable interim
2 status rules or standards;

3 (3) shall knowingly omit material
4 information or make any false statement or representation in
5 any application, label, manifest, record, report, permit or
6 other document filed, maintained or used for purposes of
7 compliance with the Hazardous Waste Act;

8 (4) who knowingly generates, stores, treats,
9 transports, disposes of, exports or otherwise handles any
10 hazardous waste or used oil shall knowingly destroy, alter,
11 conceal or fail to file any record, application, manifest,
12 report or other document required to be maintained or filed
13 for purposes of compliance with rules adopted and promulgated
14 pursuant to the Hazardous Waste Act;

15 (5) shall knowingly transport without a
16 manifest or cause to be transported without a manifest any
17 hazardous waste required by rules adopted and promulgated
18 pursuant to the Hazardous Waste Act to be accompanied by a
19 manifest;

20 (6) shall knowingly export hazardous waste
21 identified or listed pursuant to the Hazardous Waste Act:

22 (a) without the consent of the
23 receiving country; or

24 (b) where there exists an international
25 agreement between the United States and the government of the

1 receiving country establishing notice, export and enforcement
2 procedures for the transportation, treatment, storage and
3 disposal of hazardous wastes, in a manner that is not in
4 conformance with such agreement; or

5 (7) shall knowingly store, treat, dispose
6 of, transport, cause to be transported, market or otherwise
7 handle any used oil in knowing violation of any material
8 condition or requirement of any applicable rule adopted and
9 promulgated pursuant to the Hazardous Waste Act.

10 B. Any person who violates any of the provisions
11 of Paragraphs (1) through (7) of Subsection A of this section
12 is guilty of a fourth degree felony and upon conviction shall
13 be punished by a fine of not more than ten thousand dollars
14 (\$10,000) per violation per day or by imprisonment for a
15 definite term of not more than eighteen months or both. For
16 a second or subsequent violation of the provisions of
17 Paragraphs (1) through (7) of Subsection A of this section,
18 the person is guilty of a third degree felony and shall be
19 punished by a fine of not more than twenty-five thousand
20 dollars (\$25,000) per violation per day or by imprisonment
21 for not more than three years or both.

22 C. Any person who knowingly violates any rule
23 adopted and promulgated pursuant to Subsection C of Section
24 74-4-4 or 74-4-4.4 NMSA 1978 is guilty of a misdemeanor and
25 upon conviction shall be punished by a fine of not more than

1 five thousand dollars (\$5,000) per violation per day or by
2 imprisonment for a definite term of one year or both. For
3 violations related to storage tanks, "per violation" means
4 per tank.

5 D. Any person who knowingly transports, treats,
6 stores, disposes of or exports any hazardous waste or used
7 oil in violation of Subsection A of this section and who
8 knows at the time of the violation that the person creates a
9 substantial danger of a substantial adverse environmental
10 impact is guilty of a third degree felony if the violation
11 causes a substantial adverse environmental impact.

12 E. As used in this section, a "substantial adverse
13 environmental impact" exists when an act or omission of a
14 person causes harm or damage:

15 (1) to human beings; or

16 (2) to flora, wildlife, fish or other
17 aquatic life or water fowl; to the habitats of wildlife,
18 fish, other aquatic life, water fowl or livestock; to
19 agricultural crops; to any ground water or surface water; or
20 to the lands or waters of this state where such harm or
21 damage amounts to more than ten thousand dollars (\$10,000).

22 F. Any person who knowingly transports, treats,
23 stores, disposes of or exports any hazardous waste or used
24 oil in violation of Subsection A of this section and who
25 knows at the time of the violation that the person creates a

1 substantial danger of death or serious bodily injury to
2 another person is guilty of a second degree felony and shall
3 be sentenced to a term of imprisonment not to exceed nine
4 years or a fine not to exceed one hundred thousand dollars
5 (\$100,000), or both. Any person, other than an individual,
6 that knowingly transports, treats, stores, disposes of or
7 exports any hazardous waste or used oil in violation of
8 Subsection A of this section and knows at that time that it
9 places an individual in imminent danger of death or serious
10 bodily injury is guilty of a second degree felony and shall
11 be fined in an amount not to exceed two hundred fifty
12 thousand dollars (\$250,000)."

13 Section 2. EFFECTIVE DATE.--The effective date of the
14 provisions of this act is July 1, 2007. _____

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25