

65-3441. Unlawful acts; penalties. (a) It shall be unlawful for any person to:

(1) Dump or deposit, or permit the dumping or depositing of, any hazardous waste regulated by this act into any facility which does not comply with the provisions of this act or rules or regulations, standards or orders of the secretary, but this provision shall not prohibit: (A) The use of hazardous wastes in normal farming operations or in the processing or manufacturing of other products in a manner that will not adversely affect the public health or environment; or (B) a generator who periodically produces a quantity of hazardous waste less than the quantity regulated under subsection (k) of K.S.A. 65-3431, and amendments thereto, from disposing such quantity of hazardous waste into a facility approved by the department which has a permit issued under K.S.A. 65-3407, and amendments thereto.

(2) Construct, modify or operate a hazardous waste facility without a permit or other required written approval from the secretary or to be in violation of the rules and regulations, standards or orders of the secretary.

(3) Violate any condition of any permit issued by the secretary.

(4) Store, collect, treat or dispose of hazardous waste contrary to the rules and regulations, standards or orders of the secretary.

(5) Refuse or hinder entry, inspection, sampling and the examination or copying of records related to the purposes of this act by an agent or employee of the secretary after such agent or employee identifies and gives notice of their purpose at any time.

(6) Knowingly make any false material statement or representation in any application, label, manifest, record, report, permit or other document filed, maintained or used for purposes of compliance with this act.

(7) Knowingly destroy, alter or conceal any record required to be maintained under rules and regulations promulgated by the secretary pursuant to this act.

(8) Fail to designate on a manifest a facility which is authorized to operate under the federal hazardous waste program or under a state hazardous waste program which has received approval to operate in lieu of the federal hazardous waste program.

(9) Transport hazardous waste to a facility which is not authorized to operate under the federal hazardous waste program or under a state hazardous waste program which has received approval to operate in lieu of the federal hazardous waste program.

(10) Add, mix or blend any hazardous waste with fuel oil or any other fuel intended for use by residential consumers or sell such blended fuel to a residential consumer.

(11) Transport and dispose of, or cause the transportation and disposition of, hazardous waste in a manner contrary to the rules and regulations, standards or orders of the secretary. It shall not constitute a defense to the generator that the generator acted through an independent contractor in the transportation or disposition of the hazardous waste.

(12) Operate a hazardous waste transfer facility at which hazardous waste is transferred from one or more containers to one or more different containers. The provisions of this subsection shall not apply to overpacking of hazardous waste containers when the overpack containers are marked with labels that contain all the information on the original labels.

(b) Any person who violates any provision of paragraphs (1) to (10), inclusive, of subsection (a) shall be guilty of a class A nonperson misdemeanor and, upon conviction thereof, shall be punished as provided by law. Any person who violates any provision of paragraph (11) or (12) of subsection (a) shall be guilty of a severity level 10, nonperson felony and, upon conviction thereof, shall be punished as provided by law.

(c) Any person who knowingly violates any provisions of paragraphs (1) to (12), inclusive, of subsection (a) shall be guilty of a severity level 6, nonperson felony and, in the case of a continuing violation, every day such violation continues shall be deemed a separate violation and, upon conviction thereof, shall be punished as provided by law.

(d) Any individual who violates any of the provisions of paragraphs (1) to (12), inclusive, of subsection (a) shall be legally responsible to the same extent as if such acts were in the individual's own name or on the individual's own behalf.

(e) The county or district attorney of every county shall file appropriate actions for enforcement of this section upon request of the secretary or upon the county or district attorney's own motion after consultation with the secretary.

(f) No person shall be held responsible for failure to secure a permit under the provisions of this section for the dumping or depositing of any hazardous waste on land owned or leased by such person without their expressed or implied consent, permission or knowledge.

History: L. 1981, ch. 251, § 13; L. 1984, ch. 240, § 9; L. 1985, ch. 219, § 3; L. 1993, ch. 291, § 233; L. 1999, ch. 129, § 2; L. 2000, ch. 103, § 10; July 1.