



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
HB0433

Introduced 1/26/2005, by Rep. George Scully, Jr.

SYNOPSIS AS INTRODUCED:

415 ILCS 5/44

from Ch. 111 1/2, par. 1044

Amends the Environmental Protection Act. Provides that the disposal of asbestos containing material in violation of certain federal regulations is a Class 4 felony (now, improper removal of asbestos is felony, while there is no criminal sanction under the Act for dumping asbestos). Effective immediately.

LRB094 06726 RSP 36825 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning safety.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Environmental Protection Act is amended by
5 changing Section 44 as follows:

6 (415 ILCS 5/44) (from Ch. 111 1/2, par. 1044)

7 Sec. 44. Criminal acts; penalties.

8 (a) Except as otherwise provided in this Section, it shall
9 be a Class A misdemeanor to violate this Act or regulations
10 thereunder, or any permit or term or condition thereof, or
11 knowingly to submit any false information under this Act or
12 regulations adopted thereunder, or under any permit or term or
13 condition thereof. A court may, in addition to any other
14 penalty herein imposed, order a person convicted of any
15 violation of this Act to perform community service for not less
16 than 100 hours and not more than 300 hours if community service
17 is available in the jurisdiction. It shall be the duty of all
18 State and local law-enforcement officers to enforce such Act
19 and regulations, and all such officers shall have authority to
20 issue citations for such violations.

21 (b) Calculated Criminal Disposal of Hazardous Waste.

22 (1) A person commits the offense of Calculated Criminal
23 Disposal of Hazardous Waste when, without lawful
24 justification, he knowingly disposes of hazardous waste
25 while knowing that he thereby places another person in
26 danger of great bodily harm or creates an immediate or
27 long-term danger to the public health or the environment.

28 (2) Calculated Criminal Disposal of Hazardous Waste is
29 a Class 2 felony. In addition to any other penalties
30 prescribed by law, a person convicted of the offense of
31 Calculated Criminal Disposal of Hazardous Waste is subject

1 to a fine not to exceed \$500,000 for each day of such
2 offense.

3 (c) Criminal Disposal of Hazardous Waste.

4 (1) A person commits the offense of Criminal Disposal
5 of Hazardous Waste when, without lawful justification, he
6 knowingly disposes of hazardous waste.

7 (2) Criminal Disposal of Hazardous Waste is a Class 3
8 felony. In addition to any other penalties prescribed by
9 law, a person convicted of the offense of Criminal Disposal
10 of Hazardous Waste is subject to a fine not to exceed
11 \$250,000 for each day of such offense.

12 (d) Unauthorized Use of Hazardous Waste.

13 (1) A person commits the offense of Unauthorized Use of
14 Hazardous Waste when he, being required to have a permit,
15 registration, or license under this Act or any other law
16 regulating the treatment, transportation, or storage of
17 hazardous waste, knowingly:

18 (A) treats, transports, or stores any hazardous
19 waste without such permit, registration, or license;

20 (B) treats, transports, or stores any hazardous
21 waste in violation of the terms and conditions of such
22 permit or license;

23 (C) transports any hazardous waste to a facility
24 which does not have a permit or license required under
25 this Act; or

26 (D) transports by vehicle any hazardous waste
27 without having in each vehicle credentials issued to
28 the transporter by the transporter's base state
29 pursuant to procedures established under the Uniform
30 Program.

31 (2) A person who is convicted of a violation of
32 subdivision (1)(A), (1)(B) or (1)(C) of this subsection is
33 guilty of a Class 4 felony. A person who is convicted of a
34 violation of subdivision (1)(D) is guilty of a Class A

1 misdemeanor. In addition to any other penalties prescribed
2 by law, a person convicted of violating subdivision (1) (A),
3 (1) (B) or (1) (C) is subject to a fine not to exceed
4 \$100,000 for each day of such violation, and a person who
5 is convicted of violating subdivision (1) (D) is subject to
6 a fine not to exceed \$1,000.

7 (e) Unlawful Delivery of Hazardous Waste.

8 (1) Except as authorized by this Act or the federal
9 Resource Conservation and Recovery Act, and the
10 regulations promulgated thereunder, it is unlawful for any
11 person to knowingly deliver hazardous waste.

12 (2) Unlawful Delivery of Hazardous Waste is a Class 3
13 felony. In addition to any other penalties prescribed by
14 law, a person convicted of the offense of Unlawful Delivery
15 of Hazardous Waste is subject to a fine not to exceed
16 \$250,000 for each such violation.

17 (3) For purposes of this Section, "deliver" or
18 "delivery" means the actual, constructive, or attempted
19 transfer of possession of hazardous waste, with or without
20 consideration, whether or not there is an agency
21 relationship.

22 (f) Reckless Disposal of Hazardous Waste.

23 (1) A person commits Reckless Disposal of Hazardous
24 Waste if he disposes of hazardous waste, and his acts which
25 cause the hazardous waste to be disposed of, whether or not
26 those acts are undertaken pursuant to or under color of any
27 permit or license, are performed with a conscious disregard
28 of a substantial and unjustifiable risk that such disposing
29 of hazardous waste is a gross deviation from the standard
30 of care which a reasonable person would exercise in the
31 situation.

32 (2) Reckless Disposal of Hazardous Waste is a Class 4
33 felony. In addition to any other penalties prescribed by
34 law, a person convicted of the offense of Reckless Disposal

1 of Hazardous Waste is subject to a fine not to exceed
2 \$50,000 for each day of such offense.

3 (g) Concealment of Criminal Disposal of Hazardous Waste.

4 (1) A person commits the offense of Concealment of
5 Criminal Disposal of Hazardous Waste when he conceals,
6 without lawful justification, the disposal of hazardous
7 waste with the knowledge that such hazardous waste has been
8 disposed of in violation of this Act.

9 (2) Concealment of Criminal Disposal of a Hazardous
10 Waste is a Class 4 felony. In addition to any other
11 penalties prescribed by law, a person convicted of the
12 offense of Concealment of Criminal Disposal of Hazardous
13 Waste is subject to a fine not to exceed \$50,000 for each
14 day of such offense.

15 (h) Violations; False Statements.

16 (1) Any person who knowingly makes a false material
17 statement in an application for a permit or license
18 required by this Act to treat, transport, store, or dispose
19 of hazardous waste commits the offense of perjury and shall
20 be subject to the penalties set forth in Section 32-2 of
21 the Criminal Code of 1961.

22 (2) Any person who knowingly makes a false material
23 statement or representation in any label, manifest,
24 record, report, permit or license, or other document filed,
25 maintained or used for the purpose of compliance with this
26 Act in connection with the generation, disposal,
27 treatment, storage, or transportation of hazardous waste
28 commits a Class 4 felony. A second or any subsequent
29 offense after conviction hereunder is a Class 3 felony.

30 (3) Any person who knowingly destroys, alters or
31 conceals any record required to be made by this Act in
32 connection with the disposal, treatment, storage, or
33 transportation of hazardous waste, commits a Class 4
34 felony. A second or any subsequent offense after a

1 conviction hereunder is a Class 3 felony.

2 (4) Any person who knowingly makes a false material
3 statement or representation in any application, bill,
4 invoice, or other document filed, maintained, or used for
5 the purpose of receiving money from the Underground Storage
6 Tank Fund commits a Class 4 felony. A second or any
7 subsequent offense after conviction hereunder is a Class 3
8 felony.

9 (5) Any person who knowingly destroys, alters, or
10 conceals any record required to be made or maintained by
11 this Act or required to be made or maintained by Board or
12 Agency rules for the purpose of receiving money from the
13 Underground Storage Tank Fund commits a Class 4 felony. A
14 second or any subsequent offense after a conviction
15 hereunder is a Class 3 felony.

16 (6) A person who knowingly and falsely certifies under
17 Section 22.48 that an industrial process waste or pollution
18 control waste is not special waste commits a Class 4 felony
19 for a first offense and commits a Class 3 felony for a
20 second or subsequent offense.

21 (7) In addition to any other penalties prescribed by
22 law, a person convicted of violating this subsection (h) is
23 subject to a fine not to exceed \$50,000 for each day of
24 such violation.

25 (i) Verification.

26 (1) Each application for a permit or license to dispose
27 of, transport, treat, store or generate hazardous waste
28 under this Act shall contain an affirmation that the facts
29 are true and are made under penalty of perjury as defined
30 in Section 32-2 of the Criminal Code of 1961. It is perjury
31 for a person to sign any such application for a permit or
32 license which contains a false material statement, which he
33 does not believe to be true.

34 (2) Each request for money from the Underground Storage
35 Tank Fund shall contain an affirmation that the facts are

1 true and are made under penalty of perjury as defined in
2 Section 32-2 of the Criminal Code of 1961. It is perjury
3 for a person to sign any request that contains a false
4 material statement that he does not believe to be true.

5 (j) Violations of Other Provisions.

6 (1) It is unlawful for a person knowingly to violate:

7 (A) subsection (f) of Section 12 of this Act;

8 (B) subsection (g) of Section 12 of this Act;

9 (C) any term or condition of any Underground
10 Injection Control (UIC) permit;

11 (D) any filing requirement, regulation, or order
12 relating to the State Underground Injection Control
13 (UIC) program;

14 (E) any provision of any regulation, standard, or
15 filing requirement under subsection (b) of Section 13
16 of this Act;

17 (F) any provision of any regulation, standard, or
18 filing requirement under subsection (b) of Section 39
19 of this Act;

20 (G) any National Pollutant Discharge Elimination
21 System (NPDES) permit issued under this Act or any term
22 or condition of such permit;

23 (H) subsection (h) of Section 12 of this Act;

24 (I) subsection 6 of Section 39.5 of this Act;

25 (J) any provision of any regulation, standard or
26 filing requirement under Section 39.5 of this Act; or

27 (K) Federal asbestos regulations, including: (i) a
28 provision of the Procedures for Asbestos Emission
29 Control in subsection (c) of Section 61.145 of Title 40
30 of the Code of Federal Regulations, or (ii) a standard
31 for waste disposal for manufacturing, fabricating,
32 demolition, renovation, and spraying operations in
33 Section 61.150 of Title 40 of the Code of Federal
34 Regulations.

35 (2) A person convicted of a violation of subdivision

1 (1) of this subsection commits a Class 4 felony, and in
2 addition to any other penalty prescribed by law is subject
3 to a fine not to exceed \$25,000 for each day of such
4 violation.

5 (3) A person who negligently violates the following
6 shall be subject to a fine not to exceed \$10,000 for each
7 day of such violation:

8 (A) subsection (f) of Section 12 of this Act;

9 (B) subsection (g) of Section 12 of this Act;

10 (C) any provision of any regulation, standard, or
11 filing requirement under subsection (b) of Section 13
12 of this Act;

13 (D) any provision of any regulation, standard, or
14 filing requirement under subsection (b) of Section 39
15 of this Act;

16 (E) any National Pollutant Discharge Elimination
17 System (NPDES) permit issued under this Act;

18 (F) subsection 6 of Section 39.5 of this Act; or

19 (G) any provision of any regulation, standard, or
20 filing requirement under Section 39.5 of this Act.

21 (4) It is unlawful for a person knowingly to:

22 (A) make any false statement, representation, or
23 certification in an application form, or form
24 pertaining to, a National Pollutant Discharge
25 Elimination System (NPDES) permit;

26 (B) render inaccurate any monitoring device or
27 record required by the Agency or Board in connection
28 with any such permit or with any discharge which is
29 subject to the provisions of subsection (f) of Section
30 12 of this Act;

31 (C) make any false statement, representation, or
32 certification in any form, notice or report pertaining
33 to a CAAPP permit under Section 39.5 of this Act;

34 (D) render inaccurate any monitoring device or
35 record required by the Agency or Board in connection
36 with any CAAPP permit or with any emission which is

1 subject to the provisions of Section 39.5 of this Act;
2 or

3 (E) violate subsection 6 of Section 39.5 of this
4 Act or any CAAPP permit, or term or condition thereof,
5 or any fee or filing requirement.

6 (5) A person convicted of a violation of subdivision
7 (4) of this subsection commits a Class A misdemeanor, and
8 in addition to any other penalties provided by law is
9 subject to a fine not to exceed \$10,000 for each day of
10 violation.

11 (k) Criminal operation of a hazardous waste or PCB
12 incinerator.

13 (1) A person commits the offense of criminal operation
14 of a hazardous waste or PCB incinerator when, in the course
15 of operating a hazardous waste or PCB incinerator, he
16 knowingly and without justification operates the
17 incinerator (i) without an Agency permit, or in knowing
18 violation of the terms of an Agency permit, and (ii) as a
19 result of such violation, knowingly places any person in
20 danger of great bodily harm or knowingly creates an
21 immediate or long term material danger to the public health
22 or the environment.

23 (2) Any person who commits the offense of criminal
24 operation of a hazardous waste or PCB incinerator for the
25 first time commits a Class 4 felony and, in addition to any
26 other penalties prescribed by law, shall be subject to a
27 fine not to exceed \$100,000 for each day of the offense.

28 Any person who commits the offense of criminal
29 operation of a hazardous waste or PCB incinerator for a
30 second or subsequent time commits a Class 3 felony and, in
31 addition to any other penalties prescribed by law, shall be
32 subject to a fine not to exceed \$250,000 for each day of
33 the offense.

34 (3) For the purpose of this subsection (k), the term
35 "hazardous waste or PCB incinerator" means a pollution

1 control facility at which either hazardous waste or PCBs,
2 or both, are incinerated. "PCBs" means any substance or
3 mixture of substances that contains one or more
4 polychlorinated biphenyls in detectable amounts.

5 (l) It shall be the duty of all State and local law
6 enforcement officers to enforce this Act and the regulations
7 adopted hereunder, and all such officers shall have authority
8 to issue citations for such violations.

9 (m) Any action brought under this Section shall be brought
10 by the State's Attorney of the county in which the violation
11 occurred, or by the Attorney General, and shall be conducted in
12 accordance with the applicable provisions of the Code of
13 Criminal Procedure of 1963.

14 (n) For an offense described in this Section, the period
15 for commencing prosecution prescribed by the statute of
16 limitations shall not begin to run until the offense is
17 discovered by or reported to a State or local agency having the
18 authority to investigate violations of this Act.

19 (o) In addition to any other penalties provided under this
20 Act, if a person is convicted of (or agrees to a settlement in
21 an enforcement action over) illegal dumping of waste on the
22 person's own property, the Attorney General, the Agency or
23 local prosecuting authority shall file notice of the
24 conviction, finding or agreement in the office of the Recorder
25 in the county in which the landowner lives.

26 (p) Criminal Disposal of Waste.

27 (1) A person commits the offense of Criminal Disposal
28 of Waste when he or she:

29 (A) if required to have a permit under subsection
30 (d) of Section 21 of this Act, knowingly conducts a
31 waste-storage, waste-treatment, or waste-disposal
32 operation in a quantity that exceeds 250 cubic feet of
33 waste without a permit; or

34 (B) knowingly conducts open dumping of waste in
35 violation of subsection (a) of Section 21 of this Act.

36 (2) (A) A person who is convicted of a violation of

1 item (A) of subdivision (1) of this subsection is
2 guilty of a Class 4 felony for a first offense and, in
3 addition to any other penalties provided by law, is
4 subject to a fine not to exceed \$25,000 for each day of
5 violation. A person who is convicted of a violation of
6 item (A) of subdivision (1) of this subsection is
7 guilty of a Class 3 felony for a second or subsequent
8 offense and, in addition to any other penalties
9 provided by law, is subject to a fine not to exceed
10 \$50,000 for each day of violation.

11 (B) A person who is convicted of a violation of
12 item (B) of subdivision (1) of this subsection is
13 guilty of a Class A misdemeanor. However, a person who
14 is convicted of a second or subsequent violation of
15 item (B) of subdivision (1) of this subsection for the
16 open dumping of waste in a quantity that exceeds 250
17 cubic feet is guilty of a Class 4 felony and, in
18 addition to any other penalties provided by law, is
19 subject to a fine not to exceed \$5,000 for each day of
20 violation.

21 (Source: P.A. 89-235, eff. 8-4-95; 90-219, eff. 7-25-97;
22 90-344, eff. 1-1-98; 90-502, eff. 8-19-97; 90-655, eff.
23 7-30-98.)

24 Section 99. Effective date. This Act takes effect upon
25 becoming law.