



Rep. John A. Fritchey

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LRB094 04118 RSP 44746 a

1 AMENDMENT TO HOUSE BILL 667

2 AMENDMENT NO. _____. Amend House Bill 667, AS AMENDED, by
3 replacing the title with the following:

4 "AN ACT concerning safety, which may be known as the Toxic
5 Chemical Disclosure Act."; and

6 by replacing everything after the enacting clause with the
7 following:

8 "Section 5. The Environmental Protection Act is amended by
9 changing Section 58.8 and by adding Section 22.50 and Title
10 VI-D as follows:

11 (415 ILCS 5/22.50 new)

12 Sec. 22.50. Compliance with land use limitations. No
13 person shall use, or cause or allow the use of, any site for
14 which a land use limitation has been imposed under this Act in
15 a manner inconsistent with the land use limitation unless
16 further investigation or remedial action has been conducted
17 that documents the attainment of remedial objectives
18 appropriate for the new land use and a new closure letter has
19 been obtained from the Agency and recorded in the chain of
20 title for the site. For the purpose of this Section, the term
21 "land use limitation" shall include, but shall not be limited
22 to, institutional controls and engineered barriers imposed
23 under this Act and the regulations adopted under this Act. For

1 the purposes of this Section, the term "closure letter" shall
2 include, but shall not be limited to, No Further Remediation
3 Letters issued under Titles XVI and XVII of this Act and the
4 regulations adopted under those Titles.

5 (415 ILCS 5/Title VI-D heading new)

6 TITLE VI-D. RIGHT-TO-KNOW

7 (415 ILCS 5/25d-1 new)

8 Sec. 25d-1. Definitions. For the purposes of this Title,
9 the terms "community water system", "non-community water
10 system", "potable", "private water system", and "semi-private
11 water system" have the meanings ascribed to them in the
12 Illinois Groundwater Protection Act.

13 (415 ILCS 5/25d-2 new)

14 Sec. 25d-2. Contaminant evaluation committee. Beginning
15 January 1, 2006, the Agency shall establish, internally within
16 the Agency, a contaminant evaluation committee to evaluate
17 releases of contaminants. The committee shall perform this
18 evaluation whenever the Agency reasonably believes or confirms
19 that the actual or modeled extent of soil or groundwater
20 contamination extends beyond the boundary of the site where the
21 release occurred. The committee shall recommend appropriate
22 Agency actions in response to the release, which may include,
23 but shall not be limited to, public notices, investigations,
24 administrative orders, and enforcement referrals.

25 (415 ILCS 5/25d-3 new)

26 Sec. 25d-3. Committee action.

27 (a) Beginning January 1, 2006, if the committee established
28 under Section 25d-2 of this Title determines that:

29 (1) Soil contamination poses a threat of exposure to
30 the public above the Tier 1 residential remediation

1 objectives adopted by the Board under Title XVII of this
2 Act, the Agency shall give notice of the threat to the
3 owner of the contaminated property and the Agency may
4 require the owner of the contaminated property to post a
5 sign acceptable to the Agency in a conspicuous place on the
6 property notifying the public of the contamination on the
7 property; or

8 (2) Groundwater contamination poses a threat of
9 exposure to the public above the Class I groundwater
10 quality standards adopted by the Board under this Act and
11 the Groundwater Protection Act, the Agency shall give
12 notice of the threat to the following:

13 (A) for any private, semi-private, or non-community
14 water system, the owners of the properties served by
15 the system; and

16 (B) for any community water system, the owners and
17 operators of the system.

18 The committee's determination must be based on the credible,
19 scientific information available to it, and the Agency is not
20 required to perform additional investigations or studies
21 beyond those required by applicable federal or State laws.

22 (b) Beginning January 1, 2006, if any of the following
23 actions occur: (i) the Agency refers a matter for enforcement
24 under Section 43(a) of this Act; (ii) the Agency issues a seal
25 order under Section 34(a) of this Act; or (iii) the Agency, the
26 United States Environmental Protection Agency (USEPA), or a
27 third party under Agency or USEPA oversight performs an
28 immediate removal under the federal Comprehensive
29 Environmental Response, Compensation, and Liability Act, as
30 amended, then, within 60 days after the action, the Agency must
31 give notice of the action to the owners of all property within
32 2,500 feet of the subject contamination or such other closer or
33 further distance that the Agency deems appropriate under the
34 circumstances. Within 30 days after a request by the Agency,

1 the appropriate officials of the county in which the property
2 is located must provide to the Agency the names and addresses
3 of all property owners to whom the Agency is required to give
4 notice under this subsection (b), these owners being the
5 persons or entities that appear from the authentic tax records
6 of the county.

7 (c) Notices required under this Section must be given in
8 accordance with the methods recommended by the Right-to-Know
9 Committee under Section 25d-5 of this Title. The notices must
10 contain, at a minimum, the following information:

11 (1) the name and address of the site or facility where
12 the release occurred or is suspected to have occurred;

13 (2) the identification of the contaminant released or
14 suspected to have been released;

15 (3) information as to whether the contaminant was
16 released or suspected to have been released into the air,
17 land, or water;

18 (4) a brief description of the potential adverse health
19 effects posed by the contaminant;

20 (5) a recommendation that water systems with wells
21 impacted or potentially impacted by the contaminant be
22 appropriately tested; and

23 (6) the name, business address, and phone number of
24 persons at the Agency from whom additional information
25 about the release or suspected release can be obtained.

26 (d) Any person who is a responsible party with respect to
27 the release or substantial threat of release for which notice
28 is given under this Section is liable for all reasonable costs
29 incurred by the State in giving the notice and all costs
30 incurred by the State for community relations activities
31 related to the notice. All moneys received by the State under
32 this subsection (d) must be deposited in and used for purposes
33 consistent with the Hazardous Waste Fund.

1 (415 ILCS 5/25d-4 new)

2 Sec. 25d-4. Agency authority. Whenever the Agency becomes
3 obligated to give notice pursuant to 25d-3 of this Title, the
4 Agency has the authority to issue an order to the owner or
5 operator of the site or facility where the release occurred or
6 is suspected to have occurred that requires the owner or
7 operator to provide the Agency with the information necessary
8 for the notice. In the case of a release or suspected release
9 from an underground storage tank subject to Title XVI of this
10 Act, the Agency has the authority to issue such an order to the
11 owner or operator of the underground storage tank. Any person
12 who, without sufficient cause, willfully violates, or fails or
13 refuses to comply with, any order issued under this Section is
14 in violation of this Act.

15 (415 ILCS 5/25d-5 new)

16 Sec. 25d-5. Right-to-Know Committee. Beginning January 1,
17 2006, the Agency shall establish a committee known as the
18 Right-to-Know Committee. The Right-to-Know Committee shall be
19 composed of the following persons and shall be chaired by the
20 Director or the Director's designee: representatives of the
21 Agency, representatives of the Illinois Department of Public
22 Health, representatives of the Interagency Coordinating
23 Committee on Groundwater established in the Groundwater
24 Protection Act, representatives of the Groundwater Advisory
25 Council established in the Groundwater Protection Act,
26 representatives of priority groundwater protection regional
27 planning committees established under Section 17.2 of this Act,
28 and up to 3 individuals appointed by the Director who are
29 owners of properties served by private, semi-private, or
30 non-community drinking water systems that have been impacted by
31 a release of a contaminant. The Right-to-Know Committee, in
32 consultation with the Agency, shall evaluate and recommend
33 appropriate and effective methods of providing the notices

1 required under Section 25d-3 of this Title. The methods of
2 notification evaluated by the Right-to-Know Committee shall
3 include, but shall not be limited to, the following:

- 4 (a) personal notification;
5 (b) public meetings;
6 (c) signs;
7 (d) electronic notification; and
8 (e) print media.

9 (415 ILCS 5/25d-6 new)

10 Sec. 25d-6. Notification. Beginning July 1, 2006, the
11 Agency shall make all of the following information available on
12 the Internet:

13 (i) Copies of all notifications given under Section
14 25d-3 of this Section. The copies must be indexed and the
15 index shall, at a minimum, be searchable by notification
16 date, zip code, site or facility name, and geographic
17 location.

18 (ii) Appropriate Agency databases containing
19 information about releases or suspected releases of
20 contaminants in the State. The databases must, at a
21 minimum, be searchable by notification date, zip code, site
22 or facility name, and geographic location.

23 (iii) Links to appropriate USEPA databases containing
24 information about releases or suspected releases of
25 contaminants in the State.

26 (415 ILCS 5/25d-7 new)

27 Sec. 25d-7. Agency coordination. Beginning January 1,
28 2006, the Agency shall coordinate with the Department of Public
29 Health to provide training to regional and local health
30 department staff on the use of the information posted on the
31 Internet under Section 25d-6 of this Title. Also beginning
32 January 1, 2006, the Agency shall coordinate with the

1 Department of Public Health to provide training to licensed
2 water well drillers on the use of the information posted on the
3 Internet under Section 25d-6 of this Title in relation to the
4 location and installation of new wells serving private,
5 semi-private, and non-community water systems.

6 (415 ILCS 5/25d-8 new)

7 Sec. 25d-8. Amendment. Within 180 days after the effective
8 date of this amendatory Act of the 94th General Assembly, the
9 Agency shall evaluate the Board's rules and propose amendments
10 to the rules as necessary to require potable water supply well
11 surveys and community relations activities where such surveys
12 and activities are appropriate in response to releases of
13 contaminants that have impacted or that have a reasonable
14 likelihood of impacting offsite potable water supply wells.
15 Within 240 days after receiving the Agency's proposal, the
16 Board shall amend its rules as necessary to require potable
17 water supply well surveys and community relations activities
18 where such surveys and activities are appropriate in response
19 to releases of contaminants that have impacted or that have a
20 reasonable likelihood of impacting offsite potable water
21 supply wells. Community relations activities required by the
22 Board shall include, but shall not be limited to, submitting a
23 community relations plan for Agency approval, maintaining a
24 public information repository that contains timely information
25 about the actions being taken in response to a release, and
26 maintaining dialogue with the community through means such as
27 public meetings, fact sheets, and community advisory groups.

28 (415 ILCS 5/25d-9 new)

29 Sec. 25d-9. Liability. Except for willful and wanton
30 misconduct, neither the State, the Director, nor any State
31 employee shall be liable for any damages or injuries arising
32 out of or resulting from any act or omission occurring under

1 this amendatory Act of the 94th General Assembly.

2 (415 ILCS 5/25d-10 new)

3 Sec. 25d-10. Admissibility. The Agency's giving of notice
4 or failure to give notice under Section 25d-3 of this Title
5 shall not be admissible for any purpose in any administrative
6 or judicial proceeding.

7 (415 ILCS 5/58.8)

8 Sec. 58.8. Duty to record.

9 (a) The RA receiving a No Further Remediation Letter from
10 the Agency pursuant to Section 58.10, shall submit the letter
11 to the Office of the Recorder or the Registrar of Titles of the
12 county in which the site is located within 45 days of receipt
13 of the letter. The Office of the Recorder or the Registrar of
14 Titles shall accept and record that letter in accordance with
15 Illinois law so that it forms a permanent part of the chain of
16 title for the site.

17 (b) A No Further Remediation Letter shall not become
18 effective until officially recorded in accordance with
19 subsection (a) of this Section. The RA shall obtain and submit
20 to the Agency a certified copy of the No Further Remediation
21 Letter as recorded.

22 (c) ~~(Blank). At no time shall any site for which a land use~~
23 ~~limitation has been imposed as a result of remediation~~
24 ~~activities under this Title be used in a manner inconsistent~~
25 ~~with the land use limitation unless further investigation or~~
26 ~~remedial action has been conducted that documents the~~
27 ~~attainment of objectives appropriate for the new land use and a~~
28 ~~new No Further Remediation Letter obtained and recorded in~~
29 ~~accordance with this Title.~~

30 (d) In the event that a No Further Remediation Letter
31 issues by operation of law pursuant to Section 58.10, the RA
32 may, for purposes of this Section, file an affidavit stating

1 that the letter issued by operation of law. Upon receipt of the
2 No Further Remediation Letter from the Agency, the RA shall
3 comply with the requirements of subsections (a) and (b) of this
4 Section.

5 (Source: P.A. 92-574, eff. 6-26-02.)

6 Section 10. The Illinois Groundwater Protection Act is
7 amended by changing Section 4 as follows:

8 (415 ILCS 55/4) (from Ch. 111 1/2, par. 7454)

9 Sec. 4. (a) There shall be established within State
10 government an interagency committee which shall be known as the
11 Interagency Coordinating Committee on Groundwater. The
12 Committee shall be composed of the Director, or his designee,
13 of the following agencies:

14 (1) The Illinois Environmental Protection Agency, who
15 shall chair the Committee.

16 (2) The Illinois Department of Natural Resources.

17 (3) The Illinois Department of Public Health.

18 (4) The Office of Mines and Minerals within the
19 Department of Natural Resources.

20 (5) The Office of the State Fire Marshal.

21 (6) The Division of Water Resources of the Department
22 of Natural Resources.

23 (7) The Illinois Department of Agriculture.

24 (8) The Illinois Emergency Management Agency.

25 (9) The Illinois Department of Nuclear Safety.

26 (10) The Illinois Department of Commerce and Economic
27 Opportunity ~~Community Affairs~~.

28 (b) The Committee shall meet not less than twice each
29 calendar year and shall:

30 (1) Review and coordinate the State's policy on
31 groundwater protection.

32 (2) Review and evaluate State laws, regulations and

1 procedures that relate to groundwater protection.

2 (3) Review and evaluate the status of the State's
3 efforts to improve the quality of the groundwater and of
4 the State enforcement efforts for protection of the
5 groundwater and make recommendations on improving the
6 State efforts to protect the groundwater.

7 (4) Recommend procedures for better coordination among
8 State groundwater programs and with local programs related
9 to groundwater protection.

10 (5) Review and recommend procedures to coordinate the
11 State's response to specific incidents of groundwater
12 pollution and coordinate dissemination of information
13 between agencies responsible for the State's response.

14 (6) Make recommendations for and prioritize the
15 State's groundwater research needs.

16 (7) Review, coordinate and evaluate groundwater data
17 collection and analysis.

18 (8) Beginning on January 1, 1990, report biennially to
19 the Governor and the General Assembly on groundwater
20 quality, quantity, and the State's enforcement efforts.
21 Beginning January 1, 2006, the Committee's biennial report
22 shall also include, with input from the Groundwater
23 Advisory Council established under Section 5 of this Act,
24 the priority groundwater protection regional planning
25 committees established pursuant to Section 17.2 of the
26 Environmental Protection Act, and the Right-to-Know
27 Committee established pursuant to Section 25d-5 of the
28 Environmental Protection Act, information on the
29 implementation of this amendatory Act of the 94th General
30 Assembly.

31 (c) The Chairman of the Committee shall propose a
32 groundwater protection regulatory agenda for consideration by
33 the Committee and the Council. The principal purpose of the
34 agenda shall be to systematically consider the groundwater

1 protection aspects of relevant federal and State regulatory
2 programs and to identify any areas where improvements may be
3 warranted. To the extent feasible, the agenda may also serve to
4 facilitate a more uniform and coordinated approach toward
5 protection of groundwaters in Illinois. Upon adoption of the
6 final agenda by the Committee, the Chairman of the Committee
7 shall assign a lead agency and any support agencies to prepare
8 a regulatory assessment report for each item on the agenda.
9 Each regulatory assessment report shall specify the nature of
10 the groundwater protection provisions being implemented and
11 shall evaluate the results achieved therefrom. Special
12 attention shall be given to any preventive measures being
13 utilized for protection of groundwaters. The reports shall be
14 completed in a timely manner. After review and consideration by
15 the Committee, the reports shall become the basis for
16 recommending further legislative or regulatory action.

17 (d) No later than January 1, 1992, the Interagency
18 Coordinating Committee on Groundwater shall provide a
19 comprehensive status report to the Governor and the General
20 Assembly concerning implementation of this Act.

21 (e) The Committee shall consider findings and
22 recommendations that are provided by the Council, and respond
23 in writing regarding such matters. The Chairman of the
24 Committee shall designate a liaison person to serve as a
25 facilitator of communications with the Council.

26 (Source: P.A. 89-445, eff. 2-7-96; revised 12-6-03.)

27 Section 99. Effective date. This Act takes effect upon
28 becoming law."