

**SB1767**



**94TH GENERAL ASSEMBLY**  
**State of Illinois**  
**2005 and 2006**  
**SB1767**

Introduced 2/25/2005, by Sen. Michael Jacobs

**SYNOPSIS AS INTRODUCED:**

415 ILCS 5/21

from Ch. 111 1/2, par. 1021

Amends the Environmental Protection Act. Makes a technical change in a Section concerning prohibited acts.

LRB094 09395 RSP 39641 b

**A BILL FOR**

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 21 as follows:

6 (415 ILCS 5/21) (from Ch. 111 1/2, par. 1021)

7 Sec. 21. Prohibited acts. No person shall:

8 (a) Cause or allow the ~~the~~ open dumping of any waste.

9 (b) Abandon, dump, or deposit any waste upon the public  
10 highways or other public property, except in a sanitary  
11 landfill approved by the Agency pursuant to regulations adopted  
12 by the Board.

13 (c) Abandon any vehicle in violation of the "Abandoned  
14 Vehicles Amendment to the Illinois Vehicle Code", as enacted by  
15 the 76th General Assembly.

16 (d) Conduct any waste-storage, waste-treatment, or  
17 waste-disposal operation:

18 (1) without a permit granted by the Agency or in  
19 violation of any conditions imposed by such permit,  
20 including periodic reports and full access to adequate  
21 records and the inspection of facilities, as may be  
22 necessary to assure compliance with this Act and with  
23 regulations and standards adopted thereunder; provided,  
24 however, that, except for municipal solid waste landfill  
25 units that receive waste on or after October 9, 1993, no  
26 permit shall be required for (i) any person conducting a  
27 waste-storage, waste-treatment, or waste-disposal  
28 operation for wastes generated by such person's own  
29 activities which are stored, treated, or disposed within  
30 the site where such wastes are generated, or (ii) a  
31 facility located in a county with a population over  
32 700,000, operated and located in accordance with Section

1 22.38 of this Act, and used exclusively for the transfer,  
2 storage, or treatment of general construction or  
3 demolition debris;

4 (2) in violation of any regulations or standards  
5 adopted by the Board under this Act; or

6 (3) which receives waste after August 31, 1988, does  
7 not have a permit issued by the Agency, and is (i) a  
8 landfill used exclusively for the disposal of waste  
9 generated at the site, (ii) a surface impoundment receiving  
10 special waste not listed in an NPDES permit, (iii) a waste  
11 pile in which the total volume of waste is greater than 100  
12 cubic yards or the waste is stored for over one year, or  
13 (iv) a land treatment facility receiving special waste  
14 generated at the site; without giving notice of the  
15 operation to the Agency by January 1, 1989, or 30 days  
16 after the date on which the operation commences, whichever  
17 is later, and every 3 years thereafter. The form for such  
18 notification shall be specified by the Agency, and shall be  
19 limited to information regarding: the name and address of  
20 the location of the operation; the type of operation; the  
21 types and amounts of waste stored, treated or disposed of  
22 on an annual basis; the remaining capacity of the  
23 operation; and the remaining expected life of the  
24 operation.

25 Item (3) of this subsection (d) shall not apply to any  
26 person engaged in agricultural activity who is disposing of a  
27 substance that constitutes solid waste, if the substance was  
28 acquired for use by that person on his own property, and the  
29 substance is disposed of on his own property in accordance with  
30 regulations or standards adopted by the Board.

31 This subsection (d) shall not apply to hazardous waste.

32 (e) Dispose, treat, store or abandon any waste, or  
33 transport any waste into this State for disposal, treatment,  
34 storage or abandonment, except at a site or facility which  
35 meets the requirements of this Act and of regulations and  
36 standards thereunder.

1 (f) Conduct any hazardous waste-storage, hazardous  
2 waste-treatment or hazardous waste-disposal operation:

3 (1) without a RCRA permit for the site issued by the  
4 Agency under subsection (d) of Section 39 of this Act, or  
5 in violation of any condition imposed by such permit,  
6 including periodic reports and full access to adequate  
7 records and the inspection of facilities, as may be  
8 necessary to assure compliance with this Act and with  
9 regulations and standards adopted thereunder; or

10 (2) in violation of any regulations or standards  
11 adopted by the Board under this Act; or

12 (3) in violation of any RCRA permit filing requirement  
13 established under standards adopted by the Board under this  
14 Act; or

15 (4) in violation of any order adopted by the Board  
16 under this Act.

17 Notwithstanding the above, no RCRA permit shall be required  
18 under this subsection or subsection (d) of Section 39 of this  
19 Act for any person engaged in agricultural activity who is  
20 disposing of a substance which has been identified as a  
21 hazardous waste, and which has been designated by Board  
22 regulations as being subject to this exception, if the  
23 substance was acquired for use by that person on his own  
24 property and the substance is disposed of on his own property  
25 in accordance with regulations or standards adopted by the  
26 Board.

27 (g) Conduct any hazardous waste-transportation operation:

28 (1) without registering with and obtaining a permit  
29 from the Agency in accordance with the Uniform Program  
30 implemented under subsection (1-5) of Section 22.2; or

31 (2) in violation of any regulations or standards  
32 adopted by the Board under this Act.

33 (h) Conduct any hazardous waste-recycling or hazardous  
34 waste-reclamation or hazardous waste-reuse operation in  
35 violation of any regulations, standards or permit requirements  
36 adopted by the Board under this Act.

1 (i) Conduct any process or engage in any act which produces  
2 hazardous waste in violation of any regulations or standards  
3 adopted by the Board under subsections (a) and (c) of Section  
4 22.4 of this Act.

5 (j) Conduct any special waste transportation operation in  
6 violation of any regulations, standards or permit requirements  
7 adopted by the Board under this Act. However, sludge from a  
8 water or sewage treatment plant owned and operated by a unit of  
9 local government which (1) is subject to a sludge management  
10 plan approved by the Agency or a permit granted by the Agency,  
11 and (2) has been tested and determined not to be a hazardous  
12 waste as required by applicable State and federal laws and  
13 regulations, may be transported in this State without a special  
14 waste hauling permit, and the preparation and carrying of a  
15 manifest shall not be required for such sludge under the rules  
16 of the Pollution Control Board. The unit of local government  
17 which operates the treatment plant producing such sludge shall  
18 file a semiannual report with the Agency identifying the volume  
19 of such sludge transported during the reporting period, the  
20 hauler of the sludge, and the disposal sites to which it was  
21 transported. This subsection (j) shall not apply to hazardous  
22 waste.

23 (k) Fail or refuse to pay any fee imposed under this Act.

24 (l) Locate a hazardous waste disposal site above an active  
25 or inactive shaft or tunneled mine or within 2 miles of an  
26 active fault in the earth's crust. In counties of population  
27 less than 225,000 no hazardous waste disposal site shall be  
28 located (1) within 1 1/2 miles of the corporate limits as  
29 defined on June 30, 1978, of any municipality without the  
30 approval of the governing body of the municipality in an  
31 official action; or (2) within 1000 feet of an existing private  
32 well or the existing source of a public water supply measured  
33 from the boundary of the actual active permitted site and  
34 excluding existing private wells on the property of the permit  
35 applicant. The provisions of this subsection do not apply to  
36 publicly-owned sewage works or the disposal or utilization of

1 sludge from publicly-owned sewage works.

2 (m) Transfer interest in any land which has been used as a  
3 hazardous waste disposal site without written notification to  
4 the Agency of the transfer and to the transferee of the  
5 conditions imposed by the Agency upon its use under subsection  
6 (g) of Section 39.

7 (n) Use any land which has been used as a hazardous waste  
8 disposal site except in compliance with conditions imposed by  
9 the Agency under subsection (g) of Section 39.

10 (o) Conduct a sanitary landfill operation which is required  
11 to have a permit under subsection (d) of this Section, in a  
12 manner which results in any of the following conditions:

13 (1) refuse in standing or flowing waters;

14 (2) leachate flows entering waters of the State;

15 (3) leachate flows exiting the landfill confines (as  
16 determined by the boundaries established for the landfill  
17 by a permit issued by the Agency);

18 (4) open burning of refuse in violation of Section 9 of  
19 this Act;

20 (5) uncovered refuse remaining from any previous  
21 operating day or at the conclusion of any operating day,  
22 unless authorized by permit;

23 (6) failure to provide final cover within time limits  
24 established by Board regulations;

25 (7) acceptance of wastes without necessary permits;

26 (8) scavenging as defined by Board regulations;

27 (9) deposition of refuse in any unpermitted portion of  
28 the landfill;

29 (10) acceptance of a special waste without a required  
30 manifest;

31 (11) failure to submit reports required by permits or  
32 Board regulations;

33 (12) failure to collect and contain litter from the  
34 site by the end of each operating day;

35 (13) failure to submit any cost estimate for the site  
36 or any performance bond or other security for the site as

1 required by this Act or Board rules.

2 The prohibitions specified in this subsection (o) shall be  
3 enforceable by the Agency either by administrative citation  
4 under Section 31.1 of this Act or as otherwise provided by this  
5 Act. The specific prohibitions in this subsection do not limit  
6 the power of the Board to establish regulations or standards  
7 applicable to sanitary landfills.

8 (p) In violation of subdivision (a) of this Section, cause  
9 or allow the open dumping of any waste in a manner which  
10 results in any of the following occurrences at the dump site:

11 (1) litter;

12 (2) scavenging;

13 (3) open burning;

14 (4) deposition of waste in standing or flowing waters;

15 (5) proliferation of disease vectors;

16 (6) standing or flowing liquid discharge from the dump  
17 site;

18 (7) deposition of:

19 (i) general construction or demolition debris as  
20 defined in Section 3.160(a) of this Act; or

21 (ii) clean construction or demolition debris as  
22 defined in Section 3.160(b) of this Act.

23 The prohibitions specified in this subsection (p) shall be  
24 enforceable by the Agency either by administrative citation  
25 under Section 31.1 of this Act or as otherwise provided by this  
26 Act. The specific prohibitions in this subsection do not limit  
27 the power of the Board to establish regulations or standards  
28 applicable to open dumping.

29 (q) Conduct a landscape waste composting operation without  
30 an Agency permit, provided, however, that no permit shall be  
31 required for any person:

32 (1) conducting a landscape waste composting operation  
33 for landscape wastes generated by such person's own  
34 activities which are stored, treated or disposed of within  
35 the site where such wastes are generated; or

36 (2) applying landscape waste or composted landscape

1 waste at agronomic rates; or

2 (3) operating a landscape waste composting facility on  
3 a farm, if the facility meets all of the following  
4 criteria:

5 (A) the composting facility is operated by the  
6 farmer on property on which the composting material is  
7 utilized, and the composting facility constitutes no  
8 more than 2% of the property's total acreage, except  
9 that the Agency may allow a higher percentage for  
10 individual sites where the owner or operator has  
11 demonstrated to the Agency that the site's soil  
12 characteristics or crop needs require a higher rate;

13 (B) the property on which the composting facility  
14 is located, and any associated property on which the  
15 compost is used, is principally and diligently devoted  
16 to the production of agricultural crops and is not  
17 owned, leased or otherwise controlled by any waste  
18 hauler or generator of nonagricultural compost  
19 materials, and the operator of the composting facility  
20 is not an employee, partner, shareholder, or in any way  
21 connected with or controlled by any such waste hauler  
22 or generator;

23 (C) all compost generated by the composting  
24 facility is applied at agronomic rates and used as  
25 mulch, fertilizer or soil conditioner on land actually  
26 farmed by the person operating the composting  
27 facility, and the finished compost is not stored at the  
28 composting site for a period longer than 18 months  
29 prior to its application as mulch, fertilizer, or soil  
30 conditioner;

31 (D) the owner or operator, by January 1, 1990 (or  
32 the January 1 following commencement of operation,  
33 whichever is later) and January 1 of each year  
34 thereafter, (i) registers the site with the Agency,  
35 (ii) reports to the Agency on the volume of composting  
36 material received and used at the site, (iii) certifies



1 to the Agency that the site complies with the  
2 requirements set forth in subparagraphs (A), (B) and  
3 (C) of this paragraph (q)(3), and (iv) certifies to the  
4 Agency that all composting material was placed more  
5 than 200 feet from the nearest potable water supply  
6 well, was placed outside the boundary of the 10-year  
7 floodplain or on a part of the site that is  
8 floodproofed, was placed at least 1/4 mile from the  
9 nearest residence (other than a residence located on  
10 the same property as the facility) and there are not  
11 more than 10 occupied non-farm residences within 1/2  
12 mile of the boundaries of the site on the date of  
13 application, and was placed more than 5 feet above the  
14 water table.

15 For the purposes of this subsection (q), "agronomic rates"  
16 means the application of not more than 20 tons per acre per  
17 year, except that the Agency may allow a higher rate for  
18 individual sites where the owner or operator has demonstrated  
19 to the Agency that the site's soil characteristics or crop  
20 needs require a higher rate.

21 (r) Cause or allow the storage or disposal of coal  
22 combustion waste unless:

23 (1) such waste is stored or disposed of at a site or  
24 facility for which a permit has been obtained or is not  
25 otherwise required under subsection (d) of this Section; or

26 (2) such waste is stored or disposed of as a part of  
27 the design and reclamation of a site or facility which is  
28 an abandoned mine site in accordance with the Abandoned  
29 Mined Lands and Water Reclamation Act; or

30 (3) such waste is stored or disposed of at a site or  
31 facility which is operating under NPDES and Subtitle D  
32 permits issued by the Agency pursuant to regulations  
33 adopted by the Board for mine-related water pollution and  
34 permits issued pursuant to the Federal Surface Mining  
35 Control and Reclamation Act of 1977 (P.L. 95-87) or the  
36 rules and regulations thereunder or any law or rule or

1 regulation adopted by the State of Illinois pursuant  
2 thereto, and the owner or operator of the facility agrees  
3 to accept the waste; and either

4 (i) such waste is stored or disposed of in  
5 accordance with requirements applicable to refuse  
6 disposal under regulations adopted by the Board for  
7 mine-related water pollution and pursuant to NPDES and  
8 Subtitle D permits issued by the Agency under such  
9 regulations; or

10 (ii) the owner or operator of the facility  
11 demonstrates all of the following to the Agency, and  
12 the facility is operated in accordance with the  
13 demonstration as approved by the Agency: (1) the  
14 disposal area will be covered in a manner that will  
15 support continuous vegetation, (2) the facility will  
16 be adequately protected from wind and water erosion,  
17 (3) the pH will be maintained so as to prevent  
18 excessive leaching of metal ions, and (4) adequate  
19 containment or other measures will be provided to  
20 protect surface water and groundwater from  
21 contamination at levels prohibited by this Act, the  
22 Illinois Groundwater Protection Act, or regulations  
23 adopted pursuant thereto.

24 Notwithstanding any other provision of this Title, the  
25 disposal of coal combustion waste pursuant to item (2) or (3)  
26 of this subdivision (r) shall be exempt from the other  
27 provisions of this Title V, and notwithstanding the provisions  
28 of Title X of this Act, the Agency is authorized to grant  
29 experimental permits which include provision for the disposal  
30 of wastes from the combustion of coal and other materials  
31 pursuant to items (2) and (3) of this subdivision (r).

32 (s) After April 1, 1989, offer for transportation,  
33 transport, deliver, receive or accept special waste for which a  
34 manifest is required, unless the manifest indicates that the  
35 fee required under Section 22.8 of this Act has been paid.

36 (t) Cause or allow a lateral expansion of a municipal solid

1 waste landfill unit on or after October 9, 1993, without a  
2 permit modification, granted by the Agency, that authorizes the  
3 lateral expansion.

4 (u) Conduct any vegetable by-product treatment, storage,  
5 disposal or transportation operation in violation of any  
6 regulation, standards or permit requirements adopted by the  
7 Board under this Act. However, no permit shall be required  
8 under this Title V for the land application of vegetable  
9 by-products conducted pursuant to Agency permit issued under  
10 Title III of this Act to the generator of the vegetable  
11 by-products. In addition, vegetable by-products may be  
12 transported in this State without a special waste hauling  
13 permit, and without the preparation and carrying of a manifest.

14 (v) (Blank).

15 (w) Conduct any generation, transportation, or recycling  
16 of construction or demolition debris, clean or general, or  
17 uncontaminated soil generated during construction, remodeling,  
18 repair, and demolition of utilities, structures, and roads that  
19 is not commingled with any waste, without the maintenance of  
20 documentation identifying the hauler, generator, place of  
21 origin of the debris or soil, the weight or volume of the  
22 debris or soil, and the location, owner, and operator of the  
23 facility where the debris or soil was transferred, disposed,  
24 recycled, or treated. This documentation must be maintained by  
25 the generator, transporter, or recycler for 3 years. This  
26 subsection (w) shall not apply to (1) a permitted pollution  
27 control facility that transfers or accepts construction or  
28 demolition debris, clean or general, or uncontaminated soil for  
29 final disposal, recycling, or treatment, (2) a public utility  
30 (as that term is defined in the Public Utilities Act) or a  
31 municipal utility, (3) the Illinois Department of  
32 Transportation, or (4) a municipality or a county highway  
33 department, with the exception of any municipality or county  
34 highway department located within a county having a population  
35 of over 3,000,000 inhabitants or located in a county that is  
36 contiguous to a county having a population of over 3,000,000

1 inhabitants; but it shall apply to an entity that contracts  
2 with a public utility, a municipal utility, the Illinois  
3 Department of Transportation, or a municipality or a county  
4 highway department. The terms "generation" and "recycling" as  
5 used in this subsection do not apply to clean construction or  
6 demolition debris when (i) used as fill material below grade  
7 outside of a setback zone if covered by sufficient  
8 uncontaminated soil to support vegetation within 30 days of the  
9 completion of filling or if covered by a road or structure,  
10 (ii) solely broken concrete without protruding metal bars is  
11 used for erosion control, or (iii) milled asphalt or crushed  
12 concrete is used as aggregate in construction of the shoulder  
13 of a roadway. The terms "generation" and "recycling", as used  
14 in this subsection, do not apply to uncontaminated soil that is  
15 not commingled with any waste when (i) used as fill material  
16 below grade or contoured to grade, or (ii) used at the site of  
17 generation.

18 (Source: P.A. 92-574, eff. 6-26-02; 93-179, eff. 7-11-03.)