



Sen. Emil Jones, III

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1 AMENDMENT TO HOUSE BILL 4021

2 AMENDMENT NO. _____. Amend House Bill 4021 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Environmental Protection Act is amended by
5 changing Sections 15, 25d-1, 25d-2, 25d-3, 42, and 44 and by
6 adding Section 18.1 as follows:

7 (415 ILCS 5/15) (from Ch. 111 1/2, par. 1015)

8 Sec. 15. Plans and specifications; demonstration of
9 capability; record retention.

10 (a) Owners of public water supplies, their authorized
11 representative, or legal custodians, shall submit plans and
12 specifications to the Agency and obtain written approval before
13 construction of any proposed public water supply
14 installations, changes, or additions is started. Plans and
15 specifications shall be complete and of sufficient detail to
16 show all proposed construction, changes, or additions that may

1 affect sanitary quality, mineral quality, or adequacy of the
2 public water supply; and, where necessary, said plans and
3 specifications shall be accompanied by supplemental data as may
4 be required by the Agency to permit a complete review thereof.

5 (b) All new public water supplies established after October
6 1, 1999 shall demonstrate technical, financial, and managerial
7 capacity as a condition for issuance of a construction or
8 operation permit by the Agency or its designee. The
9 demonstration shall be consistent with the technical,
10 financial, and managerial provisions of the federal Safe
11 Drinking Water Act (P.L. 93-523), as now or hereafter amended.
12 The Agency is authorized to adopt rules in accordance with the
13 Illinois Administrative Procedure Act to implement the
14 purposes of this subsection. Such rules must take into account
15 the need for the facility, facility size, sophistication of
16 treatment of the water supply, and financial requirements
17 needed for operation of the facility.

18 (c) Except as otherwise provided under Board rules, owners
19 and operators of community water systems must maintain all
20 records, reports, and other documents related to the operation
21 of the community water system for a minimum of 10 years.
22 Documents required to be maintained under this subsection (c)
23 include, but are not limited to, all billing records and other
24 documents related to the purchase of water from other community
25 water systems. Documents required to be maintained under this
26 subsection (c) must be maintained on the premises of the

1 community water system, or at a convenient location near its
2 premises, and must be made available to the Agency for
3 inspection and copying during normal business hours.

4 (Source: P.A. 92-651, eff. 7-11-02.)

5 (415 ILCS 5/18.1 new)

6 Sec. 18.1. Public Notice.

7 (a) If any of the actions listed in paragraphs (1) through
8 (3) of this subsection (a) occur in relation to the ownership
9 or operation of a community water system, the Agency shall,
10 within 2 days after the action, provide public notice of the
11 action by issuing a press release and posting the press release
12 on the Agency's website:

13 (1) The Agency refers a matter for enforcement under
14 Section 43 of this Act.

15 (2) The Agency issues a seal order under subsection (a)
16 of Section 34 of this Act.

17 (3) The Agency issues a notice under paragraph (1) of
18 subsection (a) of Section 31 of this Act for an alleged
19 material false, fictitious, or fraudulent oral statement
20 or writing to the Agency, or to a unit of local government
21 to which the Agency has delegated authority under
22 subsection (r) of Section 4 of this Act, for the purpose of
23 compliance with the Safe Drinking Water Act, this Act,
24 Board rules, or a permit or any term or condition thereof.

25 (b) Within 7 days after the occurrence of any action that

1 is listed in paragraphs (1) through (3) of subsection (a) of
2 this Section and that is related to the ownership or operation
3 of a community water system, the Agency must provide notice of
4 the action to the owner and the operator of the community water
5 system. The notice must be printed on Agency letterhead and
6 describe the action being taken and the basis for the action.
7 Within 3 business days after receiving such notice from the
8 Agency under this subsection (b), the owner or operator of the
9 community water system must send a copy of the notice, by
10 first-class mail, to all residents and owners of premises
11 connected to the affected community water system. The front of
12 the envelope in which any such notice is sent to residents and
13 owners of premises connected to the community water system
14 shall carry the following text in at least 18 point font:
15 PUBLIC HEALTH NOTICE - READ IMMEDIATELY. Within 7 days after
16 the owner or operator of the community water system mails the
17 notices to all residents and owners of premises connected to
18 the affected community water system, the owner or operator
19 shall provide the Agency with proof of the mailings.

20 (415 ILCS 5/25d-1)

21 Sec. 25d-1. Definitions. For the purposes of this Title,
22 the terms "community water system", "non-community water
23 system", "potable", "private water system", and "semi-private
24 water system" have the meanings ascribed to them in the
25 Illinois Groundwater Protection Act. For the purposes of this

1 Title, the term "soil gas" means the air existing in void
2 spaces in the soil between the groundwater table and the ground
3 surface.

4 (Source: P.A. 94-314, eff. 7-25-05.)

5 (415 ILCS 5/25d-2)

6 Sec. 25d-2. Contaminant evaluation. The Agency shall
7 evaluate releases of contaminants whenever it determines that
8 the extent of soil, soil gas, or groundwater contamination may
9 extend beyond the boundary of the site where the release
10 occurred. The Agency shall take appropriate actions in response
11 to the release, which may include, but shall not be limited to,
12 public notices, investigations, administrative orders under
13 Sections 22.2d or 57.12(d) of this Act, and enforcement
14 referrals. Except as provided in Section 25d-3 of this Act, for
15 releases undergoing investigation or remediation under Agency
16 oversight the Agency may determine that no further action is
17 necessary to comply with this Section.

18 (Source: P.A. 94-314, eff. 7-25-05.)

19 (415 ILCS 5/25d-3)

20 Sec. 25d-3. Notices.

21 (a) Beginning January 1, 2006, if the Agency determines
22 that:

23 (1) Soil contamination beyond the boundary of the site
24 where the release occurred, soil gas contamination beyond

1 the boundary of the site where the release occurred, or
2 both pose ~~poses~~ a threat of exposure to the public above
3 the appropriate Tier 1 remediation objectives, based on the
4 current use of the off-site property, adopted by the Board
5 under Title XVII of this Act, the Agency shall give notice
6 of the threat to the owner of the contaminated property; or

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

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

15 (B) for any community water system,

16 (i) the owners and operators of the system; and

17 (ii) the residents and owners of premises

18 connected to the affected community water system.

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

23 For notices required under subparagraph (B) of paragraph
24 (2) of subsection (a), the Agency shall (i) within 2 days after
25 determining that groundwater contamination poses a threat of
26 exposure to the public above the Class I groundwater quality

1 standards, provide notice of the determination by issuing a
2 press release and posting the press release on the Agency's
3 website and (ii) within 7 days after the determination, provide
4 the owner and operator of the community water system with a
5 notice printed on Agency letterhead that identifies the
6 contaminant posing the threat, the level of contamination
7 found, and possible human health effects associated with
8 exposure to the contaminant. Within 3 business days after
9 receiving a notice from the Agency under this paragraph, the
10 owner or operator of the community water system must send a
11 copy of the notice, by first-class mail, to all residents and
12 owners of premises connected to the affected community water
13 system. The front of the envelope in which any such notice is
14 sent to residents and owners of premises connected to the
15 affected community water system shall carry the following text
16 in at least 18 point font: PUBLIC HEALTH NOTICE - READ
17 IMMEDIATELY. Within 7 days after the owner or operator of the
18 community water system mails the notices to residents and
19 owners of premises connected to the community water system, the
20 owner or operator shall provide the Agency with proof of the
21 mailings. The notices required under subparagraph (B) of
22 paragraph (2) of subsection (a) shall be provided whether or
23 not the threat of exposure has been eliminated.

24 (b) Beginning January 1, 2006, if any of the following
25 actions occur: (i) the Agency refers a matter for enforcement
26 under Section 43(a) of this Act; (ii) the Agency issues a seal

1 order under Section 34 of this Act; or (iii) the Agency, the
2 United States Environmental Protection Agency (USEPA), or a
3 third party under Agency or USEPA oversight performs an
4 immediate removal under the federal Comprehensive
5 Environmental Response, Compensation, and Liability Act, as
6 amended, then, within 60 days after the action, the Agency must
7 give notice of the action to the owners of all property within
8 2,500 feet of the subject contamination or any closer or
9 farther distance that the Agency deems appropriate under the
10 circumstances. Within 30 days after a request by the Agency,
11 the appropriate officials of the county in which the property
12 is located must provide to the Agency the names and addresses
13 of all property owners to whom the Agency is required to give
14 notice under this subsection (b), these owners being the
15 persons or entities that appear from the authentic tax records
16 of the county.

17 (c) In addition to the notice requirements of subsection
18 (a) of this Section, the ~~The~~ methods by which the Agency gives
19 the notices required under this Section shall be determined in
20 consultation with members of the public and appropriate members
21 of the regulated community and may include, but shall not be
22 limited to, personal notification, public meetings, signs,
23 electronic notification, and print media. For sites at which a
24 responsible party has implemented a community relations plan,
25 the Agency may allow the responsible party to provide
26 Agency-approved notices in lieu of the notices required to be

1 given by the Agency. Notices issued under this Section may
2 contain the following information:

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

5 (2) the identification of the contaminant released or
6 suspected to have been released;

7 (3) information as to whether the contaminant was
8 released or suspected to have been released into the air,
9 land, or water;

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

12 (5) a recommendation that water systems with wells
13 impacted or potentially impacted by the contaminant be
14 appropriately tested; and

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

18 (d) Any person who is a responsible party with respect to
19 the release or substantial threat of release for which notice
20 is given under this Section is liable for all reasonable costs
21 incurred by the State in giving the notice. All moneys received
22 by the State under this subsection (d) for costs related to
23 releases and substantial threats of releases of hazardous
24 substances, pesticides, and petroleum other than releases and
25 substantial threats of releases of petroleum from underground
26 storage tanks subject to Title XVI of this Act must be

1 deposited in and used for purposes consistent with the
2 Hazardous Waste Fund. All moneys received by the State under
3 this subsection (d) for costs related to releases and
4 substantial threats of releases of petroleum from underground
5 storage tanks subject to Title XVI of this Act must be
6 deposited in and used for purposes consistent with the
7 Underground Storage Tank Fund.

8 (Source: P.A. 94-314, eff. 7-25-05; 95-454, eff. 8-27-07.)

9 (415 ILCS 5/42) (from Ch. 111 1/2, par. 1042)

10 Sec. 42. Civil penalties.

11 (a) Except as provided in this Section, any person that
12 violates any provision of this Act or any regulation adopted by
13 the Board, or any permit or term or condition thereof, or that
14 violates any order of the Board pursuant to this Act, shall be
15 liable for a civil penalty of not to exceed \$50,000 for the
16 violation and an additional civil penalty of not to exceed
17 \$10,000 for each day during which the violation continues; such
18 penalties may, upon order of the Board or a court of competent
19 jurisdiction, be made payable to the Environmental Protection
20 Trust Fund, to be used in accordance with the provisions of the
21 Environmental Protection Trust Fund Act.

22 (b) Notwithstanding the provisions of subsection (a) of
23 this Section:

24 (1) Any person that violates Section 12(f) of this Act
25 or any NPDES permit or term or condition thereof, or any

1 filing requirement, regulation or order relating to the
2 NPDES permit program, shall be liable to a civil penalty of
3 not to exceed \$10,000 per day of violation.

4 (2) Any person that violates Section 12(g) of this Act
5 or any UIC permit or term or condition thereof, or any
6 filing requirement, regulation or order relating to the
7 State UIC program for all wells, except Class II wells as
8 defined by the Board under this Act, shall be liable to a
9 civil penalty not to exceed \$2,500 per day of violation;
10 provided, however, that any person who commits such
11 violations relating to the State UIC program for Class II
12 wells, as defined by the Board under this Act, shall be
13 liable to a civil penalty of not to exceed \$10,000 for the
14 violation and an additional civil penalty of not to exceed
15 \$1,000 for each day during which the violation continues.

16 (3) Any person that violates Sections 21(f), 21(g),
17 21(h) or 21(i) of this Act, or any RCRA permit or term or
18 condition thereof, or any filing requirement, regulation
19 or order relating to the State RCRA program, shall be
20 liable to a civil penalty of not to exceed \$25,000 per day
21 of violation.

22 (4) In an administrative citation action under Section
23 31.1 of this Act, any person found to have violated any
24 provision of subsection (o) of Section 21 of this Act shall
25 pay a civil penalty of \$500 for each violation of each such
26 provision, plus any hearing costs incurred by the Board and

1 the Agency. Such penalties shall be made payable to the
2 Environmental Protection Trust Fund, to be used in
3 accordance with the provisions of the Environmental
4 Protection Trust Fund Act; except that if a unit of local
5 government issued the administrative citation, 50% of the
6 civil penalty shall be payable to the unit of local
7 government.

8 (4-5) In an administrative citation action under
9 Section 31.1 of this Act, any person found to have violated
10 any provision of subsection (p) of Section 21 of this Act
11 shall pay a civil penalty of \$1,500 for each violation of
12 each such provision, plus any hearing costs incurred by the
13 Board and the Agency, except that the civil penalty amount
14 shall be \$3,000 for each violation of any provision of
15 subsection (p) of Section 21 that is the person's second or
16 subsequent adjudication violation of that provision. The
17 penalties shall be deposited into the Environmental
18 Protection Trust Fund, to be used in accordance with the
19 provisions of the Environmental Protection Trust Fund Act;
20 except that if a unit of local government issued the
21 administrative citation, 50% of the civil penalty shall be
22 payable to the unit of local government.

23 (5) Any person who violates subsection 6 of Section
24 39.5 of this Act or any CAAPP permit, or term or condition
25 thereof, or any fee or filing requirement, or any duty to
26 allow or carry out inspection, entry or monitoring

1 activities, or any regulation or order relating to the
2 CAAPP shall be liable for a civil penalty not to exceed
3 \$10,000 per day of violation.

4 (6) Any owner or operator of a community water system
5 that violates subsection (b) of Section 18.1 or subsection
6 (a) of Section 25d-3 of this Act shall, for each day of
7 violation, be liable for a civil penalty of \$10 for each of
8 the premises connected to the affected community water
9 system.

10 (b.5) In lieu of the penalties set forth in subsections (a)
11 and (b) of this Section, any person who fails to file, in a
12 timely manner, toxic chemical release forms with the Agency
13 pursuant to Section 25b-2 of this Act shall be liable for a
14 civil penalty of \$100 per day for each day the forms are late,
15 not to exceed a maximum total penalty of \$6,000. This daily
16 penalty shall begin accruing on the thirty-first day after the
17 date that the person receives the warning notice issued by the
18 Agency pursuant to Section 25b-6 of this Act; and the penalty
19 shall be paid to the Agency. The daily accrual of penalties
20 shall cease as of January 1 of the following year. All
21 penalties collected by the Agency pursuant to this subsection
22 shall be deposited into the Environmental Protection Permit and
23 Inspection Fund.

24 (c) Any person that violates this Act, any rule or
25 regulation adopted under this Act, any permit or term or
26 condition of a permit, or any Board order and causes the death

1 of fish or aquatic life shall, in addition to the other
2 penalties provided by this Act, be liable to pay to the State
3 an additional sum for the reasonable value of the fish or
4 aquatic life destroyed. Any money so recovered shall be placed
5 in the Wildlife and Fish Fund in the State Treasury.

6 (d) The penalties provided for in this Section may be
7 recovered in a civil action.

8 (e) The State's Attorney of the county in which the
9 violation occurred, or the Attorney General, may, at the
10 request of the Agency or on his own motion, institute a civil
11 action for an injunction, prohibitory or mandatory, to restrain
12 violations of this Act, any rule or regulation adopted under
13 this Act, any permit or term or condition of a permit, or any
14 Board order, or to require such other actions as may be
15 necessary to address violations of this Act, any rule or
16 regulation adopted under this Act, any permit or term or
17 condition of a permit, or any Board order.

18 (f) The State's Attorney of the county in which the
19 violation occurred, or the Attorney General, shall bring such
20 actions in the name of the people of the State of Illinois.
21 Without limiting any other authority which may exist for the
22 awarding of attorney's fees and costs, the Board or a court of
23 competent jurisdiction may award costs and reasonable
24 attorney's fees, including the reasonable costs of expert
25 witnesses and consultants, to the State's Attorney or the
26 Attorney General in a case where he has prevailed against a

1 person who has committed a wilful, knowing or repeated
2 violation of this Act, any rule or regulation adopted under
3 this Act, any permit or term or condition of a permit, or any
4 Board order.

5 Any funds collected under this subsection (f) in which the
6 Attorney General has prevailed shall be deposited in the
7 Hazardous Waste Fund created in Section 22.2 of this Act. Any
8 funds collected under this subsection (f) in which a State's
9 Attorney has prevailed shall be retained by the county in which
10 he serves.

11 (g) All final orders imposing civil penalties pursuant to
12 this Section shall prescribe the time for payment of such
13 penalties. If any such penalty is not paid within the time
14 prescribed, interest on such penalty at the rate set forth in
15 subsection (a) of Section 1003 of the Illinois Income Tax Act,
16 shall be paid for the period from the date payment is due until
17 the date payment is received. However, if the time for payment
18 is stayed during the pendency of an appeal, interest shall not
19 accrue during such stay.

20 (h) In determining the appropriate civil penalty to be
21 imposed under subdivisions (a), (b) (1), (b) (2), (b) (3), or
22 (b) (5) of this Section, the Board is authorized to consider any
23 matters of record in mitigation or aggravation of penalty,
24 including but not limited to the following factors:

- 25 (1) the duration and gravity of the violation;
26 (2) the presence or absence of due diligence on the

1 part of the respondent in attempting to comply with
2 requirements of this Act and regulations thereunder or to
3 secure relief therefrom as provided by this Act;

4 (3) any economic benefits accrued by the respondent
5 because of delay in compliance with requirements, in which
6 case the economic benefits shall be determined by the
7 lowest cost alternative for achieving compliance;

8 (4) the amount of monetary penalty which will serve to
9 deter further violations by the respondent and to otherwise
10 aid in enhancing voluntary compliance with this Act by the
11 respondent and other persons similarly subject to the Act;

12 (5) the number, proximity in time, and gravity of
13 previously adjudicated violations of this Act by the
14 respondent;

15 (6) whether the respondent voluntarily self-disclosed,
16 in accordance with subsection (i) of this Section, the
17 non-compliance to the Agency; and

18 (7) whether the respondent has agreed to undertake a
19 "supplemental environmental project," which means an
20 environmentally beneficial project that a respondent
21 agrees to undertake in settlement of an enforcement action
22 brought under this Act, but which the respondent is not
23 otherwise legally required to perform.

24 In determining the appropriate civil penalty to be imposed
25 under subsection (a) or paragraph (1), (2), (3), or (5) of
26 subsection (b) of this Section, the Board shall ensure, in all

1 cases, that the penalty is at least as great as the economic
2 benefits, if any, accrued by the respondent as a result of the
3 violation, unless the Board finds that imposition of such
4 penalty would result in an arbitrary or unreasonable financial
5 hardship. However, such civil penalty may be off-set in whole
6 or in part pursuant to a supplemental environmental project
7 agreed to by the complainant and the respondent.

8 (i) A person who voluntarily self-discloses non-compliance
9 to the Agency, of which the Agency had been unaware, is
10 entitled to a 100% reduction in the portion of the penalty that
11 is not based on the economic benefit of non-compliance if the
12 person can establish the following:

13 (1) that the non-compliance was discovered through an
14 environmental audit or a compliance management system
15 documented by the regulated entity as reflecting the
16 regulated entity's due diligence in preventing, detecting,
17 and correcting violations;

18 (2) that the non-compliance was disclosed in writing
19 within 30 days of the date on which the person discovered
20 it;

21 (3) that the non-compliance was discovered and
22 disclosed prior to:

23 (i) the commencement of an Agency inspection,
24 investigation, or request for information;

25 (ii) notice of a citizen suit;

26 (iii) the filing of a complaint by a citizen, the

1 Illinois Attorney General, or the State's Attorney of
2 the county in which the violation occurred;

3 (iv) the reporting of the non-compliance by an
4 employee of the person without that person's
5 knowledge; or

6 (v) imminent discovery of the non-compliance by
7 the Agency;

8 (4) that the non-compliance is being corrected and any
9 environmental harm is being remediated in a timely fashion;

10 (5) that the person agrees to prevent a recurrence of
11 the non-compliance;

12 (6) that no related non-compliance events have
13 occurred in the past 3 years at the same facility or in the
14 past 5 years as part of a pattern at multiple facilities
15 owned or operated by the person;

16 (7) that the non-compliance did not result in serious
17 actual harm or present an imminent and substantial
18 endangerment to human health or the environment or violate
19 the specific terms of any judicial or administrative order
20 or consent agreement;

21 (8) that the person cooperates as reasonably requested
22 by the Agency after the disclosure; and

23 (9) that the non-compliance was identified voluntarily
24 and not through a monitoring, sampling, or auditing
25 procedure that is required by statute, rule, permit,
26 judicial or administrative order, or consent agreement.

1 If a person can establish all of the elements under this
2 subsection except the element set forth in paragraph (1) of
3 this subsection, the person is entitled to a 75% reduction in
4 the portion of the penalty that is not based upon the economic
5 benefit of non-compliance.

6 (j) In addition to an other remedy or penalty that may
7 apply, whether civil or criminal, any person who violates
8 Section 22.52 of this Act shall be liable for an additional
9 civil penalty of up to 3 times the gross amount of any
10 pecuniary gain resulting from the violation.

11 (Source: P.A. 94-272, eff. 7-19-05; 94-580, eff. 8-12-05;
12 95-331, eff. 8-21-07.)

13 (415 ILCS 5/44) (from Ch. 111 1/2, par. 1044)

14 Sec. 44. Criminal acts; penalties.

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

1 and regulations, and all such officers shall have authority to
2 issue citations for such violations.

3 (b) Calculated Criminal Disposal of Hazardous Waste.

4 (1) A person commits the offense of Calculated Criminal
5 Disposal of Hazardous Waste when, without lawful
6 justification, he knowingly disposes of hazardous waste
7 while knowing that he thereby places another person in
8 danger of great bodily harm or creates an immediate or
9 long-term danger to the public health or the environment.

10 (2) Calculated Criminal Disposal of Hazardous Waste is
11 a Class 2 felony. In addition to any other penalties
12 prescribed by law, a person convicted of the offense of
13 Calculated Criminal Disposal of Hazardous Waste is subject
14 to a fine not to exceed \$500,000 for each day of such
15 offense.

16 (c) Criminal Disposal of Hazardous Waste.

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

20 (2) Criminal Disposal of Hazardous Waste is a Class 3
21 felony. In addition to any other penalties prescribed by
22 law, a person convicted of the offense of Criminal Disposal
23 of Hazardous Waste is subject to a fine not to exceed
24 \$250,000 for each day of such offense.

1 (d) Unauthorized Use of Hazardous Waste.

2 (1) A person commits the offense of Unauthorized Use of
3 Hazardous Waste when he, being required to have a permit,
4 registration, or license under this Act or any other law
5 regulating the treatment, transportation, or storage of
6 hazardous waste, knowingly:

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

9 (B) treats, transports, or stores any hazardous
10 waste in violation of the terms and conditions of such
11 permit or license;

12 (C) transports any hazardous waste to a facility
13 which does not have a permit or license required under
14 this Act; or

15 (D) transports by vehicle any hazardous waste
16 without having in each vehicle credentials issued to
17 the transporter by the transporter's base state
18 pursuant to procedures established under the Uniform
19 Program.

20 (2) A person who is convicted of a violation of
21 subdivision (1) (A), (1) (B) or (1) (C) of this subsection is
22 guilty of a Class 4 felony. A person who is convicted of a
23 violation of subdivision (1) (D) is guilty of a Class A
24 misdemeanor. In addition to any other penalties prescribed
25 by law, a person convicted of violating subdivision (1) (A),

1 (1) (B) or (1) (C) is subject to a fine not to exceed
2 \$100,000 for each day of such violation, and a person who
3 is convicted of violating subdivision (1) (D) is subject to
4 a fine not to exceed \$1,000.

5 (e) Unlawful Delivery of Hazardous Waste.

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

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

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

20 (f) Reckless Disposal of Hazardous Waste.

21 (1) A person commits Reckless Disposal of Hazardous
22 Waste if he disposes of hazardous waste, and his acts which
23 cause the hazardous waste to be disposed of, whether or not
24 those acts are undertaken pursuant to or under color of any

1 permit or license, are performed with a conscious disregard
2 of a substantial and unjustifiable risk that such disposing
3 of hazardous waste is a gross deviation from the standard
4 of care which a reasonable person would exercise in the
5 situation.

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

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

12 (1) A person commits the offense of Concealment of
13 Criminal Disposal of Hazardous Waste when he conceals,
14 without lawful justification, the disposal of hazardous
15 waste with the knowledge that such hazardous waste has been
16 disposed of in violation of this Act.

17 (2) Concealment of Criminal Disposal of a Hazardous
18 Waste is a Class 4 felony. In addition to any other
19 penalties prescribed by law, a person convicted of the
20 offense of Concealment of Criminal Disposal of Hazardous
21 Waste is subject to a fine not to exceed \$50,000 for each
22 day of such offense.

23 (h) Violations; False Statements.

24 (1) Any person who knowingly makes a false material

1 statement in an application for a permit or license
2 required by this Act to treat, transport, store, or dispose
3 of hazardous waste commits the offense of perjury and shall
4 be subject to the penalties set forth in Section 32-2 of
5 the Criminal Code of 1961.

6 (2) Any person who knowingly makes a false material
7 statement or representation in any label, manifest,
8 record, report, permit or license, or other document filed,
9 maintained or used for the purpose of compliance with this
10 Act in connection with the generation, disposal,
11 treatment, storage, or transportation of hazardous waste
12 commits a Class 4 felony. A second or any subsequent
13 offense after conviction hereunder is a Class 3 felony.

14 (3) Any person who knowingly destroys, alters or
15 conceals any record required to be made by this Act in
16 connection with the disposal, treatment, storage, or
17 transportation of hazardous waste, commits a Class 4
18 felony. A second or any subsequent offense after a
19 conviction hereunder is a Class 3 felony.

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

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

8 (6) A person who knowingly and falsely certifies under
9 Section 22.48 that an industrial process waste or pollution
10 control waste is not special waste commits a Class 4 felony
11 for a first offense and commits a Class 3 felony for a
12 second or subsequent offense.

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

17 (8) Any person who knowingly makes a false, fictitious,
18 or fraudulent material statement, orally or in writing, to
19 the Agency, or to a unit of local government to which the
20 Agency has delegated authority under subsection (r) of
21 Section 4 of this Act, related to or required by this Act,
22 a regulation adopted under this Act, any federal law or
23 regulation for which the Agency has responsibility, or any
24 permit, term, or condition thereof, commits a Class 4
25 felony, and each such statement or writing shall be
26 considered a separate Class 4 felony. A person who, after

1 being convicted under this paragraph (8), violates this
2 paragraph (8) a second or subsequent time, commits a Class
3 3 felony.

4 (i) Verification.

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

13 (2) Each request for money from the Underground Storage
14 Tank Fund shall contain an affirmation that the facts are
15 true and are made under penalty of perjury as defined in
16 Section 32-2 of the Criminal Code of 1961. It is perjury
17 for a person to sign any request that contains a false
18 material statement that he does not believe to be true.

19 (j) Violations of Other Provisions.

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

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

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

23 (C) any term or condition of any Underground
24 Injection Control (UIC) permit;

1 (D) any filing requirement, regulation, or order
2 relating to the State Underground Injection Control
3 (UIC) program;

4 (E) any provision of any regulation, standard, or
5 filing requirement under subsection (b) of Section 13
6 of this Act;

7 (F) any provision of any regulation, standard, or
8 filing requirement under subsection (b) of Section 39
9 of this Act;

10 (G) any National Pollutant Discharge Elimination
11 System (NPDES) permit issued under this Act or any term
12 or condition of such permit;

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

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

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

17 (K) a provision of the Procedures for Asbestos
18 Emission Control in subsection (c) of Section 61.145 of
19 Title 40 of the Code of Federal Regulations; or

20 (L) the standard for waste disposal for
21 manufacturing, fabricating, demolition, renovation,
22 and spraying operations in Section 61.150 of Title 40
23 of the Code of Federal Regulations.

24 (2) A person convicted of a violation of subdivision
25 (1) of this subsection commits a Class 4 felony, and in
26 addition to any other penalty prescribed by law is subject

1 to a fine not to exceed \$25,000 for each day of such
2 violation.

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

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

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

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

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

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

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

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

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

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

24 (B) render inaccurate any monitoring device or
25 record required by the Agency or Board in connection
26 with any such permit or with any discharge which is

1 subject to the provisions of subsection (f) of Section
2 12 of this Act;

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

6 (D) render inaccurate any monitoring device or
7 record required by the Agency or Board in connection
8 with any CAAPP permit or with any emission which is
9 subject to the provisions of Section 39.5 of this Act;
10 or

11 (E) violate subsection 6 of Section 39.5 of this
12 Act or any CAAPP permit, or term or condition thereof,
13 or any fee or filing requirement.

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

19 (k) Criminal operation of a hazardous waste or PCB
20 incinerator.

21 (1) A person commits the offense of criminal operation
22 of a hazardous waste or PCB incinerator when, in the course
23 of operating a hazardous waste or PCB incinerator, he
24 knowingly and without justification operates the
25 incinerator (i) without an Agency permit, or in knowing

1 violation of the terms of an Agency permit, and (ii) as a
2 result of such violation, knowingly places any person in
3 danger of great bodily harm or knowingly creates an
4 immediate or long term material danger to the public health
5 or the environment.

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

11 Any person who commits the offense of criminal
12 operation of a hazardous waste or PCB incinerator for a
13 second or subsequent time commits a Class 3 felony and, in
14 addition to any other penalties prescribed by law, shall be
15 subject to a fine not to exceed \$250,000 for each day of
16 the offense.

17 (3) For the purpose of this subsection (k), the term
18 "hazardous waste or PCB incinerator" means a pollution
19 control facility at which either hazardous waste or PCBs,
20 or both, are incinerated. "PCBs" means any substance or
21 mixture of substances that contains one or more
22 polychlorinated biphenyls in detectable amounts.

23 (1) It shall be the duty of all State and local law
24 enforcement officers to enforce this Act and the regulations
25 adopted hereunder, and all such officers shall have authority
26 to issue citations for such violations.

1 (m) Any action brought under this Section shall be brought
2 by the State's Attorney of the county in which the violation
3 occurred, or by the Attorney General, and shall be conducted in
4 accordance with the applicable provisions of the Code of
5 Criminal Procedure of 1963.

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

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

18 (p) Criminal Disposal of Waste.

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

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

26 (B) knowingly conducts open dumping of waste in

1 violation of subsection (a) of Section 21 of this Act.

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

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

22 (Source: P.A. 94-286, eff. 7-21-05.)

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