



Sen. David Koehler

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LRB098 10484 JDS 42956 a

1 AMENDMENT TO SENATE BILL 1925

2 AMENDMENT NO. _____. Amend Senate Bill 1925 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Environmental Protection Act is amended by
5 changing Section 22.54 as follows:

6 (415 ILCS 5/22.54)

7 Sec. 22.54. Beneficial Use Determinations. The purpose of
8 this Section is to allow the Agency to determine that a
9 material otherwise required to be managed as waste may be
10 managed as non-waste if that material is used beneficially and
11 in a manner that is protective of human health and the
12 environment.

13 (a) To the extent allowed by federal law, the Agency may,
14 upon the request of an applicant, make a written determination
15 that a material is used beneficially (rather than discarded)
16 and, therefore, not a waste if the applicant demonstrates all

1 of the following:

2 (1) The chemical and physical properties of the
3 material are comparable to similar commercially available
4 materials.

5 (2) The market demand for the material is such that all
6 of the following requirements are met:

7 (A) The material will be used within a reasonable
8 time.

9 (B) The material's storage prior to use will be
10 minimized.

11 (C) The material will not be abandoned.

12 (3) The material is legitimately beneficially used.
13 For the purposes of this item (3) of subsection (a) of this
14 Section, a material is "legitimately beneficially used" if
15 the applicant demonstrates all of the following:

16 (A) The material is managed separately from waste,
17 as a valuable material, and in a manner that maintains
18 its beneficial usefulness, including, but not limited
19 to, storing in a manner that minimizes the material's
20 loss and maintains its beneficial usefulness.

21 (B) The material is used as an effective substitute
22 for a similar commercially available material. For the
23 purposes of this paragraph (B) of item (3) of
24 subsection (a) of this Section, a material is "used as
25 an effective substitute for a commercially available
26 material" if the applicant demonstrates one or more of

1 the following:

2 (i) The material is used as a valuable raw
3 material or ingredient to produce a legitimate end
4 product.

5 (ii) The material is used directly as a
6 legitimate end product in place of a similar
7 commercially available product.

8 (iii) The material replaces a catalyst or
9 carrier to produce a legitimate end product.

10 The applicant's demonstration under this paragraph
11 (B) of item (3) of subsection (a) of this Section must
12 include, but is not limited to, a description of the
13 use of the material, a description of the use of the
14 legitimate end product, and a demonstration that the
15 use of the material is comparable to the use of similar
16 commercially available products.

17 (C) The applicant demonstrates all of the
18 following:

19 (i) The material is used under paragraph (B) of
20 item (3) of subsection (a) of this Section within a
21 reasonable time.

22 (ii) The material's storage prior to use is
23 minimized.

24 (iii) The material is not abandoned.

25 (4) The management and use of the material will not
26 cause, threaten, or allow the release of any contaminant

1 into the environment, except as authorized by law.

2 (5) The management and use of the material otherwise
3 protects human health and safety and the environment.

4 (b) Applications for beneficial use determinations must be
5 submitted on forms and in a format prescribed by the Agency.
6 Agency approval, approval with conditions, or disapproval of an
7 application for a beneficial use determination must be in
8 writing. Approvals with conditions and disapprovals of
9 applications for a beneficial use determination must include
10 the Agency's reasons for the conditions or disapproval, and
11 they are subject to review under Section 40 of this Act.

12 (c) Beneficial use determinations shall be effective for a
13 period approved by the Agency, but that period may not exceed 5
14 years. Material that is beneficially used (i) in accordance
15 with a beneficial use determination, (ii) during the effective
16 period of the beneficial use determination, and (iii) by the
17 recipient of a beneficial use determination shall maintain its
18 non-waste status after the effective period of the beneficial
19 use determination unless its use no longer complies with the
20 terms of the beneficial use determination or the material
21 otherwise becomes waste.

22 (d) No recipient of a beneficial use determination shall
23 manage or use the material that is the subject of the
24 determination in violation of the determination or any
25 conditions in the determination, unless the material is managed
26 as waste.

1 (e) A beneficial use determination shall terminate by
2 operation of law if, due to a change in law, it conflicts with
3 the law; however, the recipient of the determination may apply
4 for a new beneficial use determination that is consistent with
5 the law as amended.

6 (f) This Section does not apply to hazardous waste, coal
7 combustion waste, coal combustion by-product, sludge applied
8 to the land, potentially infectious medical waste, or used oil.

9 (g) This Section does not apply to material that is burned
10 for energy recovery, that is used to produce a fuel, or that is
11 otherwise contained in a fuel.

12 (h) This Section does not apply to waste from the steel and
13 foundry industries that is (i) classified as beneficially
14 usable waste under Board rules and (ii) beneficially used in
15 accordance with Board rules governing the management of
16 beneficially usable waste from the steel and foundry
17 industries. This Section does apply to other beneficial uses of
18 waste from the steel and foundry industries, including, but not
19 limited to, waste that is classified as beneficially usable
20 waste but not used in accordance with the Board's rules
21 governing the management of beneficially usable waste from the
22 steel and foundry industries. No person shall use iron slags,
23 steelmaking slags, or foundry sands for land reclamation
24 purposes unless they have obtained a beneficial use
25 determination for such use under this Section.

26 (i) For purposes of this Section, the term "commercially

1 available material" means virgin material that (i) meets
2 industry standards for a specific use and (ii) is normally sold
3 for such use. For purposes of this Section, the term
4 "commercially available product" means a product made of virgin
5 material that (i) meets industry standards for a specific use
6 and (ii) is normally sold for such use.

7 (j) Before issuing a beneficial use determination for the
8 beneficial use of asphalt shingles, the Agency shall conduct an
9 evaluation of the applicant's prior experience in asphalt
10 shingle recycling operations. The Agency may deny such a
11 beneficial use determination if the applicant, or any employee
12 or officer of the applicant, has a history of any one or more
13 of the following:

14 (1) repeated violations of federal, state, or local
15 laws, rules, regulations, standards, or ordinances in the
16 operation of asphalt shingle recycling operation
17 facilities or sites;

18 (2) conviction in a court of this State or another
19 state of any crime that is a felony under the laws of this
20 State;

21 (3) conviction in a federal court of any crime that is
22 a felony under federal law;

23 (4) conviction in a court of this State or another
24 state, or in a federal court, of forgery, official
25 misconduct, bribery, perjury, or knowingly submitting
26 false information under any environmental law, rule,

1 regulation, or permit term or condition; or
2 (5) gross carelessness or incompetence in the
3 handling, storing, processing, transporting, disposing, or
4 recycling of asphalt shingles.

5 (Source: P.A. 96-489, eff. 8-14-09.)".