



Rep. Daniel Didech

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10400HB1370ham002

LRB104 08348 BDA 23568 a

1 AMENDMENT TO HOUSE BILL 1370

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 1370, AS AMENDED,  
3 by replacing everything after the enacting clause with the  
4 following:

5 "Section 5. The Environmental Protection Act is amended by  
6 changing Section 42 and by adding Section 52.6 as follows:

7 (415 ILCS 5/42) (from Ch. 111 1/2, par. 1042)

8 Sec. 42. Civil penalties.

9 (a) Except as provided in this Section, any person that  
10 violates any provision of this Act or any regulation adopted  
11 by the Board, or any permit or term or condition thereof, or  
12 that violates any order of the Board pursuant to this Act,  
13 shall be liable for a civil penalty of not to exceed \$50,000  
14 for the violation and an additional civil penalty of not to  
15 exceed \$10,000 for each day during which the violation  
16 continues; such penalties may, upon order of the Board or a

1 court of competent jurisdiction, be made payable to the  
2 Environmental Protection Trust Fund, to be used in accordance  
3 with the provisions of the Environmental Protection Trust Fund  
4 Act.

5 (b) Notwithstanding the provisions of subsection (a) of  
6 this Section:

7 (1) Any person that violates Section 12(f) of this Act  
8 or any NPDES permit or term or condition thereof, or any  
9 filing requirement, regulation or order relating to the  
10 NPDES permit program, shall be liable to a civil penalty  
11 of not to exceed \$10,000 per day of violation.

12 (2) Any person that violates Section 12(g) of this Act  
13 or any UIC permit or term or condition thereof, or any  
14 filing requirement, regulation or order relating to the  
15 State UIC program for all wells, except Class II wells as  
16 defined by the Board under this Act, shall be liable to a  
17 civil penalty not to exceed \$2,500 per day of violation;  
18 provided, however, that any person who commits such  
19 violations relating to the State UIC program for Class II  
20 wells, as defined by the Board under this Act, shall be  
21 liable to a civil penalty of not to exceed \$10,000 for the  
22 violation and an additional civil penalty of not to exceed  
23 \$1,000 for each day during which the violation continues.

24 (3) Any person that violates Sections 21(f), 21(g),  
25 21(h) or 21(i) of this Act, or any RCRA permit or term or  
26 condition thereof, or any filing requirement, regulation

1 or order relating to the State RCRA program, shall be  
2 liable to a civil penalty of not to exceed \$25,000 per day  
3 of violation.

4 (4) In an administrative citation action under Section  
5 31.1 of this Act, any person found to have violated any  
6 provision of subsection (o) of Section 21 of this Act  
7 shall pay a civil penalty of \$500 for each violation of  
8 each such provision, plus any hearing costs incurred by  
9 the Board and the Agency. Such penalties shall be made  
10 payable to the Environmental Protection Trust Fund, to be  
11 used in accordance with the provisions of the  
12 Environmental Protection Trust Fund Act; except that if a  
13 unit of local government issued the administrative  
14 citation, 50% of the civil penalty shall be payable to the  
15 unit of local government.

16 (4-5) In an administrative citation action under  
17 Section 31.1 of this Act, any person found to have  
18 violated any provision of subsection (p) of Section 21,  
19 Section 22.38, Section 22.51, Section 22.51a, or  
20 subsection (k) of Section 55 of this Act shall pay a civil  
21 penalty of \$1,500 for each violation of each such  
22 provision, plus any hearing costs incurred by the Board  
23 and the Agency, except that the civil penalty amount shall  
24 be \$3,000 for each violation of any provision of  
25 subsection (p) of Section 21, Section 22.38, Section  
26 22.51, Section 22.51a, or subsection (k) of Section 55

1 that is the person's second or subsequent adjudication  
2 violation of that provision. The penalties shall be  
3 deposited into the Environmental Protection Trust Fund, to  
4 be used in accordance with the provisions of the  
5 Environmental Protection Trust Fund Act; except that if a  
6 unit of local government issued the administrative  
7 citation, 50% of the civil penalty shall be payable to the  
8 unit of local government.

9 (5) Any person who violates subsection 6 of Section  
10 39.5 of this Act or any CAAPP permit, or term or condition  
11 thereof, or any fee or filing requirement, or any duty to  
12 allow or carry out inspection, entry or monitoring  
13 activities, or any regulation or order relating to the  
14 CAAPP shall be liable for a civil penalty not to exceed  
15 \$10,000 per day of violation.

16 (6) Any owner or operator of a community water system  
17 that violates subsection (b) of Section 18.1 or subsection  
18 (a) of Section 25d-3 of this Act shall, for each day of  
19 violation, be liable for a civil penalty not to exceed \$5  
20 for each of the premises connected to the affected  
21 community water system.

22 (7) Any person who violates Section 52.5 of this Act  
23 shall be liable for a civil penalty of up to \$1,000 for the  
24 first violation of that Section and a civil penalty of up  
25 to \$2,500 for a second or subsequent violation of that  
26 Section.

1           (8) Any person who violates Section 52.6 of this Act  
2           shall be liable for a civil penalty of up to \$10,000 for  
3           the first violation of that Section and a civil penalty of  
4           up to \$30,000 for a second or subsequent violation of that  
5           Section.

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

20          (c) Any person that violates this Act, any rule or  
21          regulation adopted under this Act, any permit or term or  
22          condition of a permit, or any Board order and causes the death  
23          of fish or aquatic life shall, in addition to the other  
24          penalties provided by this Act, be liable to pay to the State  
25          an additional sum for the reasonable value of the fish or  
26          aquatic life destroyed. Any money so recovered shall be placed

1 in the Wildlife and Fish Fund in the State Treasury.

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

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

14 (f) The State's Attorney of the county in which the  
15 violation occurred, or the Attorney General, shall bring such  
16 actions in the name of the people of the State of Illinois.  
17 Without limiting any other authority which may exist for the  
18 awarding of attorney's fees and costs, the Board or a court of  
19 competent jurisdiction may award costs and reasonable  
20 attorney's fees, including the reasonable costs of expert  
21 witnesses and consultants, to the State's Attorney or the  
22 Attorney General in a case where he has prevailed against a  
23 person who has committed a willful, knowing, or repeated  
24 violation of this Act, any rule or regulation adopted under  
25 this Act, any permit or term or condition of a permit, or any  
26 Board order.

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

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

16 (h) In determining the appropriate civil penalty to be  
17 imposed under subdivisions (a), (b) (1), (b) (2), (b) (3),  
18 (b) (5), (b) (6), ~~or~~ (b) (7), or (b) (8) of this Section, the  
19 Board is authorized to consider any matters of record in  
20 mitigation or aggravation of penalty, including, but not  
21 limited to, the following factors:

22 (1) the duration and gravity of the violation;

23 (2) the presence or absence of due diligence on the  
24 part of the respondent in attempting to comply with  
25 requirements of this Act and regulations thereunder or to  
26 secure relief therefrom as provided by this Act;

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

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

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

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

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

22           (8) whether the respondent has successfully completed  
23 a Compliance Commitment Agreement under subsection (a) of  
24 Section 31 of this Act to remedy the violations that are  
25 the subject of the complaint.

26 In determining the appropriate civil penalty to be imposed

1 under subsection (a) or paragraph (1), (2), (3), (5), (6), ~~or~~  
2 (7), or (8) of subsection (b) of this Section, the Board shall  
3 ensure, in all cases, that the penalty is at least as great as  
4 the economic benefits, if any, accrued by the respondent as a  
5 result of the violation, unless the Board finds that  
6 imposition of such penalty would result in an arbitrary or  
7 unreasonable financial hardship. However, such civil penalty  
8 may be off-set in whole or in part pursuant to a supplemental  
9 environmental project agreed to by the complainant and the  
10 respondent.

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

16 (1) that either the regulated entity is a small entity  
17 or the non-compliance was discovered through an  
18 environmental audit or a compliance management system  
19 documented by the regulated entity as reflecting the  
20 regulated entity's due diligence in preventing, detecting,  
21 and correcting violations;

22 (2) that the non-compliance was disclosed in writing  
23 within 30 days of the date on which the person discovered  
24 it;

25 (3) that the non-compliance was discovered and  
26 disclosed prior to:

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

3 (ii) notice of a citizen suit;

4 (iii) the filing of a complaint by a citizen, the  
5 Illinois Attorney General, or the State's Attorney of  
6 the county in which the violation occurred;

7 (iv) the reporting of the non-compliance by an  
8 employee of the person without that person's  
9 knowledge; or

10 (v) imminent discovery of the non-compliance by  
11 the Agency;

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

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

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

21 (7) that the non-compliance did not result in serious  
22 actual harm or present an imminent and substantial  
23 endangerment to human health or the environment or violate  
24 the specific terms of any judicial or administrative order  
25 or consent agreement;

26 (8) that the person cooperates as reasonably requested

1 by the Agency after the disclosure; and

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

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

11 For the purposes of this subsection (i), "small entity"  
12 has the same meaning as in Section 221 of the federal Small  
13 Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C.  
14 601).

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

20 (k) In addition to any other remedy or penalty that may  
21 apply, whether civil or criminal, any person who violates  
22 subdivision (a) (7.6) of Section 31 of this Act shall be liable  
23 for an additional civil penalty of \$2,000.

24 (Source: P.A. 102-310, eff. 8-6-21.)

25 (415 ILCS 5/52.6 new)

1       Sec. 52.6. Microfiber filters.

2       (a) As used in this Section:

3       "Microfiber filtration system" means a filtration unit  
4 that is active across all washing cycles and is:

5           (1) integrated into the washing machine design as a  
6 built-in filter; or

7           (2) included as an in-line filter and is packaged,  
8 sold, and installed or capable of being installed with the  
9 washing machine.

10       "Washing machine" means a machine designed and used for  
11 washing clothes and linen.

12       (b) Beginning January 1, 2030, no person shall sell or  
13 offer for sale in this State a new washing machine for  
14 residential or State use unless the washing machine either:

15           (1) both:

16                   (A) contains a microfiber filtration system with a  
17 mesh size of not greater than 100 micrometers; and

18                   (B) bears a conspicuous label that is visible to  
19 the consumer, in the form of a sticker or any other  
20 label type, that includes the following statement:

21                   "Notice: This washing machine contains a filter to  
22 capture microfibers. Check the filter regularly and  
23 dispose of captured lint in a waste bin."; or

24           (2) contains a microfiber filtration system that the  
25 manufacturer demonstrates will capture fibers 10  
26 micrometers in diameter or smaller and 300 micrometers in

1 length or smaller.

2 (c) This Section does not impair or impede any other  
3 rights, causes of action, claims, or defenses available under  
4 any other law. The remedies provided in paragraph (8) of  
5 subsection (b) of Section 42 are cumulative with any other  
6 remedies available under any other law."