

SB2727



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB2727

Introduced 1/12/2024, by Sen. Julie A. Morrison

SYNOPSIS AS INTRODUCED:

415 ILCS 5/42

from Ch. 111 1/2, par. 1042

415 ILCS 5/52.6 new

Amends the Environmental Protection Act. Provides that, on and after January 1, 2030, no person shall sell or offer for sale in the State a new washing machine for residential, commercial, or State use unless the washing machine: (1) contains a microfiber filtration system with a mesh size of not greater than 100 micrometers; and (2) bears a conspicuous label that is visible to the consumer, in the form of a sticker or any other label type, that includes a specified statement. Provides that a person or entity who violates this prohibition shall be liable for a civil penalty not to exceed \$10,000 for a first violation and not to exceed \$30,000 for each subsequent violation.

LRB103 36521 LNS 66627 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 42 and by adding Section 52.6 as follows:

6 (415 ILCS 5/42) (from Ch. 111 1/2, par. 1042)

7 Sec. 42. Civil penalties.

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

20 (b) Notwithstanding the provisions of subsection (a) of
21 this Section:

22 (1) Any person that violates Section 12(f) of this Act
23 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
3 of 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
25 shall pay a civil penalty of \$500 for each violation of
26 each such provision, plus any hearing costs incurred by

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

8 (4-5) In an administrative citation action under
9 Section 31.1 of this Act, any person found to have
10 violated any provision of subsection (p) of Section 21,
11 Section 22.38, Section 22.51, Section 22.51a, or
12 subsection (k) of Section 55 of this Act shall pay a civil
13 penalty of \$1,500 for each violation of each such
14 provision, plus any hearing costs incurred by the Board
15 and the Agency, except that the civil penalty amount shall
16 be \$3,000 for each violation of any provision of
17 subsection (p) of Section 21, Section 22.38, Section
18 22.51, Section 22.51a, or subsection (k) of Section 55
19 that is the person's second or subsequent adjudication
20 violation of that provision. The penalties shall be
21 deposited into the Environmental Protection Trust Fund, to
22 be used in accordance with the provisions of the
23 Environmental Protection Trust Fund Act; except that if a
24 unit of local government issued the administrative
25 citation, 50% of the civil penalty shall be payable to the
26 unit of local government.

1 (5) Any person who violates subsection 6 of Section
2 39.5 of this Act or any CAAPP permit, or term or condition
3 thereof, or any fee or filing requirement, or any duty to
4 allow or carry out inspection, entry or monitoring
5 activities, or any regulation or order relating to the
6 CAAPP shall be liable for a civil penalty not to exceed
7 \$10,000 per day of violation.

8 (6) Any owner or operator of a community water system
9 that violates subsection (b) of Section 18.1 or subsection
10 (a) of Section 25d-3 of this Act shall, for each day of
11 violation, be liable for a civil penalty not to exceed \$5
12 for each of the premises connected to the affected
13 community water system.

14 (7) Any person who violates Section 52.5 of this Act
15 shall be liable for a civil penalty of up to \$1,000 for the
16 first violation of that Section and a civil penalty of up
17 to \$2,500 for a second or subsequent violation of that
18 Section.

19 (8) Any person who violates Section 52.6 of this Act
20 shall be liable for a civil penalty of up to \$10,000 for
21 the first violation of that Section and a civil penalty of
22 up to \$30,000 for a second or subsequent violation of that
23 Section.

24 (b.5) In lieu of the penalties set forth in subsections
25 (a) and (b) of this Section, any person who fails to file, in a
26 timely manner, toxic chemical release forms with the Agency

1 pursuant to Section 25b-2 of this Act shall be liable for a
2 civil penalty of \$100 per day for each day the forms are late,
3 not to exceed a maximum total penalty of \$6,000. This daily
4 penalty shall begin accruing on the thirty-first day after the
5 date that the person receives the warning notice issued by the
6 Agency pursuant to Section 25b-6 of this Act; and the penalty
7 shall be paid to the Agency. The daily accrual of penalties
8 shall cease as of January 1 of the following year. All
9 penalties collected by the Agency pursuant to this subsection
10 shall be deposited into the Environmental Protection Permit
11 and Inspection Fund.

12 (c) Any person that violates this Act, any rule or
13 regulation adopted under this Act, any permit or term or
14 condition of a permit, or any Board order and causes the death
15 of fish or aquatic life shall, in addition to the other
16 penalties provided by this Act, be liable to pay to the State
17 an additional sum for the reasonable value of the fish or
18 aquatic life destroyed. Any money so recovered shall be placed
19 in the Wildlife and Fish Fund in the State Treasury.

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

22 (e) The State's Attorney of the county in which the
23 violation occurred, or the Attorney General, may, at the
24 request of the Agency or on his own motion, institute a civil
25 action for an injunction, prohibitory or mandatory, to
26 restrain violations of this Act, any rule or regulation

1 adopted under this Act, any permit or term or condition of a
2 permit, or any Board order, or to require such other actions as
3 may be necessary to address violations of this Act, any rule or
4 regulation adopted under this Act, any permit or term or
5 condition of a permit, or any Board order.

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

19 Any funds collected under this subsection (f) in which the
20 Attorney General has prevailed shall be deposited in the
21 Hazardous Waste Fund created in Section 22.2 of this Act. Any
22 funds collected under this subsection (f) in which a State's
23 Attorney has prevailed shall be retained by the county in
24 which he serves.

25 (g) All final orders imposing civil penalties pursuant to
26 this Section shall prescribe the time for payment of such

1 penalties. If any such penalty is not paid within the time
2 prescribed, interest on such penalty at the rate set forth in
3 subsection (a) of Section 1003 of the Illinois Income Tax Act,
4 shall be paid for the period from the date payment is due until
5 the date payment is received. However, if the time for payment
6 is stayed during the pendency of an appeal, interest shall not
7 accrue during such stay.

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

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

15 (2) the presence or absence of due diligence on the
16 part of the respondent in attempting to comply with
17 requirements of this Act and regulations thereunder or to
18 secure relief therefrom as provided by this Act;

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

23 (4) the amount of monetary penalty which will serve to
24 deter further violations by the respondent and to
25 otherwise aid in enhancing voluntary compliance with this
26 Act by the respondent and other persons similarly subject

1 to the Act;

2 (5) the number, proximity in time, and gravity of
3 previously adjudicated violations of this Act by the
4 respondent;

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

8 (7) whether the respondent has agreed to undertake a
9 "supplemental environmental project", which means an
10 environmentally beneficial project that a respondent
11 agrees to undertake in settlement of an enforcement action
12 brought under this Act, but which the respondent is not
13 otherwise legally required to perform; and

14 (8) whether the respondent has successfully completed
15 a Compliance Commitment Agreement under subsection (a) of
16 Section 31 of this Act to remedy the violations that are
17 the subject of the complaint.

18 In determining the appropriate civil penalty to be imposed
19 under subsection (a) or paragraph (1), (2), (3), (5), (6), ~~or~~
20 (7), or (8) of subsection (b) of this Section, the Board shall
21 ensure, in all cases, that the penalty is at least as great as
22 the economic benefits, if any, accrued by the respondent as a
23 result of the violation, unless the Board finds that
24 imposition of such penalty would result in an arbitrary or
25 unreasonable financial hardship. However, such civil penalty
26 may be off-set in whole or in part pursuant to a supplemental

1 environmental project agreed to by the complainant and the
2 respondent.

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

8 (1) that either the regulated entity is a small entity
9 or the non-compliance was discovered through an
10 environmental audit or a compliance management system
11 documented by the regulated entity as reflecting the
12 regulated entity's due diligence in preventing, detecting,
13 and correcting violations;

14 (2) that the non-compliance was disclosed in writing
15 within 30 days of the date on which the person discovered
16 it;

17 (3) that the non-compliance was discovered and
18 disclosed prior to:

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

21 (ii) notice of a citizen suit;

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

25 (iv) the reporting of the non-compliance by an
26 employee of the person without that person's

1 knowledge; or

2 (v) imminent discovery of the non-compliance by
3 the Agency;

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

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

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

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

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

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

24 If a person can establish all of the elements under this
25 subsection except the element set forth in paragraph (1) of
26 this subsection, the person is entitled to a 75% reduction in

1 the portion of the penalty that is not based upon the economic
2 benefit of non-compliance.

3 For the purposes of this subsection (i), "small entity"
4 has the same meaning as in Section 221 of the federal Small
5 Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C.
6 601).

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

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

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

17 (415 ILCS 5/52.6 new)

18 Sec. 52.6. Microfiber filters.

19 (a) As used in this Section:

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

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

24 (2) included as an in-line filter and is packaged,
25 sold, and installed with the washing machine.

1 "Washing machine" means a machine designed and used for
2 washing clothes and linen.

3 (b) On and after January 1, 2030, no person shall sell or
4 offer for sale in this State a new washing machine for
5 residential, commercial, or State use unless the washing
6 machine:

7 (1) contains a microfiber filtration system with a
8 mesh size of not greater than 100 micrometers; and

9 (2) bears a conspicuous label that is visible to the
10 consumer, in the form of a sticker or any other label type,
11 that includes the following statement: "Notice: This
12 washing machine contains a filter to capture microfibers.
13 Check the filter regularly and dispose of captured lint in
14 a waste bin."

15 (c) This Section does not impair or impede any other
16 rights, causes of action, claims, or defenses available under
17 any other law. The remedies provided in paragraph (8) of
18 subsection (b) of Section 42 are cumulative with any other
19 remedies available under any other law.