



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB2001

by Rep. Ann Williams

SYNOPSIS AS INTRODUCED:

415 ILCS 5/44

from Ch. 111 1/2, par. 1044

Amends the Environmental Protection Act. Provides that it is a Class 4 felony to openly dump more than 250 cubic feet of waste or 50 waste tires (presently, the penalty for a first violation of the open dumping prohibition is a Class A misdemeanor, regardless of the quantity of waste dumped). Increases the felony penalty for open dumping from \$5,000 to \$25,000. Also makes technical changes. Effective immediately.

LRB097 09891 JDS 50051 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

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 44 as follows:

6 (415 ILCS 5/44) (from Ch. 111 1/2, par. 1044)

7 Sec. 44. Criminal acts; penalties.

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

21 (b) Calculated Criminal Disposal of Hazardous Waste.

22 (1) A person commits the offense of Calculated Criminal

1 Disposal of Hazardous Waste when, without lawful
2 justification, he knowingly disposes of hazardous waste
3 while knowing that he thereby places another person in
4 danger of great bodily harm or creates an immediate or
5 long-term danger to the public health or the environment.

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

12 (c) Criminal Disposal of Hazardous Waste.

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

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

21 (d) Unauthorized Use of Hazardous Waste.

22 (1) A person commits the offense of Unauthorized Use of
23 Hazardous Waste when he, being required to have a permit,
24 registration, or license under this Act or any other law

1 regulating the treatment, transportation, or storage of
2 hazardous waste, knowingly:

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

5 (B) treats, transports, or stores any hazardous
6 waste in violation of the terms and conditions of such
7 permit or license;

8 (C) transports any hazardous waste to a facility
9 which does not have a permit or license required under
10 this Act; or

11 (D) transports by vehicle any hazardous waste
12 without having in each vehicle credentials issued to
13 the transporter by the transporter's base state
14 pursuant to procedures established under the Uniform
15 Program.

16 (2) A person who is convicted of a violation of
17 subparagraph (A), (B), or (C) of paragraph (1) subdivision
18 ~~(1)(A), (1)(B) or (1)(C)~~ of this subsection is guilty of a
19 Class 4 felony. A person who is convicted of a violation of
20 subparagraph (D) of paragraph (1) of this subsection
21 ~~subdivision (1)(D)~~ is guilty of a Class A misdemeanor. In
22 addition to any other penalties prescribed by law, a person
23 convicted of violating subparagraph (A), (B), or (C) of
24 paragraph (1) of this subsection ~~subdivision (1)(A),~~
25 ~~(1)(B) or (1)(C)~~ is subject to a fine not to exceed
26 \$100,000 for each day of such violation, and a person who

1 is convicted of violating subparagraph (D) of paragraph (1)
2 of this subsection ~~subdivision (1) (D)~~ is subject to a fine
3 not to exceed \$1,000.

4 (e) Unlawful Delivery of Hazardous Waste.

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

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

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

19 (f) Reckless Disposal of Hazardous Waste.

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

1 of a substantial and unjustifiable risk that such disposing
2 of hazardous waste is a gross deviation from the standard
3 of care which a reasonable person would exercise in the
4 situation.

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

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

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

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

22 (h) Violations; False Statements.

23 (1) Any person who knowingly makes a false material
24 statement in an application for a permit or license

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

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

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

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

26 (5) Any person who knowingly destroys, alters, or

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

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

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

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

1 paragraph (8) a second or subsequent time, commits a Class
2 3 felony.

3 (i) Verification.

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

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

18 (j) Violations of Other Provisions.

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

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

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

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

24 (D) any filing requirement, regulation, or order

1 relating to the State Underground Injection Control
2 (UIC) program;

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

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

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

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

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

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

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

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

23 (2) A person convicted of a violation of subdivision
24 (1) of this subsection commits a Class 4 felony, and in
25 addition to any other penalty prescribed by law is subject
26 to a fine not to exceed \$25,000 for each day of such

1 violation.

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

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

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

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

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

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

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

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

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

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

23 (B) render inaccurate any monitoring device or
24 record required by the Agency or Board in connection
25 with any such permit or with any discharge which is
26 subject to the provisions of subsection (f) of Section

1 12 of this Act;

2 (C) make any false statement, representation, or
3 certification in any form, notice, or report
4 pertaining to a CAAPP permit under Section 39.5 of this
5 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 paragraph
15 ~~subdivision~~ (4) of this subsection commits a Class A
16 misdemeanor, and in addition to any other penalties
17 provided by law is subject to a fine not to exceed \$10,000
18 for each day of 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

1 to issue citations for such violations.

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

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

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

19 (p) Criminal Disposal of Waste.

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

22 (A) if required to have a permit under subsection

1 (d) of Section 21 of this Act, knowingly conducts a
2 waste-storage, waste-treatment, or waste-disposal
3 operation in a quantity that exceeds 250 cubic feet of
4 waste without a permit; or

5 (B) knowingly conducts open dumping of waste in
6 violation of subsection (a) of Section 21 of this Act.

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

18 (B) A person who is convicted of a violation of
19 subparagraph item (B) of paragraph subdivision (1) of
20 this subsection is guilty of a Class A misdemeanor.
21 However, a person who is convicted of a ~~second or~~
22 ~~subsequent~~ violation of subparagraph item (B) of
23 paragraph subdivision (1) of this subsection for the
24 open dumping of waste in a quantity that exceeds 250
25 cubic feet or that exceeds 50 waste tires is guilty of
26 a Class 4 felony and, in addition to any other

1 penalties provided by law, is subject to a fine not to
2 exceed \$25,000 ~~\$5,000~~ for each day of violation.

3 (Source: P.A. 96-603, eff. 8-24-09.)

4 Section 99. Effective date. This Act takes effect upon
5 becoming law.