

# HB5815



## 100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB5815

by Rep. Mike Fortner

### SYNOPSIS AS INTRODUCED:

415 ILCS 5/3.160

was 415 ILCS 5/3.78 and 3.78a

Amends the Environmental Protection Act. In provisions concerning construction or demolition debris, provides that the maximum concentrations for inorganics and ionizing organics in uncontaminated soil shall be consistent with the soil remediation objectives in specified administrative rules. Effective immediately.

LRB100 19107 MJP 34366 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 3.160 as follows:

6 (415 ILCS 5/3.160) (was 415 ILCS 5/3.78 and 3.78a)

7 Sec. 3.160. Construction or demolition debris.

8 (a) "General construction or demolition debris" means  
9 non-hazardous, uncontaminated materials resulting from the  
10 construction, remodeling, repair, and demolition of utilities,  
11 structures, and roads, limited to the following: bricks,  
12 concrete, and other masonry materials; soil; rock; wood,  
13 including non-hazardous painted, treated, and coated wood and  
14 wood products; wall coverings; plaster; drywall; plumbing  
15 fixtures; non-asbestos insulation; roofing shingles and other  
16 roof coverings; reclaimed or other asphalt pavement; glass;  
17 plastics that are not sealed in a manner that conceals waste;  
18 electrical wiring and components containing no hazardous  
19 substances; and corrugated cardboard, piping or metals  
20 incidental to any of those materials.

21 General construction or demolition debris does not include  
22 uncontaminated soil generated during construction, remodeling,  
23 repair, and demolition of utilities, structures, and roads

1 provided the uncontaminated soil is not commingled with any  
2 general construction or demolition debris or other waste.

3 To the extent allowed by federal law, uncontaminated  
4 concrete with protruding rebar shall be considered clean  
5 construction or demolition debris and shall not be considered  
6 "waste" if it is separated or processed and returned to the  
7 economic mainstream in the form of raw materials or products  
8 within 4 years of its generation, if it is not speculatively  
9 accumulated and, if used as a fill material, it is used in  
10 accordance with item (i) in subsection (b) of this Section.

11 (b) "Clean construction or demolition debris" means  
12 uncontaminated broken concrete without protruding metal bars,  
13 bricks, rock, stone, reclaimed or other asphalt pavement, or  
14 soil generated from construction or demolition activities.

15 Clean construction or demolition debris does not include  
16 uncontaminated soil generated during construction, remodeling,  
17 repair, and demolition of utilities, structures, and roads  
18 provided the uncontaminated soil is not commingled with any  
19 clean construction or demolition debris or other waste.

20 To the extent allowed by federal law, clean construction or  
21 demolition debris shall not be considered "waste" if it is (i)  
22 used as fill material outside of a setback zone if the fill is  
23 placed no higher than the highest point of elevation existing  
24 prior to the filling immediately adjacent to the fill area, and  
25 if covered by sufficient uncontaminated soil to support  
26 vegetation within 30 days of the completion of filling or if

1 covered by a road or structure, and, if used as fill material  
2 in a current or former quarry, mine, or other excavation, is  
3 used in accordance with the requirements of Section 22.51 of  
4 this Act and the rules adopted thereunder or (ii) separated or  
5 processed and returned to the economic mainstream in the form  
6 of raw materials or products, if it is not speculatively  
7 accumulated and, if used as a fill material, it is used in  
8 accordance with item (i), or (iii) solely broken concrete  
9 without protruding metal bars used for erosion control, or (iv)  
10 generated from the construction or demolition of a building,  
11 road, or other structure and used to construct, on the site  
12 where the construction or demolition has taken place, a manmade  
13 functional structure not to exceed 20 feet above the highest  
14 point of elevation of the property immediately adjacent to the  
15 new manmade functional structure as that elevation existed  
16 prior to the creation of that new structure, provided that the  
17 structure shall be covered with sufficient soil materials to  
18 sustain vegetation or by a road or structure, and further  
19 provided that no such structure shall be constructed within a  
20 home rule municipality with a population over 500,000 without  
21 the consent of the municipality.

22 For purposes of this subsection (b), reclaimed or other  
23 asphalt pavement shall not be considered speculatively  
24 accumulated if: (i) it is not commingled with any other clean  
25 construction or demolition debris or any waste; (ii) it is  
26 returned to the economic mainstream in the form of raw

1 materials or products within 4 years after its generation;  
2 (iii) at least 25% of the total amount present at a site during  
3 a calendar year is transported off of the site during the next  
4 calendar year; and (iv) if used as a fill material, it is used  
5 in accordance with item (i) of the second paragraph of this  
6 subsection (b).

7 (c) For purposes of this Section, the term "uncontaminated  
8 soil" means soil that does not contain contaminants in  
9 concentrations that pose a threat to human health and safety  
10 and the environment.

11 (1) No later than one year after the effective date of  
12 this amendatory Act of the 96th General Assembly, the  
13 Agency shall propose, and, no later than one year after  
14 receipt of the Agency's proposal, the Board shall adopt,  
15 rules specifying the maximum concentrations of  
16 contaminants that may be present in uncontaminated soil for  
17 purposes of this Section. The maximum concentrations for  
18 inorganics and ionizing organics in uncontaminated soil  
19 shall be consistent with the soil remediation objectives in  
20 Table C of Appendix B of 35 Ill. Adm. Code 742. For  
21 carcinogens, the maximum concentrations shall not allow  
22 exposure to exceed an excess upper-bound lifetime risk of 1  
23 in 1,000,000; provided that if the most stringent  
24 remediation objective or applicable background  
25 concentration for a contaminant set forth in 35 Ill. Adm.  
26 Code 742 is greater than the concentration that would allow

1 exposure at an excess upper-bound lifetime risk of 1 in  
2 1,000,000, the Board may consider allowing that  
3 contaminant in concentrations up to its most stringent  
4 remediation objective or applicable background  
5 concentration set forth in 35 Ill. Adm. Code 742 in soil  
6 used as fill material in a current or former quarry, mine,  
7 or other excavation in accordance with Section 22.51 or  
8 22.51a of this Act and rules adopted under those Sections.  
9 Any background concentration set forth in 35 Ill. Adm. Code  
10 742 that is adopted as a maximum concentration must be  
11 based upon the location of the quarry, mine, or other  
12 excavation where the soil is used as fill material.

13 (2) To the extent allowed under federal law and  
14 regulations, uncontaminated soil shall not be considered a  
15 waste.

16 (Source: P.A. 96-235, eff. 8-11-09; 96-1416, eff. 7-30-10;  
17 97-137, eff. 7-14-11.)

18 Section 99. Effective date. This Act takes effect upon  
19 becoming law.