



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB5373

Introduced 2/15/2012, by Rep. Karen May

SYNOPSIS AS INTRODUCED:

415 ILCS 5/22.57 new

415 ILCS 5/42

415 ILCS 5/44

from Ch. 111 1/2, par. 1042

from Ch. 111 1/2, par. 1044

Amends the Environmental Protection Act. Prohibits the manufacture, distribution, and use of paper containing bisphenol A for the making of business or banking records. Requires paper manufacturers to, among other things, replace bisphenol A with an alternative chemical. Requires the Environmental Protection Agency to gather and certify certain information about alternative chemicals. Requires the Agency to convene an Advisory Committee on Least Toxic Alternatives to Bisphenol A. Sets forth requirements that apply to members of the Committee. Delays the applicability of the prohibitions on the manufacture, distribution, and use of bisphenol-A-containing paper for the making of business or banking records if the United States Environmental Protection Agency has not identified a safe, commercially available alternative to bisphenol A prior to the effective date of the amendatory Act. Effective immediately.

LRB097 17836 JDS 63054 b

FISCAL NOTE ACT
MAY APPLY

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 adding Sections 22.57, 42, and 44 as follows:

6 (415 ILCS 5/22.57 new)

7 Sec. 22.57. Regulation of bisphenol A in business
8 transaction paper.

9 (a) No person, firm, partnership, association, limited
10 liability company, or corporation, including, but not limited
11 to, a banking organization, shall distribute or use any paper
12 containing bisphenol A for the making of business or banking
13 records, including, but not limited to, records of receipts,
14 credits, withdrawals, deposits, or credit or debit card
15 transactions.

16 (b) No paper manufacturer shall produce or distribute a
17 paper if its use or distribution is prohibited under subsection
18 (a) of this Section.

19 (c) The manufacturer of a paper whose distribution or use
20 is prohibited under subsection (a) of this Section shall:

21 (1) not replace bisphenol A with another chemical
22 compound that has been scientifically established to be a
23 known human carcinogen (as classified by the United States

1 Environmental Protection Agency), a developmental toxin,
2 an endocrine disruptor, or a reproductive toxin;

3 (2) use the least toxic alternative chemical compound
4 to replace bisphenol A;

5 (3) provide the Agency with information on the chemical
6 compound used to replace bisphenol A; and

7 (4) not manufacture the paper until the Agency has
8 certified alternative chemical compounds to bisphenol A
9 based upon the recommendations of the Advisory Committee on
10 Least Toxic Alternatives to Bisphenol A.

11 (d) The Agency shall certify that any chemical compound
12 used to replace bisphenol A in the manufacture of paper
13 pursuant to subsection (c) of this Section is:

14 (1) the least toxic alternative available; and

15 (2) not a known human carcinogen, as classified by the
16 United States Environmental Protection Agency, a
17 developmental toxin, an endocrine disruptor, or a
18 reproductive toxin.

19 (e) Not less than once every calendar year, the Agency
20 shall update the requirements for certification of least toxic
21 alternatives to bisphenol A and provide that information to
22 paper manufacturers subject to the provisions of subsection (c)
23 of this Section. Furthermore, the Agency shall annually update
24 its information on those chemical compounds that are known
25 human carcinogens, developmental toxins, endocrine disrupters,
26 or reproductive toxins, and it shall provide such information

1 to paper manufacturers subject to the provisions of subsection
2 (c) of this Section. The Agency shall make all information
3 compiled pursuant to subsections (d) and (e) available to the
4 public on the Agency's website.

5 (f) The Agency shall investigate and determine acceptable
6 methods of disposal and recycling of business transaction paper
7 containing bisphenol A so as to eliminate or minimize exposure
8 to bisphenol A. The Agency shall provide public notice of best
9 practices for handling and disposing of that paper.

10 (g) Within 60 days after the effective date of this
11 Section, the Agency shall convene an Advisory Committee on
12 Least Toxic Alternatives to Bisphenol A composed of an advisory
13 panel of experts for the purpose of advising the Agency on
14 least toxic alternatives to bisphenol A. The names of the
15 members of this committee shall be available on the Agency's
16 website.

17 (h) The members of the Advisory Committee shall be
18 appointed by the Director and shall be competent, independent
19 scientists who have no current or past employment or financial
20 conflicts of interest with manufacturers of bisphenol A or
21 products containing bisphenol A.

22 (i) Advisory Committee members shall have substantial
23 experience in evaluating toxicological and epidemiological
24 data on toxic chemicals, including their potential
25 carcinogenic, endocrine disruptive, reproductive,
26 developmental, or neurological effects. Chemicals considered

1 to be toxic shall be those likely to cause or contribute to
2 acute illness or chronic impacts negatively altering human
3 biological functions or ability to respond to environmental
4 threats.

5 (j) The Advisory Committee shall be convened within 60 days
6 after the effective date of this Section and at such times as
7 the Agency seeks further recommendations or clarifications of
8 current data.

9 (k) If the United States Environmental Protection Agency
10 has not identified a safe, commercially available alternative
11 to the use of bisphenol A in business transaction paper on or
12 before the effective date of this Section, then the
13 prohibitions in subsections (a) and (b) of this Section shall
14 not become applicable until 2 years after the effective date of
15 this Section.

16 (415 ILCS 5/42) (from Ch. 111 1/2, par. 1042)

17 Sec. 42. Civil penalties.

18 (a) Except as provided in this Section, any person that
19 violates any provision of this Act or any regulation adopted by
20 the Board, or any permit or term or condition thereof, or that
21 violates any order of the Board pursuant to this Act, shall be
22 liable for a civil penalty of not to exceed \$50,000 for the
23 violation and an additional civil penalty of not to exceed
24 \$10,000 for each day during which the violation continues; such
25 penalties may, upon order of the Board or a court of competent

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

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

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

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

23 (3) Any person that violates Sections 21(f), 21(g),
24 21(h) or 21(i) of this Act, or any RCRA permit or term or
25 condition thereof, or any filing requirement, regulation
26 or order relating to the State RCRA program, shall be

1 liable to a civil penalty of not to exceed \$25,000 per day
2 of violation.

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

15 (4-5) In an administrative citation action under
16 Section 31.1 of this Act, any person found to have violated
17 any provision of subsection (p) of Section 21, Section
18 22.51, Section 22.51a, or subsection (k) of Section 55 of
19 this Act shall pay a civil penalty of \$1,500 for each
20 violation of each such provision, plus any hearing costs
21 incurred by the Board and the Agency, except that the civil
22 penalty amount shall be \$3,000 for each violation of any
23 provision of subsection (p) of Section 21, Section 22.51,
24 Section 22.51a, or subsection (k) of Section 55 that is the
25 person's second or subsequent adjudication violation of
26 that provision. The penalties shall be deposited into the

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

7 (5) Any person who violates subsection 6 of Section
8 39.5 of this Act or any CAAPP permit, or term or condition
9 thereof, or any fee or filing requirement, or any duty to
10 allow or carry out inspection, entry or monitoring
11 activities, or any regulation or order relating to the
12 CAAPP shall be liable for a civil penalty not to exceed
13 \$10,000 per day of violation.

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

20 (7) Any person, firm, partnership, association,
21 limited liability company, or corporation that violates
22 subsection (a) of Section 22.57 shall, for each day of
23 violation, be liable for a civil penalty of not less than
24 \$50 and not more than \$200.

25 (8) Any paper manufacturer who violates subsection (b)
26 or (c) of Section 22.57 shall, for each day of violation,

1 be liable for a civil penalty of not less than \$50 and not
2 more than \$200.

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

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

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

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

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

24 Any funds collected under this subsection (f) in which the
25 Attorney General has prevailed shall be deposited in the
26 Hazardous Waste Fund created in Section 22.2 of this Act. Any

1 funds collected under this subsection (f) in which a State's
2 Attorney has prevailed shall be retained by the county in which
3 he serves.

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

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

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

19 (2) the presence or absence of due diligence on the
20 part of the respondent in attempting to comply with
21 requirements of this Act and regulations thereunder or to
22 secure relief therefrom as provided by this Act;

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

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

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

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

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

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

21 In determining the appropriate civil penalty to be imposed
22 under subsection (a) or paragraph (1), (2), (3), or (5) of
23 subsection (b) of this Section, the Board shall ensure, in all
24 cases, that the penalty is at least as great as the economic
25 benefits, if any, accrued by the respondent as a result of the
26 violation, unless the Board finds that imposition of such

1 penalty would result in an arbitrary or unreasonable financial
2 hardship. However, such civil penalty may be off-set in whole
3 or in part pursuant to a supplemental environmental project
4 agreed to by the complainant and the respondent.

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

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

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

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

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

22 (ii) notice of a citizen suit;

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

26 (iv) the reporting of the non-compliance by an

1 employee of the person without that person's
2 knowledge; or

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

5 (4) that the non-compliance is being corrected and any
6 environmental harm is being remediated in a timely 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 (j) In addition to any other remedy or penalty that may
4 apply, whether civil or criminal, any person who violates
5 Section 22.52 of this Act shall be liable for an additional
6 civil penalty of up to 3 times the gross amount of any
7 pecuniary gain resulting from the violation.

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

12 (Source: P.A. 96-603, eff. 8-24-09; 96-737, eff. 8-25-09;
13 96-1000, eff. 7-2-10; 96-1416, eff. 7-30-10; 97-519, eff.
14 8-23-11.)

15 (415 ILCS 5/44) (from Ch. 111 1/2, par. 1044)

16 Sec. 44. Criminal acts; penalties.

17 (a) Except as otherwise provided in this Section, it shall
18 be a Class A misdemeanor to violate this Act or regulations
19 thereunder, or any permit or term or condition thereof, or
20 knowingly to submit any false information under this Act or
21 regulations adopted thereunder, or under any permit or term or
22 condition thereof. A court may, in addition to any other
23 penalty herein imposed, order a person convicted of any
24 violation of this Act to perform community service for not less
25 than 100 hours and not more than 300 hours if community service

1 is available in the jurisdiction. It shall be the duty of all
2 State and local law-enforcement officers to enforce such Act
3 and regulations, and all such officers shall have authority to
4 issue citations for such violations.

5 (b) Calculated Criminal Disposal of Hazardous Waste.

6 (1) A person commits the offense of Calculated Criminal
7 Disposal of Hazardous Waste when, without lawful
8 justification, he knowingly disposes of hazardous waste
9 while knowing that he thereby places another person in
10 danger of great bodily harm or creates an immediate or
11 long-term danger to the public health or the environment.

12 (2) Calculated Criminal Disposal of Hazardous Waste is
13 a Class 2 felony. In addition to any other penalties
14 prescribed by law, a person convicted of the offense of
15 Calculated Criminal Disposal of Hazardous Waste is subject
16 to a fine not to exceed \$500,000 for each day of such
17 offense.

18 (c) Criminal Disposal of Hazardous Waste.

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

22 (2) Criminal Disposal of Hazardous Waste is a Class 3
23 felony. In addition to any other penalties prescribed by
24 law, a person convicted of the offense of Criminal Disposal

1 of Hazardous Waste is subject to a fine not to exceed
2 \$250,000 for each day of such offense.

3 (d) Unauthorized Use of Hazardous Waste.

4 (1) A person commits the offense of Unauthorized Use of
5 Hazardous Waste when he, being required to have a permit,
6 registration, or license under this Act or any other law
7 regulating the treatment, transportation, or storage of
8 hazardous waste, knowingly:

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

11 (B) treats, transports, or stores any hazardous
12 waste in violation of the terms and conditions of such
13 permit or license;

14 (C) transports any hazardous waste to a facility
15 which does not have a permit or license required under
16 this Act; or

17 (D) transports by vehicle any hazardous waste
18 without having in each vehicle credentials issued to
19 the transporter by the transporter's base state
20 pursuant to procedures established under the Uniform
21 Program.

22 (2) A person who is convicted of a violation of
23 subparagraph (A), (B), or (C) of paragraph (1) of this
24 subsection is guilty of a Class 4 felony. A person who is
25 convicted of a violation of subparagraph (D) of paragraph

1 (1) of this subsection is guilty of a Class A misdemeanor.
2 In addition to any other penalties prescribed by law, a
3 person convicted of violating subparagraph (A), (B), or (C)
4 of paragraph (1) of this subsection is subject to a fine
5 not to exceed \$100,000 for each day of such violation, and
6 a person who is convicted of violating subparagraph (D) of
7 paragraph (1) of this subsection is subject to a fine not
8 to exceed \$1,000.

9 (e) Unlawful Delivery of Hazardous Waste.

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

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

19 (3) For purposes of this Section, "deliver" or
20 "delivery" means the actual, constructive, or attempted
21 transfer of possession of hazardous waste, with or without
22 consideration, whether or not there is an agency
23 relationship.

24 (f) Reckless Disposal of Hazardous Waste.

1 (1) A person commits Reckless Disposal of Hazardous
2 Waste if he disposes of hazardous waste, and his acts which
3 cause the hazardous waste to be disposed of, whether or not
4 those acts are undertaken pursuant to or under color of any
5 permit or license, are performed with a conscious disregard
6 of a substantial and unjustifiable risk that such disposing
7 of hazardous waste is a gross deviation from the standard
8 of care which a reasonable person would exercise in the
9 situation.

10 (2) Reckless Disposal of Hazardous Waste is a Class 4
11 felony. In addition to any other penalties prescribed by
12 law, a person convicted of the offense of Reckless Disposal
13 of Hazardous Waste is subject to a fine not to exceed
14 \$50,000 for each day of such offense.

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

16 (1) A person commits the offense of Concealment of
17 Criminal Disposal of Hazardous Waste when he conceals,
18 without lawful justification, the disposal of hazardous
19 waste with the knowledge that such hazardous waste has been
20 disposed of in violation of this Act.

21 (2) Concealment of Criminal Disposal of a Hazardous
22 Waste is a Class 4 felony. In addition to any other
23 penalties prescribed by law, a person convicted of the
24 offense of Concealment of Criminal Disposal of Hazardous
25 Waste is subject to a fine not to exceed \$50,000 for each

1 day of such offense.

2 (h) Violations; False Statements.

3 (1) Any person who knowingly makes a false material
4 statement in an application for a permit or license
5 required by this Act to treat, transport, store, or dispose
6 of hazardous waste commits the offense of perjury and shall
7 be subject to the penalties set forth in Section 32-2 of
8 the Criminal Code of 1961.

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

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

23 (4) Any person who knowingly makes a false material
24 statement or representation in any application, bill,
25 invoice, or other document filed, maintained, or used for

1 the purpose of receiving money from the Underground Storage
2 Tank Fund commits a Class 4 felony. A second or any
3 subsequent offense after conviction hereunder is a Class 3
4 felony.

5 (5) Any person who knowingly destroys, alters, or
6 conceals any record required to be made or maintained by
7 this Act or required to be made or maintained by Board or
8 Agency rules for the purpose of receiving money from the
9 Underground Storage Tank Fund commits a Class 4 felony. A
10 second or any subsequent offense after a conviction
11 hereunder is a Class 3 felony.

12 (6) A person who knowingly and falsely certifies under
13 Section 22.48 that an industrial process waste or pollution
14 control waste is not special waste commits a Class 4 felony
15 for a first offense and commits a Class 3 felony for a
16 second or subsequent offense.

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

21 (8) Any person who knowingly makes a false, fictitious,
22 or fraudulent material statement, orally or in writing, to
23 the Agency, or to a unit of local government to which the
24 Agency has delegated authority under subsection (r) of
25 Section 4 of this Act, related to or required by this Act,
26 a regulation adopted under this Act, any federal law or

1 regulation for which the Agency has responsibility, or any
2 permit, term, or condition thereof, commits a Class 4
3 felony, and each such statement or writing shall be
4 considered a separate Class 4 felony. A person who, after
5 being convicted under this paragraph (8), violates this
6 paragraph (8) a second or subsequent time, commits a Class
7 3 felony.

8 (i) Verification.

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

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

23 (j) Violations of Other Provisions.

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

- 1 (A) subsection (f) of Section 12 of this Act;
- 2 (B) subsection (g) of Section 12 of this Act;
- 3 (C) any term or condition of any Underground
4 Injection Control (UIC) permit;
- 5 (D) any filing requirement, regulation, or order
6 relating to the State Underground Injection Control
7 (UIC) program;
- 8 (E) any provision of any regulation, standard, or
9 filing requirement under subsection (b) of Section 13
10 of this Act;
- 11 (F) any provision of any regulation, standard, or
12 filing requirement under subsection (b) of Section 39
13 of this Act;
- 14 (G) any National Pollutant Discharge Elimination
15 System (NPDES) permit issued under this Act or any term
16 or condition of such permit;
- 17 (H) subsection (h) of Section 12 of this Act;
- 18 (I) subsection 6 of Section 39.5 of this Act;
- 19 (J) any provision of any regulation, standard or
20 filing requirement under Section 39.5 of this Act;
- 21 (K) a provision of the Procedures for Asbestos
22 Emission Control in subsection (c) of Section 61.145 of
23 Title 40 of the Code of Federal Regulations; or
- 24 (L) the standard for waste disposal for
25 manufacturing, fabricating, demolition, renovation,
26 and spraying operations in Section 61.150 of Title 40

1 of the Code of Federal Regulations.

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

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

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

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

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

15 (D) any provision of any regulation, standard, or
16 filing requirement under subsection (b) of Section 39
17 of this Act;

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

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

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

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

24 (A) make any false statement, representation, or
25 certification in an application form, or form
26 pertaining to, a National Pollutant Discharge

1 Elimination System (NPDES) permit;

2 (B) render inaccurate any monitoring device or
3 record required by the Agency or Board in connection
4 with any such permit or with any discharge which is
5 subject to the provisions of subsection (f) of Section
6 12 of this Act;

7 (C) make any false statement, representation, or
8 certification in any form, notice, or report
9 pertaining to a CAAPP permit under Section 39.5 of this
10 Act;

11 (D) render inaccurate any monitoring device or
12 record required by the Agency or Board in connection
13 with any CAAPP permit or with any emission which is
14 subject to the provisions of Section 39.5 of this Act;
15 or

16 (E) violate subsection 6 of Section 39.5 of this
17 Act or any CAAPP permit, or term or condition thereof,
18 or any fee or filing requirement.

19 (5) A person convicted of a violation of paragraph (4)
20 of this subsection commits a Class A misdemeanor, and in
21 addition to any other penalties provided by law is subject
22 to a fine not to exceed \$10,000 for each day of violation.

23 (k) Criminal operation of a hazardous waste or PCB
24 incinerator.

25 (1) A person commits the offense of criminal operation

1 of a hazardous waste or PCB incinerator when, in the course
2 of operating a hazardous waste or PCB incinerator, he
3 knowingly and without justification operates the
4 incinerator (i) without an Agency permit, or in knowing
5 violation of the terms of an Agency permit, and (ii) as a
6 result of such violation, knowingly places any person in
7 danger of great bodily harm or knowingly creates an
8 immediate or long term material danger to the public health
9 or the environment.

10 (2) Any person who commits the offense of criminal
11 operation of a hazardous waste or PCB incinerator for the
12 first time commits a Class 4 felony and, in addition to any
13 other penalties prescribed by law, shall be subject to a
14 fine not to exceed \$100,000 for each day of the offense.

15 Any person who commits the offense of criminal
16 operation of a hazardous waste or PCB incinerator for a
17 second or subsequent time commits a Class 3 felony and, in
18 addition to any other penalties prescribed by law, shall be
19 subject to a fine not to exceed \$250,000 for each day of
20 the offense.

21 (3) For the purpose of this subsection (k), the term
22 "hazardous waste or PCB incinerator" means a pollution
23 control facility at which either hazardous waste or PCBs,
24 or both, are incinerated. "PCBs" means any substance or
25 mixture of substances that contains one or more
26 polychlorinated biphenyls in detectable amounts.

1 (1) It shall be the duty of all State and local law
2 enforcement officers to enforce this Act and the regulations
3 adopted hereunder, and all such officers shall have authority
4 to issue citations for such violations.

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

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

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

1 (p) Criminal Disposal of Waste.

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

4 (A) if required to have a permit under subsection
5 (d) of Section 21 of this Act, knowingly conducts a
6 waste-storage, waste-treatment, or waste-disposal
7 operation in a quantity that exceeds 250 cubic feet of
8 waste without a permit; or

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

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

21 (B) A person who is convicted of a violation of
22 subparagraph (B) of paragraph (1) of this subsection is
23 guilty of a Class A misdemeanor. However, a person who
24 is convicted of a violation of subparagraph (B) of
25 paragraph (1) of this subsection for the open dumping
26 of waste in a quantity that exceeds 250 cubic feet or

1 that exceeds 50 waste tires is guilty of a Class 4
2 felony and, in addition to any other penalties provided
3 by law, is subject to a fine not to exceed \$25,000 for
4 each day of violation.

5 (q) Criminal Damage to a Public Water Supply.

6 (1) A person commits the offense of Criminal Damage to
7 a Public Water Supply when, without lawful justification,
8 he knowingly alters, damages, or otherwise tampers with the
9 equipment or property of a public water supply, or
10 knowingly introduces a contaminant into the distribution
11 system of a public water supply so as to cause, threaten,
12 or allow the distribution of water from any public water
13 supply of such quality or quantity as to be injurious to
14 human health or the environment.

15 (2) Criminal Damage to a Public Water Supply is a Class
16 4 felony. In addition to any other penalties prescribed by
17 law, a person convicted of the offense of Criminal Damage
18 to a Public Water Supply is subject to a fine not to exceed
19 \$250,000 for each day of such offense.

20 (r) Aggravated Criminal Damage to a Public Water Supply.

21 (1) A person commits the offense of Aggravated Criminal
22 Damage to a Public Water Supply when, without lawful
23 justification, he commits Criminal Damage to a Public Water
24 Supply while knowing that he thereby places another person

1 in danger of serious illness or great bodily harm, or
2 creates an immediate or long-term danger to public health
3 or the environment.

4 (2) Aggravated Criminal Damage to a Public Water Supply
5 is a Class 2 felony. In addition to any other penalties
6 prescribed by law, a person convicted of the offense of
7 Aggravated Criminal Damage to a Public Water Supply is
8 subject to a fine not to exceed \$500,000 for each day of
9 such offense.

10 (s) The provisions of this Section do not apply to
11 violations of Section 22.57 of this Act.

12 (Source: P.A. 96-603, eff. 8-24-09; 97-220, eff. 7-28-11;
13 97-286, eff. 8-10-11; revised 9-2-11.)

14 Section 99. Effective date. This Act takes effect upon
15 becoming law.