



Rep. Sam Yingling

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LRB102 03903 CPF 24620 a

1 AMENDMENT TO HOUSE BILL 418

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 418 on page 1, line  
3 5, by replacing "adding" with "changing Section 42 and by  
4 adding"; and

5 on page 1, immediately below line 5, by inserting the  
6 following:

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 22.51, Section 22.51a, or subsection (k) of  
20 Section 55 of this Act shall pay a civil penalty of \$1,500  
21 for each violation of each such provision, plus any  
22 hearing costs incurred by the Board and the Agency, except  
23 that the civil penalty amount shall be \$3,000 for each  
24 violation of any provision of subsection (p) of Section  
25 21, Section 22.51, Section 22.51a, or subsection (k) of  
26 Section 55 that is the person's second or subsequent

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

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

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

26 (8) Any person who violates Section 52.10 of this Act

1       shall receive a warning from the Agency for the first  
2       violation of that Section and shall be liable for a civil  
3       penalty of up to \$500 for the second violation of that  
4       Section and a civil penalty of up to \$1,000 for a third or  
5       subsequent violation of that Section. The release of up to  
6       50 balloons shall be considered a single offense under  
7       that Section. The release of more than 50 balloons shall  
8       constitute a separate violation for every 50 balloons  
9       released.

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

24       (c) Any person that violates this Act, any rule or  
25       regulation adopted under this Act, any permit or term or  
26       condition of a permit, or any Board order and causes the death

1 of fish or aquatic life shall, in addition to the other  
2 penalties provided by this Act, be liable to pay to the State  
3 an additional sum for the reasonable value of the fish or  
4 aquatic life destroyed. Any money so recovered shall be placed  
5 in the Wildlife and Fish Fund in the State Treasury.

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

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

18 (f) The State's Attorney of the county in which the  
19 violation occurred, or the Attorney General, shall bring such  
20 actions in the name of the people of the State of Illinois.  
21 Without limiting any other authority which may exist for the  
22 awarding of attorney's fees and costs, the Board or a court of  
23 competent jurisdiction may award costs and reasonable  
24 attorney's fees, including the reasonable costs of expert  
25 witnesses and consultants, to the State's Attorney or the  
26 Attorney General in a case where he has prevailed against a

1 person who has committed a willful, knowing, or repeated  
2 violation of this Act, any rule or regulation adopted under  
3 this Act, any permit or term or condition of a permit, or any  
4 Board order.

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

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

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

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

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

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

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

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

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

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

26           (8) whether the respondent has successfully completed



1 a Compliance Commitment Agreement under subsection (a) of  
2 Section 31 of this Act to remedy the violations that are  
3 the subject of the complaint.

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

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

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

26 (2) that the non-compliance was disclosed in writing

1 within 30 days of the date on which the person discovered  
2 it;

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

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

7 (ii) notice of a citizen suit;

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

11 (iv) the reporting of the non-compliance by an  
12 employee of the person without that person's  
13 knowledge; or

14 (v) imminent discovery of the non-compliance by  
15 the Agency;

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

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

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

25 (7) that the non-compliance did not result in serious  
26 actual harm or present an imminent and substantial

1           endangerment to human health or the environment or violate  
2           the specific terms of any judicial or administrative order  
3           or consent agreement;

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

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

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

15          For the purposes of this subsection (i), "small entity"  
16          has the same meaning as in Section 221 of the federal Small  
17          Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C.  
18          601).

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

24          (k) In addition to any other remedy or penalty that may  
25          apply, whether civil or criminal, any person who violates  
26          subdivision (a) (7.6) of Section 31 of this Act shall be liable

1 for an additional civil penalty of \$2,000.

2 (Source: P.A. 99-934, eff. 1-27-17; 100-436, eff. 8-25-17;  
3 100-863, eff. 8-14-18.)"; and

4 on page 1, line 17, by deleting "knowingly"; and

5 by deleting lines 3 through 5 on page 2; and

6 on page 2, immediately below line 2, by inserting the  
7 following:

8 "(3) The release of a helium balloon used for the safe  
9 operation of a hot air balloon."