

# HB3277



## 103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB3277

Introduced 2/17/2023, by Rep. Randy E. Frese

### SYNOPSIS AS INTRODUCED:

415 ILCS 5/21

from Ch. 111 1/2, par. 1021

Amends the Environmental Protection Act. Provides that incidental sales of finished compost does need not to be applied to agronomic rates in determining whether a person needs a permit to conduct a landscape waste composting operation at specified sites. Removes a provision requiring that no fee is charged for the acceptance of materials to be composted in order for a site having 10 or more occupied non-farm residences within 1/2 mile of its boundaries to be excepted from permit requirements.

LRB103 30244 CPF 56672 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 21 as follows:

6 (415 ILCS 5/21) (from Ch. 111 1/2, par. 1021)

7 Sec. 21. Prohibited acts. No person shall:

8 (a) Cause or allow the open dumping of any waste.

9 (b) Abandon, dump, or deposit any waste upon the public  
10 highways or other public property, except in a sanitary  
11 landfill approved by the Agency pursuant to regulations  
12 adopted by the Board.

13 (c) Abandon any vehicle in violation of the "Abandoned  
14 Vehicles Amendment to the Illinois Vehicle Code", as enacted  
15 by the 76th General Assembly.

16 (d) Conduct any waste-storage, waste-treatment, or  
17 waste-disposal operation:

18 (1) without a permit granted by the Agency or in  
19 violation of any conditions imposed by such permit,  
20 including periodic reports and full access to adequate  
21 records and the inspection of facilities, as may be  
22 necessary to assure compliance with this Act and with  
23 regulations and standards adopted thereunder; provided,

1           however, that, except for municipal solid waste landfill  
2           units that receive waste on or after October 9, 1993, and  
3           CCR surface impoundments, no permit shall be required for  
4           (i) any person conducting a waste-storage,  
5           waste-treatment, or waste-disposal operation for wastes  
6           generated by such person's own activities which are  
7           stored, treated, or disposed within the site where such  
8           wastes are generated, (ii) until one year after the  
9           effective date of rules adopted by the Board under  
10          subsection (n) of Section 22.38, a facility located in a  
11          county with a population over 700,000 as of January 1,  
12          2000, operated and located in accordance with Section  
13          22.38 of this Act, and used exclusively for the transfer,  
14          storage, or treatment of general construction or  
15          demolition debris, provided that the facility was  
16          receiving construction or demolition debris on August 24,  
17          2009 (the effective date of Public Act 96-611), or (iii)  
18          any person conducting a waste transfer, storage,  
19          treatment, or disposal operation, including, but not  
20          limited to, a waste transfer or waste composting  
21          operation, under a mass animal mortality event plan  
22          created by the Department of Agriculture;

23                 (2) in violation of any regulations or standards  
24                 adopted by the Board under this Act;

25                 (3) which receives waste after August 31, 1988, does  
26                 not have a permit issued by the Agency, and is (i) a

1 landfill used exclusively for the disposal of waste  
2 generated at the site, (ii) a surface impoundment  
3 receiving special waste not listed in an NPDES permit,  
4 (iii) a waste pile in which the total volume of waste is  
5 greater than 100 cubic yards or the waste is stored for  
6 over one year, or (iv) a land treatment facility receiving  
7 special waste generated at the site; without giving notice  
8 of the operation to the Agency by January 1, 1989, or 30  
9 days after the date on which the operation commences,  
10 whichever is later, and every 3 years thereafter. The form  
11 for such notification shall be specified by the Agency,  
12 and shall be limited to information regarding: the name  
13 and address of the location of the operation; the type of  
14 operation; the types and amounts of waste stored, treated  
15 or disposed of on an annual basis; the remaining capacity  
16 of the operation; and the remaining expected life of the  
17 operation.

18 Item (3) of this subsection (d) shall not apply to any  
19 person engaged in agricultural activity who is disposing of a  
20 substance that constitutes solid waste, if the substance was  
21 acquired for use by that person on his own property, and the  
22 substance is disposed of on his own property in accordance  
23 with regulations or standards adopted by the Board.

24 This subsection (d) shall not apply to hazardous waste.

25 (e) Dispose, treat, store or abandon any waste, or  
26 transport any waste into this State for disposal, treatment,

1 storage or abandonment, except at a site or facility which  
2 meets the requirements of this Act and of regulations and  
3 standards thereunder.

4 (f) Conduct any hazardous waste-storage, hazardous  
5 waste-treatment or hazardous waste-disposal operation:

6 (1) without a RCRA permit for the site issued by the  
7 Agency under subsection (d) of Section 39 of this Act, or  
8 in violation of any condition imposed by such permit,  
9 including periodic reports and full access to adequate  
10 records and the inspection of facilities, as may be  
11 necessary to assure compliance with this Act and with  
12 regulations and standards adopted thereunder; or

13 (2) in violation of any regulations or standards  
14 adopted by the Board under this Act; or

15 (3) in violation of any RCRA permit filing requirement  
16 established under standards adopted by the Board under  
17 this Act; or

18 (4) in violation of any order adopted by the Board  
19 under this Act.

20 Notwithstanding the above, no RCRA permit shall be  
21 required under this subsection or subsection (d) of Section 39  
22 of this Act for any person engaged in agricultural activity  
23 who is disposing of a substance which has been identified as a  
24 hazardous waste, and which has been designated by Board  
25 regulations as being subject to this exception, if the  
26 substance was acquired for use by that person on his own

1 property and the substance is disposed of on his own property  
2 in accordance with regulations or standards adopted by the  
3 Board.

4 (g) Conduct any hazardous waste-transportation operation:

5 (1) without registering with and obtaining a special  
6 waste hauling permit from the Agency in accordance with  
7 the regulations adopted by the Board under this Act; or

8 (2) in violation of any regulations or standards  
9 adopted by the Board under this Act.

10 (h) Conduct any hazardous waste-recycling or hazardous  
11 waste-reclamation or hazardous waste-reuse operation in  
12 violation of any regulations, standards or permit requirements  
13 adopted by the Board under this Act.

14 (i) Conduct any process or engage in any act which  
15 produces hazardous waste in violation of any regulations or  
16 standards adopted by the Board under subsections (a) and (c)  
17 of Section 22.4 of this Act.

18 (j) Conduct any special waste-transportation operation in  
19 violation of any regulations, standards or permit requirements  
20 adopted by the Board under this Act. However, sludge from a  
21 water or sewage treatment plant owned and operated by a unit of  
22 local government which (1) is subject to a sludge management  
23 plan approved by the Agency or a permit granted by the Agency,  
24 and (2) has been tested and determined not to be a hazardous  
25 waste as required by applicable State and federal laws and  
26 regulations, may be transported in this State without a

1 special waste hauling permit, and the preparation and carrying  
2 of a manifest shall not be required for such sludge under the  
3 rules of the Pollution Control Board. The unit of local  
4 government which operates the treatment plant producing such  
5 sludge shall file an annual report with the Agency identifying  
6 the volume of such sludge transported during the reporting  
7 period, the hauler of the sludge, and the disposal sites to  
8 which it was transported. This subsection (j) shall not apply  
9 to hazardous waste.

10 (k) Fail or refuse to pay any fee imposed under this Act.

11 (l) Locate a hazardous waste disposal site above an active  
12 or inactive shaft or tunneled mine or within 2 miles of an  
13 active fault in the earth's crust. In counties of population  
14 less than 225,000 no hazardous waste disposal site shall be  
15 located (1) within 1 1/2 miles of the corporate limits as  
16 defined on June 30, 1978, of any municipality without the  
17 approval of the governing body of the municipality in an  
18 official action; or (2) within 1000 feet of an existing  
19 private well or the existing source of a public water supply  
20 measured from the boundary of the actual active permitted site  
21 and excluding existing private wells on the property of the  
22 permit applicant. The provisions of this subsection do not  
23 apply to publicly owned sewage works or the disposal or  
24 utilization of sludge from publicly owned sewage works.

25 (m) Transfer interest in any land which has been used as a  
26 hazardous waste disposal site without written notification to

1 the Agency of the transfer and to the transferee of the  
2 conditions imposed by the Agency upon its use under subsection  
3 (g) of Section 39.

4 (n) Use any land which has been used as a hazardous waste  
5 disposal site except in compliance with conditions imposed by  
6 the Agency under subsection (g) of Section 39.

7 (o) Conduct a sanitary landfill operation which is  
8 required to have a permit under subsection (d) of this  
9 Section, in a manner which results in any of the following  
10 conditions:

11 (1) refuse in standing or flowing waters;

12 (2) leachate flows entering waters of the State;

13 (3) leachate flows exiting the landfill confines (as  
14 determined by the boundaries established for the landfill  
15 by a permit issued by the Agency);

16 (4) open burning of refuse in violation of Section 9  
17 of this Act;

18 (5) uncovered refuse remaining from any previous  
19 operating day or at the conclusion of any operating day,  
20 unless authorized by permit;

21 (6) failure to provide final cover within time limits  
22 established by Board regulations;

23 (7) acceptance of wastes without necessary permits;

24 (8) scavenging as defined by Board regulations;

25 (9) deposition of refuse in any unpermitted portion of  
26 the landfill;



1           (10) acceptance of a special waste without a required  
2 manifest;

3           (11) failure to submit reports required by permits or  
4 Board regulations;

5           (12) failure to collect and contain litter from the  
6 site by the end of each operating day;

7           (13) failure to submit any cost estimate for the site  
8 or any performance bond or other security for the site as  
9 required by this Act or Board rules.

10          The prohibitions specified in this subsection (o) shall be  
11 enforceable by the Agency either by administrative citation  
12 under Section 31.1 of this Act or as otherwise provided by this  
13 Act. The specific prohibitions in this subsection do not limit  
14 the power of the Board to establish regulations or standards  
15 applicable to sanitary landfills.

16          (p) In violation of subdivision (a) of this Section, cause  
17 or allow the open dumping of any waste in a manner which  
18 results in any of the following occurrences at the dump site:

19           (1) litter;

20           (2) scavenging;

21           (3) open burning;

22           (4) deposition of waste in standing or flowing waters;

23           (5) proliferation of disease vectors;

24           (6) standing or flowing liquid discharge from the dump  
25 site;

26           (7) deposition of:

1 (i) general construction or demolition debris as  
2 defined in Section 3.160(a) of this Act; or

3 (ii) clean construction or demolition debris as  
4 defined in Section 3.160(b) of this Act.

5 The prohibitions specified in this subsection (p) shall be  
6 enforceable by the Agency either by administrative citation  
7 under Section 31.1 of this Act or as otherwise provided by this  
8 Act. The specific prohibitions in this subsection do not limit  
9 the power of the Board to establish regulations or standards  
10 applicable to open dumping.

11 (q) Conduct a landscape waste composting operation without  
12 an Agency permit, provided, however, that no permit shall be  
13 required for any person:

14 (1) conducting a landscape waste composting operation  
15 for landscape wastes generated by such person's own  
16 activities which are stored, treated, or disposed of  
17 within the site where such wastes are generated; or

18 (1.5) conducting a landscape waste composting  
19 operation that (i) has no more than 25 cubic yards of  
20 landscape waste, composting additives, composting  
21 material, or end-product compost on-site at any one time  
22 and (ii) is not engaging in commercial activity; or

23 (2) applying landscape waste or composted landscape  
24 waste at agronomic rates; or

25 (2.5) operating a landscape waste composting facility  
26 at a site having 10 or more occupied non-farm residences

1           within 1/2 mile of its boundaries, if the facility meets  
2           all of the following criteria:

3                   (A) the composting facility is operated by the  
4                   farmer on property on which the composting material is  
5                   utilized, and the composting facility constitutes no  
6                   more than 2% of the site's total acreage;

7                   (A-5) any composting additives that the composting  
8                   facility accepts and uses at the facility are  
9                   necessary to provide proper conditions for composting  
10                  and do not exceed 10% of the total composting material  
11                  at the facility at any one time;

12                  (B) the property on which the composting facility  
13                  is located, and any associated property on which the  
14                  compost is used, is principally and diligently devoted  
15                  to the production of agricultural crops and is not  
16                  owned, leased, or otherwise controlled by any waste  
17                  hauler or generator of nonagricultural compost  
18                  materials, and the operator of the composting facility  
19                  is not an employee, partner, shareholder, or in any  
20                  way connected with or controlled by any such waste  
21                  hauler or generator;

22                  (C) all compost generated by the composting  
23                  facility, except incidental sales of finished compost,  
24                  is applied at agronomic rates and used as mulch,  
25                  fertilizer, or soil conditioner on land actually  
26                  farmed by the person operating the composting

1 facility, and the finished compost is not stored at  
2 the composting site for a period longer than 18 months  
3 prior to its application as mulch, fertilizer, or soil  
4 conditioner;

5 (D) (blank); and ~~no fee is charged for the~~  
6 ~~acceptance of materials to be composted at the~~  
7 ~~facility; and~~

8 (E) the owner or operator, by January 1, 2014 (or  
9 the January 1 following commencement of operation,  
10 whichever is later) and January 1 of each year  
11 thereafter, registers the site with the Agency, (ii)  
12 reports to the Agency on the volume of composting  
13 material received and used at the site; (iii)  
14 certifies to the Agency that the site complies with  
15 the requirements set forth in subparagraphs (A),  
16 (A-5), (B), (C), and (D) of this paragraph (2.5); and  
17 (iv) certifies to the Agency that all composting  
18 material was placed more than 200 feet from the  
19 nearest potable water supply well, was placed outside  
20 the boundary of the 10-year floodplain or on a part of  
21 the site that is floodproofed, was placed at least 1/4  
22 mile from the nearest residence (other than a  
23 residence located on the same property as the  
24 facility) or a lesser distance from the nearest  
25 residence (other than a residence located on the same  
26 property as the facility) if the municipality in which

1 the facility is located has by ordinance approved a  
2 lesser distance than 1/4 mile, and was placed more  
3 than 5 feet above the water table; any ordinance  
4 approving a residential setback of less than 1/4 mile  
5 that is used to meet the requirements of this  
6 subparagraph (E) of paragraph (2.5) of this subsection  
7 must specifically reference this paragraph; or

8 (3) operating a landscape waste composting facility on  
9 a farm, if the facility meets all of the following  
10 criteria:

11 (A) the composting facility is operated by the  
12 farmer on property on which the composting material is  
13 utilized, and the composting facility constitutes no  
14 more than 2% of the property's total acreage, except  
15 that the Board may allow a higher percentage for  
16 individual sites where the owner or operator has  
17 demonstrated to the Board that the site's soil  
18 characteristics or crop needs require a higher rate;

19 (A-1) the composting facility accepts from other  
20 agricultural operations for composting with landscape  
21 waste no materials other than uncontaminated and  
22 source-separated (i) crop residue and other  
23 agricultural plant residue generated from the  
24 production and harvesting of crops and other customary  
25 farm practices, including, but not limited to, stalks,  
26 leaves, seed pods, husks, bagasse, and roots and (ii)

1 plant-derived animal bedding, such as straw or  
2 sawdust, that is free of manure and was not made from  
3 painted or treated wood;

4 (A-2) any composting additives that the composting  
5 facility accepts and uses at the facility are  
6 necessary to provide proper conditions for composting  
7 and do not exceed 10% of the total composting material  
8 at the facility at any one time;

9 (B) the property on which the composting facility  
10 is located, and any associated property on which the  
11 compost is used, is principally and diligently devoted  
12 to the production of agricultural crops and is not  
13 owned, leased or otherwise controlled by any waste  
14 hauler or generator of nonagricultural compost  
15 materials, and the operator of the composting facility  
16 is not an employee, partner, shareholder, or in any  
17 way connected with or controlled by any such waste  
18 hauler or generator;

19 (C) all compost generated by the composting  
20 facility, except incidental sales of finished compost,  
21 is applied at agronomic rates and used as mulch,  
22 fertilizer or soil conditioner on land actually farmed  
23 by the person operating the composting facility, and  
24 the finished compost is not stored at the composting  
25 site for a period longer than 18 months prior to its  
26 application as mulch, fertilizer, or soil conditioner;

1 (D) the owner or operator, by January 1 of each  
2 year, (i) registers the site with the Agency, (ii)  
3 reports to the Agency on the volume of composting  
4 material received and used at the site, (iii)  
5 certifies to the Agency that the site complies with  
6 the requirements set forth in subparagraphs (A),  
7 (A-1), (A-2), (B), and (C) of this paragraph (q) (3),  
8 and (iv) certifies to the Agency that all composting  
9 material:

10 (I) was placed more than 200 feet from the  
11 nearest potable water supply well;

12 (II) was placed outside the boundary of the  
13 10-year floodplain or on a part of the site that is  
14 floodproofed;

15 (III) was placed either (aa) at least 1/4 mile  
16 from the nearest residence (other than a residence  
17 located on the same property as the facility) and  
18 there are not more than 10 occupied non-farm  
19 residences within 1/2 mile of the boundaries of  
20 the site on the date of application or (bb) a  
21 lesser distance from the nearest residence (other  
22 than a residence located on the same property as  
23 the facility) provided that the municipality or  
24 county in which the facility is located has by  
25 ordinance approved a lesser distance than 1/4 mile  
26 and there are not more than 10 occupied non-farm

1 residences within 1/2 mile of the boundaries of  
2 the site on the date of application; and

3 (IV) was placed more than 5 feet above the  
4 water table.

5 Any ordinance approving a residential setback of  
6 less than 1/4 mile that is used to meet the  
7 requirements of this subparagraph (D) must  
8 specifically reference this subparagraph.

9 For the purposes of this subsection (q), "agronomic rates"  
10 means the application of not more than 20 tons per acre per  
11 year, except that the Board may allow a higher rate for  
12 individual sites where the owner or operator has demonstrated  
13 to the Board that the site's soil characteristics or crop  
14 needs require a higher rate.

15 (r) Cause or allow the storage or disposal of coal  
16 combustion waste unless:

17 (1) such waste is stored or disposed of at a site or  
18 facility for which a permit has been obtained or is not  
19 otherwise required under subsection (d) of this Section;  
20 or

21 (2) such waste is stored or disposed of as a part of  
22 the design and reclamation of a site or facility which is  
23 an abandoned mine site in accordance with the Abandoned  
24 Mined Lands and Water Reclamation Act; or

25 (3) such waste is stored or disposed of at a site or  
26 facility which is operating under NPDES and Subtitle D



1 permits issued by the Agency pursuant to regulations  
2 adopted by the Board for mine-related water pollution and  
3 permits issued pursuant to the federal Surface Mining  
4 Control and Reclamation Act of 1977 (P.L. 95-87) or the  
5 rules and regulations thereunder or any law or rule or  
6 regulation adopted by the State of Illinois pursuant  
7 thereto, and the owner or operator of the facility agrees  
8 to accept the waste; and either:

9 (i) such waste is stored or disposed of in  
10 accordance with requirements applicable to refuse  
11 disposal under regulations adopted by the Board for  
12 mine-related water pollution and pursuant to NPDES and  
13 Subtitle D permits issued by the Agency under such  
14 regulations; or

15 (ii) the owner or operator of the facility  
16 demonstrates all of the following to the Agency, and  
17 the facility is operated in accordance with the  
18 demonstration as approved by the Agency: (1) the  
19 disposal area will be covered in a manner that will  
20 support continuous vegetation, (2) the facility will  
21 be adequately protected from wind and water erosion,  
22 (3) the pH will be maintained so as to prevent  
23 excessive leaching of metal ions, and (4) adequate  
24 containment or other measures will be provided to  
25 protect surface water and groundwater from  
26 contamination at levels prohibited by this Act, the

1 Illinois Groundwater Protection Act, or regulations  
2 adopted pursuant thereto.

3 Notwithstanding any other provision of this Title, the  
4 disposal of coal combustion waste pursuant to item (2) or (3)  
5 of this subdivision (r) shall be exempt from the other  
6 provisions of this Title V, and notwithstanding the provisions  
7 of Title X of this Act, the Agency is authorized to grant  
8 experimental permits which include provision for the disposal  
9 of wastes from the combustion of coal and other materials  
10 pursuant to items (2) and (3) of this subdivision (r).

11 (s) After April 1, 1989, offer for transportation,  
12 transport, deliver, receive or accept special waste for which  
13 a manifest is required, unless the manifest indicates that the  
14 fee required under Section 22.8 of this Act has been paid.

15 (t) Cause or allow a lateral expansion of a municipal  
16 solid waste landfill unit on or after October 9, 1993, without  
17 a permit modification, granted by the Agency, that authorizes  
18 the lateral expansion.

19 (u) Conduct any vegetable by-product treatment, storage,  
20 disposal or transportation operation in violation of any  
21 regulation, standards or permit requirements adopted by the  
22 Board under this Act. However, no permit shall be required  
23 under this Title V for the land application of vegetable  
24 by-products conducted pursuant to Agency permit issued under  
25 Title III of this Act to the generator of the vegetable  
26 by-products. In addition, vegetable by-products may be

1 transported in this State without a special waste hauling  
2 permit, and without the preparation and carrying of a  
3 manifest.

4 (v) (Blank).

5 (w) Conduct any generation, transportation, or recycling  
6 of construction or demolition debris, clean or general, or  
7 uncontaminated soil generated during construction, remodeling,  
8 repair, and demolition of utilities, structures, and roads  
9 that is not commingled with any waste, without the maintenance  
10 of documentation identifying the hauler, generator, place of  
11 origin of the debris or soil, the weight or volume of the  
12 debris or soil, and the location, owner, and operator of the  
13 facility where the debris or soil was transferred, disposed,  
14 recycled, or treated. This documentation must be maintained by  
15 the generator, transporter, or recycler for 3 years. This  
16 subsection (w) shall not apply to (1) a permitted pollution  
17 control facility that transfers or accepts construction or  
18 demolition debris, clean or general, or uncontaminated soil  
19 for final disposal, recycling, or treatment, (2) a public  
20 utility (as that term is defined in the Public Utilities Act)  
21 or a municipal utility, (3) the Illinois Department of  
22 Transportation, or (4) a municipality or a county highway  
23 department, with the exception of any municipality or county  
24 highway department located within a county having a population  
25 of over 3,000,000 inhabitants or located in a county that is  
26 contiguous to a county having a population of over 3,000,000

1 inhabitants; but it shall apply to an entity that contracts  
2 with a public utility, a municipal utility, the Illinois  
3 Department of Transportation, or a municipality or a county  
4 highway department. The terms "generation" and "recycling", as  
5 used in this subsection, do not apply to clean construction or  
6 demolition debris when (i) used as fill material below grade  
7 outside of a setback zone if covered by sufficient  
8 uncontaminated soil to support vegetation within 30 days of  
9 the completion of filling or if covered by a road or structure,  
10 (ii) solely broken concrete without protruding metal bars is  
11 used for erosion control, or (iii) milled asphalt or crushed  
12 concrete is used as aggregate in construction of the shoulder  
13 of a roadway. The terms "generation" and "recycling", as used  
14 in this subsection, do not apply to uncontaminated soil that  
15 is not commingled with any waste when (i) used as fill material  
16 below grade or contoured to grade, or (ii) used at the site of  
17 generation.

18 (Source: P.A. 101-171, eff. 7-30-19; 102-216, eff. 1-1-22;  
19 102-310, eff. 8-6-21; 102-558, eff. 8-20-21; 102-813, eff.  
20 5-13-22.)