

SB1358



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB1358

Introduced 2/6/2023, by Sen. Jil Tracy

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 do not need 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 24866 CPF 51199 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) ~~no fee is charged for the acceptance~~
6 ~~of materials to be composted at the facility;~~ and

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

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

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

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

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

1 sawdust, that is free of manure and was not made from
2 painted or treated wood;

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

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

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

26 (D) the owner or operator, by January 1 of each

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

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

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

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

1 the site on the date of application; and
2 (IV) was placed more than 5 feet above the
3 water table.

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

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

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

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

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

24 (3) such waste is stored or disposed of at a site or
25 facility which is operating under NPDES and Subtitle D
26 permits issued by the Agency pursuant to regulations

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

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

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

1 adopted pursuant thereto.

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

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

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

18 (u) Conduct any vegetable by-product treatment, storage,
19 disposal or transportation operation in violation of any
20 regulation, standards or permit requirements adopted by the
21 Board under this Act. However, no permit shall be required
22 under this Title V for the land application of vegetable
23 by-products conducted pursuant to Agency permit issued under
24 Title III of this Act to the generator of the vegetable
25 by-products. In addition, vegetable by-products may be
26 transported in this State without a special waste hauling

1 permit, and without the preparation and carrying of a
2 manifest.

3 (v) (Blank).

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

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

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