



Sen. Kwame Raoul

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09400HB0433sam001

LRB094 06726 RSP 42170 a

1 AMENDMENT TO HOUSE BILL 433

2 AMENDMENT NO. _____. Amend House Bill 433 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Environmental Protection Act is amended by
5 changing Section 44 as follows:

6 (415 ILCS 5/44) (from Ch. 111 1/2, par. 1044)

7 Sec. 44. Criminal acts; penalties.

8 (a) Except as otherwise provided in this Section, it shall
9 be a Class A misdemeanor to violate this Act or regulations
10 thereunder, or any permit or term or condition thereof, or
11 knowingly to submit any false information under this Act or
12 regulations adopted thereunder, or under any permit or term or
13 condition thereof. A court may, in addition to any other
14 penalty herein imposed, order a person convicted of any
15 violation of this Act to perform community service for not less
16 than 100 hours and not more than 300 hours if community service
17 is available in the jurisdiction. It shall be the duty of all
18 State and local law-enforcement officers to enforce such Act
19 and regulations, and all such officers shall have authority to
20 issue citations for such violations.

21 (b) Calculated Criminal Disposal of Hazardous Waste.

22 (1) A person commits the offense of Calculated Criminal
23 Disposal of Hazardous Waste when, without lawful

1 justification, he knowingly disposes of hazardous waste
2 while knowing that he thereby places another person in
3 danger of great bodily harm or creates an immediate or
4 long-term danger to the public health or the environment.

5 (2) Calculated Criminal Disposal of Hazardous Waste is
6 a Class 2 felony. In addition to any other penalties
7 prescribed by law, a person convicted of the offense of
8 Calculated Criminal Disposal of Hazardous Waste is subject
9 to a fine not to exceed \$500,000 for each day of such
10 offense.

11 (c) Criminal Disposal of Hazardous Waste.

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

15 (2) Criminal Disposal of Hazardous Waste is a Class 3
16 felony. In addition to any other penalties prescribed by
17 law, a person convicted of the offense of Criminal Disposal
18 of Hazardous Waste is subject to a fine not to exceed
19 \$250,000 for each day of such offense.

20 (d) Unauthorized Use of Hazardous Waste.

21 (1) A person commits the offense of Unauthorized Use of
22 Hazardous Waste when he, being required to have a permit,
23 registration, or license under this Act or any other law
24 regulating the treatment, transportation, or storage of
25 hazardous waste, knowingly:

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

28 (B) treats, transports, or stores any hazardous
29 waste in violation of the terms and conditions of such
30 permit or license;

31 (C) transports any hazardous waste to a facility
32 which does not have a permit or license required under

1 this Act; or

2 (D) transports by vehicle any hazardous waste
3 without having in each vehicle credentials issued to
4 the transporter by the transporter's base state
5 pursuant to procedures established under the Uniform
6 Program.

7 (2) A person who is convicted of a violation of
8 subdivision (1) (A), (1) (B) or (1) (C) of this subsection is
9 guilty of a Class 4 felony. A person who is convicted of a
10 violation of subdivision (1) (D) is guilty of a Class A
11 misdemeanor. In addition to any other penalties prescribed
12 by law, a person convicted of violating subdivision (1) (A),
13 (1) (B) or (1) (C) is subject to a fine not to exceed
14 \$100,000 for each day of such violation, and a person who
15 is convicted of violating subdivision (1) (D) is subject to
16 a fine not to exceed \$1,000.

17 (e) Unlawful Delivery of Hazardous Waste.

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

22 (2) Unlawful Delivery 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 Unlawful Delivery
25 of Hazardous Waste is subject to a fine not to exceed
26 \$250,000 for each such violation.

27 (3) For purposes of this Section, "deliver" or
28 "delivery" means the actual, constructive, or attempted
29 transfer of possession of hazardous waste, with or without
30 consideration, whether or not there is an agency
31 relationship.

32 (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
26 day of such offense.

27 (h) Violations; False Statements.

28 (1) Any person who knowingly makes a false material
29 statement in an application for a permit or license
30 required by this Act to treat, transport, store, or dispose
31 of hazardous waste commits the offense of perjury and shall
32 be subject to the penalties set forth in Section 32-2 of

1 the Criminal Code of 1961.

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

10 (3) Any person who knowingly destroys, alters or
11 conceals any record required to be made by this Act in
12 connection with the disposal, treatment, storage, or
13 transportation of hazardous waste, commits a Class 4
14 felony. A second or any subsequent offense after a
15 conviction hereunder is a Class 3 felony.

16 (4) Any person who knowingly makes a false material
17 statement or representation in any application, bill,
18 invoice, or other document filed, maintained, or used for
19 the purpose of receiving money from the Underground Storage
20 Tank Fund commits a Class 4 felony. A second or any
21 subsequent offense after conviction hereunder is a Class 3
22 felony.

23 (5) Any person who knowingly destroys, alters, or
24 conceals any record required to be made or maintained by
25 this Act or required to be made or maintained by Board or
26 Agency rules for the purpose of receiving money from the
27 Underground Storage Tank Fund commits a Class 4 felony. A
28 second or any subsequent offense after a conviction
29 hereunder is a Class 3 felony.

30 (6) A person who knowingly and falsely certifies under
31 Section 22.48 that an industrial process waste or pollution
32 control waste is not special waste commits a Class 4 felony
33 for a first offense and commits a Class 3 felony for a
34 second or subsequent offense.

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

5 (i) Verification.

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

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

20 (j) Violations of Other Provisions.

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

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

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

24 (C) any term or condition of any Underground
25 Injection Control (UIC) permit;

26 (D) any filing requirement, regulation, or order
27 relating to the State Underground Injection Control
28 (UIC) program;

29 (E) any provision of any regulation, standard, or
30 filing requirement under subsection (b) of Section 13
31 of this Act;

32 (F) any provision of any regulation, standard, or

1 filing requirement under subsection (b) of Section 39
2 of this Act;

3 (G) any National Pollutant Discharge Elimination
4 System (NPDES) permit issued under this Act or any term
5 or condition of such permit;

6 (H) subsection (h) of Section 12 of this Act;

7 (I) subsection 6 of Section 39.5 of this Act;

8 (J) any provision of any regulation, standard or
9 filing requirement under Section 39.5 of this Act; ~~or~~

10 (K) a provision of the Procedures for Asbestos
11 Emission Control in subsection (c) of Section 61.145 of
12 Title 40 of the Code of Federal Regulations; or ~~or~~

13 (L) the standard for waste disposal for
14 manufacturing, fabricating, demolition, renovation,
15 and spraying operations in Section 61.150 of Title 40
16 of the Code of Federal Regulations.

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

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

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

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

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

30 (D) any provision of any regulation, standard, or
31 filing requirement under subsection (b) of Section 39
32 of this Act;

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

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

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

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

5 (A) make any false statement, representation, or
6 certification in an application form, or form
7 pertaining to, a National Pollutant Discharge
8 Elimination System (NPDES) permit;

9 (B) render inaccurate any monitoring device or
10 record required by the Agency or Board in connection
11 with any such permit or with any discharge which is
12 subject to the provisions of subsection (f) of Section
13 12 of this Act;

14 (C) make any false statement, representation, or
15 certification in any form, notice or report pertaining
16 to a CAAPP permit under Section 39.5 of this Act;

17 (D) render inaccurate any monitoring device or
18 record required by the Agency or Board in connection
19 with any CAAPP permit or with any emission which is
20 subject to the provisions of Section 39.5 of this Act;
21 or

22 (E) violate subsection 6 of Section 39.5 of this
23 Act or any CAAPP permit, or term or condition thereof,
24 or any fee or filing requirement.

25 (5) A person convicted of a violation of subdivision
26 (4) of this subsection commits a Class A misdemeanor, and
27 in addition to any other penalties provided by law is
28 subject to a fine not to exceed \$10,000 for each day of
29 violation.

30 (k) Criminal operation of a hazardous waste or PCB
31 incinerator.

32 (1) A person commits the offense of criminal operation
33 of a hazardous waste or PCB incinerator when, in the course

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

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

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

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

26 (l) It shall be the duty of all State and local law
27 enforcement officers to enforce this Act and the regulations
28 adopted hereunder, and all such officers shall have authority
29 to issue citations for such violations.

30 (m) Any action brought under this Section shall be brought
31 by the State's Attorney of the county in which the violation
32 occurred, or by the Attorney General, and shall be conducted in
33 accordance with the applicable provisions of the Code of
34 Criminal Procedure of 1963.

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

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

13 (p) Criminal Disposal of Waste.

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

16 (A) if required to have a permit under subsection
17 (d) of Section 21 of this Act, knowingly conducts a
18 waste-storage, waste-treatment, or waste-disposal
19 operation in a quantity that exceeds 250 cubic feet of
20 waste without a permit; or

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

23 (2) (A) A person who is convicted of a violation of
24 item (A) of subdivision (1) of this subsection is
25 guilty of a Class 4 felony for a first offense and, in
26 addition to any other penalties provided by law, is
27 subject to a fine not to exceed \$25,000 for each day of
28 violation. A person who is convicted of a violation of
29 item (A) of subdivision (1) of this subsection is
30 guilty of a Class 3 felony for a second or subsequent
31 offense and, in addition to any other penalties
32 provided by law, is subject to a fine not to exceed
33 \$50,000 for each day of violation.

34 (B) A person who is convicted of a violation of

1 item (B) of subdivision (1) of this subsection is
2 guilty of a Class A misdemeanor. However, a person who
3 is convicted of a second or subsequent violation of
4 item (B) of subdivision (1) of this subsection for the
5 open dumping of waste in a quantity that exceeds 250
6 cubic feet is guilty of a Class 4 felony and, in
7 addition to any other penalties provided by law, is
8 subject to a fine not to exceed \$5,000 for each day of
9 violation.

10 (Source: P.A. 89-235, eff. 8-4-95; 90-219, eff. 7-25-97;
11 90-344, eff. 1-1-98; 90-502, eff. 8-19-97; 90-655, eff.
12 7-30-98.)

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