

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 State Finance Act is amended by adding
5 Section 5.640 as follows:

6 (30 ILCS 105/5.640 new)

7 Sec. 5.640. The Clean Communities Recycling Fund.

8 Section 10. The Environmental Protection Act is amended by
9 changing Sections 21.3, 22.44, 34, 39, 42, and 58.8 and by
10 adding Sections 4.2, 21.7, 22.15a, 22.50, 22.51, and 22.52 as
11 follows:

12 (415 ILCS 5/4.2 new)

13 Sec. 4.2. Guidance documents. The Agency is authorized to
14 prepare and distribute guidance documents relative to its
15 administration of this Act and rules adopted pursuant to this
16 Act. These documents shall not be considered rules for the
17 purposes of the Illinois Administrative Procedure Act.

18 (415 ILCS 5/21.3) (from Ch. 111 1/2, par. 1021.3)

19 Sec. 21.3. Environmental reclamation lien.

20 (a) All costs and damages for which a person is liable to
21 the State of Illinois under Section 22.2, 22.15a, 55.3, or
22 57.12 ~~and Section 22.18~~ shall constitute an environmental
23 reclamation lien in favor of the State of Illinois upon all
24 real property and rights to such property which:

25 (1) belong to such person; and

26 (2) are subject to or affected by a removal or remedial
27 action under Section 22.2 or investigation, preventive
28 action, corrective action, or enforcement action under
29 Section 22.15a, 55.3, or 57.12 ~~22.18~~.

1 (b) An environmental reclamation lien shall continue until
2 the liability for the costs and damages, or a judgment against
3 the person arising out of such liability, is satisfied.

4 (c) An environmental reclamation lien shall be effective
5 upon the filing by the Agency of a Notice of Environmental
6 Reclamation Lien with the recorder or the registrar of titles
7 of the county in which the real property lies. The Agency shall
8 not file an environmental reclamation lien, and no such lien
9 shall be valid, unless the Agency has sent notice pursuant to
10 subsection (q) of Section 4, subsection (c) of Section 22.15a,
11 subsection (d) of Section 55.3, or subsection (c) of Section
12 57.12 of this Act to owners of the real property. Nothing in
13 this Section shall be construed to give the Agency's lien a
14 preference over the rights of any bona fide purchaser or
15 mortgagee or other lienholder (not including the United States
16 when holding an unfiled lien) arising prior to the filing of a
17 notice of environmental reclamation lien in the office of the
18 recorder or registrar of titles of the county in which the
19 property subject to the lien is located. For purposes of this
20 Section, the term "bona fide" shall not include any mortgage of
21 real or personal property or any other credit transaction that
22 results in the mortgagee or the holder of the security acting
23 as trustee for unsecured creditors of the liable person
24 mentioned in the notice of lien who executed such chattel or
25 real property mortgage or the document evidencing such credit
26 transaction. Such lien shall be inferior to the lien of general
27 taxes, special assessments and special taxes heretofore or
28 hereafter levied by any political subdivision of this State.

29 (d) The environmental reclamation lien shall not exceed the
30 amount of expenditures as itemized on the Affidavit of
31 Expenditures attached to and filed with the Notice of
32 Environmental Reclamation Lien. The Affidavit of Expenditures
33 may be amended if additional costs or damages are incurred.

34 (e) Upon filing of the Notice of Environmental Reclamation
35 Lien a copy with attachments shall be served upon the owners of
36 the real property. Notice of such service shall be served on

1 all lienholders of record as of the date of filing.

2 (f) (Blank) ~~Within 60 days after initiating response or~~
3 ~~remedial action at the site under Section 22.2 or 22.18, the~~
4 ~~Agency shall file a Notice of Response Action in Progress. The~~
5 ~~Notice shall be filed with the recorder or registrar of titles~~
6 ~~of the county in which the real property lies.~~

7 (g) In addition to any other remedy provided by the laws of
8 this State, the Agency may foreclose in the circuit court an
9 environmental reclamation lien on real property for any costs
10 or damages imposed under Section 22.2, 22.15a, 55.3, or 57.12
11 ~~or Section 22.18~~ to the same extent and in the same manner as
12 in the enforcement of other liens. The process, practice and
13 procedure for such foreclosure shall be the same as provided in
14 Article XV of the Code of Civil Procedure. Nothing in this
15 Section shall affect the right of the State of Illinois to
16 bring an action against any person to recover all costs and
17 damages for which such person is liable under Section 22.2,
18 22.15a, 55.3, or 57.12 ~~or Section 22.18~~.

19 (h) Any liability to the State under Section 22.2, 22.15a,
20 55.3, or 57.12 ~~or Section 22.18~~ shall constitute a debt to the
21 State. Interest on such debt shall begin to accrue at a rate of
22 12% per annum from the date of the filing of the Notice of
23 Environmental Reclamation Lien under paragraph (c). Accrued
24 interest shall be included as a cost incurred by the State of
25 Illinois under Section 22.2, 22.15a, 55.3, or 57.12 ~~or Section~~
26 ~~22.18~~.

27 (i) "Environmental reclamation lien" means a lien
28 established under this Section.

29 (Source: P.A. 92-574, eff. 6-26-02.)

30 (415 ILCS 5/21.7 new)

31 Sec. 21.7. Clean Communities Recycling Fund. The Clean
32 Communities Recycling Fund is created as a special fund in the
33 State treasury. Moneys in the Fund shall be used, subject to
34 appropriation, by the Agency solely for anti-litter programs,
35 including but not limited to litter cleanup efforts by the

1 State and local governments, adopt-a-highway programs, and
2 education efforts to encourage recycling and discourage
3 littering.

4 (415 ILCS 5/22.15a new)

5 Sec. 22.15a. Open dumping cleanup program.

6 (a) Upon making a finding that open dumping poses a threat
7 to the public health or to the environment, the Agency may take
8 whatever preventive or corrective action is necessary or
9 appropriate to end that threat. This preventive or corrective
10 action may consist of any or all of the following:

11 (1) Removing waste from the site.

12 (2) Removing soil and water contamination that is
13 related to waste at the site.

14 (3) Installing devices to monitor and control
15 groundwater and surface water contamination that is
16 related to waste at the site.

17 (4) Taking any other actions that are authorized by
18 Board regulations.

19 (b) Subject to the availability of appropriated funds, the
20 Agency may undertake a consensual removal action for the
21 removal of up to 20 cubic yards of waste at no cost to the owner
22 of property where open dumping has occurred in accordance with
23 the following requirements:

24 (1) Actions under this subsection must be taken
25 pursuant to a written agreement between the Agency and the
26 owner of the property.

27 (2) The written agreement must at a minimum specify:

28 (A) that the owner relinquishes any claim of an
29 ownership interest in any waste that is removed and in
30 any proceeds from its sale;

31 (B) that waste will no longer be allowed to
32 accumulate at the site in a manner that constitutes
33 open dumping;

34 (C) that the owner will hold harmless the Agency
35 and any employee or contractor used by the Agency to

1 effect the removal for any damage to property incurred
2 during the course of action under this subsection,
3 except for damage incurred by gross negligence or
4 intentional misconduct; and

5 (D) any conditions imposed upon or assistance
6 required from the owner to assure that the waste is so
7 located or arranged as to facilitate its removal.

8 (3) The Agency may establish by rule the conditions and
9 priorities for the removal of waste under this subsection
10 (b).

11 (4) The Agency must prescribe the form of written
12 agreements under this subsection (b).

13 (c) The Agency may provide notice to the owner of property
14 where open dumping has occurred whenever the Agency finds that
15 open dumping poses a threat to public health or the
16 environment. The notice provided by the Agency must include the
17 identified preventive or corrective action and must provide an
18 opportunity for the owner to perform the action.

19 (d) In accordance with constitutional limitations, the
20 Agency may enter, at all reasonable times, upon any private or
21 public property for the purpose of taking any preventive or
22 corrective action that is necessary and appropriate under this
23 Section whenever the Agency finds that open dumping poses a
24 threat to the public health or to the environment.

25 (e) Notwithstanding any other provision or rule of law and
26 subject only to the defenses set forth in subsection (g) of
27 this Section, the following persons shall be liable for all
28 costs of corrective or preventive action incurred by the State
29 of Illinois as a result of open dumping, including the
30 reasonable costs of collection:

31 (1) any person with an ownership interest in property
32 where open dumping has occurred;

33 (2) any person with an ownership or leasehold interest
34 in the property at the time the open dumping occurred;

35 (3) any person who transported waste that was open
36 dumped at the property; and

1 (4) any person who open dumped at the property.

2 Any moneys received by the Agency under this subsection (e)
3 must be deposited into the Subtitle D Management Fund.

4 (f) Any person liable to the Agency for costs incurred
5 under subsection (e) of this Section may be liable to the State
6 of Illinois for punitive damages in an amount at least equal to
7 and not more than 3 times the costs incurred by the State if
8 that person failed, without sufficient cause, to take
9 preventive or corrective action under the notice issued under
10 subsection (c) of this Section.

11 (g) There shall be no liability under subsection (e) of
12 this Section for a person otherwise liable who can establish by
13 a preponderance of the evidence that the hazard created by the
14 open dumping was caused solely by:

15 (1) an act of God;

16 (2) an act of war; or

17 (3) an act or omission of a third party other than an
18 employee or agent and other than a person whose act or
19 omission occurs in connection with a contractual
20 relationship with the person otherwise liable. For the
21 purposes of this paragraph, "contractual relationship"
22 includes, but is not limited to, land contracts, deeds, and
23 other instruments transferring title or possession, unless
24 the real property upon which the open dumping occurred was
25 acquired by the defendant after the open dumping occurred
26 and one or more of the following circumstances is also
27 established by a preponderance of the evidence:

28 (A) at the time the defendant acquired the
29 property, the defendant did not know and had no reason
30 to know that any open dumping had occurred and the
31 defendant undertook, at the time of acquisition, all
32 appropriate inquiries into the previous ownership and
33 uses of the property consistent with good commercial or
34 customary practice in an effort to minimize liability;

35 (B) the defendant is a government entity that
36 acquired the property by escheat or through any other

1 involuntary transfer or acquisition, or through the
2 exercise of eminent domain authority by purchase or
3 condemnation; or

4 (C) the defendant acquired the property by
5 inheritance or bequest.

6 (h) Nothing in this Section shall affect or modify the
7 obligations or liability of any person under any other
8 provision of this Act, federal law, or State law, including the
9 common law, for injuries, damages, or losses resulting from the
10 circumstances leading to Agency action under this Section.

11 (i) The costs and damages provided for in this Section may
12 be imposed by the Board in an action brought before the Board
13 in accordance with Title VIII of this Act, except that
14 subsection (c) of Section 33 of this Act shall not apply to any
15 such action.

16 (j) Neither the State, the Agency, the Board, the Director,
17 nor any State employee is liable for any damage or injury
18 arising out of or resulting from any action taken under this
19 Section.

20 (415 ILCS 5/22.44)

21 Sec. 22.44. Subtitle D management fees.

22 (a) There is created within the State treasury a special
23 fund to be known as the "Subtitle D Management Fund"
24 constituted from the fees collected by the State under this
25 Section.

26 (b) The Agency shall assess and collect a fee in the amount
27 set forth in this subsection from the owner or operator of each
28 sanitary landfill permitted or required to be permitted by the
29 Agency to dispose of solid waste if the sanitary landfill is
30 located off the site where the waste was produced and if the
31 sanitary landfill is owned, controlled, and operated by a
32 person other than the generator of the waste. The Agency shall
33 deposit all fees collected under this subsection into the
34 Subtitle D Management Fund. If a site is contiguous to one or
35 more landfills owned or operated by the same person, the

1 volumes permanently disposed of by each landfill shall be
2 combined for purposes of determining the fee under this
3 subsection.

4 (1) If more than 150,000 cubic yards of non-hazardous
5 solid waste is permanently disposed of at a site in a
6 calendar year, the owner or operator shall either pay a fee
7 of 10.1 cents per cubic yard or, alternatively, the owner
8 or operator may weigh the quantity of the solid waste
9 permanently disposed of with a device for which
10 certification has been obtained under the Weights and
11 Measures Act and pay a fee of 22 cents per ton of waste
12 permanently disposed of.

13 (2) If more than 100,000 cubic yards, but not more than
14 150,000 cubic yards, of non-hazardous waste is permanently
15 disposed of at a site in a calendar year, the owner or
16 operator shall pay a fee of \$7,020.

17 (3) If more than 50,000 cubic yards, but not more than
18 100,000 cubic yards, of non-hazardous solid waste is
19 permanently disposed of at a site in a calendar year, the
20 owner or operator shall pay a fee of \$3,120.

21 (4) If more than 10,000 cubic yards, but not more than
22 50,000 cubic yards, of non-hazardous solid waste is
23 permanently disposed of at a site in a calendar year, the
24 owner or operator shall pay a fee of \$975.

25 (5) If not more than 10,000 cubic yards of
26 non-hazardous solid waste is permanently disposed of at a
27 site in a calendar year, the owner or operator shall pay a
28 fee of \$210.

29 (c) The fee under subsection (b) shall not apply to any of
30 the following:

31 (1) Hazardous waste.

32 (2) Pollution control waste.

33 (3) Waste from recycling, reclamation, or reuse
34 processes that have been approved by the Agency as being
35 designed to remove any contaminant from wastes so as to
36 render the wastes reusable, provided that the process

1 renders at least 50% of the waste reusable.

2 (4) Non-hazardous solid waste that is received at a
3 sanitary landfill and composted or recycled through a
4 process permitted by the Agency.

5 (5) Any landfill that is permitted by the Agency to
6 receive only demolition or construction debris or
7 landscape waste.

8 (d) The Agency shall establish rules relating to the
9 collection of the fees authorized by this Section. These rules
10 shall include, but not be limited to the following:

11 (1) Necessary records identifying the quantities of
12 solid waste received or disposed.

13 (2) The form and submission of reports to accompany the
14 payment of fees to the Agency.

15 (3) The time and manner of payment of fees to the
16 Agency, which payments shall not be more often than
17 quarterly.

18 (4) Procedures setting forth criteria establishing
19 when an owner or operator may measure by weight or volume
20 during any given quarter or other fee payment period.

21 (e) Fees collected under this Section shall be in addition
22 to any other fees collected under any other Section.

23 (f) The Agency shall not refund any fee paid to it under
24 this Section.

25 (g) Pursuant to appropriation, all moneys in the Subtitle D
26 Management Fund shall be used by the Agency to administer the
27 United States Environmental Protection Agency's Subtitle D
28 Program provided in Sections 4004 and 4010 of the Resource
29 Conservation and Recovery Act of 1976 (P.L. 94-580) as it
30 relates to a municipal solid waste landfill program in Illinois
31 and to fund a delegation of inspecting, investigating, and
32 enforcement functions, within the municipality only, pursuant
33 to subsection (r) of Section 4 of this Act to a municipality
34 having a population of more than 1,000,000 inhabitants. The
35 Agency shall execute a delegation agreement pursuant to
36 subsection (r) of Section 4 of this Act with a municipality

1 having a population of more than 1,000,000 inhabitants within
2 90 days of September 13, 1993 and shall on an annual basis
3 distribute from the Subtitle D Management Fund to that
4 municipality no less than \$150,000. Pursuant to appropriation,
5 moneys in the Subtitle D Management Fund may also be used by
6 the Agency for activities conducted under Section 22.15a of
7 this Act.

8 (Source: P.A. 92-574, eff. 6-26-02; 93-32, eff. 7-1-03.)

9 (415 ILCS 5/22.50 new)

10 Sec. 22.50. Compliance with land use limitations. No
11 person shall use, or cause or allow the use of, any site for
12 which a land use limitation has been imposed under this Act in
13 a manner inconsistent with the land use limitation unless
14 further investigation or remedial action has been conducted
15 that documents the attainment of remedial objectives
16 appropriate for the new land use and a new closure letter has
17 been obtained from the Agency and recorded in the chain of
18 title for the site. For the purpose of this Section, the term
19 "land use limitation" shall include, but shall not be limited
20 to, institutional controls and engineered barriers imposed
21 under this Act and the regulations adopted under this Act. For
22 the purposes of this Section, the term "closure letter" shall
23 include, but shall not be limited to, No Further Remediation
24 Letters issued under Titles XVI and XVII of this Act and the
25 regulations adopted under those Titles.

26 (415 ILCS 5/22.51 new)

27 Sec. 22.51. Clean Construction or Demolition Debris Fill
28 Operations.

29 (a) No person shall conduct any clean construction or
30 demolition debris fill operation in violation of this Act or
31 any regulations or standards adopted by the Board.

32 (b) (1) (A) Beginning 30 days after the effective date of
33 this amendatory Act of the 94th General Assembly but prior to
34 July 1, 2008, no person shall use clean construction or

1 demolition debris as fill material in a current or former
2 quarry, mine, or other excavation, unless they have applied for
3 an interim authorization from the Agency for the clean
4 construction or demolition debris fill operation.

5 (B) The Agency shall approve an interim authorization upon
6 its receipt of a written application for the interim
7 authorization that is signed by the site owner and the site
8 operator, or their duly authorized agent, and that contains the
9 following information: (i) the location of the site where the
10 clean construction or demolition debris fill operation is
11 taking place, (ii) the name and address of the site owner,
12 (iii) the name and address of the site operator, and (iv) the
13 types and amounts of clean construction or demolition debris
14 being used as fill material at the site.

15 (C) The Agency may deny an interim authorization if the
16 site owner or the site operator, or their duly authorized
17 agent, fails to provide to the Agency the information listed in
18 subsection (b)(1)(B) of this Section. Any denial of an interim
19 authorization shall be subject to appeal to the Board in
20 accordance with the procedures of Section 40 of this Act.

21 (D) No person shall use clean construction or demolition
22 debris as fill material in a current or former quarry, mine, or
23 other excavation for which the Agency has denied interim
24 authorization under subsection (b)(1)(C) of this Section. The
25 Board may stay the prohibition of this subsection (D) during
26 the pendency of an appeal of the Agency's denial of the interim
27 authorization brought under subsection (b)(1)(C) of this
28 Section.

29 (2) Beginning September 1, 2006, owners and operators of
30 clean construction or demolition debris fill operations shall,
31 in accordance with a schedule prescribed by the Agency, submit
32 to the Agency applications for the permits required under this
33 Section. The Agency shall notify owners and operators in
34 writing of the due date for their permit application. The due
35 date shall be no less than 90 days after the date of the
36 Agency's written notification. Owners and operators who do not

1 receive a written notification from the Agency by October 1,
2 2007, shall submit a permit application to the Agency by
3 January 1, 2008. The interim authorization of owners and
4 operators who fail to submit a permit application to the Agency
5 by the permit application's due date shall terminate on (i) the
6 due date established by the Agency if the owner or operator
7 received a written notification from the Agency prior to
8 October 1, 2007, or (ii) or January 1, 2008, if the owner or
9 operator did not receive a written notification from the Agency
10 by October 1, 2007.

11 (3) On and after July 1, 2008, no person shall use clean
12 construction or demolition debris as fill material in a current
13 or former quarry, mine, or other excavation without a permit
14 granted by the Agency for the clean construction or demolition
15 debris fill operation or in violation of any conditions imposed
16 by such permit, including periodic reports and full access to
17 adequate records and the inspection of facilities, as may be
18 necessary to assure compliance with this Act and with Board
19 regulations and standards adopted under this Act.

20 (4) This subsection (b) does not apply to the use of clean
21 construction or demolition debris as fill material in a current
22 or former quarry, mine, or other excavation located on the site
23 where the clean construction or demolition debris was
24 generated.

25 (c) In accordance with Title VII of this Act, the Board may
26 adopt regulations to promote the purposes of this Section. The
27 Agency shall consult with the mining and construction
28 industries during the development of any regulations to promote
29 the purposes of this Section.

30 (1) No later than December 15, 2005, the Agency shall
31 propose to the Board, and no later than September 1, 2006,
32 the Board shall adopt, regulations for the use of clean
33 construction or demolition debris as fill material in
34 current and former quarries, mines, and other excavations.
35 Such regulations shall include, but shall not be limited
36 to, standards for clean construction or demolition debris

1 fill operations and the submission and review of permits
2 required under this Section.

3 (2) Until the Board adopts rules under subsection
4 (c)(1) of this Section, all persons using clean
5 construction or demolition debris as fill material in a
6 current or former quarry, mine, or other excavation shall:

7 (A) Assure that only clean construction or
8 demolition debris is being used as fill material by
9 screening each truckload of material received using a
10 device approved by the Agency that detects volatile
11 organic compounds. Such devices may include, but are
12 not limited to, photo ionization detectors. All
13 screening devices shall be operated and maintained in
14 accordance with manufacturer's specifications.
15 Unacceptable fill material shall be rejected from the
16 site; and

17 (B) Retain for a minimum of 3 years the following
18 information:

19 (i) The name of the hauler, the name of the
20 generator, and place of origin of the debris or
21 soil;

22 (ii) The approximate weight or volume of the
23 debris or soil; and

24 (iii) The date the debris or soil was received.

25 (d) This Section applies only to clean construction or
26 demolition debris that is not considered "waste" as provided in
27 Section 3.160 of this Act.

28 (415 ILCS 5/22.52 new)

29 Sec. 22.52. Conflict of interest. Effective 30 days after
30 the effective date of this amendatory Act of the 94th General
31 Assembly, none of the following persons shall have a direct
32 financial interest in or receive a personal financial benefit
33 from any waste-disposal operation or any clean construction or
34 demolition debris fill operation that requires a permit or
35 interim authorization under this Act, or any corporate entity

1 related to any such waste-disposal operation or clean
2 construction or demolition debris fill operation:

3 (i) the Governor of the State of Illinois;

4 (ii) the Attorney General of the State of Illinois;

5 (iii) the Director of the Illinois Environmental
6 Protection Agency;

7 (iv) the Chairman of the Illinois Pollution Control
8 Board;

9 (v) the members of the Illinois Pollution Control
10 Board;

11 (vi) the staff of any person listed in items (i)
12 through (v) of this Section who makes a regulatory or
13 licensing decision that directly applies to any
14 waste-disposal operation or any clean construction or
15 demolition debris fill operation; and

16 (vii) a relative of any person listed in items (i)
17 through (vi) of this Section.

18 The prohibitions of this Section shall apply during the
19 person's term of State employment and shall continue for 5
20 years after the person's termination of State employment. The
21 prohibition of this Section shall not apply to any person whose
22 State employment terminates prior to 30 days after the
23 effective date of this amendatory Act of the 94th General
24 Assembly.

25 For the purposes of this Section:

26 (a) The terms "direct financial interest" and
27 "personal financial benefit" do not include the ownership
28 of publicly traded stock.

29 (b) The term "relative" means father, mother, son,
30 daughter, brother, sister, uncle, aunt, husband, wife,
31 father-in-law, or mother-in-law.

32 (415 ILCS 5/34) (from Ch. 111 1/2, par. 1034)

33 Sec. 34. (a) Upon a finding that episode or emergency
34 conditions specified in Board regulations exist, the Agency
35 shall declare such alerts or emergencies as provided by those

1 regulations. While such an alert or emergency is in effect, the
2 Agency may seal any equipment, vehicle, vessel, aircraft, or
3 other facility operated in violation of such regulations.

4 (b) In ~~other~~ cases other than those identified in
5 subsection (a) of this Section:

6 (1) At any pollution control facility where ~~in which~~
7 the Agency finds that an emergency condition exists
8 creating an immediate danger to public health or welfare or
9 the environment, the Agency may seal any equipment,
10 vehicle, vessel, aircraft, or other facility contributing
11 to the emergency condition; and-

12 (2) At any other site or facility where the Agency
13 finds that an imminent and substantial endangerment to the
14 public health or welfare or the environment exists, the
15 Agency may seal any equipment, vehicle, vessel, aircraft,
16 or other facility contributing to the imminent and
17 substantial endangerment.

18 (c) It shall be a Class A misdemeanor to break any seal
19 affixed under this section, or to operate any sealed equipment,
20 vehicle, vessel, aircraft, or other facility until the seal is
21 removed according to law.

22 (d) The owner or operator of any equipment, vehicle,
23 vessel, aircraft or other facility sealed pursuant to this
24 section is entitled to a hearing in accord with Section 32 of
25 this Act to determine whether the seal should be removed;
26 except that in such hearing at least one Board member shall be
27 present, and those Board members present may render a final
28 decision without regard to the requirements of paragraph (a) of
29 Section 5 of this Act. The petitioner may also seek immediate
30 injunctive relief.

31 (Source: P.A. 77-2830.)

32 (415 ILCS 5/39) (from Ch. 111 1/2, par. 1039)

33 Sec. 39. Issuance of permits; procedures.

34 (a) When the Board has by regulation required a permit for
35 the construction, installation, or operation of any type of

1 facility, equipment, vehicle, vessel, or aircraft, the
2 applicant shall apply to the Agency for such permit and it
3 shall be the duty of the Agency to issue such a permit upon
4 proof by the applicant that the facility, equipment, vehicle,
5 vessel, or aircraft will not cause a violation of this Act or
6 of regulations hereunder. The Agency shall adopt such
7 procedures as are necessary to carry out its duties under this
8 Section. In making its determinations on permit applications
9 under this Section the Agency may consider prior adjudications
10 of noncompliance with this Act by the applicant that involved a
11 release of a contaminant into the environment. In granting
12 permits, the Agency may impose reasonable conditions
13 specifically related to the applicant's past compliance
14 history with this Act as necessary to correct, detect, or
15 prevent noncompliance. The Agency may impose such other
16 conditions as may be necessary to accomplish the purposes of
17 this Act, and as are not inconsistent with the regulations
18 promulgated by the Board hereunder. Except as otherwise
19 provided in this Act, a bond or other security shall not be
20 required as a condition for the issuance of a permit. If the
21 Agency denies any permit under this Section, the Agency shall
22 transmit to the applicant within the time limitations of this
23 Section specific, detailed statements as to the reasons the
24 permit application was denied. Such statements shall include,
25 but not be limited to the following:

26 (i) the Sections of this Act which may be violated if
27 the permit were granted;

28 (ii) the provision of the regulations, promulgated
29 under this Act, which may be violated if the permit were
30 granted;

31 (iii) the specific type of information, if any, which
32 the Agency deems the applicant did not provide the Agency;
33 and

34 (iv) a statement of specific reasons why the Act and
35 the regulations might not be met if the permit were
36 granted.

1 If there is no final action by the Agency within 90 days
2 after the filing of the application for permit, the applicant
3 may deem the permit issued; except that this time period shall
4 be extended to 180 days when (1) notice and opportunity for
5 public hearing are required by State or federal law or
6 regulation, (2) the application which was filed is for any
7 permit to develop a landfill subject to issuance pursuant to
8 this subsection, or (3) the application that was filed is for a
9 MSWLF unit required to issue public notice under subsection (p)
10 of Section 39. The 90-day and 180-day time periods for the
11 Agency to take final action do not apply to NPDES permit
12 applications under subsection (b) of this Section, to RCRA
13 permit applications under subsection (d) of this Section, or to
14 UIC permit applications under subsection (e) of this Section.

15 The Agency shall publish notice of all final permit
16 determinations for development permits for MSWLF units and for
17 significant permit modifications for lateral expansions for
18 existing MSWLF units one time in a newspaper of general
19 circulation in the county in which the unit is or is proposed
20 to be located.

21 After January 1, 1994 and until July 1, 1998, operating
22 permits issued under this Section by the Agency for sources of
23 air pollution permitted to emit less than 25 tons per year of
24 any combination of regulated air pollutants, as defined in
25 Section 39.5 of this Act, shall be required to be renewed only
26 upon written request by the Agency consistent with applicable
27 provisions of this Act and regulations promulgated hereunder.
28 Such operating permits shall expire 180 days after the date of
29 such a request. The Board shall revise its regulations for the
30 existing State air pollution operating permit program
31 consistent with this provision by January 1, 1994.

32 After June 30, 1998, operating permits issued under this
33 Section by the Agency for sources of air pollution that are not
34 subject to Section 39.5 of this Act and are not required to
35 have a federally enforceable State operating permit shall be
36 required to be renewed only upon written request by the Agency

1 consistent with applicable provisions of this Act and its
2 rules. Such operating permits shall expire 180 days after the
3 date of such a request. Before July 1, 1998, the Board shall
4 revise its rules for the existing State air pollution operating
5 permit program consistent with this paragraph and shall adopt
6 rules that require a source to demonstrate that it qualifies
7 for a permit under this paragraph.

8 (b) The Agency may issue NPDES permits exclusively under
9 this subsection for the discharge of contaminants from point
10 sources into navigable waters, all as defined in the Federal
11 Water Pollution Control Act, as now or hereafter amended,
12 within the jurisdiction of the State, or into any well.

13 All NPDES permits shall contain those terms and conditions,
14 including but not limited to schedules of compliance, which may
15 be required to accomplish the purposes and provisions of this
16 Act.

17 The Agency may issue general NPDES permits for discharges
18 from categories of point sources which are subject to the same
19 permit limitations and conditions. Such general permits may be
20 issued without individual applications and shall conform to
21 regulations promulgated under Section 402 of the Federal Water
22 Pollution Control Act, as now or hereafter amended.

23 The Agency may include, among such conditions, effluent
24 limitations and other requirements established under this Act,
25 Board regulations, the Federal Water Pollution Control Act, as
26 now or hereafter amended, and regulations pursuant thereto, and
27 schedules for achieving compliance therewith at the earliest
28 reasonable date.

29 The Agency shall adopt filing requirements and procedures
30 which are necessary and appropriate for the issuance of NPDES
31 permits, and which are consistent with the Act or regulations
32 adopted by the Board, and with the Federal Water Pollution
33 Control Act, as now or hereafter amended, and regulations
34 pursuant thereto.

35 The Agency, subject to any conditions which may be
36 prescribed by Board regulations, may issue NPDES permits to

1 allow discharges beyond deadlines established by this Act or by
2 regulations of the Board without the requirement of a variance,
3 subject to the Federal Water Pollution Control Act, as now or
4 hereafter amended, and regulations pursuant thereto.

5 (c) Except for those facilities owned or operated by
6 sanitary districts organized under the Metropolitan Water
7 Reclamation District Act, no permit for the development or
8 construction of a new pollution control facility may be granted
9 by the Agency unless the applicant submits proof to the Agency
10 that the location of the facility has been approved by the
11 County Board of the county if in an unincorporated area, or the
12 governing body of the municipality when in an incorporated
13 area, in which the facility is to be located in accordance with
14 Section 39.2 of this Act.

15 In the event that siting approval granted pursuant to
16 Section 39.2 has been transferred to a subsequent owner or
17 operator, that subsequent owner or operator may apply to the
18 Agency for, and the Agency may grant, a development or
19 construction permit for the facility for which local siting
20 approval was granted. Upon application to the Agency for a
21 development or construction permit by that subsequent owner or
22 operator, the permit applicant shall cause written notice of
23 the permit application to be served upon the appropriate county
24 board or governing body of the municipality that granted siting
25 approval for that facility and upon any party to the siting
26 proceeding pursuant to which siting approval was granted. In
27 that event, the Agency shall conduct an evaluation of the
28 subsequent owner or operator's prior experience in waste
29 management operations in the manner conducted under subsection
30 (i) of Section 39 of this Act.

31 Beginning August 20, 1993, if the pollution control
32 facility consists of a hazardous or solid waste disposal
33 facility for which the proposed site is located in an
34 unincorporated area of a county with a population of less than
35 100,000 and includes all or a portion of a parcel of land that
36 was, on April 1, 1993, adjacent to a municipality having a

1 population of less than 5,000, then the local siting review
2 required under this subsection (c) in conjunction with any
3 permit applied for after that date shall be performed by the
4 governing body of that adjacent municipality rather than the
5 county board of the county in which the proposed site is
6 located; and for the purposes of that local siting review, any
7 references in this Act to the county board shall be deemed to
8 mean the governing body of that adjacent municipality;
9 provided, however, that the provisions of this paragraph shall
10 not apply to any proposed site which was, on April 1, 1993,
11 owned in whole or in part by another municipality.

12 In the case of a pollution control facility for which a
13 development permit was issued before November 12, 1981, if an
14 operating permit has not been issued by the Agency prior to
15 August 31, 1989 for any portion of the facility, then the
16 Agency may not issue or renew any development permit nor issue
17 an original operating permit for any portion of such facility
18 unless the applicant has submitted proof to the Agency that the
19 location of the facility has been approved by the appropriate
20 county board or municipal governing body pursuant to Section
21 39.2 of this Act.

22 After January 1, 1994, if a solid waste disposal facility,
23 any portion for which an operating permit has been issued by
24 the Agency, has not accepted waste disposal for 5 or more
25 consecutive calendar years, before that facility may accept
26 any new or additional waste for disposal, the owner and
27 operator must obtain a new operating permit under this Act for
28 that facility unless the owner and operator have applied to the
29 Agency for a permit authorizing the temporary suspension of
30 waste acceptance. The Agency may not issue a new operation
31 permit under this Act for the facility unless the applicant has
32 submitted proof to the Agency that the location of the facility
33 has been approved or re-approved by the appropriate county
34 board or municipal governing body under Section 39.2 of this
35 Act after the facility ceased accepting waste.

36 Except for those facilities owned or operated by sanitary

1 districts organized under the Metropolitan Water Reclamation
2 District Act, and except for new pollution control facilities
3 governed by Section 39.2, and except for fossil fuel mining
4 facilities, the granting of a permit under this Act shall not
5 relieve the applicant from meeting and securing all necessary
6 zoning approvals from the unit of government having zoning
7 jurisdiction over the proposed facility.

8 Before beginning construction on any new sewage treatment
9 plant or sludge drying site to be owned or operated by a
10 sanitary district organized under the Metropolitan Water
11 Reclamation District Act for which a new permit (rather than
12 the renewal or amendment of an existing permit) is required,
13 such sanitary district shall hold a public hearing within the
14 municipality within which the proposed facility is to be
15 located, or within the nearest community if the proposed
16 facility is to be located within an unincorporated area, at
17 which information concerning the proposed facility shall be
18 made available to the public, and members of the public shall
19 be given the opportunity to express their views concerning the
20 proposed facility.

21 The Agency may issue a permit for a municipal waste
22 transfer station without requiring approval pursuant to
23 Section 39.2 provided that the following demonstration is made:

24 (1) the municipal waste transfer station was in
25 existence on or before January 1, 1979 and was in
26 continuous operation from January 1, 1979 to January 1,
27 1993;

28 (2) the operator submitted a permit application to the
29 Agency to develop and operate the municipal waste transfer
30 station during April of 1994;

31 (3) the operator can demonstrate that the county board
32 of the county, if the municipal waste transfer station is
33 in an unincorporated area, or the governing body of the
34 municipality, if the station is in an incorporated area,
35 does not object to resumption of the operation of the
36 station; and

1 (4) the site has local zoning approval.

2 (d) The Agency may issue RCRA permits exclusively under
3 this subsection to persons owning or operating a facility for
4 the treatment, storage, or disposal of hazardous waste as
5 defined under this Act.

6 All RCRA permits shall contain those terms and conditions,
7 including but not limited to schedules of compliance, which may
8 be required to accomplish the purposes and provisions of this
9 Act. The Agency may include among such conditions standards and
10 other requirements established under this Act, Board
11 regulations, the Resource Conservation and Recovery Act of 1976
12 (P.L. 94-580), as amended, and regulations pursuant thereto,
13 and may include schedules for achieving compliance therewith as
14 soon as possible. The Agency shall require that a performance
15 bond or other security be provided as a condition for the
16 issuance of a RCRA permit.

17 In the case of a permit to operate a hazardous waste or PCB
18 incinerator as defined in subsection (k) of Section 44, the
19 Agency shall require, as a condition of the permit, that the
20 operator of the facility perform such analyses of the waste to
21 be incinerated as may be necessary and appropriate to ensure
22 the safe operation of the incinerator.

23 The Agency shall adopt filing requirements and procedures
24 which are necessary and appropriate for the issuance of RCRA
25 permits, and which are consistent with the Act or regulations
26 adopted by the Board, and with the Resource Conservation and
27 Recovery Act of 1976 (P.L. 94-580), as amended, and regulations
28 pursuant thereto.

29 The applicant shall make available to the public for
30 inspection all documents submitted by the applicant to the
31 Agency in furtherance of an application, with the exception of
32 trade secrets, at the office of the county board or governing
33 body of the municipality. Such documents may be copied upon
34 payment of the actual cost of reproduction during regular
35 business hours of the local office. The Agency shall issue a
36 written statement concurrent with its grant or denial of the

1 permit explaining the basis for its decision.

2 (e) The Agency may issue UIC permits exclusively under this
3 subsection to persons owning or operating a facility for the
4 underground injection of contaminants as defined under this
5 Act.

6 All UIC permits shall contain those terms and conditions,
7 including but not limited to schedules of compliance, which may
8 be required to accomplish the purposes and provisions of this
9 Act. The Agency may include among such conditions standards and
10 other requirements established under this Act, Board
11 regulations, the Safe Drinking Water Act (P.L. 93-523), as
12 amended, and regulations pursuant thereto, and may include
13 schedules for achieving compliance therewith. The Agency shall
14 require that a performance bond or other security be provided
15 as a condition for the issuance of a UIC permit.

16 The Agency shall adopt filing requirements and procedures
17 which are necessary and appropriate for the issuance of UIC
18 permits, and which are consistent with the Act or regulations
19 adopted by the Board, and with the Safe Drinking Water Act
20 (P.L. 93-523), as amended, and regulations pursuant thereto.

21 The applicant shall make available to the public for
22 inspection, all documents submitted by the applicant to the
23 Agency in furtherance of an application, with the exception of
24 trade secrets, at the office of the county board or governing
25 body of the municipality. Such documents may be copied upon
26 payment of the actual cost of reproduction during regular
27 business hours of the local office. The Agency shall issue a
28 written statement concurrent with its grant or denial of the
29 permit explaining the basis for its decision.

30 (f) In making any determination pursuant to Section 9.1 of
31 this Act:

32 (1) The Agency shall have authority to make the
33 determination of any question required to be determined by
34 the Clean Air Act, as now or hereafter amended, this Act,
35 or the regulations of the Board, including the
36 determination of the Lowest Achievable Emission Rate,

1 Maximum Achievable Control Technology, or Best Available
2 Control Technology, consistent with the Board's
3 regulations, if any.

4 (2) The Agency shall, after conferring with the
5 applicant, give written notice to the applicant of its
6 proposed decision on the application including the terms
7 and conditions of the permit to be issued and the facts,
8 conduct or other basis upon which the Agency will rely to
9 support its proposed action.

10 (3) Following such notice, the Agency shall give the
11 applicant an opportunity for a hearing in accordance with
12 the provisions of Sections 10-25 through 10-60 of the
13 Illinois Administrative Procedure Act.

14 (g) The Agency shall include as conditions upon all permits
15 issued for hazardous waste disposal sites such restrictions
16 upon the future use of such sites as are reasonably necessary
17 to protect public health and the environment, including
18 permanent prohibition of the use of such sites for purposes
19 which may create an unreasonable risk of injury to human health
20 or to the environment. After administrative and judicial
21 challenges to such restrictions have been exhausted, the Agency
22 shall file such restrictions of record in the Office of the
23 Recorder of the county in which the hazardous waste disposal
24 site is located.

25 (h) A hazardous waste stream may not be deposited in a
26 permitted hazardous waste site unless specific authorization
27 is obtained from the Agency by the generator and disposal site
28 owner and operator for the deposit of that specific hazardous
29 waste stream. The Agency may grant specific authorization for
30 disposal of hazardous waste streams only after the generator
31 has reasonably demonstrated that, considering technological
32 feasibility and economic reasonableness, the hazardous waste
33 cannot be reasonably recycled for reuse, nor incinerated or
34 chemically, physically or biologically treated so as to
35 neutralize the hazardous waste and render it nonhazardous. In
36 granting authorization under this Section, the Agency may

1 impose such conditions as may be necessary to accomplish the
2 purposes of the Act and are consistent with this Act and
3 regulations promulgated by the Board hereunder. If the Agency
4 refuses to grant authorization under this Section, the
5 applicant may appeal as if the Agency refused to grant a
6 permit, pursuant to the provisions of subsection (a) of Section
7 40 of this Act. For purposes of this subsection (h), the term
8 "generator" has the meaning given in Section 3.205 of this Act,
9 unless: (1) the hazardous waste is treated, incinerated, or
10 partially recycled for reuse prior to disposal, in which case
11 the last person who treats, incinerates, or partially recycles
12 the hazardous waste prior to disposal is the generator; or (2)
13 the hazardous waste is from a response action, in which case
14 the person performing the response action is the generator.
15 This subsection (h) does not apply to any hazardous waste that
16 is restricted from land disposal under 35 Ill. Adm. Code 728.

17 (i) Before issuing any RCRA permit, ~~or~~ any permit for a
18 waste storage site, sanitary landfill, waste disposal site,
19 waste transfer station, waste treatment facility, waste
20 incinerator, or any waste-transportation operation, or any
21 permit for a clean construction or demolition debris fill
22 operation, the Agency shall conduct an evaluation of the
23 prospective owner's or operator's prior experience in waste
24 management operations. The Agency may deny such a permit if the
25 prospective owner or operator or any employee or officer of the
26 prospective owner or operator has a history of:

27 (1) repeated violations of federal, State, or local
28 laws, regulations, standards, or ordinances in the
29 operation of waste management facilities or sites; or

30 (2) conviction in this or another State of any crime
31 which is a felony under the laws of this State, or
32 conviction of a felony in a federal court; or

33 (3) proof of gross carelessness or incompetence in
34 handling, storing, processing, transporting or disposing
35 of waste.

36 (i-5) Before issuing any permit or approving any interim

1 authorization for a clean construction or demolition debris
2 fill operation in which any ownership interest is transferred
3 between January 1, 2005, and the effective date of the
4 prohibition set forth in Section 22.52 of this Act, the Agency
5 shall conduct an evaluation of the operation if any previous
6 activities at the site or facility may have caused or allowed
7 contamination of the site. It shall be the responsibility of
8 the owner or operator seeking the permit or interim
9 authorization to provide to the Agency all of the information
10 necessary for the Agency to conduct its evaluation. The Agency
11 may deny a permit or interim authorization if previous
12 activities at the site may have caused or allowed contamination
13 at the site, unless such contamination is authorized under any
14 permit issued by the Agency.

15 (j) The issuance under this Act of a permit to engage in
16 the surface mining of any resources other than fossil fuels
17 shall not relieve the permittee from its duty to comply with
18 any applicable local law regulating the commencement, location
19 or operation of surface mining facilities.

20 (k) A development permit issued under subsection (a) of
21 Section 39 for any facility or site which is required to have a
22 permit under subsection (d) of Section 21 shall expire at the
23 end of 2 calendar years from the date upon which it was issued,
24 unless within that period the applicant has taken action to
25 develop the facility or the site. In the event that review of
26 the conditions of the development permit is sought pursuant to
27 Section 40 or 41, or permittee is prevented from commencing
28 development of the facility or site by any other litigation
29 beyond the permittee's control, such two-year period shall be
30 deemed to begin on the date upon which such review process or
31 litigation is concluded.

32 (l) No permit shall be issued by the Agency under this Act
33 for construction or operation of any facility or site located
34 within the boundaries of any setback zone established pursuant
35 to this Act, where such construction or operation is
36 prohibited.

1 (m) The Agency may issue permits to persons owning or
2 operating a facility for composting landscape waste. In
3 granting such permits, the Agency may impose such conditions as
4 may be necessary to accomplish the purposes of this Act, and as
5 are not inconsistent with applicable regulations promulgated
6 by the Board. Except as otherwise provided in this Act, a bond
7 or other security shall not be required as a condition for the
8 issuance of a permit. If the Agency denies any permit pursuant
9 to this subsection, the Agency shall transmit to the applicant
10 within the time limitations of this subsection specific,
11 detailed statements as to the reasons the permit application
12 was denied. Such statements shall include but not be limited to
13 the following:

14 (1) the Sections of this Act that may be violated if
15 the permit were granted;

16 (2) the specific regulations promulgated pursuant to
17 this Act that may be violated if the permit were granted;

18 (3) the specific information, if any, the Agency deems
19 the applicant did not provide in its application to the
20 Agency; and

21 (4) a statement of specific reasons why the Act and the
22 regulations might be violated if the permit were granted.

23 If no final action is taken by the Agency within 90 days
24 after the filing of the application for permit, the applicant
25 may deem the permit issued. Any applicant for a permit may
26 waive the 90 day limitation by filing a written statement with
27 the Agency.

28 The Agency shall issue permits for such facilities upon
29 receipt of an application that includes a legal description of
30 the site, a topographic map of the site drawn to the scale of
31 200 feet to the inch or larger, a description of the operation,
32 including the area served, an estimate of the volume of
33 materials to be processed, and documentation that:

34 (1) the facility includes a setback of at least 200
35 feet from the nearest potable water supply well;

36 (2) the facility is located outside the boundary of the

1 10-year floodplain or the site will be floodproofed;

2 (3) the facility is located so as to minimize
3 incompatibility with the character of the surrounding
4 area, including at least a 200 foot setback from any
5 residence, and in the case of a facility that is developed
6 or the permitted composting area of which is expanded after
7 November 17, 1991, the composting area is located at least
8 1/8 mile from the nearest residence (other than a residence
9 located on the same property as the facility);

10 (4) the design of the facility will prevent any compost
11 material from being placed within 5 feet of the water
12 table, will adequately control runoff from the site, and
13 will collect and manage any leachate that is generated on
14 the site;

15 (5) the operation of the facility will include
16 appropriate dust and odor control measures, limitations on
17 operating hours, appropriate noise control measures for
18 shredding, chipping and similar equipment, management
19 procedures for composting, containment and disposal of
20 non-compostable wastes, procedures to be used for
21 terminating operations at the site, and recordkeeping
22 sufficient to document the amount of materials received,
23 composted and otherwise disposed of; and

24 (6) the operation will be conducted in accordance with
25 any applicable rules adopted by the Board.

26 The Agency shall issue renewable permits of not longer than
27 10 years in duration for the composting of landscape wastes, as
28 defined in Section 3.155 of this Act, based on the above
29 requirements.

30 The operator of any facility permitted under this
31 subsection (m) must submit a written annual statement to the
32 Agency on or before April 1 of each year that includes an
33 estimate of the amount of material, in tons, received for
34 composting.

35 (n) The Agency shall issue permits jointly with the
36 Department of Transportation for the dredging or deposit of

1 material in Lake Michigan in accordance with Section 18 of the
2 Rivers, Lakes, and Streams Act.

3 (o) (Blank.)

4 (p) (1) Any person submitting an application for a permit
5 for a new MSWLF unit or for a lateral expansion under
6 subsection (t) of Section 21 of this Act for an existing MSWLF
7 unit that has not received and is not subject to local siting
8 approval under Section 39.2 of this Act shall publish notice of
9 the application in a newspaper of general circulation in the
10 county in which the MSWLF unit is or is proposed to be located.
11 The notice must be published at least 15 days before submission
12 of the permit application to the Agency. The notice shall state
13 the name and address of the applicant, the location of the
14 MSWLF unit or proposed MSWLF unit, the nature and size of the
15 MSWLF unit or proposed MSWLF unit, the nature of the activity
16 proposed, the probable life of the proposed activity, the date
17 the permit application will be submitted, and a statement that
18 persons may file written comments with the Agency concerning
19 the permit application within 30 days after the filing of the
20 permit application unless the time period to submit comments is
21 extended by the Agency.

22 When a permit applicant submits information to the Agency
23 to supplement a permit application being reviewed by the
24 Agency, the applicant shall not be required to reissue the
25 notice under this subsection.

26 (2) The Agency shall accept written comments concerning the
27 permit application that are postmarked no later than 30 days
28 after the filing of the permit application, unless the time
29 period to accept comments is extended by the Agency.

30 (3) Each applicant for a permit described in part (1) of
31 this subsection shall file a copy of the permit application
32 with the county board or governing body of the municipality in
33 which the MSWLF unit is or is proposed to be located at the
34 same time the application is submitted to the Agency. The
35 permit application filed with the county board or governing
36 body of the municipality shall include all documents submitted

1 to or to be submitted to the Agency, except trade secrets as
2 determined under Section 7.1 of this Act. The permit
3 application and other documents on file with the county board
4 or governing body of the municipality shall be made available
5 for public inspection during regular business hours at the
6 office of the county board or the governing body of the
7 municipality and may be copied upon payment of the actual cost
8 of reproduction.

9 (Source: P.A. 92-574, eff. 6-26-02; 93-575, eff. 1-1-04.)

10 (415 ILCS 5/42) (from Ch. 111 1/2, par. 1042)

11 Sec. 42. Civil penalties.

12 (a) Except as provided in this Section, any person that
13 violates any provision of this Act or any regulation adopted by
14 the Board, or any permit or term or condition thereof, or that
15 violates any order of the Board pursuant to this Act, shall be
16 liable for a civil penalty of not to exceed \$50,000 for the
17 violation and an additional civil penalty of not to exceed
18 \$10,000 for each day during which the violation continues; such
19 penalties may, upon order of the Board or a court of competent
20 jurisdiction, be made payable to the Environmental Protection
21 Trust Fund, to be used in accordance with the provisions of the
22 Environmental Protection Trust Fund Act.

23 (b) Notwithstanding the provisions of subsection (a) of
24 this Section:

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

30 (2) Any person that violates Section 12(g) of this Act
31 or any UIC permit or term or condition thereof, or any
32 filing requirement, regulation or order relating to the
33 State UIC program for all wells, except Class II wells as
34 defined by the Board under this Act, shall be liable to a
35 civil penalty not to exceed \$2,500 per day of violation;

1 provided, however, that any person who commits such
2 violations relating to the State UIC program for Class II
3 wells, as defined by the Board under this Act, shall be
4 liable to a civil penalty of not to exceed \$10,000 for the
5 violation and an additional civil penalty of not to exceed
6 \$1,000 for each day during which the violation continues.

7 (3) Any person that violates Sections 21(f), 21(g),
8 21(h) or 21(i) of this Act, or any RCRA permit or term or
9 condition thereof, or any filing requirement, regulation
10 or order relating to the State RCRA program, shall be
11 liable to a civil penalty of not to exceed \$25,000 per day
12 of violation.

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

25 (4-5) In an administrative citation action under
26 Section 31.1 of this Act, any person found to have violated
27 any provision of subsection (p) of Section 21 of this Act
28 shall pay a civil penalty of \$1,500 for each violation of
29 each such provision, plus any hearing costs incurred by the
30 Board and the Agency, except that the civil penalty amount
31 shall be \$3,000 for each violation of any provision of
32 subsection (p) of Section 21 that is the person's second or
33 subsequent adjudication violation of that provision. The
34 penalties shall be deposited into the Environmental
35 Protection Trust Fund, to be used in accordance with the
36 provisions of the Environmental Protection Trust Fund Act;

1 except that if a unit of local government issued the
2 administrative citation, 50% of the civil penalty shall be
3 payable to the unit of local government.

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

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

25 (c) Any person that violates this Act, any rule or
26 regulation adopted under this Act, any permit or term or
27 condition of a permit, or any Board order and causes the death
28 of fish or aquatic life shall, in addition to the other
29 penalties provided by this Act, be liable to pay to the State
30 an additional sum for the reasonable value of the fish or
31 aquatic life destroyed. Any money so recovered shall be placed
32 in the Wildlife and Fish Fund in the State Treasury.

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

35 (e) The State's Attorney of the county in which the
36 violation occurred, or the Attorney General, may, at the

1 request of the Agency or on his own motion, institute a civil
2 action for an injunction, prohibitory or mandatory, to restrain
3 violations of this Act, any rule or regulation adopted under
4 this Act, any permit or term or condition of a permit, or any
5 Board order, or to require such other actions as may be
6 necessary to address violations of this Act, any rule or
7 regulation adopted under this Act, any permit or term or
8 condition of a permit, or any Board order.

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

22 Any funds collected under this subsection (f) in which the
23 Attorney General has prevailed shall be deposited in the
24 Hazardous Waste Fund created in Section 22.2 of this Act. Any
25 funds collected under this subsection (f) in which a State's
26 Attorney has prevailed shall be retained by the county in which
27 he serves.

28 (g) All final orders imposing civil penalties pursuant to
29 this Section shall prescribe the time for payment of such
30 penalties. If any such penalty is not paid within the time
31 prescribed, interest on such penalty at the rate set forth in
32 subsection (a) of Section 1003 of the Illinois Income Tax Act,
33 shall be paid for the period from the date payment is due until
34 the date payment is received. However, if the time for payment
35 is stayed during the pendency of an appeal, interest shall not
36 accrue during such stay.

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

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

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

11 (3) any economic benefits accrued by the respondent
12 because of delay in compliance with requirements, in which
13 case the economic benefits shall be determined by the
14 lowest cost alternative for achieving compliance;

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

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

22 (6) whether the respondent voluntarily self-disclosed,
23 in accordance with subsection (i) of this Section, the
24 non-compliance to the Agency; and

25 (7) whether the respondent has agreed to undertake a
26 "supplemental environmental project," which means an
27 environmentally beneficial project that a respondent
28 agrees to undertake in settlement of an enforcement action
29 brought under this Act, but which the respondent is not
30 otherwise legally required to perform.

31 In determining the appropriate civil penalty to be imposed
32 under subsection (a) or paragraph (1), (2), (3), or (5) of
33 subsection (b) of this Section, the Board shall ensure, in all
34 cases, that the penalty is at least as great as the economic
35 benefits, if any, accrued by the respondent as a result of the
36 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, as defined in Section 52.2 of this
12 Act, and the person waives the environmental audit
13 privileges as provided in that Section with respect to that
14 non-compliance;

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
27 employee of the person without that person's
28 knowledge; or

29 (v) imminent discovery of the non-compliance by
30 the Agency;

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

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

35 (6) that no related non-compliance events have
36 occurred in the past 3 years at the same facility or in the

1 past 5 years as part of a pattern at multiple facilities
2 owned or operated by the person;

3 (7) that the non-compliance did not result in serious
4 actual harm or present an imminent and substantial
5 endangerment to human health or the environment or violate
6 the specific terms of any judicial or administrative order
7 or consent agreement;

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

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

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

19 (j) In addition to an 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 (Source: P.A. 93-152, eff. 7-10-03; 93-575, eff. 1-1-04;
25 93-831, eff. 7-28-04.)

26 (415 ILCS 5/58.8)

27 Sec. 58.8. Duty to record; compliance.

28 (a) The RA receiving a No Further Remediation Letter from
29 the Agency pursuant to Section 58.10, shall submit the letter
30 to the Office of the Recorder or the Registrar of Titles of the
31 county in which the site is located within 45 days of receipt
32 of the letter. The Office of the Recorder or the Registrar of
33 Titles shall accept and record that letter in accordance with
34 Illinois law so that it forms a permanent part of the chain of
35 title for the site.

1 (b) A No Further Remediation Letter shall not become
2 effective until officially recorded in accordance with
3 subsection (a) of this Section. The RA shall obtain and submit
4 to the Agency a certified copy of the No Further Remediation
5 Letter as recorded.

6 (c) (Blank). ~~At no time shall any site for which a land use~~
7 ~~limitation has been imposed as a result of remediation~~
8 ~~activities under this Title be used in a manner inconsistent~~
9 ~~with the land use limitation unless further investigation or~~
10 ~~remedial action has been conducted that documents the~~
11 ~~attainment of objectives appropriate for the new land use and a~~
12 ~~new No Further Remediation Letter obtained and recorded in~~
13 ~~accordance with this Title.~~

14 (d) In the event that a No Further Remediation Letter
15 issues by operation of law pursuant to Section 58.10, the RA
16 may, for purposes of this Section, file an affidavit stating
17 that the letter issued by operation of law. Upon receipt of the
18 No Further Remediation Letter from the Agency, the RA shall
19 comply with the requirements of subsections (a) and (b) of this
20 Section.

21 (Source: P.A. 92-574, eff. 6-26-02.)

22 Section 15. The Litter Control Act is amended by changing
23 Sections 8 and 9 as follows:

24 (415 ILCS 105/8) (from Ch. 38, par. 86-8)

25 Sec. 8. Persons who violate any of Sections 4 through 7 are
26 subject to the penalties set out in this Section.

27 (a) Any person convicted of a violation of Section 4, 5, 6
28 or 7 is guilty of a Class B misdemeanor. A second conviction
29 for an offense committed after the first conviction is a Class
30 A misdemeanor. A third or subsequent violation, committed after
31 a second conviction is a Class 4 felony. All fines imposed for
32 violations of this Act shall be deposited into the Clean
33 Communities Recycling Fund to be used as set forth in Section
34 21.7 of the Environmental Protection Act.

1 (b) In addition to any fine imposed under this Act, the
2 court may order that the person convicted of such a violation
3 remove and properly dispose of the litter, may employ special
4 bailiffs to supervise such removal and disposal, and may tax
5 the costs of such supervision as costs against the person so
6 convicted.

7 (c) The penalties prescribed in this Section are in
8 addition to, and not in lieu of, any penalties, rights,
9 remedies, duties or liabilities otherwise imposed or conferred
10 by law.

11 (Source: P.A. 85-1410.)

12 (415 ILCS 105/9) (from Ch. 38, par. 86-9)

13 Sec. 9. Whenever litter is thrown, deposited, dropped or
14 dumped in violation of Section 5 from any motor vehicle not
15 carrying passengers for hire, the presumption is created that
16 the operator of that motor vehicle has violated Section 5, but
17 that presumption may be rebutted.

18 (Source: P.A. 78-837.)

19 Section 20. The Illinois Vehicle Code is amended by
20 changing Sections 11-1413 and 16-105 as follows:

21 (625 ILCS 5/11-1413) (from Ch. 95 1/2, par. 11-1413)

22 Sec. 11-1413. Depositing material on highway prohibited.

23 (a) No person shall dump, deposit, drop, throw, spill,
24 discard, or otherwise dispose of any bottle, glass, nails,
25 tacks, wire, cans, or any litter (as defined in Section 3 of
26 the Litter Control Act) from any motor vehicle upon any public
27 highway, upon any public or private property, or upon or into
28 any river, lake, pond, stream, or body of water in this State
29 except as permitted under any of paragraphs (a) through (e) of
30 Section 4 of the Litter Control Act.

31 Whenever litter is thrown, deposited, dropped, or dumped in
32 violation of this subsection (a) from any motor vehicle not
33 carrying passengers for hire, the presumption is created that

1 the operator of that motor vehicle has violated this Section,
2 but that presumption may be rebutted. ~~No person shall throw,~~
3 ~~spill or deposit upon any highway any bottle, glass, nails,~~
4 ~~nails, wire, cans, or any litter (as defined in Section 3 of~~
5 ~~the Litter Control Act).~~

6 (b) Any person who violates subsection (a) upon any highway
7 shall immediately remove such material or cause it to be
8 removed.

9 (c) Any person removing a wrecked or damaged vehicle from a
10 highway shall remove any glass or other debris, except any
11 hazardous substance as defined in Section 3.215 of the
12 Environmental Protection Act, hazardous waste as defined in
13 Section 3.220 of the Environmental Protection Act, and
14 potentially infectious medical waste as defined in Section
15 3.360 of the Environmental Protection Act, dropped upon the
16 highway from such vehicle.

17 (Source: P.A. 92-574, eff. 6-26-02.)

18 (625 ILCS 5/16-105) (from Ch. 95 1/2, par. 16-105)

19 Sec. 16-105. Disposition of fines and forfeitures.

20 (a) Except as provided in Section 16-104a of this Act and
21 except for those amounts required to be paid into the Traffic
22 and Criminal Conviction Surcharge Fund in the State Treasury
23 pursuant to Section 9.1 of the Illinois Police Training Act and
24 Section 5-9-1 of the Unified Code of Corrections and except
25 those amounts subject to disbursement by the circuit clerk
26 under Section 27.5 of the Clerks of Courts Act, fines and
27 penalties recovered under the provisions of Chapters 11 through
28 16 inclusive of this Code shall be paid and used as follows:

29 1. For offenses committed upon a highway within the
30 limits of a city, village, or incorporated town or under
31 the jurisdiction of any park district, to the treasurer of
32 the particular city, village, incorporated town or park
33 district, if the violator was arrested by the authorities
34 of the city, village, incorporated town or park district,
35 provided the police officers and officials of cities,

1 villages, incorporated towns and park districts shall
2 seasonably prosecute for all fines and penalties under this
3 Code. If the violation is prosecuted by the authorities of
4 the county, any fines or penalties recovered shall be paid
5 to the county treasurer. Provided further that if the
6 violator was arrested by the State Police, fines and
7 penalties recovered under the provisions of paragraph (a)
8 of Section 15-113 of this Code or paragraph (e) of Section
9 15-316 of this Code shall be paid over to the Department of
10 State Police which shall thereupon remit the amount of the
11 fines and penalties so received to the State Treasurer who
12 shall deposit the amount so remitted in the special fund in
13 the State treasury known as the Road Fund except that if
14 the violation is prosecuted by the State's Attorney, 10% of
15 the fine or penalty recovered shall be paid to the State's
16 Attorney as a fee of his office and the balance shall be
17 paid over to the Department of State Police for remittance
18 to and deposit by the State Treasurer as hereinabove
19 provided.

20 2. Except as provided in paragraph 4, for offenses
21 committed upon any highway outside the limits of a city,
22 village, incorporated town or park district, to the county
23 treasurer of the county where the offense was committed
24 except if such offense was committed on a highway
25 maintained by or under the supervision of a township,
26 township district, or a road district to the Treasurer
27 thereof for deposit in the road and bridge fund of such
28 township or other district; Provided, that fines and
29 penalties recovered under the provisions of paragraph (a)
30 of Section 15-113, paragraph (d) of Section 3-401, or
31 paragraph (e) of Section 15-316 of this Code shall be paid
32 over to the Department of State Police which shall
33 thereupon remit the amount of the fines and penalties so
34 received to the State Treasurer who shall deposit the
35 amount so remitted in the special fund in the State
36 treasury known as the Road Fund except that if the

1 violation is prosecuted by the State's Attorney, 10% of the
2 fine or penalty recovered shall be paid to the State's
3 Attorney as a fee of his office and the balance shall be
4 paid over to the Department of State Police for remittance
5 to and deposit by the State Treasurer as hereinabove
6 provided.

7 3. Notwithstanding subsections 1 and 2 of this
8 paragraph, for violations of overweight and overload
9 limits found in Sections 15-101 through 15-203 of this
10 Code, which are committed upon the highways belonging to
11 the Illinois State Toll Highway Authority, fines and
12 penalties shall be paid over to the Illinois State Toll
13 Highway Authority for deposit with the State Treasurer into
14 that special fund known as the Illinois State Toll Highway
15 Authority Fund, except that if the violation is prosecuted
16 by the State's Attorney, 10% of the fine or penalty
17 recovered shall be paid to the State's Attorney as a fee of
18 his office and the balance shall be paid over to the
19 Illinois State Toll Highway Authority for remittance to and
20 deposit by the State Treasurer as hereinabove provided.

21 4. With regard to violations of overweight and overload
22 limits found in Sections 15-101 through 15-203 of this Code
23 committed by operators of vehicles registered as Special
24 Hauling Vehicles, for offenses committed upon a highway
25 within the limits of a city, village, or incorporated town
26 or under the jurisdiction of any park district, all fines
27 and penalties shall be paid over or retained as required in
28 paragraph 1. However, with regard to the above offenses
29 committed by operators of vehicles registered as Special
30 Hauling Vehicles upon any highway outside the limits of a
31 city, village, incorporated town or park district, fines
32 and penalties shall be paid over or retained by the entity
33 having jurisdiction over the road or highway upon which the
34 offense occurred, except that if the violation is
35 prosecuted by the State's Attorney, 10% of the fine or
36 penalty recovered shall be paid to the State's Attorney as

1 a fee of his office.

2 (b) Failure, refusal or neglect on the part of any judicial
3 or other officer or employee receiving or having custody of any
4 such fine or forfeiture either before or after a deposit with
5 the proper official as defined in paragraph (a) of this
6 Section, shall constitute misconduct in office and shall be
7 grounds for removal therefrom.

8 (c) Notwithstanding any other provision of this Section,
9 all fines imposed for violations of subsection (a) of Section
10 11-1413 of this Code shall be remitted in accordance with
11 subsection (g) of Section 5-9-1 of the Unified Code of
12 Corrections.

13 (Source: P.A. 88-403; 88-476; 88-535; 89-117, eff. 7-7-95.)

14 Section 25. The Clerks of Courts Act is amended by changing
15 Sections 27.5 and 27.6 as follows:

16 (705 ILCS 105/27.5) (from Ch. 25, par. 27.5)

17 Sec. 27.5. (a) All fees, fines, costs, additional
18 penalties, bail balances assessed or forfeited, and any other
19 amount paid by a person to the circuit clerk that equals an
20 amount less than \$55, except restitution under Section 5-5-6 of
21 the Unified Code of Corrections, reimbursement for the costs of
22 an emergency response as provided under Section 11-501 of the
23 Illinois Vehicle Code, any fees collected for attending a
24 traffic safety program under paragraph (c) of Supreme Court
25 Rule 529, any fee collected on behalf of a State's Attorney
26 under Section 4-2002 of the Counties Code or a sheriff under
27 Section 4-5001 of the Counties Code, or any cost imposed under
28 Section 124A-5 of the Code of Criminal Procedure of 1963, for
29 convictions, orders of supervision, or any other disposition
30 for a violation of Chapters 3, 4, 6, 11, and 12 of the Illinois
31 Vehicle Code, or a similar provision of a local ordinance, and
32 any violation of the Child Passenger Protection Act, or a
33 similar provision of a local ordinance, and except as provided
34 in subsection (b) shall be disbursed within 60 days after

1 receipt by the circuit clerk as follows: 47% shall be disbursed
2 to the entity authorized by law to receive the fine imposed in
3 the case; 12% shall be disbursed to the State Treasurer; and
4 41% shall be disbursed to the county's general corporate fund.
5 Of the 12% disbursed to the State Treasurer, 1/6 shall be
6 deposited by the State Treasurer into the Violent Crime Victims
7 Assistance Fund, 1/2 shall be deposited into the Traffic and
8 Criminal Conviction Surcharge Fund, and 1/3 shall be deposited
9 into the Drivers Education Fund. For fiscal years 1992 and
10 1993, amounts deposited into the Violent Crime Victims
11 Assistance Fund, the Traffic and Criminal Conviction Surcharge
12 Fund, or the Drivers Education Fund shall not exceed 110% of
13 the amounts deposited into those funds in fiscal year 1991. Any
14 amount that exceeds the 110% limit shall be distributed as
15 follows: 50% shall be disbursed to the county's general
16 corporate fund and 50% shall be disbursed to the entity
17 authorized by law to receive the fine imposed in the case. Not
18 later than March 1 of each year the circuit clerk shall submit
19 a report of the amount of funds remitted to the State Treasurer
20 under this Section during the preceding year based upon
21 independent verification of fines and fees. All counties shall
22 be subject to this Section, except that counties with a
23 population under 2,000,000 may, by ordinance, elect not to be
24 subject to this Section. For offenses subject to this Section,
25 judges shall impose one total sum of money payable for
26 violations. The circuit clerk may add on no additional amounts
27 except for amounts that are required by Sections 27.3a and
28 27.3c of this Act, unless those amounts are specifically waived
29 by the judge. With respect to money collected by the circuit
30 clerk as a result of forfeiture of bail, ex parte judgment or
31 guilty plea pursuant to Supreme Court Rule 529, the circuit
32 clerk shall first deduct and pay amounts required by Sections
33 27.3a and 27.3c of this Act. This Section is a denial and
34 limitation of home rule powers and functions under subsection
35 (h) of Section 6 of Article VII of the Illinois Constitution.

36 (b) The following amounts must be remitted to the State

1 Treasurer for deposit into the Illinois Animal Abuse Fund:

2 (1) 50% of the amounts collected for felony offenses
3 under Sections 3, 3.01, 3.02, 3.03, 4, 4.01, 4.03, 4.04, 5,
4 5.01, 6, 7, 7.5, 7.15, and 16 of the Humane Care for
5 Animals Act and Section 26-5 of the Criminal Code of 1961;

6 (2) 20% of the amounts collected for Class A and Class
7 B misdemeanors under Sections 3, 3.01, 4, 4.01, 4.03, 4.04,
8 5, 5.01, 6, 7, 7.1, 7.5, 7.15, and 16 of the Humane Care
9 for Animals Act and Section 26-5 of the Criminal Code of
10 1961; and

11 (3) 50% of the amounts collected for Class C
12 misdemeanors under Sections 4.01 and 7.1 of the Humane Care
13 for Animals Act and Section 26-5 of the Criminal Code of
14 1961.

15 (c) Notwithstanding any other provision of this Section,
16 all fines imposed for violations of the Litter Control Act and
17 for violations of subsection (a) of Section 11-1413 of the
18 Illinois Vehicle Code shall be remitted in accordance with
19 subsection (g) of Section 5-9-1 of the Unified Code of
20 Corrections.

21 (Source: P.A. 92-454, eff. 1-1-02; 92-650, eff. 7-11-02;
22 93-800, eff. 1-1-05.)

23 (705 ILCS 105/27.6)

24 Sec. 27.6. (a) All fees, fines, costs, additional
25 penalties, bail balances assessed or forfeited, and any other
26 amount paid by a person to the circuit clerk equalling an
27 amount of \$55 or more, except the additional fee required by
28 subsections (b) and (c), restitution under Section 5-5-6 of the
29 Unified Code of Corrections, reimbursement for the costs of an
30 emergency response as provided under Section 11-501 of the
31 Illinois Vehicle Code, any fees collected for attending a
32 traffic safety program under paragraph (c) of Supreme Court
33 Rule 529, any fee collected on behalf of a State's Attorney
34 under Section 4-2002 of the Counties Code or a sheriff under
35 Section 4-5001 of the Counties Code, or any cost imposed under

1 Section 124A-5 of the Code of Criminal Procedure of 1963, for
2 convictions, orders of supervision, or any other disposition
3 for a violation of Chapters 3, 4, 6, 11, and 12 of the Illinois
4 Vehicle Code, or a similar provision of a local ordinance, and
5 any violation of the Child Passenger Protection Act, or a
6 similar provision of a local ordinance, and except as provided
7 in subsection (d) shall be disbursed within 60 days after
8 receipt by the circuit clerk as follows: 44.5% shall be
9 disbursed to the entity authorized by law to receive the fine
10 imposed in the case; 16.825% shall be disbursed to the State
11 Treasurer; and 38.675% shall be disbursed to the county's
12 general corporate fund. Of the 16.825% disbursed to the State
13 Treasurer, 2/17 shall be deposited by the State Treasurer into
14 the Violent Crime Victims Assistance Fund, 5.052/17 shall be
15 deposited into the Traffic and Criminal Conviction Surcharge
16 Fund, 3/17 shall be deposited into the Drivers Education Fund,
17 and 6.948/17 shall be deposited into the Trauma Center Fund. Of
18 the 6.948/17 deposited into the Trauma Center Fund from the
19 16.825% disbursed to the State Treasurer, 50% shall be
20 disbursed to the Department of Public Health and 50% shall be
21 disbursed to the Department of Public Aid. For fiscal year
22 1993, amounts deposited into the Violent Crime Victims
23 Assistance Fund, the Traffic and Criminal Conviction Surcharge
24 Fund, or the Drivers Education Fund shall not exceed 110% of
25 the amounts deposited into those funds in fiscal year 1991. Any
26 amount that exceeds the 110% limit shall be distributed as
27 follows: 50% shall be disbursed to the county's general
28 corporate fund and 50% shall be disbursed to the entity
29 authorized by law to receive the fine imposed in the case. Not
30 later than March 1 of each year the circuit clerk shall submit
31 a report of the amount of funds remitted to the State Treasurer
32 under this Section during the preceding year based upon
33 independent verification of fines and fees. All counties shall
34 be subject to this Section, except that counties with a
35 population under 2,000,000 may, by ordinance, elect not to be
36 subject to this Section. For offenses subject to this Section,

1 judges shall impose one total sum of money payable for
2 violations. The circuit clerk may add on no additional amounts
3 except for amounts that are required by Sections 27.3a and
4 27.3c of this Act, unless those amounts are specifically waived
5 by the judge. With respect to money collected by the circuit
6 clerk as a result of forfeiture of bail, ex parte judgment or
7 guilty plea pursuant to Supreme Court Rule 529, the circuit
8 clerk shall first deduct and pay amounts required by Sections
9 27.3a and 27.3c of this Act. This Section is a denial and
10 limitation of home rule powers and functions under subsection
11 (h) of Section 6 of Article VII of the Illinois Constitution.

12 (b) In addition to any other fines and court costs assessed
13 by the courts, any person convicted or receiving an order of
14 supervision for driving under the influence of alcohol or drugs
15 shall pay an additional fee of \$100 to the clerk of the circuit
16 court. This amount, less 2 1/2% that shall be used to defray
17 administrative costs incurred by the clerk, shall be remitted
18 by the clerk to the Treasurer within 60 days after receipt for
19 deposit into the Trauma Center Fund. This additional fee of
20 \$100 shall not be considered a part of the fine for purposes of
21 any reduction in the fine for time served either before or
22 after sentencing. Not later than March 1 of each year the
23 Circuit Clerk shall submit a report of the amount of funds
24 remitted to the State Treasurer under this subsection during
25 the preceding calendar year.

26 (b-1) In addition to any other fines and court costs
27 assessed by the courts, any person convicted or receiving an
28 order of supervision for driving under the influence of alcohol
29 or drugs shall pay an additional fee of \$5 to the clerk of the
30 circuit court. This amount, less 2 1/2% that shall be used to
31 defray administrative costs incurred by the clerk, shall be
32 remitted by the clerk to the Treasurer within 60 days after
33 receipt for deposit into the Spinal Cord Injury Paralysis Cure
34 Research Trust Fund. This additional fee of \$5 shall not be
35 considered a part of the fine for purposes of any reduction in
36 the fine for time served either before or after sentencing. Not

1 later than March 1 of each year the Circuit Clerk shall submit
2 a report of the amount of funds remitted to the State Treasurer
3 under this subsection during the preceding calendar year.

4 (c) In addition to any other fines and court costs assessed
5 by the courts, any person convicted for a violation of Sections
6 24-1.1, 24-1.2, or 24-1.5 of the Criminal Code of 1961 or a
7 person sentenced for a violation of the Cannabis Control Act or
8 the Controlled Substance Act shall pay an additional fee of
9 \$100 to the clerk of the circuit court. This amount, less 2
10 1/2% that shall be used to defray administrative costs incurred
11 by the clerk, shall be remitted by the clerk to the Treasurer
12 within 60 days after receipt for deposit into the Trauma Center
13 Fund. This additional fee of \$100 shall not be considered a
14 part of the fine for purposes of any reduction in the fine for
15 time served either before or after sentencing. Not later than
16 March 1 of each year the Circuit Clerk shall submit a report of
17 the amount of funds remitted to the State Treasurer under this
18 subsection during the preceding calendar year.

19 (c-1) In addition to any other fines and court costs
20 assessed by the courts, any person sentenced for a violation of
21 the Cannabis Control Act or the Illinois Controlled Substances
22 Act shall pay an additional fee of \$5 to the clerk of the
23 circuit court. This amount, less 2 1/2% that shall be used to
24 defray administrative costs incurred by the clerk, shall be
25 remitted by the clerk to the Treasurer within 60 days after
26 receipt for deposit into the Spinal Cord Injury Paralysis Cure
27 Research Trust Fund. This additional fee of \$5 shall not be
28 considered a part of the fine for purposes of any reduction in
29 the fine for time served either before or after sentencing. Not
30 later than March 1 of each year the Circuit Clerk shall submit
31 a report of the amount of funds remitted to the State Treasurer
32 under this subsection during the preceding calendar year.

33 (d) The following amounts must be remitted to the State
34 Treasurer for deposit into the Illinois Animal Abuse Fund:

35 (1) 50% of the amounts collected for felony offenses
36 under Sections 3, 3.01, 3.02, 3.03, 4, 4.01, 4.03, 4.04, 5,

1 5.01, 6, 7, 7.5, 7.15, and 16 of the Humane Care for
2 Animals Act and Section 26-5 of the Criminal Code of 1961;

3 (2) 20% of the amounts collected for Class A and Class
4 B misdemeanors under Sections 3, 3.01, 4, 4.01, 4.03, 4.04,
5 5, 5.01, 6, 7, 7.1, 7.5, 7.15, and 16 of the Humane Care
6 for Animals Act and Section 26-5 of the Criminal Code of
7 1961; and

8 (3) 50% of the amounts collected for Class C
9 misdemeanors under Sections 4.01 and 7.1 of the Humane Care
10 for Animals Act and Section 26-5 of the Criminal Code of
11 1961.

12 (e) Notwithstanding any other provision of this Section,
13 all fines imposed for violations of the Litter Control Act and
14 for violations of subsection (a) of Section 11-1413 of the
15 Illinois Vehicle Code shall be remitted in accordance with
16 subsection (g) of Section 5-9-1 of the Unified Code of
17 Corrections.

18 (Source: P.A. 92-431, eff. 1-1-02; 92-454, eff. 1-1-02; 92-650,
19 eff. 7-11-02; 92-651, eff. 7-11-02; 93-800, eff. 1-1-05.)

20 Section 30. The Unified Code of Corrections is amended by
21 changing Section 5-9-1 as follows:

22 (730 ILCS 5/5-9-1) (from Ch. 38, par. 1005-9-1)

23 Sec. 5-9-1. Authorized fines.

24 (a) An offender may be sentenced to pay a fine which shall
25 not exceed for each offense:

26 (1) for a felony, \$25,000 or the amount specified in
27 the offense, whichever is greater, or where the offender is
28 a corporation, \$50,000 or the amount specified in the
29 offense, whichever is greater;

30 (2) for a Class A misdemeanor, \$2,500 or the amount
31 specified in the offense, whichever is greater;

32 (3) for a Class B or Class C misdemeanor, \$1,500;

33 (4) for a petty offense, \$1,000 or the amount specified
34 in the offense, whichever is less;

1 (5) for a business offense, the amount specified in the
2 statute defining that offense.

3 (b) A fine may be imposed in addition to a sentence of
4 conditional discharge, probation, periodic imprisonment, or
5 imprisonment.

6 (c) There shall be added to every fine imposed in
7 sentencing for a criminal or traffic offense, except an offense
8 relating to parking or registration, or offense by a
9 pedestrian, an additional penalty of \$5 for each \$40, or
10 fraction thereof, of fine imposed. The additional penalty of \$5
11 for each \$40, or fraction thereof, of fine imposed, if not
12 otherwise assessed, shall also be added to every fine imposed
13 upon a plea of guilty, stipulation of facts or findings of
14 guilty, resulting in a judgment of conviction, or order of
15 supervision in criminal, traffic, local ordinance, county
16 ordinance, and conservation cases (except parking,
17 registration, or pedestrian violations), or upon a sentence of
18 probation without entry of judgment under Section 10 of the
19 Cannabis Control Act or Section 410 of the Controlled
20 Substances Act.

21 Such additional amounts shall be assessed by the court
22 imposing the fine and shall be collected by the Circuit Clerk
23 in addition to the fine and costs in the case. Each such
24 additional penalty shall be remitted by the Circuit Clerk
25 within one month after receipt to the State Treasurer. The
26 State Treasurer shall deposit \$1 for each \$40, or fraction
27 thereof, of fine imposed into the LEADS Maintenance Fund. The
28 remaining surcharge amount shall be deposited into the Traffic
29 and Criminal Conviction Surcharge Fund, unless the fine, costs
30 or additional amounts are subject to disbursement by the
31 circuit clerk under Section 27.5 of the Clerks of Courts Act.
32 Such additional penalty shall not be considered a part of the
33 fine for purposes of any reduction in the fine for time served
34 either before or after sentencing. Not later than March 1 of
35 each year the Circuit Clerk shall submit a report of the amount
36 of funds remitted to the State Treasurer under this subsection

1 (c) during the preceding calendar year. Except as otherwise
2 provided by Supreme Court Rules, if a court in imposing a fine
3 against an offender levies a gross amount for fine, costs, fees
4 and penalties, the amount of the additional penalty provided
5 for herein shall be computed on the amount remaining after
6 deducting from the gross amount levied all fees of the Circuit
7 Clerk, the State's Attorney and the Sheriff. After deducting
8 from the gross amount levied the fees and additional penalty
9 provided for herein, less any other additional penalties
10 provided by law, the clerk shall remit the net balance
11 remaining to the entity authorized by law to receive the fine
12 imposed in the case. For purposes of this Section "fees of the
13 Circuit Clerk" shall include, if applicable, the fee provided
14 for under Section 27.3a of the Clerks of Courts Act and the
15 fee, if applicable, payable to the county in which the
16 violation occurred pursuant to Section 5-1101 of the Counties
17 Code.

18 (c-5) In addition to the fines imposed by subsection (c),
19 any person convicted or receiving an order of supervision for
20 driving under the influence of alcohol or drugs shall pay an
21 additional \$100 fee to the clerk. This additional fee, less 2
22 1/2% that shall be used to defray administrative costs incurred
23 by the clerk, shall be remitted by the clerk to the Treasurer
24 within 60 days after receipt for deposit into the Trauma Center
25 Fund. This additional fee of \$100 shall not be considered a
26 part of the fine for purposes of any reduction in the fine for
27 time served either before or after sentencing. Not later than
28 March 1 of each year the Circuit Clerk shall submit a report of
29 the amount of funds remitted to the State Treasurer under this
30 subsection (c-5) during the preceding calendar year.

31 The Circuit Clerk may accept payment of fines and costs by
32 credit card from an offender who has been convicted of a
33 traffic offense, petty offense or misdemeanor and may charge
34 the service fee permitted where fines and costs are paid by
35 credit card provided for in Section 27.3b of the Clerks of
36 Courts Act.

1 (c-7) In addition to the fines imposed by subsection (c),
2 any person convicted or receiving an order of supervision for
3 driving under the influence of alcohol or drugs shall pay an
4 additional \$5 fee to the clerk. This additional fee, less 2
5 1/2% that shall be used to defray administrative costs incurred
6 by the clerk, shall be remitted by the clerk to the Treasurer
7 within 60 days after receipt for deposit into the Spinal Cord
8 Injury Paralysis Cure Research Trust Fund. This additional fee
9 of \$5 shall not be considered a part of the fine for purposes
10 of any reduction in the fine for time served either before or
11 after sentencing. Not later than March 1 of each year the
12 Circuit Clerk shall submit a report of the amount of funds
13 remitted to the State Treasurer under this subsection (c-7)
14 during the preceding calendar year.

15 (c-9) There shall be added to every fine imposed in
16 sentencing for a criminal or traffic offense, except an offense
17 relating to parking or registration, or offense by a
18 pedestrian, an additional penalty of \$4 imposed. The additional
19 penalty of \$4 shall also be added to every fine imposed upon a
20 plea of guilty, stipulation of facts or findings of guilty,
21 resulting in a judgment of conviction, or order of supervision
22 in criminal, traffic, local ordinance, county ordinance, or
23 conservation cases (except parking, registration, or
24 pedestrian violations), or upon a sentence of probation without
25 entry of judgment under Section 10 of the Cannabis Control Act
26 or Section 410 of the Controlled Substances Act. Such
27 additional penalty of \$4 shall be assessed by the court
28 imposing the fine and shall be collected by the circuit clerk
29 in addition to any other fine, costs, fees, and penalties in
30 the case. Each such additional penalty of \$4 shall be remitted
31 to the State Treasurer by the circuit clerk within one month
32 after receipt. The State Treasurer shall deposit the additional
33 penalty of \$4 into the Traffic and Criminal Conviction
34 Surcharge Fund. The additional penalty of \$4 shall be in
35 addition to any other fine, costs, fees, and penalties and
36 shall not reduce or affect the distribution of any other fine,

1 costs, fees, and penalties.

2 (d) In determining the amount and method of payment of a
3 fine, except for those fines established for violations of
4 Chapter 15 of the Illinois Vehicle Code, the court shall
5 consider:

6 (1) the financial resources and future ability of the
7 offender to pay the fine; and

8 (2) whether the fine will prevent the offender from
9 making court ordered restitution or reparation to the
10 victim of the offense; and

11 (3) in a case where the accused is a dissolved
12 corporation and the court has appointed counsel to
13 represent the corporation, the costs incurred either by the
14 county or the State for such representation.

15 (e) The court may order the fine to be paid forthwith or
16 within a specified period of time or in installments.

17 (f) Except as otherwise provided in subsection (g), all
18 fines, costs and additional amounts imposed under this Section
19 for any violation of Chapters 3, 4, 6, and 11 of the Illinois
20 Vehicle Code, or a similar provision of a local ordinance, and
21 any violation of the Child Passenger Protection Act, or a
22 similar provision of a local ordinance, shall be collected and
23 disbursed by the circuit clerk as provided under Section 27.5
24 of the Clerks of Courts Act.

25 (g) Except for amounts added to fines under this Section,
26 all fines imposed for violations of the Litter Control Act and
27 for violations of subsection (a) of Section 11-1413 of the
28 Illinois Vehicle Code shall be remitted to the State Treasurer
29 for deposit into the Clean Communities Recycling Fund.

30 (Source: P.A. 92-431, eff. 1-1-02; 93-32, eff. 6-20-03.)

31 Section 99. Effective date. This Act takes effect upon
32 becoming law.