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LRB094 09305 RSP 46635 a

1 AMENDMENT TO SENATE BILL 431

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 431 as follows:

3 on page 1, line 9, after "Sections", by inserting "3.160,"; and

4 on page 1, line 10, by deleting "4.2,"; and

5 on page 1, by replacing lines 12 through 17 with the following:

6 "(415 ILCS 5/3.160) (was 415 ILCS 5/3.78 and 3.78a)

7 Sec. 3.160. Construction or demolition debris.

8 (a) "General construction or demolition debris" means  
9 non-hazardous, uncontaminated materials resulting from the  
10 construction, remodeling, repair, and demolition of utilities,  
11 structures, and roads, limited to the following: bricks,  
12 concrete, and other masonry materials; soil; rock; wood,  
13 including non-hazardous painted, treated, and coated wood and  
14 wood products; wall coverings; plaster; drywall; plumbing  
15 fixtures; non-asbestos insulation; roofing shingles and other  
16 roof coverings; reclaimed asphalt pavement; glass; plastics  
17 that are not sealed in a manner that conceals waste; electrical  
18 wiring and components containing no hazardous substances; and  
19 piping or metals incidental to any of those materials.

20 General construction or demolition debris does not include  
21 uncontaminated soil generated during construction, remodeling,  
22 repair, and demolition of utilities, structures, and roads

1 provided the uncontaminated soil is not commingled with any  
2 general construction or demolition debris or other waste.

3 To the extent allowed by federal law, uncontaminated  
4 concrete with protruding rebar shall be considered clean  
5 construction or demolition debris and shall not be considered  
6 "waste" if it is separated or processed and returned to the  
7 economic mainstream in the form of raw materials or products  
8 within 4 years of its generation, if it is not speculatively  
9 accumulated and, if used as a fill material, it is used in  
10 accordance with item (i) in subsection (b) of this Section  
11 within 30 days of its generation.

12 (b) "Clean construction or demolition debris" means  
13 uncontaminated broken concrete without protruding metal bars,  
14 bricks, rock, stone, reclaimed asphalt pavement, or soil  
15 generated from construction or demolition activities.

16 Clean construction or demolition debris does not include  
17 uncontaminated soil generated during construction, remodeling,  
18 repair, and demolition of utilities, structures, and roads  
19 provided the uncontaminated soil is not commingled with any  
20 clean construction or demolition debris or other waste.

21 To the extent allowed by federal law, clean construction or  
22 demolition debris shall not be considered "waste" if it is (i)  
23 used as fill material outside of a setback zone if the fill is  
24 placed no higher than the highest point of elevation existing  
25 prior to the filling immediately adjacent to the fill area, and  
26 if covered by sufficient uncontaminated soil to support  
27 vegetation within 30 days of the completion of filling or if  
28 covered by a road or structure, or (ii) separated or processed  
29 and returned to the economic mainstream in the form of raw  
30 materials or products, if it is not speculatively accumulated  
31 and, if used as a fill material, it is used in accordance with  
32 item (i) within 30 days of its generation, or (iii) solely  
33 broken concrete without protruding metal bars used for erosion  
34 control, or (iv) generated from the construction or demolition

1 of a building, road, or other structure and used to construct,  
2 on the site where the construction or demolition has taken  
3 place, a manmade functional structure not to exceed 20 feet  
4 above the highest point of elevation of the property  
5 immediately adjacent to the new manmade functional structure as  
6 that elevation existed prior to the creation of that new  
7 structure, provided that the structure shall be covered with  
8 sufficient soil materials to sustain vegetation or by a road or  
9 structure, and further provided that no such structure shall be  
10 constructed within a home rule municipality with a population  
11 over 500,000 without the consent of the municipality.

12 (Source: P.A. 92-574, eff. 6-26-02; 93-179, eff. 7-11-03.);  
13 and

14 on page 7, by replacing lines 16 through 19 with the following:

15 "(j) Except for willful and wanton misconduct, neither the  
16 State, the Director, nor any State employee shall be liable for  
17 any damages or injuries arising out of or resulting from any  
18 act or omission occurring under the provisions of this  
19 amendatory Act of the 94th General Assembly.

20 (k) Before taking preventive or corrective action under  
21 this Section, the Agency shall consider whether the open  
22 dumping:

23 (1) occurred on public land;

24 (2) occurred on a public right-of-way;

25 (3) occurred in a park or natural area;

26 (4) occurred in an environmental justice area;

27 (5) was cause or allowed by persons other than the  
28 owner of the site;

29 (6) creates the potential for groundwater  
30 contamination;

31 (7) creates the potential for surface water  
32 contamination;

33 (8) creates the potential for disease vectors;

1           (9) creates a fire hazard; or

2           (10) preventive or corrective action by the Agency has  
3           been requested by a unit of local government.

4           In taking preventive or corrective action under this Section,  
5           the Agency shall not expend more than \$50,000 at any single  
6           site in response to open dumping unless: (i) the Director  
7           determines that the open dumping poses an imminent and  
8           substantial endangerment to the public health or welfare or the  
9           environment; or (ii) the General Assembly appropriates more  
10           than \$50,000 for preventive or corrective action in response to  
11           the open dumping, in which case the Agency may spend the  
12           appropriated amount."; and

13           on page 12, by replacing lines 20 through 24 with the  
14           following:

15           "(4) This subsection (b) does not apply to:

16           (A) the use of clean construction or demolition debris  
17           as fill material in a current or former quarry, mine, or  
18           other excavation located on the site where the clean  
19           construction or demolition debris was generated; or

20           (B) the use of clean construction or demolition debris  
21           as fill material in an excavation other than a current or  
22           former quarry or mine if this use complies with Illinois  
23           Department of Transportation specifications."