

HB6689



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB6689

by Rep. Linda Chapa LaVia

SYNOPSIS AS INTRODUCED:

225 ILCS 320/40.5 new

Amends the Illinois Plumbing License Law. Sets forth criminal and civil penalties for the failure to install a backflow prevention device in violation of the Illinois Plumbing Code. Creates a private right of action. Allows for injunctive relief and the granting of treble damages in certain cases involving such failure.

LRB095 22012 RAS 52281 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Plumbing License Law is amended by
5 adding Section 40.5 as follows:

6 (225 ILCS 320/40.5 new)

7 Sec. 40.5. Failure to install backflow prevention device;
8 penalties; right of action; municipal regulation.

9 (a) In this Section:

10 "Backflow prevention device" means any device that is
11 designed to prevent any contamination by backflow of any
12 potable water supply.

13 "Contaminant" or "toxic substance" means any substance,
14 the presence of which in potable water is proscribed by the
15 federal Clean Water Act and all regulations adopted pursuant to
16 the federal Clean Water Act, in the specific amounts and levels
17 of concentration proscribed by the federal Clean Water Act and
18 all regulations adopted pursuant to the Clean Water Act.

19 (b) Any person who knowingly neglects to install a backflow
20 prevention device in violation of the Illinois Plumbing Code,
21 thereby causing any person to be exposed to any toxic substance
22 or other contaminant, is guilty of a Class B misdemeanor.

23 A person is guilty of the offense set forth in this

1 subsection (b) regardless of whether he or she intended to
2 cause another person to be exposed to any toxic substance or
3 contaminant.

4 (c) In addition to any criminal penalties or any other
5 monetary penalties imposed under this Section, the Department
6 may levy a fine for the failure to install a backflow
7 prevention device as set forth in subsection (b) of this
8 Section, which may not to exceed \$5,000 for the first violation
9 and may not exceed \$15,000 for a second or subsequent
10 violation.

11 (d) Any party injured by a failure to install a backflow
12 prevention device as set forth in subsection (b) of this
13 Section may initiate a cause of action in the circuit courts of
14 this State. Upon a showing by a preponderance of the evidence
15 that a party's failure to abide by the terms of this Law or the
16 Illinois Plumbing Code proximately caused injury to the
17 plaintiff, the court may award treble damages to the plaintiff.
18 The Attorney General or the State's Attorney for the
19 jurisdiction in which the violation occurred may initiate
20 actions on behalf of the people of the State to seek injunctive
21 relief against persons and entities who, upon a preponderance
22 of the evidence, are demonstrated to have intentionally failed
23 to install a backflow prevention device in accordance with all
24 applicable standards set forth in the Illinois Plumbing Code.

25 (e) Any person exposed to toxic substances as a result of
26 the intentional failure of another person or entity to install

1 a backflow prevention device in accordance with all applicable
2 laws and rules may seek, and the circuit courts of the State
3 may grant, at its discretion, injunctive relief and monetary
4 damages equal to treble the amount of the plaintiff's actual
5 damages. Plaintiffs may recover, and courts may award,
6 attorney's fees upon a finding of liability.

7 (f) Nothing in this amendatory Act of the 95th General
8 Assembly shall be construed as limiting in any manner the
9 authority of any unit of local government to adopt regulations,
10 rules, or ordinances more restrictive than those provided for
11 in this Law or the Illinois Administrative Code.