



Rep. Daniel V. Beiser

Filed: 2/22/2011

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LRB097 07066 JDS 50933 a

1 AMENDMENT TO HOUSE BILL 1326

2 AMENDMENT NO. _____. Amend House Bill 1326 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Environmental Protection Act is amended by
5 changing Section 21 and 22.54 as follows:

6 (415 ILCS 5/21) (from Ch. 111 1/2, par. 1021)

7 Sec. 21. Prohibited acts. No person shall:

8 (a) Cause or allow the open dumping of any waste.

9 (b) Abandon, dump, or deposit any waste upon the public
10 highways or other public property, except in a sanitary
11 landfill approved by the Agency pursuant to regulations adopted
12 by the Board.

13 (c) Abandon any vehicle in violation of the "Abandoned
14 Vehicles Amendment to the Illinois Vehicle Code", as enacted by
15 the 76th General Assembly.

16 (c-5) Accept asphalt roofing shingles at a waste-storage,

1 waste-treatment, or waste-disposal operation if a shingle
2 recycling facility on the roster maintained by the Agency under
3 subsection (e-5) of this Act is located within a 55-mile radius
4 of the waste-storage, waste-treatment, or waste-disposal
5 operation.

6 (d) Conduct any waste-storage, waste-treatment, or
7 waste-disposal operation:

8 (1) without a permit granted by the Agency or in
9 violation of any conditions imposed by such permit,
10 including periodic reports and full access to adequate
11 records and the inspection of facilities, as may be
12 necessary to assure compliance with this Act and with
13 regulations and standards adopted thereunder; provided,
14 however, that, except for municipal solid waste landfill
15 units that receive waste on or after October 9, 1993, no
16 permit shall be required for (i) any person conducting a
17 waste-storage, waste-treatment, or waste-disposal
18 operation for wastes generated by such person's own
19 activities which are stored, treated, or disposed within
20 the site where such wastes are generated, or (ii) a
21 facility located in a county with a population over 700,000
22 as of January 1, 2000, operated and located in accordance
23 with Section 22.38 of this Act, and used exclusively for
24 the transfer, storage, or treatment of general
25 construction or demolition debris, provided that the
26 facility was receiving construction or demolition debris

1 on the effective date of this amendatory Act of the 96th
2 General Assembly;

3 (2) in violation of any regulations or standards
4 adopted by the Board under this Act; or

5 (3) which receives waste after August 31, 1988, does
6 not have a permit issued by the Agency, and is (i) a
7 landfill used exclusively for the disposal of waste
8 generated at the site, (ii) a surface impoundment receiving
9 special waste not listed in an NPDES permit, (iii) a waste
10 pile in which the total volume of waste is greater than 100
11 cubic yards or the waste is stored for over one year, or
12 (iv) a land treatment facility receiving special waste
13 generated at the site; without giving notice of the
14 operation to the Agency by January 1, 1989, or 30 days
15 after the date on which the operation commences, whichever
16 is later, and every 3 years thereafter. The form for such
17 notification shall be specified by the Agency, and shall be
18 limited to information regarding: the name and address of
19 the location of the operation; the type of operation; the
20 types and amounts of waste stored, treated or disposed of
21 on an annual basis; the remaining capacity of the
22 operation; and the remaining expected life of the
23 operation.

24 Item (3) of this subsection (d) shall not apply to any
25 person engaged in agricultural activity who is disposing of a
26 substance that constitutes solid waste, if the substance was

1 acquired for use by that person on his own property, and the
2 substance is disposed of on his own property in accordance with
3 regulations or standards adopted by the Board.

4 This subsection (d) shall not apply to hazardous waste.

5 (e) Dispose, treat, store or abandon any waste, or
6 transport any waste into this State for disposal, treatment,
7 storage or abandonment, except at a site or facility which
8 meets the requirements of this Act and of regulations and
9 standards thereunder.

10 (f) Conduct any hazardous waste-storage, hazardous
11 waste-treatment or hazardous waste-disposal operation:

12 (1) without a RCRA permit for the site issued by the
13 Agency under subsection (d) of Section 39 of this Act, or
14 in violation of any condition imposed by such permit,
15 including periodic reports and full access to adequate
16 records and the inspection of facilities, as may be
17 necessary to assure compliance with this Act and with
18 regulations and standards adopted thereunder; or

19 (2) in violation of any regulations or standards
20 adopted by the Board under this Act; or

21 (3) in violation of any RCRA permit filing requirement
22 established under standards adopted by the Board under this
23 Act; or

24 (4) in violation of any order adopted by the Board
25 under this Act.

26 Notwithstanding the above, no RCRA permit shall be required

1 under this subsection or subsection (d) of Section 39 of this
2 Act for any person engaged in agricultural activity who is
3 disposing of a substance which has been identified as a
4 hazardous waste, and which has been designated by Board
5 regulations as being subject to this exception, if the
6 substance was acquired for use by that person on his own
7 property and the substance is disposed of on his own property
8 in accordance with regulations or standards adopted by the
9 Board.

10 (g) Conduct any hazardous waste-transportation operation:

11 (1) without registering with and obtaining a permit
12 from the Agency in accordance with the Uniform Program
13 implemented under subsection (1-5) of Section 22.2; or

14 (2) in violation of any regulations or standards
15 adopted by the Board under this Act.

16 (h) Conduct any hazardous waste-recycling or hazardous
17 waste-reclamation or hazardous waste-reuse operation in
18 violation of any regulations, standards or permit requirements
19 adopted by the Board under this Act.

20 (i) Conduct any process or engage in any act which produces
21 hazardous waste in violation of any regulations or standards
22 adopted by the Board under subsections (a) and (c) of Section
23 22.4 of this Act.

24 (j) Conduct any special waste transportation operation in
25 violation of any regulations, standards or permit requirements
26 adopted by the Board under this Act. However, sludge from a

1 water or sewage treatment plant owned and operated by a unit of
2 local government which (1) is subject to a sludge management
3 plan approved by the Agency or a permit granted by the Agency,
4 and (2) has been tested and determined not to be a hazardous
5 waste as required by applicable State and federal laws and
6 regulations, may be transported in this State without a special
7 waste hauling permit, and the preparation and carrying of a
8 manifest shall not be required for such sludge under the rules
9 of the Pollution Control Board. The unit of local government
10 which operates the treatment plant producing such sludge shall
11 file a semiannual report with the Agency identifying the volume
12 of such sludge transported during the reporting period, the
13 hauler of the sludge, and the disposal sites to which it was
14 transported. This subsection (j) shall not apply to hazardous
15 waste.

16 (k) Fail or refuse to pay any fee imposed under this Act.

17 (l) Locate a hazardous waste disposal site above an active
18 or inactive shaft or tunneled mine or within 2 miles of an
19 active fault in the earth's crust. In counties of population
20 less than 225,000 no hazardous waste disposal site shall be
21 located (1) within 1 1/2 miles of the corporate limits as
22 defined on June 30, 1978, of any municipality without the
23 approval of the governing body of the municipality in an
24 official action; or (2) within 1000 feet of an existing private
25 well or the existing source of a public water supply measured
26 from the boundary of the actual active permitted site and

1 excluding existing private wells on the property of the permit
2 applicant. The provisions of this subsection do not apply to
3 publicly-owned sewage works or the disposal or utilization of
4 sludge from publicly-owned sewage works.

5 (m) Transfer interest in any land which has been used as a
6 hazardous waste disposal site without written notification to
7 the Agency of the transfer and to the transferee of the
8 conditions imposed by the Agency upon its use under subsection
9 (g) of Section 39.

10 (n) Use any land which has been used as a hazardous waste
11 disposal site except in compliance with conditions imposed by
12 the Agency under subsection (g) of Section 39.

13 (o) Conduct a sanitary landfill operation which is required
14 to have a permit under subsection (d) of this Section, in a
15 manner which results in any of the following conditions:

16 (1) refuse in standing or flowing waters;

17 (2) leachate flows entering waters of the State;

18 (3) leachate flows exiting the landfill confines (as
19 determined by the boundaries established for the landfill
20 by a permit issued by the Agency);

21 (4) open burning of refuse in violation of Section 9 of
22 this Act;

23 (5) uncovered refuse remaining from any previous
24 operating day or at the conclusion of any operating day,
25 unless authorized by permit;

26 (6) failure to provide final cover within time limits

1 established by Board regulations;

2 (7) acceptance of wastes without necessary permits;

3 (8) scavenging as defined by Board regulations;

4 (9) deposition of refuse in any unpermitted portion of
5 the landfill;

6 (10) acceptance of a special waste without a required
7 manifest;

8 (11) failure to submit reports required by permits or
9 Board regulations;

10 (12) failure to collect and contain litter from the
11 site by the end of each operating day;

12 (13) failure to submit any cost estimate for the site
13 or any performance bond or other security for the site as
14 required by this Act or Board rules.

15 The prohibitions specified in this subsection (o) shall be
16 enforceable by the Agency either by administrative citation
17 under Section 31.1 of this Act or as otherwise provided by this
18 Act. The specific prohibitions in this subsection do not limit
19 the power of the Board to establish regulations or standards
20 applicable to sanitary landfills.

21 (p) In violation of subdivision (a) of this Section, cause
22 or allow the open dumping of any waste in a manner which
23 results in any of the following occurrences at the dump site:

24 (1) litter;

25 (2) scavenging;

26 (3) open burning;

1 (4) deposition of waste in standing or flowing waters;

2 (5) proliferation of disease vectors;

3 (6) standing or flowing liquid discharge from the dump
4 site;

5 (7) deposition of:

6 (i) general construction or demolition debris as
7 defined in Section 3.160(a) of this Act; or

8 (ii) clean construction or demolition debris as
9 defined in Section 3.160(b) of this Act.

10 The prohibitions specified in this subsection (p) shall be
11 enforceable by the Agency either by administrative citation
12 under Section 31.1 of this Act or as otherwise provided by this
13 Act. The specific prohibitions in this subsection do not limit
14 the power of the Board to establish regulations or standards
15 applicable to open dumping.

16 (q) Conduct a landscape waste composting operation without
17 an Agency permit, provided, however, that no permit shall be
18 required for any person:

19 (1) conducting a landscape waste composting operation
20 for landscape wastes generated by such person's own
21 activities which are stored, treated or disposed of within
22 the site where such wastes are generated; or

23 (2) applying landscape waste or composted landscape
24 waste at agronomic rates; or

25 (3) operating a landscape waste composting facility on
26 a farm, if the facility meets all of the following

1 criteria:

2 (A) the composting facility is operated by the
3 farmer on property on which the composting material is
4 utilized, and the composting facility constitutes no
5 more than 2% of the property's total acreage, except
6 that the Agency may allow a higher percentage for
7 individual sites where the owner or operator has
8 demonstrated to the Agency that the site's soil
9 characteristics or crop needs require a higher rate;

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

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

1 conditioner;

2 (D) the owner or operator, by January 1, 1990 (or
3 the January 1 following commencement of operation,
4 whichever is later) and January 1 of each year
5 thereafter, (i) registers the site with the Agency,
6 (ii) reports to the Agency on the volume of composting
7 material received and used at the site, (iii) certifies
8 to the Agency that the site complies with the
9 requirements set forth in subparagraphs (A), (B) and
10 (C) of this paragraph (q) (3), and (iv) certifies to the
11 Agency that all composting material was placed more
12 than 200 feet from the nearest potable water supply
13 well, was placed outside the boundary of the 10-year
14 floodplain or on a part of the site that is
15 floodproofed, was placed at least 1/4 mile from the
16 nearest residence (other than a residence located on
17 the same property as the facility) and there are not
18 more than 10 occupied non-farm residences within 1/2
19 mile of the boundaries of the site on the date of
20 application, and was placed more than 5 feet above the
21 water table.

22 For the purposes of this subsection (q), "agronomic rates"
23 means the application of not more than 20 tons per acre per
24 year, except that the Agency may allow a higher rate for
25 individual sites where the owner or operator has demonstrated
26 to the Agency that the site's soil characteristics or crop

1 needs require a higher rate.

2 (r) Cause or allow the storage or disposal of coal
3 combustion waste unless:

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

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

11 (3) such waste is stored or disposed of at a site or
12 facility which is operating under NPDES and Subtitle D
13 permits issued by the Agency pursuant to regulations
14 adopted by the Board for mine-related water pollution and
15 permits issued pursuant to the Federal Surface Mining
16 Control and Reclamation Act of 1977 (P.L. 95-87) or the
17 rules and regulations thereunder or any law or rule or
18 regulation adopted by the State of Illinois pursuant
19 thereto, and the owner or operator of the facility agrees
20 to accept the waste; and either

21 (i) such waste is stored or disposed of in
22 accordance with requirements applicable to refuse
23 disposal under regulations adopted by the Board for
24 mine-related water pollution and pursuant to NPDES and
25 Subtitle D permits issued by the Agency under such
26 regulations; or

1 (ii) the owner or operator of the facility
2 demonstrates all of the following to the Agency, and
3 the facility is operated in accordance with the
4 demonstration as approved by the Agency: (1) the
5 disposal area will be covered in a manner that will
6 support continuous vegetation, (2) the facility will
7 be adequately protected from wind and water erosion,
8 (3) the pH will be maintained so as to prevent
9 excessive leaching of metal ions, and (4) adequate
10 containment or other measures will be provided to
11 protect surface water and groundwater from
12 contamination at levels prohibited by this Act, the
13 Illinois Groundwater Protection Act, or regulations
14 adopted pursuant thereto.

15 Notwithstanding any other provision of this Title, the
16 disposal of coal combustion waste pursuant to item (2) or (3)
17 of this subdivision (r) shall be exempt from the other
18 provisions of this Title V, and notwithstanding the provisions
19 of Title X of this Act, the Agency is authorized to grant
20 experimental permits which include provision for the disposal
21 of wastes from the combustion of coal and other materials
22 pursuant to items (2) and (3) of this subdivision (r).

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

1 (t) Cause or allow a lateral expansion of a municipal solid
2 waste landfill unit on or after October 9, 1993, without a
3 permit modification, granted by the Agency, that authorizes the
4 lateral expansion.

5 (u) Conduct any vegetable by-product treatment, storage,
6 disposal or transportation operation in violation of any
7 regulation, standards or permit requirements adopted by the
8 Board under this Act. However, no permit shall be required
9 under this Title V for the land application of vegetable
10 by-products conducted pursuant to Agency permit issued under
11 Title III of this Act to the generator of the vegetable
12 by-products. In addition, vegetable by-products may be
13 transported in this State without a special waste hauling
14 permit, and without the preparation and carrying of a manifest.

15 (v) (Blank).

16 (w) Conduct any generation, transportation, or recycling
17 of construction or demolition debris, clean or general, or
18 uncontaminated soil generated during construction, remodeling,
19 repair, and demolition of utilities, structures, and roads that
20 is not commingled with any waste, without the maintenance of
21 documentation identifying the hauler, generator, place of
22 origin of the debris or soil, the weight or volume of the
23 debris or soil, and the location, owner, and operator of the
24 facility where the debris or soil was transferred, disposed,
25 recycled, or treated. This documentation must be maintained by
26 the generator, transporter, or recycler for 3 years. This

1 subsection (w) shall not apply to (1) a permitted pollution
2 control facility that transfers or accepts construction or
3 demolition debris, clean or general, or uncontaminated soil for
4 final disposal, recycling, or treatment, (2) a public utility
5 (as that term is defined in the Public Utilities Act) or a
6 municipal utility, (3) the Illinois Department of
7 Transportation, or (4) a municipality or a county highway
8 department, with the exception of any municipality or county
9 highway department located within a county having a population
10 of over 3,000,000 inhabitants or located in a county that is
11 contiguous to a county having a population of over 3,000,000
12 inhabitants; but it shall apply to an entity that contracts
13 with a public utility, a municipal utility, the Illinois
14 Department of Transportation, or a municipality or a county
15 highway department. The terms "generation" and "recycling" as
16 used in this subsection do not apply to clean construction or
17 demolition debris when (i) used as fill material below grade
18 outside of a setback zone if covered by sufficient
19 uncontaminated soil to support vegetation within 30 days of the
20 completion of filling or if covered by a road or structure,
21 (ii) solely broken concrete without protruding metal bars is
22 used for erosion control, or (iii) milled asphalt or crushed
23 concrete is used as aggregate in construction of the shoulder
24 of a roadway. The terms "generation" and "recycling", as used
25 in this subsection, do not apply to uncontaminated soil that is
26 not commingled with any waste when (i) used as fill material

1 below grade or contoured to grade, or (ii) used at the site of
2 generation.

3 (Source: P.A. 96-611, eff. 8-24-09.)

4 (415 ILCS 5/22.54)

5 Sec. 22.54. Beneficial Use Determinations. The purpose of
6 this Section is to allow the Agency to determine that a
7 material otherwise required to be managed as waste may be
8 managed as non-waste if that material is used beneficially and
9 in a manner that is protective of human health and the
10 environment.

11 (a) To the extent allowed by federal law, the Agency may,
12 upon the request of an applicant, make a written determination
13 that a material is used beneficially (rather than discarded)
14 and, therefore, not a waste if the applicant demonstrates all
15 of the following:

16 (1) The chemical and physical properties of the
17 material are comparable to similar commercially available
18 materials.

19 (2) The market demand for the material is such that all
20 of the following requirements are met:

21 (A) The material will be used within a reasonable
22 time.

23 (B) The material's storage prior to use will be
24 minimized.

25 (C) The material will not be abandoned.

1 (3) The material is legitimately beneficially used.
2 For the purposes of this item (3) of subsection (a) of this
3 Section, a material is "legitimately beneficially used" if
4 the applicant demonstrates all of the following:

5 (A) The material is managed separately from waste,
6 as a valuable material, and in a manner that maintains
7 its beneficial usefulness, including, but not limited
8 to, storing in a manner that minimizes the material's
9 loss and maintains its beneficial usefulness.

10 (B) The material is used as an effective substitute
11 for a similar commercially available material. For the
12 purposes of this paragraph (B) of item (3) of
13 subsection (a) of this Section, a material is "used as
14 an effective substitute for a commercially available
15 material" if the applicant demonstrates one or more of
16 the following:

17 (i) The material is used as a valuable raw
18 material or ingredient to produce a legitimate end
19 product.

20 (ii) The material is used directly as a
21 legitimate end product in place of a similar
22 commercially available product.

23 (iii) The material replaces a catalyst or
24 carrier to produce a legitimate end product.

25 The applicant's demonstration under this paragraph
26 (B) of item (3) of subsection (a) of this Section must

1 include, but is not limited to, a description of the
2 use of the material, a description of the use of the
3 legitimate end product, and a demonstration that the
4 use of the material is comparable to the use of similar
5 commercially available products.

6 (C) The applicant demonstrates all of the
7 following:

8 (i) The material is used under paragraph (B) of
9 item (3) of subsection (a) of this Section within a
10 reasonable time.

11 (ii) The material's storage prior to use is
12 minimized.

13 (iii) The material is not abandoned.

14 (4) The management and use of the material will not
15 cause, threaten, or allow the release of any contaminant
16 into the environment, except as authorized by law.

17 (5) The management and use of the material otherwise
18 protects human health and safety and the environment.

19 (b) Applications for beneficial use determinations must be
20 submitted on forms and in a format prescribed by the Agency.
21 Agency approval, approval with conditions, or disapproval of an
22 application for a beneficial use determination must be in
23 writing. Approvals with conditions and disapprovals of
24 applications for a beneficial use determination must include
25 the Agency's reasons for the conditions or disapproval, and
26 they are subject to review under Section 40 of this Act.

1 (c) Beneficial use determinations shall be effective for a
2 period approved by the Agency, but that period may not exceed 5
3 years. Material that is beneficially used (i) in accordance
4 with a beneficial use determination, (ii) during the effective
5 period of the beneficial use determination, and (iii) by the
6 recipient of a beneficial use determination shall maintain its
7 non-waste status after the effective period of the beneficial
8 use determination unless its use no longer complies with the
9 terms of the beneficial use determination or the material
10 otherwise becomes waste.

11 (d) No recipient of a beneficial use determination shall
12 manage or use the material that is the subject of the
13 determination in violation of the determination or any
14 conditions in the determination, unless the material is managed
15 as waste.

16 (e) A beneficial use determination shall terminate by
17 operation of law if, due to a change in law, it conflicts with
18 the law; however, the recipient of the determination may apply
19 for a new beneficial use determination that is consistent with
20 the law as amended.

21 (e-5) The Agency must maintain on its Internet website an
22 up-to-date roster of the shingle recycling facilities that
23 comply with the operational guidelines and asbestos-testing
24 requirements that the Agency has adopted in accordance with
25 this Section, and the roster must, at a minimum, contain the
26 name, address, and telephone number for each of those

1 facilities.

2 (f) This Section does not apply to hazardous waste, coal
3 combustion waste, coal combustion by-product, sludge applied
4 to the land, potentially infectious medical waste, or used oil.

5 (g) This Section does not apply to material that is burned
6 for energy recovery, that is used to produce a fuel, or that is
7 otherwise contained in a fuel.

8 (h) This Section does not apply to waste from the steel and
9 foundry industries that is (i) classified as beneficially
10 usable waste under Board rules and (ii) beneficially used in
11 accordance with Board rules governing the management of
12 beneficially usable waste from the steel and foundry
13 industries. This Section does apply to other beneficial uses of
14 waste from the steel and foundry industries, including, but not
15 limited to, waste that is classified as beneficially usable
16 waste but not used in accordance with the Board's rules
17 governing the management of beneficially usable waste from the
18 steel and foundry industries. No person shall use iron slags,
19 steelmaking slags, or foundry sands for land reclamation
20 purposes unless they have obtained a beneficial use
21 determination for such use under this Section.

22 (i) For purposes of this Section, the term "commercially
23 available material" means virgin material that (i) meets
24 industry standards for a specific use and (ii) is normally sold
25 for such use. For purposes of this Section, the term
26 "commercially available product" means a product made of virgin

1 material that (i) meets industry standards for a specific use
2 and (ii) is normally sold for such use.

3 (Source: P.A. 96-489, eff. 8-14-09.)

4 Section 10. The Illinois Highway Code is amended by adding
5 Section 4-221 as follows:

6 (605 ILCS 5/4-221 new)

7 Sec. 4-221. Mix designs; recycled asphalt shingles. To the
8 extent allowed by federal law, the Department shall use
9 recycled asphalt shingles from recycling facilities that are
10 approved by the Illinois Environmental Protection Agency and
11 that are in compliance with the operational guidelines and
12 asbestos-testing requirements set forth by the Agency under
13 Section 22.54 of the Environmental Protection Act in
14 constructing and maintaining State highways. In creating the
15 mix designs used for construction and maintenance of State
16 highways, it shall be the goal of the Department, through its
17 specifications, to meet or exceed the maximum percentage of
18 recycled asphalt shingle and binder replacement allowed under
19 Illinois State Toll Highway Authority specifications and to
20 maximize the use of recycled aggregates and other constituents
21 in the mix.

22 Section 99. Effective date. This Act takes effect upon
23 becoming law."