



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB3139

Introduced 2/23/2011, by Rep. Roger L. Eddy

SYNOPSIS AS INTRODUCED:

605 ILCS 5/9-119.6 new

Amends the Illinois Highway Code. Provides that the Department of Transportation may issue a switchgrass production permit authorizing the planting and harvesting of switchgrass on a specified right-of-way in this State. Provides that an owner or owner's designee has priority until March 1 of each year to receive a permit for the portion of right-of-way that is adjacent to the owner's land, and after March 1 of each year, a permit may be issued to an applicant that is not the owner of the land adjacent to the right-of-way for a maximum distance of 5 miles. Provides that permits are valid for 5 years. Provides that the non-refundable application fee for every permit is \$200, and all fees collected by the Department shall be deposited into the Road Fund. Provides for permit application requirements, including assumption of all liability for activities permitted by the Department and proof of liability insurance. Provides limitations on the use of the permit, cancellation procedures, and provides that the Department of Transportation may promulgate rules for the administration of the permit program.

LRB097 08797 HEP 48927 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning highways.

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

4 Section 5. The Illinois Highway Code is amended by adding
5 Section 9-119.6 as follows:

6 (605 ILCS 5/9-119.6 new)

7 Sec. 9-119.6. Switchgrass production permit.

8 (a) The Department may issue a switchgrass production
9 permit authorizing the planting and harvesting of switchgrass
10 on a specified right-of-way in this State. An owner or owner's
11 designee has priority until March 1 of each year to receive a
12 permit for the portion of right-of-way that is adjacent to the
13 owner's land and for which no permit is in effect. After March
14 1 of each year, a permit may be issued to an applicant that is
15 not the owner of the land adjacent to the right-of-way for a
16 maximum distance of 5 miles. A permit issued under this
17 subsection may be valid for a period of 5 years, and the
18 Department must include the timeframe that the permit is valid
19 on every permit issued under this subsection. Commencement of
20 harvesting activity notice instructions must be included on
21 every permit under this subsection in accordance with paragraph
22 (1) of subsection (c) of this Section. The non-refundable
23 application fee for every permit under this subsection is \$200,

1 and all fees collected by the Department shall be deposited
2 into the Road Fund.

3 (b) An applicant for a permit in subsection (a) must:

4 (1) sign a release acknowledging that the applicant (i)
5 assumes all risk for the quality of the switchgrass
6 produced under the permit, (ii) assumes all liability for
7 accidents or injury that results from the activities
8 permitted by the Department, (iii) is liable for any damage
9 to the right-of-way described in paragraphs (3) and (4) of
10 subsection (c), and (iv) understands that the State or any
11 instrumentality thereof assumes no risk or liability for
12 the activities permitted by the Department;

13 (2) demonstrate proof that a liability insurance
14 policy in the amount of not less than \$1,000,000 is in
15 force to cover any accident, damage, or loss that may occur
16 to persons or property as a result of the activities
17 permitted by the Department; and

18 (3) pay a non-refundable application fee of \$200.

19 (c) The usage of a permit in subsection (a) is subject to
20 the following limitations:

21 (1) The permittee must give the Department 48 hours
22 notice prior to commencing any activities permitted by the
23 Department;

24 (2) The permittee must carry a copy of the permit at
25 all times while performing the activities permitted by the
26 Department;

1 (3) The permittee may use the permit only when soil in
2 the right-of-way is dry enough to prevent rutting or other
3 similar type of damage to the right-of-way; and

4 (4) The permittee may not alter, damage, or remove any
5 right-of-way markers, land monuments, fences, signs,
6 trees, shrubbery or similar landscape vegetation, or other
7 highway features or structures.

8 (d) The Department may immediately terminate a permit in
9 subsection (a) issued to a permittee for failure to comply with
10 the use limitations of subsection (c).

11 (e) The Department or the permittee may cancel the permit
12 at any time upon 3 days written notice.

13 (f) The Department may promulgate rules for the
14 administration of this Section.