



Sen. David Koehler

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1 AMENDMENT TO SENATE BILL 1543

2 AMENDMENT NO. _____. Amend Senate Bill 1543 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Environmental Protection Act is amended by
5 changing Sections 3.160 and 22.54 as follows:

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; asphalt roofing shingles
16 and other roof coverings; reclaimed or other asphalt pavement;

1 glass; plastics that are not sealed in a manner that conceals
2 waste; electrical wiring and components containing no
3 hazardous substances; and corrugated cardboard, piping or
4 metals incidental to any of those materials.

5 General construction or demolition debris does not include
6 uncontaminated soil generated during construction, remodeling,
7 repair, and demolition of utilities, structures, and roads
8 provided the uncontaminated soil is not commingled with any
9 general construction or demolition debris or other waste.

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

18 (b) "Clean construction or demolition debris" means
19 uncontaminated broken concrete without protruding metal bars,
20 bricks, rock, stone, reclaimed or other asphalt pavement, or
21 soil generated from construction or demolition activities.

22 Clean construction or demolition debris does not include
23 uncontaminated soil generated during construction, remodeling,
24 repair, and demolition of utilities, structures, and roads
25 provided the uncontaminated soil is not commingled with any
26 clean construction or demolition debris or other waste.

1 To the extent allowed by federal law, clean construction or
2 demolition debris shall not be considered "waste" if it is (i)
3 used as fill material outside of a setback zone if the fill is
4 placed no higher than the highest point of elevation existing
5 prior to the filling immediately adjacent to the fill area, and
6 if covered by sufficient uncontaminated soil to support
7 vegetation within 30 days of the completion of filling or if
8 covered by a road or structure, and, if used as fill material
9 in a current or former quarry, mine, or other excavation, is
10 used in accordance with the requirements of Section 22.51 of
11 this Act and the rules adopted thereunder or (ii) separated or
12 processed and returned to the economic mainstream in the form
13 of raw materials or products, if it is not speculatively
14 accumulated and, if used as a fill material, it is used in
15 accordance with item (i), or (iii) solely broken concrete
16 without protruding metal bars used for erosion control, or (iv)
17 generated from the construction or demolition of a building,
18 road, or other structure and used to construct, on the site
19 where the construction or demolition has taken place, a manmade
20 functional structure not to exceed 20 feet above the highest
21 point of elevation of the property immediately adjacent to the
22 new manmade functional structure as that elevation existed
23 prior to the creation of that new structure, provided that the
24 structure shall be covered with sufficient soil materials to
25 sustain vegetation or by a road or structure, and further
26 provided that no such structure shall be constructed within a

1 home rule municipality with a population over 500,000 without
2 the consent of the municipality.

3 For purposes of this subsection (b), reclaimed or other
4 asphalt pavement shall not be considered speculatively
5 accumulated if: (i) it is not commingled with any other clean
6 construction or demolition debris or any waste; (ii) it is
7 returned to the economic mainstream in the form of raw
8 materials or products within 4 years after its generation;
9 (iii) at least 25% of the total amount present at a site during
10 a calendar year is transported off of the site during the next
11 calendar year; and (iv) if used as a fill material, it is used
12 in accordance with item (i) of the second paragraph of this
13 subsection (b).

14 (c) For purposes of this Section, the term "uncontaminated
15 soil" means soil that does not contain contaminants in
16 concentrations that pose a threat to human health and safety
17 and the environment.

18 (1) No later than one year after the effective date of
19 this amendatory Act of the 96th General Assembly, the
20 Agency shall propose, and, no later than one year after
21 receipt of the Agency's proposal, the Board shall adopt,
22 rules specifying the maximum concentrations of
23 contaminants that may be present in uncontaminated soil for
24 purposes of this Section. For carcinogens, the maximum
25 concentrations shall not allow exposure to exceed an excess
26 upper-bound lifetime risk of 1 in 1,000,000; provided that

1 the Board may consider allowing benzo(a)pyrene up to the
2 applicable background concentration set forth in Table H of
3 Appendix A of 35 Ill. Adm. Code 742 in soil used as fill
4 material in a current or former quarry, mine, or other
5 excavation in accordance with Section 22.51 or 22.51a of
6 this Act and rules adopted under those Sections, so long as
7 the applicable background concentration is based upon the
8 location of the quarry, mine, or other excavation.

9 (2) To the extent allowed under federal law and
10 regulations, uncontaminated soil shall not be considered a
11 waste.

12 (Source: P.A. 95-121, eff. 8-13-07; 96-235, eff. 8-11-09;
13 96-1416, eff. 7-30-10.)

14 (415 ILCS 5/22.54)

15 Sec. 22.54. Beneficial Use Determinations. The purpose of
16 this Section is to allow the Agency to determine that a
17 material otherwise required to be managed as waste may be
18 managed as non-waste if that material is used beneficially and
19 in a manner that is protective of human health and the
20 environment.

21 (a) To the extent allowed by federal law, the Agency may,
22 upon the request of an applicant, make a written determination
23 that a material is used beneficially (rather than discarded)
24 and, therefore, not a waste if the applicant demonstrates all
25 of the following:

1 (1) The chemical and physical properties of the
2 material are comparable to similar commercially available
3 materials.

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

6 (A) The material will be used within a reasonable
7 time.

8 (B) The material's storage prior to use will be
9 minimized.

10 (C) The material will not be abandoned.

11 (3) The material is legitimately beneficially used.
12 For the purposes of this item (3) of subsection (a) of this
13 Section, a material is "legitimately beneficially used" if
14 the applicant demonstrates all of the following:

15 (A) The material is managed separately from waste,
16 as a valuable material, and in a manner that maintains
17 its beneficial usefulness, including, but not limited
18 to, storing in a manner that minimizes the material's
19 loss and maintains its beneficial usefulness.

20 (B) The material is used as an effective substitute
21 for a similar commercially available material. For the
22 purposes of this paragraph (B) of item (3) of
23 subsection (a) of this Section, a material is "used as
24 an effective substitute for a commercially available
25 material" if the applicant demonstrates one or more of
26 the following:

1 (i) The material is used as a valuable raw
2 material or ingredient to produce a legitimate end
3 product.

4 (ii) The material is used directly as a
5 legitimate end product in place of a similar
6 commercially available product.

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

9 The applicant's demonstration under this paragraph
10 (B) of item (3) of subsection (a) of this Section must
11 include, but is not limited to, a description of the
12 use of the material, a description of the use of the
13 legitimate end product, and a demonstration that the
14 use of the material is comparable to the use of similar
15 commercially available products.

16 (C) The applicant demonstrates all of the
17 following:

18 (i) The material is used under paragraph (B) of
19 item (3) of subsection (a) of this Section within a
20 reasonable time.

21 (ii) The material's storage prior to use is
22 minimized.

23 (iii) The material is not abandoned.

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

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

3 (b) Applications for beneficial use determinations must be
4 submitted on forms and in a format prescribed by the Agency.
5 Agency approval, approval with conditions, or disapproval of an
6 application for a beneficial use determination must be in
7 writing. Approvals with conditions and disapprovals of
8 applications for a beneficial use determination must include
9 the Agency's reasons for the conditions or disapproval, and
10 they are subject to review under Section 40 of this Act.

11 (c) Beneficial use determinations shall be effective for a
12 period approved by the Agency, but that period may not exceed 5
13 years. Material that is beneficially used (i) in accordance
14 with a beneficial use determination, (ii) during the effective
15 period of the beneficial use determination, and (iii) by the
16 recipient of a beneficial use determination shall maintain its
17 non-waste status after the effective period of the beneficial
18 use determination unless its use no longer complies with the
19 terms of the beneficial use determination or the material
20 otherwise becomes waste.

21 (d) No recipient of a beneficial use determination shall
22 manage or use the material that is the subject of the
23 determination in violation of the determination or any
24 conditions in the determination, unless the material is managed
25 as waste.

26 (e) A beneficial use determination shall terminate by

1 operation of law if, due to a change in law, it conflicts with
2 the law; however, the recipient of the determination may apply
3 for a new beneficial use determination that is consistent with
4 the law as amended.

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

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

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

25 (i) For purposes of this Section, the term "commercially
26 available material" means virgin material that (i) meets

1 industry standards for a specific use and (ii) is normally sold
2 for such use. For purposes of this Section, the term
3 "commercially available product" means a product made of virgin
4 material that (i) meets industry standards for a specific use
5 and (ii) is normally sold for such use.

6 (j) The owner or operator of a facility operating in
7 accordance with Section 22.38 shall receive, for each ton of
8 asphalt roofing shingles deposited on his or her behalf at a
9 recycling facility approved by the Agency under this Section,
10 credit for 2 tons of recyclable general construction debris,
11 which may be applied toward the 75% diversion requirement under
12 Section 22.38. The owners and operators of a facility operating
13 in accordance with Section 22.38 are responsible for
14 maintaining records that are generated by a recycling facility
15 and that identify the tonnage of asphalt roofing shingles
16 deposited at the facility. All records maintained pursuant to
17 this Section shall be kept for a minimum of 3 years and shall
18 be subject to inspection by the Agency upon reasonable request.

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

20 Section 10. The Illinois Highway Code is amended by adding
21 Sections 4-221 and 4-222 as follows:

22 (605 ILCS 5/4-221 new)

23 Sec. 4-221. Mix designs. To the extent allowed by federal
24 law, the Department specifications shall allow the use of

1 recycled asphalt roofing shingles received from facilities
2 authorized to process asphalt roofing shingles for recycling
3 into asphalt pavement in accordance with (i) permits issued
4 pursuant to Section 39 of the Environmental Protection Act or
5 (ii) beneficial use determinations issued pursuant to Section
6 22.54 of the Environmental Protection Act. In creating the mix
7 designs used for construction and maintenance of State
8 highways, it shall be the goal of the Department, through its
9 specifications, to maximize the percentage of recycled asphalt
10 roofing shingles and binder replacement and to maximize the use
11 of recycled aggregates and other constituents in the mix.

12 (605 ILCS 5/4-222 new)

13 Sec. 4-222. Recycled asphalt roofing shingles; cost
14 savings; prohibitions on use in asphalt paving.

15 (a) It shall be the goal of the Department, with regard to
16 its asphalt paving projects and to the extent possible, to
17 reduce the carbon footprint and reduce average costs by
18 maximizing the percentage use of recycled materials or lowest
19 cost alternative materials and extending the paving season so
20 long as there is no detrimental impact on life-cycle costs. In
21 furtherance of these goals, the Department shall provide to the
22 Chairpersons of the Transportation Committee in each
23 legislative chamber, within 60 days after the completion of
24 each fiscal year, a written report of the activities initiated
25 or abandoned in each district or region within the Department

1 to meet those goals during the previous year. The report shall
2 also include an analysis of the cost savings directly or
3 indirectly attributed to those activities within each district
4 or region. Upon review of the annual report, the Transportation
5 Committees in each chamber may conduct hearings and provide
6 recommendations to the Department regarding the performance of
7 each district or region.

8 (b) No producer of asphalt pavement, operating pursuant to
9 an air permit issued by the Illinois Environmental Protection
10 Agency, shall use recycled asphalt roofing shingles in its
11 pavement product unless the shingles have been processed for
12 recycling into asphalt pavement in accordance with (i) permits
13 issued pursuant to subsection (d) of Section 21 of the
14 Environmental Protection Act or (ii) beneficial use
15 determinations issued pursuant to Section 22.54 of the
16 Environmental Protection Act. The prohibition in this
17 subsection (b) shall apply in addition to any other rules,
18 specifications, or other requirements adopted by the
19 Department regarding the use of asphalt roofing shingles in
20 pavement product."