



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB2907

by Rep. Sue Scherer

SYNOPSIS AS INTRODUCED:

415 ILCS 5/21.7 new
415 ILCS 5/44

from Ch. 111 1/2, par. 1044

Amends the Environmental Protection Act. Provides that a person commits the offense of Criminal Disposal of PCBs if he or she disposes of, or accepts for disposal, PCBs or PCB Items regulated under Subpart D of 40 C.F.R. 761 at a site or facility that is less than 500 feet above an aquifer that currently provides the only source of potable water for a community water supply serving a municipality with a population in excess of the entire population of the county where the site or facility is located, according to the last U.S. Decennial Census. Effective immediately.

LRB098 06257 JDS 36298 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning safety.

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

4 Section 5. The Environmental Protection Act is amended by
5 adding Section 21.7 and by changing Section 44 as follows:

6 (415 ILCS 5/21.7 new)

7 Sec. 21.7. Disposal of polychlorinated biphenyls (PCBs) in
8 sites and facilities that threaten a source of potable water
9 for a community water supply. Notwithstanding any other
10 provision of this Act or any other law to the contrary,
11 notwithstanding any permits granted by the Agency before the
12 effective date of this amendatory Act of the 98th General
13 Assembly, notwithstanding any approval granted by the U.S.
14 Environmental Protection Agency pursuant to Subpart D of 40
15 C.F.R. 761, and in order to prevent a public health emergency
16 that might arise from the introduction of polychlorinated
17 biphenyls (PCBs) into a source of potable water for a community
18 water supply, no person shall, on or after the effective date
19 of this amendatory Act of the 98th General Assembly, dispose
20 of, or accept for disposal, PCBs or PCB Items regulated under
21 Subpart D of 40 C.F.R. 761 at a site or facility less than 500
22 feet above an aquifer that currently provides the only source
23 of potable water for a community water supply serving a

1 municipality with a population in excess of the entire
2 population of the county where the site or facility is located,
3 according to the last U.S. Decennial Census.

4 (415 ILCS 5/44) (from Ch. 111 1/2, par. 1044)

5 Sec. 44. Criminal acts; penalties.

6 (a) Except as otherwise provided in this Section, it shall
7 be a Class A misdemeanor to violate this Act or regulations
8 thereunder, or any permit or term or condition thereof, or
9 knowingly to submit any false information under this Act or
10 regulations adopted thereunder, or under any permit or term or
11 condition thereof. A court may, in addition to any other
12 penalty herein imposed, order a person convicted of any
13 violation of this Act to perform community service for not less
14 than 100 hours and not more than 300 hours if community service
15 is available in the jurisdiction. It shall be the duty of all
16 State and local law-enforcement officers to enforce such Act
17 and regulations, and all such officers shall have authority to
18 issue citations for such violations.

19 (b) Calculated Criminal Disposal of Hazardous Waste.

20 (1) A person commits the offense of Calculated Criminal
21 Disposal of Hazardous Waste when, without lawful
22 justification, he knowingly disposes of hazardous waste
23 while knowing that he thereby places another person in
24 danger of great bodily harm or creates an immediate or

1 long-term danger to the public health or the environment.

2 (2) Calculated Criminal Disposal of Hazardous Waste is
3 a Class 2 felony. In addition to any other penalties
4 prescribed by law, a person convicted of the offense of
5 Calculated Criminal Disposal of Hazardous Waste is subject
6 to a fine not to exceed \$500,000 for each day of such
7 offense.

8 (c) Criminal Disposal of Hazardous Waste.

9 (1) A person commits the offense of Criminal Disposal
10 of Hazardous Waste when, without lawful justification, he
11 knowingly disposes of hazardous waste.

12 (2) Criminal Disposal of Hazardous Waste is a Class 3
13 felony. In addition to any other penalties prescribed by
14 law, a person convicted of the offense of Criminal Disposal
15 of Hazardous Waste is subject to a fine not to exceed
16 \$250,000 for each day of such offense.

17 (d) Unauthorized Use of Hazardous Waste.

18 (1) A person commits the offense of Unauthorized Use of
19 Hazardous Waste when he, being required to have a permit,
20 registration, or license under this Act or any other law
21 regulating the treatment, transportation, or storage of
22 hazardous waste, knowingly:

23 (A) treats, transports, or stores any hazardous
24 waste without such permit, registration, or license;

1 (B) treats, transports, or stores any hazardous
2 waste in violation of the terms and conditions of such
3 permit or license;

4 (C) transports any hazardous waste to a facility
5 which does not have a permit or license required under
6 this Act; or

7 (D) transports by vehicle any hazardous waste
8 without having in each vehicle credentials issued to
9 the transporter by the transporter's base state
10 pursuant to procedures established under the Uniform
11 Program.

12 (2) A person who is convicted of a violation of
13 subparagraph (A), (B), or (C) of paragraph (1) of this
14 subsection is guilty of a Class 4 felony. A person who is
15 convicted of a violation of subparagraph (D) of paragraph
16 (1) of this subsection is guilty of a Class A misdemeanor.
17 In addition to any other penalties prescribed by law, a
18 person convicted of violating subparagraph (A), (B), or (C)
19 of paragraph (1) of this subsection is subject to a fine
20 not to exceed \$100,000 for each day of such violation, and
21 a person who is convicted of violating subparagraph (D) of
22 paragraph (1) of this subsection is subject to a fine not
23 to exceed \$1,000.

24 (e) Unlawful Delivery of Hazardous Waste.

25 (1) Except as authorized by this Act or the federal

1 Resource Conservation and Recovery Act, and the
2 regulations promulgated thereunder, it is unlawful for any
3 person to knowingly deliver hazardous waste.

4 (2) Unlawful Delivery of Hazardous Waste is a Class 3
5 felony. In addition to any other penalties prescribed by
6 law, a person convicted of the offense of Unlawful Delivery
7 of Hazardous Waste is subject to a fine not to exceed
8 \$250,000 for each such violation.

9 (3) For purposes of this Section, "deliver" or
10 "delivery" means the actual, constructive, or attempted
11 transfer of possession of hazardous waste, with or without
12 consideration, whether or not there is an agency
13 relationship.

14 (f) Reckless Disposal of Hazardous Waste.

15 (1) A person commits Reckless Disposal of Hazardous
16 Waste if he disposes of hazardous waste, and his acts which
17 cause the hazardous waste to be disposed of, whether or not
18 those acts are undertaken pursuant to or under color of any
19 permit or license, are performed with a conscious disregard
20 of a substantial and unjustifiable risk that such disposing
21 of hazardous waste is a gross deviation from the standard
22 of care which a reasonable person would exercise in the
23 situation.

24 (2) Reckless Disposal of Hazardous Waste is a Class 4
25 felony. In addition to any other penalties prescribed by

1 law, a person convicted of the offense of Reckless Disposal
2 of Hazardous Waste is subject to a fine not to exceed
3 \$50,000 for each day of such offense.

4 (g) Concealment of Criminal Disposal of Hazardous Waste.

5 (1) A person commits the offense of Concealment of
6 Criminal Disposal of Hazardous Waste when he conceals,
7 without lawful justification, the disposal of hazardous
8 waste with the knowledge that such hazardous waste has been
9 disposed of in violation of this Act.

10 (2) Concealment of Criminal Disposal of a Hazardous
11 Waste is a Class 4 felony. In addition to any other
12 penalties prescribed by law, a person convicted of the
13 offense of Concealment of Criminal Disposal of Hazardous
14 Waste is subject to a fine not to exceed \$50,000 for each
15 day of such offense.

16 (h) Violations; False Statements.

17 (1) Any person who knowingly makes a false material
18 statement in an application for a permit or license
19 required by this Act to treat, transport, store, or dispose
20 of hazardous waste commits the offense of perjury and shall
21 be subject to the penalties set forth in Section 32-2 of
22 the Criminal Code of 1961.

23 (2) Any person who knowingly makes a false material
24 statement or representation in any label, manifest,

1 record, report, permit or license, or other document filed,
2 maintained, or used for the purpose of compliance with this
3 Act in connection with the generation, disposal,
4 treatment, storage, or transportation of hazardous waste
5 commits a Class 4 felony. A second or any subsequent
6 offense after conviction hereunder is a Class 3 felony.

7 (3) Any person who knowingly destroys, alters, or
8 conceals any record required to be made by this Act in
9 connection with the disposal, treatment, storage, or
10 transportation of hazardous waste commits a Class 4 felony.
11 A second or any subsequent offense after a conviction
12 hereunder is a Class 3 felony.

13 (4) Any person who knowingly makes a false material
14 statement or representation in any application, bill,
15 invoice, or other document filed, maintained, or used for
16 the purpose of receiving money from the Underground Storage
17 Tank Fund commits a Class 4 felony. A second or any
18 subsequent offense after conviction hereunder is a Class 3
19 felony.

20 (5) Any person who knowingly destroys, alters, or
21 conceals any record required to be made or maintained by
22 this Act or required to be made or maintained by Board or
23 Agency rules for the purpose of receiving money from the
24 Underground Storage Tank Fund commits a Class 4 felony. A
25 second or any subsequent offense after a conviction
26 hereunder is a Class 3 felony.

1 (6) A person who knowingly and falsely certifies under
2 Section 22.48 that an industrial process waste or pollution
3 control waste is not special waste commits a Class 4 felony
4 for a first offense and commits a Class 3 felony for a
5 second or subsequent offense.

6 (7) In addition to any other penalties prescribed by
7 law, a person convicted of violating this subsection (h) is
8 subject to a fine not to exceed \$50,000 for each day of
9 such violation.

10 (8) Any person who knowingly makes a false, fictitious,
11 or fraudulent material statement, orally or in writing, to
12 the Agency, or to a unit of local government to which the
13 Agency has delegated authority under subsection (r) of
14 Section 4 of this Act, related to or required by this Act,
15 a regulation adopted under this Act, any federal law or
16 regulation for which the Agency has responsibility, or any
17 permit, term, or condition thereof, commits a Class 4
18 felony, and each such statement or writing shall be
19 considered a separate Class 4 felony. A person who, after
20 being convicted under this paragraph (8), violates this
21 paragraph (8) a second or subsequent time, commits a Class
22 3 felony.

23 (i) Verification.

24 (1) Each application for a permit or license to dispose
25 of, transport, treat, store, or generate hazardous waste

1 under this Act shall contain an affirmation that the facts
2 are true and are made under penalty of perjury as defined
3 in Section 32-2 of the Criminal Code of 1961. It is perjury
4 for a person to sign any such application for a permit or
5 license which contains a false material statement, which he
6 does not believe to be true.

7 (2) Each request for money from the Underground Storage
8 Tank Fund shall contain an affirmation that the facts are
9 true and are made under penalty of perjury as defined in
10 Section 32-2 of the Criminal Code of 1961. It is perjury
11 for a person to sign any request that contains a false
12 material statement that he does not believe to be true.

13 (j) Violations of Other Provisions.

14 (1) It is unlawful for a person knowingly to violate:

15 (A) subsection (f) of Section 12 of this Act;

16 (B) subsection (g) of Section 12 of this Act;

17 (C) any term or condition of any Underground
18 Injection Control (UIC) permit;

19 (D) any filing requirement, regulation, or order
20 relating to the State Underground Injection Control
21 (UIC) program;

22 (E) any provision of any regulation, standard, or
23 filing requirement under subsection (b) of Section 13
24 of this Act;

25 (F) any provision of any regulation, standard, or

1 filing requirement under subsection (b) of Section 39
2 of this Act;

3 (G) any National Pollutant Discharge Elimination
4 System (NPDES) permit issued under this Act or any term
5 or condition of such permit;

6 (H) subsection (h) of Section 12 of this Act;

7 (I) subsection 6 of Section 39.5 of this Act;

8 (J) any provision of any regulation, standard or
9 filing requirement under Section 39.5 of this Act;

10 (K) a provision of the Procedures for Asbestos
11 Emission Control in subsection (c) of Section 61.145 of
12 Title 40 of the Code of Federal Regulations; or

13 (L) the standard for waste disposal for
14 manufacturing, fabricating, demolition, renovation,
15 and spraying operations in Section 61.150 of Title 40
16 of the Code of Federal Regulations.

17 (2) A person convicted of a violation of subdivision
18 (1) of this subsection commits a Class 4 felony, and in
19 addition to any other penalty prescribed by law is subject
20 to a fine not to exceed \$25,000 for each day of such
21 violation.

22 (3) A person who negligently violates the following
23 shall be subject to a fine not to exceed \$10,000 for each
24 day of such violation:

25 (A) subsection (f) of Section 12 of this Act;

26 (B) subsection (g) of Section 12 of this Act;

1 (C) any provision of any regulation, standard, or
2 filing requirement under subsection (b) of Section 13
3 of this Act;

4 (D) any provision of any regulation, standard, or
5 filing requirement under subsection (b) of Section 39
6 of this Act;

7 (E) any National Pollutant Discharge Elimination
8 System (NPDES) permit issued under this Act;

9 (F) subsection 6 of Section 39.5 of this Act; or

10 (G) any provision of any regulation, standard, or
11 filing requirement under Section 39.5 of this Act.

12 (4) It is unlawful for a person knowingly to:

13 (A) make any false statement, representation, or
14 certification in an application form, or form
15 pertaining to, a National Pollutant Discharge
16 Elimination System (NPDES) permit;

17 (B) render inaccurate any monitoring device or
18 record required by the Agency or Board in connection
19 with any such permit or with any discharge which is
20 subject to the provisions of subsection (f) of Section
21 12 of this Act;

22 (C) make any false statement, representation, or
23 certification in any form, notice, or report
24 pertaining to a CAAPP permit under Section 39.5 of this
25 Act;

26 (D) render inaccurate any monitoring device or

1 record required by the Agency or Board in connection
2 with any CAAPP permit or with any emission which is
3 subject to the provisions of Section 39.5 of this Act;
4 or

5 (E) violate subsection 6 of Section 39.5 of this
6 Act or any CAAPP permit, or term or condition thereof,
7 or any fee or filing requirement.

8 (5) A person convicted of a violation of paragraph (4)
9 of this subsection commits a Class A misdemeanor, and in
10 addition to any other penalties provided by law is subject
11 to a fine not to exceed \$10,000 for each day of violation.

12 (k) Criminal operation of a hazardous waste or PCB
13 incinerator.

14 (1) A person commits the offense of criminal operation
15 of a hazardous waste or PCB incinerator when, in the course
16 of operating a hazardous waste or PCB incinerator, he
17 knowingly and without justification operates the
18 incinerator (i) without an Agency permit, or in knowing
19 violation of the terms of an Agency permit, and (ii) as a
20 result of such violation, knowingly places any person in
21 danger of great bodily harm or knowingly creates an
22 immediate or long term material danger to the public health
23 or the environment.

24 (2) Any person who commits the offense of criminal
25 operation of a hazardous waste or PCB incinerator for the

1 first time commits a Class 4 felony and, in addition to any
2 other penalties prescribed by law, shall be subject to a
3 fine not to exceed \$100,000 for each day of the offense.

4 Any person who commits the offense of criminal
5 operation of a hazardous waste or PCB incinerator for a
6 second or subsequent time commits a Class 3 felony and, in
7 addition to any other penalties prescribed by law, shall be
8 subject to a fine not to exceed \$250,000 for each day of
9 the offense.

10 (3) For the purpose of this subsection (k), the term
11 "hazardous waste or PCB incinerator" means a pollution
12 control facility at which either hazardous waste or PCBs,
13 or both, are incinerated. "PCBs" means any substance or
14 mixture of substances that contains one or more
15 polychlorinated biphenyls in detectable amounts.

16 (1) It shall be the duty of all State and local law
17 enforcement officers to enforce this Act and the regulations
18 adopted hereunder, and all such officers shall have authority
19 to issue citations for such violations.

20 (m) Any action brought under this Section shall be brought
21 by the State's Attorney of the county in which the violation
22 occurred, or by the Attorney General, and shall be conducted in
23 accordance with the applicable provisions of the Code of
24 Criminal Procedure of 1963.

1 (n) For an offense described in this Section, the period
2 for commencing prosecution prescribed by the statute of
3 limitations shall not begin to run until the offense is
4 discovered by or reported to a State or local agency having the
5 authority to investigate violations of this Act.

6 (o) In addition to any other penalties provided under this
7 Act, if a person is convicted of (or agrees to a settlement in
8 an enforcement action over) illegal dumping of waste on the
9 person's own property, the Attorney General, the Agency, or
10 local prosecuting authority shall file notice of the
11 conviction, finding, or agreement in the office of the Recorder
12 in the county in which the landowner lives.

13 (p) Criminal Disposal of Waste.

14 (1) A person commits the offense of Criminal Disposal
15 of Waste when he or she:

16 (A) if required to have a permit under subsection
17 (d) of Section 21 of this Act, knowingly conducts a
18 waste-storage, waste-treatment, or waste-disposal
19 operation in a quantity that exceeds 250 cubic feet of
20 waste without a permit; or

21 (B) knowingly conducts open dumping of waste in
22 violation of subsection (a) of Section 21 of this Act.

23 (2) (A) A person who is convicted of a violation of

1 subparagraph (A) of paragraph (1) of this subsection is
2 guilty of a Class 4 felony for a first offense and, in
3 addition to any other penalties provided by law, is subject
4 to a fine not to exceed \$25,000 for each day of violation.
5 A person who is convicted of a violation of subparagraph
6 (A) of paragraph (1) of this subsection is guilty of a
7 Class 3 felony for a second or subsequent offense and, in
8 addition to any other penalties provided by law, is subject
9 to a fine not to exceed \$50,000 for each day of violation.

10 (B) A person who is convicted of a violation of
11 subparagraph (B) of paragraph (1) of this subsection is
12 guilty of a Class A misdemeanor. However, a person who
13 is convicted of a violation of subparagraph (B) of
14 paragraph (1) of this subsection for the open dumping
15 of waste in a quantity that exceeds 250 cubic feet or
16 that exceeds 50 waste tires is guilty of a Class 4
17 felony and, in addition to any other penalties provided
18 by law, is subject to a fine not to exceed \$25,000 for
19 each day of violation.

20 (q) Criminal Damage to a Public Water Supply.

21 (1) A person commits the offense of Criminal Damage to
22 a Public Water Supply when, without lawful justification,
23 he knowingly alters, damages, or otherwise tampers with the
24 equipment or property of a public water supply, or
25 knowingly introduces a contaminant into the distribution

1 system of a public water supply so as to cause, threaten,
2 or allow the distribution of water from any public water
3 supply of such quality or quantity as to be injurious to
4 human health or the environment.

5 (2) Criminal Damage to a Public Water Supply is a Class
6 4 felony. In addition to any other penalties prescribed by
7 law, a person convicted of the offense of Criminal Damage
8 to a Public Water Supply is subject to a fine not to exceed
9 \$250,000 for each day of such offense.

10 (r) Aggravated Criminal Damage to a Public Water Supply.

11 (1) A person commits the offense of Aggravated Criminal
12 Damage to a Public Water Supply when, without lawful
13 justification, he commits Criminal Damage to a Public Water
14 Supply while knowing that he thereby places another person
15 in danger of serious illness or great bodily harm, or
16 creates an immediate or long-term danger to public health
17 or the environment.

18 (2) Aggravated Criminal Damage to a Public Water Supply
19 is a Class 2 felony. In addition to any other penalties
20 prescribed by law, a person convicted of the offense of
21 Aggravated Criminal Damage to a Public Water Supply is
22 subject to a fine not to exceed \$500,000 for each day of
23 such offense.

24 (s) Criminal Disposal of PCBs.

1 (1) A person commits the offense of Criminal Disposal
2 of PCBs when, without lawful justification, he knowingly
3 violates Section 21.7 of this Act.

4 (2) Criminal Disposal of PCBs is a Class 3 felony. In
5 addition to any other penalties prescribed by law, a person
6 convicted of the offense of Criminal Disposal of PCBs is
7 subject to a fine not to exceed \$250,000 for each day of
8 such offense.

9 (Source: P.A. 96-603, eff. 8-24-09; 97-220, eff. 7-28-11;
10 97-286, eff. 8-10-11; 97-813, eff. 7-13-12.)

11 Section 99. Effective date. This Act takes effect upon
12 becoming law.