



Sen. Heather A. Steans

Filed: 4/1/2014

09800SB2727sam002

LRB098 18329 RPS 57952 a

1 AMENDMENT TO SENATE BILL 2727

2 AMENDMENT NO. _____. Amend Senate Bill 2727, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Environmental Protection Act is amended by
6 changing Section 42 and by adding Section 52.5 as follows:

7 (415 ILCS 5/42) (from Ch. 111 1/2, par. 1042)

8 Sec. 42. Civil penalties.

9 (a) Except as provided in this Section, any person that
10 violates any provision of this Act or any regulation adopted by
11 the Board, or any permit or term or condition thereof, or that
12 violates any order of the Board pursuant to this Act, shall be
13 liable for a civil penalty of not to exceed \$50,000 for the
14 violation and an additional civil penalty of not to exceed
15 \$10,000 for each day during which the violation continues; such
16 penalties may, upon order of the Board or a court of competent

1 jurisdiction, be made payable to the Environmental Protection
2 Trust Fund, to be used in accordance with the provisions of the
3 Environmental Protection Trust Fund Act.

4 (b) Notwithstanding the provisions of subsection (a) of
5 this Section:

6 (1) Any person that violates Section 12(f) of this Act
7 or any NPDES permit or term or condition thereof, or any
8 filing requirement, regulation or order relating to the
9 NPDES permit program, shall be liable to a civil penalty of
10 not to exceed \$10,000 per day of violation.

11 (2) Any person that violates Section 12(g) of this Act
12 or any UIC permit or term or condition thereof, or any
13 filing requirement, regulation or order relating to the
14 State UIC program for all wells, except Class II wells as
15 defined by the Board under this Act, shall be liable to a
16 civil penalty not to exceed \$2,500 per day of violation;
17 provided, however, that any person who commits such
18 violations relating to the State UIC program for Class II
19 wells, as defined by the Board under this Act, shall be
20 liable to a civil penalty of not to exceed \$10,000 for the
21 violation and an additional civil penalty of not to exceed
22 \$1,000 for each day during which the violation continues.

23 (3) Any person that violates Sections 21(f), 21(g),
24 21(h) or 21(i) of this Act, or any RCRA permit or term or
25 condition thereof, or any filing requirement, regulation
26 or order relating to the State RCRA program, shall be

1 liable to a civil penalty of not to exceed \$25,000 per day
2 of violation.

3 (4) In an administrative citation action under Section
4 31.1 of this Act, any person found to have violated any
5 provision of subsection (o) of Section 21 of this Act shall
6 pay a civil penalty of \$500 for each violation of each such
7 provision, plus any hearing costs incurred by the Board and
8 the Agency. Such penalties shall be made payable to the
9 Environmental Protection Trust Fund, to be used in
10 accordance with the provisions of the Environmental
11 Protection Trust Fund Act; except that if a unit of local
12 government issued the administrative citation, 50% of the
13 civil penalty shall be payable to the unit of local
14 government.

15 (4-5) In an administrative citation action under
16 Section 31.1 of this Act, any person found to have violated
17 any provision of subsection (p) of Section 21, Section
18 22.51, Section 22.51a, or subsection (k) of Section 55 of
19 this Act shall pay a civil penalty of \$1,500 for each
20 violation of each such provision, plus any hearing costs
21 incurred by the Board and the Agency, except that the civil
22 penalty amount shall be \$3,000 for each violation of any
23 provision of subsection (p) of Section 21, Section 22.51,
24 Section 22.51a, or subsection (k) of Section 55 that is the
25 person's second or subsequent adjudication violation of
26 that provision. The penalties shall be deposited into the

1 Environmental Protection Trust Fund, to be used in
2 accordance with the provisions of the Environmental
3 Protection Trust Fund Act; except that if a unit of local
4 government issued the administrative citation, 50% of the
5 civil penalty shall be payable to the unit of local
6 government.

7 (5) Any person who violates subsection 6 of Section
8 39.5 of this Act or any CAAPP permit, or term or condition
9 thereof, or any fee or filing requirement, or any duty to
10 allow or carry out inspection, entry or monitoring
11 activities, or any regulation or order relating to the
12 CAAPP shall be liable for a civil penalty not to exceed
13 \$10,000 per day of violation.

14 (6) Any owner or operator of a community water system
15 that violates subsection (b) of Section 18.1 or subsection
16 (a) of Section 25d-3 of this Act shall, for each day of
17 violation, be liable for a civil penalty not to exceed \$5
18 for each of the premises connected to the affected
19 community water system.

20 (7) Any person who violates Section 52.5 of this Act
21 shall be liable for a civil penalty of up to \$1,000 for the
22 first violation of that Section and a civil penalty of up
23 to \$2,500 for a second or subsequent violation of that
24 Section.

25 (b.5) In lieu of the penalties set forth in subsections (a)
26 and (b) of this Section, any person who fails to file, in a

1 timely manner, toxic chemical release forms with the Agency
2 pursuant to Section 25b-2 of this Act shall be liable for a
3 civil penalty of \$100 per day for each day the forms are late,
4 not to exceed a maximum total penalty of \$6,000. This daily
5 penalty shall begin accruing on the thirty-first day after the
6 date that the person receives the warning notice issued by the
7 Agency pursuant to Section 25b-6 of this Act; and the penalty
8 shall be paid to the Agency. The daily accrual of penalties
9 shall cease as of January 1 of the following year. All
10 penalties collected by the Agency pursuant to this subsection
11 shall be deposited into the Environmental Protection Permit and
12 Inspection Fund.

13 (c) Any person that violates this Act, any rule or
14 regulation adopted under this Act, any permit or term or
15 condition of a permit, or any Board order and causes the death
16 of fish or aquatic life shall, in addition to the other
17 penalties provided by this Act, be liable to pay to the State
18 an additional sum for the reasonable value of the fish or
19 aquatic life destroyed. Any money so recovered shall be placed
20 in the Wildlife and Fish Fund in the State Treasury.

21 (d) The penalties provided for in this Section may be
22 recovered in a civil action.

23 (e) The State's Attorney of the county in which the
24 violation occurred, or the Attorney General, may, at the
25 request of the Agency or on his own motion, institute a civil
26 action for an injunction, prohibitory or mandatory, to restrain

1 violations of this Act, any rule or regulation adopted under
2 this Act, any permit or term or condition of a permit, or any
3 Board order, or to require such other actions as may be
4 necessary to address violations of this Act, any rule or
5 regulation adopted under this Act, any permit or term or
6 condition of a permit, or any Board order.

7 (f) The State's Attorney of the county in which the
8 violation occurred, or the Attorney General, shall bring such
9 actions in the name of the people of the State of Illinois.
10 Without limiting any other authority which may exist for the
11 awarding of attorney's fees and costs, the Board or a court of
12 competent jurisdiction may award costs and reasonable
13 attorney's fees, including the reasonable costs of expert
14 witnesses and consultants, to the State's Attorney or the
15 Attorney General in a case where he has prevailed against a
16 person who has committed a wilful, knowing or repeated
17 violation of this Act, any rule or regulation adopted under
18 this Act, any permit or term or condition of a permit, or any
19 Board order.

20 Any funds collected under this subsection (f) in which the
21 Attorney General has prevailed shall be deposited in the
22 Hazardous Waste Fund created in Section 22.2 of this Act. Any
23 funds collected under this subsection (f) in which a State's
24 Attorney has prevailed shall be retained by the county in which
25 he serves.

26 (g) All final orders imposing civil penalties pursuant to

1 this Section shall prescribe the time for payment of such
2 penalties. If any such penalty is not paid within the time
3 prescribed, interest on such penalty at the rate set forth in
4 subsection (a) of Section 1003 of the Illinois Income Tax Act,
5 shall be paid for the period from the date payment is due until
6 the date payment is received. However, if the time for payment
7 is stayed during the pendency of an appeal, interest shall not
8 accrue during such stay.

9 (h) In determining the appropriate civil penalty to be
10 imposed under subdivisions (a), (b)(1), (b)(2), (b)(3), or
11 (b)(5) of this Section, the Board is authorized to consider any
12 matters of record in mitigation or aggravation of penalty,
13 including but not limited to the following factors:

14 (1) the duration and gravity of the violation;

15 (2) the presence or absence of due diligence on the
16 part of the respondent in attempting to comply with
17 requirements of this Act and regulations thereunder or to
18 secure relief therefrom as provided by this Act;

19 (3) any economic benefits accrued by the respondent
20 because of delay in compliance with requirements, in which
21 case the economic benefits shall be determined by the
22 lowest cost alternative for achieving compliance;

23 (4) the amount of monetary penalty which will serve to
24 deter further violations by the respondent and to otherwise
25 aid in enhancing voluntary compliance with this Act by the
26 respondent and other persons similarly subject to the Act;

1 (5) the number, proximity in time, and gravity of
2 previously adjudicated violations of this Act by the
3 respondent;

4 (6) whether the respondent voluntarily self-disclosed,
5 in accordance with subsection (i) of this Section, the
6 non-compliance to the Agency;

7 (7) whether the respondent has agreed to undertake a
8 "supplemental environmental project," which means an
9 environmentally beneficial project that a respondent
10 agrees to undertake in settlement of an enforcement action
11 brought under this Act, but which the respondent is not
12 otherwise legally required to perform; and

13 (8) whether the respondent has successfully completed
14 a Compliance Commitment Agreement under subsection (a) of
15 Section 31 of this Act to remedy the violations that are
16 the subject of the complaint.

17 In determining the appropriate civil penalty to be imposed
18 under subsection (a) or paragraph (1), (2), (3), or (5) of
19 subsection (b) of this Section, the Board shall ensure, in all
20 cases, that the penalty is at least as great as the economic
21 benefits, if any, accrued by the respondent as a result of the
22 violation, unless the Board finds that imposition of such
23 penalty would result in an arbitrary or unreasonable financial
24 hardship. However, such civil penalty may be off-set in whole
25 or in part pursuant to a supplemental environmental project
26 agreed to by the complainant and the respondent.

1 (i) A person who voluntarily self-discloses non-compliance
2 to the Agency, of which the Agency had been unaware, is
3 entitled to a 100% reduction in the portion of the penalty that
4 is not based on the economic benefit of non-compliance if the
5 person can establish the following:

6 (1) that the non-compliance was discovered through an
7 environmental audit or a compliance management system
8 documented by the regulated entity as reflecting the
9 regulated entity's due diligence in preventing, detecting,
10 and correcting violations;

11 (2) that the non-compliance was disclosed in writing
12 within 30 days of the date on which the person discovered
13 it;

14 (3) that the non-compliance was discovered and
15 disclosed prior to:

16 (i) the commencement of an Agency inspection,
17 investigation, or request for information;

18 (ii) notice of a citizen suit;

19 (iii) the filing of a complaint by a citizen, the
20 Illinois Attorney General, or the State's Attorney of
21 the county in which the violation occurred;

22 (iv) the reporting of the non-compliance by an
23 employee of the person without that person's
24 knowledge; or

25 (v) imminent discovery of the non-compliance by
26 the Agency;

1 (4) that the non-compliance is being corrected and any
2 environmental harm is being remediated in a timely fashion;

3 (5) that the person agrees to prevent a recurrence of
4 the non-compliance;

5 (6) that no related non-compliance events have
6 occurred in the past 3 years at the same facility or in the
7 past 5 years as part of a pattern at multiple facilities
8 owned or operated by the person;

9 (7) that the non-compliance did not result in serious
10 actual harm or present an imminent and substantial
11 endangerment to human health or the environment or violate
12 the specific terms of any judicial or administrative order
13 or consent agreement;

14 (8) that the person cooperates as reasonably requested
15 by the Agency after the disclosure; and

16 (9) that the non-compliance was identified voluntarily
17 and not through a monitoring, sampling, or auditing
18 procedure that is required by statute, rule, permit,
19 judicial or administrative order, or consent agreement.

20 If a person can establish all of the elements under this
21 subsection except the element set forth in paragraph (1) of
22 this subsection, the person is entitled to a 75% reduction in
23 the portion of the penalty that is not based upon the economic
24 benefit of non-compliance.

25 (j) In addition to any other remedy or penalty that may
26 apply, whether civil or criminal, any person who violates

1 Section 22.52 of this Act shall be liable for an additional
2 civil penalty of up to 3 times the gross amount of any
3 pecuniary gain resulting from the violation.

4 (k) In addition to any other remedy or penalty that may
5 apply, whether civil or criminal, any person who violates
6 subdivision (a) (7.6) of Section 31 of this Act shall be liable
7 for an additional civil penalty of \$2,000.

8 (Source: P.A. 96-603, eff. 8-24-09; 96-737, eff. 8-25-09;
9 96-1000, eff. 7-2-10; 96-1416, eff. 7-30-10; 97-519, eff.
10 8-23-11.)

11 (415 ILCS 5/52.5 new)

12 Sec. 52.5. Microbead-free waters.

13 (a) As used in this Section:

14 "Personal care product" means any article intended to be
15 rubbed, poured, sprinkled, or sprayed on, introduced into, or
16 otherwise applied to the human body or any part thereof for
17 cleansing, beautifying, promoting attractiveness, or altering
18 the appearance, and any article intended for use as a component
19 of any such article. "Personal care product" does not include
20 any prescription or over the counter drugs.

21 "Plastic" means a synthetic material made from linking
22 monomers through a chemical reaction to create an organic
23 polymer chain that can be molded or extruded at high heat into
24 various solid forms retaining their defined shapes during life
25 cycle and after disposal.

1 "Synthetic plastic microbead" means any intentionally
2 added non-biodegradable solid plastic particle measured less
3 than 5 millimeters in size and is used to exfoliate or cleanse
4 in a rinse-off product.

5 (b) The General Assembly hereby finds that microbeads, a
6 synthetic alternative ingredient to such natural materials as
7 ground almonds, oatmeal, and pumice, found in over 100 personal
8 care products, including facial cleansers, shampoos, and
9 toothpastes, pose a serious threat to the State's environment.
10 Microbeads have been documented to collect harmful pollutants
11 already present in the environment and harm fish and other
12 aquatic organisms that form the base of the aquatic food chain.
13 Recently, microbeads have been recorded in Illinois water
14 bodies, and in particular, the waters of Lake Michigan.

15 Although synthetic plastic microbeads are a safe and
16 effective mild abrasive ingredient effectively used for gently
17 removing dead skin, there are recent concerns about the
18 potential environmental impact of these materials. More
19 research is needed on any adverse consequences, but a number of
20 cosmetic manufacturers have already begun a voluntary process
21 for identifying alternatives that allay those concerns. Those
22 alternatives will be carefully evaluated to assure safety and
23 implemented in a timely manner.

24 Without significant and costly improvements to the
25 majority of the State's sewage treatment facilities,
26 microbeads contained in products will continue to pollute

1 Illinois' waters and hinder the recent substantial economic
2 investments in redeveloping Illinois waterfronts and the
3 ongoing efforts to restore the State's lakes and rivers and
4 recreational and commercial fisheries.

5 (c) Effective December 31, 2017, no person shall
6 manufacture for sale a personal care product that contains
7 synthetic plastic microbeads as defined in this Section.

8 (d) Effective December 31, 2018, no person shall accept for
9 sale a personal care product that contains synthetic plastic
10 microbeads as defined in this Section."