

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 changing Section 42 as follows:

6 (415 ILCS 5/42) (from Ch. 111 1/2, par. 1042)

7 Sec. 42. Civil penalties.

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

19 (b) Notwithstanding the provisions of subsection (a) of  
20 this Section:

21 (1) Any person that violates Section 12(f) of this Act  
22 or any NPDES permit or term or condition thereof, or any  
23 filing requirement, regulation or order relating to the

1 NPDES permit program, shall be liable to a civil penalty of  
2 not to exceed \$10,000 per day of violation.

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

15 (3) Any person that violates Sections 21(f), 21(g),  
16 21(h) or 21(i) of this Act, or any RCRA permit or term or  
17 condition thereof, or any filing requirement, regulation  
18 or order relating to the State RCRA program, shall be  
19 liable to a civil penalty of not to exceed \$25,000 per day  
20 of violation.

21 (4) In an administrative citation action under Section  
22 31.1 of this Act, any person found to have violated any  
23 provision of subsection (o) of Section 21 of this Act shall  
24 pay a civil penalty of \$500 for each violation of each such  
25 provision, plus any hearing costs incurred by the Board and  
26 the Agency. Such penalties shall be made payable to 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 (4-5) In an administrative citation action under  
8 Section 31.1 of this Act, any person found to have violated  
9 any provision of subsection (p) of Section 21, Section  
10 22.51, Section 22.51a, or subsection (k) of Section 55 of  
11 this Act shall pay a civil penalty of \$1,500 for each  
12 violation of each such provision, plus any hearing costs  
13 incurred by the Board and the Agency, except that the civil  
14 penalty amount shall be \$3,000 for each violation of any  
15 provision of subsection (p) of Section 21, Section 22.51,  
16 Section 22.51a, or subsection (k) of Section 55 that is the  
17 person's second or subsequent adjudication violation of  
18 that provision. The penalties shall be deposited into the  
19 Environmental Protection Trust Fund, to be used in  
20 accordance with the provisions of the Environmental  
21 Protection Trust Fund Act; except that if a unit of local  
22 government issued the administrative citation, 50% of the  
23 civil penalty shall be payable to the unit of local  
24 government.

25 (5) Any person who violates subsection 6 of Section  
26 39.5 of this Act or any CAAPP permit, or term or condition

1           thereof, or any fee or filing requirement, or any duty to  
2           allow or carry out inspection, entry or monitoring  
3           activities, or any regulation or order relating to the  
4           CAAPP shall be liable for a civil penalty not to exceed  
5           \$10,000 per day of violation.

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

12          (7) Any person who violates Section 52.5 of this Act  
13          shall be liable for a civil penalty of up to \$1,000 for the  
14          first violation of that Section and a civil penalty of up  
15          to \$2,500 for a second or subsequent violation of that  
16          Section.

17          (b.5) In lieu of the penalties set forth in subsections (a)  
18          and (b) of this Section, any person who fails to file, in a  
19          timely manner, toxic chemical release forms with the Agency  
20          pursuant to Section 25b-2 of this Act shall be liable for a  
21          civil penalty of \$100 per day for each day the forms are late,  
22          not to exceed a maximum total penalty of \$6,000. This daily  
23          penalty shall begin accruing on the thirty-first day after the  
24          date that the person receives the warning notice issued by the  
25          Agency pursuant to Section 25b-6 of this Act; and the penalty  
26          shall be paid to the Agency. The daily accrual of penalties

1 shall cease as of January 1 of the following year. All  
2 penalties collected by the Agency pursuant to this subsection  
3 shall be deposited into the Environmental Protection Permit and  
4 Inspection Fund.

5 (c) Any person that violates this Act, any rule or  
6 regulation adopted under this Act, any permit or term or  
7 condition of a permit, or any Board order and causes the death  
8 of fish or aquatic life shall, in addition to the other  
9 penalties provided by this Act, be liable to pay to the State  
10 an additional sum for the reasonable value of the fish or  
11 aquatic life destroyed. Any money so recovered shall be placed  
12 in the Wildlife and Fish Fund in the State Treasury.

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

15 (e) The State's Attorney of the county in which the  
16 violation occurred, or the Attorney General, may, at the  
17 request of the Agency or on his own motion, institute a civil  
18 action for an injunction, prohibitory or mandatory, to restrain  
19 violations of this Act, any rule or regulation adopted under  
20 this Act, any permit or term or condition of a permit, or any  
21 Board order, or to require such other actions as may be  
22 necessary to address violations of this Act, any rule or  
23 regulation adopted under this Act, any permit or term or  
24 condition of a permit, or any Board order.

25 (f) The State's Attorney of the county in which the  
26 violation occurred, or the Attorney General, shall bring such

1 actions in the name of the people of the State of Illinois.  
2 Without limiting any other authority which may exist for the  
3 awarding of attorney's fees and costs, the Board or a court of  
4 competent jurisdiction may award costs and reasonable  
5 attorney's fees, including the reasonable costs of expert  
6 witnesses and consultants, to the State's Attorney or the  
7 Attorney General in a case where he has prevailed against a  
8 person who has committed a wilful, knowing or repeated  
9 violation of this Act, any rule or regulation adopted under  
10 this Act, any permit or term or condition of a permit, or any  
11 Board order.

12 Any funds collected under this subsection (f) in which the  
13 Attorney General has prevailed shall be deposited in the  
14 Hazardous Waste Fund created in Section 22.2 of this Act. Any  
15 funds collected under this subsection (f) in which a State's  
16 Attorney has prevailed shall be retained by the county in which  
17 he serves.

18 (g) All final orders imposing civil penalties pursuant to  
19 this Section shall prescribe the time for payment of such  
20 penalties. If any such penalty is not paid within the time  
21 prescribed, interest on such penalty at the rate set forth in  
22 subsection (a) of Section 1003 of the Illinois Income Tax Act,  
23 shall be paid for the period from the date payment is due until  
24 the date payment is received. However, if the time for payment  
25 is stayed during the pendency of an appeal, interest shall not  
26 accrue during such stay.

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

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

7 (2) the presence or absence of due diligence on the  
8 part of the respondent in attempting to comply with  
9 requirements of this Act and regulations thereunder or to  
10 secure relief therefrom as provided by this Act;

11 (3) any economic benefits accrued by the respondent  
12 because of delay in compliance with requirements, in which  
13 case the economic benefits shall be determined by the  
14 lowest cost alternative for achieving compliance;

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

19 (5) the number, proximity in time, and gravity of  
20 previously adjudicated violations of this Act by the  
21 respondent;

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

25 (7) whether the respondent has agreed to undertake a  
26 "supplemental environmental project," which means an

1 environmentally beneficial project that a respondent  
2 agrees to undertake in settlement of an enforcement action  
3 brought under this Act, but which the respondent is not  
4 otherwise legally required to perform; and

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

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

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

24 (1) that either the regulated entity is a small entity  
25 or the non-compliance was discovered through an  
26 environmental audit or a compliance management system



1           documented by the regulated entity as reflecting the  
2           regulated entity's due diligence in preventing, detecting,  
3           and correcting violations;

4           (2) that the non-compliance was disclosed in writing  
5           within 30 days of the date on which the person discovered  
6           it;

7           (3) that the non-compliance was discovered and  
8           disclosed prior to:

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

11           (ii) notice of a citizen suit;

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

15           (iv) the reporting of the non-compliance by an  
16           employee of the person without that person's  
17           knowledge; or

18           (v) imminent discovery of the non-compliance by  
19           the Agency;

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

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

24           (6) that no related non-compliance events have  
25           occurred in the past 3 years at the same facility or in the  
26           past 5 years as part of a pattern at multiple facilities

1 owned or operated by the person;

2 (7) that the non-compliance did not result in serious  
3 actual harm or present an imminent and substantial  
4 endangerment to human health or the environment or violate  
5 the specific terms of any judicial or administrative order  
6 or consent agreement;

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

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

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

18 For the purposes of this subsection (i), "small entity" has  
19 the same meaning as in Section 221 of the federal Small  
20 Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C.  
21 601).

22 (j) In addition to any other remedy or penalty that may  
23 apply, whether civil or criminal, any person who violates  
24 Section 22.52 of this Act shall be liable for an additional  
25 civil penalty of up to 3 times the gross amount of any  
26 pecuniary gain resulting from the violation.

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

5           (Source: P.A. 97-519, eff. 8-23-11; 98-638, eff. 1-1-15.)

6           Section 99. Effective date. This Act takes effect upon  
7 becoming law.