



## 104TH GENERAL ASSEMBLY

### State of Illinois

2025 and 2026

HB3029

Introduced 2/6/2025, by Rep. Janet Yang Rohr

#### SYNOPSIS AS INTRODUCED:

415 ILCS 5/22.15

415 ILCS 5/22.64 new

415 ILCS 5/42

from Ch. 111 1/2, par. 1042

Amends the Environmental Protection Act. Provides that a food dispensing establishment may provide single-use foodware only upon the request of a customer or at a self-service station. Specifies that food dispensing establishments shall provide options for customers to affirmatively request single-use foodware when ordering food and beverages for delivery or take-out across all ordering or point of sale platforms, including internet-enabled applications, digital platforms, phone orders, and in-person ordering. Exempts certain types of foodware and certain types of facilities from the provisions of the amendatory Act. Provides that the owner or operator of a food service establishment that violates these provisions is to be assessed a civil penalty. Directs civil penalties imposed for violations of these provisions to be deposited into the Solid Waste Management Fund for use by the Agency for the purposes of expanding and funding climate-related programs and pollution-related programs. Makes other changes.

LRB104 09341 BDA 19399 b

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 Sections 22.15, 22.64, and 42 as follows:

6 (415 ILCS 5/22.15)

7 Sec. 22.15. Solid Waste Management Fund; fees.

8 (a) There is hereby created within the State Treasury a  
9 special fund to be known as the Solid Waste Management Fund, to  
10 be constituted from the fees collected by the State pursuant  
11 to this Section, from repayments of loans made from the Fund  
12 for solid waste projects, from registration fees collected  
13 pursuant to the Consumer Electronics Recycling Act, from fees  
14 collected under the Paint Stewardship Act, from civil  
15 penalties imposed for violations of Section 22.64, and from  
16 amounts transferred into the Fund pursuant to Public Act  
17 100-433. Moneys received by either the Agency or the  
18 Department of Commerce and Economic Opportunity in repayment  
19 of loans made pursuant to the Illinois Solid Waste Management  
20 Act shall be deposited into the General Revenue Fund.

21 (b) The Agency shall assess and collect a fee in the amount  
22 set forth herein from the owner or operator of each sanitary  
23 landfill permitted or required to be permitted by the Agency

1 to dispose of solid waste if the sanitary landfill is located  
2 off the site where such waste was produced and if such sanitary  
3 landfill is owned, controlled, and operated by a person other  
4 than the generator of such waste. The Agency shall deposit all  
5 fees collected into the Solid Waste Management Fund. If a site  
6 is contiguous to one or more landfills owned or operated by the  
7 same person, the volumes permanently disposed of by each  
8 landfill shall be combined for purposes of determining the fee  
9 under this subsection. Beginning on July 1, 2018, and on the  
10 first day of each month thereafter during fiscal years 2019  
11 through 2025, the State Comptroller shall direct and State  
12 Treasurer shall transfer an amount equal to 1/12 of \$5,000,000  
13 per fiscal year from the Solid Waste Management Fund to the  
14 General Revenue Fund.

15 (1) If more than 150,000 cubic yards of non-hazardous  
16 solid waste is permanently disposed of at a site in a  
17 calendar year, the owner or operator shall either pay a  
18 fee of 95 cents per cubic yard or, alternatively, the  
19 owner or operator may weigh the quantity of the solid  
20 waste permanently disposed of with a device for which  
21 certification has been obtained under the Weights and  
22 Measures Act and pay a fee of \$2.00 per ton of solid waste  
23 permanently disposed of. In no case shall the fee  
24 collected or paid by the owner or operator under this  
25 paragraph exceed \$1.55 per cubic yard or \$3.27 per ton.

26 (2) If more than 100,000 cubic yards but not more than

1 150,000 cubic yards of non-hazardous waste is permanently  
2 disposed of at a site in a calendar year, the owner or  
3 operator shall pay a fee of \$52,630.

4 (3) If more than 50,000 cubic yards but not more than  
5 100,000 cubic yards of non-hazardous solid waste is  
6 permanently disposed of at a site in a calendar year, the  
7 owner or operator shall pay a fee of \$23,790.

8 (4) If more than 10,000 cubic yards but not more than  
9 50,000 cubic yards of non-hazardous solid waste is  
10 permanently disposed of at a site in a calendar year, the  
11 owner or operator shall pay a fee of \$7,260.

12 (5) If not more than 10,000 cubic yards of  
13 non-hazardous solid waste is permanently disposed of at a  
14 site in a calendar year, the owner or operator shall pay a  
15 fee of \$1050.

16 (c) (Blank).

17 (d) The Agency shall establish rules relating to the  
18 collection of the fees authorized by this Section. Such rules  
19 shall include, but not be limited to:

20 (1) necessary records identifying the quantities of  
21 solid waste received or disposed;

22 (2) the form and submission of reports to accompany  
23 the payment of fees to the Agency;

24 (3) the time and manner of payment of fees to the  
25 Agency, which payments shall not be more often than  
26 quarterly; and

1           (4) procedures setting forth criteria establishing  
2           when an owner or operator may measure by weight or volume  
3           during any given quarter or other fee payment period.

4           (e) Pursuant to appropriation, all monies in the Solid  
5           Waste Management Fund shall be used by the Agency for the  
6           purposes set forth in this Section and Section 22.64 and for  
7           the purposes set forth in the Illinois Solid Waste Management  
8           Act, including for the costs of fee collection and  
9           administration, for administration of the Paint Stewardship  
10          Act, and for the administration of the Consumer Electronics  
11          Recycling Act, the Drug Take-Back Act, ~~and~~ the Statewide  
12          Recycling Needs Assessment Act.

13          (f) The Agency is authorized to enter into such agreements  
14          and to promulgate such rules as are necessary to carry out its  
15          duties under this Section and the Illinois Solid Waste  
16          Management Act.

17          (g) On the first day of January, April, July, and October  
18          of each year, beginning on July 1, 1996, the State Comptroller  
19          and Treasurer shall transfer \$500,000 from the Solid Waste  
20          Management Fund to the Hazardous Waste Fund. Moneys  
21          transferred under this subsection (g) shall be used only for  
22          the purposes set forth in item (1) of subsection (d) of Section  
23          22.2.

24          (h) The Agency is authorized to provide financial  
25          assistance to units of local government for the performance of  
26          inspecting, investigating, and enforcement activities pursuant

1 to subsection (r) of Section 4 at nonhazardous solid waste  
2 disposal sites.

3 (i) The Agency is authorized to conduct household waste  
4 collection and disposal programs.

5 (j) A unit of local government, as defined in the Local  
6 Solid Waste Disposal Act, in which a solid waste disposal  
7 facility is located may establish a fee, tax, or surcharge  
8 with regard to the permanent disposal of solid waste. All  
9 fees, taxes, and surcharges collected under this subsection  
10 shall be utilized for solid waste management purposes,  
11 including long-term monitoring and maintenance of landfills,  
12 planning, implementation, inspection, enforcement and other  
13 activities consistent with the Illinois Solid Waste Management  
14 Act and the Local Solid Waste Disposal Act, or for any other  
15 environment-related purpose, including, but not limited to, an  
16 environment-related public works project, but not for the  
17 construction of a new pollution control facility other than a  
18 household hazardous waste facility. However, the total fee,  
19 tax or surcharge imposed by all units of local government  
20 under this subsection (j) upon the solid waste disposal  
21 facility shall not exceed:

22 (1) 60¢ per cubic yard if more than 150,000 cubic  
23 yards of non-hazardous solid waste is permanently disposed  
24 of at the site in a calendar year, unless the owner or  
25 operator weighs the quantity of the solid waste received  
26 with a device for which certification has been obtained

1 under the Weights and Measures Act, in which case the fee  
2 shall not exceed \$1.27 per ton of solid waste permanently  
3 disposed of.

4 (2) \$33,350 if more than 100,000 cubic yards, but not  
5 more than 150,000 cubic yards, of non-hazardous waste is  
6 permanently disposed of at the site in a calendar year.

7 (3) \$15,500 if more than 50,000 cubic yards, but not  
8 more than 100,000 cubic yards, of non-hazardous solid  
9 waste is permanently disposed of at the site in a calendar  
10 year.

11 (4) \$4,650 if more than 10,000 cubic yards, but not  
12 more than 50,000 cubic yards, of non-hazardous solid waste  
13 is permanently disposed of at the site in a calendar year.

14 (5) \$650 if not more than 10,000 cubic yards of  
15 non-hazardous solid waste is permanently disposed of at  
16 the site in a calendar year.

17 The corporate authorities of the unit of local government  
18 may use proceeds from the fee, tax, or surcharge to reimburse a  
19 highway commissioner whose road district lies wholly or  
20 partially within the corporate limits of the unit of local  
21 government for expenses incurred in the removal of  
22 nonhazardous, nonfluid municipal waste that has been dumped on  
23 public property in violation of a State law or local  
24 ordinance.

25 For the disposal of solid waste from general construction  
26 or demolition debris recovery facilities as defined in

1 subsection (a-1) of Section 3.160, the total fee, tax, or  
2 surcharge imposed by all units of local government under this  
3 subsection (j) upon the solid waste disposal facility shall  
4 not exceed 50% of the applicable amount set forth above. A unit  
5 of local government, as defined in the Local Solid Waste  
6 Disposal Act, in which a general construction or demolition  
7 debris recovery facility is located may establish a fee, tax,  
8 or surcharge on the general construction or demolition debris  
9 recovery facility with regard to the permanent disposal of  
10 solid waste by the general construction or demolition debris  
11 recovery facility at a solid waste disposal facility, provided  
12 that such fee, tax, or surcharge shall not exceed 50% of the  
13 applicable amount set forth above, based on the total amount  
14 of solid waste transported from the general construction or  
15 demolition debris recovery facility for disposal at solid  
16 waste disposal facilities, and the unit of local government  
17 and fee shall be subject to all other requirements of this  
18 subsection (j).

19 A county or Municipal Joint Action Agency that imposes a  
20 fee, tax, or surcharge under this subsection may use the  
21 proceeds thereof to reimburse a municipality that lies wholly  
22 or partially within its boundaries for expenses incurred in  
23 the removal of nonhazardous, nonfluid municipal waste that has  
24 been dumped on public property in violation of a State law or  
25 local ordinance.

26 If the fees are to be used to conduct a local sanitary

1 landfill inspection or enforcement program, the unit of local  
2 government must enter into a written delegation agreement with  
3 the Agency pursuant to subsection (r) of Section 4. The unit of  
4 local government and the Agency shall enter into such a  
5 written delegation agreement within 60 days after the  
6 establishment of such fees. At least annually, the Agency  
7 shall conduct an audit of the expenditures made by units of  
8 local government from the funds granted by the Agency to the  
9 units of local government for purposes of local sanitary  
10 landfill inspection and enforcement programs, to ensure that  
11 the funds have been expended for the prescribed purposes under  
12 the grant.

13 The fees, taxes or surcharges collected under this  
14 subsection (j) shall be placed by the unit of local government  
15 in a separate fund, and the interest received on the moneys in  
16 the fund shall be credited to the fund. The monies in the fund  
17 may be accumulated over a period of years to be expended in  
18 accordance with this subsection.

19 A unit of local government, as defined in the Local Solid  
20 Waste Disposal Act, shall prepare and post on its website, in  
21 April of each year, a report that details spending plans for  
22 monies collected in accordance with this subsection. The  
23 report will at a minimum include the following:

24 (1) The total monies collected pursuant to this  
25 subsection.

26 (2) The most current balance of monies collected

1           pursuant to this subsection.

2           (3) An itemized accounting of all monies expended for  
3           the previous year pursuant to this subsection.

4           (4) An estimation of monies to be collected for the  
5           following 3 years pursuant to this subsection.

6           (5) A narrative detailing the general direction and  
7           scope of future expenditures for one, 2 and 3 years.

8           The exemptions granted under Sections 22.16 and 22.16a,  
9           and under subsection (k) of this Section, shall be applicable  
10          to any fee, tax or surcharge imposed under this subsection  
11          (j); except that the fee, tax or surcharge authorized to be  
12          imposed under this subsection (j) may be made applicable by a  
13          unit of local government to the permanent disposal of solid  
14          waste after December 31, 1986, under any contract lawfully  
15          executed before June 1, 1986 under which more than 150,000  
16          cubic yards (or 50,000 tons) of solid waste is to be  
17          permanently disposed of, even though the waste is exempt from  
18          the fee imposed by the State under subsection (b) of this  
19          Section pursuant to an exemption granted under Section 22.16.

20          (k) In accordance with the findings and purposes of the  
21          Illinois Solid Waste Management Act, beginning January 1, 1989  
22          the fee under subsection (b) and the fee, tax or surcharge  
23          under subsection (j) shall not apply to:

24                  (1) waste which is hazardous waste;

25                  (2) waste which is pollution control waste;

26                  (3) waste from recycling, reclamation or reuse

1 processes which have been approved by the Agency as being  
2 designed to remove any contaminant from wastes so as to  
3 render such wastes reusable, provided that the process  
4 renders at least 50% of the waste reusable; the exemption  
5 set forth in this paragraph (3) of this subsection (k)  
6 shall not apply to general construction or demolition  
7 debris recovery facilities as defined in subsection (a-1)  
8 of Section 3.160;

9 (4) non-hazardous solid waste that is received at a  
10 sanitary landfill and composted or recycled through a  
11 process permitted by the Agency; or

12 (5) any landfill which is permitted by the Agency to  
13 receive only demolition or construction debris or  
14 landscape waste.

15 (Source: P.A. 102-16, eff. 6-17-21; 102-310, eff. 8-6-21;  
16 102-444, eff. 8-20-21; 102-699, eff. 4-19-22; 102-813, eff.  
17 5-13-22; 102-1055, eff. 6-10-22; 103-8, eff. 6-7-23; 103-154,  
18 eff. 6-30-23; 103-372, eff. 1-1-24; 103-383, eff. 7-28-23;  
19 103-588, eff. 6-5-24; 103-605, eff. 7-1-24.)

20 (415 ILCS 5/22.64 new)

21 Sec. 22.64. Single-use foodware.

22 (a) As used in this Section:

23 "Self-service station" means an area dedicated to  
24 customers taking away single-use foodware and condiments.

25 "Single-use foodware" means an eating utensil or other

1 item to be used as part of food or beverage service that is  
2 designed and intended by the manufacturer for only one usage  
3 before being discarded, including, but not limited to, forks,  
4 spoons, sporks, knives, chopsticks, other eating utensils,  
5 stirrers, drink stoppers, splash sticks, cocktail sticks,  
6 toothpicks, napkins, wet-wipes, cup sleeves, beverage trays,  
7 disposable plates, and condiment packets. "Single-use  
8 foodware" does not include straws, lids for hot beverages, or  
9 items used to contain or package food or beverages for  
10 delivery or take-out orders.

11 (b) In connection with any delivery or take-out order of  
12 food or beverage, a food dispensing establishment may only  
13 provide single-use foodware upon request from the customer or  
14 at a self-service station. Food dispensing establishments  
15 shall provide options for customers to affirmatively request  
16 single-use foodware when ordering food and beverages for  
17 delivery or take-out across all ordering or point of sale  
18 platforms, including internet enabled applications, digital  
19 platforms, phone orders, and in-person ordering. The Agency is  
20 authorized to establish, by rule, a standard, language  
21 accessible sign for use by food dispensing establishments in  
22 connection with this Section. The requirements of this Section  
23 are subject to any applicable public health order.

24 (c) This Section does not apply to:

25 (1) single-use foodware necessary to address safety  
26 concerns, such as lids, drink stoppers, beverage trays,

1 and cup sleeves for beverages served at an average  
2 temperature in excess of 170 degrees Fahrenheit;

3 (2) an automatic food vending machine;

4 (3) any single-use foodware that is prepackaged with  
5 or attached to any food or beverage products by the  
6 manufacturer prior to receipt by the food dispensing  
7 establishment;

8 (4) any charitable food dispensing establishment;

9 (5) any food dispensing establishment located at  
10 Illinois airports;

11 (6) medical facilities, which include, but are not  
12 limited to, long-term care facilities, State hospitals,  
13 and senior nursing homes; or

14 (7) a food dispensing establishment granted a waiver  
15 from the Agency, in accordance with rules adopted by the  
16 Agency.

17 (d) Notwithstanding any other provision of this Act, civil  
18 penalties imposed for violations of this Section must be  
19 deposited into the Solid Waste Management Fund for use by the  
20 Agency for the purposes of expanding and funding  
21 climate-related programs and pollution-related programs.

22 (415 ILCS 5/42) (from Ch. 111 1/2, par. 1042)

23 Sec. 42. Civil penalties.

24 (a) Except as provided in this Section, any person that  
25 violates any provision of this Act or any regulation adopted

1 by the Board, or any permit or term or condition thereof, or  
2 that violates any order of the Board pursuant to this Act,  
3 shall be liable for a civil penalty of not to exceed \$50,000  
4 for the violation and an additional civil penalty of not to  
5 exceed \$10,000 for each day during which the violation  
6 continues; such penalties may, upon order of the Board or a  
7 court of competent jurisdiction, be made payable to the  
8 Environmental Protection Trust Fund, to be used in accordance  
9 with the provisions of the Environmental Protection Trust Fund  
10 Act.

11 (b) Notwithstanding the provisions of subsection (a) of  
12 this Section:

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

18 (2) Any person that violates Section 12(g) of this Act  
19 or any UIC permit or term or condition thereof, or any  
20 filing requirement, regulation or order relating to the  
21 State UIC program for all wells, except Class II wells as  
22 defined by the Board under this Act, shall be liable to a  
23 civil penalty not to exceed \$2,500 per day of violation;  
24 provided, however, that any person who commits such  
25 violations relating to the State UIC program for Class II  
26 wells, as defined by the Board under this Act, shall be

1           liable to a civil penalty of not to exceed \$10,000 for the  
2           violation and an additional civil penalty of not to exceed  
3           \$1,000 for each day during which the violation continues.

4           (3) Any person that violates Sections 21(f), 21(g),  
5           21(h) or 21(i) of this Act, or any RCRA permit or term or  
6           condition thereof, or any filing requirement, regulation  
7           or order relating to the State RCRA program, shall be  
8           liable to a civil penalty of not to exceed \$25,000 per day  
9           of violation.

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

22          (4-5) In an administrative citation action under  
23          Section 31.1 of this Act, any person found to have  
24          violated any provision of subsection (p) of Section 21,  
25          Section 22.38, Section 22.51, Section 22.51a, or  
26          subsection (k) of Section 55 of this Act shall pay a civil

1 penalty of \$1,500 for each violation of each such  
2 provision, plus any hearing costs incurred by the Board  
3 and the Agency, except that the civil penalty amount shall  
4 be \$3,000 for each violation of any provision of  
5 subsection (p) of Section 21, Section 22.38, Section  
6 22.51, Section 22.51a, or subsection (k) of Section 55  
7 that is the person's second or subsequent adjudication  
8 violation of that provision. The penalties shall be  
9 deposited into the Environmental Protection Trust Fund, to  
10 be used in accordance with the provisions of the  
11 Environmental Protection Trust Fund Act; except that if a  
12 unit of local government issued the administrative  
13 citation, 50% of the civil penalty shall be payable to the  
14 unit of local government.

15 (5) Any person who violates subsection 6 of Section  
16 39.5 of this Act or any CAAPP permit, or term or condition  
17 thereof, or any fee or filing requirement, or any duty to  
18 allow or carry out inspection, entry or monitoring  
19 activities, or any regulation or order relating to the  
20 CAAPP shall be liable for a civil penalty not to exceed  
21 \$10,000 per day of violation.

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

1 community water system.

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

7 (8) The owner or operator of a food service  
8 establishment shall be liable for a civil penalty of no  
9 less than \$200 per day and no more than \$2,000 per day for  
10 each day single-use food service products are provided in  
11 violation of Section 22.64. The Agency must issue at least  
12 2 notices of violation by certified mail before assessing  
13 a penalty under this paragraph (8).

14 (b.5) In lieu of the penalties set forth in subsections  
15 (a) and (b) of this Section, any person who fails to file, in a  
16 timely manner, toxic chemical release forms with the Agency  
17 pursuant to Section 25b-2 of this Act shall be liable for a  
18 civil penalty of \$100 per day for each day the forms are late,  
19 not to exceed a maximum total penalty of \$6,000. This daily  
20 penalty shall begin accruing on the thirty-first day after the  
21 date that the person receives the warning notice issued by the  
22 Agency pursuant to Section 25b-6 of this Act; and the penalty  
23 shall be paid to the Agency. The daily accrual of penalties  
24 shall cease as of January 1 of the following year. All  
25 penalties collected by the Agency pursuant to this subsection  
26 shall be deposited into the Environmental Protection Permit

1 and Inspection Fund.

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

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

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

22 (f) The State's Attorney of the county in which the  
23 violation occurred, or the Attorney General, shall bring such  
24 actions in the name of the people of the State of Illinois.  
25 Without limiting any other authority which may exist for the  
26 awarding of attorney's fees and costs, the Board or a court of

1 competent jurisdiction may award costs and reasonable  
2 attorney's fees, including the reasonable costs of expert  
3 witnesses and consultants, to the State's Attorney or the  
4 Attorney General in a case where he has prevailed against a  
5 person who has committed a willful, knowing, or repeated  
6 violation of this Act, any rule or regulation adopted under  
7 this Act, any permit or term or condition of a permit, or any  
8 Board order.

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

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

24 (h) In determining the appropriate civil penalty to be  
25 imposed under subdivisions (a), (b) (1), (b) (2), (b) (3),  
26 (b) (5), (b) (6), ~~or~~ (b) (7), or (b) (8) of this Section, the

1 Board is authorized to consider any matters of record in  
2 mitigation or aggravation of penalty, including, but not  
3 limited to, the following factors:

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

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

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

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

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

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

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

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

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

8 In determining the appropriate civil penalty to be imposed  
9 under subsection (a) or paragraph (1), (2), (3), (5), (6), ~~or~~  
10 (7) or (8) of subsection (b) of this Section, the Board shall  
11 ensure, in all cases, that the penalty is at least as great as  
12 the economic benefits, if any, accrued by the respondent as a  
13 result of the violation, unless the Board finds that  
14 imposition of such penalty would result in an arbitrary or  
15 unreasonable financial hardship. However, such civil penalty  
16 may be off-set in whole or in part pursuant to a supplemental  
17 environmental project agreed to by the complainant and the  
18 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  
22 fashion;

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

25 (6) that no related non-compliance events have  
26 occurred in the past 3 years at the same facility or in the

1 past 5 years as part of a pattern at multiple facilities  
2 owned or operated by the person;

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

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

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

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

19 For the purposes of this subsection (i), "small entity"  
20 has the same meaning as in Section 221 of the federal Small  
21 Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C.  
22 601).

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

1 pecuniary gain resulting from the violation.

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

6 (Source: P.A. 102-310, eff. 8-6-21.)