

# SB2008



## 103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB2008

Introduced 2/9/2023, by Sen. Adriane Johnson

### SYNOPSIS AS INTRODUCED:

415 ILCS 5/42

from Ch. 111 1/2, par. 1042

415 ILCS 5/52.15 new

Amends the Environmental Protection Act. Provides that no person or organization shall organize a gathering that causes the release of balloons into the air unless the balloons are (1) used by an institution of higher education or a governmental agency, or pursuant to a governmental contract, for bona fide scientific or meteorological purposes, (2) released indoors and remain indoors, or (3) are helium balloons used for the safe operation of a hot air balloon. Provides that persons who violate the amendatory Act's provisions shall be subject to civil penalties in specified amounts and that the release of 50 balloons or fewer at one time is a single offense. Effective January 1, 2024.

LRB103 29360 CPF 55748 b

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 changing Section 42 and by adding Section 52.15 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  
10 by the Board, or any permit or term or condition thereof, or  
11 that violates any order of the Board pursuant to this Act,  
12 shall be liable for a civil penalty of not to exceed \$50,000  
13 for the violation and an additional civil penalty of not to  
14 exceed \$10,000 for each day during which the violation  
15 continues; such penalties may, upon order of the Board or a  
16 court of competent jurisdiction, be made payable to the  
17 Environmental Protection Trust Fund, to be used in accordance  
18 with the provisions of the Environmental Protection Trust Fund  
19 Act.

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

22 (1) Any person that violates Section 12(f) of this Act  
23 or any NPDES permit or term or condition thereof, or any

1 filing requirement, regulation or order relating to the  
2 NPDES permit program, shall be liable to a civil penalty  
3 of not to exceed \$10,000 per day of violation.

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

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

22 (4) In an administrative citation action under Section  
23 31.1 of this Act, any person found to have violated any  
24 provision of subsection (o) of Section 21 of this Act  
25 shall pay a civil penalty of \$500 for each violation of  
26 each such provision, plus any hearing costs incurred by

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

8 (4-5) In an administrative citation action under  
9 Section 31.1 of this Act, any person found to have  
10 violated any provision of subsection (p) of Section 21,  
11 Section 22.38, Section 22.51, Section 22.51a, or  
12 subsection (k) of Section 55 of this Act shall pay a civil  
13 penalty of \$1,500 for each violation of each such  
14 provision, plus any hearing costs incurred by the Board  
15 and the Agency, except that the civil penalty amount shall  
16 be \$3,000 for each violation of any provision of  
17 subsection (p) of Section 21, Section 22.38, Section  
18 22.51, Section 22.51a, or subsection (k) of Section 55  
19 that is the person's second or subsequent adjudication  
20 violation of that provision. The penalties shall be  
21 deposited into the Environmental Protection Trust Fund, to  
22 be used in accordance with the provisions of the  
23 Environmental Protection Trust Fund Act; except that if a  
24 unit of local government issued the administrative  
25 citation, 50% of the civil penalty shall be payable to the  
26 unit of local government.

1           (5) Any person who violates subsection 6 of Section  
2           39.5 of this Act or any CAAPP permit, or term or condition  
3           thereof, or any fee or filing requirement, or any duty to  
4           allow or carry out inspection, entry or monitoring  
5           activities, or any regulation or order relating to the  
6           CAAPP shall be liable for a civil penalty not to exceed  
7           \$10,000 per day of violation.

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

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

19          (8) Any person who violates Section 52.15 of this Act  
20          shall receive a warning from the Agency for the first  
21          violation of that Section and shall be liable for a civil  
22          penalty of up to \$500 for the second violation of that  
23          Section and a civil penalty of up to \$1,000 for a third or  
24          subsequent violation of that Section. The release of up to  
25          50 balloons shall be considered a single offense under  
26          that Section. The release of more than 50 balloons shall

1       constitute a separate violation for every 50 balloons  
2       released.

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

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

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

1           (e) The State's Attorney of the county in which the  
2 violation occurred, or the Attorney General, may, at the  
3 request of the Agency or on his own motion, institute a civil  
4 action for an injunction, prohibitory or mandatory, to  
5 restrain violations of this Act, any rule or regulation  
6 adopted under this Act, any permit or term or condition of a  
7 permit, or any Board order, or to require such other actions as  
8 may be necessary to address violations of this Act, any rule or  
9 regulation adopted under this Act, any permit or term or  
10 condition of a permit, or any Board order.

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

24           Any funds collected under this subsection (f) in which the  
25 Attorney General has prevailed shall be deposited in the  
26 Hazardous Waste Fund created in Section 22.2 of this Act. Any

1 funds collected under this subsection (f) in which a State's  
2 Attorney has prevailed shall be retained by the county in  
3 which he serves.

4 (g) All final orders imposing civil penalties pursuant to  
5 this Section shall prescribe the time for payment of such  
6 penalties. If any such penalty is not paid within the time  
7 prescribed, interest on such penalty at the rate set forth in  
8 subsection (a) of Section 1003 of the Illinois Income Tax Act,  
9 shall be paid for the period from the date payment is due until  
10 the date payment is received. However, if the time for payment  
11 is stayed during the pendency of an appeal, interest shall not  
12 accrue during such stay.

13 (h) In determining the appropriate civil penalty to be  
14 imposed under subdivisions (a), (b) (1), (b) (2), (b) (3),  
15 (b) (5), (b) (6), or (b) (7) of this Section, the Board is  
16 authorized to consider any matters of record in mitigation or  
17 aggravation of penalty, including, but not limited to, the  
18 following factors:

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

20 (2) the presence or absence of due diligence on the  
21 part of the respondent in attempting to comply with  
22 requirements of this Act and regulations thereunder or to  
23 secure relief therefrom as provided by this Act;

24 (3) any economic benefits accrued by the respondent  
25 because of delay in compliance with requirements, in which  
26 case the economic benefits shall be determined by the



1 lowest cost alternative for achieving compliance;

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

7 (5) the number, proximity in time, and gravity of  
8 previously adjudicated violations of this Act by the  
9 respondent;

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

13 (7) whether the respondent has agreed to undertake a  
14 "supplemental environmental project", which means an  
15 environmentally beneficial project that a respondent  
16 agrees to undertake in settlement of an enforcement action  
17 brought under this Act, but which the respondent is not  
18 otherwise legally required to perform; and

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

23 In determining the appropriate civil penalty to be imposed  
24 under subsection (a) or paragraph (1), (2), (3), (5), (6), or  
25 (7) of subsection (b) of this Section, the Board shall ensure,  
26 in all cases, that the penalty is at least as great as the

1 economic benefits, if any, accrued by the respondent as a  
2 result of the violation, unless the Board finds that  
3 imposition of such penalty would result in an arbitrary or  
4 unreasonable financial hardship. However, such civil penalty  
5 may be off-set in whole or in part pursuant to a supplemental  
6 environmental project agreed to by the complainant and the  
7 respondent.

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

13 (1) that either the regulated entity is a small entity  
14 or the non-compliance was discovered through an  
15 environmental audit or a compliance management system  
16 documented by the regulated entity as reflecting the  
17 regulated entity's due diligence in preventing, detecting,  
18 and correcting violations;

19 (2) that the non-compliance was disclosed in writing  
20 within 30 days of the date on which the person discovered  
21 it;

22 (3) that the non-compliance was discovered and  
23 disclosed prior to:

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

26 (ii) notice of a citizen suit;

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

4 (iv) the reporting of the non-compliance by an  
5 employee of the person without that person's  
6 knowledge; or

7 (v) imminent discovery of the non-compliance by  
8 the Agency;

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

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

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

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

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

25 (9) that the non-compliance was identified voluntarily  
26 and not through a monitoring, sampling, or auditing

1 procedure that is required by statute, rule, permit,  
2 judicial or administrative order, or consent agreement.

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

8 For the purposes of this subsection (i), "small entity"  
9 has the same meaning as in Section 221 of the federal Small  
10 Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C.  
11 601).

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

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

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

22 (415 ILCS 5/52.15 new)

23 Sec. 52.15. Release of balloons.

24 (a) In this Section:

25 "Balloon" means any inflatable object manufactured from

1 plastic, latex, rubber, or mylar that is filled with a  
2 lighter-than-air gas, such as helium. "Balloon" does not  
3 include hot air balloons used to carry human passengers.

4 "Institution of higher education" means a nonpublic  
5 institution of higher education or a public institution of  
6 higher education, as those terms are defined in Section 2 of  
7 the Higher Education Cooperation Act.

8 (b) No person or organization shall organize a gathering  
9 that causes the release of balloons into the air.

10 (c) This Section does not apply to the following:

11 (1) Balloons used by an institution of higher  
12 education or a governmental agency, or pursuant to a  
13 governmental contract, for bona fide scientific or  
14 meteorological purposes.

15 (2) Balloons that are released indoors and remain  
16 indoors.

17 (3) The release of a helium balloon used for the safe  
18 operation of a hot air balloon.

19 Section 99. Effective date. This Act takes effect January  
20 1, 2024.