



Sen. Debbie DeFrancesco Halvorson

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AMENDMENT TO SENATE BILL 431

AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 431 by replacing everything after the enacting clause with the following:

"Section 5. The State Finance Act is amended by adding Section 5.640 as follows:

(30 ILCS 105/5.640 new)  
Sec. 5.640. The Clean Communities Recycling Fund.

Section 10. The Environmental Protection Act is amended by changing Sections 21.3, 22.44, 34, 39, 42, and 58.8 and by adding Sections 4.2, 21.7, 22.15a, 22.50, 22.51, and 22.52 as follows:

(415 ILCS 5/4.2 new)  
Sec. 4.2. Guidance documents. The Agency is authorized to prepare and distribute guidance documents relative to its administration of this Act and rules adopted pursuant to this Act. These documents shall not be considered rules for the purposes of the Illinois Administrative Procedure Act.

(415 ILCS 5/21.3) (from Ch. 111 1/2, par. 1021.3)  
Sec. 21.3. Environmental reclamation lien.  
(a) All costs and damages for which a person is liable to the State of Illinois under Section 22.2, 22.15a, 55.3, or

1 57.12 ~~and Section 22.18~~ shall constitute an environmental  
2 reclamation lien in favor of the State of Illinois upon all  
3 real property and rights to such property which:

4 (1) belong to such person; and

5 (2) are subject to or affected by a removal or remedial  
6 action under Section 22.2 or investigation, preventive  
7 action, corrective action, or enforcement action under  
8 Section 22.15a, 55.3, or 57.12 ~~22.18~~.

9 (b) An environmental reclamation lien shall continue until  
10 the liability for the costs and damages, or a judgment against  
11 the person arising out of such liability, is satisfied.

12 (c) An environmental reclamation lien shall be effective  
13 upon the filing by the Agency of a Notice of Environmental  
14 Reclamation Lien with the recorder or the registrar of titles  
15 of the county in which the real property lies. The Agency shall  
16 not file an environmental reclamation lien, and no such lien  
17 shall be valid, unless the Agency has sent notice pursuant to  
18 subsection (q) of Section 4, subsection (c) of Section 22.15a,  
19 subsection (d) of Section 55.3, or subsection (c) of Section  
20 57.12 of this Act to owners of the real property. Nothing in  
21 this Section shall be construed to give the Agency's lien a  
22 preference over the rights of any bona fide purchaser or  
23 mortgagee or other lienholder (not including the United States  
24 when holding an unfiled lien) arising prior to the filing of a  
25 notice of environmental reclamation lien in the office of the  
26 recorder or registrar of titles of the county in which the  
27 property subject to the lien is located. For purposes of this  
28 Section, the term "bona fide" shall not include any mortgage of  
29 real or personal property or any other credit transaction that  
30 results in the mortgagee or the holder of the security acting  
31 as trustee for unsecured creditors of the liable person  
32 mentioned in the notice of lien who executed such chattel or  
33 real property mortgage or the document evidencing such credit  
34 transaction. Such lien shall be inferior to the lien of general

1 taxes, special assessments and special taxes heretofore or  
2 hereafter levied by any political subdivision of this State.

3 (d) The environmental reclamation lien shall not exceed the  
4 amount of expenditures as itemized on the Affidavit of  
5 Expenditures attached to and filed with the Notice of  
6 Environmental Reclamation Lien. The Affidavit of Expenditures  
7 may be amended if additional costs or damages are incurred.

8 (e) Upon filing of the Notice of Environmental Reclamation  
9 Lien a copy with attachments shall be served upon the owners of  
10 the real property. Notice of such service shall be served on  
11 all lienholders of record as of the date of filing.

12 (f) (Blank) ~~Within 60 days after initiating response or~~  
13 ~~remedial action at the site under Section 22.2 or 22.18, the~~  
14 ~~Agency shall file a Notice of Response Action in Progress. The~~  
15 ~~Notice shall be filed with the recorder or registrar of titles~~  
16 ~~of the county in which the real property lies.~~

17 (g) In addition to any other remedy provided by the laws of  
18 this State, the Agency may foreclose in the circuit court an  
19 environmental reclamation lien on real property for any costs  
20 or damages imposed under Section 22.2, 22.15a, 55.3, or 57.12  
21 ~~or Section 22.18~~ to the same extent and in the same manner as  
22 in the enforcement of other liens. The process, practice and  
23 procedure for such foreclosure shall be the same as provided in  
24 Article XV of the Code of Civil Procedure. Nothing in this  
25 Section shall affect the right of the State of Illinois to  
26 bring an action against any person to recover all costs and  
27 damages for which such person is liable under Section 22.2,  
28 22.15a, 55.3, or 57.12 ~~or Section 22.18~~.

29 (h) Any liability to the State under Section 22.2, 22.15a,  
30 55.3, or 57.12 ~~or Section 22.18~~ shall constitute a debt to the  
31 State. Interest on such debt shall begin to accrue at a rate of  
32 12% per annum from the date of the filing of the Notice of  
33 Environmental Reclamation Lien under paragraph (c). Accrued  
34 interest shall be included as a cost incurred by the State of

1 Illinois under Section 22.2, 22.15a, 55.3, or 57.12 ~~or Section~~  
2 ~~22.18~~.

3 (i) "Environmental reclamation lien" means a lien  
4 established under this Section.

5 (Source: P.A. 92-574, eff. 6-26-02.)

6 (415 ILCS 5/21.7 new)

7 Sec. 21.7. Clean Communities Recycling Fund. The Clean  
8 Communities Recycling Fund is created as a special fund in the  
9 State treasury. Moneys in the Fund shall be used, subject to  
10 appropriation, by the Agency solely for anti-litter programs,  
11 including but not limited to litter cleanup efforts by the  
12 State and local governments, adopt-a-highway programs, and  
13 education efforts to encourage recycling and discourage  
14 littering.

15 (415 ILCS 5/22.15a new)

16 Sec. 22.15a. Open dumping cleanup program.

17 (a) Upon making a finding that open dumping poses a threat  
18 to the public health or to the environment, the Agency may take  
19 whatever preventive or corrective action is necessary or  
20 appropriate to end that threat. This preventive or corrective  
21 action may consist of any or all of the following:

22 (1) Removing waste from the site.

23 (2) Removing soil and water contamination that is  
24 related to waste at the site.

25 (3) Installing devices to monitor and control  
26 groundwater and surface water contamination that is  
27 related to waste at the site.

28 (4) Taking any other actions that are authorized by  
29 Board regulations.

30 (b) Subject to the availability of appropriated funds, the  
31 Agency may undertake a consensual removal action for the  
32 removal of up to 20 cubic yards of waste at no cost to the owner

1 of property where open dumping has occurred in accordance with  
2 the following requirements:

3 (1) Actions under this subsection must be taken  
4 pursuant to a written agreement between the Agency and the  
5 owner of the property.

6 (2) The written agreement must at a minimum specify:

7 (A) that the owner relinquishes any claim of an  
8 ownership interest in any waste that is removed and in  
9 any proceeds from its sale;

10 (B) that waste will no longer be allowed to  
11 accumulate at the site in a manner that constitutes  
12 open dumping;

13 (C) that the owner will hold harmless the Agency  
14 and any employee or contractor used by the Agency to  
15 effect the removal for any damage to property incurred  
16 during the course of action under this subsection,  
17 except for damage incurred by gross negligence or  
18 intentional misconduct; and

19 (D) any conditions imposed upon or assistance  
20 required from the owner to assure that the waste is so  
21 located or arranged as to facilitate its removal.

22 (3) The Agency may establish by rule the conditions and  
23 priorities for the removal of waste under this subsection  
24 (b).

25 (4) The Agency must prescribe the form of written  
26 agreements under this subsection (b).

27 (c) The Agency may provide notice to the owner of property  
28 where open dumping has occurred whenever the Agency finds that  
29 open dumping poses a threat to public health or the  
30 environment. The notice provided by the Agency must include the  
31 identified preventive or corrective action and must provide an  
32 opportunity for the owner to perform the action.

33 (d) In accordance with constitutional limitations, the  
34 Agency may enter, at all reasonable times, upon any private or

1 public property for the purpose of taking any preventive or  
2 corrective action that is necessary and appropriate under this  
3 Section whenever the Agency finds that open dumping poses a  
4 threat to the public health or to the environment.

5 (e) Notwithstanding any other provision or rule of law and  
6 subject only to the defenses set forth in subsection (g) of  
7 this Section, the following persons shall be liable for all  
8 costs of corrective or preventive action incurred by the State  
9 of Illinois as a result of open dumping, including the  
10 reasonable costs of collection:

11 (1) any person with an ownership interest in property  
12 where open dumping has occurred;

13 (2) any person with an ownership or leasehold interest  
14 in the property at the time the open dumping occurred;

15 (3) any person who transported waste that was open  
16 dumped at the property; and

17 (4) any person who open dumped at the property.

18 Any moneys received by the Agency under this subsection (e)  
19 must be deposited into the Subtitle D Management Fund.

20 (f) Any person liable to the Agency for costs incurred  
21 under subsection (e) of this Section may be liable to the State  
22 of Illinois for punitive damages in an amount at least equal to  
23 and not more than 3 times the costs incurred by the State if  
24 that person failed, without sufficient cause, to take  
25 preventive or corrective action under the notice issued under  
26 subsection (c) of this Section.

27 (g) There shall be no liability under subsection (e) of  
28 this Section for a person otherwise liable who can establish by  
29 a preponderance of the evidence that the hazard created by the  
30 open dumping was caused solely by:

31 (1) an act of God;

32 (2) an act of war; or

33 (3) an act or omission of a third party other than an  
34 employee or agent and other than a person whose act or

1       omission occurs in connection with a contractual  
2       relationship with the person otherwise liable. For the  
3       purposes of this paragraph, "contractual relationship"  
4       includes, but is not limited to, land contracts, deeds, and  
5       other instruments transferring title or possession, unless  
6       the real property upon which the open dumping occurred was  
7       acquired by the defendant after the open dumping occurred  
8       and one or more of the following circumstances is also  
9       established by a preponderance of the evidence:

10           (A) at the time the defendant acquired the  
11           property, the defendant did not know and had no reason  
12           to know that any open dumping had occurred and the  
13           defendant undertook, at the time of acquisition, all  
14           appropriate inquiries into the previous ownership and  
15           uses of the property consistent with good commercial or  
16           customary practice in an effort to minimize liability;

17           (B) the defendant is a government entity that  
18           acquired the property by escheat or through any other  
19           involuntary transfer or acquisition, or through the  
20           exercise of eminent domain authority by purchase or  
21           condemnation; or

22           (C) the defendant acquired the property by  
23           inheritance or bequest.

24       (h) Nothing in this Section shall affect or modify the  
25       obligations or liability of any person under any other  
26       provision of this Act, federal law, or State law, including the  
27       common law, for injuries, damages, or losses resulting from the  
28       circumstances leading to Agency action under this Section.

29       (i) The costs and damages provided for in this Section may  
30       be imposed by the Board in an action brought before the Board  
31       in accordance with Title VIII of this Act, except that  
32       subsection (c) of Section 33 of this Act shall not apply to any  
33       such action.

34       (j) Neither the State, the Agency, the Board, the Director,

1 nor any State employee is liable for any damage or injury  
2 arising out of or resulting from any action taken under this  
3 Section.

4 (415 ILCS 5/22.44)

5 Sec. 22.44. Subtitle D management fees.

6 (a) There is created within the State treasury a special  
7 fund to be known as the "Subtitle D Management Fund"  
8 constituted from the fees collected by the State under this  
9 Section.

10 (b) The Agency shall assess and collect a fee in the amount  
11 set forth in this subsection from the owner or operator of each  
12 sanitary landfill permitted or required to be permitted by the  
13 Agency to dispose of solid waste if the sanitary landfill is  
14 located off the site where the waste was produced and if the  
15 sanitary landfill is owned, controlled, and operated by a  
16 person other than the generator of the waste. The Agency shall  
17 deposit all fees collected under this subsection into the  
18 Subtitle D Management Fund. If a site is contiguous to one or  
19 more landfills owned or operated by the same person, the  
20 volumes permanently disposed of by each landfill shall be  
21 combined for purposes of determining the fee under this  
22 subsection.

23 (1) If more than 150,000 cubic yards of non-hazardous  
24 solid waste is permanently disposed of at a site in a  
25 calendar year, the owner or operator shall either pay a fee  
26 of 10.1 cents per cubic yard or, alternatively, the owner  
27 or operator may weigh the quantity of the solid waste  
28 permanently disposed of with a device for which  
29 certification has been obtained under the Weights and  
30 Measures Act and pay a fee of 22 cents per ton of waste  
31 permanently disposed of.

32 (2) If more than 100,000 cubic yards, but not more than  
33 150,000 cubic yards, of non-hazardous waste is permanently



1 disposed of at a site in a calendar year, the owner or  
2 operator shall pay a fee of \$7,020.

3 (3) If more than 50,000 cubic yards, but not more than  
4 100,000 cubic yards, of non-hazardous solid waste is  
5 permanently disposed of at a site in a calendar year, the  
6 owner or operator shall pay a fee of \$3,120.

7 (4) If more than 10,000 cubic yards, but not more than  
8 50,000 cubic yards, of non-hazardous solid waste is  
9 permanently disposed of at a site in a calendar year, the  
10 owner or operator shall pay a fee of \$975.

11 (5) If not more than 10,000 cubic yards of  
12 non-hazardous solid waste is permanently disposed of at a  
13 site in a calendar year, the owner or operator shall pay a  
14 fee of \$210.

15 (c) The fee under subsection (b) shall not apply to any of  
16 the following:

17 (1) Hazardous waste.

18 (2) Pollution control waste.

19 (3) Waste from recycling, reclamation, or reuse  
20 processes that have been approved by the Agency as being  
21 designed to remove any contaminant from wastes so as to  
22 render the wastes reusable, provided that the process  
23 renders at least 50% of the waste reusable.

24 (4) Non-hazardous solid waste that is received at a  
25 sanitary landfill and composted or recycled through a  
26 process permitted by the Agency.

27 (5) Any landfill that is permitted by the Agency to  
28 receive only demolition or construction debris or  
29 landscape waste.

30 (d) The Agency shall establish rules relating to the  
31 collection of the fees authorized by this Section. These rules  
32 shall include, but not be limited to the following:

33 (1) Necessary records identifying the quantities of  
34 solid waste received or disposed.

1 (2) The form and submission of reports to accompany the  
2 payment of fees to the Agency.

3 (3) The time and manner of payment of fees to the  
4 Agency, which payments shall not be more often than  
5 quarterly.

6 (4) Procedures setting forth criteria establishing  
7 when an owner or operator may measure by weight or volume  
8 during any given quarter or other fee payment period.

9 (e) Fees collected under this Section shall be in addition  
10 to any other fees collected under any other Section.

11 (f) The Agency shall not refund any fee paid to it under  
12 this Section.

13 (g) Pursuant to appropriation, all moneys in the Subtitle D  
14 Management Fund shall be used by the Agency to administer the  
15 United States Environmental Protection Agency's Subtitle D  
16 Program provided in Sections 4004 and 4010 of the Resource  
17 Conservation and Recovery Act of 1976 (P.L. 94-580) as it  
18 relates to a municipal solid waste landfill program in Illinois  
19 and to fund a delegation of inspecting, investigating, and  
20 enforcement functions, within the municipality only, pursuant  
21 to subsection (r) of Section 4 of this Act to a municipality  
22 having a population of more than 1,000,000 inhabitants. The  
23 Agency shall execute a delegation agreement pursuant to  
24 subsection (r) of Section 4 of this Act with a municipality  
25 having a population of more than 1,000,000 inhabitants within  
26 90 days of September 13, 1993 and shall on an annual basis  
27 distribute from the Subtitle D Management Fund to that  
28 municipality no less than \$150,000. Pursuant to appropriation,  
29 moneys in the Subtitle D Management Fund may also be used by  
30 the Agency for activities conducted under Section 22.15a of  
31 this Act.

32 (Source: P.A. 92-574, eff. 6-26-02; 93-32, eff. 7-1-03.)

1       Sec. 22.50. Compliance with land use limitations. No  
2 person shall use, or cause or allow the use of, any site for  
3 which a land use limitation has been imposed under this Act in  
4 a manner inconsistent with the land use limitation unless  
5 further investigation or remedial action has been conducted  
6 that documents the attainment of remedial objectives  
7 appropriate for the new land use and a new closure letter has  
8 been obtained from the Agency and recorded in the chain of  
9 title for the site. For the purpose of this Section, the term  
10 "land use limitation" shall include, but shall not be limited  
11 to, institutional controls and engineered barriers imposed  
12 under this Act and the regulations adopted under this Act. For  
13 the purposes of this Section, the term "closure letter" shall  
14 include, but shall not be limited to, No Further Remediation  
15 Letters issued under Titles XVI and XVII of this Act and the  
16 regulations adopted under those Titles.

17       (415 ILCS 5/22.51 new)

18       Sec. 22.51. Clean Construction or Demolition Debris Fill  
19 Operations.

20       (a) No person shall conduct any clean construction or  
21 demolition debris fill operation in violation of this Act or  
22 any regulations or standards adopted by the Board.

23       (b) (1) (A) Beginning 30 days after the effective date of  
24 this amendatory Act of the 94th General Assembly but prior to  
25 July 1, 2008, no person shall use clean construction or  
26 demolition debris as fill material in a current or former  
27 quarry, mine, or other excavation, unless they have applied for  
28 an interim authorization from the Agency for the clean  
29 construction or demolition debris fill operation.

30       (B) The Agency shall approve an interim authorization upon  
31 its receipt of a written application for the interim  
32 authorization that is signed by the site owner and the site  
33 operator, or their duly authorized agent, and that contains the

1 following information: (i) the location of the site where the  
2 clean construction or demolition debris fill operation is  
3 taking place, (ii) the name and address of the site owner,  
4 (iii) the name and address of the site operator, and (iv) the  
5 types and amounts of clean construction or demolition debris  
6 being used as fill material at the site.

7 (C) The Agency may deny an interim authorization if the  
8 site owner or the site operator, or their duly authorized  
9 agent, fails to provide to the Agency the information listed in  
10 subsection (b) (1) (B) of this Section. Any denial of an interim  
11 authorization shall be subject to appeal to the Board in  
12 accordance with the procedures of Section 40 of this Act.

13 (D) No person shall use clean construction or demolition  
14 debris as fill material in a current or former quarry, mine, or  
15 other excavation for which the Agency has denied interim  
16 authorization under subsection (b) (1) (C) of this Section. The  
17 Board may stay the prohibition of this subsection (D) during  
18 the pendency, of an appeal of the Agency's denial of the  
19 interim authorization brought under subsection (b) (1) (C) of  
20 this Section.

21 (2) Beginning September 1, 2006, owners and operators of  
22 clean construction or demolition debris fill operations shall,  
23 in accordance with a schedule prescribed by the Agency, submit  
24 to the Agency applications for the permits required under this  
25 Section. The Agency shall notify owners and operators in  
26 writing of the due date for their permit application. The due  
27 date shall be no less than 90 days after the date of the  
28 Agency's written notification. Owners and operators who do not  
29 receive a written notification from the Agency by October 1,  
30 2007, shall submit a permit application to the Agency by  
31 January 1, 2008. The interim authorization of owners and  
32 operators who fail to submit a permit application to the Agency  
33 by the permit application's due date shall terminate on (i) the  
34 due date established by the Agency if the owner or operator

1 received a written notification from the Agency prior to  
2 October 1, 2007, or (ii) or January 1, 2008, if the owner or  
3 operator did not receive a written notification from the Agency  
4 by October 1, 2007.

5 (3) On and after July 1, 2008, no person shall use clean  
6 construction or demolition debris as fill material in a current  
7 or former quarry, mine, or other excavation without a permit  
8 granted by the Agency for the clean construction or demolition  
9 debris fill operation or in violation of any conditions imposed  
10 by such permit, including periodic reports and full access to  
11 adequate records and the inspection of facilities, as may be  
12 necessary to assure compliance with this Act and with Board  
13 regulations and standards adopted under this Act.

14 (4) This subsection (b) does not apply to the use of clean  
15 construction or demolition debris as fill material in a current  
16 or former quarry, mine, or other excavation located on the site  
17 where the clean construction or demolition debris was  
18 generated.

19 (c) In accordance with Title VII of this Act, the Board may  
20 adopt regulations to promote the purposes of this Section. The  
21 Agency shall consult with the mining and construction  
22 industries during the development of any regulations to promote  
23 the purposes of this Section.

24 (1) No later than December 15, 2005, the Agency shall  
25 propose to the Board, and no later than September 1, 2006,  
26 the Board shall adopt, regulations for the use of clean  
27 construction or demolition debris as fill material in  
28 current and former quarries, mines, and other excavations.  
29 Such regulations shall include, but shall not be limited  
30 to, standards for clean construction or demolition debris  
31 fill operations and the submission and review of permits  
32 required under this Section.

33 (2) Until the Board adopts rules under subsection  
34 (c)(1) of this Section, all persons using clean

1 construction or demolition debris as fill material in a  
2 current or former quarry, mine, or other excavation shall:

3 (A) Assure that only clean construction or  
4 demolition debris is being used as fill material by  
5 screening each truckload of material received using a  
6 device approved by the Agency that detects volatile  
7 organic compounds. Such devices may include, but are  
8 not limited to, photo ionization detectors. All  
9 screening devices shall be operated and maintained in  
10 accordance with manufacturer's specifications.  
11 Unacceptable fill material shall be rejected from the  
12 site; and

13 (B) Retain for a minimum of 3 years the following  
14 information:

15 (i) The name of the hauler, the name of the  
16 generator, and place of origin of the debris or  
17 soil;

18 (ii) The approximate weight or volume of the  
19 debris or soil; and

20 (iii) The date the debris or soil was received.

21 (d) This Section applies only to clean construction or  
22 demolition debris that is not considered "waste" as provided in  
23 Section 3.160 of this Act.

24 (415 ILCS 5/22.52 new)

25 Sec. 22.52. Conflict of interest. Effective 30 days after  
26 the effective date of this amendatory Act of the 94th General  
27 Assembly, none of the following persons shall have a direct  
28 financial interest in or receive a personal financial benefit  
29 from any waste-disposal operation or any clean construction or  
30 demolition debris fill operation that requires a permit or  
31 interim authorization under this Act, or any corporate entity  
32 related to any such waste-disposal operation or clean  
33 construction or demolition debris fill operation:

1           (i) the Governor of the State of Illinois;

2           (ii) the Attorney General of the State of Illinois;

3           (iii) the Director of the Illinois Environmental  
4           Protection Agency;

5           (iv) the Chairman of the Illinois Pollution Control  
6           Board;

7           (v) the members of the Illinois Pollution Control  
8           Board;

9           (vi) the staff of any person listed in items (i)  
10          through (v) of this Section who makes a regulatory or  
11          licensing decision that directly applies to any  
12          waste-disposal operation or any clean construction or  
13          demolition debris fill operation; and

14          (vii) a relative of any person listed in items (i)  
15          through (vi) of this Section.

16          The prohibitions of this Section shall apply during the  
17          person's term of State employment and shall continue for 5  
18          years after the person's termination of State employment. The  
19          prohibition of this Section shall not apply to any person whose  
20          State employment terminates prior to 30 days after the  
21          effective date of this Amendatory Act of the 94th General  
22          Assembly.

23          For the purposes of this Section:

24               (a) The terms "direct financial interest" and  
25               "personal financial benefit" do not include the ownership  
26               of publicly traded stock.

27               (b) The term "relative" means father, mother, son,  
28               daughter, brother, sister, uncle, aunt, husband, wife,  
29               father-in-law, or mother-in-law.

30               (415 ILCS 5/34) (from Ch. 111 1/2, par. 1034)

31          Sec. 34. (a) Upon a finding that episode or emergency  
32          conditions specified in Board regulations exist, the Agency  
33          shall declare such alerts or emergencies as provided by those

1 regulations. While such an alert or emergency is in effect, the  
2 Agency may seal any equipment, vehicle, vessel, aircraft, or  
3 other facility operated in violation of such regulations.

4 (b) In ~~other~~ cases other than those identified in  
5 subsection (a) of this Section:

6 (1) At any pollution control facility where ~~in which~~  
7 the Agency finds that an emergency condition exists  
8 creating an immediate danger to public health or welfare or  
9 the environment, the Agency may seal any equipment,  
10 vehicle, vessel, aircraft, or other facility contributing  
11 to the emergency condition; and.

12 (2) At any other site or facility where the Agency  
13 finds that an imminent and substantial endangerment to the  
14 public health or welfare or the environment exists, the  
15 Agency may seal any equipment, vehicle, vessel, aircraft,  
16 or other facility contributing to the imminent and  
17 substantial endangerment.

18 (c) It shall be a Class A misdemeanor to break any seal  
19 affixed under this section, or to operate any sealed equipment,  
20 vehicle, vessel, aircraft, or other facility until the seal is  
21 removed according to law.

22 (d) The owner or operator of any equipment, vehicle,  
23 vessel, aircraft or other facility sealed pursuant to this  
24 section is entitled to a hearing in accord with Section 32 of  
25 this Act to determine whether the seal should be removed;  
26 except that in such hearing at least one Board member shall be  
27 present, and those Board members present may render a final  
28 decision without regard to the requirements of paragraph (a) of  
29 Section 5 of this Act. The petitioner may also seek immediate  
30 injunctive relief.

31 (Source: P.A. 77-2830.)

32 (415 ILCS 5/39) (from Ch. 111 1/2, par. 1039)

33 Sec. 39. Issuance of permits; procedures.



1           (a) When the Board has by regulation required a permit for  
2 the construction, installation, or operation of any type of  
3 facility, equipment, vehicle, vessel, or aircraft, the  
4 applicant shall apply to the Agency for such permit and it  
5 shall be the duty of the Agency to issue such a permit upon  
6 proof by the applicant that the facility, equipment, vehicle,  
7 vessel, or aircraft will not cause a violation of this Act or  
8 of regulations hereunder. The Agency shall adopt such  
9 procedures as are necessary to carry out its duties under this  
10 Section. In making its determinations on permit applications  
11 under this Section the Agency may consider prior adjudications  
12 of noncompliance with this Act by the applicant that involved a  
13 release of a contaminant into the environment. In granting  
14 permits, the Agency may impose reasonable conditions  
15 specifically related to the applicant's past compliance  
16 history with this Act as necessary to correct, detect, or  
17 prevent noncompliance. The Agency may impose such other  
18 conditions as may be necessary to accomplish the purposes of  
19 this Act, and as are not inconsistent with the regulations  
20 promulgated by the Board hereunder. Except as otherwise  
21 provided in this Act, a bond or other security shall not be  
22 required as a condition for the issuance of a permit. If the  
23 Agency denies any permit under this Section, the Agency shall  
24 transmit to the applicant within the time limitations of this  
25 Section specific, detailed statements as to the reasons the  
26 permit application was denied. Such statements shall include,  
27 but not be limited to the following:

28           (i) the Sections of this Act which may be violated if  
29 the permit were granted;

30           (ii) the provision of the regulations, promulgated  
31 under this Act, which may be violated if the permit were  
32 granted;

33           (iii) the specific type of information, if any, which  
34 the Agency deems the applicant did not provide the Agency;

1           and

2                 (iv) a statement of specific reasons why the Act and  
3           the regulations might not be met if the permit were  
4           granted.

5           If there is no final action by the Agency within 90 days  
6           after the filing of the application for permit, the applicant  
7           may deem the permit issued; except that this time period shall  
8           be extended to 180 days when (1) notice and opportunity for  
9           public hearing are required by State or federal law or  
10          regulation, (2) the application which was filed is for any  
11          permit to develop a landfill subject to issuance pursuant to  
12          this subsection, or (3) the application that was filed is for a  
13          MSWLF unit required to issue public notice under subsection (p)  
14          of Section 39. The 90-day and 180-day time periods for the  
15          Agency to take final action do not apply to NPDES permit  
16          applications under subsection (b) of this Section, to RCRA  
17          permit applications under subsection (d) of this Section, or to  
18          UIC permit applications under subsection (e) of this Section.

19          The Agency shall publish notice of all final permit  
20          determinations for development permits for MSWLF units and for  
21          significant permit modifications for lateral expansions for  
22          existing MSWLF units one time in a newspaper of general  
23          circulation in the county in which the unit is or is proposed  
24          to be located.

25          After January 1, 1994 and until July 1, 1998, operating  
26          permits issued under this Section by the Agency for sources of  
27          air pollution permitted to emit less than 25 tons per year of  
28          any combination of regulated air pollutants, as defined in  
29          Section 39.5 of this Act, shall be required to be renewed only  
30          upon written request by the Agency consistent with applicable  
31          provisions of this Act and regulations promulgated hereunder.  
32          Such operating permits shall expire 180 days after the date of  
33          such a request. The Board shall revise its regulations for the  
34          existing State air pollution operating permit program

1 consistent with this provision by January 1, 1994.

2 After June 30, 1998, operating permits issued under this  
3 Section by the Agency for sources of air pollution that are not  
4 subject to Section 39.5 of this Act and are not required to  
5 have a federally enforceable State operating permit shall be  
6 required to be renewed only upon written request by the Agency  
7 consistent with applicable provisions of this Act and its  
8 rules. Such operating permits shall expire 180 days after the  
9 date of such a request. Before July 1, 1998, the Board shall  
10 revise its rules for the existing State air pollution operating  
11 permit program consistent with this paragraph and shall adopt  
12 rules that require a source to demonstrate that it qualifies  
13 for a permit under this paragraph.

14 (b) The Agency may issue NPDES permits exclusively under  
15 this subsection for the discharge of contaminants from point  
16 sources into navigable waters, all as defined in the Federal  
17 Water Pollution Control Act, as now or hereafter amended,  
18 within the jurisdiction of the State, or into any well.

19 All NPDES permits shall contain those terms and conditions,  
20 including but not limited to schedules of compliance, which may  
21 be required to accomplish the purposes and provisions of this  
22 Act.

23 The Agency may issue general NPDES permits for discharges  
24 from categories of point sources which are subject to the same  
25 permit limitations and conditions. Such general permits may be  
26 issued without individual applications and shall conform to  
27 regulations promulgated under Section 402 of the Federal Water  
28 Pollution Control Act, as now or hereafter amended.

29 The Agency may include, among such conditions, effluent  
30 limitations and other requirements established under this Act,  
31 Board regulations, the Federal Water Pollution Control Act, as  
32 now or hereafter amended, and regulations pursuant thereto, and  
33 schedules for achieving compliance therewith at the earliest  
34 reasonable date.

1       The Agency shall adopt filing requirements and procedures  
2       which are necessary and appropriate for the issuance of NPDES  
3       permits, and which are consistent with the Act or regulations  
4       adopted by the Board, and with the Federal Water Pollution  
5       Control Act, as now or hereafter amended, and regulations  
6       pursuant thereto.

7       The Agency, subject to any conditions which may be  
8       prescribed by Board regulations, may issue NPDES permits to  
9       allow discharges beyond deadlines established by this Act or by  
10      regulations of the Board without the requirement of a variance,  
11      subject to the Federal Water Pollution Control Act, as now or  
12      hereafter amended, and regulations pursuant thereto.

13      (c) Except for those facilities owned or operated by  
14      sanitary districts organized under the Metropolitan Water  
15      Reclamation District Act, no permit for the development or  
16      construction of a new pollution control facility may be granted  
17      by the Agency unless the applicant submits proof to the Agency  
18      that the location of the facility has been approved by the  
19      County Board of the county if in an unincorporated area, or the  
20      governing body of the municipality when in an incorporated  
21      area, in which the facility is to be located in accordance with  
22      Section 39.2 of this Act.

23      In the event that siting approval granted pursuant to  
24      Section 39.2 has been transferred to a subsequent owner or  
25      operator, that subsequent owner or operator may apply to the  
26      Agency for, and the Agency may grant, a development or  
27      construction permit for the facility for which local siting  
28      approval was granted. Upon application to the Agency for a  
29      development or construction permit by that subsequent owner or  
30      operator, the permit applicant shall cause written notice of  
31      the permit application to be served upon the appropriate county  
32      board or governing body of the municipality that granted siting  
33      approval for that facility and upon any party to the siting  
34      proceeding pursuant to which siting approval was granted. In

1 that event, the Agency shall conduct an evaluation of the  
2 subsequent owner or operator's prior experience in waste  
3 management operations in the manner conducted under subsection  
4 (i) of Section 39 of this Act.

5 Beginning August 20, 1993, if the pollution control  
6 facility consists of a hazardous or solid waste disposal  
7 facility for which the proposed site is located in an  
8 unincorporated area of a county with a population of less than  
9 100,000 and includes all or a portion of a parcel of land that  
10 was, on April 1, 1993, adjacent to a municipality having a  
11 population of less than 5,000, then the local siting review  
12 required under this subsection (c) in conjunction with any  
13 permit applied for after that date shall be performed by the  
14 governing body of that adjacent municipality rather than the  
15 county board of the county in which the proposed site is  
16 located; and for the purposes of that local siting review, any  
17 references in this Act to the county board shall be deemed to  
18 mean the governing body of that adjacent municipality;  
19 provided, however, that the provisions of this paragraph shall  
20 not apply to any proposed site which was, on April 1, 1993,  
21 owned in whole or in part by another municipality.

22 In the case of a pollution control facility for which a  
23 development permit was issued before November 12, 1981, if an  
24 operating permit has not been issued by the Agency prior to  
25 August 31, 1989 for any portion of the facility, then the  
26 Agency may not issue or renew any development permit nor issue  
27 an original operating permit for any portion of such facility  
28 unless the applicant has submitted proof to the Agency that the  
29 location of the facility has been approved by the appropriate  
30 county board or municipal governing body pursuant to Section  
31 39.2 of this Act.

32 After January 1, 1994, if a solid waste disposal facility,  
33 any portion for which an operating permit has been issued by  
34 the Agency, has not accepted waste disposal for 5 or more

1 consecutive calendars years, before that facility may accept  
2 any new or additional waste for disposal, the owner and  
3 operator must obtain a new operating permit under this Act for  
4 that facility unless the owner and operator have applied to the  
5 Agency for a permit authorizing the temporary suspension of  
6 waste acceptance. The Agency may not issue a new operation  
7 permit under this Act for the facility unless the applicant has  
8 submitted proof to the Agency that the location of the facility  
9 has been approved or re-approved by the appropriate county  
10 board or municipal governing body under Section 39.2 of this  
11 Act after the facility ceased accepting waste.

12 Except for those facilities owned or operated by sanitary  
13 districts organized under the Metropolitan Water Reclamation  
14 District Act, and except for new pollution control facilities  
15 governed by Section 39.2, and except for fossil fuel mining  
16 facilities, the granting of a permit under this Act shall not  
17 relieve the applicant from meeting and securing all necessary  
18 zoning approvals from the unit of government having zoning  
19 jurisdiction over the proposed facility.

20 Before beginning construction on any new sewage treatment  
21 plant or sludge drying site to be owned or operated by a  
22 sanitary district organized under the Metropolitan Water  
23 Reclamation District Act for which a new permit (rather than  
24 the renewal or amendment of an existing permit) is required,  
25 such sanitary district shall hold a public hearing within the  
26 municipality within which the proposed facility is to be  
27 located, or within the nearest community if the proposed  
28 facility is to be located within an unincorporated area, at  
29 which information concerning the proposed facility shall be  
30 made available to the public, and members of the public shall  
31 be given the opportunity to express their views concerning the  
32 proposed facility.

33 The Agency may issue a permit for a municipal waste  
34 transfer station without requiring approval pursuant to

1 Section 39.2 provided that the following demonstration is made:

2 (1) the municipal waste transfer station was in  
3 existence on or before January 1, 1979 and was in  
4 continuous operation from January 1, 1979 to January 1,  
5 1993;

6 (2) the operator submitted a permit application to the  
7 Agency to develop and operate the municipal waste transfer  
8 station during April of 1994;

9 (3) the operator can demonstrate that the county board  
10 of the county, if the municipal waste transfer station is  
11 in an unincorporated area, or the governing body of the  
12 municipality, if the station is in an incorporated area,  
13 does not object to resumption of the operation of the  
14 station; and

15 (4) the site has local zoning approval.

16 (d) The Agency may issue RCRA permits exclusively under  
17 this subsection to persons owning or operating a facility for  
18 the treatment, storage, or disposal of hazardous waste as  
19 defined under this Act.

20 All RCRA permits shall contain those terms and conditions,  
21 including but not limited to schedules of compliance, which may  
22 be required to accomplish the purposes and provisions of this  
23 Act. The Agency may include among such conditions standards and  
24 other requirements established under this Act, Board  
25 regulations, the Resource Conservation and Recovery Act of 1976  
26 (P.L. 94-580), as amended, and regulations pursuant thereto,  
27 and may include schedules for achieving compliance therewith as  
28 soon as possible. The Agency shall require that a performance  
29 bond or other security be provided as a condition for the  
30 issuance of a RCRA permit.

31 In the case of a permit to operate a hazardous waste or PCB  
32 incinerator as defined in subsection (k) of Section 44, the  
33 Agency shall require, as a condition of the permit, that the  
34 operator of the facility perform such analyses of the waste to

1 be incinerated as may be necessary and appropriate to ensure  
2 the safe operation of the incinerator.

3 The Agency shall adopt filing requirements and procedures  
4 which are necessary and appropriate for the issuance of RCRA  
5 permits, and which are consistent with the Act or regulations  
6 adopted by the Board, and with the Resource Conservation and  
7 Recovery Act of 1976 (P.L. 94-580), as amended, and regulations  
8 pursuant thereto.

9 The applicant shall make available to the public for  
10 inspection all documents submitted by the applicant to the  
11 Agency in furtherance of an application, with the exception of  
12 trade secrets, at the office of the county board or governing  
13 body of the municipality. Such documents may be copied upon  
14 payment of the actual cost of reproduction during regular  
15 business hours of the local office. The Agency shall issue a  
16 written statement concurrent with its grant or denial of the  
17 permit explaining the basis for its decision.

18 (e) The Agency may issue UIC permits exclusively under this  
19 subsection to persons owning or operating a facility for the  
20 underground injection of contaminants as defined under this  
21 Act.

22 All UIC permits shall contain those terms and conditions,  
23 including but not limited to schedules of compliance, which may  
24 be required to accomplish the purposes and provisions of this  
25 Act. The Agency may include among such conditions standards and  
26 other requirements established under this Act, Board  
27 regulations, the Safe Drinking Water Act (P.L. 93-523), as  
28 amended, and regulations pursuant thereto, and may include  
29 schedules for achieving compliance therewith. The Agency shall  
30 require that a performance bond or other security be provided  
31 as a condition for the issuance of a UIC permit.

32 The Agency shall adopt filing requirements and procedures  
33 which are necessary and appropriate for the issuance of UIC  
34 permits, and which are consistent with the Act or regulations



1 adopted by the Board, and with the Safe Drinking Water Act  
2 (P.L. 93-523), as amended, and regulations pursuant thereto.

3 The applicant shall make available to the public for  
4 inspection, all documents submitted by the applicant to the  
5 Agency in furtherance of an application, with the exception of  
6 trade secrets, at the office of the county board or governing  
7 body of the municipality. Such documents may be copied upon  
8 payment of the actual cost of reproduction during regular  
9 business hours of the local office. The Agency shall issue a  
10 written statement concurrent with its grant or denial of the  
11 permit explaining the basis for its decision.

12 (f) In making any determination pursuant to Section 9.1 of  
13 this Act:

14 (1) The Agency shall have authority to make the  
15 determination of any question required to be determined by  
16 the Clean Air Act, as now or hereafter amended, this Act,  
17 or the regulations of the Board, including the  
18 determination of the Lowest Achievable Emission Rate,  
19 Maximum Achievable Control Technology, or Best Available  
20 Control Technology, consistent with the Board's  
21 regulations, if any.

22 (2) The Agency shall, after conferring with the  
23 applicant, give written notice to the applicant of its  
24 proposed decision on the application including the terms  
25 and conditions of the permit to be issued and the facts,  
26 conduct or other basis upon which the Agency will rely to  
27 support its proposed action.

28 (3) Following such notice, the Agency shall give the  
29 applicant an opportunity for a hearing in accordance with  
30 the provisions of Sections 10-25 through 10-60 of the  
31 Illinois Administrative Procedure Act.

32 (g) The Agency shall include as conditions upon all permits  
33 issued for hazardous waste disposal sites such restrictions  
34 upon the future use of such sites as are reasonably necessary

1 to protect public health and the environment, including  
2 permanent prohibition of the use of such sites for purposes  
3 which may create an unreasonable risk of injury to human health  
4 or to the environment. After administrative and judicial  
5 challenges to such restrictions have been exhausted, the Agency  
6 shall file such restrictions of record in the Office of the  
7 Recorder of the county in which the hazardous waste disposal  
8 site is located.

9 (h) A hazardous waste stream may not be deposited in a  
10 permitted hazardous waste site unless specific authorization  
11 is obtained from the Agency by the generator and disposal site  
12 owner and operator for the deposit of that specific hazardous  
13 waste stream. The Agency may grant specific authorization for  
14 disposal of hazardous waste streams only after the generator  
15 has reasonably demonstrated that, considering technological  
16 feasibility and economic reasonableness, the hazardous waste  
17 cannot be reasonably recycled for reuse, nor incinerated or  
18 chemically, physically or biologically treated so as to  
19 neutralize the hazardous waste and render it nonhazardous. In  
20 granting authorization under this Section, the Agency may  
21 impose such conditions as may be necessary to accomplish the  
22 purposes of the Act and are consistent with this Act and  
23 regulations promulgated by the Board hereunder. If the Agency  
24 refuses to grant authorization under this Section, the  
25 applicant may appeal as if the Agency refused to grant a  
26 permit, pursuant to the provisions of subsection (a) of Section  
27 40 of this Act. For purposes of this subsection (h), the term  
28 "generator" has the meaning given in Section 3.205 of this Act,  
29 unless: (1) the hazardous waste is treated, incinerated, or  
30 partially recycled for reuse prior to disposal, in which case  
31 the last person who treats, incinerates, or partially recycles  
32 the hazardous waste prior to disposal is the generator; or (2)  
33 the hazardous waste is from a response action, in which case  
34 the person performing the response action is the generator.

1 This subsection (h) does not apply to any hazardous waste that  
2 is restricted from land disposal under 35 Ill. Adm. Code 728.

3 (i) Before issuing any RCRA permit, ~~or~~ any permit for a  
4 waste storage site, sanitary landfill, waste disposal site,  
5 waste transfer station, waste treatment facility, waste  
6 incinerator, or any waste-transportation operation, or any  
7 permit for a clean construction or demolition debris fill  
8 operation, the Agency shall conduct an evaluation of the  
9 prospective owner's or operator's prior experience in waste  
10 management operations. The Agency may deny such a permit if the  
11 prospective owner or operator or any employee or officer of the  
12 prospective owner or operator has a history of:

13 (1) repeated violations of federal, State, or local  
14 laws, regulations, standards, or ordinances in the  
15 operation of waste management facilities or sites; or

16 (2) conviction in this or another State of any crime  
17 which is a felony under the laws of this State, or  
18 conviction of a felony in a federal court; or

19 (3) proof of gross carelessness or incompetence in  
20 handling, storing, processing, transporting or disposing  
21 of waste.

22 (i-5) Before issuing any permit or approving any interim  
23 authorization for a clean construction or demolition debris  
24 fill operation in which any ownership interest is transferred  
25 between January 1, 2005, and the effective date of the  
26 prohibition set forth in Section 22.52 of this Act, the Agency  
27 shall conduct an evaluation of the operation if any previous  
28 activities at the site or facility may have caused or allowed  
29 contamination of the site. It shall be the responsibility of  
30 the owner or operator seeking the permit or interim  
31 authorization to provide to the Agency all of the information  
32 necessary for the Agency to conduct its evaluation. The Agency  
33 may deny a permit or interim authorization if previous  
34 activities at the site may have caused or allowed contamination

1 at the site, unless such contamination is authorized under any  
2 permit issued by the Agency.

3 (j) The issuance under this Act of a permit to engage in  
4 the surface mining of any resources other than fossil fuels  
5 shall not relieve the permittee from its duty to comply with  
6 any applicable local law regulating the commencement, location  
7 or operation of surface mining facilities.

8 (k) A development permit issued under subsection (a) of  
9 Section 39 for any facility or site which is required to have a  
10 permit under subsection (d) of Section 21 shall expire at the  
11 end of 2 calendar years from the date upon which it was issued,  
12 unless within that period the applicant has taken action to  
13 develop the facility or the site. In the event that review of  
14 the conditions of the development permit is sought pursuant to  
15 Section 40 or 41, or permittee is prevented from commencing  
16 development of the facility or site by any other litigation  
17 beyond the permittee's control, such two-year period shall be  
18 deemed to begin on the date upon which such review process or  
19 litigation is concluded.

20 (l) No permit shall be issued by the Agency under this Act  
21 for construction or operation of any facility or site located  
22 within the boundaries of any setback zone established pursuant  
23 to this Act, where such construction or operation is  
24 prohibited.

25 (m) The Agency may issue permits to persons owning or  
26 operating a facility for composting landscape waste. In  
27 granting such permits, the Agency may impose such conditions as  
28 may be necessary to accomplish the purposes of this Act, and as  
29 are not inconsistent with applicable regulations promulgated  
30 by the Board. Except as otherwise provided in this Act, a bond  
31 or other security shall not be required as a condition for the  
32 issuance of a permit. If the Agency denies any permit pursuant  
33 to this subsection, the Agency shall transmit to the applicant  
34 within the time limitations of this subsection specific,

1 detailed statements as to the reasons the permit application  
2 was denied. Such statements shall include but not be limited to  
3 the following:

4 (1) the Sections of this Act that may be violated if  
5 the permit were granted;

6 (2) the specific regulations promulgated pursuant to  
7 this Act that may be violated if the permit were granted;

8 (3) the specific information, if any, the Agency deems  
9 the applicant did not provide in its application to the  
10 Agency; and

11 (4) a statement of specific reasons why the Act and the  
12 regulations might be violated if the permit were granted.

13 If no final action is taken by the Agency within 90 days  
14 after the filing of the application for permit, the applicant  
15 may deem the permit issued. Any applicant for a permit may  
16 waive the 90 day limitation by filing a written statement with  
17 the Agency.

18 The Agency shall issue permits for such facilities upon  
19 receipt of an application that includes a legal description of  
20 the site, a topographic map of the site drawn to the scale of  
21 200 feet to the inch or larger, a description of the operation,  
22 including the area served, an estimate of the volume of  
23 materials to be processed, and documentation that:

24 (1) the facility includes a setback of at least 200  
25 feet from the nearest potable water supply well;

26 (2) the facility is located outside the boundary of the  
27 10-year floodplain or the site will be floodproofed;

28 (3) the facility is located so as to minimize  
29 incompatibility with the character of the surrounding  
30 area, including at least a 200 foot setback from any  
31 residence, and in the case of a facility that is developed  
32 or the permitted composting area of which is expanded after  
33 November 17, 1991, the composting area is located at least  
34 1/8 mile from the nearest residence (other than a residence

1 located on the same property as the facility);

2 (4) the design of the facility will prevent any compost  
3 material from being placed within 5 feet of the water  
4 table, will adequately control runoff from the site, and  
5 will collect and manage any leachate that is generated on  
6 the site;

7 (5) the operation of the facility will include  
8 appropriate dust and odor control measures, limitations on  
9 operating hours, appropriate noise control measures for  
10 shredding, chipping and similar equipment, management  
11 procedures for composting, containment and disposal of  
12 non-compostable wastes, procedures to be used for  
13 terminating operations at the site, and recordkeeping  
14 sufficient to document the amount of materials received,  
15 composted and otherwise disposed of; and

16 (6) the operation will be conducted in accordance with  
17 any applicable rules adopted by the Board.

18 The Agency shall issue renewable permits of not longer than  
19 10 years in duration for the composting of landscape wastes, as  
20 defined in Section 3.155 of this Act, based on the above  
21 requirements.

22 The operator of any facility permitted under this  
23 subsection (m) must submit a written annual statement to the  
24 Agency on or before April 1 of each year that includes an  
25 estimate of the amount of material, in tons, received for  
26 composting.

27 (n) The Agency shall issue permits jointly with the  
28 Department of Transportation for the dredging or deposit of  
29 material in Lake Michigan in accordance with Section 18 of the  
30 Rivers, Lakes, and Streams Act.

31 (o) (Blank.)

32 (p) (1) Any person submitting an application for a permit  
33 for a new MSWLF unit or for a lateral expansion under  
34 subsection (t) of Section 21 of this Act for an existing MSWLF

1 unit that has not received and is not subject to local siting  
2 approval under Section 39.2 of this Act shall publish notice of  
3 the application in a newspaper of general circulation in the  
4 county in which the MSWLF unit is or is proposed to be located.  
5 The notice must be published at least 15 days before submission  
6 of the permit application to the Agency. The notice shall state  
7 the name and address of the applicant, the location of the  
8 MSWLF unit or proposed MSWLF unit, the nature and size of the  
9 MSWLF unit or proposed MSWLF unit, the nature of the activity  
10 proposed, the probable life of the proposed activity, the date  
11 the permit application will be submitted, and a statement that  
12 persons may file written comments with the Agency concerning  
13 the permit application within 30 days after the filing of the  
14 permit application unless the time period to submit comments is  
15 extended by the Agency.

16 When a permit applicant submits information to the Agency  
17 to supplement a permit application being reviewed by the  
18 Agency, the applicant shall not be required to reissue the  
19 notice under this subsection.

20 (2) The Agency shall accept written comments concerning the  
21 permit application that are postmarked no later than 30 days  
22 after the filing of the permit application, unless the time  
23 period to accept comments is extended by the Agency.

24 (3) Each applicant for a permit described in part (1) of  
25 this subsection shall file a copy of the permit application  
26 with the county board or governing body of the municipality in  
27 which the MSWLF unit is or is proposed to be located at the  
28 same time the application is submitted to the Agency. The  
29 permit application filed with the county board or governing  
30 body of the municipality shall include all documents submitted  
31 to or to be submitted to the Agency, except trade secrets as  
32 determined under Section 7.1 of this Act. The permit  
33 application and other documents on file with the county board  
34 or governing body of the municipality shall be made available

1 for public inspection during regular business hours at the  
2 office of the county board or the governing body of the  
3 municipality and may be copied upon payment of the actual cost  
4 of reproduction.

5 (Source: P.A. 92-574, eff. 6-26-02; 93-575, eff. 1-1-04.)

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

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



1 wells, as defined by the Board under this Act, shall be  
2 liable to a civil penalty of not to exceed \$10,000 for the  
3 violation and an additional civil penalty of not to exceed  
4 \$1,000 for each day during which the violation continues.

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

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

23 (4-5) In an administrative citation action under  
24 Section 31.1 of this Act, any person found to have violated  
25 any provision of subsection (p) of Section 21 of this Act  
26 shall pay a civil penalty of \$1,500 for each violation of  
27 each such provision, plus any hearing costs incurred by the  
28 Board and the Agency, except that the civil penalty amount  
29 shall be \$3,000 for each violation of any provision of  
30 subsection (p) of Section 21 that is the person's second or  
31 subsequent adjudication violation of that provision. The  
32 penalties shall be deposited into the Environmental  
33 Protection Trust Fund, to be used in accordance with the  
34 provisions of the Environmental Protection Trust Fund Act;

1       except that if a unit of local government issued the  
2       administrative citation, 50% of the civil penalty shall be  
3       payable to the unit of local government.

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

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

25      (c) Any person that violates this Act, any rule or  
26      regulation adopted under this Act, any permit or term or  
27      condition of a permit, or any Board order and causes the death  
28      of fish or aquatic life shall, in addition to the other  
29      penalties provided by this Act, be liable to pay to the State  
30      an additional sum for the reasonable value of the fish or  
31      aquatic life destroyed. Any money so recovered shall be placed  
32      in the Wildlife and Fish Fund in the State Treasury.

33      (d) The penalties provided for in this Section may be  
34      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 restrain  
5 violations of this Act, any rule or regulation adopted under  
6 this Act, any permit or term or condition of a permit, or any  
7 Board order, or to require such other actions as may be  
8 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 wilful, 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  
27 funds collected under this subsection (f) in which a State's  
28 Attorney has prevailed shall be retained by the county in which  
29 he serves.

30           (g) All final orders imposing civil penalties pursuant to  
31 this Section shall prescribe the time for payment of such  
32 penalties. If any such penalty is not paid within the time  
33 prescribed, interest on such penalty at the rate set forth in  
34 subsection (a) of Section 1003 of the Illinois Income Tax Act,

1 shall be paid for the period from the date payment is due until  
2 the date payment is received. However, if the time for payment  
3 is stayed during the pendency of an appeal, interest shall not  
4 accrue during such stay.

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

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

11 (2) the presence or absence of due diligence on the  
12 part of the respondent in attempting to comply with  
13 requirements of this Act and regulations thereunder or to  
14 secure relief therefrom as provided by this Act;

15 (3) any economic benefits accrued by the respondent  
16 because of delay in compliance with requirements, in which  
17 case the economic benefits shall be determined by the  
18 lowest cost alternative for achieving compliance;

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

23 (5) the number, proximity in time, and gravity of  
24 previously adjudicated violations of this Act by the  
25 respondent;

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

29 (7) whether the respondent has agreed to undertake a  
30 "supplemental environmental project," which means an  
31 environmentally beneficial project that a respondent  
32 agrees to undertake in settlement of an enforcement action  
33 brought under this Act, but which the respondent is not  
34 otherwise legally required to perform.

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

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

16           (1) that the non-compliance was discovered through an  
17           environmental audit, as defined in Section 52.2 of this  
18           Act, and the person waives the environmental audit  
19           privileges as provided in that Section with respect to that  
20           non-compliance;

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

24           (3) that the non-compliance was discovered and  
25           disclosed prior to:

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

28               (ii) notice of a citizen suit;

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

32               (iv) the reporting of the non-compliance by an  
33               employee of the person without that person's  
34               knowledge; or

1 (v) imminent discovery of the non-compliance by  
2 the Agency;

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

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

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

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

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

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

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

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

32 (Source: P.A. 93-152, eff. 7-10-03; 93-575, eff. 1-1-04;  
33 93-831, eff. 7-28-04.)

1 (415 ILCS 5/58.8)

2 Sec. 58.8. Duty to record; compliance.

3 (a) The RA receiving a No Further Remediation Letter from  
4 the Agency pursuant to Section 58.10, shall submit the letter  
5 to the Office of the Recorder or the Registrar of Titles of the  
6 county in which the site is located within 45 days of receipt  
7 of the letter. The Office of the Recorder or the Registrar of  
8 Titles shall accept and record that letter in accordance with  
9 Illinois law so that it forms a permanent part of the chain of  
10 title for the site.

11 (b) A No Further Remediation Letter shall not become  
12 effective until officially recorded in accordance with  
13 subsection (a) of this Section. The RA shall obtain and submit  
14 to the Agency a certified copy of the No Further Remediation  
15 Letter as recorded.

16 (c) (Blank). ~~At no time shall any site for which a land use~~  
17 ~~limitation has been imposed as a result of remediation~~  
18 ~~activities under this Title be used in a manner inconsistent~~  
19 ~~with the land use limitation unless further investigation or~~  
20 ~~remedial action has been conducted that documents the~~  
21 ~~attainment of objectives appropriate for the new land use and a~~  
22 ~~new No Further Remediation Letter obtained and recorded in~~  
23 ~~accordance with this Title.~~

24 (d) In the event that a No Further Remediation Letter  
25 issues by operation of law pursuant to Section 58.10, the RA  
26 may, for purposes of this Section, file an affidavit stating  
27 that the letter issued by operation of law. Upon receipt of the  
28 No Further Remediation Letter from the Agency, the RA shall  
29 comply with the requirements of subsections (a) and (b) of this  
30 Section.

31 (Source: P.A. 92-574, eff. 6-26-02.)

32 Section 15. The Litter Control Act is amended by changing  
33 Sections 8 and 9 as follows:

1 (415 ILCS 105/8) (from Ch. 38, par. 86-8)

2 Sec. 8. Persons who violate any of Sections 4 through 7 are  
3 subject to the penalties set out in this Section.

4 (a) Any person convicted of a violation of Section 4, 5, 6  
5 or 7 is guilty of a Class B misdemeanor. A second conviction  
6 for an offense committed after the first conviction is a Class  
7 A misdemeanor. A third or subsequent violation, committed after  
8 a second conviction is a Class 4 felony. All fines imposed for  
9 violations of this Act shall be deposited into the Clean  
10 Communities Recycling Fund to be used as set forth in Section  
11 21.7 of the Environmental Protection Act.

12 (b) In addition to any fine imposed under this Act, the  
13 court may order that the person convicted of such a violation  
14 remove and properly dispose of the litter, may employ special  
15 bailiffs to supervise such removal and disposal, and may tax  
16 the costs of such supervision as costs against the person so  
17 convicted.

18 (c) The penalties prescribed in this Section are in  
19 addition to, and not in lieu of, any penalties, rights,  
20 remedies, duties or liabilities otherwise imposed or conferred  
21 by law.

22 (Source: P.A. 85-1410.)

23 (415 ILCS 105/9) (from Ch. 38, par. 86-9)

24 Sec. 9. Whenever litter is thrown, deposited, dropped or  
25 dumped in violation of Section 5 from any motor vehicle not  
26 carrying passengers for hire, the presumption is created that  
27 the operator of that motor vehicle has violated Section 5, but  
28 that presumption may be rebutted.

29 (Source: P.A. 78-837.)

30 Section 20. The Illinois Vehicle Code is amended by  
31 changing Sections 11-1413 and 16-105 as follows:



1 (625 ILCS 5/11-1413) (from Ch. 95 1/2, par. 11-1413)

2 Sec. 11-1413. Depositing material on highway prohibited.

3 (a) No person shall dump, deposit, drop, throw, spill,  
4 deposit, discard, or otherwise dispose of any bottle, glass,  
5 nails, tacks, wire, cans, or any litter (as defined in Section  
6 3 of the Litter Control Act) from any motor vehicle upon any  
7 public highway, upon any public or private property, or upon or  
8 into any river, lake, pond, stream, or body of water in this  
9 State except as permitted under any of paragraphs (a) through  
10 (e) of Section 4 of the Litter Control Act.

11 Whenever litter is thrown, deposited, dropped, or dumped in  
12 violation of this subsection (a) from any motor vehicle not  
13 carrying passengers for hire, the presumption is created that  
14 the operator of that motor vehicle has violated this Section,  
15 but that presumption may be rebutted. ~~No person shall throw,~~  
16 ~~spill or deposit upon any highway any bottle, glass, nails,~~  
17 ~~tacks, wire, cans, or any litter (as defined in Section 3 of~~  
18 ~~the Litter Control Act).~~

19 (b) Any person who violates subsection (a) upon any highway  
20 shall immediately remove such material or cause it to be  
21 removed.

22 (c) Any person removing a wrecked or damaged vehicle from a  
23 highway shall remove any glass or other debris, except any  
24 hazardous substance as defined in Section 3.215 of the  
25 Environmental Protection Act, hazardous waste as defined in  
26 Section 3.220 of the Environmental Protection Act, and  
27 potentially infectious medical waste as defined in Section  
28 3.360 of the Environmental Protection Act, dropped upon the  
29 highway from such vehicle.

30 (Source: P.A. 92-574, eff. 6-26-02.)

31 (625 ILCS 5/16-105) (from Ch. 95 1/2, par. 16-105)

32 Sec. 16-105. Disposition of fines and forfeitures.

1 (a) Except as provided in Section 16-104a of this Act and  
2 except for those amounts required to be paid into the Traffic  
3 and Criminal Conviction Surcharge Fund in the State Treasury  
4 pursuant to Section 9.1 of the Illinois Police Training Act and  
5 Section 5-9-1 of the Unified Code of Corrections and except  
6 those amounts subject to disbursement by the circuit clerk  
7 under Section 27.5 of the Clerks of Courts Act, fines and  
8 penalties recovered under the provisions of Chapters 11 through  
9 16 inclusive of this Code shall be paid and used as follows:

10 1. For offenses committed upon a highway within the  
11 limits of a city, village, or incorporated town or under  
12 the jurisdiction of any park district, to the treasurer of  
13 the particular city, village, incorporated town or park  
14 district, if the violator was arrested by the authorities  
15 of the city, village, incorporated town or park district,  
16 provided the police officers and officials of cities,  
17 villages, incorporated towns and park districts shall  
18 seasonably prosecute for all fines and penalties under this  
19 Code. If the violation is prosecuted by the authorities of  
20 the county, any fines or penalties recovered shall be paid  
21 to the county treasurer. Provided further that if the  
22 violator was arrested by the State Police, fines and  
23 penalties recovered under the provisions of paragraph (a)  
24 of Section 15-113 of this Code or paragraph (e) of Section  
25 15-316 of this Code shall be paid over to the Department of  
26 State Police which shall thereupon remit the amount of the  
27 fines and penalties so received to the State Treasurer who  
28 shall deposit the amount so remitted in the special fund in  
29 the State treasury known as the Road Fund except that if  
30 the violation is prosecuted by the State's Attorney, 10% of  
31 the fine or penalty recovered shall be paid to the State's  
32 Attorney as a fee of his office and the balance shall be  
33 paid over to the Department of State Police for remittance  
34 to and deposit by the State Treasurer as hereinabove

1 provided.

2 2. Except as provided in paragraph 4, for offenses  
3 committed upon any highway outside the limits of a city,  
4 village, incorporated town or park district, to the county  
5 treasurer of the county where the offense was committed  
6 except if such offense was committed on a highway  
7 maintained by or under the supervision of a township,  
8 township district, or a road district to the Treasurer  
9 thereof for deposit in the road and bridge fund of such  
10 township or other district; Provided, that fines and  
11 penalties recovered under the provisions of paragraph (a)  
12 of Section 15-113, paragraph (d) of Section 3-401, or  
13 paragraph (e) of Section 15-316 of this Code shall be paid  
14 over to the Department of State Police which shall  
15 thereupon remit the amount of the fines and penalties so  
16 received to the State Treasurer who shall deposit the  
17 amount so remitted in the special fund in the State  
18 treasury known as the Road Fund except that if the  
19 violation is prosecuted by the State's Attorney, 10% of the  
20 fine or penalty recovered shall be paid to the State's  
21 Attorney as a fee of his office and the balance shall be  
22 paid over to the Department of State Police for remittance  
23 to and deposit by the State Treasurer as hereinabove  
24 provided.

25 3. Notwithstanding subsections 1 and 2 of this  
26 paragraph, for violations of overweight and overload  
27 limits found in Sections 15-101 through 15-203 of this  
28 Code, which are committed upon the highways belonging to  
29 the Illinois State Toll Highway Authority, fines and  
30 penalties shall be paid over to the Illinois State Toll  
31 Highway Authority for deposit with the State Treasurer into  
32 that special fund known as the Illinois State Toll Highway  
33 Authority Fund, except that if the violation is prosecuted  
34 by the State's Attorney, 10% of the fine or penalty

1 recovered shall be paid to the State's Attorney as a fee of  
2 his office and the balance shall be paid over to the  
3 Illinois State Toll Highway Authority for remittance to and  
4 deposit by the State Treasurer as hereinabove provided.

5 4. With regard to violations of overweight and overload  
6 limits found in Sections 15-101 through 15-203 of this Code  
7 committed by operators of vehicles registered as Special  
8 Hauling Vehicles, for offenses committed upon a highway  
9 within the limits of a city, village, or incorporated town  
10 or under the jurisdiction of any park district, all fines  
11 and penalties shall be paid over or retained as required in  
12 paragraph 1. However, with regard to the above offenses  
13 committed by operators of vehicles registered as Special  
14 Hauling Vehicles upon any highway outside the limits of a  
15 city, village, incorporated town or park district, fines  
16 and penalties shall be paid over or retained by the entity  
17 having jurisdiction over the road or highway upon which the  
18 offense occurred, except that if the violation is  
19 prosecuted by the State's Attorney, 10% of the fine or  
20 penalty recovered shall be paid to the State's Attorney as  
21 a fee of his office.

22 (b) Failure, refusal or neglect on the part of any judicial  
23 or other officer or employee receiving or having custody of any  
24 such fine or forfeiture either before or after a deposit with  
25 the proper official as defined in paragraph (a) of this  
26 Section, shall constitute misconduct in office and shall be  
27 grounds for removal therefrom.

28 (c) Notwithstanding any other provision of this Section,  
29 all fines imposed for violations of subsection (a) of Section  
30 11-1413 of this Code shall be remitted in accordance with  
31 subsection (g) of Section 5-9-1 of the Unified Code of  
32 Corrections.

33 (Source: P.A. 88-403; 88-476; 88-535; 89-117, eff. 7-7-95.)

1       Section 25. The Clerks of Courts Act is amended by changing  
2       Sections 27.5 and 27.6 as follows:

3       (705 ILCS 105/27.5) (from Ch. 25, par. 27.5)

4       Sec. 27.5. (a) All fees, fines, costs, additional  
5       penalties, bail balances assessed or forfeited, and any other  
6       amount paid by a person to the circuit clerk that equals an  
7       amount less than \$55, except restitution under Section 5-5-6 of  
8       the Unified Code of Corrections, reimbursement for the costs of  
9       an emergency response as provided under Section 11-501 of the  
10      Illinois Vehicle Code, any fees collected for attending a  
11      traffic safety program under paragraph (c) of Supreme Court  
12      Rule 529, any fee collected on behalf of a State's Attorney  
13      under Section 4-2002 of the Counties Code or a sheriff under  
14      Section 4-5001 of the Counties Code, or any cost imposed under  
15      Section 124A-5 of the Code of Criminal Procedure of 1963, for  
16      convictions, orders of supervision, or any other disposition  
17      for a violation of Chapters 3, 4, 6, 11, and 12 of the Illinois  
18      Vehicle Code, or a similar provision of a local ordinance, and  
19      any violation of the Child Passenger Protection Act, or a  
20      similar provision of a local ordinance, and except as provided  
21      in subsection (b) shall be disbursed within 60 days after  
22      receipt by the circuit clerk as follows: 47% shall be disbursed  
23      to the entity authorized by law to receive the fine imposed in  
24      the case; 12% shall be disbursed to the State Treasurer; and  
25      41% shall be disbursed to the county's general corporate fund.  
26      Of the 12% disbursed to the State Treasurer, 1/6 shall be  
27      deposited by the State Treasurer into the Violent Crime Victims  
28      Assistance Fund, 1/2 shall be deposited into the Traffic and  
29      Criminal Conviction Surcharge Fund, and 1/3 shall be deposited  
30      into the Drivers Education Fund. For fiscal years 1992 and  
31      1993, amounts deposited into the Violent Crime Victims  
32      Assistance Fund, the Traffic and Criminal Conviction Surcharge  
33      Fund, or the Drivers Education Fund shall not exceed 110% of

1 the amounts deposited into those funds in fiscal year 1991. Any  
2 amount that exceeds the 110% limit shall be distributed as  
3 follows: 50% shall be disbursed to the county's general  
4 corporate fund and 50% shall be disbursed to the entity  
5 authorized by law to receive the fine imposed in the case. Not  
6 later than March 1 of each year the circuit clerk shall submit  
7 a report of the amount of funds remitted to the State Treasurer  
8 under this Section during the preceding year based upon  
9 independent verification of fines and fees. All counties shall  
10 be subject to this Section, except that counties with a  
11 population under 2,000,000 may, by ordinance, elect not to be  
12 subject to this Section. For offenses subject to this Section,  
13 judges shall impose one total sum of money payable for  
14 violations. The circuit clerk may add on no additional amounts  
15 except for amounts that are required by Sections 27.3a and  
16 27.3c of this Act, unless those amounts are specifically waived  
17 by the judge. With respect to money collected by the circuit  
18 clerk as a result of forfeiture of bail, ex parte judgment or  
19 guilty plea pursuant to Supreme Court Rule 529, the circuit  
20 clerk shall first deduct and pay amounts required by Sections  
21 27.3a and 27.3c of this Act. This Section is a denial and  
22 limitation of home rule powers and functions under subsection  
23 (h) of Section 6 of Article VII of the Illinois Constitution.

24 (b) The following amounts must be remitted to the State  
25 Treasurer for deposit into the Illinois Animal Abuse Fund:

26 (1) 50% of the amounts collected for felony offenses  
27 under Sections 3, 3.01, 3.02, 3.03, 4, 4.01, 4.03, 4.04, 5,  
28 5.01, 6, 7, 7.5, 7.15, and 16 of the Humane Care for  
29 Animals Act and Section 26-5 of the Criminal Code of 1961;

30 (2) 20% of the amounts collected for Class A and Class  
31 B misdemeanors under Sections 3, 3.01, 4, 4.01, 4.03, 4.04,  
32 5, 5.01, 6, 7, 7.1, 7.5, 7.15, and 16 of the Humane Care  
33 for Animals Act and Section 26-5 of the Criminal Code of  
34 1961; and

1           (3) 50% of the amounts collected for Class C  
2       misdemeanors under Sections 4.01 and 7.1 of the Humane Care  
3       for Animals Act and Section 26-5 of the Criminal Code of  
4       1961.

5       (c) Notwithstanding any other provision of this Section,  
6       all fines imposed for violations of the Litter Control Act and  
7       for violations of subsection (a) of Section 11-1413 of the  
8       Illinois Vehicle Code shall be remitted in accordance with  
9       subsection (g) of Section 5-9-1 of the Unified Code of  
10      Corrections.

11      (Source: P.A. 92-454, eff. 1-1-02; 92-650, eff. 7-11-02;  
12      93-800, eff. 1-1-05.)

13           (705 ILCS 105/27.6)

14      Sec. 27.6. (a) All fees, fines, costs, additional  
15      penalties, bail balances assessed or forfeited, and any other  
16      amount paid by a person to the circuit clerk equalling an  
17      amount of \$55 or more, except the additional fee required by  
18      subsections (b) and (c), restitution under Section 5-5-6 of the  
19      Unified Code of Corrections, reimbursement for the costs of an  
20      emergency response as provided under Section 11-501 of the  
21      Illinois Vehicle Code, any fees collected for attending a  
22      traffic safety program under paragraph (c) of Supreme Court  
23      Rule 529, any fee collected on behalf of a State's Attorney  
24      under Section 4-2002 of the Counties Code or a sheriff under  
25      Section 4-5001 of the Counties Code, or any cost imposed under  
26      Section 124A-5 of the Code of Criminal Procedure of 1963, for  
27      convictions, orders of supervision, or any other disposition  
28      for a violation of Chapters 3, 4, 6, 11, and 12 of the Illinois  
29      Vehicle Code, or a similar provision of a local ordinance, and  
30      any violation of the Child Passenger Protection Act, or a  
31      similar provision of a local ordinance, and except as provided  
32      in subsection (d) shall be disbursed within 60 days after  
33      receipt by the circuit clerk as follows: 44.5% shall be

1     disbursed to the entity authorized by law to receive the fine  
2     imposed in the case; 16.825% shall be disbursed to the State  
3     Treasurer; and 38.675% shall be disbursed to the county's  
4     general corporate fund. Of the 16.825% disbursed to the State  
5     Treasurer, 2/17 shall be deposited by the State Treasurer into  
6     the Violent Crime Victims Assistance Fund, 5.052/17 shall be  
7     deposited into the Traffic and Criminal Conviction Surcharge  
8     Fund, 3/17 shall be deposited into the Drivers Education Fund,  
9     and 6.948/17 shall be deposited into the Trauma Center Fund. Of  
10    the 6.948/17 deposited into the Trauma Center Fund from the  
11    16.825% disbursed to the State Treasurer, 50% shall be  
12    disbursed to the Department of Public Health and 50% shall be  
13    disbursed to the Department of Public Aid. For fiscal year  
14    1993, amounts deposited into the Violent Crime Victims  
15    Assistance Fund, the Traffic and Criminal Conviction Surcharge  
16    Fund, or the Drivers Education Fund shall not exceed 110% of  
17    the amounts deposited into those funds in fiscal year 1991. Any  
18    amount that exceeds the 110% limit shall be distributed as  
19    follows: 50% shall be disbursed to the county's general  
20    corporate fund and 50% shall be disbursed to the entity  
21    authorized by law to receive the fine imposed in the case. Not  
22    later than March 1 of each year the circuit clerk shall submit  
23    a report of the amount of funds remitted to the State Treasurer  
24    under this Section during the preceding year based upon  
25    independent verification of fines and fees. All counties shall  
26    be subject to this Section, except that counties with a  
27    population under 2,000,000 may, by ordinance, elect not to be  
28    subject to this Section. For offenses subject to this Section,  
29    judges shall impose one total sum of money payable for  
30    violations. The circuit clerk may add on no additional amounts  
31    except for amounts that are required by Sections 27.3a and  
32    27.3c of this Act, unless those amounts are specifically waived  
33    by the judge. With respect to money collected by the circuit  
34    clerk as a result of forfeiture of bail, ex parte judgment or



1 guilty plea pursuant to Supreme Court Rule 529, the circuit  
2 clerk shall first deduct and pay amounts required by Sections  
3 27.3a and 27.3c of this Act. This Section is a denial and  
4 limitation of home rule powers and functions under subsection  
5 (h) of Section 6 of Article VII of the Illinois Constitution.

6 (b) In addition to any other fines and court costs assessed  
7 by the courts, any person convicted or receiving an order of  
8 supervision for driving under the influence of alcohol or drugs  
9 shall pay an additional fee of \$100 to the clerk of the circuit  
10 court. This amount, less 2 1/2% that shall be used to defray  
11 administrative costs incurred by the clerk, shall be remitted  
12 by the clerk to the Treasurer within 60 days after receipt for  
13 deposit into the Trauma Center Fund. This additional fee of  
14 \$100 shall not be considered a part of the fine for purposes of  
15 any reduction in the fine for time served either before or  
16 after sentencing. Not later than March 1 of each year the  
17 Circuit Clerk shall submit a report of the amount of funds  
18 remitted to the State Treasurer under this subsection during  
19 the preceding calendar year.

20 (b-1) In addition to any other fines and court costs  
21 assessed by the courts, any person convicted or receiving an  
22 order of supervision for driving under the influence of alcohol  
23 or drugs shall pay an additional fee of \$5 to the clerk of the  
24 circuit court. This amount, less 2 1/2% that shall be used to  
25 defray administrative costs incurred by the clerk, shall be  
26 remitted by the clerk to the Treasurer within 60 days after  
27 receipt for deposit into the Spinal Cord Injury Paralysis Cure  
28 Research Trust Fund. This additional fee of \$5 shall not be  
29 considered a part of the fine for purposes of any reduction in  
30 the fine for time served either before or after sentencing. Not  
31 later than March 1 of each year the Circuit Clerk shall submit  
32 a report of the amount of funds remitted to the State Treasurer  
33 under this subsection during the preceding calendar year.

34 (c) In addition to any other fines and court costs assessed

1 by the courts, any person convicted for a violation of Sections  
2 24-1.1, 24-1.2, or 24-1.5 of the Criminal Code of 1961 or a  
3 person sentenced for a violation of the Cannabis Control Act or  
4 the Controlled Substance Act shall pay an additional fee of  
5 \$100 to the clerk of the circuit court. This amount, less 2  
6 1/2% that shall be used to defray administrative costs incurred  
7 by the clerk, shall be remitted by the clerk to the Treasurer  
8 within 60 days after receipt for deposit into the Trauma Center  
9 Fund. This additional fee of \$100 shall not be considered a  
10 part of the fine for purposes of any reduction in the fine for  
11 time served either before or after sentencing. Not later than  
12 March 1 of each year the Circuit Clerk shall submit a report of  
13 the amount of funds remitted to the State Treasurer under this  
14 subsection during the preceding calendar year.

15 (c-1) In addition to any other fines and court costs  
16 assessed by the courts, any person sentenced for a violation of  
17 the Cannabis Control Act or the Illinois Controlled Substances  
18 Act shall pay an additional fee of \$5 to the clerk of the  
19 circuit court. This amount, less 2 1/2% that shall be used to  
20 defray administrative costs incurred by the clerk, shall be  
21 remitted by the clerk to the Treasurer within 60 days after  
22 receipt for deposit into the Spinal Cord Injury Paralysis Cure  
23 Research Trust Fund. This additional fee of \$5 shall not be  
24 considered a part of the fine for purposes of any reduction in  
25 the fine for time served either before or after sentencing. Not  
26 later than March 1 of each year the Circuit Clerk shall submit  
27 a report of the amount of funds remitted to the State Treasurer  
28 under this subsection during the preceding calendar year.

29 (d) The following amounts must be remitted to the State  
30 Treasurer for deposit into the Illinois Animal Abuse Fund:

31 (1) 50% of the amounts collected for felony offenses  
32 under Sections 3, 3.01, 3.02, 3.03, 4, 4.01, 4.03, 4.04, 5,  
33 5.01, 6, 7, 7.5, 7.15, and 16 of the Humane Care for  
34 Animals Act and Section 26-5 of the Criminal Code of 1961;

1 (2) 20% of the amounts collected for Class A and Class  
2 B misdemeanors under Sections 3, 3.01, 4, 4.01, 4.03, 4.04,  
3 5, 5.01, 6, 7, 7.1, 7.5, 7.15, and 16 of the Humane Care  
4 for Animals Act and Section 26-5 of the Criminal Code of  
5 1961; and

6 (3) 50% of the amounts collected for Class C  
7 misdemeanors under Sections 4.01 and 7.1 of the Humane Care  
8 for Animals Act and Section 26-5 of the Criminal Code of  
9 1961.

10 (e) Notwithstanding any other provision of this Section,  
11 all fines imposed for violations of the Litter Control Act and  
12 for violations of subsection (a) of Section 11-1413 of the  
13 Illinois Vehicle Code shall be remitted in accordance with  
14 subsection (g) of Section 5-9-1 of the Unified Code of  
15 Corrections.

16 (Source: P.A. 92-431, eff. 1-1-02; 92-454, eff. 1-1-02; 92-650,  
17 eff. 7-11-02; 92-651, eff. 7-11-02; 93-800, eff. 1-1-05.)

18 Section 30. The Unified Code of Corrections is amended by  
19 changing Section 5-9-1 as follows:

20 (730 ILCS 5/5-9-1) (from Ch. 38, par. 1005-9-1)

21 Sec. 5-9-1. Authorized fines.

22 (a) An offender may be sentenced to pay a fine which shall  
23 not exceed for each offense:

24 (1) for a felony, \$25,000 or the amount specified in  
25 the offense, whichever is greater, or where the offender is  
26 a corporation, \$50,000 or the amount specified in the  
27 offense, whichever is greater;

28 (2) for a Class A misdemeanor, \$2,500 or the amount  
29 specified in the offense, whichever is greater;

30 (3) for a Class B or Class C misdemeanor, \$1,500;

31 (4) for a petty offense, \$1,000 or the amount specified  
32 in the offense, whichever is less;

1           (5) for a business offense, the amount specified in the  
2           statute defining that offense.

3           (b) A fine may be imposed in addition to a sentence of  
4           conditional discharge, probation, periodic imprisonment, or  
5           imprisonment.

6           (c) There shall be added to every fine imposed in  
7           sentencing for a criminal or traffic offense, except an offense  
8           relating to parking or registration, or offense by a  
9           pedestrian, an additional penalty of \$5 for each \$40, or  
10          fraction thereof, of fine imposed. The additional penalty of \$5  
11          for each \$40, or fraction thereof, of fine imposed, if not  
12          otherwise assessed, shall also be added to every fine imposed  
13          upon a plea of guilty, stipulation of facts or findings of  
14          guilty, resulting in a judgment of conviction, or order of  
15          supervision in criminal, traffic, local ordinance, county  
16          ordinance, and conservation cases (except parking,  
17          registration, or pedestrian violations), or upon a sentence of  
18          probation without entry of judgment under Section 10 of the  
19          Cannabis Control Act or Section 410 of the Controlled  
20          Substances Act.

21          Such additional amounts shall be assessed by the court  
22          imposing the fine and shall be collected by the Circuit Clerk  
23          in addition to the fine and costs in the case. Each such  
24          additional penalty shall be remitted by the Circuit Clerk  
25          within one month after receipt to the State Treasurer. The  
26          State Treasurer shall deposit \$1 for each \$40, or fraction  
27          thereof, of fine imposed into the LEADS Maintenance Fund. The  
28          remaining surcharge amount shall be deposited into the Traffic  
29          and Criminal Conviction Surcharge Fund, unless the fine, costs  
30          or additional amounts are subject to disbursement by the  
31          circuit clerk under Section 27.5 of the Clerks of Courts Act.  
32          Such additional penalty shall not be considered a part of the  
33          fine for purposes of any reduction in the fine for time served  
34          either before or after sentencing. Not later than March 1 of

1 each year the Circuit Clerk shall submit a report of the amount  
2 of funds remitted to the State Treasurer under this subsection  
3 (c) during the preceding calendar year. Except as otherwise  
4 provided by Supreme Court Rules, if a court in imposing a fine  
5 against an offender levies a gross amount for fine, costs, fees  
6 and penalties, the amount of the additional penalty provided  
7 for herein shall be computed on the amount remaining after  
8 deducting from the gross amount levied all fees of the Circuit  
9 Clerk, the State's Attorney and the Sheriff. After deducting  
10 from the gross amount levied the fees and additional penalty  
11 provided for herein, less any other additional penalties  
12 provided by law, the clerk shall remit the net balance  
13 remaining to the entity authorized by law to receive the fine  
14 imposed in the case. For purposes of this Section "fees of the  
15 Circuit Clerk" shall include, if applicable, the fee provided  
16 for under Section 27.3a of the Clerks of Courts Act and the  
17 fee, if applicable, payable to the county in which the  
18 violation occurred pursuant to Section 5-1101 of the Counties  
19 Code.

20 (c-5) In addition to the fines imposed by subsection (c),  
21 any person convicted or receiving an order of supervision for  
22 driving under the influence of alcohol or drugs shall pay an  
23 additional \$100 fee to the clerk. This additional fee, less 2  
24 1/2% that shall be used to defray administrative costs incurred  
25 by the clerk, shall be remitted by the clerk to the Treasurer  
26 within 60 days after receipt for deposit into the Trauma Center  
27 Fund. This additional fee of \$100 shall not be considered a  
28 part of the fine for purposes of any reduction in the fine for  
29 time served either before or after sentencing. Not later than  
30 March 1 of each year the Circuit Clerk shall submit a report of  
31 the amount of funds remitted to the State Treasurer under this  
32 subsection (c-5) during the preceding calendar year.

33 The Circuit Clerk may accept payment of fines and costs by  
34 credit card from an offender who has been convicted of a

1 traffic offense, petty offense or misdemeanor and may charge  
2 the service fee permitted where fines and costs are paid by  
3 credit card provided for in Section 27.3b of the Clerks of  
4 Courts Act.

5 (c-7) In addition to the fines imposed by subsection (c),  
6 any person convicted or receiving an order of supervision for  
7 driving under the influence of alcohol or drugs shall pay an  
8 additional \$5 fee to the clerk. This additional fee, less 2  
9 1/2% that shall be used to defray administrative costs incurred  
10 by the clerk, shall be remitted by the clerk to the Treasurer  
11 within 60 days after receipt for deposit into the Spinal Cord  
12 Injury Paralysis Cure Research Trust Fund. This additional fee  
13 of \$5 shall not be considered a part of the fine for purposes  
14 of any reduction in the fine for time served either before or  
15 after sentencing. Not later than March 1 of each year the  
16 Circuit Clerk shall submit a report of the amount of funds  
17 remitted to the State Treasurer under this subsection (c-7)  
18 during the preceding calendar year.

19 (c-9) There shall be added to every fine imposed in  
20 sentencing for a criminal or traffic offense, except an offense  
21 relating to parking or registration, or offense by a  
22 pedestrian, an additional penalty of \$4 imposed. The additional  
23 penalty of \$4 shall also be added to every fine imposed upon a  
24 plea of guilty, stipulation of facts or findings of guilty,  
25 resulting in a judgment of conviction, or order of supervision  
26 in criminal, traffic, local ordinance, county ordinance, or  
27 conservation cases (except parking, registration, or  
28 pedestrian violations), or upon a sentence of probation without  
29 entry of judgment under Section 10 of the Cannabis Control Act  
30 or Section 410 of the Controlled Substances Act. Such  
31 additional penalty of \$4 shall be assessed by the court  
32 imposing the fine and shall be collected by the circuit clerk  
33 in addition to any other fine, costs, fees, and penalties in  
34 the case. Each such additional penalty of \$4 shall be remitted

1 to the State Treasurer by the circuit clerk within one month  
2 after receipt. The State Treasurer shall deposit the additional  
3 penalty of \$4 into the Traffic and Criminal Conviction  
4 Surcharge Fund. The additional penalty of \$4 shall be in  
5 addition to any other fine, costs, fees, and penalties and  
6 shall not reduce or affect the distribution of any other fine,  
7 costs, fees, and penalties.

8 (d) In determining the amount and method of payment of a  
9 fine, except for those fines established for violations of  
10 Chapter 15 of the Illinois Vehicle Code, the court shall  
11 consider:

12 (1) the financial resources and future ability of the  
13 offender to pay the fine; and

14 (2) whether the fine will prevent the offender from  
15 making court ordered restitution or reparation to the  
16 victim of the offense; and

17 (3) in a case where the accused is a dissolved  
18 corporation and the court has appointed counsel to  
19 represent the corporation, the costs incurred either by the  
20 county or the State for such representation.

21 (e) The court may order the fine to be paid forthwith or  
22 within a specified period of time or in installments.

23 (f) Except as otherwise provided in subsection (g), all  
24 fines, costs and additional amounts imposed under this Section  
25 for any violation of Chapters 3, 4, 6, and 11 of the Illinois  
26 Vehicle Code, or a similar provision of a local ordinance, and  
27 any violation of the Child Passenger Protection Act, or a  
28 similar provision of a local ordinance, shall be collected and  
29 disbursed by the circuit clerk as provided under Section 27.5  
30 of the Clerks of Courts Act.

31 (g) Except for amounts added to fines under this Section,  
32 all fines imposed for violations of the Litter Control Act and  
33 for violations of subsection (a) of Section 11-1413 of the  
34 Illinois Vehicle Code shall be remitted to the State Treasurer

1 for deposit into the Clean Communities Recycling Fund.

2 (Source: P.A. 92-431, eff. 1-1-02; 93-32, eff. 6-20-03.)

3 Section 99. Effective date. This Act takes effect upon  
4 becoming law.".