



Rep. Naomi D. Jakobsson

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09700HB6153ham004

LRB097 18917 JDS 70432 a

1 AMENDMENT TO HOUSE BILL 6153

2 AMENDMENT NO. _____. Amend House Bill 6153 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Environmental Protection Act is amended by
5 adding Section 21.7 and by changing Section 44 as follows:

6 (415 ILCS 5/21.7 new)

7 Sec. 21.7. Disposal of polychlorinated biphenyls in sites
8 and facilities that threaten a source of potable water for a
9 community water supply. Notwithstanding any other provision of
10 this Act or any other law to the contrary, notwithstanding any
11 permits granted by the Agency before the effective date of this
12 amendatory Act of the 97th General Assembly, notwithstanding
13 any approval granted by the U.S. Environmental Protection
14 Agency pursuant to Subpart D of 40 C.F.R. 761, and in order to
15 prevent a public health emergency that might arise from the
16 introduction of polychlorinated biphenyls (PCBs) into a source

1 of potable water for a community water supply, no person shall,
2 on or after the effective date of this amendatory Act of the
3 97th General Assembly, dispose of, or accept for disposal, PCBs
4 or PCB Items regulated under Subpart D of 40 C.F.R. 761 at a
5 site or facility less than 500 feet above an aquifer that
6 currently provides the only source of potable water for a
7 community water supply serving a municipality with a population
8 in excess of the entire population of the county where the site
9 or facility is located, according to the last U.S. Decennial
10 Census.

11 (415 ILCS 5/44) (from Ch. 111 1/2, par. 1044)

12 Sec. 44. Criminal acts; penalties.

13 (a) Except as otherwise provided in this Section, it shall
14 be a Class A misdemeanor to violate this Act or regulations
15 thereunder, or any permit or term or condition thereof, or
16 knowingly to submit any false information under this Act or
17 regulations adopted thereunder, or under any permit or term or
18 condition thereof. A court may, in addition to any other
19 penalty herein imposed, order a person convicted of any
20 violation of this Act to perform community service for not less
21 than 100 hours and not more than 300 hours if community service
22 is available in the jurisdiction. It shall be the duty of all
23 State and local law-enforcement officers to enforce such Act
24 and regulations, and all such officers shall have authority to
25 issue citations for such violations.

1 (b) Calculated Criminal Disposal of Hazardous Waste.

2 (1) A person commits the offense of Calculated Criminal
3 Disposal of Hazardous Waste when, without lawful
4 justification, he knowingly disposes of hazardous waste
5 while knowing that he thereby places another person in
6 danger of great bodily harm or creates an immediate or
7 long-term danger to the public health or the environment.

8 (2) Calculated Criminal Disposal of Hazardous Waste is
9 a Class 2 felony. In addition to any other penalties
10 prescribed by law, a person convicted of the offense of
11 Calculated Criminal Disposal of Hazardous Waste is subject
12 to a fine not to exceed \$500,000 for each day of such
13 offense.

14 (c) Criminal Disposal of Hazardous Waste.

15 (1) A person commits the offense of Criminal Disposal
16 of Hazardous Waste when, without lawful justification, he
17 knowingly disposes of hazardous waste.

18 (2) Criminal Disposal of Hazardous Waste is a Class 3
19 felony. In addition to any other penalties prescribed by
20 law, a person convicted of the offense of Criminal Disposal
21 of Hazardous Waste is subject to a fine not to exceed
22 \$250,000 for each day of such offense.

23 (d) Unauthorized Use of Hazardous Waste.

1 (1) A person commits the offense of Unauthorized Use of
2 Hazardous Waste when he, being required to have a permit,
3 registration, or license under this Act or any other law
4 regulating the treatment, transportation, or storage of
5 hazardous waste, knowingly:

6 (A) treats, transports, or stores any hazardous
7 waste without such permit, registration, or license;

8 (B) treats, transports, or stores any hazardous
9 waste in violation of the terms and conditions of such
10 permit or license;

11 (C) transports any hazardous waste to a facility
12 which does not have a permit or license required under
13 this Act; or

14 (D) transports by vehicle any hazardous waste
15 without having in each vehicle credentials issued to
16 the transporter by the transporter's base state
17 pursuant to procedures established under the Uniform
18 Program.

19 (2) A person who is convicted of a violation of
20 subparagraph (A), (B), or (C) of paragraph (1) of this
21 subsection is guilty of a Class 4 felony. A person who is
22 convicted of a violation of subparagraph (D) of paragraph
23 (1) of this subsection is guilty of a Class A misdemeanor.
24 In addition to any other penalties prescribed by law, a
25 person convicted of violating subparagraph (A), (B), or (C)
26 of paragraph (1) of this subsection is subject to a fine

1 not to exceed \$100,000 for each day of such violation, and
2 a person who is convicted of violating subparagraph (D) of
3 paragraph (1) of this subsection is subject to a fine not
4 to exceed \$1,000.

5 (e) Unlawful Delivery of Hazardous Waste.

6 (1) Except as authorized by this Act or the federal
7 Resource Conservation and Recovery Act, and the
8 regulations promulgated thereunder, it is unlawful for any
9 person to knowingly deliver hazardous waste.

10 (2) Unlawful Delivery of Hazardous Waste is a Class 3
11 felony. In addition to any other penalties prescribed by
12 law, a person convicted of the offense of Unlawful Delivery
13 of Hazardous Waste is subject to a fine not to exceed
14 \$250,000 for each such violation.

15 (3) For purposes of this Section, "deliver" or
16 "delivery" means the actual, constructive, or attempted
17 transfer of possession of hazardous waste, with or without
18 consideration, whether or not there is an agency
19 relationship.

20 (f) Reckless Disposal of Hazardous Waste.

21 (1) A person commits Reckless Disposal of Hazardous
22 Waste if he disposes of hazardous waste, and his acts which
23 cause the hazardous waste to be disposed of, whether or not
24 those acts are undertaken pursuant to or under color of any

1 permit or license, are performed with a conscious disregard
2 of a substantial and unjustifiable risk that such disposing
3 of hazardous waste is a gross deviation from the standard
4 of care which a reasonable person would exercise in the
5 situation.

6 (2) Reckless Disposal of Hazardous Waste is a Class 4
7 felony. In addition to any other penalties prescribed by
8 law, a person convicted of the offense of Reckless Disposal
9 of Hazardous Waste is subject to a fine not to exceed
10 \$50,000 for each day of such offense.

11 (g) Concealment of Criminal Disposal of Hazardous Waste.

12 (1) A person commits the offense of Concealment of
13 Criminal Disposal of Hazardous Waste when he conceals,
14 without lawful justification, the disposal of hazardous
15 waste with the knowledge that such hazardous waste has been
16 disposed of in violation of this Act.

17 (2) Concealment of Criminal Disposal of a Hazardous
18 Waste is a Class 4 felony. In addition to any other
19 penalties prescribed by law, a person convicted of the
20 offense of Concealment of Criminal Disposal of Hazardous
21 Waste is subject to a fine not to exceed \$50,000 for each
22 day of such offense.

23 (h) Violations; False Statements.

24 (1) Any person who knowingly makes a false material

1 statement in an application for a permit or license
2 required by this Act to treat, transport, store, or dispose
3 of hazardous waste commits the offense of perjury and shall
4 be subject to the penalties set forth in Section 32-2 of
5 the Criminal Code of 1961.

6 (2) Any person who knowingly makes a false material
7 statement or representation in any label, manifest,
8 record, report, permit or license, or other document filed,
9 maintained, or used for the purpose of compliance with this
10 Act in connection with the generation, disposal,
11 treatment, storage, or transportation of hazardous waste
12 commits a Class 4 felony. A second or any subsequent
13 offense after conviction hereunder is a Class 3 felony.

14 (3) Any person who knowingly destroys, alters, or
15 conceals any record required to be made by this Act in
16 connection with the disposal, treatment, storage, or
17 transportation of hazardous waste commits a Class 4 felony.
18 A second or any subsequent offense after a conviction
19 hereunder is a Class 3 felony.

20 (4) Any person who knowingly makes a false material
21 statement or representation in any application, bill,
22 invoice, or other document filed, maintained, or used for
23 the purpose of receiving money from the Underground Storage
24 Tank Fund commits a Class 4 felony. A second or any
25 subsequent offense after conviction hereunder is a Class 3
26 felony.

1 (5) Any person who knowingly destroys, alters, or
2 conceals any record required to be made or maintained by
3 this Act or required to be made or maintained by Board or
4 Agency rules for the purpose of receiving money from the
5 Underground Storage Tank Fund commits a Class 4 felony. A
6 second or any subsequent offense after a conviction
7 hereunder is a Class 3 felony.

8 (6) A person who knowingly and falsely certifies under
9 Section 22.48 that an industrial process waste or pollution
10 control waste is not special waste commits a Class 4 felony
11 for a first offense and commits a Class 3 felony for a
12 second or subsequent offense.

13 (7) In addition to any other penalties prescribed by
14 law, a person convicted of violating this subsection (h) is
15 subject to a fine not to exceed \$50,000 for each day of
16 such violation.

17 (8) Any person who knowingly makes a false, fictitious,
18 or fraudulent material statement, orally or in writing, to
19 the Agency, or to a unit of local government to which the
20 Agency has delegated authority under subsection (r) of
21 Section 4 of this Act, related to or required by this Act,
22 a regulation adopted under this Act, any federal law or
23 regulation for which the Agency has responsibility, or any
24 permit, term, or condition thereof, commits a Class 4
25 felony, and each such statement or writing shall be
26 considered a separate Class 4 felony. A person who, after

1 being convicted under this paragraph (8), violates this
2 paragraph (8) a second or subsequent time, commits a Class
3 3 felony.

4 (i) Verification.

5 (1) Each application for a permit or license to dispose
6 of, transport, treat, store, or generate hazardous waste
7 under this Act shall contain an affirmation that the facts
8 are true and are made under penalty of perjury as defined
9 in Section 32-2 of the Criminal Code of 1961. It is perjury
10 for a person to sign any such application for a permit or
11 license which contains a false material statement, which he
12 does not believe to be true.

13 (2) Each request for money from the Underground Storage
14 Tank Fund shall contain an affirmation that the facts are
15 true and are made under penalty of perjury as defined in
16 Section 32-2 of the Criminal Code of 1961. It is perjury
17 for a person to sign any request that contains a false
18 material statement that he does not believe to be true.

19 (j) Violations of Other Provisions.

20 (1) It is unlawful for a person knowingly to violate:

21 (A) subsection (f) of Section 12 of this Act;

22 (B) subsection (g) of Section 12 of this Act;

23 (C) any term or condition of any Underground
24 Injection Control (UIC) permit;

1 (D) any filing requirement, regulation, or order
2 relating to the State Underground Injection Control
3 (UIC) program;

4 (E) any provision of any regulation, standard, or
5 filing requirement under subsection (b) of Section 13
6 of this Act;

7 (F) any provision of any regulation, standard, or
8 filing requirement under subsection (b) of Section 39
9 of this Act;

10 (G) any National Pollutant Discharge Elimination
11 System (NPDES) permit issued under this Act or any term
12 or condition of such permit;

13 (H) subsection (h) of Section 12 of this Act;

14 (I) subsection 6 of Section 39.5 of this Act;

15 (J) any provision of any regulation, standard or
16 filing requirement under Section 39.5 of this Act;

17 (K) a provision of the Procedures for Asbestos
18 Emission Control in subsection (c) of Section 61.145 of
19 Title 40 of the Code of Federal Regulations; or

20 (L) the standard for waste disposal for
21 manufacturing, fabricating, demolition, renovation,
22 and spraying operations in Section 61.150 of Title 40
23 of the Code of Federal Regulations.

24 (2) A person convicted of a violation of subdivision
25 (1) of this subsection commits a Class 4 felony, and in
26 addition to any other penalty prescribed by law is subject

1 to a fine not to exceed \$25,000 for each day of such
2 violation.

3 (3) A person who negligently violates the following
4 shall be subject to a fine not to exceed \$10,000 for each
5 day of such violation:

6 (A) subsection (f) of Section 12 of this Act;

7 (B) subsection (g) of Section 12 of this Act;

8 (C) any provision of any regulation, standard, or
9 filing requirement under subsection (b) of Section 13
10 of this Act;

11 (D) any provision of any regulation, standard, or
12 filing requirement under subsection (b) of Section 39
13 of this Act;

14 (E) any National Pollutant Discharge Elimination
15 System (NPDES) permit issued under this Act;

16 (F) subsection 6 of Section 39.5 of this Act; or

17 (G) any provision of any regulation, standard, or
18 filing requirement under Section 39.5 of this Act.

19 (4) It is unlawful for a person knowingly to:

20 (A) make any false statement, representation, or
21 certification in an application form, or form
22 pertaining to, a National Pollutant Discharge
23 Elimination System (NPDES) permit;

24 (B) render inaccurate any monitoring device or
25 record required by the Agency or Board in connection
26 with any such permit or with any discharge which is

1 subject to the provisions of subsection (f) of Section
2 12 of this Act;

3 (C) make any false statement, representation, or
4 certification in any form, notice, or report
5 pertaining to a CAAPP permit under Section 39.5 of this
6 Act;

7 (D) render inaccurate any monitoring device or
8 record required by the Agency or Board in connection
9 with any CAAPP permit or with any emission which is
10 subject to the provisions of Section 39.5 of this Act;
11 or

12 (E) violate subsection 6 of Section 39.5 of this
13 Act or any CAAPP permit, or term or condition thereof,
14 or any fee or filing requirement.

15 (5) A person convicted of a violation of paragraph (4)
16 of this subsection commits a Class A misdemeanor, and in
17 addition to any other penalties provided by law is subject
18 to a fine not to exceed \$10,000 for each day of violation.

19 (k) Criminal operation of a hazardous waste or PCB
20 incinerator.

21 (1) A person commits the offense of criminal operation
22 of a hazardous waste or PCB incinerator when, in the course
23 of operating a hazardous waste or PCB incinerator, he
24 knowingly and without justification operates the
25 incinerator (i) without an Agency permit, or in knowing

1 violation of the terms of an Agency permit, and (ii) as a
2 result of such violation, knowingly places any person in
3 danger of great bodily harm or knowingly creates an
4 immediate or long term material danger to the public health
5 or the environment.

6 (2) Any person who commits the offense of criminal
7 operation of a hazardous waste or PCB incinerator for the
8 first time commits a Class 4 felony and, in addition to any
9 other penalties prescribed by law, shall be subject to a
10 fine not to exceed \$100,000 for each day of the offense.

11 Any person who commits the offense of criminal
12 operation of a hazardous waste or PCB incinerator for a
13 second or subsequent time commits a Class 3 felony and, in
14 addition to any other penalties prescribed by law, shall be
15 subject to a fine not to exceed \$250,000 for each day of
16 the offense.

17 (3) For the purpose of this subsection (k), the term
18 "hazardous waste or PCB incinerator" means a pollution
19 control facility at which either hazardous waste or PCBs,
20 or both, are incinerated. "PCBs" means any substance or
21 mixture of substances that contains one or more
22 polychlorinated biphenyls in detectable amounts.

23 (1) It shall be the duty of all State and local law
24 enforcement officers to enforce this Act and the regulations
25 adopted hereunder, and all such officers shall have authority

1 to issue citations for such violations.

2 (m) Any action brought under this Section shall be brought
3 by the State's Attorney of the county in which the violation
4 occurred, or by the Attorney General, and shall be conducted in
5 accordance with the applicable provisions of the Code of
6 Criminal Procedure of 1963.

7 (n) For an offense described in this Section, the period
8 for commencing prosecution prescribed by the statute of
9 limitations shall not begin to run until the offense is
10 discovered by or reported to a State or local agency having the
11 authority to investigate violations of this Act.

12 (o) In addition to any other penalties provided under this
13 Act, if a person is convicted of (or agrees to a settlement in
14 an enforcement action over) illegal dumping of waste on the
15 person's own property, the Attorney General, the Agency, or
16 local prosecuting authority shall file notice of the
17 conviction, finding, or agreement in the office of the Recorder
18 in the county in which the landowner lives.

19 (p) Criminal Disposal of Waste.

20 (1) A person commits the offense of Criminal Disposal
21 of Waste when he or she:

22 (A) if required to have a permit under subsection

1 (d) of Section 21 of this Act, knowingly conducts a
2 waste-storage, waste-treatment, or waste-disposal
3 operation in a quantity that exceeds 250 cubic feet of
4 waste without a permit; or

5 (B) knowingly conducts open dumping of waste in
6 violation of subsection (a) of Section 21 of this Act.

7 (2) (A) A person who is convicted of a violation of
8 subparagraph (A) of paragraph (1) of this subsection is
9 guilty of a Class 4 felony for a first offense and, in
10 addition to any other penalties provided by law, is subject
11 to a fine not to exceed \$25,000 for each day of violation.
12 A person who is convicted of a violation of subparagraph
13 (A) of paragraph (1) of this subsection is guilty of a
14 Class 3 felony for a second or subsequent offense and, in
15 addition to any other penalties provided by law, is subject
16 to a fine not to exceed \$50,000 for each day of violation.

17 (B) A person who is convicted of a violation of
18 subparagraph (B) of paragraph (1) of this subsection is
19 guilty of a Class A misdemeanor. However, a person who
20 is convicted of a violation of subparagraph (B) of
21 paragraph (1) of this subsection for the open dumping
22 of waste in a quantity that exceeds 250 cubic feet or
23 that exceeds 50 waste tires is guilty of a Class 4
24 felony and, in addition to any other penalties provided
25 by law, is subject to a fine not to exceed \$25,000 for
26 each day of violation.

1 (q) Criminal Damage to a Public Water Supply.

2 (1) A person commits the offense of Criminal Damage to
3 a Public Water Supply when, without lawful justification,
4 he knowingly alters, damages, or otherwise tampers with the
5 equipment or property of a public water supply, or
6 knowingly introduces a contaminant into the distribution
7 system of a public water supply so as to cause, threaten,
8 or allow the distribution of water from any public water
9 supply of such quality or quantity as to be injurious to
10 human health or the environment.

11 (2) Criminal Damage to a Public Water Supply is a Class
12 4 felony. In addition to any other penalties prescribed by
13 law, a person convicted of the offense of Criminal Damage
14 to a Public Water Supply is subject to a fine not to exceed
15 \$250,000 for each day of such offense.

16 (r) Aggravated Criminal Damage to a Public Water Supply.

17 (1) A person commits the offense of Aggravated Criminal
18 Damage to a Public Water Supply when, without lawful
19 justification, he commits Criminal Damage to a Public Water
20 Supply while knowing that he thereby places another person
21 in danger of serious illness or great bodily harm, or
22 creates an immediate or long-term danger to public health
23 or the environment.

24 (2) Aggravated Criminal Damage to a Public Water Supply

1 is a Class 2 felony. In addition to any other penalties
2 prescribed by law, a person convicted of the offense of
3 Aggravated Criminal Damage to a Public Water Supply is
4 subject to a fine not to exceed \$500,000 for each day of
5 such offense.

6 (s) Criminal Disposal of PCBs.

7 (1) A person commits the offense of criminal disposal
8 of PCBs when, without lawful justification, he knowingly
9 violates Section 21.7 of this Act.

10 (2) Criminal Disposal of PCBs is a Class 3 felony. In
11 addition to any other penalties prescribed by law, a person
12 convicted of the offense of Criminal Disposal of PCBs is
13 subject to a fine not to exceed \$250,000 for each day of
14 such offense.

15 (Source: P.A. 96-603, eff. 8-24-09; 97-220, eff. 7-28-11;
16 97-286, eff. 8-10-11; revised 9-2-11.)".

17 Section 99. Effective date. This Act takes effect upon
18 becoming law.".