

# SB3159



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

SB3159

Introduced 2/19/2016, by Sen. Wm. Sam McCann

#### SYNOPSIS AS INTRODUCED:

415 ILCS 5/21

from Ch. 111 1/2, par. 1021

Amends the Environmental Protection Act. Provides that specified enforcement actions shall not be construed to prevent the enforcement of any ordinance of any unit of local government.

LRB099 19960 MJP 44359 b

A BILL FOR

1 AN ACT concerning safety.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Environmental Protection Act is amended by  
5 changing Section 21 as follows:

6 (415 ILCS 5/21) (from Ch. 111 1/2, par. 1021)

7 Sec. 21. Prohibited acts. No person shall:

8 (a) Cause or allow the open dumping of any waste. An  
9 enforcement action taken under this subsection shall be  
10 construed to prevent the enforcement of any ordinance of any  
11 unit of local government.

12 (b) Abandon, dump, or deposit any waste upon the public  
13 highways or other public property, except in a sanitary  
14 landfill approved by the Agency pursuant to regulations adopted  
15 by the Board. An enforcement action taken under this subsection  
16 shall be construed to prevent the enforcement of any ordinance  
17 of any unit of local government.

18 (c) Abandon any vehicle in violation of the "Abandoned  
19 Vehicles Amendment to the Illinois Vehicle Code", as enacted by  
20 the 76th General Assembly. An enforcement action taken under  
21 this subsection shall be construed to prevent the enforcement  
22 of any ordinance of any unit of local government.

23 (d) Conduct any waste-storage, waste-treatment, or

1 waste-disposal operation:

2 (1) without a permit granted by the Agency or in  
3 violation of any conditions imposed by such permit,  
4 including periodic reports and full access to adequate  
5 records and the inspection of facilities, as may be  
6 necessary to assure compliance with this Act and with  
7 regulations and standards adopted thereunder; provided,  
8 however, that, except for municipal solid waste landfill  
9 units that receive waste on or after October 9, 1993, no  
10 permit shall be required for (i) any person conducting a  
11 waste-storage, waste-treatment, or waste-disposal  
12 operation for wastes generated by such person's own  
13 activities which are stored, treated, or disposed within  
14 the site where such wastes are generated, or (ii) a  
15 facility located in a county with a population over 700,000  
16 as of January 1, 2000, operated and located in accordance  
17 with Section 22.38 of this Act, and used exclusively for  
18 the transfer, storage, or treatment of general  
19 construction or demolition debris, provided that the  
20 facility was receiving construction or demolition debris  
21 on the effective date of this amendatory Act of the 96th  
22 General Assembly;

23 (2) in violation of any regulations or standards  
24 adopted by the Board under this Act; or

25 (3) which receives waste after August 31, 1988, does  
26 not have a permit issued by the Agency, and is (i) a

1 landfill used exclusively for the disposal of waste  
2 generated at the site, (ii) a surface impoundment receiving  
3 special waste not listed in an NPDES permit, (iii) a waste  
4 pile in which the total volume of waste is greater than 100  
5 cubic yards or the waste is stored for over one year, or  
6 (iv) a land treatment facility receiving special waste  
7 generated at the site; without giving notice of the  
8 operation to the Agency by January 1, 1989, or 30 days  
9 after the date on which the operation commences, whichever  
10 is later, and every 3 years thereafter. The form for such  
11 notification shall be specified by the Agency, and shall be  
12 limited to information regarding: the name and address of  
13 the location of the operation; the type of operation; the  
14 types and amounts of waste stored, treated or disposed of  
15 on an annual basis; the remaining capacity of the  
16 operation; and the remaining expected life of the  
17 operation.

18 Item (3) of this subsection (d) shall not apply to any  
19 person engaged in agricultural activity who is disposing of a  
20 substance that constitutes solid waste, if the substance was  
21 acquired for use by that person on his own property, and the  
22 substance is disposed of on his own property in accordance with  
23 regulations or standards adopted by the Board.

24 This subsection (d) shall not apply to hazardous waste.

25 (e) Dispose, treat, store or abandon any waste, or  
26 transport any waste into this State for disposal, treatment,

1 storage or abandonment, except at a site or facility which  
2 meets the requirements of this Act and of regulations and  
3 standards thereunder.

4 (f) Conduct any hazardous waste-storage, hazardous  
5 waste-treatment or hazardous waste-disposal operation:

6 (1) without a RCRA permit for the site issued by the  
7 Agency under subsection (d) of Section 39 of this Act, or  
8 in violation of any condition imposed by such permit,  
9 including periodic reports and full access to adequate  
10 records and the inspection of facilities, as may be  
11 necessary to assure compliance with this Act and with  
12 regulations and standards adopted thereunder; or

13 (2) in violation of any regulations or standards  
14 adopted by the Board under this Act; or

15 (3) in violation of any RCRA permit filing requirement  
16 established under standards adopted by the Board under this  
17 Act; or

18 (4) in violation of any order adopted by the Board  
19 under this Act.

20 Notwithstanding the above, no RCRA permit shall be required  
21 under this subsection or subsection (d) of Section 39 of this  
22 Act for any person engaged in agricultural activity who is  
23 disposing of a substance which has been identified as a  
24 hazardous waste, and which has been designated by Board  
25 regulations as being subject to this exception, if the  
26 substance was acquired for use by that person on his own

1 property and the substance is disposed of on his own property  
2 in accordance with regulations or standards adopted by the  
3 Board.

4 (g) Conduct any hazardous waste-transportation operation:

5 (1) without registering with and obtaining a special  
6 waste hauling permit from the Agency in accordance with the  
7 regulations adopted by the Board under this Act; or

8 (2) in violation of any regulations or standards  
9 adopted by the Board under this Act.

10 (h) Conduct any hazardous waste-recycling or hazardous  
11 waste-reclamation or hazardous waste-reuse operation in  
12 violation of any regulations, standards or permit requirements  
13 adopted by the Board under this Act.

14 (i) Conduct any process or engage in any act which produces  
15 hazardous waste in violation of any regulations or standards  
16 adopted by the Board under subsections (a) and (c) of Section  
17 22.4 of this Act.

18 (j) Conduct any special waste transportation operation in  
19 violation of any regulations, standards or permit requirements  
20 adopted by the Board under this Act. However, sludge from a  
21 water or sewage treatment plant owned and operated by a unit of  
22 local government which (1) is subject to a sludge management  
23 plan approved by the Agency or a permit granted by the Agency,  
24 and (2) has been tested and determined not to be a hazardous  
25 waste as required by applicable State and federal laws and  
26 regulations, may be transported in this State without a special

1 waste hauling permit, and the preparation and carrying of a  
2 manifest shall not be required for such sludge under the rules  
3 of the Pollution Control Board. The unit of local government  
4 which operates the treatment plant producing such sludge shall  
5 file a semiannual report with the Agency identifying the volume  
6 of such sludge transported during the reporting period, the  
7 hauler of the sludge, and the disposal sites to which it was  
8 transported. This subsection (j) shall not apply to hazardous  
9 waste.

10 (k) Fail or refuse to pay any fee imposed under this Act.

11 (l) Locate a hazardous waste disposal site above an active  
12 or inactive shaft or tunneled mine or within 2 miles of an  
13 active fault in the earth's crust. In counties of population  
14 less than 225,000 no hazardous waste disposal site shall be  
15 located (1) within 1 1/2 miles of the corporate limits as  
16 defined on June 30, 1978, of any municipality without the  
17 approval of the governing body of the municipality in an  
18 official action; or (2) within 1000 feet of an existing private  
19 well or the existing source of a public water supply measured  
20 from the boundary of the actual active permitted site and  
21 excluding existing private wells on the property of the permit  
22 applicant. The provisions of this subsection do not apply to  
23 publicly-owned sewage works or the disposal or utilization of  
24 sludge from publicly-owned sewage works.

25 (m) Transfer interest in any land which has been used as a  
26 hazardous waste disposal site without written notification to

1 the Agency of the transfer and to the transferee of the  
2 conditions imposed by the Agency upon its use under subsection  
3 (g) of Section 39.

4 (n) Use any land which has been used as a hazardous waste  
5 disposal site except in compliance with conditions imposed by  
6 the Agency under subsection (g) of Section 39.

7 (o) Conduct a sanitary landfill operation which is required  
8 to have a permit under subsection (d) of this Section, in a  
9 manner which results in any of the following conditions:

10 (1) refuse in standing or flowing waters;

11 (2) leachate flows entering waters of the State;

12 (3) leachate flows exiting the landfill confines (as  
13 determined by the boundaries established for the landfill  
14 by a permit issued by the Agency);

15 (4) open burning of refuse in violation of Section 9 of  
16 this Act;

17 (5) uncovered refuse remaining from any previous  
18 operating day or at the conclusion of any operating day,  
19 unless authorized by permit;

20 (6) failure to provide final cover within time limits  
21 established by Board regulations;

22 (7) acceptance of wastes without necessary permits;

23 (8) scavenging as defined by Board regulations;

24 (9) deposition of refuse in any unpermitted portion of  
25 the landfill;

26 (10) acceptance of a special waste without a required



1 manifest;

2 (11) failure to submit reports required by permits or  
3 Board regulations;

4 (12) failure to collect and contain litter from the  
5 site by the end of each operating day;

6 (13) failure to submit any cost estimate for the site  
7 or any performance bond or other security for the site as  
8 required by this Act or Board rules.

9 The prohibitions specified in this subsection (o) shall be  
10 enforceable by the Agency either by administrative citation  
11 under Section 31.1 of this Act or as otherwise provided by this  
12 Act. The specific prohibitions in this subsection do not limit  
13 the power of the Board to establish regulations or standards  
14 applicable to sanitary landfills.

15 (p) In violation of subdivision (a) of this Section, cause  
16 or allow the open dumping of any waste in a manner which  
17 results in any of the following occurrences at the dump site:

18 (1) litter;

19 (2) scavenging;

20 (3) open burning;

21 (4) deposition of waste in standing or flowing waters;

22 (5) proliferation of disease vectors;

23 (6) standing or flowing liquid discharge from the dump  
24 site;

25 (7) deposition of:

26 (i) general construction or demolition debris as

1 defined in Section 3.160(a) of this Act; or

2 (ii) clean construction or demolition debris as  
3 defined in Section 3.160(b) of this Act.

4 The prohibitions specified in this subsection (p) shall be  
5 enforceable by the Agency either by administrative citation  
6 under Section 31.1 of this Act or as otherwise provided by this  
7 Act. The specific prohibitions in this subsection do not limit  
8 the power of the Board to establish regulations or standards  
9 applicable to open dumping.

10 (q) Conduct a landscape waste composting operation without  
11 an Agency permit, provided, however, that no permit shall be  
12 required for any person:

13 (1) conducting a landscape waste composting operation  
14 for landscape wastes generated by such person's own  
15 activities which are stored, treated, or disposed of within  
16 the site where such wastes are generated; or

17 (1.5) conducting a landscape waste composting  
18 operation that (i) has no more than 25 cubic yards of  
19 landscape waste, composting additives, composting  
20 material, or end-product compost on-site at any one time  
21 and (ii) is not engaging in commercial activity; or

22 (2) applying landscape waste or composted landscape  
23 waste at agronomic rates; or

24 (2.5) operating a landscape waste composting facility  
25 at a site having 10 or more occupied non-farm residences  
26 within 1/2 mile of its boundaries, if the facility meets

1 all of the following criteria:

2 (A) the composting facility is operated by the  
3 farmer on property on which the composting material is  
4 utilized, and the composting facility constitutes no  
5 more than 2% of the site's total acreage;

6 (A-5) any composting additives that the composting  
7 facility accepts and uses at the facility are necessary  
8 to provide proper conditions for composting and do not  
9 exceed 10% of the total composting material at the  
10 facility at any one time;

11 (B) the property on which the composting facility  
12 is located, and any associated property on which the  
13 compost is used, is principally and diligently devoted  
14 to the production of agricultural crops and is not  
15 owned, leased, or otherwise controlled by any waste  
16 hauler or generator of nonagricultural compost  
17 materials, and the operator of the composting facility  
18 is not an employee, partner, shareholder, or in any way  
19 connected with or controlled by any such waste hauler  
20 or generator;

21 (C) all compost generated by the composting  
22 facility is applied at agronomic rates and used as  
23 mulch, fertilizer, or soil conditioner on land  
24 actually farmed by the person operating the composting  
25 facility, and the finished compost is not stored at the  
26 composting site for a period longer than 18 months

1 prior to its application as mulch, fertilizer, or soil  
2 conditioner;

3 (D) no fee is charged for the acceptance of  
4 materials to be composted at the facility; and

5 (E) the owner or operator, by January 1, 2014 (or  
6 the January 1 following commencement of operation,  
7 whichever is later) and January 1 of each year  
8 thereafter, registers the site with the Agency, (ii)  
9 reports to the Agency on the volume of composting  
10 material received and used at the site; (iii) certifies  
11 to the Agency that the site complies with the  
12 requirements set forth in subparagraphs (A), (A-5),  
13 (B), (C), and (D) of this paragraph (2.5); and (iv)  
14 certifies to the Agency that all composting material  
15 was placed more than 200 feet from the nearest potable  
16 water supply well, was placed outside the boundary of  
17 the 10-year floodplain or on a part of the site that is  
18 floodproofed, was placed at least 1/4 mile from the  
19 nearest residence (other than a residence located on  
20 the same property as the facility) or a lesser distance  
21 from the nearest residence (other than a residence  
22 located on the same property as the facility) if the  
23 municipality in which the facility is located has by  
24 ordinance approved a lesser distance than 1/4 mile, and  
25 was placed more than 5 feet above the water table; any  
26 ordinance approving a residential setback of less than

1           1/4 mile that is used to meet the requirements of this  
2           subparagraph (E) of paragraph (2.5) of this subsection  
3           must specifically reference this paragraph; or

4           (3) operating a landscape waste composting facility on  
5           a farm, if the facility meets all of the following  
6           criteria:

7                   (A) the composting facility is operated by the  
8                   farmer on property on which the composting material is  
9                   utilized, and the composting facility constitutes no  
10                  more than 2% of the property's total acreage, except  
11                  that the Board may allow a higher percentage for  
12                  individual sites where the owner or operator has  
13                  demonstrated to the Board that the site's soil  
14                  characteristics or crop needs require a higher rate;

15                   (A-1) the composting facility accepts from other  
16                   agricultural operations for composting with landscape  
17                   waste no materials other than uncontaminated and  
18                   source-separated (i) crop residue and other  
19                   agricultural plant residue generated from the  
20                   production and harvesting of crops and other customary  
21                   farm practices, including, but not limited to, stalks,  
22                   leaves, seed pods, husks, bagasse, and roots and (ii)  
23                   plant-derived animal bedding, such as straw or  
24                   sawdust, that is free of manure and was not made from  
25                   painted or treated wood;

26                   (A-2) any composting additives that the composting

1 facility accepts and uses at the facility are necessary  
2 to provide proper conditions for composting and do not  
3 exceed 10% of the total composting material at the  
4 facility at any one time;

5 (B) the property on which the composting facility  
6 is located, and any associated property on which the  
7 compost is used, is principally and diligently devoted  
8 to the production of agricultural crops and is not  
9 owned, leased or otherwise controlled by any waste  
10 hauler or generator of nonagricultural compost  
11 materials, and the operator of the composting facility  
12 is not an employee, partner, shareholder, or in any way  
13 connected with or controlled by any such waste hauler  
14 or generator;

15 (C) all compost generated by the composting  
16 facility is applied at agronomic rates and used as  
17 mulch, fertilizer or soil conditioner on land actually  
18 farmed by the person operating the composting  
19 facility, and the finished compost is not stored at the  
20 composting site for a period longer than 18 months  
21 prior to its application as mulch, fertilizer, or soil  
22 conditioner;

23 (D) the owner or operator, by January 1 of each  
24 year, (i) registers the site with the Agency, (ii)  
25 reports to the Agency on the volume of composting  
26 material received and used at the site, (iii) certifies

1 to the Agency that the site complies with the  
2 requirements set forth in subparagraphs (A), (A-1),  
3 (A-2), (B), and (C) of this paragraph (q) (3), and (iv)  
4 certifies to the Agency that all composting material:

5 (I) was placed more than 200 feet from the  
6 nearest potable water supply well;

7 (II) was placed outside the boundary of the  
8 10-year floodplain or on a part of the site that is  
9 floodproofed;

10 (III) was placed either (aa) at least 1/4 mile  
11 from the nearest residence (other than a residence  
12 located on the same property as the facility) and  
13 there are not more than 10 occupied non-farm  
14 residences within 1/2 mile of the boundaries of the  
15 site on the date of application or (bb) a lesser  
16 distance from the nearest residence (other than a  
17 residence located on the same property as the  
18 facility) provided that the municipality or county  
19 in which the facility is located has by ordinance  
20 approved a lesser distance than 1/4 mile and there  
21 are not more than 10 occupied non-farm residences  
22 within 1/2 mile of the boundaries of the site on  
23 the date of application; and

24 (IV) was placed more than 5 feet above the  
25 water table.

26 Any ordinance approving a residential setback of

1           less than 1/4 mile that is used to meet the  
2           requirements of this subparagraph (D) must  
3           specifically reference this subparagraph.

4           For the purposes of this subsection (q), "agronomic rates"  
5           means the application of not more than 20 tons per acre per  
6           year, except that the Board may allow a higher rate for  
7           individual sites where the owner or operator has demonstrated  
8           to the Board that the site's soil characteristics or crop needs  
9           require a higher rate.

10          (r) Cause or allow the storage or disposal of coal  
11          combustion waste unless:

12                 (1) such waste is stored or disposed of at a site or  
13                 facility for which a permit has been obtained or is not  
14                 otherwise required under subsection (d) of this Section; or

15                 (2) such waste is stored or disposed of as a part of  
16                 the design and reclamation of a site or facility which is  
17                 an abandoned mine site in accordance with the Abandoned  
18                 Mined Lands and Water Reclamation Act; or

19                 (3) such waste is stored or disposed of at a site or  
20                 facility which is operating under NPDES and Subtitle D  
21                 permits issued by the Agency pursuant to regulations  
22                 adopted by the Board for mine-related water pollution and  
23                 permits issued pursuant to the Federal Surface Mining  
24                 Control and Reclamation Act of 1977 (P.L. 95-87) or the  
25                 rules and regulations thereunder or any law or rule or  
26                 regulation adopted by the State of Illinois pursuant



1 thereto, and the owner or operator of the facility agrees  
2 to accept the waste; and either

3 (i) such waste is stored or disposed of in  
4 accordance with requirements applicable to refuse  
5 disposal under regulations adopted by the Board for  
6 mine-related water pollution and pursuant to NPDES and  
7 Subtitle D permits issued by the Agency under such  
8 regulations; or

9 (ii) the owner or operator of the facility  
10 demonstrates all of the following to the Agency, and  
11 the facility is operated in accordance with the  
12 demonstration as approved by the Agency: (1) the  
13 disposal area will be covered in a manner that will  
14 support continuous vegetation, (2) the facility will  
15 be adequately protected from wind and water erosion,  
16 (3) the pH will be maintained so as to prevent  
17 excessive leaching of metal ions, and (4) adequate  
18 containment or other measures will be provided to  
19 protect surface water and groundwater from  
20 contamination at levels prohibited by this Act, the  
21 Illinois Groundwater Protection Act, or regulations  
22 adopted pursuant thereto.

23 Notwithstanding any other provision of this Title, the  
24 disposal of coal combustion waste pursuant to item (2) or (3)  
25 of this subdivision (r) shall be exempt from the other  
26 provisions of this Title V, and notwithstanding the provisions

1 of Title X of this Act, the Agency is authorized to grant  
2 experimental permits which include provision for the disposal  
3 of wastes from the combustion of coal and other materials  
4 pursuant to items (2) and (3) of this subdivision (r).

5 (s) After April 1, 1989, offer for transportation,  
6 transport, deliver, receive or accept special waste for which a  
7 manifest is required, unless the manifest indicates that the  
8 fee required under Section 22.8 of this Act has been paid.

9 (t) Cause or allow a lateral expansion of a municipal solid  
10 waste landfill unit on or after October 9, 1993, without a  
11 permit modification, granted by the Agency, that authorizes the  
12 lateral expansion.

13 (u) Conduct any vegetable by-product treatment, storage,  
14 disposal or transportation operation in violation of any  
15 regulation, standards or permit requirements adopted by the  
16 Board under this Act. However, no permit shall be required  
17 under this Title V for the land application of vegetable  
18 by-products conducted pursuant to Agency permit issued under  
19 Title III of this Act to the generator of the vegetable  
20 by-products. In addition, vegetable by-products may be  
21 transported in this State without a special waste hauling  
22 permit, and without the preparation and carrying of a manifest.

23 (v) (Blank).

24 (w) Conduct any generation, transportation, or recycling  
25 of construction or demolition debris, clean or general, or  
26 uncontaminated soil generated during construction, remodeling,

1 repair, and demolition of utilities, structures, and roads that  
2 is not commingled with any waste, without the maintenance of  
3 documentation identifying the hauler, generator, place of  
4 origin of the debris or soil, the weight or volume of the  
5 debris or soil, and the location, owner, and operator of the  
6 facility where the debris or soil was transferred, disposed,  
7 recycled, or treated. This documentation must be maintained by  
8 the generator, transporter, or recycler for 3 years. This  
9 subsection (w) shall not apply to (1) a permitted pollution  
10 control facility that transfers or accepts construction or  
11 demolition debris, clean or general, or uncontaminated soil for  
12 final disposal, recycling, or treatment, (2) a public utility  
13 (as that term is defined in the Public Utilities Act) or a  
14 municipal utility, (3) the Illinois Department of  
15 Transportation, or (4) a municipality or a county highway  
16 department, with the exception of any municipality or county  
17 highway department located within a county having a population  
18 of over 3,000,000 inhabitants or located in a county that is  
19 contiguous to a county having a population of over 3,000,000  
20 inhabitants; but it shall apply to an entity that contracts  
21 with a public utility, a municipal utility, the Illinois  
22 Department of Transportation, or a municipality or a county  
23 highway department. The terms "generation" and "recycling" as  
24 used in this subsection do not apply to clean construction or  
25 demolition debris when (i) used as fill material below grade  
26 outside of a setback zone if covered by sufficient

1 uncontaminated soil to support vegetation within 30 days of the  
2 completion of filling or if covered by a road or structure,  
3 (ii) solely broken concrete without protruding metal bars is  
4 used for erosion control, or (iii) milled asphalt or crushed  
5 concrete is used as aggregate in construction of the shoulder  
6 of a roadway. The terms "generation" and "recycling", as used  
7 in this subsection, do not apply to uncontaminated soil that is  
8 not commingled with any waste when (i) used as fill material  
9 below grade or contoured to grade, or (ii) used at the site of  
10 generation.

11 (Source: P.A. 97-220, eff. 7-28-11; 98-239, eff. 8-9-13;  
12 98-484, eff. 8-16-13; 98-756, eff. 7-16-14.)