

1 AN ACT in relation to environmental protection.

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
5 by changing Section 42 as follows:

6 (415 ILCS 5/42) (from Ch. 111 1/2, par. 1042)

7 Sec. 42. Civil penalties.

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

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

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

27 (2) Any person that violates Section 12(g) of this
28 Act or any UIC permit or term or condition thereof, or
29 any filing requirement, regulation or order relating to
30 the State UIC program for all wells, except Class II
31 wells as defined by the Board under this Act, shall be

1 liable to a civil penalty not to exceed \$2,500 per day of
2 violation; provided, however, that any person who commits
3 such violations relating to the State UIC program for
4 Class II wells, as defined by the Board under this Act,
5 shall be liable to a civil penalty of not to exceed
6 \$10,000 for the violation and an additional civil penalty
7 of not to exceed \$1,000 for each day during which the
8 violation continues.

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

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

27 (4-5) In an administrative citation action under
28 Section 31.1 of this Act, any person found to have
29 violated any provision of subsection (p) of Section 21 of
30 this Act shall pay a civil penalty of \$1,500 for a first
31 offense and \$3,000 for a second or subsequent offense,
32 plus any hearing costs incurred by the Board and the
33 Agency. The penalties shall be deposited into the
34 Environmental Protection Trust Fund, to be used in

1 accordance with the provisions of the Environmental
2 Protection Trust Fund Act; except that if a unit of local
3 government issued the administrative citation, 50% of the
4 civil penalty shall be payable to the unit of local
5 government.

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

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

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

34 (d) The penalties provided for in this Section may be

1 recovered in a civil action.

2 (e) The State's Attorney of the county in which the
3 violation occurred, or the Attorney General, may, at the
4 request of the Agency or on his own motion, institute a civil
5 action for an injunction to restrain violations of this Act.

6 (f) The State's Attorney of the county in which the
7 violation occurred, or the Attorney General, shall bring such
8 actions in the name of the people of the State of Illinois.
9 Without limiting any other authority which may exist for the
10 awarding of attorney's fees and costs, the Board or a court
11 of competent jurisdiction may award costs and reasonable
12 attorney's fees, including the reasonable costs of expert
13 witnesses and consultants, to the State's Attorney or the
14 Attorney General in a case where he has prevailed against a
15 person who has committed a wilful, knowing or repeated
16 violation of the Act.

17 Any funds collected under this subsection (f) in which
18 the Attorney General has prevailed shall be deposited in the
19 Hazardous Waste Fund created in Section 22.2 of this Act. Any
20 funds collected under this subsection (f) in which a State's
21 Attorney has prevailed shall be retained by the county in
22 which he serves.

23 (g) All final orders imposing civil penalties pursuant
24 to this Section shall prescribe the time for payment of such
25 penalties. If any such penalty is not paid within the time
26 prescribed, interest on such penalty at the rate set forth in
27 subsection (a) of Section 1003 of the Illinois Income Tax
28 Act, shall be paid for the period from the date payment is
29 due until the date payment is received. However, if the time
30 for payment is stayed during the pendency of an appeal,
31 interest shall not accrue during such stay.

32 (h) In determining the appropriate civil penalty to be
33 imposed under subdivisions (a), (b)(1), (b)(2), (b)(3), or
34 (b)(5) of this Section, the Board is authorized to consider

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

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

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

8 (3) any economic benefits accrued by the violator
9 because of delay in compliance with requirements;

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

15 (5) the number, proximity in time, and gravity of
16 previously adjudicated violations of this Act by the
17 violator.

18 (Source: P.A. 90-773, eff. 8-14-98; 91-82, eff. 1-1-00.)