



SENATE JOURNAL

STATE OF ILLINOIS

NINETY-FOURTH GENERAL ASSEMBLY

36TH LEGISLATIVE DAY

WEDNESDAY, MAY 4, 2005

12:23 O'CLOCK P.M.

SENATE
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36th Legislative Day

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The Senate met pursuant to adjournment.
 Honorable Emil Jones, Jr., President of the Senate, presiding.
 Prayer by Francis Cardinal George, Archbishop of Chicago.
 Senator Maloney led the Senate in the Pledge of Allegiance.

The Journal of Tuesday, May 3, 2005, was being read when on motion of Senator Hunter, further reading of same was dispensed with and unless some Senator had corrections to offer, the Journal would stand approved. No corrections being offered, the Journal was ordered to stand approved.

JOINT ACTION MOTION FILED

The following Joint Action Motion to the Senate Bill listed below has been filed with the Secretary and referred to the Committee on Rules:

Motion to Concur in House Amendment 1 to Senate Bill 127

LEGISLATIVE MEASURES FILED

The following Committee amendment to the Senate Bill listed below has been filed with the Secretary and referred to the Committee on Rules:

Committee Amendment No. 3 to Senate Bill 276

The following Floor amendments to the Senate Bills listed below have been filed with the Secretary and referred to the Committee on Rules:

Floor Amendment No. 1 to Senate Bill 572
 Floor Amendment No. 1 to Senate Bill 811
 Floor Amendment No. 1 to Senate Bill 1548
 Floor Amendment No. 1 to Senate Bill 1721
 Floor Amendment No. 3 to Senate Bill 1791

The following Committee amendments to the House Bills listed below have been filed with the Secretary and referred to the Committee on Rules:

Committee Amendment No. 1 to House Bill 119
 Committee Amendment No. 1 to House Bill 128
 Committee Amendment No. 1 to House Bill 325
 Committee Amendment No. 1 to House Bill 551
 Committee Amendment No. 2 to House Bill 669
 Committee Amendment No. 2 to House Bill 709
 Committee Amendment No. 1 to House Bill 864
 Committee Amendment No. 2 to House Bill 866
 Committee Amendment No. 1 to House Bill 1041
 Committee Amendment No. 1 to House Bill 1100
 Committee Amendment No. 1 to House Bill 1349
 Committee Amendment No. 1 to House Bill 1487
 Committee Amendment No. 1 to House Bill 1679
 Committee Amendment No. 1 to House Bill 2417
 Committee Amendment No. 1 to House Bill 3604
 Committee Amendment No. 1 to House Bill 4030

The following Floor amendments to the House Bills listed below have been filed with the Secretary and referred to the Committee on Rules:

Floor Amendment No. 1 to House Bill 212

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Floor Amendment No. 1 to House Bill 487
 Floor Amendment No. 1 to House Bill 594
 Floor Amendment No. 1 to House Bill 1149
 Floor Amendment No. 1 to House Bill 2462
 Floor Amendment No. 1 to House Bill 3480

REPORTS FROM STANDING COMMITTEES

Senator Haine, Chairperson of the Committee on Insurance, to which was referred **House Bills numbered 265, 521, 911 and 2190**, reported the same back with the recommendation that the bills do pass.

Under the rules, the bills were ordered to a second reading.

Senator Haine, Chairperson of the Committee on Insurance, to which was referred **House Bill No. 316**, reported the same back with amendments having been adopted thereto, with the recommendation that the bill, as amended, do pass.

Under the rules, the bill was ordered to a second reading.

Senator Crotty, Chairperson of the Committee on Local Government, to which was referred **House Bills numbered 3, 212, 488, 655, 715, 1157, 1310, 1311, 1333, 1504, 1679, 1971, 2417, 2533, 2613, 3651, 3694, 3755, 3800 and 3831**, reported the same back with the recommendation that the bills do pass.

Under the rules, the bills were ordered to a second reading.

Senator Crotty, Chairperson of the Committee on Local Government, to which was referred **House Bills numbered 27 and 62**, reported the same back with amendments having been adopted thereto, with the recommendation that the bills, as amended, do pass.

Under the rules, the bills were ordered to a second reading.

Senator Lightford, Chairperson of the Committee on Education, to which was referred **House Bills numbered 384, 676, 695, 728, 1336, 1540, 1541, 2693, 3095, 3451, 3480, 3646, 3678 and 3822**, reported the same back with the recommendation that the bills do pass.

Under the rules, the bills were ordered to a second reading.

Senator Lightford, Chairperson of the Committee on Education, to which was referred **House Bill No. 881**, reported the same back with amendments having been adopted thereto, with the recommendation that the bill, as amended, do pass.

Under the rules, the bill was ordered to a second reading.

Senator Lightford, Chairperson of the Committee on Education, to which was referred the following Senate floor amendment, reported that the Committee recommends that it be adopted:

Senate Amendment No. 2 to Senate Bill 1815

Under the rules, the foregoing floor amendment is eligible for consideration on second reading.

Senator Meeks, Chairperson of the Committee on Housing & Community Affairs, to which was referred **House Bills numbered 237, 380, 828, 2462 and 2594**, reported the same back with the recommendation that the bills do pass.

Under the rules, the bills were ordered to a second reading.

Senator Meeks, Chairperson of the Committee on Housing & Community Affairs, to which was referred **House Bills numbered 55 and 4023**, reported the same back with amendments having been adopted thereto, with the recommendation that the bills, as amended, do pass.

Under the rules, the bills were ordered to a second reading.

Senator Munoz, Chairperson of the Committee on Transportation, to which was referred **House Bills numbered 708, 744, 947, 1195, 1334, 1387, 1411, 1550, 1565, 1597, 2348, 2351, 2444, 2449, 2467, 2510 and 2593**, reported the same back with the recommendation that the bills do pass.

Under the rules, the bills were ordered to a second reading.

Senator Munoz, Chairperson of the Committee on Transportation, to which was referred **House Bills numbered 21 and 769**, reported the same back with amendments having been adopted thereto, with the recommendation that the bills, as amended, do pass.

Under the rules, the bills were ordered to a second reading.

Senator Martinez, Chairperson of the Committee on Pensions & Investments, to which was referred **House Bills numbered 165, 1383, 1384, 1403, 1527, 2379 and 3740**, reported the same back with the recommendation that the bills do pass.

Under the rules, the bills were ordered to a second reading.

Senator Martinez, Chairperson of the Committee on Pensions & Investments, to which was referred **House Bill No. 157**, reported the same back with amendments having been adopted thereto, with the recommendation that the bill, as amended, do pass.

Under the rules, the bill was ordered to a second reading.

Senator J. Sullivan, Chairperson of the Committee on Agriculture & Conservation, to which was referred **House Bills numbered 1074, 1314, 1575, 2407, 2550 and 3526**, reported the same back with the recommendation that the bills do pass.

Under the rules, the bills were ordered to a second reading.

Senator J. Sullivan, Chairperson of the Committee on Agriculture & Conservation, to which was referred **House Bill No. 669**, reported the same back with amendments having been adopted thereto, with the recommendation that the bill, as amended, do pass.

Under the rules, the bill was ordered to a second reading.

Senator Clayborne, Chairperson of the Committee on Environment & Energy, to which was referred **House Bills numbered 406, 918, 931, 2250, 2572, 2853, 3532 and 3622**, reported the same back with the recommendation that the bills do pass.

Under the rules, the bills were ordered to a second reading.

Senator Clayborne, Chairperson of the Committee on Environment & Energy, to which was referred **House Bill No. 3048**, reported the same back with amendments having been adopted thereto, with the recommendation that the bill, as amended, do pass.

Under the rules, the bill was ordered to a second reading.

At the hour of 12:32 o'clock p.m., Senator Viverito presiding.

At the hour of 12:35 o'clock p.m., Senator Halvorson presiding.

REPORT FROM RULES COMMITTEE

Senator Viverito, Chairperson of the Committee on Rules, during its May 4, 2005 meeting, reported the following Legislative Measures have been assigned to the indicated Standing Committees of the Senate:

Appropriations II: **Floor Amendment No. 1 to Senate Bill 1548.**

Executive: **Committee Amendment No. 1 to House Bill 325; Committee Amendment No. 1 to House Bill 1349; Committee Amendment No. 3 to Senate Bill 276; Floor Amendment No. 1 to Senate Bill 572.**

Financial Institutions: **Committee Amendment No. 1 to House Bill 1100.**

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Higher Education: **Committee Amendment No. 1 to House Bill 1487.**

Judiciary: **Committee Amendment No. 1 to House Bill 220; Committee Amendment No. 1 to House Bill 864; Committee Amendment No. 1 to House Bill 3648.**

Labor: **Floor Amendment No. 3 to Senate Bill 1791.**

Licensed Activities: **Committee Amendment No. 2 to House Bill 866.**

Revenue: **Committee Amendment No. 1 to House Bill 551; Committee Amendment No. 1 to House Bill 709; Committee Amendment No. 1 to House Bill 1041.**

State Government: **Committee Amendment No. 1 to House Bill 128; Committee Amendment No. 1 to House Bill 1589.**

Senator Viverito, Chairperson of the Committee on Rules, during its May 4, 2005 meeting, reported the following Senate Resolutions have been assigned to the indicated Standing Committee of the Senate:

State Government: **Senate Resolutions Numbered 38, 92, 110, 115, 116, 139, 147, 148, 156, 157 and 178; Senate Joint Resolutions Numbered 3, 5, 13, 14, 20, 22, 26, 28, 31, 32, 34, 35, 41 and 43.**

Senator Viverito, Chairperson of the Committee on Rules, during its May 4, 2005 meeting, reported the following House Resolutions have been assigned to the indicated Standing Committee of the Senate:

State Government: **House Joint Resolutions Numbered 1, 2, 3, 4, 5, 10, 11, 13 and 19.**

PRESENTATION OF RESOLUTIONS

SENATE RESOLUTION 179

Offered by Senator Hunter and all Senators:
Mourns the death of William Arnold Ashby of Chicago.

SENATE RESOLUTION 180

Offered by Senator Hunter and all Senators:
Mourns the death of Eddie L. Steele of Chicago.

By unanimous consent, the foregoing resolutions were referred to the Resolutions Consent Calendar.

MESSAGES FROM THE HOUSE

A message from the House by
Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 127

A bill for AN ACT concerning transportation.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 127
Passed the House, as amended, May 3, 2005.

[May 4, 2005]

MARK MAHONEY, Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 127

AMENDMENT NO. 1. Amend Senate Bill 127 on page 1, line 22, by replacing "vehicle may" with "vehicle, including an antique motorcycle, may".

Under the rules, the foregoing **Senate Bill No. 127**, with House Amendment No. 1 was referred to the Secretary's Desk.

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of bills of the following titles, to-wit:

SENATE BILL NO. 459

A bill for AN ACT concerning transportation.

SENATE BILL NO. 521

A bill for AN ACT concerning insurance.

SENATE BILL NO. 526

A bill for AN ACT concerning safety.

SENATE BILL NO. 1637

A bill for AN ACT concerning elections.

SENATE BILL NO. 2103

A bill for AN ACT in relation to immunity.

Passed the House, May 3, 2005.

MARK MAHONEY, Clerk of the House

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of bills of the following titles, to-wit:

SENATE BILL NO. 12

A bill for AN ACT concerning insurance.

SENATE BILL NO. 15

A bill for AN ACT concerning State government.

SENATE BILL NO. 40

A bill for AN ACT concerning State government.

SENATE BILL NO. 45

A bill for AN ACT concerning criminal law.

SENATE BILL NO. 64

A bill for AN ACT concerning education.

SENATE BILL NO. 72

A bill for AN ACT concerning criminal law.

SENATE BILL NO. 75

A bill for AN ACT concerning housing.

SENATE BILL NO. 78

A bill for AN ACT concerning criminal law.

SENATE BILL NO. 87

A bill for AN ACT concerning education.

SENATE BILL NO. 95

A bill for AN ACT concerning family law.

SENATE BILL NO. 104

A bill for AN ACT concerning criminal law.

Passed the House, May 4, 2005.

MARK MAHONEY, Clerk of the House

[May 4, 2005]

**MESSAGE FROM THE PRESIDENT
OFFICE OF THE SENATE PRESIDENT
STATE OF ILLINOIS**

EMIL JONES, JR.
SENATE PRESIDENT

327 STATE CAPITOL
Springfield, Illinois 62706

May 4, 2005

Ms. Linda Hawker
Secretary of the Senate
403 State House
Springfield, Illinois 62706

Dear Madam Secretary:

Pursuant to Rule 3-2, I hereby appoint Senator Ira Silverstein to resume his position on the Senate Commerce & Economic Development Committee. This is effective immediately.

Sincerely,
s/Emil Jones, Jr.
Senate President

cc: Senate Minority Leader Frank Watson

READING BILLS FROM THE HOUSE OF REPRESENTATIVES A SECOND TIME

On motion of Senator Demuzio, **House Bill No. 15** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Hunter, **House Bill No. 20** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Cullerton, **House Bill No. 29** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Maloney, **House Bill No. 43** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Demuzio, **House Bill No. 59** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Cullerton, **House Bill No. 112** was taken up, read by title a second time. Floor Amendments numbered 1 and 2 were held in the Committee on Rules. There being no further amendments, the bill was ordered to a third reading.

On motion of Senator Cullerton, **House Bill No. 114** was taken up, read by title a second time. Floor Amendment No. 1 was held in the Committee on Rules. There being no further amendments, the bill was ordered to a third reading.

On motion of Senator Cullerton, **House Bill No. 115** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Bomke, **House Bill No. 116** was taken up, read by title a second time and ordered to a third reading.

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On motion of Senator Clayborne, **House Bill No. 156** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Demuzio, **House Bill No. 172** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Pankau, **House Bill No. 173** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Cullerton, **House Bill No. 180** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Demuzio, **House Bill No. 181** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Geo-Karis, **House Bill No. 197** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator J. Sullivan, **House Bill No. 203** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Hunter, **House Bill No. 210** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Hunter, **House Bill No. 211** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Martinez, **House Bill No. 215** was taken up, read by title a second time. Floor Amendment No. 1 was held in the Committee on Rules. There being no further amendments, the bill was ordered to a third reading.

On motion of Senator Martinez, **House Bill No. 227** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Burzynski, **House Bill No. 229** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Brady, **House Bill No. 245** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Demuzio, **House Bill No. 264** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Demuzio, **House Bill No. 270** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Demuzio, **House Bill No. 295** having been printed, was taken up and read by title a second time.

The following amendment was offered in the Committee on Agriculture & Conservation, adopted and ordered printed:

AMENDMENT NO. 1 TO HOUSE BILL 295

AMENDMENT NO. 1. Amend House Bill 295 as follows:

on page 1, by replacing lines 25 through 27 with the following:

"Each place of business which sells restricted use pesticides or non-restricted pesticides for use in the production of an agricultural commodity in containers with a capacity of 2.5 gallons or greater or 10 pounds or greater shall be considered a

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separate entity for the purpose of registration."

There being no further amendments, the bill, as amended, was ordered to a third reading.

On motion of Senator Collins, **House Bill No. 312** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Haine, **House Bill No. 324** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Cullerton, **House Bill No. 339** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Winkel, **House Bill No. 373** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Collins, **House Bill No. 381** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Haine, **House Bill No. 386** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Crotty, **House Bill No. 398** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Cronin, **House Bill No. 404** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Wojcik, **House Bill No. 413** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Link, **House Bill No. 414** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Haine, **House Bill No. 415** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Raoul, **House Bill No. 433** having been printed, was taken up and read by title a second time.

The following amendment was offered in the Committee on Environment & Energy, adopted and ordered printed:

AMENDMENT NO. 1 TO HOUSE BILL 433

AMENDMENT NO. 1. Amend House Bill 433 by replacing everything after the enacting clause with the following:

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

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

Sec. 44. Criminal acts; penalties.

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

(b) Calculated Criminal Disposal of Hazardous Waste.

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

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

(c) Criminal Disposal of Hazardous Waste.

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

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

(d) Unauthorized Use of Hazardous Waste.

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

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

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

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

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

(2) A person who is convicted of a violation of subdivision (1)(A), (1)(B) or (1)(C) of this subsection is guilty of a Class 4 felony. A person who is convicted of a violation of subdivision (1)(D) is guilty of a Class A misdemeanor. In addition to any other penalties prescribed by law, a person convicted of violating subdivision (1)(A), (1)(B) or (1)(C) is subject to a fine not to exceed \$100,000 for each day of such violation, and a person who is convicted of violating subdivision (1)(D) is subject to a fine not to exceed \$1,000.

(e) Unlawful Delivery of Hazardous Waste.

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

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

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

(f) Reckless Disposal of Hazardous Waste.

(1) A person commits Reckless Disposal of Hazardous Waste if he disposes of hazardous waste, and his acts which cause the hazardous waste to be disposed of, whether or not those acts are undertaken pursuant to or under color of any permit or license, are performed with a conscious disregard of a substantial and unjustifiable risk that such disposing of hazardous waste is a gross deviation from the standard of care which a reasonable person would exercise in the situation.

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

(g) Concealment of Criminal Disposal of Hazardous Waste.

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

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

(h) Violations; False Statements.

(1) Any person who knowingly makes a false material statement in an application for a permit or license required by this Act to treat, transport, store, or dispose of hazardous waste commits the offense of perjury and shall be subject to the penalties set forth in Section 32-2 of the Criminal Code of 1961.

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

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

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

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

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

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

(i) Verification.

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

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

(j) Violations of Other Provisions.

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

- (A) subsection (f) of Section 12 of this Act;
- (B) subsection (g) of Section 12 of this Act;
- (C) any term or condition of any Underground Injection Control (UIC) permit;
- (D) any filing requirement, regulation, or order relating to the State Underground

Injection Control (UIC) program;

- (E) any provision of any regulation, standard, or filing requirement under subsection (b) of Section 13 of this Act;
- (F) any provision of any regulation, standard, or filing requirement under subsection (b) of Section 39 of this Act;
- (G) any National Pollutant Discharge Elimination System (NPDES) permit issued under this Act or any term or condition of such permit;
- (H) subsection (h) of Section 12 of this Act;
- (I) subsection 6 of Section 39.5 of this Act;
- (J) any provision of any regulation, standard or filing requirement under Section 39.5 of this Act; ~~or~~

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

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

(2) A person convicted of a violation of subdivision (1) of this subsection commits a Class 4 felony, and in addition to any other penalty prescribed by law is subject to a fine not to exceed \$25,000 for each day of such violation.

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

- (A) subsection (f) of Section 12 of this Act;
- (B) subsection (g) of Section 12 of this Act;
- (C) any provision of any regulation, standard, or filing requirement under subsection (b) of Section 13 of this Act;
- (D) any provision of any regulation, standard, or filing requirement under subsection (b) of Section 39 of this Act;
- (E) any National Pollutant Discharge Elimination System (NPDES) permit issued under this Act;
- (F) subsection 6 of Section 39.5 of this Act; or
- (G) any provision of any regulation, standard, or filing requirement under Section 39.5 of this Act.

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

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

(B) render inaccurate any monitoring device or record required by the Agency or Board in connection with any such permit or with any discharge which is subject to the provisions of subsection (f) of Section 12 of this Act;

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

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

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

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

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

(1) A person commits the offense of criminal operation of a hazardous waste or PCB incinerator when, in the course of operating a hazardous waste or PCB incinerator, he knowingly and without justification operates the incinerator (i) without an Agency permit, or in knowing violation of the terms of an Agency permit, and (ii) as a result of such violation, knowingly places any person in danger of great bodily harm or knowingly creates an immediate or long term material danger to the public health or the environment.

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

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

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

(l) It shall be the duty of all State and local law enforcement officers to enforce this Act and the regulations adopted hereunder, and all such officers shall have authority to issue citations for such violations.

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

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

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

(p) Criminal Disposal of Waste.

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

(A) if required to have a permit under subsection (d) of Section 21 of this Act, knowingly conducts a waste-storage, waste-treatment, or waste-disposal operation in a quantity that exceeds 250 cubic feet of waste without a permit; or

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

(2) (A) A person who is convicted of a violation of item (A) of subdivision (1) of this subsection is guilty of a Class 4 felony for a first offense and, in addition to any other penalties provided by law, is subject to a fine not to exceed \$25,000 for each day of violation. A person who is convicted of a violation of item (A) of subdivision (1) of this subsection is guilty of a Class 3 felony for a second or subsequent offense and, in addition to any other penalties provided by law, is subject to a fine not to exceed \$50,000 for each day of violation.

(B) A person who is convicted of a violation of item (B) of subdivision (1) of this subsection is guilty of a Class A misdemeanor. However, a person who is convicted of a second or subsequent violation of item (B) of subdivision (1) of this subsection for the open dumping of waste in a quantity that exceeds 250 cubic feet is guilty of a Class 4 felony and, in addition to any other penalties provided by law, is subject to a fine not to exceed \$5,000 for each day of violation.

(Source: P.A. 89-235, eff. 8-4-95; 90-219, eff. 7-25-97; 90-344, eff. 1-1-98; 90-502, eff. 8-19-97; 90-655, eff. 7-30-98.)

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

There being no further amendments, the bill, as amended, was ordered to a third reading.

On motion of Senator Raoul, **House Bill No. 444** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Haine, **House Bill No. 445** was taken up, read by title a second time. Committee Amendment No. 1 was held in the Committee on Agriculture & Conservation. There being no further amendments, the bill was ordered to a third reading.

On motion of Senator Demuzio, **House Bill No. 497** was taken up, read by title a second time and ordered to a third reading.

At the hour of 12:55 o'clock p.m., the Chair announced that the Senate stand adjourned until Thursday, May 5, 2005, at 11:00 o'clock a.m.

[May 4, 2005]