

Reprinted 3/88

FILED MAR 1 1988

SENATE FILE 2246  
BY COMMITTEE ON ENVIRONMENT  
AND ENERGY UTILITIES

*(formerly SSB 2195)*

Passed Senate, Date 3/18/88 (p. 904) Passed House, Date 3/30/88 (p. 1209)  
Vote: Ayes 27 Nays 18 Vote: Ayes 67 Nays 30  
Approved April 14, 1988

A BILL FOR

1 An Act relating to the penalties for water pollution and  
2 hazardous waste disposal.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S.F. 2246

1 Section 1. Section 455B.191, subsection 1, Code 1987, is  
2 amended to read as follows:

3 1. Any person who violates any provision of part 1 of  
4 division III of this chapter or any permit, rule, standard, or  
5 order issued under part 1 of division III of this chapter  
6 shall be subject to a civil penalty not to exceed five  
7 thousand dollars for each day of such violation. ~~The civil~~  
8 ~~penalty shall be an alternative to any criminal penalty~~  
9 ~~provided under part 1 of division III of this chapter.~~

10 Sec. 2. Section 455B.191, subsection 2, Code 1987, is  
11 amended by striking the subsection and inserting the  
12 following:

13 2. Any person who negligently or knowingly violates  
14 section 455B.183 or section 455B.186 or any condition or  
15 limitation included in any permit issued under section  
16 455B.183, or who negligently or knowingly introduces into a  
17 sewer system or into a publicly owned treatment works any  
18 pollutant or hazardous substance which the person knew or  
19 reasonably should have known could cause personal injury or  
20 property damage or, other than in compliance with all  
21 applicable federal and state requirements or permits,  
22 negligently or knowingly causes a treatment works to violate  
23 any water quality standard, effluent standard, pretreatment  
24 standard or condition of a permit issued to the treatment  
25 works pursuant to section 455B.183 is guilty of a serious  
26 misdemeanor for a negligent violation and is guilty of an  
27 aggravated misdemeanor for a knowing violation. A conviction  
28 for a negligent violation is punishable by a fine of not more  
29 than twenty-five thousand dollars or by imprisonment for not  
30 more than one year, or both, for each day of violation;  
31 however, if the conviction is for a second or subsequent  
32 violation committed by a person under this section, the  
33 conviction is punishable by a fine of not more than fifty  
34 thousand dollars or by imprisonment for not more than two  
35 years, or both, for each day of violation. A conviction for a

1 knowing violation is punishable by a fine of not more than  
2 fifty thousand dollars or by imprisonment for not more than  
3 two years, or both, for each day of violation; however, if the  
4 conviction is for a second or subsequent violation committed  
5 by a person under this section, the conviction is punishable  
6 by a fine of not more than one hundred thousand dollars or by  
7 imprisonment for not more than five years, or both, for each  
8 day of violation. As used in this section, "hazardous  
9 substance" means hazardous substance as defined in section  
10 455B.381 or section 455B.411.

11 Sec. 3. NEW SECTION. 716B.1 DEFINITIONS.

12 As used in this chapter, unless the context otherwise  
13 requires:

14 1. "Person" means an agency of the state or federal  
15 government, a municipality, governmental subdivisions, inter-  
16 state body, public or private corporation, individual, part-  
17 nership, or other entity, and includes an officer, or  
18 governing or managing body of a municipality, governmental  
19 subdivision, interstate body, or public or private  
20 corporation.

21 2. "Department" means the department of natural resources.

22 3. "Disposal" or "dispose" means disposal as defined in  
23 section 455B.411, subsection 2.

24 4. "Hazardous waste" means a hazardous waste as defined in  
25 section 455B.411, subsection 4, or a hazardous substance as  
26 defined in 42 U.S.C. § 9601, or a hazardous substance as  
27 designated by regulations adopted by the administrator of the  
28 United States environmental protection agency pursuant to 42  
29 U.S.C. § 9602.

30 5. "Storage" or "store" means storage as defined in  
31 section 455B.411, subsection 9.

32 6. "Treatment" or "treat" means treatment as defined in  
33 section 455B.411, subsection 10.

34 Sec. 4. NEW SECTION. 716B.2 UNLAWFUL DISPOSAL OF HAZAR-  
35 DOUS WASTE -- PENALTIES.

1 A person who knowingly or with reason to know, disposes of  
2 hazardous waste or arranges for or allows the disposal of haz-  
3 ardous waste at any location other than one authorized by the  
4 department or the United States environmental protection  
5 agency, or in violation of any material term or condition of a  
6 hazardous waste facility permit, is guilty of an aggravated  
7 misdemeanor and upon conviction shall be punished by a fine of  
8 not more than twenty-five thousand dollars or imprisonment for  
9 not more than two years, or both, for each day of violation.  
10 If the conviction is for a violation committed after a first  
11 conviction under this section, the person is guilty of a class  
12 "D" felony and shall be punished by a fine of not more than  
13 fifty thousand dollars or imprisonment for not more than five  
14 years, or both, for each day of violation.

15 Sec. 5. NEW SECTION. 716B.3 UNLAWFUL TRANSPORTATION OF  
16 HAZARDOUS WASTE -- PENALTIES.

17 A person who knowingly or with reason to know, transports  
18 or causes to be transported any hazardous waste to any loca-  
19 tion other than a facility that is authorized to receive,  
20 treat, store, or dispose of the hazardous waste under rules  
21 adopted pursuant to 42 U.S.C. § 9601-9675 is guilty of an  
22 aggravated misdemeanor and upon conviction shall be punished  
23 by a fine of not more than twenty-five thousand dollars or  
24 imprisonment for not more than two years, or both, for each  
25 day of violation. If the conviction is for a violation com-  
26 mitted after a first conviction under this section, the person  
27 is guilty of a class "D" felony and shall be punished by a  
28 fine of not more than fifty thousand dollars or imprisonment  
29 for not more than five years, or both, for each day of  
30 violation.

31 Sec. 6. NEW SECTION. 716B.4 UNLAWFUL STORAGE OR TREAT-  
32 MENT OF HAZARDOUS WASTE -- PENALTIES.

33 A person who knowingly or with reason to know, treats or  
34 stores hazardous waste without a permit issued pursuant to 42  
35 U.S.C. § 6925 or § 6926 is guilty of an aggravated misdemeanor

1 and upon conviction shall be punished by a fine of not more  
2 than twenty-five thousand dollars or imprisonment for not more  
3 than two years, or both, for each day of violation. If the  
4 conviction is for a violation committed after a first  
5 conviction under this section, the person is guilty of a class  
6 "D" felony and shall be punished by a fine of not more than  
7 fifty thousand dollars or imprisonment for not more than five  
8 years, or both, for each day of violation.

## 9 EXPLANATION

10 This bill increases the penalties for negligently or know-  
11 ingly causing water pollution. The penalty for a negligent  
12 violation is a fine of not more than \$25,000 or imprisonment  
13 for not more than one year, or both, for each day of  
14 violation, unless the person had a previous conviction for the  
15 offense in which case the penalty is a fine of not more than  
16 \$50,000 or imprisonment for not more than two years, or both,  
17 for each day of violation. The penalty for a knowing  
18 violation is a fine of not more than \$50,000 or imprisonment  
19 for not more than two years, or both, for each day of  
20 violation, unless there was a previous conviction in which  
21 case the penalty is a fine of not more than \$100,000 or  
22 imprisonment for five years, or both, for each day of  
23 violation. The bill also strikes a provision that allows a  
24 civil penalty to be an alternative to any criminal penalty for  
25 a violation.

26 Sections 3, 4, 5, and 6 of the bill establish a new chapter  
27 penalizing unlawful disposal, transportation, storage, and  
28 treatment of hazardous waste. The penalty for any of the  
29 violations is a fine of not more than \$25,000 or imprisonment  
30 for not more than two years, or both, or, for a second or  
31 subsequent conviction of the same violation, a fine of not  
32 more than \$50,000 or imprisonment for not more than five  
33 years, or both, for each day a violation occurs.

34 COMPANION TO LSB 7446DH

35 SUCCESSOR TO SSB 2195 (LSB 7447DS)

LSB 7447SV 72

FILED MAR 11 1988

STATE OF IOWA

FISCAL NOTE

LSB No 7447S

Staff ID: JWR

REQ. BY SENATOR VARN

SENATE FILE 2246

In compliance with a written request received March 10, 1988, a fiscal note for SENATE FILE 2246 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

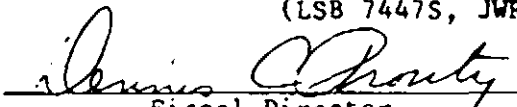
Senate File 2246 increases the penalties for violations of environmental laws involving water pollution and hazardous waste disposal. Fines for negligently or knowingly introducing hazardous waste or pollutants to a sewer or waste treatment system are raised, and fines for the unlawful storage, transportation, or disposal of hazardous waste are created. The money from these fines go to the general fund.

Fiscal Effect:

Currently, the fine for the violation of water pollution laws is \$10,000 per day with a fine of \$25,000 for second and subsequent violations. Present law does not distinguish between negligent and knowing violations. The Department of Natural Resources states that, due to the fact that the present maximum fine is rarely levied, raising the fines will not bring in any additional revenue. The new penalties for violation of hazardous waste laws would have a positive effect on the general fund, although the number of yearly convictions and the average award per conviction cannot be accurately estimated.

Source: Department of Natural Resources

(LSB 7447S, JWR)

  
Fiscal Director  
Legislative Fiscal Bureau  
Date: 3/10/88

SENATE FILE 2246

S-5337

1 Amend Senate File 2246 as follows:

2 1. By striking page 1, line 13 through page 2,  
3 line 10, and inserting the following:  
4 "2. Any person who negligently violates section  
5 455B.183 or section 455B.186 or any condition or  
6 limitation included in any permit issued under section  
7 455B.183, or who negligently introduces into a sewer  
8 system or into a publicly owned treatment works any  
9 pollutant or hazardous substance which the person knew  
10 or reasonably should have known could cause personal  
11 injury or property damage or, other than in compliance  
12 with all applicable federal and state requirements or  
13 permits, negligently causes a treatment works to  
14 violate any water quality standard, effluent standard,  
15 pretreatment standard or condition of a permit issued  
16 to the treatment works pursuant to section 455B.183 is  
17 guilty of a serious misdemeanor punishable, on  
18 conviction, by a fine of not more than twenty-five  
19 thousand dollars for each day of violation or by  
20 imprisonment for not more than one year, or both.

21 However, if the conviction is for a second or  
22 subsequent violation committed by a person under this  
23 subsection, the person is guilty of an aggravated  
24 misdemeanor which, on conviction, is punishable by a  
25 fine of not more than fifty thousand dollars for each  
26 day of violation or by imprisonment for not more than  
27 two years, or both.

28 Any person who knowingly violates section 455B.183  
29 or section 455B.186 or any condition or limitation  
30 included in any permit issued under section 455B.183,  
31 or who knowingly introduces into a sewer system or  
32 into a publicly owned treatment works any pollutant or  
33 hazardous substance which the person knew or  
34 reasonably should have known could cause personal  
35 injury or property damage or, other than in compliance  
36 with all applicable federal and state requirements or  
37 permits, knowingly causes a treatment works to violate  
38 any water quality standard, effluent standard,  
39 pretreatment standard or condition of a permit issued  
40 to the treatment works pursuant to section 455B.183 is  
41 guilty of an aggravated misdemeanor punishable, on  
42 conviction, by a fine of not more than fifty thousand  
43 dollars for each day of violation or by imprisonment  
44 for not more than two years, or both. However, if the  
45 conviction is for a second or subsequent violation  
46 committed by a person under this subsection, the  
47 person is guilty of a class "D" felony which, on  
48 conviction, is punishable by a fine of not more than  
49 one hundred thousand dollars for each day of violation  
50 or by imprisonment for not more than five years, or

S-5337 Page 2

1 both.

2 As used in this subsection, "hazardous substance"  
3 means hazardous substance as defined in section  
4 455B.381 or section 455B.411."

5 2. Page 3, by striking lines 6 through 14 and  
6 inserting the following: "hazardous waste facility  
7 permit, is guilty of a class "D" felony and upon  
8 conviction shall be punished by a fine of not more  
9 than fifty thousand dollars for each day of violation  
10 or imprisonment for not more than five years, or both.  
11 If the conviction is for a violation committed after a  
12 first conviction under this section, the person is  
13 guilty of a class "C" felony and shall be punished by  
14 a fine of not more than one hundred thousand dollars  
15 for each day of violation or imprisonment for not more  
16 than ten years, or both."

17 3. Page 3, by striking lines 21 through 30 and  
18 inserting the following: "adopted pursuant to 42  
19 U.S.C. § 9601-9675 is guilty of a class "D" felony and  
20 upon conviction shall be punished by a fine of not  
21 more than fifty thousand dollars for each day of  
22 violation or imprisonment for not more than five  
23 years, or both. If the conviction is for a violation  
24 committed after a first conviction under this section,  
25 the person is guilty of a class "C" felony and shall  
26 be punished by a fine of not more than one hundred  
27 thousand dollars for each day of violation or  
28 imprisonment for not more than ten years, or both."

29 4. By striking page 3, line 35 through page 4,  
30 line 8, and inserting the following: "U.S.C. § 6925  
31 or § 6926 is guilty of a class "D" felony and upon  
32 conviction shall be punished by a fine of not more  
33 than fifty thousand dollars for each day of violation  
34 or imprisonment for not more than five years, or both.  
35 If the conviction is for a violation committed after a  
36 first conviction under this section, the person is  
37 guilty of a class "C" felony and shall be punished by  
38 a fine of not more than one hundred thousand dollars  
39 for each day of violation or imprisonment for not more  
40 than ten years, or both."

41 5. Page 4, by inserting after line 8 the  
42 following:

43 "Sec. 7. NEW SECTION. 716B.5 ENFORCEMENT.

44 The attorney general or the county attorney for the  
45 county in which a violation occurs is responsible for  
46 enforcement of this chapter."

S-5337

Filed March 11, 1988

BY RICHARD VARN

Withdrawn 318 (p 903)



SENATE FILE 2246

S-5442

1 Amend Senate File 2246 as follows:  
2 1. Page 1, line 29, by inserting after the word  
3 "dollars" the following: "for each day of violation".  
4 2. Page 1, line 30, by striking the words ", for  
5 each day of violation".  
6 3. Page 1, line 32, by striking the word  
7 "section" and inserting the following: "subsection".  
8 4. Page 1, line 34, by inserting after the word  
9 "dollars" the following: "for each day of violation".  
10 5. Page 1, line 35, by striking the words ", for  
11 each day of violation".  
12 6. Page 2, line 2, by inserting after the word  
13 "dollars" the following: "for each day of violation".  
14 7. Page 2, line 3, by striking the words ", for  
15 each day of violation".  
16 8. Page 2, line 5, by striking the word "section"  
17 and inserting the following: "subsection".  
18 9. Page 2, line 6, by inserting after the word  
19 "dollars" the following: "for each day of violation".  
20 10. Page 2, lines 7 and 8, by striking the words  
21 "for each day of violation".  
22 11. Page 3, line 8, by inserting after the word  
23 "dollars" the following: "for each day of violation".  
24 12. Page 3, line 9, by striking the words ", for  
25 each day of violation".  
26 13. Page 3, line 13, by inserting after the word  
27 "dollars" the following: "for each day of violation".  
28 14. Page 3, line 14, by striking the words ", for  
29 each day of violation".  
30 15. Page 3, line 23, by inserting after the word  
31 "dollars" the following: "for each day of violation".  
32 16. Page 3, lines 24 and 25, by striking the  
33 words ", for each day of violation".  
34 17. Page 3, line 28, by inserting after the word  
35 "dollars" the following: "for each day of violation".  
36 18. Page 3, lines 29 and 30, by striking the  
37 words ", for each day of violation".  
38 19. Page 4, line 2, by inserting after the word  
39 "dollars" the following: "for each day of violation".  
40 20. Page 4, line 3, by striking the words ", for  
41 each day of violation".  
42 21. Page 4, line 7, by inserting after the word  
43 "dollars" the following: "for each day of violation".  
44 22. Page 4, line 8, by striking the words ", for  
45 each day of violation".  
46 23. Page 4, by inserting after line 8 the  
47 following:  
48 "Sec. 7. NEW SECTION. 716B.5 ENFORCEMENT.  
49 The attorney general or the county attorney for the  
50 county in which a violation occurs is responsible for  
Page 2  
1 enforcement of this chapter."

Enrgy 3/21  
Re Pass 3/24 (p. 1063)

SENATE FILE 2246

BY COMMITTEE ON ENVIRONMENT  
AND ENERGY UTILITIES

(AS AMENDED AND PASSED BY THE SENATE MARCH 18, 1988)

\_\_\_\_\_ - New Language by the Senate

\* - Language Stricken by the Senate

Passed Senate, Date 3/18/88 (p. 904) Passed House, Date 3/30/88 (p. 1204)

Vote: Ayes 27 Nays 18 Vote: Ayes 267 Nays 30

Approved April 14, 1988 (p. 1612)

### A BILL FOR

- 1 An Act relating to the penalties for water pollution and
- 2 hazardous waste disposal.

SENATE FILE 2246

H-5954

1 Amend Senate File 2246, as amended, passed, and re-  
2 printed by the Senate, as follows:

3 1. Page 1, by inserting before line 1 the  
4 following:

5 "Section 1. Section 455B.109, subsection 1,  
6 unnumbered paragraph 1, Code 1987, is amended to read  
7 as follows:

8 The commission may establish, by rule, a schedule  
9 or range of civil penalties which may be  
10 administratively assessed. The schedule shall provide  
11 procedures and criteria for the administrative  
12 assessment of penalties of not more than one five  
13 thousand dollars per day for minor violations of this  
14 chapter or rules, permits, or orders adopted or issued  
15 under this chapter. A civil penalty may be assessed  
16 for each day on which a violation occurs. In adopting  
17 a schedule or range of penalties and in proposing or  
18 assessing a penalty, the commission and director shall  
19 consider among other relevant factors the following:"

20 2. By renumbering as required.

w/d 3/30 (p. 1204)

By HANSON of Delaware

H-5954 FILED MARCH 28, 1988

SENATE FILE 2246

H-6024

1 Amend amendment, H-5954, to Senate File 2246 as  
2 amended, passed, and reprinted by the Senate as  
3 follows:

4 1. Page 1, line 12, by striking the words "one  
5 five" and inserting the following: "one".

Place w/d 3/30 (p. 1204)

By PAULIN of Plymouth

H-6024 FILED MARCH 29, 1988

1 Section 1. Section 455B.191, subsection 1, Code 1987, is  
2 amended to read as follows:

3 1. Any person who violates any provision of part 1 of  
4 division III of this chapter or any permit, rule, standard, or  
5 order issued under part 1 of division III of this chapter  
6 shall be subject to a civil penalty not to exceed five  
7 thousand dollars for each day of such violation. ~~The civil~~  
8 ~~penalty shall be an alternative to any criminal penalty~~  
9 ~~provided under part 1 of division III of this chapter.~~

10 Sec. 2. Section 455B.191, subsection 2, Code 1987, is  
11 amended by striking the subsection and inserting the  
12 following:

13 2. Any person who negligently or knowingly violates  
14 section 455B.183 or section 455B.186 or any condition or  
15 limitation included in any permit issued under section  
16 455B.183, or who negligently or knowingly introduces into a  
17 sewer system or into a publicly owned treatment works any  
18 pollutant or hazardous substance which the person knew or  
19 reasonably should have known could cause personal injury or  
20 property damage or, other than in compliance with all  
21 applicable federal and state requirements or permits,  
22 negligently or knowingly causes a treatment works to violate  
23 any water quality standard, effluent standard, pretreatment  
24 standard or condition of a permit issued to the treatment  
25 works pursuant to section 455B.183 is guilty of a serious  
26 misdemeanor for a negligent violation and is guilty of an  
27 aggravated misdemeanor for a knowing violation. A conviction  
28 for a negligent violation is punishable by a fine of not more  
29 than twenty-five thousand dollars for each day of violation or  
\* 30 by imprisonment for not more than one year, or both; however,  
31 if the conviction is for a second or subsequent violation  
32 committed by a person under this subsection, the conviction is  
33 punishable by a fine of not more than fifty thousand dollars  
34 for each day of violation or by imprisonment for not more than  
\* 35 two years, or both. A conviction for a knowing violation is

1 punishable by a fine of not more than fifty thousand dollars  
2 for each day of violation or by imprisonment for not more than  
\* 3 two years, or both; however, if the conviction is for a second  
4 or subsequent violation committed by a person under this  
5 subsection, the conviction is punishable by a fine of not more  
6 than one hundred thousand dollars for each day of violation or  
\* 7 by imprisonment for not more than five years, or both,. As  
8 used in this section, "hazardous substance" means hazardous  
9 substance as defined in section 455B.381 or section 455B.411.

10 Sec. 3. NEW SECTION. 716B.1 DEFINITIONS.

11 As used in this chapter, unless the context otherwise  
12 requires:

13 1. "Person" means an agency of the state or federal  
14 government, a municipality, governmental subdivisions, inter-  
15 state body, public or private corporation, individual, part-  
16 nership, or other entity, and includes an officer, or  
17 governing or managing body of a municipality, governmental  
18 subdivision, interstate body, or public or private  
19 corporation.

20 2. "Department" means the department of natural resources.

21 3. "Disposal" or "dispose" means disposal as defined in  
22 section 455B.411, subsection 2.

23 4. "Hazardous waste" means a hazardous waste as defined in  
24 section 455B.411, subsection 4, or a hazardous substance as  
25 defined in 42 U.S.C. § 9601, or a hazardous substance as  
26 designated by regulations adopted by the administrator of the  
27 United States environmental protection agency pursuant to 42  
28 U.S.C. § 9602.

29 5. "Storage" or "store" means storage as defined in  
30 section 455B.411, subsection 9.

31 6. "Treatment" or "treat" means treatment as defined in  
32 section 455B.411, subsection 10.

33 Sec. 4. NEW SECTION. 716B.2 UNLAWFUL DISPOSAL OF HAZAR-  
34 DOUS WASTE -- PENALTIES.

35 A person who knowingly or with reason to know, disposes of

1 hazardous waste or arranges for or allows the disposal of haz-  
 2 ardous waste at any location other than one authorized by the  
 3 department or the United States environmental protection  
 4 agency, or in violation of any material term or condition of a  
 5 hazardous waste facility permit, is guilty of an aggravated  
 6 misdemeanor and upon conviction shall be punished by a fine of  
 7 not more than twenty-five thousand dollars for each day of  
 8 violation or imprisonment for not more than two years, or  
 \* 9 both. If the conviction is for a violation committed after a  
 10 first conviction under this section, the person is guilty of a  
 11 class "D" felony and shall be punished by a fine of not more  
 12 than fifty thousand dollars for each day of violation or  
 \* 13 imprisonment for not more than five years, or both.

14 Sec. 5. NEW SECTION. 716B.3 UNLAWFUL TRANSPORTATION OF  
 15 HAZARDOUS WASTE -- PENALTIES.

16 A person who knowingly or with reason to know, transports  
 17 or causes to be transported any hazardous waste to any loca-  
 18 tion other than a facility that is authorized to receive,  
 19 treat, store, or dispose of the hazardous waste under rules  
 20 adopted pursuant to 42 U.S.C. § 9601-9675 is guilty of an  
 21 aggravated misdemeanor and upon conviction shall be punished  
 22 by a fine of not more than twenty-five thousand dollars for  
 23 each day of violation or imprisonment for not more than two  
 \* 24 years, or both. If the conviction is for a violation com-  
 25 mitted after a first conviction under this section, the person  
 26 is guilty of a class "D" felony and shall be punished by a  
 27 fine of not more than fifty thousand dollars for each day of  
 28 violation or imprisonment for not more than five years, or  
 \* 29 both.

30 Sec. 6. NEW SECTION. 716B.4 UNLAWFUL STORAGE OR TREAT-  
 31 MENT OF HAZARDOUS WASTE -- PENALTIES.

32 A person who knowingly or with reason to know, treats or  
 33 stores hazardous waste without a permit issued pursuant to 42  
 34 U.S.C. § 6925 or § 6926 is guilty of an aggravated misdemeanor  
 35 and upon conviction shall be punished by a fine of not more

1 than twenty-five thousand dollars for each day of violation or  
 \* 2 imprisonment for not more than two years, or both. If the  
 3 conviction is for a violation committed after a first  
 4 conviction under this section, the person is guilty of a class  
 5 "D" felony and shall be punished by a fine of not more than  
 6 fifty thousand dollars for each day of violation or  
 \* 7 imprisonment for not more than five years, or both.

8 Sec. 7. NEW SECTION. 716B.5 ENFORCEMENT.

9 The attorney general or the county attorney for the county  
 10 in which a violation occurs is responsible for enforcement of  
 11 this chapter.

12 COMPANION TO LSB 7446DH  
 13 SUCCESSOR TO SSB 2195 (LSB 7447DS)  
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LSR

Vann, Ch.

SSB 2195

SSB 2195

ENVIRONMENT +

ENVIRONMENT AND ENERGY UTILITIES: Vann, Chair: Delahery and Rife

ENERGY UTILITIES

SENATE FILE 2246

BY (PROPOSED ATTORNEY  
GENERAL BILL)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Approved \_\_\_\_\_

### A BILL FOR

1 An Act relating to the penalties for water pollution and  
2 hazardous waste disposal.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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TLSB 7447DS 72

mf/jw/5

1 Section 1. Section 455B.191, subsection 1, Code 1987, is  
2 amended to read as follows:

3 1. Any person who violates any provision of part 1 of  
4 division III of this chapter or any permit, rule, standard, or  
5 order issued under part 1 of division III of this chapter  
6 shall be subject to a civil penalty not to exceed five  
7 thousand dollars for each day of such violation. ~~The civil~~  
8 ~~penalty shall be an alternative to any criminal penalty~~  
9 ~~provided under part 1 of division III of this chapter.~~

10 Sec. 2. Section 455B.191, subsection 2, Code 1987, is  
11 amended by striking the subsection and inserting the  
12 following:

13 2. Any person who negligently or knowingly violates  
14 section 455B.183 or section 455B.186 or any condition or  
15 limitation included in any permit issued under section  
16 455B.183, or who negligently or knowingly introduces into a  
17 sewer system or into a publicly owned treatment works any  
18 pollutant or hazardous substance which the person knew or  
19 reasonably should have known could cause personal injury or  
20 property damage or, other than in compliance with all  
21 applicable federal and state requirements or permits,  
22 negligently or knowingly causes a treatment works to violate  
23 any water quality standard, effluent standard, pretreatment  
24 standard or condition of a permit issued to the treatment  
25 works pursuant to section 455B.183 is guilty of a serious  
26 misdemeanor for a negligent violation and is guilty of an  
27 aggravated misdemeanor for a knowing violation. A conviction  
28 for a negligent violation is punishable by a fine of not more  
29 than twenty-five thousand dollars or by imprisonment for not  
30 more than one year, or both, for each day of violation;  
31 however, if the conviction is for a second or subsequent  
32 violation committed by a person under this section, the  
33 conviction is punishable by a fine of not more than fifty  
34 thousand dollars or by imprisonment for not more than two  
35 years, or both, for each day of violation. A conviction for a



1 knowing violation is punishable by a fine of not more than  
2 fifty thousand dollars or by imprisonment for not more than  
3 two years, or both, for each day of violation; however, if the  
4 conviction is for a second or subsequent violation committed  
5 by a person under this section, the conviction is punishable  
6 by a fine of not more than one hundred thousand dollars or by  
7 imprisonment for not more than five years, or both, for each  
8 day of violation. As used in this section, "hazardous  
9 substance" means hazardous substance as defined in section  
10 455B.381 or section 455B.411.

11 Sec. 3. NEW SECTION. 716B.1 DEFINITIONS.

12 As used in this chapter, unless the context otherwise  
13 requires:

14 1. "Person" means an agency of the state or federal  
15 government, a municipality, governmental subdivisions, inter-  
16 state body, public or private corporation, individual, part-  
17 nership, or other entity, and includes an officer, or  
18 governing or managing body of a municipality, governmental  
19 subdivision, interstate body, or public or private  
20 corporation.

21 2. "Department" means the department of natural resources.

22 3. "Disposal" or "dispose" means disposal as defined in  
23 section 455B.411, subsection 2.

24 4. "Hazardous waste" means a hazardous waste as defined in  
25 section 455B.411, subsection 4, or a hazardous substance as  
26 defined in 42 U.S.C. § 9601, or a hazardous substance as  
27 designated by regulations adopted by the administrator of the  
28 United States environmental protection agency pursuant to 42  
29 U.S.C. § 9602.

30 5. "Storage" or "store" means storage as defined in  
31 section 455B.411, subsection 9.

32 6. "Treatment" or "treat" means treatment as defined in  
33 section 455B.411, subsection 10.

34 Sec. 4. NEW SECTION. 716B.2 UNLAWFUL DISPOSAL OF HAZAR-  
35 DOUS WASTE -- PENALTIES.

1 A person who knowingly or with reason to know, disposes of  
2 hazardous waste or arranges for or allows the disposal of haz-  
3 ardous waste at any location other than one authorized by the  
4 department or the United States environmental protection  
5 agency, or in violation of any material term or condition of a  
6 hazardous waste facility permit, is guilty of an aggravated  
7 misdemeanor and upon conviction shall be punished by a fine of  
8 not more than twenty-five thousand dollars or imprisonment for  
9 not more than two years, or both, for each day of violation.  
10 If the conviction is for a violation committed after a first  
11 conviction under this section, the person is guilty of a class  
12 "D" felony and shall be punished by a fine of not more than  
13 fifty thousand dollars or imprisonment for not more than five  
14 years, or both, for each day of violation.

15 Sec. 5. NEW SECTION. 716B.3 UNLAWFUL TRANSPORTATION OF  
16 HAZARDOUS WASTE -- PENALTIES.

17 A person who knowingly or with reason to know, transports  
18 or causes to be transported any hazardous waste to any loca-  
19 tion other than a facility that is authorized to receive,  
20 treat, store, or dispose of the hazardous waste under rules  
21 adopted pursuant to 42 U.S.C. § 9601-9675 is guilty of an  
22 aggravated misdemeanor and upon conviction shall be punished  
23 by a fine of not more than twenty-five thousand dollars or  
24 imprisonment for not more than two years, or both, for each  
25 day of violation. If the conviction is for a violation com-  
26 mitted after a first conviction under this section, the person  
27 is guilty of a class "D" felony and shall be punished by a  
28 fine of not more than fifty thousand dollars or imprisonment  
29 for not more than five years, or both, for each day of  
30 violation.

31 Sec. 6. NEW SECTION. 716B.4 UNLAWFUL STORAGE OR TREAT-  
32 MENT OF HAZARDOUS WASTE -- PENALTIES.

33 A person who knowingly or with reason to know, treats or  
34 stores hazardous waste without a permit issued pursuant to 42  
35 U.S.C. § 6925 or § 6926 is guilty of an aggravated misdemeanor

1 and upon conviction shall be punished by a fine of not more  
2 than twenty-five thousand dollars or imprisonment for not more  
3 than two years, or both, for each day of violation. If the  
4 conviction is for a violation committed after a first  
5 conviction under this section, the person is guilty of a class  
6 "D" felony and shall be punished by a fine of not more than  
7 fifty thousand dollars or imprisonment for not more than five  
8 years, or both, for each day of violation.

9 EXPLANATION

10 This bill increases the penalties for negligently or know-  
11 ingly causing water pollution. The penalty for a negligent  
12 violation is a fine of not more than \$25,000 or imprisonment  
13 for not more than one year, or both, for each day of  
14 violation, unless the person had a previous conviction for the  
15 offense in which case the penalty is a fine of not more than  
16 \$50,000 or imprisonment for not more than two years, or both,  
17 for each day of violation. The penalty for a knowing  
18 violation is a fine of not more than \$50,000 or imprisonment  
19 for not more than two years, or both, for each day of  
20 violation, unless there was a previous conviction in which  
21 case the penalty is a fine of not more than \$100,000 or  
22 imprisonment for five years, or both, for each day of  
23 violation. The bill also strikes a provision that allows a  
24 civil penalty to be an alternative to any criminal penalty for  
25 a violation.

26 Sections 3, 4, 5, and 6 of the bill establish a new chapter  
27 penalizing unlawful disposal, transportation, storage, and  
28 treatment of hazardous waste. The penalty for any of the  
29 violations is a fine of not more than \$25,000 or imprisonment  
30 for not more than two years, or both, or, for a second or  
31 subsequent conviction of the same violation, a fine of not  
32 more than \$50,000 or imprisonment for not more than five  
33 years, or both, for each day a violation occurs.

34 BACKGROUND STATEMENT

35 SUBMITTED BY THE AGENCY

1     Amendments to section 455B.191: The proposed amendments  
2 are needed to update penalty provisions regarding criminal  
3 violations of our water pollution statutes. The amendments  
4 follow, in part, recent amendments to the Clear Water Act and  
5 are needed to ensure that our water resources are protected  
6 and that it simply is not profitable to pollute rather than  
7 comply with the law. These amendments eliminate the alter-  
8 native language in 455B.191(1)(1987) and distinguish between  
9 negligent and knowing violations of our water pollution  
10 statutes. Water is a precious resource and these amendments  
11 will assist the state in preserving this resource.

12     Proposed hazardous waste criminal provision: In 1985 a  
13 decision was made to return to the federal government, the  
14 RCRA program dealing with hazardous waste enforcement. In the  
15 process the provisions of § 455B.417 and other provisions were  
16 suspended which leaves the state without any enforceable  
17 criminal provisions dealing with hazardous waste  
18 transportation, treatment, storage, or disposal at the state  
19 level. The purpose of the proposed legislation is to provide  
20 a means to deal with illegal transportation, treatment,  
21 storage, or disposal of hazardous waste so that the state does  
22 not have to rely on the federal government to perform the job.  
23 Surrounding states have strict criminal provisions dealing  
24 with hazardous waste violations. This legislation would  
25 prevent Iowa from becoming an island to which such violators  
26 might flee to avoid prosecution by other states.

27                     COMPANION TO LSB 7446DH  
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~~penalty shall be an alternative to any criminal penalty provided under part 1 of division III of this chapter:~~

Sec. 2. Section 455B.191, subsection 2, Code 1987, is amended by striking the subsection and inserting the following:

2. Any person who negligently or knowingly violates section 455B.183 or section 455B.186 or any condition or limitation included in any permit issued under section 455B.183, or who negligently or knowingly introduces into a sewer system or into a publicly owned treatment works any pollutant or hazardous substance which the person knew or reasonably should have known could cause personal injury or property damage or, other than in compliance with all applicable federal and state requirements or permits, negligently or knowingly causes a treatment works to violate any water quality standard, effluent standard, pretreatment standard or condition of a permit issued to the treatment works pursuant to section 455B.183 is guilty of a serious misdemeanor for a negligent violation and is guilty of an aggravated misdemeanor for a knowing violation. A conviction for a negligent violation is punishable by a fine of not more than twenty-five thousand dollars for each day of violation or by imprisonment for not more than one year, or both; however, if the conviction is for a second or subsequent violation committed by a person under this subsection, the conviction is punishable by a fine of not more than fifty thousand dollars for each day of violation or by imprisonment for not more than two years, or both. A conviction for a knowing violation is punishable by a fine of not more than fifty thousand dollars for each day of violation or by imprisonment for not more than two years, or both; however, if the conviction is for a second or subsequent violation committed by a person under this subsection, the conviction is punishable by a fine of not more than one hundred thousand dollars for each day of violation or by imprisonment for not more than five years, or both. As

SF 2246

SENATE FILE 2246

AN ACT

RELATING TO THE PENALTIES FOR WATER POLLUTION AND HAZARDOUS WASTE DISPOSAL.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 455B.191, subsection 1, Code 1987, is amended to read as follows:

1. Any person who violates any provision of part 1 of division III of this chapter or any permit, rule, standard, or order issued under part 1 of division III of this chapter shall be subject to a civil penalty not to exceed five thousand dollars for each day of such violation. ~~The civil~~

used in this section, "hazardous substance" means hazardous substance as defined in section 455B.381 or section 455B.411.

Sec. 3. NEW SECTION. 716B.1 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Person" means an agency of the state or federal government, a municipality, governmental subdivisions, interstate body, public or private corporation, individual, partnership, or other entity, and includes an officer, or governing or managing body of a municipality, governmental subdivision, interstate body, or public or private corporation.

2. "Department" means the department of natural resources.

3. "Disposal" or "dispose" means disposal as defined in section 455B.411, subsection 2.

4. "Hazardous waste" means a hazardous waste as defined in section 455B.411, subsection 4, or a hazardous substance as defined in 42 U.S.C. § 9601, or a hazardous substance as designated by regulations adopted by the administrator of the United States environmental protection agency pursuant to 42 U.S.C. § 9602.

5. "Storage" or "store" means storage as defined in section 455B.411, subsection 9.

6. "Treatment" or "treat" means treatment as defined in section 455B.411, subsection 10.

Sec. 4. NEW SECTION. 716B.2 UNLAWFUL DISPOSAL OF HAZARDOUS WASTE -- PENALTIES.

A person who knowingly or with reason to know, disposes of hazardous waste or arranges for or allows the disposal of hazardous waste at any location other than one authorized by the department or the United States environmental protection agency, or in violation of any material term or condition of a hazardous waste facility permit, is guilty of an aggravated misdemeanor and upon conviction shall be punished by a fine of not more than twenty-five thousand dollars for each day of

violation or imprisonment for not more than two years, or both. If the conviction is for a violation committed after a first conviction under this section, the person is guilty of a class "D" felony and shall be punished by a fine of not more than fifty thousand dollars for each day of violation or imprisonment for not more than five years, or both.

Sec. 5. NEW SECTION. 716B.3 UNLAWFUL TRANSPORTATION OF HAZARDOUS WASTE -- PENALTIES.

A person who knowingly or with reason to know, transports or causes to be transported any hazardous waste to any location other than a facility that is authorized to receive, treat, store, or dispose of the hazardous waste under rules adopted pursuant to 42 U.S.C. § 9601-9675 is guilty of an aggravated misdemeanor and upon conviction shall be punished by a fine of not more than twenty-five thousand dollars for each day of violation or imprisonment for not more than two years, or both. If the conviction is for a violation committed after a first conviction under this section, the person is guilty of a class "D" felony and shall be punished by a fine of not more than fifty thousand dollars for each day of violation or imprisonment for not more than five years, or both.

Sec. 6. NEW SECTION. 716B.4 UNLAWFUL STORAGE OR TREATMENT OF HAZARDOUS WASTE -- PENALTIES.

A person who knowingly or with reason to know, treats or stores hazardous waste without a permit issued pursuant to 42 U.S.C. § 6925 or § 6926 is guilty of an aggravated misdemeanor and upon conviction shall be punished by a fine of not more than twenty-five thousand dollars for each day of violation or imprisonment for not more than two years, or both. If the conviction is for a violation committed after a first conviction under this section, the person is guilty of a class "D" felony and shall be punished by a fine of not more than fifty thousand dollars for each day of violation or imprisonment for not more than five years, or both.

Sec. 7. NEW SECTION. 716B.5 ENFORCEMENT.

The attorney general or the county attorney for the county in which a violation occurs is responsible for enforcement of this chapter.

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JO ANN ZIMMERMAN  
President of the Senate

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DONALD D. AVENSON  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2246, Seventy-second General Assembly.

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JOHN F. DWYER  
Secretary of the Senate

Approved April 14, 1988

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TERRY E. BRANSTAD  
Governor

**SF 2246**