

13: 1E-9

LEGISLATIVE HISTORY CHECKLIST

(Hazardous waste--prohibits certain)

NJSA 13:1E-9

LANS 1982

CHAPTER 123

Bill No. A1204

Sponsor(s) Lesniak

Date Introduced May 3, 1982

Committee: Assembly Agriculture and Environment

Senate Energy and Environment

Amended during passage Yes *
*
* Amendments during passage denoted by asterisks

Date of Passage: Assembly May 17, 1982

Senate July 12, 1982

Date of approval September 1, 1982

Following statements are attached if available:

Sponsor statement	Yes	* *
Committee Statement: Assembly	Yes	* *
Senate	Yes	* *
Fiscal Note	* *	No
Veto Message	* *	No
Message on signing	Yes	* *

Following were printed:

Reports	* *	No
Hearings	* *	No

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[OFFICIAL COPY REPRINT]
ASSEMBLY, No. 1204

STATE OF NEW JERSEY

INTRODUCED MAY 3, 1982

By Assemblyman LESNIAK

Referred to Committee on Agriculture and Environment

AN ACT to amend the "Solid Waste Management Act," approved May 6, 1970 (P. L. 1970, c. 39), as said short title was amended by P. L. 1975, c. 326.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. Section 9 of P. L. 1970, c. 39 (C. 13:1E-9) is amended to read
2 as follows:

3 9. a. All codes, rules and regulations adopted by the department
4 related to solid waste collection and disposal shall have the force
5 and effect of law. Such codes, rules and regulations shall be ob-
6 served throughout the State and shall be enforced by the depart-
7 ment and by every local board of health, or county health depart-
8 ment, as the case may be.

9 Any county health department may charge and collect from the
10 owner or operator of any sanitary landfill facility within its jurisdic-
11 tion such fees for enforcement activities as may be established
12 by ordinance or resolution adopted by the governing body of any
13 such county. Such fees shall be established in accordance with a
14 fee schedule regulation to be adopted by the department, pursuant
15 to law, within 60 days of the effective date of this amendatory act
16 and shall be utilized exclusively to fund such enforcement activities.

17 All enforcement activities undertaken by county health depart-
18 ments pursuant to this subsection shall conform to all applicable
19 performance and administrative standards adopted pursuant to
20 section 10 of the "County Environmental Health Act," P. L. 1977,
21 c. 443 (C. 26:3A2-28).

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law.

Matter printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

*—Assembly committee amendments adopted May 3, 1982.

22 b. The commissioner may institute an action or proceeding in the
23 Superior Court for injunctive and other relief, including the ap-
24 pointment of a receiver for any solid waste collection or disposal
25 facility or operation, which is established or operated in violation of
26 this act, or of any code, rule or regulation promulgated pursuant to
27 this act and said court may proceed in the action in a summary
28 manner. In any such proceeding the court may grant temporary or
29 interlocutory relief notwithstanding the provisions of R. S. 48:2-24.

30 Such relief may include, singly or in combination:

31 (1) A temporary or permanent injunction;

32 (2) Assessment of the violator for the costs of any investigation,
33 inspection, or monitoring survey which led to the establishment of
34 the violation, and for the reasonable costs of preparing and liti-
35 gating the case under this subsection;

36 (3) Assessment of the violator for any cost incurred by the State
37 in removing, correcting or terminating the adverse effects upon
38 water and air quality resulting from any violation of any provision
39 of this act or any rule, regulation or condition of approval for
40 which the action under this subsection may have been brought;

41 (4) Assessment against the violator of compensatory damages
42 for any loss or destruction of wildlife, fish or aquatic life, and for
43 any other actual damages caused by any violation of this act or any
44 rules, regulations or condition of approval established pursuant
45 to this act for which the action under this subsection may have
46 been brought. Assessments under this subsection shall be paid to
47 the State Treasurer, or to the local board of health, or to the county
48 health department, as the case may be, except that compensatory
49 damages may be paid by specific order of the court to any persons
50 who have been aggrieved by the violation.

51 c. Any person who violates the provisions of this act or any code,
52 rule or regulation promulgated pursuant to this act shall be liable
53 to a penalty of not more than \$25,000.00 per day to be collected in
54 a civil action commenced by a local board of health, a county health
55 department, or the commissioner by a summary proceeding under
56 The Penalty Enforcement Law (N. J. S. 2A:58-1 et seq.) in the
57 Superior Court, county district court, or a municipal court, all of
58 which shall have jurisdiction to enforce said Penalty Enforcement
59 Law in connection with this act. If the violation is of a continuing
60 nature, each day during which it continues after the date given by
61 which the violation must be eliminated in accordance with the order
62 of the department shall constitute an additional, separate and
63 distinct offense.

64 d. The department is hereby authorized and empowered to com-

65 promise and settle any claim for a penalty under this section in such
 66 amount in the discretion of the department as may appear appro-
 67 priate and equitable under all of the circumstances, including a
 68 rebate of any such penalty paid up to 90% thereof where such
 69 person satisfies the department within 1 year or such other period
 70 as the department may deem reasonable that such violation has
 71 been eliminated or removed or that such order or injunction has
 72 been met or satisfied, as the case may be.

73 e. Any person who knowingly:

74 (1) Transports any hazardous waste to a facility or any other
 75 place which does not have authorization from the department to
 76 accept such waste***[.]*** *;*

77 (2) Generates and causes or permits to be transported any
 78 hazardous waste to a facility or any other place which does not have
 79 authorization from the department to accept such waste***[.]*** *;*

80 **[(2)]** (3) Disposes, treats **[or]**, stores or transports hazardous
 81 waste without authorization from the department***[.]*** *;*

82 (4) Makes any false or misleading statement to any person who
 83 prepares any hazardous waste application, label, manifest, record,
 84 report, design or other document required to be submitted to the
 85 department***[.]*** *; or*

86 **[(3)]** (5) Makes any false or misleading statement on any haz-
 87 ardous waste application, label, manifest, record, report, design or
 88 other document required to be submitted to the department shall,
 89 upon conviction, be guilty of a crime of the third degree and, not-
 90 withstanding the provisions of N. J. S. 2C:43-3, shall be subject to a
 91 fine of not more than \$25,000.00 for the first offense and not more
 92 than \$50,000.00 for the second and each subsequent offense and
 93 restitution of not more than \$100,000.00 for the first and each sub-
 94 sequent offense, in addition to any other appropriate disposition
 95 authorized by subsection b. of N. J. S. 2C:43-2.

96 f. Any person who recklessly:

97 (1) Transports any hazardous waste to a facility or any other
 98 place which does not have authorization from the department to
 99 accept such waste***[.]*** *;*

100 (2) Generates and causes or permits to be transported any haz-
 101 ardous waste to a facility or any other place which does not have
 102 authorization from the department to accept such waste***[.]*** *;*

103 **[(2)]** (3) Disposes, treats **[or]**, stores or transports hazardous
 104 waste without authorization from the department***[.]*** *;*

105 (4) Makes any false or misleading statement to any person who
 106 prepares any hazardous waste application, label, manifest, record,
 107 report, design or other document required to be submitted to the
 108 department***[.]*** *; or*

109 ~~[(3)]~~ (5) Makes any false or misleading statement on any haz-
110 ardous waste application, label, manifest, record, report, design or
111 other document required to be submitted to the department, shall,
112 upon conviction, be guilty of a crime of the fourth degree.

113 g. Any person who, regardless of intent, generates and causes or
114 permits any hazardous waste to be transported, transports, or re-
115 ceives transported hazardous waste without completing and sub-
116 mitting to the department a hazardous waste manifest in accordance
117 with the provisions of this act or any rule or regulation adopted
118 pursuant hereto shall, upon conviction, be guilty of a crime of the
119 fourth degree.

1 2. This act shall take *[affect]* *effect* immediately.

A1204 (1982)

4

109 **[(3)]** (5) Makes any false or misleading statement on any haz-
110 ardous waste application, label, manifest, record, report, design or
111 other document required to be submitted to the department, shall,
112 upon conviction, be guilty of a crime of the fourth degree.

113 *g. Any person who, regardless of intent, generates and causes or*
114 *permits any hazardous waste to be transported, transports, or re-*
115 *ceives transported hazardous waste without completing and sub-*
116 *mitting to the department a hazardous waste manifest in accordance*
117 *with the provisions of this act or any rule or regulation adopted*
118 *pursuant hereto shall, upon conviction, be guilty of a crime of the*
119 *fourth degree.*

1 2. This act shall take effect immediately.

STATEMENT

These amendments to the "Solid Waste Management Act" respond to problems encountered by the Division of Criminal Justice in prosecuting violations of the act concerning the disposal of hazardous waste.

Specifically, the amendments make it a criminal offense to knowingly or recklessly transport, or cause or permit to be transported, hazardous waste to any place not authorized by the department to accept such waste; or to knowingly or recklessly make any false or misleading statement to any person who, in preparing any hazardous waste application, label, manifest, record, report, design, or other required document, relies on the false or misleading statement.

Any person convicted of knowingly making a false or misleading statement on any such required document, or to any person preparing that document, would be subject to restitution of not more than \$100,000.00 for each offense in addition to the fines imposed pursuant to current law.

Finally, the amendments make it a crime of the fourth degree, without regard to intent, to generate, and cause or permit to be transported or received, hazardous waste for which there is no completed hazardous waste manifest as required by law.

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ASSEMBLY AGRICULTURE AND ENVIRONMENT
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 1204

STATE OF NEW JERSEY

DATED: APRIL 19, 1982

This bill would respond to problems encountered by the Division of Criminal Justice in prosecuting violations of the act concerning the disposal of hazardous waste.

Specifically, the bill would make it a criminal offense to knowingly or recklessly transport, or cause or permit to be transported, hazardous waste to any place not authorized by the department to accept such waste; or to knowingly or recklessly make any false or misleading statement to any person who, in preparing any hazardous waste application, label, manifest, record, report, design, or other required document, relies on the false or misleading statement.

Any person convicted of knowingly making a false or misleading statement on any such required document, or to any person preparing that document, would be subject to restitution of not more than \$100,000.00 for each offense in addition to the fines imposed pursuant to current law.

In addition, the bill makes it a crime of the fourth degree, without regard to intent, to generate, and cause or permit to be transported or received, hazardous waste for which there is no completed hazardous waste manifest as required by law.

Finally, the committee made technical amendments to correct typographical errors.

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SENATE ENERGY AND ENVIRONMENT COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1204

STATE OF NEW JERSEY

DATED: JUNE 24, 1982

This bill addresses problems encountered by the Division of Criminal Justice in prosecuting violations of the Solid Waste Management Act concerning the illegal transportation and disposal of hazardous waste.

Specifically, this bill makes it a criminal offense of the third degree to knowingly, and of the fourth degree to recklessly, (1) transport hazardous waste to any place not authorized by the Department of Environmental Protection to accept hazardous waste; (2) generate and permit the transportation of hazardous waste to a hazardous waste facility or other place not authorized by the department to accept hazardous waste; (3) transport hazardous waste without authorization from the department; (4) make a false or misleading statement to any person preparing a document concerning hazardous waste required by the department; and, (5) make a misleading statement on any document concerning hazardous waste required by the department.

Additionally, this bill makes it an offense of the fourth degree for any person, regardless of intent, to generate and permit to be transported, transport, or accept hazardous waste without completing the hazardous waste manifest form required by the department.

In addition, this bill provides that any person convicted of a third degree offense under the act would, in addition to the fines and prison terms currently provided for in the act, be subject to restitution of not more than \$100,000.00 for each offense. The committee expressed its belief that this limitation is not intended to be a restriction on any aggrieved party's right to recover any damages.

OFFICE OF THE GOVERNOR

RELEASE: IMMEDIATELY

CONTACT: PAUL WOLCOTT

WEDNESDAY, SEPTEMBER 1, 1982

Governor Thomas H. Kean today signed bills that could send violators of hazardous waste laws to jail and that give the Department of Environmental Protection closer jurisdiction over hazardous waste disposal sites. Signing the bills fulfilled a pledge Kean made last year during his election campaign to see that tougher laws govern those who deal with toxic wastes.

One bill, A-889, sponsored by Assemblyman John O. Bennett (R-Monmouth), amends the Spill Compensation and Control Act to give the DEP authority to close a hazardous or solid waste disposal facility while clean-up of a spill proceeds. It further allows the Department to suspend or revoke any other permits or licenses held by the owner of such a facility if the owner fails to comply with DEP directives on a clean-up.

The other, A-1204, sponsored by Assemblyman Raymond J. Lesniak (D-Union), makes it a criminal offense to knowingly or recklessly transport hazardous waste to any place not authorized by the DEP. The bill also makes it a crime to falsify statements on hazardous waste transportation manifests. It sets penalties for restitution at a maximum of \$100,000 for each offense.

"New Jersey cannot afford to be lenient with those who would poison our air and water through carelessness or conscious neglect," Kean said. "I pledged during my campaign to take measures to tighten controls over the disposal of toxic wastes. Today's action is an important step in that direction."

Under the provisions of Bennett's bill, the DEP will have, for the first time, the power to close a hazardous waste disposal site that has experienced a spill or discharge until clean-up of the problem is complete. The Department will also be able to place pressure on landfill and disposal site owners through its new power to control other aspects of the company's operations unless there is cooperation in the clean-up.

- more -

By extending responsibility for proper transport and disposal of toxic wastes to corporate officials, Lesniak's bill is expected to make companies more responsive to State laws governing waste disposal.

"Hazardous wastes threaten all the people of our State," Kean said. "We must support those who dispose of them in a responsible manner and prosecute those who do not."

"Placing substantial criminal penalties on the improper disposal of toxic and hazardous substances puts those who generate, transport and dispose of those materials on notice that we will not tolerate actions which threaten the health and safety of our residents," the Governor said.

Both Bennett and Lesniak hailed the bill signing as important progress toward controlling the spreading danger of toxic wastes in the State.

"It's time that people who pollute our environment realize that we will send them to jail before we will allow our air and water to be degraded," Lesniak said. "Those who recklessly and heedlessly discard these poisonous materials destroy resources that belong to all the people. From now on, those who generate and transport those wastes will have to share in the responsibility of seeing that they are properly disposed of."

Bennett noted that the State will now have needed controls over landfill operators who have, in the past, ignored DEP directives on the clean-up of toxic waste spills.

"Now we have some effective controls over those who dispose of these wastes," Bennett said. "With the DEP now able to impose broad sanctions on a company that has been careless in its disposal practices, it will be in the businessman's own best interest to comply closely with State regulations."

"We can't wait for those who deal in hazardous wastes to police themselves. It is important that we move to ensure that our environment is protected for future generations."

#

P. L. 1982, CHAPTER 123, *approved September 1, 1982*

1982 Assembly No. 1204 (*Official Copy Reprint*)

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11 diction such fees for enforcement activities as may be established
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26 this act, or of any code, rule or regulation promulgated pursuant to
27 this act and said court may proceed in the action in a summary
28 manner. In any such proceeding the court may grant temporary or
29 interlocutory relief notwithstanding the provisions of R. S. 48:2-24.

30 Such relief may include, singly or in combination:

31 (1) A temporary or permanent injunction;

32 (2) Assessment of the violator for the costs of any investigation,
33 inspection, or monitoring survey which led to the establishment of
34 the violation, and for the reasonable costs of preparing and liti-
35 gating the case under this subsection;

36 (3) Assessment of the violator for any cost incurred by the State
37 in removing, correcting or terminating the adverse effects upon
38 water and air quality resulting from any violation of any provision
39 of this act or any rule, regulation or condition of approval for
40 which the action under this subsection may have been brought;

41 (4) Assessment against the violator of compensatory damages
42 for any loss or destruction of wildlife, fish or aquatic life, and for
43 any other actual damages caused by any violation of this act or any
44 rules, regulations or condition of approval established pursuant
45 to this act for which the action under this subsection may have
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47 the State Treasurer, or to the local board of health, or to the county
48 health department, as the case may be, except that compensatory
49 damages may be paid by specific order of the court to any persons
50 who have been aggrieved by the violation.

51 c. Any person who violates the provisions of this act or any code,
52 rule or regulation promulgated pursuant to this act shall be liable
53 to a penalty of not more than \$25,000.00 per day to be collected in
54 a civil action commenced by a local board of health, a county health
55 department, or the commissioner by a summary proceeding under
56 The Penalty Enforcement Law (N. J. S. 2A:58-1 et seq.) in the
57 Superior Court, county district court, or a municipal court, all of
58 which shall have jurisdiction to enforce said Penalty Enforcement
59 Law in connection with this act. If the violation is of a continuing
60 nature, each day during which it continues after the date given by
61 which the violation must be eliminated in accordance with the order
62 of the department shall constitute an additional, separate and
63 distinct offense.

64 d. The department is hereby authorized and empowered to com-

65 promise and settle any claim for a penalty under this section in such
66 amount in the discretion of the department as may appear appro-
67 priate and equitable under all of the circumstances, including a
68 rebate of any such penalty paid up to 90% thereof where such
69 person satisfies the department within 1 year or such other period
70 as the department may deem reasonable that such violation has
71 been eliminated or removed or that such order or injunction has
72 been met or satisfied, as the case may be.

73 e. Any person who knowingly:

74 (1) Transports any hazardous waste to a facility or any other
75 place which does not have authorization from the department to
76 accept such waste***[.]*** *;*

77 (2) Generates and causes or permits to be transported any
78 hazardous waste to a facility or any other place which does not have
79 authorization from the department to accept such waste***[.]*** *;*

80 **[(2)]** (3) Disposes, treats **[or]**, stores or transports hazardous
81 waste without authorization from the department***[.]*** *;*

82 (4) Makes any false or misleading statement to any person who
83 prepares any hazardous waste application, label, manifest, record,
84 report, design or other document required to be submitted to the
85 department***[.]*** *;* or*

86 **[(3)]** (5) Makes any false or misleading statement on any haz-
87 ardous waste application, label, manifest, record, report, design or
88 other document required to be submitted to the department shall,
89 upon conviction, be guilty of a crime of the third degree and, not-
90 withstanding the provisions of N. J. S. 2C:43-3, shall be subject to a
91 fine of not more than \$25,000.00 for the first offense and not more
92 than \$50,000.00 for the second and each subsequent offense and
93 restitution of not more than \$100,000.00 for the first and each sub-
94 sequent offense, in addition to any other appropriate disposition
95 authorized by subsection b. of N. J. S. 2C:43-2.

96 f. Any person who recklessly:

97 (1) Transports any hazardous waste to a facility or any other
98 place which does not have authorization from the department to
99 accept such waste***[.]*** *;*

100 (2) Generates and causes or permits to be transported any haz-
101 ardous waste to a facility or any other place which does not have
102 authorization from the department to accept such waste***[.]*** *;*

103 **[(2)]** (3) Disposes, treats **[or]**, stores or transports hazardous
104 waste without authorization from the department***[.]*** *;*

105 (4) Makes any false or misleading statement to any person who
106 prepares any hazardous waste application, label, manifest, record,
107 report, design or other document required to be submitted to the
108 department***[.]*** *;* or*

109 ~~[(3)]~~ (5) Makes any false or misleading statement on any haz-
110 ardous waste application, label, manifest, record, report, design or
111 other document required to be submitted to the department, shall,
112 upon conviction, be guilty of a crime of the fourth degree.

113 g. Any person who, regardless of intent, generates and causes or
114 permits any hazardous waste to be transported, transports, or re-
115 ceives transported hazardous waste without completing and sub-
116 mitting to the department a hazardous waste manifest in accordance
117 with the provisions of this act or any rule or regulation adopted
118 pursuant hereto shall, upon conviction, be guilty of a crime of the
119 fourth degree.

1 2. This act shall take ~~["affect"]~~ *effect* immediately.