

58:10-23.1/f2

**LEGISLATIVE HISTORY CHECKLIST**  
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NJSA: 58:10-23.11f2

(Hazardous  
liquids--transfer  
from vessel)

**LAWS OF:** 1990

**CHAPTER:** 76

**Bill No:** S2520

**Sponsor(s):** Van Wagner

**Date Introduced:** March 15, 1990

**Committee: Assembly:** -----

**Senate:** Environmental Quality

**Amended during passage:** No Senate Committee Substitute enacted.

**Date of Passage: Assembly:** June 18, 1990

**Senate:** June 11, 1990

**Date of Approval:** July 21, 1990

**Following statements are attached if available:**

**Sponsor statement:** Yes

**Committee Statement: Assembly:** No

**Senate:** Yes

**Fiscal Note:** No

**Veto Message:** No

**Message on signing:** Yes

**Following were printed:**

**Reports:** No

**Hearings:** Yes

(over)

974.90  
p777  
1990b

New Jersey. Legislature. Senate. Environmental Quality &  
New Jersey. Legislature. Assembly. Environmental Quality &  
Energy Committee  
Joint public hearings, held 1-23-90 and 2-6-90. Woodbridge &  
Middletown, 1990.

974.90  
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1989e

New Jersey. Legislature  
Public hearing on oil spill prevention,  
held 4-19-89. Camden, 1989.

For clippings see legislative history of 1990, c.77.

**KBG/SLJ**

SENATE COMMITTEE SUBSTITUTE FOR  
SENATE, No. 2520

STATE OF NEW JERSEY

ADOPTED MAY 17, 1990

Sponsored by Senator VAN WAGNER

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1 AN ACT concerning certain safety measures for vessel transfers  
2 of hazardous liquids, and supplementing P.L.1976, c.141  
3 (C.58:10-23.11 et seq.)  
4

5 BE IT ENACTED by the Senate and General Assembly of the  
6 State of New Jersey:

7 1. a. On the 31st day following the adoption of rules and  
8 regulations pursuant to section 5 of this act, no owner or operator  
9 of a refinery, storage, transfer terminal, or pipeline facility, or a  
10 vessel while in the waters of the State, shall transfer, or  
11 authorize or allow to be transferred any hazardous liquid between  
12 any such facility and a vessel, or among two or more vessels,  
13 unless, as prescribed by the department, either a boom or other  
14 containment device is in place as hereinafter provided, or the  
15 containment device is available, along with trained personnel, at  
16 the site of transfer operations on a stand-by basis for immediate  
17 deployment in the event of a discharge, spill or release during the  
18 transfer.

19 In the case of (1) a transfer of a hazardous liquid between a  
20 land-based facility and a vessel, or between two or more vessels  
21 at a facility, the owner or operator of the facility shall be  
22 responsible for the containment device, trained personnel, or  
23 other containment or mitigation measures required by the  
24 department, or (2) a vessel-to-vessel transfer occurring away  
25 from a land-based facility, the owner or operator of each of the  
26 vessels involved shall be responsible therefor.

27 b. If a containment device is required by the department to be  
28 in place during a transfer of a hazardous liquid, the device shall  
29 be deployed not less than 15 feet from the vessel or vessels prior  
30 to commencement of the transfer operation, except that in the  
31 case of a docked vessel the dock may be used to complete the  
32 encirclement of a vessel with a containment device.

33 The provisions of this act shall not apply to the transfer of a  
34 hazardous liquid to be used solely as fuel to power a vessel.

35 As used in this act, "hazardous liquid" shall mean a hazardous  
36 substance as such term is defined in section 3 of P.L.1976, c.141  
37 (C.58:10-23.11b) that is in liquid form at the time of transfer of  
38 the hazardous substance from facility to vessel or from  
39 vessel-to-vessel; "list hazardous liquid" means a hazardous liquid  
40 placed on a list prepared by the department pursuant to  
41 subsection a. of section 2 of this act.

1       2. a. The department shall identify individual or categories or  
2 classes of hazardous liquids, or the circumstances of a transfer of  
3 a hazardous liquid for which a containment device may be  
4 usefully and safely deployed without posing a substantial danger  
5 to the safety of a vessel or its crew. A list of all such hazardous  
6 liquids shall be identified and published by the department in the  
7 New Jersey Register.

8       b. The department (1) may require all facilities or vessels  
9 either to deploy, or to maintain on a stand-by basis a  
10 containment device during a transfer of any hazardous liquid  
11 listed by the department pursuant to subsection a. of this section,  
12 or (2) may require a particular facility or vessel to deploy a  
13 containment device during transfer operations for one or more  
14 list hazardous liquids, based upon the past record of the facility,  
15 or the owner or operator of a vessel, the nature of the hazards  
16 involved, including the characteristics of the hazardous liquid,  
17 the size, complexity or circumstances of the transfer, or the  
18 potential dangers to public health and safety, or to  
19 environmentally sensitive areas in reasonable proximity to the  
20 transfer operations.

21       c. In addition to requiring a containment device to be deployed  
22 or maintained on a stand-by basis during transfer operations for a  
23 list hazardous liquid, the department shall require such other  
24 equipment or chemicals to be maintained on a stand-by basis at  
25 the site of the transfer during the transfer of a hazardous liquid  
26 from any facility or vessel for purposes of minimizing the amount  
27 of a discharge, spill or release, and containing, removing or  
28 mitigating the adverse effects therefrom. The provisions of this  
29 subsection shall also apply to any hazardous liquid whether or not  
30 a list hazardous liquid.

31       d. The discharge prevention, control and countermeasure plan,  
32 and the discharge response, cleanup and removal contingency plan  
33 of a major facility shall set forth all of the prevention and  
34 response measures required by the department pursuant to this  
35 act. The department may, at any time, require amendments to  
36 plan provisions for transfer operations at a major facility in  
37 order to improve the discharge prevention and response  
38 capabilities of a facility.

39       3. Any ordinance, resolution, or regulation of a county or  
40 municipality inconsistent with the provisions of this act, including  
41 rules and regulations adopted hereunder, shall be of no effect  
42 upon final adoption of rules and regulations by the department  
43 pursuant to section 5 of this act.

44       4. Any person violating the provisions of this act shall be  
45 subject to the penalty and injunctive relief provisions of section  
46 22 of P.L.1976, c.141 (C.58:10-23.11u).

47       5. Within one year of the effective date of this act, the  
48 department shall adopt, in accordance with the "Administrative

1 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and  
2 regulations to implement the provisions of this act. Nothing in  
3 this act shall be construed to limit the authority of the  
4 department pursuant to P.L.1976, c.141 (C.58:10-23.11 et seq.) to  
5 require a major facility, as defined in section 3 of P.L.1976, c.141  
6 (C.58:10-23.11b), to take all necessary measures pursuant thereto  
7 to improve the discharge or prevention capabilities of the facility  
8 prior to, or after the adoption of rules and regulations by the  
9 department pursuant to this act.

10 6. The department may use monies from the New Jersey Spill  
11 Compensation Fund, as authorized pursuant to paragraph (2) of  
12 subsection b. of section 9 of P.L.1976, c.141 (C.58:10-23.11h), for  
13 program costs incurred in implementing the provisions of this act.

14 7. This act shall take effect immediately.

15  
16  
17 ENVIRONMENT

18  
19 Requires certain protective measures during transfers of  
20 hazardous liquids between facilities and vessels, or between  
21 vessels.

SENATE, No. 2520

STATE OF NEW JERSEY

INTRODUCED MARCH 15, 1990

By Senator VAN WAGNER

1 AN ACT concerning the transfer of hazardous substances from a  
2 major facility and supplementing P.L.1976, c.141  
3 (C.58:10-23.11 et seq.)  
4

5 BE IT ENACTED *by the Senate and General Assembly of the*  
6 *State of New Jersey:*

7 1. The transfer of a hazardous substance between a major  
8 facility and a vessel is prohibited unless a boom or other  
9 containment device, designed to contain hazardous substances in  
10 the event that a hazardous substance is discharged during a  
11 transfer, is in place to contain any hazardous substance  
12 discharged during that transfer.

13 2. This act shall take effect immediately.  
14  
15

16 STATEMENT  
17

18 This bill requires that no transfer of a hazardous substance  
19 between a major facility and a vessel shall take place unless a  
20 containment boom or some other device is in place that is  
21 designed to contain the hazardous substance in the event it is  
22 spilled during transfer.

23 The recent rash of oil spills into New Jersey waters has  
24 highlighted the need for greater response measures in the event  
25 of a hazardous substance discharge. Although containment booms  
26 must be available near the location of a hazardous substance  
27 transfer between a facility and a vessel, there is no requirement  
28 that the boom be deployed. This bill would establish that  
29 requirement.  
30

31 ENVIRONMENT  
32

33  
34 Requires containment devices be in place prior to the transfer of  
35 a hazardous substance between a vessel and a major facility.

SENATE ENVIRONMENTAL QUALITY COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR

SENATE, No. 2520

STATE OF NEW JERSEY

DATED: MAY 17, 1990

The Senate Environmental Quality Committee favorably reports the Senate Committee Substitute for Senate Bill No. 2520.

This bill would require refinery, storage, transfer terminal, or pipeline facilities and transport vessels to take certain safety measures during the transfer of a hazardous liquid between a designated facility and a vessel, or among two or more vessels to minimize the effects of an unauthorized discharge, spill, or release of a hazardous liquid. The measures include:

(1) deployment of a boom or other containment device around the vessel or vessels, or maintenance on a stand-by basis of a containment device, and trained personnel in a state of readiness for rapid deployment in the event of a discharge;

(2) retention on a stand-by basis of such other equipment or chemicals required by the Department of Environment Protection (DEP) for use in minimizing, containing, removing, or mitigating a discharge.

DEP would be required to prepare a list of hazardous liquids and identify circumstances for which containment devices may be usefully and safely deployed. DEP could require a containment device to be deployed at all times during the transfer of a list hazardous liquid, or require an individual facility or vessel to do so based upon the safety record of the facility or vessel, or by the nature and degree of danger posed to public health, safety, and the environment. DEP requirements would be included in the discharge prevention and response plans of major facilities, and program costs for implementing the provisions of this bill would be paid from the New Jersey Spill Fund levies imposed pursuant to Senate Bill No. 2518 (1990).

Upon DEP's adoption of rules and regulations pursuant to this bill, any county or municipal ordinance, resolution, or regulation inconsistent with the bill or the DEP's rules and regulations would be superceded.



# OFFICE OF THE GOVERNOR NEWS RELEASE

**CN-001**  
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**Release:**

Saturday  
July 21, 1990

## FLORIO SIGNS BILLS IMPOSING RECORD FINES FOR OIL SPILLS AND TOUGHER INDUSTRY RULES

PORT ELIZABETH -- On the heels of yet another incident in the Arthur Kill, Governor Jim Florio today signed a package of bills that impose record fines of up to \$10 million for oil spills and toughen industry procedures.

Specifically the bills:

### IMPOSE RECORD PENALTIES FOR SPILLS

(S 2517/A 3264; Sponsored by Senator Richard Van Wagner, Assemblyman John Villipiano and Assemblywoman Marlene Lynch Ford)

Currently the law allows for penalties of up to \$50,000 per day for each violation, and does not take into account the size of the spill. This bill amends the Spill Compensation and Control Act to allow a penalty of up to \$10 million for a catastrophic spill of a hazardous substance, defined as a spill of 100,000 gallons or more.

The penalties apply to anyone whose discharge reaches New Jersey waters or lands, whether or not the spill actually occurred outside of the state. The bill directs the Department of Environmental Protection to take into account the conduct of the discharge and the extent of the damage in determining the level of the fine.

The bill also provides DEP with other enforcement tools. It authorizes DEP to assess civil administrative penalties to recover costs of investigation or cleanup, instead of having to go to court to collect penalties. It also expands the list of damages for which a polluter must pay to include the cost of restoring or replacing personal property, lost income resulting from damage caused by the spill, and the cost of repairing or replacing damaged and destroyed natural resources.



## **PROHIBIT NIGHTTIME TRANSFERS WITHOUT PROPER LIGHTING**

(A 3268/ S 2478; Sponsored by Senator Richard Van Wagner, Assemblyman George Otlowski)

In order to address the problem of detecting oil spills at night, this bill prohibits nighttime transfers of petroleum products through underwater pipelines unless there is proper lighting.

Within one year, the Department of Environmental Protection (DEP) must promulgate rules requiring lighting of transfer connection points, adjacent facilities and vessel areas and surrounding waters for all nighttime transfers of hazardous substances. The DEP may also require, if necessary, to have lighting at the point at which underwater pipelines emerge onto the land. The DEP regulations are to mirror the Coast Guard's guidelines on lighting to the maximum extent possible.

## **DEPLOY BOOMS AS A PRECAUTION DURING TRANSFERS**

(S 2520/A 3263; Sponsored by Senator Richard Van Wagner/Assemblymen Tom Duch and Louis Gill)

This bill requires the Department of Environmental Protection to adopt regulations that containment booms or other safety devices must be in place for any transfer of a hazardous liquid.

Within one year, DEP will provide a list of hazardous liquids and identify the circumstances for which booms must be in place, based on criteria such as the safety record and degree of danger the transfer poses. DEP may also require that specific equipment or chemicals be on hand to contain a spill. For flammable substances and other transfers when it would be dangerous to use booms, DEP will prescribe other safety measures.

Companies must incorporate these safety measures in the Discharge Prevention Control and Countermeasure plans they are required to file with the DEP. Within 31 days after DEP adopts the regulations, companies must have in place or on stand-by, all equipment and personnel required.

If the transfer is occurring at a land-based facility, the facility is responsible for ensuring that the equipment and personnel are in place. If the transfer is between two vessels, each vessel is responsible.

## **ELIMINATE TAX WRITE-OFFS FOR CLEANUPS**

(A 3265/S 2519; Sponsored by Assemblyman Joe Doria/Senator Richard Van Wagner)

This bill amends the New Jersey Gross Income Tax Act to provide that treble damages paid for cleaning up a spill, and fines and penalties paid for a spill will not be tax deductible as a business expense.

Any fine collected for a violation of a state or federal environmental law, an administrative consent order, a local penalty or fine, or any economic benefit gained as a result of a violation can not be deducted as a business expense from net profits. This does not apply if the fine was for a violation that resulted from an act beyond the control of the violator or if the violation was caused by a person outside the control of the violator, such as a fire or flood.

The bill also prohibits deducting the treble damages paid to the Department of Environmental Protection for the cost of removing or cleaning up a spill. (This occurs when DEP does the cleanup and then assesses damages on the polluter at three times the cost of the cleanup.)

## **IMPOSE TOUGHER REGULATIONS FOR STORAGE AND TRANSFER**

(A 3262/S 2518; Sponsored by Assemblyman Bob Smith and Neil Cohen/Senator Richard Van Wagner)

This bill is the main regulatory bill strengthening the Discharge Prevention Control and Countermeasures (DPCC) program at DEP. The program requires that facilities that refine, store or transfer hazardous substances submit cleanup and removal plans to DEP. This bill beefs up the program and puts greater and more specific burdens on facilities in doing their plans.

The bill requires that the plans must be more specific in identifying areas that might be damaged by a spill. Companies must identify environmentally sensitive areas and come up with plans to protect and assess the damage of those areas.

## **ENFORCE BETTER PIPELINE SAFETY**

(S 2516/A 3266/A 3257; Sponsored by Senator Ray Lesniak/Assemblyman George Hudak and Tom Deverin)

This bill requires facilities to register all pipelines in New Jersey, and directs DEP to conduct a study to make recommendations for regulating pipelines for safety.

Currently, the federal government regulates interstate pipelines, but there is no regulation of intrastate pipelines.

Within 18 months, DEP must adopt regulations establishing a registration program for all intrastate pipelines. Within 6 months after the regulations are issued, facilities must submit the pipeline information, including maps, types of pipes, descriptions of the materials transported through pipes, and any other necessary information.

Within 3 years, DEP must conduct a study to determine the appropriateness of establishing a program similar to the federal interstate pipeline safety program for intrastate pipelines. This study must include an assessment of state-of-the-art leak detection systems, of the closure and removal of abandoned pipelines, of the need for secondary containment devices for underwater pipelines, and of automatic internal leak detection devices. The report will be submitted to the Legislature and the Governor, making specific recommendations of necessary legislative and administrative action.

# # #

REMARKS PREPARED FOR DELIVERY BY GOVERNOR JIM FLORIO  
OIL SPILL PREVENTION AND PENALTIES BILL SIGNING  
ELIZABETH, NEW JERSEY  
SATURDAY, JULY 21, 1990

---

I THOUGHT I'D SEEN THE LAST OF THE ARTHUR KILL OIL SPILLS, BUT ONCE AGAIN, WE'RE STANDING AT THE SCENE OF YET ANOTHER ASSAULT AGAINST THE ENVIRONMENT.

I DON'T KNOW ABOUT YOU, BUT I'VE HAD IT UP TO HERE WITH THE CARELESSNESS, NEGLECT AND INDIFFERENCE WE'VE SEEN FROM THOSE RESPONSIBLE FOR MOVING OIL HERE.

YOU'D THINK BY NOW, THESE COMPANIES UNDERSTOOD THE POINT.

EVEN CHILDREN GET THE POINT. LET ME READ JUST A FEW LINES FROM LETTERS I RECEIVED THE OTHER DAY FROM SOME YOUNG STUDENTS AT THE ASCENSION SCHOOL IN NEW MILFORD:

CRISTINA RODRIGUEZ: "I AM CONCERNED ABOUT THESE OIL SPILLS. WHAT'S GOING TO HAPPEN TO MY WORLD, MY CHILDREN'S WORLD, OR MAYBE EVEN MY GRANDCHILDREN'S WORLD?"

REY CRUZ: "I AM VERY UPSET ABOUT OIL SPILLS. FISH ARE DYING, AND IF THIS KEEPS UP, OUR CHILDREN WON'T EVEN KNOW WHAT A FISH IS."

HOW MUCH PLAINER COULD IT BE? THE ENVIRONMENT CAN'T TAKE THIS KIND OF ABUSE ANY MORE. THE PEOPLE OF NEW JERSEY CAN'T TAKE IT ANY MORE. AND I SURE WON'T TAKE IT ANY MORE.

UNFORTUNATELY, SOME PEOPLE STILL DON'T GET THE MESSAGE.

NOW THEY WILL.

IN A MOMENT, I'M GOING TO SIGN A PACKAGE OF BILLS INTO LAW THAT'S GOING TO MAKE PEOPLE THINK TWICE -- MAYBE MORE -- BEFORE THEY ACT IRRESPONSIBLY TOWARD OUR ENVIRONMENT.

THESE LAWS CARRY A VERY SIMPLE MESSAGE.

YOU SPILL, YOU PAY.

NOT A LITTLE BIT, BUT A LOT.

UP TO \$10 MILLION.

IT'S TIME TO HIT THESE COMPANIES WHERE IT HURTS -- WITH STIFF PENALTIES AND FINES.

AND WHEN THEY'RE FORCED TO PAY FOR THE CLEANUP, AND PAY TRIPLE DAMAGES, WE'RE NOT GOING TO LET THEM DEDUCT THAT AS THE COST OF DOING BUSINESS.

BECAUSE THE COST OF DOING BUSINESS SHOULDN'T COME AT OUR EXPENSE, OR THAT OF THE NATURAL ENVIRONMENT. WE'RE GOING TO PUT THE COST BACK WHERE IT BELONGS -- IN THEIR POCKETS.

AND WHEN THEY FEEL THAT STING, MAYBE -- JUST MAYBE -- THEY'LL WAKE UP AND REALIZE THAT IT'S IN THEIR BEST INTEREST TO PAY ATTENTION TO WHAT THEY'RE DOING.

I KNOW I SPEAK NOT JUST FOR THE PEOPLE OF NEW JERSEY, BUT FOR THE FUTURE CHILDREN -- AND GRANDCHILDREN -- OF CRISTINA AND REY AND ALL THE OTHER CHILDREN WHO ARE CONCERNED.

IT'S NOT GOING TO BE BUSINESS AS USUAL ANY MORE. THESE LAWS ARE GOING TO TEACH INDUSTRY A NEW VERSION OF THE THREE "R'S:"

RESPONSIBILITY FOR ITS ACTIONS.

RESPONSIBILITY TO THE ENVIRONMENT.

AND RESPONSIBILITY AS GOOD NEIGHBORS.

THAT MEANS NO MORE TRANSFERS OF OIL WITHOUT CONTAINMENT BOOMS. IT MEANS NO MORE NIGHT TIME TRANSFERS OF OIL INTO PIPELINES WITHOUT PROPER LIGHTING.

IT MEANS THAT THE INDUSTRY JUST GOT A NEW PARTNER -- THE DEP. WE'RE GOING TO STRENGTHEN ITS HAND, AND IT'S GOING TO USE THAT STRENGTH TO HOLD THE INDUSTRY'S FEET TO THE FIRE.

I'VE ASKED THE CHILDREN WHO WROTE TO ME TO HELP ME TODAY, SO IF THEY WOULD COME FORWARD, WE'LL SIGN THESE BILLS INTO LAW.

AFTER SIX MONTHS AND NEARLY ONE MILLIONS GALLONS OF OIL, WE GOT THE MESSAGE. THIS IS OUR ANSWER.

NONE OF THIS WOULD HAVE BEEN POSSIBLE WITHOUT THE HARD WORK AND PERSISTENCE OF SOME OF OUR LEGISLATORS, WHO ARE HERE TODAY.

I ESPECIALLY WANT TO THANK SENATOR VAN WAGNER FOR HIS EFFORTS. AND I WANT TO THANK SENATOR LESNIAK AND ASSEMBLYMAN SMITH FOR THEIR PART IN THIS LEGISLATION.

AND NOW, I'D LIKE SENATOR VAN WAGNER AND ASSEMBLYMAN SMITH TO COME UP AND SAY A FEW WORDS.