

13:1E-9

1/5/88

LEGISLATIVE HISTORY CHECKLIST

NJSA: 13:1E-9 (Solid waste violations-- authorize rewards for notifying authorities)

LAWS OF: 1987 CHAPTER: 158

Bill No: A881

Sponsor(s): Genova

Date Introduced: Pre-filed

Committee: Assembly: Environmental Quality

Senate: Revenue, Finance and Appropriations; Energy and Environment.

Amended during passage: Yes Amendments denoted by asterisks. according to Governor's recommendations

Date of Passage: Assembly: January 30, 1986 Re-enacted 2-5-87 Senate: October 23, 1986 Re-enacted 6-25-87

Date of Approval: July 1, 1987

Following statements are attached if available:

Sponsor statement: Yes
Committee statement: Assembly Yes Senate Yes 1-23-86 and 3-24-86

Fiscal Note: No

Veto Message: Yes

Message on Signing: No

Following were printed:

Reports: No

Hearings: No

State law, referred to in committee statement: N.J.S.A. 13:1E-67 et seq.

Vertical stamp: State of New Jersey Library

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ASSEMBLY, No. 881

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1986 SESSION

By Assemblyman GENOVA

AN ACT concerning rewards for ****[the detection and apprehension of]**** ***certain persons providing information concerning*** unlawful solid waste disposal and amending and supplementing P. L. 1970, c. 39.

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 The department and the local board of health, or the county
10 health department, as the case may be, shall have the right to enter
11 a solid waste facility at any time in order to determine compliance
12 with the registration statement and engineering design, and with
13 the provisions of all applicable laws or rules and regulations
14 adopted pursuant thereto.

15 The municipal attorney or an attorney retained by a municipality
16 in which a violation of such laws or rules and regulations adopted
17 pursuant thereto is alleged to have occurred shall act as counsel to
18 a local board of health.

19 The county counsel or an attorney retained by a county in which
20 a violation of such laws or rules and regulations adopted pursuant
21 thereto is alleged to have occurred shall act as counsel to the county
22 health department.

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 January 27, 1986.

**—Senate committee amendments adopted March 24, 1986.

***—Assembly amendments adopted in accordance with Governor's recommendations January 8, 1987.

23 Any county health department may charge and collect from the
 24 owner or operator of any sanitary landfill facility within its juris-
 25 diction such fees for enforcement activities as may be established
 26 by ordinance or resolution adopted by the governing body of any
 27 such county. Such fees shall be established in accordance with a
 28 fee schedule regulation to be adopted by the department, pursuant
 29 to law, within 60 days of the effective date of this amendatory act
 30 and shall be utilized exclusively to fund such enforcement activities.

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

36 *b. Whenever the commissioner finds that a person has violated
 37 any provision of P. L. 1970, c. 39 (C. ***[13:1]*** **13:1E-1***
 38 et seq.), or any rule or regulation adopted, permit issued, or solid
 39 waste management plan adopted pursuant to P. L. 1970, c. 39, he
 39A shall:

40 (1) Issue an order requiring the person found to be in violation
 41 to comply in accordance with subsection c. of this section;

42 (2) Bring a civil action in accordance with subsection d. of this
 43 section;

44 (3) Levy a civil administrative penalty in accordance with sub-
 45 section **[c.]** **e.** of this section;

46 (4) Bring an action for a civil penalty in accordance with sub-
 47 section f. of this section; or

48 (5) Petition the Attorney General to bring a criminal action in
 49 accordance with subsection g. of this section.

50 Pursuit of any of the remedies specified under this section shall
 51 not preclude the seeking of any other remedy specified.

52 c. Whenever the commissioner finds that a person has violated
 53 any provision of P. L. 1970, c. 39, or any rule or regulation adopted,
 54 permit issued, or solid waste management plan adopted pursuant
 55 to P. L. 1970, c. 39, he may issue an order specifying the provision
 56 or provisions of P. L. 1970, c. 39, or the rule, regulation, permit
 57 or solid waste management plan of which the person is in
 58 violation***,*** citing the action which constituted the violation,
 59 ordering abatement of the violation, and giving notice to the person
 60 of his right to a hearing on the matters contained in the order. The
 61 ordered party shall have 20 days from receipt of the order within
 62 which to deliver to the commissioner a written request for a hear-
 63 ing. After the hearing and upon finding that a violation has

64 occurred, the commissioner may issue a final order. If no hearing
 65 is requested, then the order shall become final after the expiration
 66 of the 20-day period. A request for hearing shall not automatically
 67 stay the effect of the order.*

68 ***[b.]*** *d.** The commissioner, a local board of health or county
 69 health department may institute an action or proceeding in the
 70 Superior Court for injunctive and other relief, including the ap-
 71 pointment of a receiver for any ***[solid waste collection or disposal**
 72 **facility or operation, which is established or operated in]*** viola-
 73 tion of this act, or of any code, rule or regulation promulgated**, **
 74 *permit issued or solid waste management plan adopted*****[,]***** **
 75 pursuant to this act and said court may proceed in the action in a
 76 summary manner. In any such proceeding the court may grant
 77 temporary or interlocutory relief, notwithstanding the provisions
 78 of R. S. 48:2-24.

79 Such relief may include, singly or in combination:

- 80 (1) A temporary or permanent injunction;
- 81 (2) Assessment of the violator for the costs of any investigation,
 82 inspection, or monitoring survey which led to the establishment of
 83 the violation, and for the reasonable costs of preparing and liti-
 84 gating the case under this subsection;
- 85 (3) Assessment of the violator for any cost incurred by the State
 86 in removing, correcting or terminating the adverse effects upon
 87 water and air quality resulting from any violation of any provision
 88 of this act or any rule, regulation or condition of approval for
 89 which the action under this subsection may have been brought;
- 90 (4) Assessment against the violator of compensatory damages
 91 for any loss or destruction of wildlife, fish or aquatic life, and for
 92 any other actual damages caused by any violation of this act or any
 93 rule, regulation or condition of approval established pursuant to
 94 this act for which the action under this subsection may have been
 95 brought. Assessments under this subsection shall be paid to the
 96 State Treasurer, or to the local board of health, or to the county
 97 health department, as the case may be, except that compensatory
 98 damages may be paid by specific order of the court to any persons
 99 who have been aggrieved by the violation.

100 If a proceeding is instituted by a local board of health or county
 101 health department, notice thereof shall be served upon the commis-
 102 sioner in the same manner as if the commissioner were a named
 103 party to the action or proceeding. The department may intervene
 104 as a matter of right in any proceeding brought by a local board of
 105 health or county health department.

106 *e. The commissioner is authorized to assess a civil administra-
 107 tive penalty of not more than ***~~[\$25,000.00]~~*** ~~***\$50,000.00***~~
 108 for each violation ***~~[and additional penalties of not more than~~
 109 ~~\$2,500.00 for]~~*** ****provided that**** each day during which the
 110 violation continues ***~~[after receipt of an order from the depart-~~
 111 ~~ment]~~*** ****shall constitute an additional, separate and distinct*
 112 *offense***. ***The commission shall not assess a civil administra-*
 113 *tive penalty in excess of \$25,000.00 for a single violation, or in*
 114 *excess of \$2,500.00 for each day during which a violation continues,*
 115 *until the department has adopted, pursuant to the "Administrative*
 116 *Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.), regulations*
 117 *requiring the commissioner, in assessing a civil administrative*
 118 *penalty, to consider the operational history of the facility at which*
 119 *the violation occurred, the severity of the violation, the measures*
 120 *taken to mitigate or prevent further violations, and whether the*
 121 *penalty will maintain an appropriate deterrent.**** No assessment
 122 shall be levied pursuant to this section until after the violator has
 123 been notified by certified mail or personal service. The notice shall
 124 include a reference to the section of the statute, rule, regulation,
 125 order, permit condition or solid waste management plan violated,
 126 a concise statement of the facts alleged to constitute a violation, a
 127 statement of the amount of the civil administrative penalties to
 128 be imposed, and a statement of the party's right to a hearing. The
 129 ordered party shall have 20 calendar days from receipt of the
 130 notice within which to deliver to the commissioner a written request
 131 for a hearing. After the hearing and upon finding that a violation
 132 has occurred, the commissioner may issue a final order after assess-
 132A ing the amount of the fine specified in the notice. If no hearing is
 132B requested, the notice shall become a final order after the expira-
 132C tion of the 20-day period. Payment of the assessment is due when
 132D a final order is issued or the notice becomes a final order. The
 132E authority to levy a civil administrative penalty is in addition to
 132F all other enforcement provisions in P. L. 1970, c. 39, and the pay-
 132G ment of any assessment shall not be deemed to affect the avail-
 132H ability of any other enforcement provisions in connection with the
 132I violation for which the assessment is levied. The department may
 132J compromise any civil administrative penalty assessed under this
 132K section in an amount the department determines appropriate.*
 133 *~~[c.]~~* *f.* Any person who violates the provisions of this act or
 134 any code, rule or regulation promulgated pursuant to this act shall
 135 be liable to a penalty of not more than ***~~[\$25,000.00]~~***
 136 ~~***\$50,000.00***~~ per day, to be collected in a civil action com-
 137 menced by a local board of health, a county health department, or

138 the commissioner ***[**by a summary proceeding under “the penalty
 139 enforcement law” (N. J. S. 2A:58-1 et seq.) in the Superior Court
 140 or a municipal court, all of which shall have jurisdiction to en-
 141 force “the penalty enforcement law” in connection with this act.
 142 If the violation is of a continuing nature, each day during which it
 143 continues after the date given by which the violation must be
 144 eliminated in accordance with the order of the department shall
 145 constitute an additional, separate and distinct offense**]**.*

146 *Any person who violates an administrative order issued pur-
 147 suant to subsection c. of this section, or a court order issued
 148 pursuant to subsection d. of this section, or who fails to pay an
 149 administrative assessment in full pursuant to subsection e. of this
 150 section is subject upon order of a court to a civil penalty not to
 151 exceed *****[\$50,000.00]***** ***\$100,000.00*** per day of such vio-
 151A lations.

152 *Of the penalty imposed pursuant to this subsection, 10% *or*
 153 *\$250.00, whichever is greater,* shall be paid to the department*
 154 ****from the General Fund*** if the *****[department]******
 155 ****Attorney General*** determines that a person is entitled to a
 156 reward pursuant to section 2 of P. L. ..., c. ... (C.)*
 157 *(now pending before the Legislature as this ****[act]**** **bill**).*

157A ***[**d. The department is hereby authorized and empowered to
 158 compromise and settle any claim for a penalty under this section in
 159 such amount in the discretion of the department as may appear
 160 appropriate and equitable under all of the circumstances, including
 161 a rebate of any such penalty paid up to 90% thereof, where such
 162 person satisfies the department within one year or such other
 163 period as the department may deem reasonable that such violation
 164 has been eliminated or removed or that such order or injunction
 165 has been met or satisfied, as the case may be.**]***

166 *****[**Each day during which the violation continues constitutes
 167 an additional, separate and distinct offense.**]***** Any penalty im-
 168 posed pursuant to this subsection may be collected with costs in a
 169 summary proceeding pursuant to “the penalty enforcement law”
 170 (N. J. S. 2A:58-1 et seq.). The *****[**Law Division of the**]*****
 171 Superior Court and the municipal court shall have jurisdiction to
 172 enforce the provisions of “the penalty enforcement law” in connec-
 173 tion with this act.*

174 ***[**e.]* *g.* Any person who knowingly:

175 (1) Transports any hazardous waste to a facility or any other
 176 place which does not have authorization from the department to
 177 accept such waste;

178 (2) Generates and causes or permits to be transported any
 179 hazardous waste to a facility or any other place which does not
 180 have authorization from the department to accept such waste;

181 (3) Disposes, treats, stores or transports hazardous waste with-
 182 out authorization from the department;

183 (4) Makes any false or misleading statement to any person who
 184 prepares any hazardous waste application, label, manifest, record,
 185 report, design or other document required to be submitted to the
 186 department; or

187 (5) Makes any false or misleading statement on any hazardous
 188 waste application, label, manifest, record, report, design or other
 189 document required to be submitted to the department shall, upon
 190 conviction, be guilty of a crime of the third degree and, notwith-
 191 standing the provisions of N. J. S. 2C:43-3, shall be subject to a
 192 fine of not more than ***~~[\$25,000.00]~~*** ~~***\$50,000.00***~~ for the
 193 first offense and not more than ***~~[\$50,000.00]~~***
 194 ~~***\$100,000.00***~~ for the second and each subsequent offense and
 195 restitution, in addition to any other appropriate disposition au-
 196 thorized by subsection b. of N. J. S. 2C:43-2.

196A *~~[f.]~~* *h.* Any person who recklessly:

197 (1) Transports any hazardous waste to a facility or any other
 198 place which does not have authorization from the department to
 199 accept such waste;

200 (2) Generates and causes or permits to be transported any
 201 hazardous waste to a facility or any other place which does not
 202 have authorization from the department to accept such waste;

203 (3) Disposes, treats, stores or transports hazardous waste with-
 204 out authorization from the department;

205 (4) Makes any false or misleading statement to any person
 206 who prepares any hazardous waste application, label, manifest,
 207 record, report, design or other document required to be submitted
 208 to the department; or

209 (5) Makes any false or misleading statement on any hazardous
 210 waste application, label, manifest, record, report, design or other
 211 document required to be submitted to the department, shall, upon
 212 conviction, be guilty of a crime of the fourth degree.

213 *~~[g.]~~* *i.* Any person who, regardless of intent, generates and
 214 causes or permits any hazardous waste to be transported, trans-
 215 ports, or receives transported hazardous waste without completing
 216 and submitting to the department a hazardous waste manifest in
 217 accordance with the provisions of this act or any rule or regulation
 218 adopted pursuant hereto shall, upon conviction, be guilty of a crime
 219 of the fourth degree.

220 ***[h.]*** *j.* All conveyances used or intended for use in the will-
 221 ful discharge, in violation of the provisions of P. L. 1970, c. 39 (C.
 222 13:1E-1 et seq.), of any solid waste, or hazardous waste as defined
 223 in P. L. 1976, c. 99 (C. 13:1E-38 et seq.) are subject to forfeiture
 224 to the State pursuant to the provisions of P. L. 1981, c. 387 (C.
 225 13:1K-1 et seq.).

226 *k. The provisions of N. J. S. 2C:1-6 to the contrary notwith-
 227 standing, a prosecution for a violation of the provisions of sub-
 228 section g., subsection h. or subsection i. of this section shall be
 229 commenced within five years of the date of discovery of the
 230 violation.*

1 2. (New section) A member of the public who *****[gives]*****
 2 *****supplies***** information to an enforcing authority which
 3 ****[assists with the detection and apprehension]**** *****[con-]**
 4 **tributes to the conviction**** of a person for a violation of the pro-
 5 visions of P. L. 1970, c. 39 (C. 13:1E-1 et seq.) *****[proximately]**
 6 **results in the imposition and collection of a civil penalty as the**
 7 **result of a civil action brought pursuant to subsection f. of section**
 8 **9 of P. L. 1970, c. 39 (C. 13:1E-9),***** or any code, rule, or regula-
 9 tion promulgated*****, administrative order issued or assessment**
 10 **imposed***** pursuant thereto, ****[is]**** ****shall be**** entitled to a
 11 reward of 10% *****of the civil penalty collected***** **, or \$250.00,
 12 **whichever amount is greater***[,**** of the penalty imposed ****and**
 13 **collected**** pursuant to ****subsection f. of**** section 9 of P. L. 1970,
 14 c. 39 (C. 13:1E-9) *****[upon a finding of liability against the]**
 15 **person who committed the violation and the payment by the violator**
 16 **of a penalty imposed pursuant to that section]****. The reward
 17 shall be paid by the department from any money received by the
 18 department pursuant to ****[that]**** ****subsection f. of**** section
 19 ****9 of P. L. 1970, c. 39 (C. 13:1E-9)****. ***The ***[department may]**
 20 **adopt]***** *****Attorney General shall adopt, pursuant to the**
 21 **“Administrative Procedure Act,” P. L. 1968, c. 410 (C. 52:14B-1 et**
 22 **seq.), rules and regulations necessary to implement this section,**
 23 **including***** procedures to provide for the protection of the
 24 **identity of persons providing information to an enforcing authority**
 25 **concerning a violation of the “Solid Waste Management Act,” in**
 26 **appropriate circumstances.***

1 3. This act shall take effect immediately.

SOLID WASTE

Provides bounty to persons notifying authorities about violations of the “Solid Waste Management Act” equal to 10% of any penalties imposed.

5 promulgated pursuant thereto, is entitled to a reward of 10% of the
6 penalty imposed pursuant to section 9 of P. L. 1970, c. 39 (C.
7 13:1E-9) upon a finding of liability against the person who com-
8 mitted the violation and the payment by the violator of a penalty
9 imposed pursuant to that section. The reward shall be paid by the
10 department from any money received by the department pursuant
11 to that section.

1 3. This act shall take effect immediately.

STATEMENT

This bill establishes a reward for persons who notify the authorities of illegal dumpers. The reward is payable when the illegal dumper is found liable for a violation of the "Solid Waste Management Act," P. L. 1970, c. 39 (13:1E-1 et seq.). The reward consists of 10% of the penalty imposed pursuant to that act. In order to stop illegal dumping it is necessary for the public to act as watchdogs. By granting a reward more people may become vigilant in reporting these violations, which, in turn, will ultimately lead to a safer and cleaner environment.

A 881 (1987)

ASSEMBLY COMMITTEE ON ENVIRONMENTAL QUALITY

STATEMENT TO

ASSEMBLY, No. 881

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 23, 1986

The Committee favorably reports Assembly Bill No. 881 Aca.

This bill establishes a reward for persons who notify the authorities of solid waste disposal violations. The reward is payable when the defendant is found guilty of a violation of the "Solid Waste Management Act," P. L. 1970, c. 39 (C. 13:1E-1 et seq.). The reward consists of 10% of the penalty imposed and collected pursuant to that act.

Currently, State law provides a "bounty" for anyone who provides information which proximately results in the arrest and conviction of any person illegally disposing of a hazardous waste. The bounty is 50% of any penalty collected.

The Committee amended the bill to provide that the bounty be 10% or \$250.00, whichever is greater and to provide for the protection of persons notifying authorities of violations.

The Committee adopted a technical amendment to bring the language of the bill into conformance with current law.

This bill was pre-filed for introduction in the 1986 session pending technical review. As reported (amended), the bill includes the changes required by technical review which has been performed.

SENATE REVENUE, FINANCE AND APPROPRIATIONS
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 881

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STATE OF NEW JERSEY

DATED: JUNE 16, 1986

The Senate Revenue, Finance and Appropriations Committee reported this bill favorably.

Assembly Bill No. 881 OCR SR establishes a reward for persons who notify the authorities of solid waste disposal violations. The reward is payable when the defendant is found guilty of a violation of the "Solid Waste Management Act," P.L. 1970, c. 39 (C. 13:1E-1 et seq.). The reward consists of 10% of the penalty imposed and collected pursuant to that act, or \$250.00, whichever is greater.

Currently, State law provides a reward, or "bounty" for anyone who provides information which proximately results in the arrest and conviction of any person illegally disposing of hazardous waste. This bill is intended to provide the same type of incentive for informants under the "Solid Waste Management Act."

FISCAL IMPACT

A fiscal note has not been prepared for this bill. However, since most awards would be calculated as a percentage of penalties collected, it is not anticipated that the bill will result in direct costs to the State.

SENATE ENERGY AND ENVIRONMENT COMMITTEE

STATEMENT TO

ASSEMBLY, No. 881

with Senate committee amendments

STATE OF NEW JERSEY

DATED: MARCH 24, 1986

The Senate Energy and Environment Committee favorably reports Assembly Bill No. 881.

Assembly Bill No. 881 would provide that persons who assist in the conviction of a person for a violation of the "Solid Waste Management Act," P. L. 1970, c. 39 (C. 13:1E-1 et seq.) be entitled to an award of 10% (or a minimum of \$250.00) of the amount of any penalty paid by the person convicted of the violation.

The committee made purely technical amendments to the bill.

STATE OF NEW JERSEY
Division of Legislative Services

January 7, 1967

ASSEMBLY BILL NO. 88 and 001

To the General Assembly:

Pursuant to Article V, Section 1, Paragraph 10 of the Constitution, I am returning Assembly Bill No. 88 and 001 with my objections, for reconsideration.

This bill would authorize the provision of rewards to certain persons who provide information to enforcing authorities which contributes to the conviction of a person for a violation of the State "Solid Waste Management Act" (the Act). The bill would amend and supplement the Act.

I fully support the intent of this legislation which reflects a recognition that a safe and efficient waste management system might, in some circumstances, require that those who provide valuable assistance in our enforcement effort be rewarded. For this reason, I strongly urge that this Legislature concur with my recommendations, which are largely technical in nature and wholly consistent with the spirit of this legislation.

Both the Assembly and Senate Committee Statements to this bill reference a provision in the "Major Hazardous Waste Facilities Siting Act." That provision, codified at N.J.S.A. 13:1E-67, stipulates that those who provide enforcing authorities with information which directly results in a conviction for unlawful activities involving hazardous waste shall be entitled to a reward in the amount of one-half of any penalties collected. This bill appears to be an attempt to provide the same type of inducement in the solid waste context.

Initially, it must be pointed out that the term "solid waste" as employed in the Act is intended to refer to both solid and hazardous wastes. Under the Act, only violations involving hazardous waste may be the subject of criminal actions. Violations involving "solid waste" as that phrase is commonly used would be subject to civil administrative penalties levied by the Commissioner of the Department of Environmental Protection and civil penalties through the filing of a civil action by the Department of Environmental Protection, a local board of health or a county health department.

In view of the above, this bill fails to achieve its stated purpose.

First, in authorizing a reward provided by the Act, only in situations where

STATE OF NEW JERSEY
Hazardous Waste Act

because, under the Act, violations involving solid waste, as the term is commonly used, may only be addressed through civil and civil administrative remedies.

Further, since this bill, as written, would authorize a reward for violations of the Act involving hazardous waste, a second problem would arise. The reward authorized by this bill would conflict with the reward provision in the "Major Hazardous Waste Facilities Siting Act." The former would authorize a reward in the amount of 10% of any penalty collected or \$250, whichever is greater, while the latter would authorize a reward in the amount of one-half of any penalty collected.

Accordingly, in order to achieve the bill's stated purpose of establishing a reward for violations of the Act involving solid waste, I would recommend that this bill be amended, consistent with the intent of the existing Act, to provide such reward from any civil penalties collected.

In addition, in order to ensure that rewards would be provided only to those who truly deserve them, I would recommend limiting the availability of these rewards to situations where the information "proximately results in the imposition and collection of a civil penalty." As currently written, this bill would authorize a reward where information simply "contributes to [a] conviction".

My remaining amendments, set forth below, are primarily technical in nature and necessary, in large part, for purposes of clarification and in order to ensure that this bill's new provisions are properly placed within the framework of the existing Act.

Accordingly, I herewith return Assembly Bill No. 881 (2nd OCR) and recommend that it be amended as follows:

Page 2, Section 1, Line 37: Delete "13:1" insert "13:1E-1"

Page 2, Section 1, Line 58: After "violation" insert ",,"

Page 3, Section 1, Line 74: Delete ",,"

Page 4, Section 1, Line 107: Delete "\$25,000.00" insert "\$50,000.00"

Page 4, Section 1, Lines 107-108: Delete "and additional penalties of not more than \$2,500.00 for"-insert "provided that"

STATE OF NEW JERSEY
EXECUTIVE LEGISLATIVE

Page 4, Section 1, Lines 104-110: Delete "after receipt of an order from the department" insert "shall constitute an additional, separate and distinct offense"

Page 4, Section 1, Line 110: After "department." insert "The commission shall not assess a civil administrative penalty in excess of \$25,000.00 for a single violation, or in excess of \$2,500.00 for each day during which a violation continues, until the department has adopted, pursuant to the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.), regulations requiring the commissioner, in assessing a civil administrative penalty, to consider the operational history of the facility at which the violation occurred, the severity of the violation, the measures taken to mitigate or prevent future violations, and whether the penalty will maintain an appropriate deterrent."

Page 4, Section 1, Line 135: Delete "\$25,000.00" insert "\$50,000.00"

Page 5, Section 1, Line 151: Delete "\$50,000.00" insert "\$100,000.00"; after "violation." insert "Each day during which the violation continues constitutes an additional, separate and distinct offense."

Page 5, Section 1, Line 153: After "department" insert "from the General Fund"

Page 5, Section 1, Line 154: Delete "department" insert "Attorney General"

Page 5, Section 1, Lines 166-167: On line 166 delete-entirely; on line 167 delete "additional, separate and distinct offense."

Page 5, Section 1, Line 170: Delete "Law Division of the"

Page 6, Section 1, Line 191: Delete "\$25,000.00" insert "\$50,000.00"

Page 6, Section 1, Line 193: Delete "\$50,000.00" insert "\$100,000.00"

Page 6, Section 2, Line 1: Delete "gives" insert "supplies"

Page 7, Section 2, Lines 3-4: Delete lines 3 and 4 entirely and insert "proximately results in the imposition and collection of a civil penalty as the result of a civil action brought pursuant to subsection f. of section 9 of P.L. 1970, c. 39 (C.13:1E-9)."

Page 7, Section 2, Line 5: After "promulgated" insert ", administrative order issued or assessment imposed"

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

Page 7, Section 2, Lines 7-9: On line 7 delete ", of the penalty imposed and"; delete line 8 entirely; on line 9 delete "c. 29 (C.13:1E-9)"

Page 7, Section 2, Line 14: Delete "department may adopt" insert "Attorney General shall adopt, pursuant to the "Administrative Procedure Act," P.L. 1968, c. 410 (C.52:14B-1 et seq.), rules and regulations necessary to implement this section, including"

Respectfully,

/s/ Thomas H. Kean

GOVERNOR

[seal]

Attest:

/s/ Michael R. Cole

Chief Counsel