

13:1E-92 et al

LEGISLATIVE HISTORY CHECKLIST

**NJSA:** 13:1E-92 et al "Clean Communities and Recycling Act"

**LAWS OF:** 1985 **CHAPTER** 533

**BILL NO:** A2003

**Sponsor(s):** Marsella and others

**Date Introduced:** May 14, 1984

**Committee: Assembly:** Revenue, Finance and Appropriations; Energy and Natural Resources

**Senate:** Revenue, Finance and Appropriations, Energy and Environment

**Amended during passage:** Yes Assembly Committee Substitute (2nd OCR) enacted.

**Date of Passage: Assembly:** June 27, 1985

**Senate:** January 13, 1986

**Date of Approval:** January 21, 1986

**Following statements are attached if available:**

**Sponsor statement:** Yes

**Committee statement: Assembly** Yes 6-24-85 and 4-29-85

**Senate** Yes 12-11-85 and 1-13-86

**Fiscal Note:** ~~No~~ Yes

**Veto Message:** No

**Message on Signing:** Yes

**Following were printed:**

**Reports:** No

**Hearings:** No

**Attached:**

"Governor to sign tax on business to help curb litter," Bergen Record, 1-14-86.

"Governor signs 'litter tax' bill," Trenton Times, 1-22-86. p A1

"Litter tax' at heart of N.J. cleanup debate," Trenton Times, 1-27-86. A3

"State to begin collecting litter tax from businesses," 4-21-86, Trenton Times. A2

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P777  
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New Jersey. Office of Recycling.  
Recycling in the 1980's: progress  
report and program recommendations . . . October, 1984.  
Trenton, 1984.  
(see pp. 38-39).

[OFFICIAL COPY REPRINT]  
ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, No. 2003**

**STATE OF NEW JERSEY**

ADOPTED APRIL 29, 1985

AN ACT to amend the title of "A Supplement to the "Solid Waste Management Act," approved May 6, 1970 (P. L. 1970, c. 39; C. 13:1E-1 et seq.), as said short title was amended by P. L. 1975, c. 326," approved September 9, 1981 (P. L. 1981, c. 278), so that the same shall read "An act concerning litter pickup and removal and the recycling of waste materials, supplementing P. L. 1970, c. 39 (C. 13:1E-1 et seq.)," to amend and supplement the body of said act, to amend R. S. 39:5-41 and to make appropriations.

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

1 1. The title of P. L. 1981, c. 278 is amended to read as follows:

2 **[A SUPPLEMENT to the "Solid Waste Management Act," approved**  
3 **May 6, 1970 (***An act concerning litter pickup and removal and*  
4 *the recycling of waste materials and supplementing P. L. 1970, c.*  
5 *39***;***] (C. 13:1E-1 et seq.)**],** as said short title was amended by  
6 P. L. 1975, c. 326**].***

1 2. Section 1 of P. L. 1981, c. 278 (C. 13:1E-92) is amended to  
2 read as follows:

1 1. This act shall be known and may be cited as the "*Clean Com-*  
2 *munities and Recycling Act.*"

1 3. Section 2 of P. L. 1981, c. 278 (C. 13:1E-93) is amended to  
2 read as follows:

3 2. The Legislature finds that New Jersey must continue to seek  
4 solutions to its energy, environmental and economic problems;  
5 that solutions to these problems require proper solid waste and  
6 resource recovery management; that the generation of municipal  
7 solid waste is increasing while landfill capacity is decreasing; that  
8 the siting of environmentally secure landfills is an area of serious

**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 June 24, 1985.**

9 concern and limited choice; and that the disposal of solid waste  
10 materials is wasteful of valuable resources.

11 The Legislature further finds that the recycling of waste mate-  
12 rials decreases waste flow to landfill sites, recovers valuable re-  
13 sources, conserves energy in the manufacturing process, and offers  
14 a supply of domestic raw materials for the State's industries;  
15 that a comprehensive recycling plan and program is necessary to  
16 achieve the maximum practicable recovery of reusable materials  
17 from solid waste in this State; and that such a plan will reduce  
18 the amount of waste to landfills, conserve energy and resources,  
19 and recover materials for industrial uses.

20 *The Legislature finds that an uncluttered landscape is among the*  
21 *most priceless heritages which New Jersey can bequeath to poster-*  
22 *ity; that it is the duty of government to promote and encourage*  
23 *a clean and safe environment; that the proliferation and accumula-*  
24 *tion of carelessly discarded litter may pose a threat to the public*  
25 *health and safety; that the litter problem is especially serious in a*  
26 *State as densely populated and heavily traveled as New Jersey;*  
27 *and that unseemly litter has an adverse economic effect on New*  
28 *Jersey by making the State less attractive to tourists and new in-*  
29 *dustry and residents.*

30 The Legislature, therefore, declares it to be in the energy,  
31 environmental, and economic interests of the State of New Jersey  
32 to implement a comprehensive Statewide recycling *and litter abate-*  
33 *ment and removal pickup* plan.

1 4. Section 3 of P. L. 1981, c. 278 (C. 13:1E-94) is amended to  
2 read as follows:

3 3. As used in this act:

4 a. "Department" means the State Department of Environmental  
5 Protection;

6 [a.] b. "Division" means the Division of Taxation in the Depart-  
7 ment of the Treasury;

8 [b.] c. "Director" means the Director of the Division of Taxa-  
9 tion in the Department of the Treasury;

10 d. "Litter" means any discarded, used or unconsumed substance  
11 or waste material, whether made of aluminum, glass, plastic, rubber,  
12 paper, or other natural or synthetic material, or any combination  
13 thereof including, but not limited to, any bottle, jar or can, or any  
14 top, cap or detachable tab of any bottle, jar or can, any unlighted  
15 cigarette, cigar, match or any flaming or glowing material or any  
16 garbage, trash, refuse, debris, rubbish, grass clippings or other  
17 lawn or garden waste, newspaper, magazines, glass, metal, plastic  
18 or paper containers or other packaging or construction material

19 *but does not include the waste of the primary processes of mining*  
 20 *or other extraction processes, logging, sawmilling, farming or*  
 21 *manufacturing;*

22 *e. "Litter-generating products" means goods which are produced,*  
 23 *distributed, or purchased in disposable containers, packages or*  
 24 *wrappings, and shall include items which are not usually sold in*  
 25 *packages, containers, or wrappings but which are commonly dis-*  
 26 *carded in public places, or any other goods of an unsightly or un-*  
 27 *sanitary nature commonly thrown, dropped, discarded, placed, or*  
 28 *deposited by a person on public property, or on private property*  
 29 *not owned by him\***[.]**\* including\***[**, but not limited to,**]**\* the*  
 29A *following:*

- 30 (1) *Beer and other malt beverages;*
- 31 (2) *Cigarettes and tobacco products;*
- 32 (3) *Cleaning agents and toiletries;*
- 33 (4) *Distilled spirits;*
- 34 (5) *Food for human or pet consumption;*
- 35 (6) *Glass containers;*
- 36 (7) *Groceries;*
- 37 (8) *Metal containers;*
- 38 (9) *Motor vehicle \***[parts]**\* \*tires\*;*
- 39 (10) *Newsprint and magazine paper stock;*
- 40\* (11) *Nondrug drugstore sundry products;*
- 41 (12) *Paper products and household paper;*
- 42 (13) *Plastic or fiber containers made of synthetic material\*, but*  
 42A *not including any container which is routinely reused, has a useful*  
 42B *life of more than one year and is ordinarily sold empty at retail\*;*
- 43 (14) *Soft drinks and carbonated waters; \***[and]**\**
- 44 (15) *Wine; \*and\**
- 44A \*(16) *Any other category of products as may be designated by*  
 44B *the department following a public hearing;\**

45 *f. "Litter receptacle" means a container suitable for the deposit-*  
 46 *ing of litter.*

47 **[c.]** *g. "Municipality" means any city, borough, town, township*  
 48 *or village situated within the boundaries of this State;*

49 *h. "Public place" means any area that is used or held out for*  
 50 *use by the public whether owned or operated by public or private*  
 51 *interests.*

52 **[d.]** *i. "Recycling" means any process by which materials which*  
 53 *would otherwise become solid waste are collected, separated or*  
 54 *processed and returned to the economic mainstream in the form*  
 55 *of raw materials or products;*

56     *j. "Sold within the State" or "sales within the State" means all*  
 57 *sales of retailers engaged in business within the State and, in the*  
 58 *case of manufacturers, wholesalers and distributors, all sales of*  
 59 *products for use and consumption within the State. It shall be pre-*  
 60 *sumed that all sales of manufacturers, wholesalers and distributors*  
 61 *sold within the State are for use and consumption within the State*  
 62 *unless the taxpayer shows that the products are shipped out of state*  
 63 *for out-of-State use;*

64     **[e.] k.** "Tax period" means every calendar month or any other  
 65 period as may be prescribed by rule and regulation adopted by the  
 66 director, on the basis of which the owner or operator of a sanitary  
 67 landfill facility is required to report to the director pursuant to  
 68 this act;

69     **[f.] l.** "Taxpayer" means the owner or operator of a sanitary  
 70 landfill facility *or the manufacturer, wholesaler, distributor, or re-*  
 71 *tailer of litter-generating products* subject to the tax provisions of  
 72 this act.

1     5. Section 5 of P. L. 1971, c. 278 (C. 13:1E-96) is amended to  
 2 read as follows:

3     5. a. The State Recycling Fund (hereinafter referred to as the  
 4 "fund") is established as a nonlapsing, revolving fund. The fund  
 5 shall be administered jointly by the Department of Energy and the  
 6 Department of Environmental Protection, and shall be credited  
 7 with all tax revenue collected by the division pursuant to section 4  
 8 of **[this supplementary act]** *P. L. 1981, c. 278 (C. 13:1E-95)*. In-  
 9 terest received on moneys in the fund and sums received as repay-  
 10 ment of principal and interest on outstanding loans made from the  
 11 fund shall be credited to the fund. The Department of Energy and  
 12 the Department of Environmental Protection, in their administra-  
 13 tion of the fund, are authorized to assign to the New Jersey Eco-  
 14 nomic Development Authority the responsibility for making credit  
 15 evaluations of applicants for loans, for servicing loans on behalf  
 16 of the two departments, and, the provisions of any other law to the  
 17 contrary notwithstanding, for making recommendations as to the  
 18 approval or denial of loans pursuant to this section. The depart-  
 19 ments are further authorized to pay or reimburse the authority in  
 20 the amounts as the departments jointly agree are appropriate for  
 21 all services rendered by the authority in connection with any as-  
 22 signment of responsibility under the terms of this section out of  
 23 moneys held in the fund for loans and the loan guarantee program.

24     b. Moneys in the fund shall be allocated and used for the follow-  
 25 ing purposes and no others:

26 (1) Not less than 45% of the estimated annual balance of the  
27 fund shall be used for the annual expenses of a five-year program  
28 for recycling grants to municipalities. The amount of these grants  
29 shall be calculated, for the purposes of the first grant to a particular  
30 municipality, on the basis of the total number of tons of materials  
31 annually recycled from residential and commercial sources within  
32 that municipality. Thereafter, subsequent grants to a municipality  
33 shall be calculated on the basis of the increase in the total number  
34 of tons of such materials from the total in the preceding year,  
35 except that no such grant shall exceed \$25.00 per ton of materials  
36 recycled. For the purpose of calculating subsequent annual grants  
37 to municipalities pursuant to this subsection, not less than 15% of  
38 the estimated annual balance of the fund shall be allocated on the  
39 basis of the total number of tons of wastepaper recycled in the  
40 preceding year, not less than 15% of the estimated annual balance  
41 of the fund shall be allocated on the basis of the total number of  
42 tons of glass recycled in the preceding year, and not less than 15%  
43 of the estimated annual balance of the fund shall be allocated on  
44 the basis of the total number of tons of other materials recycled in  
45 the preceding year.

46 To be eligible for a grant pursuant to this subsection, a munici-  
47 pality shall demonstrate that the materials recycled by the munici-  
48 pal recycling program were not diverted from a commercial re-  
49 cycling program already in existence on the effective date of the  
50 ordinance establishing the municipal recycling program.

51 To be eligible for a subsequent annual grant pursuant to this sub-  
52 section, a municipality shall demonstrate that at least two types of  
53 materials are currently recycled, or will be recycled in the succeed-  
54 ing grant year by the municipal recycling program. No recycling  
55 grant to any municipality shall be used for constructing or operat-  
56 ing any facility for the baling of wastepaper or for the shearing,  
57 baling or shredding of ferrous or nonferrous materials;

58 (2) Not less than 20% of the estimated annual balance of the  
59 fund shall be used to provide low interest loans and to establish a  
60 sufficient reserve for a loan guarantee program for recycling busi-  
61 nesses and industries;

62 (3) Not more than 10% of the estimated annual balance of the  
63 fund shall be used for State recycling program planning and pro-  
64 gram funding, including the administrative expenses thereof;

65 (4) Not more than 10% of the estimated annual balance of the  
66 fund shall be used for county and municipal recycling program  
67 planning and program funding, including the administrative ex-

68 penses thereof; and

69 (5) Not less than 15% of the estimated annual balance of the  
70 fund shall be used for a public information and education program  
71 concerning recycling **[and anti-litter]** activities.

1 6. (New section) a. There is levied upon each person engaged  
2 in business in the State as a manufacturer, wholesaler, or distribu-  
3 tor of litter-generating products a tax of 3/100 of 1% (.0003) on  
4 sales *\*of those products\** within the State, and each person engaged  
5 in business in the State as a retailer of litter-generating products  
6 a tax of **\*[2.25]\*** *\*3\*/100 of 1% **\*[(.000225)]\* *\*(.0003)\***** on sales  
7 *\*of those products\** within the State, except **\*[that the first**  
8 **\$100,00.00]\*** *\*any retailer with less than \$250,000.00\** in annual re-  
9 tail sales of litter-generating products is exempt from this tax. A  
10 sale by a wholesaler or distributor to another wholesaler or dis-  
11 tributor **\*[or]\*** *\*,\** a sale by a company to another company owned  
11A wholly by the same individuals or companies, *\*or a sale by a whole-*  
11B *saler or distributor owned cooperatively by retailers to those re-*  
11C *tailers\** is not subject to tax under this amendatory and supple-  
11D mentary act.

12 Every person subject to this tax shall, on or before March 15,  
13 1986, and on or before March 15, of each year thereafter, prepare  
14 and file a return, under oath, for the preceding calendar year with  
15 the director on forms and containing any information as the di-  
16 rector shall prescribe. The return shall indicate the dollar value  
17 of the sales within the State of litter-generating products and at  
18 the same time the person shall pay the full amount of tax due.

19 For the purpose of this amendatory and supplementary act,  
20 "retailer" includes those restaurants one of whose principal activi-  
21 ties consists of selling for consumption off the premises of the  
22 vendor, a meal or food prepared and ready to be eaten.

23 b. If a return required by this amendatory and supplementary  
24 act is not filed, or if a return when filed is incorrect or insufficient  
25 in the opinion of the director, the amount of tax due shall be deter-  
26 mined by the director from whatever information may be available.  
27 Notice of the determination shall be given to the taxpayer liable  
28 for the payment of the tax. The determination shall finally and  
29 irrevocably fix the tax unless the person against whom it is assessed,  
30 within 30 days after receiving notice of the determination, shall  
31 apply to the director for a hearing, or unless the director on his  
32 own motion shall redetermine the same. After the hearing the  
33 director shall give notice of his determination to the person to  
34 whom the tax is assessed.



35 c. Any taxpayer who shall fail to file his return when due or to  
36 pay any tax when the tax becomes due, as herein provided, shall be  
37 subject to such penalties and interest as provided in the "State  
38 Tax Uniform Procedure Law," R. S. 54:48-1 et seq. If the director  
39 determines that the failure to comply with any provision of this  
40 section was excusable under the circumstances, he may remit any  
41 part of the penalty as shall be appropriate under the circumstances.

42 d. (1) Any person failing to file a return, failing to pay the tax,  
43 or filing or causing to be filed, or making or causing to be made,  
44 or giving or causing to be given any return, certificate, affidavit,  
45 representation, information, testimony or statement required or  
46 authorized by this amendatory and supplementary act, or rules or  
47 regulations adopted hereunder which is willfully false, or failing to  
48 keep any records required by this amendatory and supplementary  
49 act or rules and regulations adopted hereunder, shall, in addition  
50 to any other penalties herein or elsewhere prescribed, be guilty of  
51 a crime of the fourth degree.

52 (2) The certificate of the director to the effect that a tax has not  
53 been paid, that a return has not been filed, that information has not  
54 been supplied or that inaccurate information has been supplied  
55 pursuant to the provisions of this amendatory and supplementary  
56 act or rules or regulations adopted hereunder shall be presumptive  
57 evidence of a violation thereof.

58 e. In addition to the other powers granted by this section, the  
59 director may:

60 (1) Delegate to any officer or employee of his division those  
61 powers and duties as he may deem necessary to carry out efficiently  
62 the provisions of this section, and the person or persons to whom  
63 the powers has been delegated shall possess and may exercise all  
64 of the powers and perform all of the duties delegated by the  
65 director; and

66 (2) Prescribe and distribute all necessary forms for the imple-  
67 mentation of this section.

68 f. The tax imposed by this section shall be governed in all re-  
69 spects by the provisions of the "State Tax Uniform Procedure  
70 Law," R. S. 54:48-1 et seq., unless otherwise provided by a specific  
71 provision of this section.

1 7. (New section) The Clean Communities Account is established  
2 as a nonlapsing, revolving fund in the Department of the Treasury  
3 to carry out the purposes of this amendatory and supplementary  
4 act. The Clean Communities Account shall be administered by the  
5 Department of Environmental Protection and credited with all

6 taxes and penalties levied or imposed pursuant to sections 6, 8,  
7 and 13 of this amendatory and supplementary act, any sums received  
8 as voluntary contributions from private sources, and interest re-  
9 ceived on moneys in the account shall be credited to the account.  
10 Moneys in the Clean Communities Account shall be allocated and  
11 used for the following purposes and no others:

12 a. 5% of the estimated annual balance of the account shall be  
13 used for a litter patrol program to employ youth from the State  
14 to pick up and remove litter from State owned places and areas  
15 that are accessible to the public;

16 b. 80% of the estimated annual balance of the account shall be  
17 used for the annual expenses of providing grants to municipalities  
18 for litter pickup and removal programs, which employ youth,  
19 among others.

20 To be eligible for a grant pursuant to this subsection, a munici-  
21 pality shall demonstrate that the governing body thereof has  
22 adopted an ordinance or regulation in conformity with the pur-  
23 poses and provisions of this amendatory and supplementary act  
24 and is actively engaged in a litter pickup and removal program  
25 approved by the department. Approval shall not be granted unless  
26 (1) the plan provides new employment, and (2) the plan demon-  
27 strates it is in addition to or supplements existing litter pickup and  
28 removal activities in the municipality. The amount of these grants  
29 shall be calculated based on the proportion which the population  
30 of a qualifying municipality bears to the total State population,  
31 except that no eligible municipality shall receive less than 0.1% of  
32 the amount apportioned for this purpose. Population shall be de-  
33 termined using the most recent federal decennial population esti-  
34 mates for New Jersey and its municipalities filed in the office of  
35 the Secretary of State;

36 c. 5% of the estimated annual balance of the account shall be  
37 used for State litter control program planning and program fund-  
38 ing, including the administrative expenses thereof and for a public  
39 information and education program concerning antilittering activi-  
40 ties;

41 d. 10% of the estimated annual balance of the account shall be  
42 used for the annual expenses of providing grants to counties for  
43 litter pickup and removal programs, which employ youth, among  
44 others.

45 To be eligible for a grant pursuant to this subsection, a county  
46 shall demonstrate that the governing body thereof has adopted an  
47 ordinance or regulation in conformity with the purposes and pro-

48 visions of this amendatory and supplementary act and is actively  
49 engaged in a litter pickup and removal program approved by the  
50 department. Approval shall not be granted unless (1) the plan  
51 provides new employment, and (2) the plan demonstrates it is in  
52 addition to or supplements existing litter pickup and removal  
53 activities in the county. The amount of these grants shall be cal-  
54 culated based on the proportion which the population of a quali-  
55 fying county bears to the total State population, except that no  
56 eligible county shall receive less than 0.1% of the amount appor-  
57 tioned for this purpose. Population shall be determined using the  
58 most recent federal decennial population estimates for New Jersey  
59 and its municipalities in the office of the Secretary of State.

1 8. a. A person who throws, drops, discards or otherwise places  
2 any litter of any nature upon public or private property other than  
3 in a litter receptacle commits a petty disorderly persons offense.  
4 The Superior Court and every municipal court shall have juris-  
5 diction to enforce this section. The State, or any municipality may  
6 institute proceedings under this section. If a money judgment is  
7 rendered against a defendant, the payment made to the court shall  
8 be remitted to the chief financial officer of the municipality wherein  
9 the violation occurred to be used by the municipality to help finance  
10 litter control activities in addition to or supplementing existing  
11 litter pickup and removal activities in the municipality.

12 b. If a person violates subsection a. of this section the court  
13 may, in addition to the penalty provided under that subsection,  
14 direct the person to perform community service, including litter  
15 pickup and removal from any public property, or any private  
16 property with permission of the owner, upon which the person  
17 deposited litter, for a term of not less than 20 hours nor more  
18 than 40 hours.

1 9. (New section) In addition to the duties and responsibilities  
2 hereinbefore provided, the department shall:

3 a. Serve as the coordinating agency between the various indus-  
4 try and business organizations seeking to aid in the antilitter  
5 effort;

6 b. Recommend to local governing bodies that they adopt resolu-  
7 tions or ordinances, as appropriate, in conformity with the pur-  
8 poses and provisions of this amendatory and supplementary act  
9 and assist these bodies in the preparation of the ordinances and  
10 resolutions;

11 c. Encourage and cooperate with all local voluntary and govern-  
12 ment antilitter campaigns attempting to focus public attention on

13 the State litter pickup and removal program;

14 d. Investigate the availability of, and apply for, funds available  
15 from any private or public source to be used in the litter pickup  
16 and removal program provided for in this amendatory and supple-  
17 mentary act;

18 e. Investigate the successful methods of other litter pickup and  
19 removal programs, encourage the use of litter receptacles, and  
20 evaluate their possible incorporation into the New Jersey litter  
21 pickup and removal program;

22 f. Conduct a litter survey within six months of the effective date  
23 of this amendatory and supplementary act and annually thereafter.

1 10. (New section) The department shall report to the Legisla-  
2 ture on its proposed plan of litter pickup and removal not later  
3 than six months after the effective date of this amendatory and  
4 supplementary act, and annually thereafter, upon the success of  
5 the plan in reducing litter in New Jersey, and any recommendations  
6 for improvements.

1 11. (New section) The department may enter into contracts with  
2 other State agencies, local agencies, or local governing bodies, and  
3 shall adopt, pursuant to the "Administrative Procedure Act," P. L.  
4 1968, c. 410 (C. 52:14B-1 et seq.), any rules and regulations neces-  
5 sary to implement the provisions of this amendatory and supple-  
6 mentary act relating to litter pickup and removal.

1 12. (New section) No beverage shall be sold within the State in  
2 a metal container designed and constructed so that the container  
3 is opened by detaching a metal ring or tab, except if the tab is made  
4 of tape, foil, or other soft material; or in metal beverage containers  
5 connected to each other by a separate device made of plastic which  
6 does not decompose by photodegradation, chemical degradation, or  
7 biodegradation. For the purposes of this section, "beverage" means  
8 alcoholic beverages, including beer or other malt beverages, liquor,  
9 wine, vermouth and sparkling wine, and nonalcoholic beverages,  
10 including fruit juice, mineral water and soda water and similar  
11 nonalcoholic carbonated drinks intended for human consumption.

1 13. (New section) Every person convicted of a violation of this  
2 amendatory and supplementary act for which no penalty is spe-  
3 cifically provided is subject to a fine of not more than \$100.00 for  
4 each violation. If the violation is of a continuing nature, each day  
5 during which it continues constitutes a separate and distinct of-  
6 fense.

1 14. (New section) The tax imposed pursuant to section 6 of this  
2 amendatory and supplementary act shall not be due and payable

3 if, and as long as, any State of New Jersey or federal law, or any  
 4 rule or regulation adopted pursuant thereto, requiring a deposit  
 5 on, or establishing a refund value for, any litter-generating prod-  
 6 ucts shall be in effect.

1 15. (New section) On or before October 1, 1985, or in the case  
 2 of persons commencing or opening new places of business after  
 3 that date, within 30 days after the commencement or opening,  
 4 every person subject to tax under the litter pickup and removal  
 5 provisions of this amendatory and supplementary act shall file with  
 6 the director a certificate of registration in a form prescribed by  
 7 him. Any person who is registered under any law administered by  
 8 the division of taxation or who is subject to and files returns  
 9 under any of these laws shall be excused from compliance with the  
 10 requirements of this section.

1 16. Additional expenditures or incremental costs necessary and  
 2 reasonably incurred by a municipality for the abatement and con-  
 3 trol of litter or any other antilittering activities as a direct result  
 4 of the implementation of P. L. 1985, c. (C. ) (now  
 5 pending before the Legislature as this Assembly Committee Sub-  
 6 stitute) shall, for the purposes of P. L. 1976, c. 68 (C. 40A:4-45.1  
 7 et seq.), be considered expenditures mandated by State law.

1 17. (New section) a. There is appropriated to the Division of  
 2 Taxation in the Department of the Treasury a sum of \$500,000.00  
 3 or so much thereof as shall be required to carry out the provisions  
 4 of this amendatory and supplementary act concerning litter pickup  
 5 and removal and administration from the effective date hereof  
 6 through the period ending June 30, 1986.

7 b. There is appropriated to the Department of Environmental  
 8 Protection the sum of \$500,000.00 or so much thereof as shall be  
 9 required to carry out the provisions of this amendatory and supple-  
 10 mentary act concerning litter pickup and removal and adminis-  
 11 tration from the effective date hereof through the period ending  
 12 June 30, 1986.

13 c. In addition to the foregoing, there is appropriated the sum of  
 14 \$10,000,000.00 into the Clean Communities Account for the pur-  
 15 poses set forth in section 7 of this amendatory and supplementary  
 16 act, less any amount of tax collected by the Division of Taxation  
 17 pursuant to section 6 of this amendatory and supplementary act.

1 18. R. S. 39:5-41 is amended to read as follows:

2 39:5-41. a. *All fines, penalties and forfeitures imposed and*  
 3 *collected under authority of law for any violations of R. S. 39:4-63*  
 4 *and R. S. 39:4-64, shall be forwarded by the judge to whom the*

5 same have been paid to the proper financial officer of the municipi-  
6 pality wherein the violation occurred, to be used by the municipality  
7 to help finance litter control activities in addition to or supplement-  
8 ing existing litter pickup and removal activities in the municipality.

9 b. Except as otherwise provided by subsection a. of this section,  
10 **[All]** all fines, penalties and forfeitures imposed and collected  
11 under authority of law for any violations of the provisions of this  
12 Title, other than those violations in which the complainant is the  
13 director, a member of his staff, a member of the State Police, an  
14 inspector of the Board of Public Utilities, or a law enforcement  
15 officer of any other State agency, shall be forwarded by the judge  
16 to whom the same have been paid to the proper financial officer of  
17 the county wherein they were collected, to be used by the county as  
18 a fund for the construction, reconstruction, maintenance and repair  
19 of roads and bridges, snow removal, the acquisition and purchase  
20 of rights-of-way, and the purchase, replacement and repair of  
21 equipment for use on said roads and bridges therein. Whenever the  
22 amount of moneys to be forwarded to the counties pursuant to  
23 this section rises above the level forwarded to them in fiscal year  
24 1980, the increase, up to the amount forwarded to the counties, shall  
25 be forwarded to the proper financial officer of the respective municipi-  
26 palities wherein the violations occurred, to be used by the municipi-  
27 palities as a fund for general municipal use and to defray the cost  
28 of operating the municipal court. When the amount of moneys for-  
29 warded to the municipalities equals the amount forwarded to the  
30 counties, any additional increase shall be paid one-half to the county  
31 wherein the funds were collected and one-half to the municipality  
32 wherein the funds were collected.

33 Whenever any county has deposited moneys collected pursuant  
34 to this section in a special trust fund in lieu of expending the same  
35 for the purposes authorized by this section, it may withdraw from  
36 said special trust fund in any year an amount which is not in excess  
37 of the amount expended by the county over the immediately pre-  
38 ceding three-year period from general county revenues for said  
39 purposes. Such moneys withdrawn from the trust fund shall be  
40 accounted for and used as are other general county revenues.

1 19. This act shall take effect on the first day of the third calendar  
2 month next following enactment.

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[SECOND OFFICIAL COPY REPRINT]  
 ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, No. 2003**

**STATE OF NEW JERSEY**

ADOPTED APRIL 29, 1985

AN ACT to amend the title of "A Supplement to the "Solid Waste Management Act," approved May 6, 1970 (P. L. 1970, c. 39; C. 13:1E-1 et seq.), as said short title was amended by P. L. 1975, c. 326," approved September 9, 1981 (P. L. 1981, c. 278), so that the same shall read "An act concerning litter pickup and removal and the recycling of waste materials, **\*\*and\*\*** supplementing P. L. 1970, c. 39 (C. 13:1E-1 et seq.)," to amend and supplement the body of said act, to amend R. S. 39:5-41 and to make appropriations.

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

1 1. The title of P. L. 1981, c. 278 is amended to read as follows:

2 **[A SUPPLEMENT** to the "Solid Waste Management Act," approved  
 3 May 6, 1970 **( ]** *An act concerning litter pickup and removal and*  
 4 *the recycling of waste materials\*\*,\*\* and supplementing* P. L. 1970,  
 5 c. 39**[:;]** (C. 13:1E-1 et seq.)**],** as said short title was amended  
 6 by P. L. 1975, c. 326**].**

1 2. Section 1 of P. L. 1981, c. 278 (C. 13:1E-92) is amended to  
 2 read as follows:

1 1. This act shall be known and may be cited as the "*Clean Com-*  
 2 *munities and Recycling Act.*"

1 3. Section 2 of P. L. 1981, c. 278 (C. 13:1E-93) is amended to  
 2 read as follows:

3 2. The Legislature finds that New Jersey must continue to seek  
 4 solutions to its energy, environmental and economic problems;  
 5 that solutions to these problems require proper solid waste and  
 6 resource recovery management; that the generation of municipal

**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 June 24, 1985.

\*\*—Senate committee amendments adopted December 12, 1985.

\*\*\*—Senate committee amendments adopted January 13, 1986.

7 solid waste is increasing while landfill capacity is decreasing; that  
 8 the siting of environmentally secure landfills is an area of serious  
 9 concern and limited choice; and that the disposal of solid waste  
 10 materials is wasteful of valuable resources.

11 The Legislature further finds that the recycling of waste mate-  
 12 rials decreases waste flow to landfill sites, recovers valuable re-  
 13 sources, conserves energy in the manufacturing process, and offers  
 14 a supply of domestic raw materials for the State's industries;  
 15 that a comprehensive recycling plan and program is necessary to  
 16 achieve the maximum practicable recovery of reusable materials  
 17 from solid waste in this State; and that such a plan will reduce  
 18 the amount of waste to landfills, conserve energy and resources,  
 19 and recover materials for industrial uses.

20 *The Legislature finds that an uncluttered landscape is among the*  
 21 *most priceless heritages which New Jersey can bequeath to poster-*  
 22 *ity; that it is the duty of government to promote and encourage*  
 23 *a clean and safe environment; that the proliferation and accumula-*  
 24 *tion of carelessly discarded litter may pose a threat to the public*  
 25 *health and safety; that the litter problem is especially serious in a*  
 26 *State as densely populated and heavily traveled as New Jersey;*  
 27 *and that unseemly litter has an adverse economic effect on New*  
 28 *Jersey by making the State less attractive to tourists and new in-*  
 29 *dustry and residents.*

30 The Legislature, therefore, declares it to be in the energy,  
 31 environmental, and economic interests of the State of New Jersey  
 32 to implement a comprehensive Statewide recycling *\*\*\*plan\*\*\** and  
 33 *\*\*\*to establish a clean communities account to develop resources*  
 34 *to be used in a\*\*\* litter abatement and removal pickup plan \*\*\*as*  
 35 *provided for by law\*\*\*.*

1 4. Section 3 of P. L. 1981, c. 278 (C. 13:1E-94) is amended to  
 2 read as follows:

3 3. As used in this act:

4 a. "Department" means the State Department of Environmental  
 5 Protection;

6 [a.] b. "Division" means the Division of Taxation in the Depart-  
 7 ment of the Treasury;

8 [b.] c. "Director" means the Director of the Division of Taxa-  
 9 tion in the Department of the Treasury;

10 d. "Litter" means any **\*\*[discarded,]\*\*** used or unconsumed  
 11 substance or waste material **\*\*which has been discarded\*\*** whether  
 12 made of aluminum, glass, plastic, rubber, paper, or other natural  
 13 or synthetic material, or any combination thereof including, but



14 not limited to, any bottle, jar or can, or any top, cap or detachable  
 15 tab of any bottle, jar or can, any unlighted cigarette, cigar, match  
 16 or any flaming or glowing material or any garbage, trash, refuse,  
 17 debris, rubbish, grass clippings or other lawn or garden waste,  
 18 newspaper, magazines, glass, metal, plastic or paper containers or  
 19 other packaging or construction material but does not include the  
 20 waste of the primary processes of mining or other extraction proc-  
 21 esses, logging, sawmilling, farming or manufacturing;

22 e. "Litter-generating products" means **\*\*the following specific\*\***  
 23 **goods which are produced, distributed, or purchased in disposable**  
 24 **containers, packages or wrappings\*\*** **[, and shall include items]\*\***  
 25 **\*\*;** **\*\* or\*\*** which are not usually sold in packages, containers, or  
 26 wrappings but which are commonly discarded in public places **\*\*[,]**  
 27 **\*\*\*;** **\*\* or\*\*** **[any other goods]\*\*** **\*\* which are\*\*** of an unsightly or  
 28 unsanitary nature commonly thrown, dropped, discarded, placed,  
 29 or deposited by a person on public property, or on private property  
 29A not owned by him **\*\*[,]\*\*** **\*\*[including\*[, but not limited to,]\*\*** the  
 29B following **]\*\***:

- 30 (1) Beer and other malt beverages;
- 31 (2) Cigarettes and tobacco products;
- 32 (3) Cleaning agents and toiletries;
- 33 (4) Distilled spirits;
- 34 (5) Food for human or pet consumption;
- 35 (6) Glass containers **\*\*sold as such\*\***;
- 36 (7) Groceries;
- 37 (8) Metal containers **\*\*sold as such\*\***;
- 38 (9) Motor vehicle **\*[parts]\* \*tires\***;
- 39 (10) Newsprint and magazine paper stock;
- 40 (11) Nondrug drugstore sundry products;
- 41 (12) Paper products and household paper;
- 42 (13) Plastic or fiber containers made of synthetic material **\*\*and**  
 42A **sold as such\*\*** **\***, but not including any container which is routinely  
 42B reused, has a useful life of more than one year and is ordinarily  
 42C sold empty at retail\*;
- 43 (14) Soft drinks and carbonated waters; **\*[and]\*\* \*\*\*and\*\*\***
- 44 (15) Wine; **\*\*\*[\*and\*]\*\***
- 44A **\*\*\*[(16) Any other category of products \*\*[as may be desig-**  
 44B **nated by the department following a public hearing]\*\* \*\* which**  
 44C **may be determined to include a litter-generating product by the de-**  
 44D **partment following a public hearing conducted pursuant to the**  
 44E **"Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1**  
 44F **et seq.)\*\*;]\*\***

45 f. "Litter receptacle" means a container suitable for the deposit-  
46 ing of litter.

47 [c.] g. "Municipality" means any city, borough, town, township  
48 or village situated within the boundaries of this State;

49 h. "Public place" means any area that is used or held out for  
50 use by the public whether owned or operated by public or private  
51 interests.

52 [d.] i. "Recycling" means any process by which materials which  
53 would otherwise become solid waste are collected, separated or  
54 processed and returned to the economic mainstream in the form  
55 of raw materials or products;

56 j. "Sold within the State" or "sales within the State" means all  
57 sales of retailers engaged in business within the State and, in the  
58 case of manufacturers, wholesalers and distributors, all sales of  
59 products for use and consumption within the State. It shall be pre-  
60 sumed that all sales of manufacturers, wholesalers and distributors  
61 sold within the State are for use and consumption within the State  
62 unless the taxpayer shows that the products are shipped out of state  
63 for out-of-State use;

64 [e.] k. "Tax period" means every calendar month or any other  
65 period as may be prescribed by rule and regulation adopted by the  
66 director, on the basis of which the owner or operator of a sanitary  
67 landfill facility is required to report to the director pursuant to  
68 this act;

69 [f.] l. "Taxpayer" means the owner or operator of a sanitary  
70 landfill facility or the manufacturer, wholesaler, distributor, or re-  
71 tailer of litter-generating products subject to the tax provisions of  
72 **\*\*[this act]\*\*** **\*\*section 4 of P. L. 1981, c. 278 (C. 13:1E-95) or**  
73 **section 6 of P. L. 1985, c. .... (C. ....)** (now pending be-  
74 fore the Legislature as this Senate Reprint to this Assembly  
75 Committee Substitute (OCR)), as the case may be\*\*.

1 5. Section 5 of P. L. **\*\*[1971]\*\*** **\*\*1981\*\***, c. 278 (C. 13:1E-96)  
2 is amended to read as follows:

3 5. a. The State Recycling Fund (hereinafter referred to as the  
4 "fund") is established as a nonlapsing, revolving fund. The fund  
5 shall be administered jointly by the Department of Energy and the  
6 Department of Environmental Protection, and shall be credited  
7 with all tax revenue collected by the division pursuant to section 4  
8 of **[this supplementary act]** **P. L. 1981, c. 278 (C. 13:1E-95)**. In-  
9 terest received on moneys in the fund and sums received as repay-  
10 ment of principal and interest on outstanding loans made from the  
11 fund shall be credited to the fund. The Department of Energy and  
12 the Department of Environmental Protection, in their administra-

13 tion of the fund, are authorized to assign to the New Jersey Eco-  
14 nomic Development Authority the responsibility for making credit  
15 evaluations of applicants for loans, for servicing loans on behalf  
16 of the two departments, and, the provisions of any other law to the  
17 contrary notwithstanding, for making recommendations as to the  
18 approval or denial of loans pursuant to this section. The depart-  
19 ments are further authorized to pay or reimburse the authority in  
20 the amounts as the departments jointly agree are appropriate for  
21 all services rendered by the authority in connection with any as-  
22 signment of responsibility under the terms of this section out of  
23 moneys held in the fund for loans and the loan guarantee program.

24 b. Moneys in the fund shall be allocated and used for the follow-  
25 ing purposes and no others:

26 (1) Not less than 45% of the estimated annual balance of the  
27 fund shall be used for the annual expenses of a five-year program  
28 for recycling grants to municipalities. The amount of these grants  
29 shall be calculated\*\*[, for the purposes of the first grant to a par-  
30 ticular municipality,]\*\* on the basis of the total number of tons of  
31 materials annually recycled from residential and commercial  
32 sources within that municipality\*\*[. Thereafter, subsequent grants  
33 to a municipality shall be calculated on the basis of the increase  
34 in the total number of tons of such materials from the total in the  
35 preceding year]\*\*, except that no such grant shall exceed \$25.00  
36 per ton of materials recycled. \*\*[For the purpose of calculating  
37 subsequent annual grants to municipalities pursuant to this sub-  
38 section, not less than 15% of the estimated annual balance of the  
39 fund shall be allocated on the basis of the total number of tons of  
40 wastepaper recycled in the preceding year, not less than 15% of  
41 the estimated annual balance of the fund shall be allocated on the  
42 basis of the total number of tons of glass recycled in the preceding  
43 year, and not less than 15% of the estimated annual balance of the  
44 fund shall be allocated on the basis of the total number of tons of  
45 other materials recycled in the preceding year.]\*\* \*\*The depart-  
45A ments may allocate a portion of these grant moneys as bonus grants  
45B to municipalities that demonstrate high recovery rates in their re-  
45C cycling programs. The departments shall issue guidelines estab-  
45D lishing a formula defining a high recovery rate and shall announce  
45E each year the total amount of moneys available in the bonus grant  
45F fund.\*\*

46 To be eligible for a grant pursuant to this subsection, a munici-  
47 pality shall demonstrate that the materials recycled by the munici-  
48 pal recycling program were not diverted from a commercial re-

49 cycling program already in existence on the effective date of the  
50 ordinance establishing the municipal recycling program.

51 To be eligible for a subsequent annual grant pursuant to this sub-  
52 section, a municipality shall demonstrate that at least two types of  
53 materials are currently recycled, or will be recycled in the succeed-  
54 ing grant year by the municipal recycling program. No recycling  
55 grant to any municipality shall be used for constructing or operat-  
56 ing any facility for the baling of wastepaper or for the shearing,  
57 baling or shredding of ferrous or nonferrous materials;

58 (2) Not less than 20% of the estimated annual balance of the  
59 fund shall be used to provide low interest loans and to establish a  
60 sufficient reserve for a loan guarantee program for recycling busi-  
61 nesses and industries;

62 (3) Not more than 10% of the estimated annual balance of the  
63 fund shall be used for State recycling program planning and pro-  
64 gram funding, including the administrative expenses thereof;

65 (4) Not more than 10% of the estimated annual balance of the  
66 fund shall be used for county and municipal recycling program  
67 planning and program funding, including the administrative ex-  
68 penses thereof; and

69 (5) Not less than 15% of the estimated annual balance of the  
70 fund shall be used for a public information and education program  
71 concerning recycling [and anti-litter] activities.

1 6. (New section) a. There is levied upon each person engaged  
2 in business in the State as a manufacturer, wholesaler, or distribu-  
3 tor of litter-generating products a tax of 3/100 of 1% (.0003) on  
4 sales *\*of those products\** within the State, and each person engaged  
5 in business in the State as a retailer of litter-generating products  
6 a tax of **\*[2.25]\* \*\*[\*3\*/100]\*\* \*2.25/100\*** of 1% **\*[(.000225)]\***  
7 **\*\*[(.0003)]\*\* \*\*(.000225)\*\*** on sales *\*of those products\** within  
8 the State, except **\*[that the first \$100,000.00]\*** *\*any retailer with*  
9 *less than \$250,000.00\** in annual retail sales of litter-generating  
10 products is exempt from this tax. A sale by a wholesaler or dis-  
11 tributor to another wholesaler or distributor **\*[or]\* \***, a sale by  
12 a company to another company owned wholly by the same indi-  
13 viduals or companies, *\*or a sale by a wholesaler or distributor*  
14 *owned cooperatively by retailers to those retailers\** is not subject  
15 to tax under this amendatory and supplementary act. **\*\*For the**  
16 **purposes of this amendatory and supplementary act, "retailer"**  
17 **includes restaurants one of the principal activities of which con-**  
18 **sists of selling for consumption off the premises of the restaurant**  
19 **a meal or food prepared and ready to be eaten.\*\***

20 **\*\*b. On or before October 1, 1986, or in the case of a person**

21 *commencing or opening a new place of business after that date,*  
22 *within 30 days after the commencement or opening, every person*  
23 *subject to the tax imposed pursuant to this amendatory and sup-*  
24 *plementary act shall file with the director a certificate of registra-*  
25 *tion on a form prescribed by the director. Any person who is*  
26 *registered under any law administered by the division or who is*  
27 *subject to and files returns under any of these laws shall not be*  
28 *required to comply with the provisions of this subsection.\*\**

29 **\*\*c.\*\*** Every person subject to this tax shall, on or before March  
30 15, **\*\*[1986]\*\* \*\*1987\*\***, and on or before March 15 **\*\*[.]\*\*** of each  
31 year thereafter, prepare and file a return, under oath, for the pre-  
32 ceding calendar year with the director on forms and containing any  
33 information as the director shall prescribe. The return shall indi-  
34 cate the dollar value of the sales within the State of litter-generat-  
35 ing products and at the same time the person shall pay the full  
36 amount of tax due.

37 **\*\*[For the purpose of this amendatory and supplementary act,**  
38 **"retailer" includes those restaurants one of whose principal activi-**  
39 **ties consists of selling for consumption off the premises of the**  
40 **vendor, a meal or food prepared and ready to be eaten.]\*\***

41 **\*\*[b.]\*\* \*\*d.\*\*** If a return required by this amendatory and  
42 supplementary act is not filed, or if a return when filed is incorrect  
43 or insufficient in the opinion of the director, the amount of tax due  
44 shall be determined by the director from whatever information  
45 may be available. Notice of the determination shall be given to the  
46 taxpayer liable for the payment of the tax. The determination  
47 shall finally and irrevocably fix the tax unless the person against  
48 whom it is assessed, within 30 days after receiving notice of the  
49 determination, shall apply to the director for a hearing, or unless  
50 the director on his own motion shall redetermine the same. After  
51 the hearing the director shall give notice of his determination to  
52 the person to whom the tax is assessed.

53 **\*\*[c.]\*\* \*\*e.\*\*** Any taxpayer who shall fail to file his return  
54 when due or to pay any tax when the tax becomes due, as herein  
55 provided, shall be subject to such penalties and interest as pro-  
56 vided in the "State Tax Uniform Procedure Law," R. S. 54:48-1  
57 et seq. If the director determines that the failure to comply with  
58 any provision of this section was excusable under the circumstances,  
59 he may remit any part of the penalty as shall be appropriate under  
60 the circumstances.

61 **\*\*[d.]\*\* \*\*f.\*\*** (1) Any person failing to file a return, failing  
62 to pay the tax, or filing or causing to be filed, or making or causing

63 to be made, or giving or causing to be given any return, certificate,  
 64 affidavit, representation, information, testimony or statement re-  
 65 quired or authorized by this amendatory and supplementary act,  
 66 or rules or regulations adopted hereunder which is willfully false,  
 67 or failing to keep any records required by this amendatory and  
 68 supplementary act or rules and regulations adopted hereunder,  
 69 shall, in addition to any other penalties herein or elsewhere pre-  
 70 scribed, be guilty of a crime of the fourth degree.

71 (2) The certificate of the director to the effect that a tax has not  
 72 been paid, that a return has not been filed, that information has not  
 73 been supplied or that inaccurate information has been supplied  
 74 pursuant to the provisions of this amendatory and supplementary  
 75 act or rules or regulations adopted hereunder shall be presumptive  
 76 evidence of a violation thereof.

77 **\*\*[e.]\*\*** **\*\*g.\*\*** In addition to the other powers granted by this  
 78 section, the director may:

79 (1) Delegate to any officer or employee of his division those  
 80 powers and duties as he may deem necessary to carry out efficiently  
 81 the provisions of this section, and the person or persons to whom  
 82 the powers has been delegated shall possess and may exercise all  
 83 of the powers and perform all of the duties delegated by the  
 84 director; **\*\*[and]\*\***

85 (2) Prescribe and distribute all necessary forms for the imple-  
 86 mentation of this section **\*\*[.]\*\*** **\*\*;** *and* **\*\***

87 **\*\* (3) Adopt any rules and regulations necessary for the imple-**  
 88 **mentation of this amendatory and supplementary act.\*\***

89 **\*\*[f.]\*\*** **\*\*h.\*\*** The tax imposed by this section shall be gov-  
 90 erned in all respects by the provisions of the "State Tax Uniform  
 91 Procedure Law," R. S. 54:48-1 et seq., unless otherwise provided  
 92 by a specific provision of this section.

1 7. (New section) The Clean Communities Account is established  
 2 as a nonlapsing, revolving fund in the Department of the Treasury  
 3 to carry out the purposes of this amendatory and supplementary  
 4 act. The Clean Communities Account shall be administered by the  
 5 **\*\*\*[Department of Environmental Protection]\*\*\*** **\*\*\*State Trea-**  
 6 **surer\*\*\*** and credited<sup>\*\*\*</sup>, in addition to any appropriations made  
 7 thereto,<sup>\*\*\*</sup> with all taxes and penalties levied or imposed pursuant  
 8 to sections 6**\*\*[ 8,]** and **\*\*\*[13]\*\*\*** **\*\*\*10\*\*\*** of this amendatory  
 9 and supplementary act, **\*\*and\*\*** any sums received as voluntary  
 10 contributions from private sources**\*\*[ and interest]\*\*** **\*\***. *Inter-*  
 11 *est*<sup>\*\*</sup> received on moneys in the account shall be credited to the  
 11a account. Moneys in the Clean Communities Account shall be allo-  
 11b cated and used **\*\*[for the following purposes and no others:**

12 a. 5% of the estimated annual balance of the account shall be  
 13 used for a litter patrol program to employ youth from the State  
 14 to pick up and remove litter from State owned places and areas  
 15 that are accessible to the public;

16 b. ~~80%~~ 90% of the estimated annual balance of the  
 17 account shall be used for the annual expenses of providing grants  
 18 to municipalities *with a population of 30,000 or more for municipi-*  
 19 *pal litter pickup and removal programs, and to counties for county*  
 19A *litter pickup and removal programs and* for litter pickup and  
 19B removal programs *in municipalities with a population of less*  
 19C *than 30,000*, which employ youth, among others.

20 To be eligible for a grant pursuant to this subsection, a munici-  
 21 pality *or county* shall demonstrate that the governing body  
 22 thereof has adopted an ordinance or regulation *or regional plan*  
 23 in conformity with the purposes and provisions of this amendatory  
 24 and supplementary act and is actively engaged in a litter pickup  
 25 and removal program approved by the department. Approval shall  
 26 not be granted unless (1) the plan provides new employment~~,~~  
 27 and~~;~~ (2) the plan demonstrates it is in addition to or sup-  
 28 plements existing litter pickup and removal activities in the mu-  
 29 nicipality *or county, as the case may be; and (3) the county or*  
 30 *the municipality certifies that that portion of the litter picked up*  
 31 *with a grant made pursuant to this subsection which is recyclable*  
 32 *shall be recycled*. The amount of these grants shall be calculated  
 32A based on the proportion which the population of a qualifying mu-  
 32B nicipality *or county* bears to the total State population, except  
 32C that no eligible municipality *with a population of 3,000 or more*  
 33 shall receive less than 0.1% of the amount apportioned for this  
 34 purpose. Population shall be determined using the most recent  
 35 federal decennial population estimates for New Jersey and its  
 35A municipalities filed in the office of the Secretary of State;

36 c. 5% of the estimated annual balance of the account shall be  
 37 used for~~State litter control program planning and program~~  
 38 funding, including the administrative expenses thereof and for a  
 39 public information and education program concerning antilittering  
 40 activities;~~a State public information module concerning anti-~~  
 40A *littering activities which shall be developed and distributed by the*  
 40B *Department of Education for use Statewide in the State's school*  
 40C *systems*~~as provided by law~~.

41 ~~d.~~ 10% of the estimated annual balance of the account shall be  
 42 used for the annual expenses of providing grants to counties for  
 43 litter pickup and removal programs, which employ youth, among  
 44 others.

45 To be eligible for a grant pursuant to this subsection, a county  
46 shall demonstrate that the governing body thereof has adopted an  
47 ordinance or regulation in conformity with the purposes and pro-  
48 visions of this amendatory and supplementary act and is actively  
49 engaged in a litter pickup and removal program approved by the  
50 department. Approval shall not be granted unless (1) the plan  
51 provides new employment, and (2) the plan demonstrates it is in  
52 addition to or supplements existing litter pickup and removal  
53 activities in the county. The amount of these grants shall be cal-  
54 culated based on the proportion which the population of a quali-  
55 fying county bears to the total State population, except that no  
56 eligible county shall receive less than 0.1% of the amount appor-  
57 tioned for this purpose. Population shall be determined using the  
58 most recent federal decennial population estimates for New Jersey  
59 and its municipalities in the office of the Secretary of State.\*\*\*

1 8. (New section) a. A person who throws, drops, discards or  
2 otherwise places any litter of any nature upon public or private  
3 property other than in a litter receptacle commits a petty disorderly  
4 persons offense. The Superior Court and every municipal court  
5 shall have jurisdiction to enforce this section. The State, or any  
6 municipality may institute proceedings under this section. If a  
7 money judgment is rendered against a defendant, the payment  
8 made to the court shall be remitted to the chief financial officer of  
9 the municipality wherein the violation occurred to be used by the  
10 municipality to help finance litter control activities in addition to or  
11 supplementing existing litter pickup and removal activities in the  
11A municipality.

12 b. If a person violates subsection a. of this section the court  
13 may, in addition to the penalty provided under that subsection,  
14 direct the person to perform community service, including litter  
15 pickup and removal from any public property, or any private  
16 property with permission of the owner, upon which the person  
17 deposited litter, for a term of not less than 20 hours nor more  
18 than 40 hours.

1 \*\*\*[9. (New section) In addition to the duties and responsibili-  
2 ties hereinbefore provided, the department shall:

3 a. Serve as the coordinating agency between the various indus-  
4 try and business organizations seeking to aid in the antilitter  
5 effort;

6 b. Recommend to local governing bodies that they adopt resolu-  
7 tions or ordinances, as appropriate, in conformity with the pur-  
8 poses and provisions of this amendatory and supplementary act



9 and assist these bodies in the preparation of the ordinances and  
10 resolutions;

11 c. Encourage and cooperate with all local voluntary and govern-  
12 ment antilitter campaigns attempting to focus public attention on  
13 the State litter pickup and removal program;

14 d. Investigate the availability of, and apply for, funds available  
15 from any private or public source to be used in the litter pickup  
16 and removal program provided for in this amendatory and supple-  
17 mentary act;

18 e. Investigate the successful methods of other litter pickup and  
19 removal programs, encourage the use of litter receptacles, and  
20 evaluate their possible incorporation into the New Jersey litter  
21 pickup and removal program;

22 f. Conduct a litter survey within **\*\*[six month]\*\*** **\*\*one year\*\***  
23 of the effective date of this amendatory and supplementary act  
24 and annually thereafter.

1 10. (New section) The department shall report to the Legisla-  
2 ture on its proposed plan of litter pickup and removal not later  
3 than **\*\*[six months]\*\*** **\*\*one year\*\*** after the effective date of  
4 this amendatory and supplementary act, and **\*\*[annually]\*\***  
5 **\*\*every 18 months\*\*** thereafter, upon the success of the plan in  
6 reducing litter in New Jersey, and any recommendations for im-  
7 provements.

1 11. (New section) The department may enter into contracts with  
2 other State agencies, local agencies, or local governing bodies, and  
3 shall adopt, pursuant to the "Administrative Procedure Act," P. L.  
4 1968, c. 410 (C. 52:14B-1 et seq.), any rules and regulations neces-  
5 sary to implement the provisions of this amendatory and supple-  
6 mentary act relating to litter pickup and removal.]\*\*\*

1 **\*\*\*[12.]\*\*\*** **\*\*\*9.\*\*\*** (New section) No beverage shall be sold  
2 within the State in a metal container designed and constructed so  
3 that the container is opened by detaching a metal ring or tab, ex-  
4 cept if the tab is made of tape, foil, or other soft material; or in  
5 metal beverage containers connected to each other by a separate  
6 device made of plastic which does not decompose by photodegrada-  
7 tion, chemical degradation, or biodegradation. For the purposes of  
8 this section, "beverage" means alcoholic beverages, including beer  
9 or other malt beverages, liquor, wine, vermouth and sparkling wine,  
10 and nonalcoholic beverages, including fruit juice, mineral water and  
11 soda water and similar nonalcoholic carbonated drinks intended for  
12 human consumption.

1 **\*\*\*[13.]\*\*\*** **\*\*\*10.\*\*\*** (New section) Every person convicted of

2 a violation of this amendatory and supplementary act for which no  
3 penalty is specifically provided is subject to a fine of not more than  
4 \$100.00 for each violation. If the violation is of a continuing nature,  
5 each day during which it continues constitutes a separate and is-  
6 tinct offense.

1 \*\*\*[14.]\*\*\* \*\*\*11.\*\*\* (New section) The tax imposed pursuant  
2 to section 6 of this amendatory and supplementary act shall not be  
3 due and payable if, and as long as, any State of New Jersey or  
4 federal law, or any rule or regulation adopted pursuant thereto,  
5 requiring a deposit on, or establishing a refund value for, any  
6 litter-generating products shall be in effect.

1 \*\*[15. (New section) On or before October 1, 1985, or in the case  
2 of persons commencing or opening new places of business after  
3 that date, within 30 days after the commencement or opening,  
4 every person subject to tax under the litter pickup and removal  
5 provisions of this amendatory and supplementary act shall file with  
6 the director a certificate of registration in a form prescribed by  
7 him. Any person who is registered under any law administered by  
8 the division of taxation or who is subject to and files returns  
9 under any of these laws shall be excused from compliance with the  
10 requirements of this section.]\*\*

1 \*\*[16.]\*\* \*\*\*[\*\*15.\*\*]\*\*\* \*\*\*12.\*\*\* (New section) Additional  
2 expenditures or incremental costs necessary and reasonably in-  
3 curred by a municipality *\*\*or county\*\** for the abatement and con-  
4 trol of litter or any other antilittering activities as a direct result of  
5 the implementation of P. L. 1985, c. (C. ) (now pending  
6 before the Legislature as this *\*\*Senate Reprint to\*\** Assembly  
7 Committee Substitute *\*\*OCR\*\**) shall, for the purposes of P. L.  
8 1976, c. 68 (C. 40A:4-45.1 et seq.), be considered expenditures  
9 mandated by State law.

1 \*\*[17. (New section) a. There is appropriated to the Division of  
2 Taxation in the Department of the Treasury a sum of \$500,000.00  
3 or so much thereof as shall be required to carry out the provisions  
4 of this amendatory and supplementary act concerning litter pickup  
5 and removal and administration from the effective date hereof  
6 through the period ending June 30, 1986.

7 b. There is appropriated to the Department of Environmental  
8 Protection the sum of \$500,000.00 or so much thereof as shall be  
9 required to carry out the provisions of this amendatory and supple-  
10 mentary act concerning litter pickup and removal and adminis-  
11 tration from the effective date hereof through the period ending  
12 June 30, 1986.

13 c. In addition to the foregoing, there is appropriated the sum of

14 \$10,000,000.00 into the Clean Communities Account for the pur-  
 15 poses set forth in section 7 of this amendatory and supplementary  
 16 act, less any amount of tax collected by the Division of Taxation  
 17 pursuant to section 6 of this amendatory and supplementary act.】\*\*

1   \*\*[18.】\*\* \*\*\*[\*\*16.\*\*]\*\*\* \*\*\*13.\*\*\* R. S. 39:5-41 is amended to  
 1A read as follows:

2   39:5-41. *a. All fines, penalties and forfeitures imposed and*  
 3 *collected under authority of law for any violations of R. S. 39:4-63*  
 4 *and R. S. 39:4-64, shall be forwarded by the judge to whom the*  
 5 *same have been paid to the proper financial officer of the munici-*  
 6 *pality wherein the violation occurred, to be used by the municipality*  
 7 *to help finance litter control activities in addition to or supplement-*  
 8 *ing existing litter pickup and removal activities in the municipality.*

9   *b. Except as otherwise provided by subsection a. of this section,*  
 10 **[All]** *all fines, penalties and forfeitures imposed and collected*  
 11 *under authority of law for any violations of the provisions of this*  
 12 *Title, other than those violations in which the complainant is the*  
 13 *director, a member of his staff, a member of the State Police, an*  
 14 *inspector of the Board of Public Utilities, or a law enforcement*  
 15 *officer of any other State agency, shall be forwarded by the judge*  
 16 *to whom the same have been paid to the proper financial officer of*  
 17 *the county wherein they were collected, to be used by the county as*  
 18 *a fund for the construction, reconstruction, maintenance and repair*  
 19 *of roads and bridges, snow removal, the acquisition and purchase*  
 20 *of rights-of-way, and the purchase, replacement and repair of*  
 21 *equipment for use on said roads and bridges therein. Whenever the*  
 22 *amount of moneys to be forwarded to the counties pursuant to*  
 23 *this section rises above the level forwarded to them in fiscal year*  
 24 *1980, the increase, up to the amount forwarded to the counties, shall*  
 25 *be forwarded to the proper financial officer of the respective munici-*  
 26 *palities wherein the violations occurred, to be used by the munici-*  
 27 *palities as a fund for general municipal use and to defray the cost*  
 28 *of operating the municipal court. When the amount of moneys for-*  
 29 *warded to the municipalities equals the amount forwarded to the*  
 30 *counties, any additional increase shall be paid one-half to the county*  
 31 *wherein the funds were collected and one-half to the municipality*  
 32 *wherein the funds were collected.*

33   Whenever any county has deposited moneys collected pursuant  
 34 to this section in a special trust fund in lieu of expending the same  
 35 for the purposes authorized by this section, it may withdraw from  
 36 said special trust fund in any year an amount which is not in excess  
 37 of the amount expended by the county over the immediately pre-  
 38 ceding three-year period from general county revenues for said

39 purposes. Such moneys withdrawn from the trust fund shall be  
40 accounted for and used as are other general county revenues.

1 \*\*\*[\*\*17.]\* \*\*14.\*\* There is appropriated from the General  
2 Fund to the Division of Taxation in the Department of the Trea-  
3 sury the sum of \*\*\*[500,000.00]\*\* \*\*\$225,000.00\*\*, to imple-  
4 ment the provisions of this amendatory and supplementary act  
5 concerning the taxation of litter-generating products.

1 \*\*\*[18. There is appropriated from the General Fund to the De-  
2 partment of Environmental Protection the sum of \$500,000.00, to  
3 implement the provisions of this amendatory and supplementary  
4 act concerning litter pickup and removal.

1 19. There is appropriated from the General Fund to the Clean  
2 Communities Account established pursuant to section 7 of this  
3 amendatory and supplementary act the sum of \$10,000,000.00, to  
4 be used by the department for the purposes set forth in section 5  
5 of P. L. 1981, c. 278 (C. 13:1E-96). The amount appropriated  
6 pursuant to this section shall be repaid to the General Fund, from  
7 monies deposited in the Clean Communities Account, in annual  
8 installments beginning July 1, 1987 and annually thereafter until  
9 the full amount is repaid according to a schedule of repayments  
10 determined by the State Treasurer.\*\*]\*\*

1 \*\*[19.]\* \*\*[\*20.\*]\*\* \*\*15.\*\* This act shall take effect  
2 \*\*[on the first day of the third calendar month next]\*\* \*\*90  
3 days\*\* following enactment \*\* and \*\*subsection a. of\*\* section  
4 6 of this act shall expire December 31, 1989. \*\*However, this shall  
5 not affect any obligation, lien or duty to pay taxes which may be  
6 due with respect to the imposition of any levy, or interest or penal-  
7 ties which may accrue by virtue of any assessment, which may be  
8 made with respect to taxes levied for any taxable year or part of  
9 a taxable year, prior to January 1, 1990, nor shall this expiration  
10 affect the legal authority to assess and collect the taxes which may  
11 be due and payable under section 6 of P. L. 1985, c. (C. )  
12 (now pending before the Legislature as this Assembly Committee  
13 Substitute), as the case may be, together with such interest and  
14 penalties as would accrue thereon under section 6 of P. L. 1985,  
15 c. (C. ) (now pending before the Legislature as this As-  
16 ssembly Committee Substitute), nor shall this provision invalidate  
17 any assessment or affect any proceeding for the enforcement  
18 thereof.\*\* The department and the division shall take any action  
19 necessary or appropriate for the timely implementation of this  
20 amendatory and supplementary act prior to its effective date\*\*.

ASSEMBLY, No. 2003

STATE OF NEW JERSEY

INTRODUCED MAY 14, 1984

By Assemblymen MARSELLA, RILEY, Assemblywomen FORD,  
PERUN and WALKER

AN ACT concerning litter control, imposing a tax on litter-generating products, establishing an offense of littering, and supplementing Title 54 of the Revised Statutes and Title 2C of the New Jersey Statutes.

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

1 1. This act shall be known and may be cited as the "Litter Control  
2 Tax Act of 1984."

1 2. The Legislature finds that an uncluttered landscape is among  
2 the most priceless heritages which New Jersey can bequeath to  
3 posterity; that it is the duty of government to promote and en-  
4 courage a clean and safe environment; that the proliferation and  
5 accumulation of carelessly discarded litter may pose a threat to  
6 the public health and safety; that the litter problem is especially  
7 serious in a State as densely populated and heavily traveled as  
8 New Jersey; and that unseemly litter has an adverse economic  
9 effect on New Jersey by making the State less attractive to tourists  
10 and new industry and residents.

11 The Legislature therefore declares it to be in the environmental  
12 and economic interest of the State of New Jersey to implement a  
13 comprehensive Statewide litter abatement and control program.

1 3. As used in this act:

2 a. "Division" means the Division of Taxation in the Department  
3 of the Treasury;

4 b. "Director" means the Director of the Division of Taxation in  
5 the Department of the Treasury;

6 c. "Litter" means any discarded, used or unconsumed substance  
7 or waste material, whether made of aluminum, glass, plastic, rub-  
8 ber, paper, or other natural or synthetic material, or any combina-  
9 tion thereof, including, but not limited to, any bottle, jar, or can,  
10 or any top, cap, or detachable tab of any bottle, jar, or can, any  
11 unlighted cigarette, cigar, match, or any flaming or glowing ma-  
12 terial or any garbage, trash, refuse, debris, rubbish, grass clippings  
13 or other lawn or garden waste, newspaper, magazines, glass, metal,  
14 plastic or paper containers or other packaging or construction  
15 material, but does not include the waste of the primary processes  
16 of mining or other extraction processes, logging, sawmilling, farm-  
17 ing or manufacturing;

18 d. "Litter-generating products" means goods which are pro-  
19 duced, distributed, or purchased in disposable containers, packages  
20 or wrappings, and shall include items which are not usually sold  
21 in packages, containers, or wrappings but which are commonly  
22 discarded in public places, including, but not limited to:

- 23 (1) Beer and other malt beverages;
- 24 (2) Cigarettes and tobacco products;
- 25 (3) Cleaning agents and toiletries;
- 26 (4) Distilled spirits;
- 27 (5) Food for human or pet consumption;
- 28 (6) Glass containers;
- 29 (7) Groceries
- 30 (8) Metal containers;
- 31 (9) Motor vehicle parts;
- 32 (10) Newspapers and magazines;
- 33 (11) Nondrug drugstore sundry products;
- 34 (12) Paper products and household paper;
- 35 (13) Plastic or fiber containers made of synthetic material;
- 36 (14) Soft drinks and carbonated waters; and
- 37 (15) Wine.

38 e. "Sold within the State" or "sales within the State" means all  
39 sales of retailers engaged in business within the State and, in the  
40 case of manufacturers, wholesalers and distributors, all sales of  
41 products for use and consumption within the State;

42 f. "Tax period" means every calendar month or any other period  
43 as may be prescribed by rule and regulation adopted by the  
44 director, on the basis of which the manufacturer, wholesaler, dis-  
45 tributor, or retailer of litter-generating products is required to  
46 report to the director pursuant to this act;

47 g. "Taxpayer" means the manufacturer, wholesaler, distributor,  
48 or retailer of litter-generating products subject to the tax pro-  
49 visions of this act.

1 4. a. There is levied upon each person in the State engaged in  
2 business as a manufacturer, wholesaler, or distributor of litter-  
3 generating products a tax of \$150.00 per \$1,000,000.00, or fraction  
4 thereof, on sales within the State, and each person in the State  
5 engaged in business as a retailer of litter-generating products a tax  
6 of \$100.00 per \$1,000,000.00, or fraction thereof, on sales within the  
7 State, except that the first \$50,000.00 in annual retail sales of litter-  
8 generating products is exempt from this tax. The total tax liability  
9 of any manufacturer, wholesaler, distributor, or retailer pursuant  
10 to this section shall not exceed \$20,000.00.

11 (1) In the case of litter-generating products manufactured out-  
12 side of the State for final use and consumption in New Jersey which  
13 are subject to multiple transfers between manufacturers, whole-  
14 salers, distributors or retailers, the same product shall be taxed  
15 at the point of the first transfer within the State, and the first  
16 in-State transferee shall be the taxpayer for the purposes of  
17 this act.

18 (2) In the case of litter-generating products manufactured within  
19 the State for final use and consumption in New Jersey, the same  
20 product shall be taxed at the point of the first transfer within the  
21 State and the manufacturer shall be the taxpayer for the purposes  
22 of this act.

23 Every person subject to this tax shall, on or before the 20th  
24 day of the month following the close of each tax period, render a  
25 return under oath to the director, on forms to be prescribed by the  
26 director, indicating the dollar value of the sales within the State  
27 of litter-generating products and at the same time shall pay the  
28 full amount of the tax due.

29 b. If a return required by this act is not filed, or if a return  
30 when filed is incorrect or insufficient in the opinion of the director,  
31 the amount of tax due shall be determined by the director from  
32 whatever information may be available. Notice of the determina-  
33 tion shall be given to the taxpayer liable for the payment of the  
34 tax. The determination shall finally and irrevocably fix the tax  
35 unless the person against whom it is assessed, within 30 days after  
36 receiving notice of the determination, shall apply to the director  
37 for a hearing, or unless the director on his own motion shall re-  
38 determine the same. After the hearing the director shall give notice  
39 of his determination to the person to whom the tax is assessed.

40 c. A taxpayer who fails to file his return when due or to pay  
41 any tax when the tax becomes due, shall be subject to the penalties  
42 and interest provided in the "State Tax Uniform Procedure Law,"  
43 (R. S. 54:48-1 et seq.).

44 If the director determines that the failure to comply with any  
45 provision of this section was excusable under the circumstances,  
46 he may remit any part of the penalty as shall be appropriate under  
47 the circumstances.

48 d. (1) Any person failing to file a return, failing to pay the tax,  
49 or filing or causing to be filed, or making or causing to be made,  
50 or giving or causing to be given any return, certificate, affidavit,  
51 representation, information, testimony or statement required or  
52 authorized by this act, or rules or regulations adopted hereunder  
53 which is willfully false, or failing to keep any records required  
54 by this act or rules and regulations adopted hereunder, shall, in  
55 addition to any other penalties herein or elsewhere prescribed, be  
56 guilty of a crime of the fourth degree.

57 (2) The certificate of the director to the effect that a tax has not  
58 been paid, that a return has not been filed, that information has  
59 not been supplied or that inaccurate information has been supplied  
60 pursuant to the provisions of this act or rules or regulations  
61 adopted hereunder shall be presumptive evidence of a violation  
62 thereof.

63 e. In addition to the other powers granted by this section, the  
64 director may:

65 (1) Delegate to any officer or employee of his division those  
66 powers and duties as he may deem necessary to carry out efficiently  
67 the provisions of this section, and the person or persons to whom  
68 the powers has been delegated shall possess and may exercise  
69 all of the powers and perform all of the duties delegated by the  
70 director; and

71 (2) Prescribe and distribute all necessary forms for the imple-  
72 mentation of this section.

73 f. The tax imposed by this section shall be governed in all respects  
74 by the provisions of the "State Tax Uniform Procedure Law,"  
75 (R. S. 54:48-1 et seq.), unless otherwise provided by a specific pro-  
76 vision of this section.

1 5. The Litter Abatement and Control Account is established as  
2 a nonlapsing, revolving fund in the Department of the Treasury  
3 to carry out the purposes of this act. The Litter Abatement and  
4 Control Account shall be credited with all taxes and penalties  
5 levied or imposed pursuant to sections 4 and 6 of this act, any sums  
6 received as voluntary contributions from private sources, and  
7 interest received on moneys in the account shall be credited to  
8 the account.

9 Moneys in the Litter Abatement and Control Account shall be



10 allocated and used only for the following purposes:

11 a. Not less than 75% of the estimated annual balance of the  
12 account shall be used for the annual expenses of providing grants  
13 to municipalities for litter abatement and control programs. The  
14 amount of these grants shall be calculated on a per capita basis,  
15 except that no eligible municipality shall receive less than 0.1%  
16 of the amount apportioned for this purpose.

17 To be eligible for a grant pursuant to this subsection, a munici-  
18 pality shall demonstrate that the governing body thereof has  
19 adopted an ordinance or regulation in conformity with the pur-  
20 poses and provisions of this act and is actively engaged in an anti-  
21 litter campaign and litter abatement and control program which  
22 meets the minimum standards and guidelines recommended by the  
23 Department of Environmental Protection pursuant to section 8 of  
24 this act;

25 b. Not more than 10% of the estimated annual balance of the  
26 account shall be used for the annual expenses of providing grants  
27 to counties to remove litter from county highways, parks and  
28 recreation areas. The amount of these grants shall be calculated  
29 on a per capita basis;

30 c. Not more than 5% of the estimated annual balance of the  
31 account shall be used for State litter abatement and control pro-  
32 gram planning and funding, including a public information and  
33 education program concerning anti-litter activities;

34 d. Not more than 5% of the estimated annual balance of the  
35 account shall be used for a State litter abatement and control pro-  
36 gram to remove litter from State highways, parks, and recreation  
37 areas that are most visible to the public; and

38 e. Not more than 5% of the estimated annual balance of the  
39 account shall be used for the annual expenses of a supplemental  
40 municipal recycling grant program. The amount of these grants  
41 shall be calculated on a per capita basis. To be eligible for a grant  
42 pursuant to this subsection, the governing body of the municipality  
43 shall demonstrate that the municipality has established a public  
44 or private community recycling program consistent with the goals  
45 of the Statewide recycling plan and the provisions of section 5 of  
46 P. L. 1981, c. 278 (C. 13:1E-96).

1 6. a. A person who knowingly throws, drops, discards or other-  
2 wise places litter upon public or private property other than in an  
3 authorized litter receptacle commits a petty disorderly persons  
4 offense.

5 b. If a person violates subsection a. of this section the court may,  
6 in addition to the penalty provided under that subsection, direct

7 the person to remove litter from any public property, or any private  
 8 property with permission of the owner, upon which the person  
 9 deposited litter. The person shall remove litter for a term of not  
 10 less than 20 hours nor more than 40 hours. The State, its political  
 11 subdivisions and the private property owner shall not be liable in  
 12 a civil action to respond in damages as a result of any acts of  
 13 commission or omission arising out of or in the course of the  
 14 removal of litter by a person pursuant to this subsection, nor shall  
 15 those parties be subject to any law governing the provision of  
 16 labor, workers' compensation, conditions of employment or insur-  
 17 ance with respect to the person's work.

18 c. Nothing in this section shall be construed to preempt the  
 19 authority of a local government unit to enact and enforce an  
 20 ordinance or other local law or regulation which prohibits littering  
 21 and penalizes a violator thereof.

1 7. a. Additional expenditures or incremental costs necessary and  
 2 reasonably incurred by a municipality for the abatement and  
 3 control of litter or any other anti-littering activities as a direct  
 4 result of the implementation of this act shall, for the purposes  
 5 of P. L. 1976, c. 68 (C. 40A:4-45.1 et seq.), be considered expendi-  
 6 tures mandated by State law.

7 b. The Division of Local Government Services in the Department  
 8 of Community Affairs shall, when reviewing the annual budget of  
 9 any municipality, county, or agency thereof which is engaged in a  
 10 litter abatement and control program funded in whole or in part  
 11 from moneys apportioned pursuant to section 5 of this act, certify  
 12 that these funds have been expended for this purpose, and no  
 13 others, in that annual budget.

1 8. The Commissioner of Environmental Protection, within 90  
 2 days and pursuant to the "Administrative Procedure Act," P. L.  
 3 1968, c. 410 (C. 52:14B-1 et seq.), shall adopt rules and regulations  
 4 establishing minimum standards and guidelines for municipal  
 5 anti-litter campaigns and litter abatement and control programs.

1 9. In carrying out its responsibilities under this act, the Depart-  
 2 ment of Environmental Protection shall:

3 a. Serve as the coordinating agency between the various industry  
 4 and business organizations seeking to aid in the anti-litter effort;

5 b. Prepare a model anti-litter ordinance and assist local govern-  
 6 ing bodies, as appropriate, in the preparation of ordinances;

7 c. Encourage and cooperate with all local voluntary and govern-  
 8 ment anti-litter campaigns attempting to focus public attention on  
 9 local litter abatement and control programs;

10 d. Investigate the availability of, and apply for, funds available  
 11 from any private or public source to be used in local litter abate-  
 12 ment and control programs; and

13 e. Prepare a report, to be submitted to the Governor and the  
 14 Legislature one year from the effective date of this act and an-  
 15 nually thereafter, from information gathered from the Division  
 16 of Local Government Services and the governing bodies of mu-  
 17 nicipalities, containing an audit of the Litter Abatement and Con-  
 18 trol Account and an evaluation of the effectiveness of the program,  
 19 together with recommendations for legislative or administrative  
 20 action deemed necessary or appropriate.

1 10. The tax imposed pursuant to section 4 of this act is not due  
 2 and payable if any State or federal law, or any rule or regulation  
 3 adopted pursuant thereto, requiring a deposit on, or establishing  
 4 a refund value for, any litter-generating products is in effect.

1 11. This act shall take effect on the 90th day following enactment.

*Sponsor* STATEMENT TO A 2003 (1984)

The purpose of this bill is to protect New Jersey landscape from the unsightly accumulation and proliferation of carelessly discarded litter. The positive perceptions which can be expected to result from this concerted effort by the State, counties and municipalities in cooperation with business, industry and labor can contribute to the creation of favorable economic climate.

To this end, the bill would impose a tax on manufacturers, wholesalers, and distributors of litter-generating products at the rate of \$150.00 per \$1,000,000.00 of sales within the State, and on retailers of litter-generating products a tax of \$100.00 per \$1,000,000.00 sales within the State in excess of \$50,000.00 in sales per year. A \$20,000.00 cap is imposed on the tax liability of any taxpayer. The receipts of this tax shall be used to implement and fund municipal litter control prevention and elimination programs. Approximately 75% of the estimated annual balance of the moneys in the Litter Abatement and Control Account established by the act would be used to provide grants to municipalities to assist in litter abatement and control programs and other anti-littering activities.

This bill would make littering of public or private places a petty disorderly offense, which subjects the individual to a fine of up to \$500.00, which would be deposited in the account, and authorizes judges to order offenders to pick up litter for a period of not less than 20 nor more than 40 hours as an additional penalty.

ASSEMBLY REVENUE, FINANCE AND APPROPRIATIONS  
COMMITTEE

STATEMENT TO  
ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, No. 2003**

**STATE OF NEW JERSEY**

DATED: JUNE 24, 1985

**PROVISIONS:**

As amended, this bill entitled the "Clean Community and Recycling Act" imposes a tax on manufacturers, wholesalers, retailers and distributors of litter-generating products, at a rate of  $\frac{3}{100}$  of 1% of sales within the State. Retailers with less than \$250,000.00 in annual retail sales are exempt.

The receipts of this tax shall be used to implement and fund a Statewide program of litter prevention and elimination. Of the money collected by the tax, penalties, and contributions, 5% would be used for a State litter program to employ youth to pick up litter, 80% would be used to give grants to municipalities and 10% for counties for similar programs approved by the Department of Environmental Protection, and 5% would be used for State litter control program planning.

This bill would make littering of public places a petty disorderly offense, which subjects the individual to a fine of up to \$500.00, and authorizes judges to order offenders to pick up litter for a specified number of hours as an additional penalty.

**FISCAL IMPACT:**

The bill provides \$10,000,000.00 for implementing the program. Tax revenues generated would thereafter be used to reimburse the General Fund. The Division of Taxation and the Department of Environmental Protection each would be appropriated \$500,000.00 for administrative costs.

The Division of Taxation estimated revenue in the range of \$10 million to \$15 million annually.

**COMMITTEE AMENDMENTS:**

The committee amended the bill, inconcurrence with the sponsor and the Division of Taxation, to tax all types of businesses at the same rate and to exempt the small retailers with less than \$250,000.00 in annual retail sales.

The committee favorably reports this bill, as amended.

ASSEMBLY ENERGY AND NATURAL RESOURCES  
COMMITTEE

STATEMENT TO  
ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, No. 2003**

**STATE OF NEW JERSEY**

DATED: APRIL 29, 1985

This bill would expand and extend the existing "Recycling Act" and the municipal recycling grant program to encompass litter control programs. The purpose of this bill is to protect the New Jersey landscape from the unsightly accumulation and proliferation of carelessly discarded litter. The positive perceptions which can be expected to result from this concerted effort by the State, counties and municipalities in cooperation with business, industry and labor can contribute to the creation of a favorable economic climate.

This "Clean Communities and Recycling Act" would impose a tax on manufacturers, wholesalers, and distributors of litter-generating products, at a rate of 3/100 of one percent of sales within the State, and on retailers of litter-generating products at a tax of 2.25/100 of one percent of sales within the State in excess of \$100,000.00 per year.

The receipts of this tax shall be used to implement and fund a Statewide program of litter prevention and elimination. Of the money collected by the tax, penalties, and contributions, 5% would be used for a State litter program to employ youth to pick up litter, 80% would be used to give grants to municipalities and 10% for counties for similar programs approved by the Department of Environmental Protection, and 5% would be used for State litter control program planning.

This bill would make littering of public places a petty disorderly offense, which subjects the individual to a fine of up to \$500.00, and authorizes judges to order offenders to pick up litter for a specified number of hours as an additional penalty.

In addition, the bill would channel fines collected from littering back to the municipality in which the violation occurred to support municipal litter control activities in addition to or as a supplement to existing litter control activities.

Finally, the bill would provide \$10,000,000.00 for implementing the program. Tax revenues generated would thereafter be used to reimburse the General Fund. \$500,000.00 would be appropriated to both the Division of Taxation and the Department of Environmental Protection for administrative costs.

The committee reported this bill without recommendation.

SENATE ENERGY AND ENVIRONMENT COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR

**ASSEMBLY, No. 2003**

[OFFICIAL COPY REPRINT]

with Senate committee amendments

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**STATE OF NEW JERSEY**

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DATED: DECEMBER 11, 1985

This bill would establish a State-wide anti-litter program, administered by the Department of Environmental Protection, and funded by a tax on the sale of litter-generating products imposed and collected by the Division of Taxation in the Department of the Treasury.

As amended by the committee, this bill imposes a tax of .03% (.0003) on sales of litter-generating products by manufacturers and wholesalers of these products. (This is equivalent to a tax of \$300.00 per \$1 million of sales.) Retailers of litter-generating products would be subject to a tax of .0225% (.000225) on sales of litter-generating products. (\$225.00 per \$1 million of sales.) This bill includes the following as litter-generating products: beer and malt beverages, cigarettes and tobacco products, cleaning agents and toiletries, distilled spirits, food for human or pet consumption, motor vehicle tires, newsprint and magazine paper stock, glass, metal, and plastic containers when sold as such, drugstore sundry products, soft drinks, and wine. The Department of Environmental Protection would be authorized to add to the list of litter-generating products after a public hearing on the proposed additions. This tax is paid once a year beginning in 1987, and all revenues would be deposited in a special Clean Communities Account in the Treasury. This tax would expire after three tax years.

The Department of Environmental Protection would use 90% of the monies in the Clean Communities Account for grants to municipalities and counties for anti-litter programs. Municipalities with a population of 30,000 or more would be eligible for a direct grant from the department; municipalities of under 30,000 would receive grants through their respective counties. Each municipality with a population over 3,000 shall receive at least .1% of the monies in the fund. To receive an anti-littering grant a county or municipality must show that the monies will be used to supplement existing litter control activities, will create new jobs, and that any litter picked up with the grant monies

will be recycled if the litter is recyclable. Five percent of the fund will be used for anti-litter programs for State-owned property, and 5% of the fund for anti-litter education.

This bill also makes littering a petty disorderly offense and imposes a penalty of \$100.00 for a violation of the provisions of this bill. Fines collected for a violation of the provisions of this bill would be deposited in the Clean Communities Account. In addition, this bill prohibits the sale of beverages with a detachable flip top, or metal beverage containers bound together by plastic ring binders. This bill also provides that fines assessed for littering from an automobile be forwarded to the municipality in which the littering took place.

Finally, this bill appropriates \$500,000.00 to the Division of Taxation in the Department of the Treasury, and \$500,000.00 to the Department of Environmental Protection to implement the provisions of this bill. This bill makes an additional appropriation of \$10,000,000.00 from the General Fund to the Clean Communities Account to provide the anti-litter program with initial funding. This appropriation would be repaid in annual installments to the General Fund from the proceeds of the tax on litter-generating products.

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SENATE REVENUE, FINANCE AND APPROPRIATIONS  
COMMITTEE

STATEMENT TO  
ASSEMBLY COMMITTEE SUBSTITUTE FOR

**ASSEMBLY, No. 2003**

with Assembly committee amendments and  
Senate committee amendments

**STATE OF NEW JERSEY**

DATED: JANUARY 13, 1986

The committee reported Assembly Bill No. 2003 AcsAcaSca favorably, with amendments.

As amended, the bill establishes a State litter tax, the proceeds of which shall be dedicated to litter control activities.

Under current law, there are various programs for the management and control of solid waste in this State. Among the most recent is the "Recycling Act," P. L. 1981, c. 278 (C. 13:1E-92 et seq.), which establishes a State Recycling Fund to encourage local recycling activities. Revenue for the fund is raised through the imposition of a recycling tax against operators of sanitary landfills. However, while the "Recycling Act" promotes the collection and processing of substantial quantities of certain solid waste products, there is currently no statutory funding mechanism for encouraging and aiding general litter control activities.

This bill amends and supplements the "Recycling Act," to impose a tax on the sale of litter-generating products by manufacturers, wholesalers, distributors and retailers. The appropriate products include: beer, tobacco products, cleaning agents and toiletries, distilled spirits, food for human or pet consumption, motor vehicle tires, newsprint and magazine paper stock, plastic and fiber containers when sold as such, drugstore sundry products, soft drinks, and wine.

Manufacturers, wholesalers and distributors shall be subject to the tax at a .03 (.0003) rate; retailers shall be subject to the tax at a .0225 (.000225) rate. Thus, manufacturers and wholesalers shall pay \$300.00 per \$1 million in sales, and retailers shall pay \$225.00 per \$1 million in sales. The bill provides for the following exemptions and exceptions:

- a. Retailers with less than \$250,000.00 in annual sales of litter-generating products;
- b. Sales by wholesalers or distributors to other wholesalers or distributors;
- c. Sales by a company to another company under the same ownership; and



d. Sales by wholesalers or distributors owned cooperatively by retailers, which sales are made to those retailers.

The tax shall be paid once per year, beginning in 1987. All revenues shall be deposited in a special Clean Communities Account, in the Department of the Treasury. The account shall be administered by the State Treasurer, and monies therein shall be used for a litter control program to be established by law. The tax shall expire after three tax years.

The experiences of other states have shown that the imposition of a litter tax imposes additional collection and enforcement costs on taxing agencies. Thus, the bill appropriates \$225,000.00 to the Division of Taxation, in the Department of the Treasury, for initial administrative costs.

In addition to imposing the litter tax, the bill supplements existing law to make littering a petty disorderly persons offense, and imposes a maximum penalty of \$100.00 for each violation of the provisions of this bill unless penalties are provided under related law. Fines collected for a violation of the provisions of this bill shall be deposited in the Clean Communities Account. The bill also prohibits the sale of beverages with a detachable flip top, or metal beverage containers bound together by plastic ring binders. Finally, the bill amends R. S. 39:5-41 to provide that fines imposed for littering from automobiles be forwarded to the municipality in which the littering occurred, to be used for litter control activities.

#### COMMITTEE AMENDMENTS:

The committee amended the bill to remove provisions establishing a specific grant program for local litter control, and to remove provisions for State anti-litter programs and anti-litter education. For this reason, the committee amendments also remove an initial program appropriation of \$10 million to the Department of Environmental Protection, and a \$500,000.00 administrative appropriation to that department. Finally, the committee amendments reduce from \$500,000.00 to \$225,000.00 the administrative appropriation to the Division of Taxation.

#### FISCAL IMPACT:

The Division of Taxation estimates that a tax of this nature would yield between \$12 and \$15 million per year, representing total taxable sales of \$40 to \$50 billion. The division bases its estimate, in part, on the experience from Washington State which has a similar tax that yields approximately \$2 million per year on a narrower base and with considerably lower rates.

The committee amendments reduce, by \$10,775,000.00, the amount appropriated by the bill.

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FISCAL NOTE TO  
OFFICIAL COPY REPRINT TO  
ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, No. 2003**

**STATE OF NEW JERSEY**

DATED: NOVEMBER 20, 1985

The Assembly Committee Substitute for Assembly Bill No. 2003 of 1984, as amended by the Assembly Revenue, Finance and Appropriations Committee:

- Imposes a tax on manufacturers, wholesalers, distributors and retailers of litter-generating products;
- Establishes a Clean Communities Account;
- Authorizes the expenditure of funds for municipal, county and State litter removal programs;
- Appropriates \$11 million from the General Fund, of which \$10 million is for a Clean Communities Account and \$1 million is for State administration of the tax and the anti-litter programs; and
- Makes littering a petty disorderly persons offense which carries a fine of up to \$500.

The tax rate on manufacturers, wholesalers, distributors and retailers of litter-generating products is set at 3/100 of 1 percent (.0003) on sales of those products within the State. However, the bill, as amended, exempts retailers with less than \$250,000 in annual sales.

The Division of Taxation, Department of the Treasury, estimates that the tax would yield between \$12 and \$15 million, representing total taxable sales of \$40 to \$50 billion. The division bases its estimate, in part, on the experience from Washington State which has a similar tax that yields approximately \$2 million per year. This bill provides for a tax base that is broader and a tax rate that is higher than Washington State; and it is on this basis that the division formulates its revenue estimate.

The bill establishes a Clean Communities Account as a non-lapsing, revolving fund in the Department of the Treasury. Revenues generated by the anti-littering tax will be credited to this account which the Department of Environmental Protection will administer. Furthermore, the bill appropriates \$10,000,000 from the General Fund to the Clean Communities Account. The taxes generated would be used to reimburse the General Fund.

The bill provides that the monies in the Clean Communities Account be allocated and used solely for the following purposes:

- 80 percent, or approximately \$9.6 to \$12 million, for grants to municipalities for litter pickup and removal programs;
- 10 percent, or approximately \$1.2 to \$1.5 million, for similar grants to counties;
- 5 percent, or approximately \$600,000 to \$750,000, for a State litter program employing youth to remove litter from State-owned places, and
- 5 percent, or approximately \$600,000 to \$750,000, for litter control planning and an anti-littering education program.

In addition to the \$10 million appropriation to the Clean Communities Account, the bill appropriates \$500,000 to the Division of Taxation and \$500,000 to the Department of Environmental Protection for administrative expenses associated with collecting the tax and administering the activities authorized for the Clean Communities Account, respectively.

Finally, the bill makes littering a petty disorderly persons offense which carries a fine of up to \$500. No estimate is available regarding the amount of money that might be generated from this provision.

The Office of Legislative Services concurs with the revenue estimate of \$12 to \$15 million from the litter tax.

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This fiscal note has been prepared pursuant to P. L. 1980, c. 67.

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# OFFICE OF THE GOVERNOR

## NEWS RELEASE

CN-001

Contact: CARL GOLDEN  
609-292-8956

TRENTON, N.J. 08625

Release: TUES., JAN. 21, 1986

Governor Thomas H. Kean today signed legislation to impose a tax upon firms which manufacture, distribute or sell products which are commonly discarded as litter, with the proceeds to be used to promote anti-litter and recycling programs at the local level.

The so-called "litter tax," A-2003, was sponsored in the Assembly by Assemblyman Anthony Marsella, D-Camden. An identical bill, S-2670, was sponsored in the Senate by Senator James Hurley, R-Cumberland.

The bill imposes a tax of \$300 per \$1 million of sales on manufacturers, distributors and wholesalers of litter generating products, and a tax of \$225 per \$1 million of sales on retailers of litter generating products. Retailers with less than \$250,000 in annual sales are exempt from the tax.

It is estimated that the tax will produce between \$10 and \$15 million annually.

The other major provisions in the bill include:

- \* A ban on the sale of beverages in metal containers with so-called "pop top" pull tabs.
- \* A ban on the use of plastic connectors commonly used in six-pack units, unless the connector is degradable.
- \* Establishing littering as a petty disorderly persons offense.
- \* A provision that the law expire on December 31, 1989.

- more -

"This legislation is a major step toward solving the increasing problem of the littering of our environment," Kean said. "It places the responsibility in its proper place --- the manufacturers, distributors and retailers of litter generating products --- and establishes appropriate penalties for those who litter."

"It does not impose a financial hardship on any business in New Jersey, yet it addresses a major environmental problem in a significant manner," the Governor said.

The legislation is effective in 90 days.

Kean also signed S-2699, sponsored by Senator John Russo, D-Ocean, to appropriate \$26,801,000 in bond issue funds to the Department of Human Services for renovations and improvements to its facilities and for community mental health services grants.

The funds, drawn from the \$60 million Human Services Facilities Construction Bond Act of 1984, break down as follows:

\*\$7 million for renovation and improvement of mental health facilities.

\*\$800,000 for community grants for mental health services, including group homes.

\*\$10.7 million for renovation and improvement of facilities for the mentally retarded.

\*\$900,000 for community grants for renovation and improvement of group homes for the mentally retarded.

\*\$50,000 for improvements in veterans' facilities.

\*\$1 million for planning and design of a nursing facility for veterans.

\*\$1.5 million for renovation and improvements of youth facilities operated by the Division of Youth and Family Services.