

13:1K-15 to 13:1K-18

LEGISLATIVE HISTORY CHECKLIST

NJSA: 13:1K-15 to 13:1K-18

(Hazardous substance discharges-industrial requirement reports prior to action)

LAWS OF: 1984

CHAPTER: 210

Bill No: A310

Sponsor(s): Franks and others

Date Introduced: Pre-filed

Committee: Assembly: Agriculture and Environment

Senate: Energy and Environment

Amended during passage: Yes Amendments during passage denoted by asterisks

Date of Passage: Assembly: February 6, 1984

Senate: October 18, 1984

Date of Approval: December 10, 1984

Following statements are attached if available:

Sponsor statement: Yes Attached: Assembly amendments, adopted 2-6-84 (with statement)

Committee statement: Assembly Yes

Senate Yes

Fiscal Note: No

Veto Message: No

Message on Signing: Yes

Following were printed:

Reports: No

Hearings: No

12-10-84

[THIRD OFFICIAL COPY REPRINT]

ASSEMBLY, No. 310**STATE OF NEW JERSEY**

PRE-FILED FOR INTRODUCTION IN THE 1984 SESSION

By Assemblyman FRANKS, Assemblywoman OGDEN, Assemblymen KERN, SCHUBER, KAVANAUGH, PALAIA, ZIMMER, MARKERT, ROONEY, KOSCO, Assemblywoman COOPER, Assemblymen FELICE, HENDRICKSON, GILL, MILLER, MUZIANI and BENNETT

AN ACT ***[requiring reports]*** concerning hazardous discharges ***[to be made by the owners or operators of industrial establishments and certain real property,]*** and supplementing Title 13 of the Revised Statutes.

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

1 1. As used in this act:

2 a. "Hazardous substances" means those elements and compounds,
3 including petroleum products, which are defined as such by the
4 Department of Environmental Protection, after public hearing,
5 and which shall be consistent to the maximum extent possible
6 with, and which shall include, the list of hazardous substances
7 adopted by the federal Environmental Protection Agency pur-
8 suant to Section 311 of the "Federal Water Pollution Control Act
9 Amendments of 1972," Pub. L. 92-500 (33 U.S.C. § 1321), as
10 amended, and the list of toxic pollutants designated by Congress
11 or the Environmental Protection Agency pursuant to Section 307 of
12 that act (33 U.S.C. § 1317); except that sewage and sewage sludge
13 shall not be considered as hazardous substances for the purposes
14 of this act.

15 *****[b.** "Hazardous waste" means any amount of any waste sub-
16 stances required to be reported to the Department of Environ-

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

Matter printed in italics thus is new matter.

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

*—Assembly committee amendments adopted January 30, 1984.

**—Assembly amendments adopted February 6, 1984.

***—Senate committee amendments adopted May 17, 1984.

17 mental Protection on the special waste manifest pursuant to
18 regulation, or as otherwise provided by law.

19 c. "Hazardous discharge" means the actual or imminent release,
20 spill, leak, emission or dumping of any hazardous substances or
21 hazardous waste into the environment; or the improper storage
22 or containment of any hazardous substances or hazardous waste,
23 if this improper storage or containment poses a substantial risk
24 of imminent damage to the public health and safety or to the
25 environment.***

26 ***b. "Hazardous discharge" means a discharge of a hazardous
27 substance required to be reported to the Department of Environ-
28 mental Protection pursuant to the provisions of P. L. 1976, c. 141
29 (C. 58:10-23.11 et seq.) and any rules and regulations adopted pur-
30 suant thereto, but shall not include such a hazardous discharge
31 reported to the department prior to the effective date of this act.***

32 ***[d.]*** ***c.*** "Industrial establishment" means any place
33 of business engaged in operations which involve the generation,
34 manufacture, refining, transportation, treatment, storage, handling,
35 or disposal of hazardous substances ***[or hazardous waste]***
36 on-site, above or below ground* [*]; including those industrial estab-
37 lishments]* ***, and*** having a ***primary*** Standard Indus-
38 trial Classification number within * [20-29]* ***[*22-29*]***
39 ***Major Group Numbers 22-39*** inclusive, ***[or]*** 46-49 in-
40 clusive, *51, 55, 75 ***[and]*** ***or*** 76* as designated in the
41 Standard Industrial Classification manual prepared by the Office
42 of Management and Budget in the Executive Office of the President
43 of the United States; and including any other places of business
44 which the Department of Environmental Protection may by regula-
45 tion prescribe. The department may, pursuant to the "Administra-
46 tive Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.), exempt
47 certain sub-groups within the Standard Industrial Classification
48 major group numbers listed in this subsection upon a finding that
49 the operation of the industrial establishment does not pose a risk to
50 public health and safety.

1 2. ***a.*** An owner or operator of an industrial establishment,
2 or real property which once was the site of an industrial establish-
3 ment who knows or suspects the occurrence of any hazardous dis-
4 charge on-site, above or below ground at the industrial establish-
5 ment or real property shall, within 10 days of obtaining any
6 information leading to this knowledge or suspicion, make an in-
7 spection thereof and file a written report concerning this hazardous
8 discharge with ***[the department,]*** the governing body of the
9 municipality in which the industrial establishment or real property

10 is located and the local board of health. The report shall include:
 11 the types ****and quantity**** of hazardous substances ****[or haz-*
 12 *ardous waste and the estimated quantity discharged,]*** ****in-*
 13 *volved in the hazardous discharge**** if known; the location of the
 14 hazardous discharge; **und***[,* the]*** ****any**** actions taken
 15 **[or proposed]** by the owner or operator of the industrial estab-
 16 lishment to contain **[, clean up and remove]** the hazardous sub-
 17 stance or ****[hazardous waste, if any]*** **; the results of any
 18 tests made or caused to be made to determine the presence or
 19 nature, or both, of the hazardous discharge; and any other informa-
 20 tion concerning the hazardous discharge required by the depart-
 21 ment].***

1 ****[3. a.]*** ****b.**** A person who fails to make a report re-
 2 quired ****[hereunder,]*** ****pursuant to this section**** know-
 3 ingly gives or causes to be given any false information in any such
 4 report, or otherwise violates the provisions of this ****[act]****
 5 ****section****, or any rule or regulation adopted pursuant thereto,
 6 is liable to a penalty of not more than \$50,000.00, to be collected in
 7 a summary proceeding under "the penalty enforcement law,"
 8 N. J. S. 2A:58-1 et seq., or in a court of competent jurisdiction
 9 wherein injunctive relief has been requested. The Superior Court
 10 shall have jurisdiction to enforce "the penalty enforcement law."
 11 If the violation is of a continuing nature each day during which it
 12 continues shall constitute an additional, separate and distinct
 13 offense.**

14 ****[b.]*** ****c.**** If any person violates any of the provisions
 15 of this ****[act]*** ****section****, the Department of Environ-
 16 mental Protection, the governing body of the municipality or the
 17 local health department may institute a civil action in the Superior
 18 Court for injunctive relief to prohibit and prevent the continuation
 19 of the violation and the court may proceed in a summary manner.
 20 ****d. Any person reporting a hazardous discharge pursuant to*
 21 *the provisions of this section shall not, by this report, incur liability*
 22 *for the cleanup of the hazardous discharge. The provisions of this*
 23 *subsection shall not affect a person's liability for the cleanup of a*
 24 *hazardous discharge under any other law, rule, or regulation.******

1 ****[4. The duties prescribed under the provisions of this act*
 2 ***[are in addition to, and not in lieu of, the duties prescribed]***
 3 ***shall not apply when the occurrence of the hazardous discharge*
 4 *has been reported to the Department of Environmental Protection***
 5 *under P. L. 1976, c. 141 (C. 58:10-23.11 et seq.) or any other State*
 6 *or federal law concerning hazardous discharges.]****

1 ****[5.]*** ****3.**** a. When the ****[department]*** **** De-***

2 *partment of Environmental Protection*** obtains any information*
 3 *which leads it to suspect that a hazardous discharge has occurred,*
 4 *it shall immediately notify, in writing and ***[verbally]****
 5 ****orally***, the governing body and the local board of health of*
 6 *the ***[relevant]*** municipality, ***in which the hazardous dis-*
 7 *charged has occurred*** and shall take appropriate action to verify*
 8 *that a hazardous discharge has occurred, including authorizing an*
 9 *agent or officer of the municipality to investigate the site of the*
 10 *suspected hazardous discharge and to report to the department.*

11 ****b. Within six months of the effective date of this act, the de-*
 12 *partment shall transmit to the governing body of each municipality*
 13 *in the State a list of all hazardous discharges reported to the depart-*
 14 *ment pursuant to the provisions of P. L. 1976, c. 141 (C. 58:10-23.11*
 15 *et seq.) or which the department discovered by any other means,*
 16 *which occurred within the boundaries of the municipality between*
 17 *the effective date of P. L. 1976, c. 141 and the effective date of*
 18 *this act. This list also shall include the status of the department's*
 19 *response to, or action taken concerning each discharge.****

20 ****[b.]*** ***c.*** When the governing body of a municipality*
 21 *or the local board of health obtains any information which leads it to*
 22 *suspect that a hazardous discharge has occurred, it shall imme-*
 23 *diately notify the department, in writing and ***[verbally]****
 24 ****orally***.*

1 ****[6. A person notifying the department, a governing body of a*
 2 *municipality or a local board of health, pursuant to section 2 of*
 3 *this act, shall not, by that action, incur liability for the cleanup of*
 4 *the hazardous discharge provided that this shall not affect a per-*
 5 *son's liability for the cleanup under any other law, rule or regula-*
 6 *tion.***]*

1 **[5.]* ***[7.*]*** ***4.*** The department shall adopt pur-*
 2 *suant to the "Administrative Procedure Act," P. L. 1968, c. 410 (C.*
 3 *52:14B-1 et seq.) the rules and regulations necessary to carry out*
 4 *the provisions of this act.*

1 **[6.]* ***[8.*]*** ***5.*** This act shall take effect imme-*
 2 *diately.*

1 3. a. A person who fails to make a report required hereunder,
 2 knowingly gives or causes to be given any false information in any
 3 such report, or otherwise violates the provisions of this act, or
 4 any rule or regulation adopted pursuant thereto, is liable to a
 5 penalty of not more than \$50,000.00, to be collected in a summary
 6 proceeding under "the penalty enforcement law," N. J. S. 2A:58-1
 7 et seq., or in a court of competent jurisdiction wherein injunctive
 8 relief has been requested. The Superior Court shall have juris-
 9 diction to enforce "the penalty enforcement law." If the violation
 10 is of a continuing nature each day during which it continues shall
 11 constitute an additional, separate and distinct offense.

12 b. If any person violates any of the provisions of this act, the
 13 Department of Environmental Protection, the governing body of
 14 the municipality or the local health department may institute a civil
 15 action in the Superior Court for injunctive relief to prohibit and
 16 prevent the continuation of the violation and the court may proceed
 17 in a summary manner.

1 4. The duties prescribed under the provisions of this act are in
 2 addition to, and not in lieu of, the duties prescribed under P. L.
 3 1976, c. 141 (C. 58:10-23.11 et seq.) or any other State or federal
 4 law concerning hazardous discharges.

1 5. The department shall adopt pursuant to the "Administrative
 2 Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.) the rules
 3 and regulations necessary to carry out the provisions of this act.

1 6. This act shall take effect immediately.

STATEMENT

This bill requires the owner or operator of an industrial estab-
 lishment or of real property which once was the site of an indus-
 trial establishment, within 10 days of knowing or suspecting the
 occurrence of a hazardous discharge on-site, above or below ground
 at the industrial establishment or real property, to make an in-
 spection thereof and file a written report with the Department of
 Environmental Protection, the governing body of the municipality
 in which the industrial establishment or real property is located
 and the local board of health, and to make available to these
 governmental entities the results of any tests made to determine
 the presence or nature, or both, of the hazardous discharge.

A310 (1984)

ASSEMBLY AGRICULTURE AND ENVIRONMENT
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 310

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 30, 1984

This bill requires the owner or operator of an industrial establishment or of real property which once was the site of an industrial establishment, within 10 days of knowing or suspecting the occurrence of a hazardous discharge on-site, above, or below ground at the industrial establishment or real property, to make an inspection thereof and file a written report with the Department of Environmental Protection, the governing body of the municipality in which the industrial establishment or real property is located and the local board of health.

The bill is intended to require that in those instances when a hazardous discharge is discovered by the owner of real property, regardless of whether the owner is considered the discharger under the "Spill Compensation and Control Act," P. L. 1976, c. 141 (C. 58:10-23.11 et seq.) or the transferee submitting a cleanup plan under the "Environmental Cleanup Responsibility Act," P. L. 1983, c. 330 (C. 13:16-6 et seq.), notice of that discharge and information, if available, concerning the nature and scope of the discharge shall be afforded the department and local authorities.

The Assembly Agriculture and Environment Committee amended the bill to restrict application of the bill to the stated Standard Industrial Classification (SIC) major groups; omit groups 20 and 21 of the SIC and to include SIC major groups 30 through 39, 51, 55, 75 and 76; scale down the amount and level of detail of the information required upon the discovery of a hazardous discharge; and, require that when the department obtains information leading them to suspect that a hazardous discharge has occurred, they immediately notify, verbally and in writing, the governing body and local board of health of the relevant municipality, and authorize these local bodies to verify, by site inspection or otherwise, that a hazardous discharge may indeed have occurred. The committee further amended the bill to require that upon obtaining any information leading local authorities to suspect that a hazardous discharge has occurred, the local authorities shall notify the department. Finally, the committee incorporated a "hold

harmless" in the bill so that the mere act of reporting a discharge did not subject the "reporter" to liability for cleanup and removal costs. However, this hold harmless would in no way relieve the person for any cleanup and removal liabilities imposed by other laws, rules or regulations.

SENATE ENERGY AND ENVIRONMENT COMMITTEE

STATEMENT TO

ASSEMBLY, No. 310

STATE OF NEW JERSEY

DATED: MAY 17, 1984

As amended by the committee Assembly Bill No. 310 would require the owner or operator of an industrial establishment, or property which was once the site of an industrial establishment, to report to the municipality in which the industrial establishment or property is located and the local board of health, any discharge of a hazardous substance which is required to be reported to the Department of Environmental Protection pursuant to the "Spill Compensation and Control Act," P. L. 1976, c. 141 (C. 58:10-23.11 et seq.). An owner or operator would not be required to so report a discharge reported to the department prior to the effective date of this bill.

This bill also requires that when the Department of Environmental Protection obtains information leading it to suspect that a hazardous discharge has occurred, it must immediately notify the governing body and local board of health of the relevant municipality, and authorize these local bodies to verify, by site inspection or otherwise, that a hazardous discharge may indeed have occurred.

This bill also requires that upon obtaining any information leading local authorities to suspect that a hazardous discharge had occurred, the local authorities shall notify the department. The bill also provides that by reporting a hazardous discharge, a person will not, by so reporting, incur liability for the discharge.

This bill further requires that within six months of its effective date, the Department of Environmental Protection shall transmit to each municipality in the State a list of all discharges reported to the department pursuant to the "Spill Compensation and Control Act," or which the department discovered by any other means, which occurred within the boundaries of the municipality between the effective date of the Spill Act (April 1, 1977) and the effective date of this bill. This list would also include the status of the department's response to each discharge.

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EJO

Assembly Amendments

to

Assembly Bill No. 310 O C R

Proposed by Assemblyman Franks

ADOPTED

Amend: FEB 6 1984

Page	Sec.	Line
3	4	1-2
3	4	2

On line 1
 after "act" omit "are in"; *on line 2*
 omit "addition to, and not in lieu of, the
 duties prescribed" insert "shall not apply
 when the occurrence of the hazardous
 discharge has been reported to the
 Department of Environmental Protection"

STATEMENT

These amendments would avoid duplicating reporting requirements for persons subject to the provisions of the Spill Compensation Act.



OFFICE OF THE GOVERNOR

NEWS RELEASE

CN-001

Contact: PAUL WOLCOTT
609-292-8956

TRENTON, N.J. 08625

Release: MONDAY, DEC. 10, 19

185 W. State Street
Trenton, N. J.

Governor Thomas H. Kean has signed legislation which requires the reporting of any known or suspected hazardous materials discharge to local officials.

The bill, A-310, was sponsored by Assemblyman Robert D. Franks, R-Union.

"Clearly, local officials have every right to be aware of possible environmental hazards within their jurisdiction," Kean said. "Although our laws already require that such reports be made to State agencies, we can now be assured that local government leaders will also be apprised of these hazards in a timely fashion."

The bill applies to the operators of an industrial establishment or the owners of property which was once the site of an industrial establishment which is engaged in operations which involve the generation, manufacture, refining, transportation, treatment, storage, handling or disposal of hazardous substances.

The bill applies to substances found on lists of hazardous substances and toxic pollutants maintained by the Federal Environmental Protection Agency.

The governing body of a municipality would receive a written report of any known or suspected hazardous discharges within ten days of the discovery of the event. The report would contain the type and quantity of the discharge and the actions being taken to deal with the situation.

- more -

A-310 SIGNED
PAGE TWO
DECEMBER 10, 1984

The bill establishes a fine of up to \$50,000 for failure to report but does not place any additional liability for clean-up on the person reporting the discharge. It does not, however, alter the liability for clean-up which may be established by other laws.

Another provision of the bill requires the Department of Environmental Protection to notify all local governing bodies of hazardous discharges known to have occurred in their municipality since 1976.

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