

13: 1E-9

LEGISLATIVE HISTORY CHECKLIST

NJSA: 13: 1E-9, 58:10-23.11u, 58:10A-10

(Hazardous waste & Solid waste-illegal dumping-forfeiture of conveyances)

LAWS OF: 1984

CHAPTER: 240

Bill No: A727

Sponsor(s): Bennett and Zimmer

Date Introduced: Pre-filed

Committee: Assembly: Agriculture and Environment

Senate: Energy and Environment

Amended during passage: Yes Amendments during passage denoted by asterisks. Substituted for S944 (not attached since identical to A727)

Date of Passage: Assembly: March 15, 1984

Senate: October 22, 1984

Date of Approval: December 28, 1984

Following statements are attached if available:

Sponsor statement: Yes Also attached Senate amendments, adopted 9-20-84 (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

ASSEMBLY, No. 727

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STATE OF NEW JERSEY

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PRE-FILED FOR INTRODUCTION IN THE 1984 SESSION

By Assemblymen BENNETT and ZIMMER

AN ACT concerning the forfeiture of conveyances for violations of certain environmental laws, and amending P. L. 1970, c. 39, P. L. 1976, c. 141 and P. L. 1977, c. 74.

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

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

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

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

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

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

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

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

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

36 b. The commissioner, a local board of health or county health  
37 department, may institute an action or proceeding in the Superior  
38 Court for injunctive and other relief, including the appointment of  
39 a receiver for any solid waste collection or disposal facility or  
40 operation, which is established or operated in violation of this act,  
41 or of any code, rule or regulation promulgated pursuant to this act  
42 and said court may proceed in the action in a summary manner. In  
43 any such proceeding the court may grant temporary or interlocu-  
44 tory relief notwithstanding the provisions of R. S. 48:2-24.

45 Such relief may include, singly or in combination:

46 (1) A temporary or permanent injunction;

47 (2) Assessment of the violator for the costs of any investigation,  
48 inspection, or monitoring survey which led to the establishment of  
49 the violation, and for the reasonable costs of preparing and liti-  
50 gating the case under this subsection.

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

56 (4) Assessment against the violator of compensatory damages  
57 for any loss or destruction of wildlife, fish or aquatic life, and for  
58 any other actual damages caused by any violation of this act or any  
59 rules, regulations or condition of approval established pursuant to  
60 this act for which the action under this subsection may have been  
61 brought. Assessments under this subsection shall be paid to the  
62 State Treasurer, or to the local board of health, or to the county  
63 health department, as the case may be, except that compensatory  
64 damages may be paid by specific order of the court to any persons  
65 who have been aggrieved by the violation.

66 If a proceeding is instituted by a local board of health or county  
67 health department, notice thereof shall be served upon the commis-  
68 sioner in the same manner as if the commissioner were a named  
69 party to the action or proceeding. The department may intervene as  
70 a matter of right in any proceeding brought by a local board of  
71 health or county health department.

72 c. Any person who violates the provisions of this act or any code,  
73 rule or regulation promulgated pursuant to this act shall be liable  
74 to a penalty of not more than \$25,000.00 per day to be collected in  
75 a civil action commenced by a local board of health, a county health  
76 department, or the commissioner by a summary proceeding under  
77 "the penalty enforcement law" (N. J. S. 2A:58-1 et seq.) in the  
78 Superior Court[, county district court,] or a municipal court, all of  
79 which shall have jurisdiction to enforce "the penalty enforcement  
80 law" in connection with this act. If the violation is of a continuing  
81 nature, each day during which it continues after the date given by  
82 which the violation must be eliminated in accordance with the order  
83 of the department shall constitute an additional, separate and  
84 distinct offense.

85 d. The department is hereby authorized and empowered to com-  
86 promise and settle any claim for a penalty under this section in such  
87 amount in the discretion of the department as may appear appro-  
88 priate and equitable under all of the circumstances, including a  
89 rebate of any such penalty paid up to 90% thereof where such  
90 person satisfies the department within one year or such other period  
91 as the department may deem reasonable that such violation has  
92 been eliminated or removed or that such order or injunction has  
93 been met or satisfied, as the case may be.

94 e. Any person who knowingly:

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

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

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

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

107 (5) Makes any false or misleading statement on any hazardous  
108 waste application, label, manifest, record, report, design or other

109 document required to be submitted to the department shall, upon  
110 conviction, be guilty of a crime of the third degree and, notwith-  
111 standing the provisions of N. J. S. 2C:43-3, shall be subject to a  
112 fine of not more than \$25,000.00 for the first offense and not more  
113 than \$50,000.00 for the second and each subsequent offense and  
114 restitution of not more than \$100,000.00 for the first and each sub-  
115 sequent offense, in addition to any other appropriate disposition  
116 authorized by subsection b. of N. J. S. 2C:43-2.

117 f. Any person who recklessly:

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

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

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

126 (4) Makes any false or misleading statement to any person  
127 who prepares any hazardous waste application, label, manifest,  
128 record, report, design or other document required to be submitted  
129 to the department; or

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

134 g. Any person who, regardless of intent, generates and causes  
135 or permits any hazardous waste to be transported, transports, or  
136 receives transported hazardous waste without completing and sub-  
137 mitting to the department a hazardous waste manifest in accordance  
138 with the provisions of this act or any rule or regulation adopted  
139 pursuant hereto shall, upon conviction, be guilty of a crime of the  
140 fourth degree.

141 *h. All conveyances used or intended for use in the willful dis-*  
142 *charge of any harmful or destructive substance which is a solid*  
143 *waste under P. L. 1970, c. 39 (C. 13:1E-1 et seq.), or a hazardous*  
144 *waste under P. L. 1976, c. 99 (C. 13:1E-38 et seq.) are subject to*  
145 *forfeiture to the State pursuant to the provisions of P. L. 1981, c.*  
146 *387 (C. 13:1K-1 et seq.) and in accordance with the proceedings*  
147 *contained therein.*

1 2. Section 22 of P. L. 1976, c. 141 (C. 58:10-23.11u) is amended  
2 to read as follows:

3 22. a. Any person who knowingly gives or causes to be given any  
4 false information as a part of, or in response to, any claim made

5 pursuant to this act for cleanup costs, removal costs, direct damages  
 6 or indirect damages resulting from a discharge, or who otherwise  
 7 violates any of the provisions of this act or any rule promulgated  
 8 thereunder shall be liable to a penalty of not more than \$25,000.00  
 9 for each offense, to be collected in a summary proceeding under  
 10 **["the "Penalty Enforcement Law,"]** *"the penalty enforcement law"*  
 11 (N. J. S. 2A:58-1 et seq.) or in a court of competent jurisdiction  
 12 wherein injunctive relief has been requested. The Superior Court  
 13 shall have jurisdiction to enforce **[said Penalty Enforcement Law]**  
 14 *"the penalty enforcement law"*. If the violation is of a continuing  
 15 nature each day during which it continues shall constitute an addi-  
 16 tional, separate and distinct offense.

17 b. If any person violates any of the provisions of this act, the  
 18 department may institute civil action in the Superior Court for  
 19 injunctive relief to prohibit and prevent the continuation of the  
 20 violation or violations and said court may proceed in a summary  
 21 manner.

22 c. *All conveyances used or intended for use in the willful dis-*  
 23 *charge of any harmful or destructive substance which is a hazardous*  
 24 *substance under P. L. 1976, c. 141 (C. 58:10-23.11 et seq.) are*  
 25 *subject to forfeiture to the State pursuant to the provisions of P. L.*  
 26 *1981, c. 387 (C. 13:1K-1 et seq.) and in accordance with the pro-*  
 27 *ceedings contained therein.*

1 3. Section 10 of P. L. 1977, c. 74 (C. 58:10A-10) is amended to  
 2 read as follows:

3 10. a. Whenever, on the basis of any information available to  
 4 him, the commissioner finds that any person is in violation of any  
 5 provision of this act, or any rule, regulation, water quality stan-  
 6 dard, effluent limitation, or permit issued pursuant to this act he  
 7 shall:

8 (1) Issue an order requiring any such person to comply in ac-  
 9 cordance with subsection b. of this section; or

10 (2) Bring a civil action in accordance with subsection c. of this  
 11 section; or

12 (3) Levy a civil administrative penalty in accordance with sub-  
 13 section d. of this section; or

14 (4) Bring an action for a civil penalty in accordance with sub-  
 15 section e. of this section; or

16 (5) Petition the Attorney General to bring a criminal action in  
 17 accordance with subsection f. of this section.

18 Use of any of the remedies specified under this section shall  
 19 not preclude use of any other remedy specified.

20 b. Whenever, on the basis of any information available to him,

21 the commissioner finds that any person is in violation of any pro-  
22 vision of this act, or of any rule, regulation, water quality standard,  
23 effluent limitation or permit issued pursuant to this act, he may  
24 issue an order (1) specifying the provision or provisions of this  
25 act, or the rule, regulation, water quality standard, effluent limi-  
26 tation, or permit of which he is in violation, (2) citing the action  
27 which caused such violation, (3) requiring compliance with such  
28 provision or provisions, and (4) giving notice to the person of his  
29 right to a hearing on the matters contained in the order.

30 c. The commissioner is authorized to commence a civil action in  
31 Superior Court for appropriate relief from any violation of this act  
32 or of a permit issued hereunder. Such relief may include, singly  
33 or in combination:

34 (1) A temporary or permanent injunction;

35 (2) Assessment of the violator for the costs of any investigation,  
36 inspection, or monitoring survey which led to the establishment of  
37 the violation, and for the reasonable costs of preparing and litigat-  
38 ing the case under this subsection;

39 (3) Assessment of the violator for any cost incurred by the  
40 State in removing, correcting or terminating the adverse effects  
41 upon water quality resulting from any unauthorized discharge of  
42 pollutants for which the action under this subsection may have been  
43 brought;

44 (4) Assessment against the violator of compensatory damages  
45 for any loss or destruction of wildlife, fish or aquatic life, and for  
46 any other actual damages caused by an unauthorized discharge.  
47 Assessments under this subsection shall be paid to the State  
48 Treasurer, except that compensatory damages shall be paid by  
49 specific order of the court to any persons who have been aggrieved  
50 by the unauthorized discharge;

51 d. The commissioner is authorized to assess a civil penalty of  
52 not more than \$5,000.00 for each violation and additional penalties  
53 of not more than \$500.00 for each day during which such violation  
54 continues after receipt of an order from the department. Any  
55 amount assessed under this subsection shall fall within a range  
56 established by regulation by the commissioner for violations of  
57 similar type, seriousness, and duration. No assessment shall be  
58 levied pursuant to this section until after the discharger has been  
59 notified by certified mail or personal service. The notice shall  
60 include a reference to the section of the statute, regulation, order or  
61 permit condition violated; a concise statement of the facts alleged  
62 to constitute a violation; a statement of the amount of the civil  
63 penalties to be imposed; and a statement of the party's right to a

64 hearing. The ordered party shall have 20 days from receipt of the  
65 notice within which to deliver to the commissioner a written  
66 request for a hearing. After the hearing and upon finding that a  
67 violation has occurred, the commissioner may issue a final order  
68 after assessing the amount of the fine specified in the notice. If no  
69 hearing is requested, then the notice shall become a final order  
70 after the expiration of the 20-day period. Payment of the assess-  
71 ment is due when a final order is issued or the notice becomes a  
72 final order. The authority to levy an administrative order is in  
73 addition to all other enforcement provisions in this act, and the  
74 payment of any assessment shall not be deemed to affect the  
75 availability of any other enforcement provisions in connection with  
76 the violation for which the assessment is levied. Any civil penalty  
77 assessed under this section may be compromised by the commis-  
78 sioner upon the posting of a performance bond by the violator, or  
79 upon such terms and conditions as the commissioner may establish  
80 by regulation.

81 e. Any person who violates this act or an administrative order  
82 issued pursuant to subsection b. or a court order issued pursuant  
83 to subsection c., or who fails to pay an administrative assessment  
84 in full pursuant to subsection d. shall be subject upon order of a  
85 court to a civil penalty not to exceed \$10,000.00 per day of such  
86 violation, and each day's continuance of the violation shall con-  
87 stitute a separate violation. Any penalty incurred under this sub-  
88 section may be recovered with costs in a summary proceeding pur-  
89 suant to [the "Penalty Enforcement Law"] "*the penalty enforce-*  
90 *ment law*" (N. J. S. 2A:58-1 et seq.). The Superior Court[, County  
91 Court and county district court] shall have jurisdiction to enforce  
92 [said Penalty Enforcement Law] "*the penalty enforcement law*"  
92A in conjunction with this act.

93 f. Any person who willfully or negligently violates this act shall,  
94 upon conviction, be guilty of a [misdemeanor] *crime of the fourth*  
95 *degree* and shall be punished by fine of not less than \$2,500.00 nor  
96 more than \$25,000.00 per day of violation, or by imprisonment for  
97 not more than one year or by both. Punishment for a second offense  
98 under this subsection shall be a fine of not less than \$5,000.00 nor  
99 more than \$50,000.00 per day of violation, or by imprisonment for  
100 not more than two years, or both. Any person who knowingly makes  
101 a false statement, representation, or certification in any application,  
102 record, or other document filed or required to be maintained under  
103 this act or who falsifies, tampers with or knowingly renders in-  
104 accurate, any monitoring device or method required to be main-  
105 tained pursuant to this act, shall upon conviction, be subject to a fine



106 of not more than \$10,000.00 or by imprisonment for not more than  
107 six months, or by both.

108 *g. All conveyances used or intended for use in the willful dis-*  
109 *charge of any harmful or destructive substance which is a pollutant*  
110 *or toxic pollutant under P. L. 1977, c. 74 (C. 58:10A-1 et seq.) are*  
111 *subject to forfeiture to the State pursuant to the provisions of P. L.*  
112 *1981, c. 387 (C. 13:1K-1 et seq.) and in accordance with the pro-*  
113 *ceedings contained therein.*

1 4. This act shall take effect immediately.

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#### STATEMENT

This bill makes the provisions of P. L. 1981, c. 387 (C. 13:1K-1 et seq.), authorizing and prescribing the manner of the forfeiture of conveyances used in the willful discharge of harmful or destructive substances, applicable to the "Solid Waste Management Act," P. L. 1970, c. 39 (C. 13:1E-1 et seq.), the "Spill Compensation and Control Act," P. L. 1976, c. 141 (C. 58:10-23.11 et seq.) and the "Water Pollution Control Act," P. L. 1977, c. 74 (C. 58:10A-1 et seq.).

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ASSEMBLY AGRICULTURE AND ENVIRONMENT  
COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 727**

with Assembly committee amendments

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**STATE OF NEW JERSEY**

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DATED: FEBRUARY 27, 1984

This bill makes the provisions of P. L. 1981, c. 387 (C. 13:1K-1 et seq.), authorizing and prescribing the manner of the forfeiture of conveyances used in the unlawful discharge of solid or hazardous wastes or substances or toxic pollutants, applicable to the "Solid Waste Management Act," P. L. 1970, c. 39 (C. 13:1E-1 et seq.), the "Spill Compensation and Control Act," P. L. 1976, c. 141 (C. 58:10-23.11 et seq.) and the "Water Pollution Control Act," P. L. 1977, c. 74 (C. 58:10A-1 et seq.).

A conveyance, as defined in section 1 of P. L. 1981, c. 387 (C. 13:1K-1), is an aircraft, vessel, vehicle, or other equipment or container.

The committee amended the bill to correct certain technical deficiencies.

SENATE ENERGY AND ENVIRONMENT COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 727**

[OFFICIAL COPY REPRINT]

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**STATE OF NEW JERSEY**

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DATED: JUNE 18, 1984

Assembly Bill No. 727 OCR provides that conveyances (motor vehicles, aircraft, ships, and containers) used in connection with the willful discharge of solid waste, hazardous waste, hazardous substances, pollutants or toxic pollutants be forfeited to the State.

The procedure for forfeiture to the State of conveyances used in connection with the willful discharge of harmful or destructive substances is set forth in P. L. 1981, c. 387 (C. 13:1K-1 et seq.). The bill would make this procedure applicable to the willful discharge of solid or hazardous waste by amending the "Solid Waste Management Act," P. L. 1970, c. 39 (C. 13:1E-1 et seq.), to the willful discharge of hazardous substances by amending the "Spill Compensation and Control Act," P. L. 1976, c. 141 (C. 58:10-23.11 et seq.), and to the willful discharge of pollutants or toxic pollutants by amending the "Water Pollution Control Act," P. L. 1977, c. 74 (C. 58:10A-1 et seq.).

Assembly Bill No. 727 OCR is identical to Senate Bill No. 944.

[SECOND OFFICIAL COPY REPRINT]

## ASSEMBLY, No. 727

## STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1984 SESSION

By Assemblymen BENNETT and ZIMMER

AN ACT concerning the forfeiture of conveyances for violations of certain environmental laws, and amending P. L. 1970, c. 39, P. L. 1976, c. 141 and P. L. 1977, c. 74.

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

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

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

8A *\*The department and the local board of health, or the county*  
8B *health department, as the case may be, shall have the right to enter*  
8C *a solid waste facility at any time in order to determine compliance*  
8D *with the registration statement and engineering design, and with*  
8E *the provisions of all applicable laws or rules and regulations*  
8F *adopted pursuant thereto.*

8G *The municipal attorney or an attorney retained by a municipality*  
8H *in which a violation of such laws or rules and regulations adopted*  
8I *pursuant thereto is alleged to have occurred shall act as counsel to*  
8J *a local board of health.*

8K *The county counsel or an attorney retained by a county in which*  
8L *a violation of such laws or rules and regulations adopted pursuant*  
8M *thereto is alleged to have occurred shall act as counsel to the county*  
8N *health department.\**

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

Matter printed in italics *thus* is new matter.

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

\*—Assembly committee amendments adopted February 27, 1984.

\*\*—Senate amendments adopted September 20, 1984.

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

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

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

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

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

36       b. The commissioner, a local board of health or county health  
37 department\*\*[.]\*\* may institute an action or proceeding in the  
38 Superior Court for injunctive and other relief, including the ap-  
39 pointment of a receiver for any solid waste collection or disposal  
40 facility or operation, which is established or operated in violation of  
41 this act, or of any code, rule or regulation promulgated pursuant to  
42 this act and said court may proceed in the action in a summary man-  
43 ner. In any such proceeding the court may grant temporary or inter-  
44 locutory relief notwithstanding the provisions of R. S. 48:2-24.

45       Such relief may include, singly or in combination :

- 46       (1) A temporary or permanent injunction ;  
47       (2) Assessment of the violator for the costs of any investigation,  
48 inspection, or monitoring survey which led to the establishment of  
49 the violation, and for the reasonable costs of preparing and liti-  
50 gating the case under this subsection.

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

56 (4) Assessment against the violator of compensatory damages  
57 for any loss or destruction of wildlife, fish or aquatic life, and for  
58 any other actual damages caused by any violation of this act or any  
59 ~~rules, regulations~~ *rule, regulation* or condition of ap-  
60 proval established pursuant to this act for which the action under  
61 this subsection may have been brought. Assessments under this sub-  
62 section shall be paid to the State Treasurer, or to the local board  
63 of health, or to the county health department, as the case may be,  
64 except that compensatory damages may be paid by specific order of  
65 the court to any persons who have been aggrieved by the violation.

66 If a proceeding is instituted by a local board of health or county  
67 health department, notice thereof shall be served upon the commis-  
68 sioner in the same manner as if the commissioner were a named  
69 party to the action or proceeding. The department may intervene as  
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74 to a penalty of not more than \$25,000.00 per day to be collected in  
75 a civil action commenced by a local board of health, a county health  
76 department, or the commissioner by a summary proceeding under  
77 "the penalty enforcement law" (N. J. S. 2A:58-1 et seq.) in the  
78 Superior Court, county district court, or a municipal court, all of  
79 which shall have jurisdiction to enforce "the penalty enforcement  
80 law" in connection with this act. If the violation is of a continuing  
81 nature, each day during which it continues after the date given by  
82 which the violation must be eliminated in accordance with the order  
83 of the department shall constitute an additional, separate and  
84 distinct offense.

85 d. The department is hereby authorized and empowered to com-  
86 promise and settle any claim for a penalty under this section in such  
87 amount in the discretion of the department as may appear appro-  
88 priate and equitable under all of the circumstances, including a  
89 rebate of any such penalty paid up to 90% thereof where such  
90 person satisfies the department within one year or such other period  
91 as the department may deem reasonable that such violation has  
92 been eliminated or removed or that such order or injunction has  
93 been met or satisfied, as the case may be.

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96 place which does not have authorization from the department to  
97 accept such waste;

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

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

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

107 (5) Makes any false or misleading statement on any hazardous  
108 waste application, label, manifest, record, report, design or other  
109 document required to be submitted to the department shall, upon  
110 conviction, be guilty of a crime of the third degree and, notwith-  
111 standing the provisions of N. J. S. 2C:43-3, shall be subject to a  
112 fine of not more than \$25,000.00 for the first offense and not more  
113 than \$50,000.00 for the second and each subsequent offense and  
114 restitution \*~~of not more than \$100,000.00 for the first and each sub-~~  
115 ~~sequent offense~~\*, in addition to any other appropriate disposition  
116 authorized by subsection b. of N. J. S. 2C:43-2.

117 f. Any person who recklessly:

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

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

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

126 (4) Makes any false or misleading statement to any person  
127 who prepares any hazardous waste application, label, manifest,  
128 record, report, design or other document required to be submitted  
129 to the department; or

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

134 g. Any person who, regardless of intent, generates and causes  
135 or permits any hazardous waste to be transported, transports, or  
136 receives transported hazardous waste without completing and sub-

137 mitting to the department a hazardous waste manifest in accordance  
 138 with the provisions of this act or any rule or regulation adopted  
 139 pursuant hereto shall, upon conviction, be guilty of a crime of the  
 140 fourth degree.

141 *h. All conveyances used or intended for use in the willful dis-*  
 142 *charge\*, in violation of the provisions of P. L. 1970, c. 39 (C.*  
 143 *13:1E-1 et seq.),\* of any \***[harmful or destructive substance which***  
 144 *is a]\* solid waste \***[under P. L. 1970, c. 39 (C. 13:1E-1 et seq.)]\*,***  
 145 *or \***[a]\* hazardous waste \***[under]\* \*as defined in\* P. L. 1976,*****  
 146 *c. 99 (C. 13:1E-38 et seq.) are subject to forfeiture to the State*  
 147 *pursuant to the provisions of P. L. 1981, c. 387 (C. 13:1K-1 et seq.)*  
 148 *\***[and in accordance with the proceedings contained therein]\*.***

1 2. Section 22 of P. L. 1976, c. 141 (C. 58:10-23.11u) is amended  
 2 to read as follows:

3 22. a. Any person who knowingly gives or causes to be given any  
 4 false information as a part of, or in response to, any claim made  
 5 pursuant to this act for cleanup costs, removal costs, direct damages  
 6 or indirect damages resulting from a discharge, or who otherwise  
 7 violates any of the provisions of this act or any rule promulgated  
 8 thereunder shall be liable to a penalty of not more than \$25,000.00  
 9 for each offense, to be collected in a summary proceeding under  
 10 **[the “Penalty Enforcement Law,”]** *“the penalty enforcement law”*  
 11 (N. J. S. 2A:58-1 et seq.) or in a court of competent jurisdiction  
 12 wherein injunctive relief has been requested. The Superior Court  
 13 shall have jurisdiction to enforce **[said Penalty Enforcement Law]**  
 14 *“the penalty enforcement law”*. If the violation is of a continuing  
 15 nature each day during which it continues shall constitute an addi-  
 16 tional, separate and distinct offense.

17 b. If any person violates any of the provisions of this act, the  
 18 department may institute civil action in the Superior Court for  
 19 injunctive relief to prohibit and prevent the continuation of the  
 20 violation or violations and said court may proceed in a summary  
 21 manner.

22 *c. All conveyances used or intended for use in the willful dis-*  
 23 *charge of any \***[harmful or destructive substance which is a]\****  
 24 *hazardous substance \***[under P. L. 1976, c. 141 (C. 58:10-23.11***  
 25 *et seq.)]\* are subject to forfeiture to the State pursuant to the*  
 26 *provisions of P. L. 1981, c. 387 (C. 13:1K-1 et seq.) \***[and in accor-***  
 27 *dance with the proceedings contained therein]\*.*

1 3. Section 10 of P. L. 1977, c. 74 (C. 58:10A-10) is amended to  
 2 read as follows:

3 10. a. Whenever, on the basis of any information available to  
 4 him, the commissioner finds that any person is in violation of any



5 provision of this act, or any rule, regulation, water quality stan-  
6 dard, effluent limitation, or permit issued pursuant to this act he  
7 shall:

8 (1) Issue an order requiring any such person to comply in ac-  
9 cordance with subsection b. of this section; or

10 (2) Bring a civil action in accordance with subsection c. of this  
11 section; or

12 (3) Levy a civil administrative penalty in accordance with sub-  
13 section d. of this section; or

14 (4) Bring an action for a civil penalty in accordance with sub-  
15 section e. of this section; or

16 (5) Petition the Attorney General to bring a criminal action in  
17 accordance with subsection f. of this section.

18 Use of any of the remedies specified under this section shall  
19 not preclude use of any other remedy specified.

20 b. Whenever, on the basis of any information available to him,  
21 the commissioner finds that any person is in violation of any pro-  
22 vision of this act, or of any rule, regulation, water quality standard,  
23 effluent limitation or permit issued pursuant to this act, he may  
24 issue an order (1) specifying the provision or provisions of this  
25 act, or the rule, regulation, water quality standard, effluent limi-  
26 tation, or permit of which he is in violation, (2) citing the action  
27 which caused such violation, (3) requiring compliance with such  
28 provision or provisions, and (4) giving notice to the person of his  
29 right to a hearing on the matters contained in the order.

30 c. The commissioner is authorized to commence a civil action in  
31 Superior Court for appropriate relief from any violation of this act  
32 or of a permit issued hereunder. Such relief may include, singly  
33 or in combination:

34 (1) A temporary or permanent injunction;

35 (2) Assessment of the violator for the costs of any investigation,  
36 inspection, or monitoring survey which led to the establishment of  
37 the violation, and for the reasonable costs of preparing and litigat-  
38 ing the case under this subsection;

39 (3) Assessment of the violator for any cost incurred by the  
40 State in removing, correcting or terminating the adverse effects  
41 upon water quality resulting from any unauthorized discharge of  
42 pollutants for which the action under this subsection may have been  
43 brought;

44 (4) Assessment against the violator of compensatory damages  
45 for any loss or destruction of wildlife, fish or aquatic life, and for  
46 any other actual damages caused by an unauthorized discharge.  
47 Assessments under this subsection shall be paid to the State

48 Treasurer, except that compensatory damages shall be paid by  
49 specific order of the court to any persons who have been aggrieved  
50 by the unauthorized discharge;

51 d. The commissioner is authorized to assess a civil penalty of  
52 not more than \$5,000.00 for each violation and additional penalties  
53 of not more than \$500.00 for each day during which such violation  
54 continues after receipt of an order from the department. Any  
55 amount assessed under this subsection shall fall within a range  
56 established by regulation by the commissioner for violations of  
57 similar type, seriousness, and duration. No assessment shall be  
58 levied pursuant to this section until after the discharger has been  
59 notified by certified mail or personal service. The notice shall  
60 include a reference to the section of the statute, regulation, order or  
61 permit condition violated; a concise statement of the facts alleged  
62 to constitute a violation; a statement of the amount of the civil  
63 penalties to be imposed; and a statement of the party's right to a  
64 hearing. The ordered party shall have 20 days from receipt of the  
65 notice within which to deliver to the commissioner a written  
66 request for a hearing. After the hearing and upon finding that a  
67 violation has occurred, the commissioner may issue a final order  
68 after assessing the amount of the fine specified in the notice. If no  
69 hearing is requested, then the notice shall become a final order  
70 after the expiration of the 20-day period. Payment of the assess-  
71 ment is due when a final order is issued or the notice becomes a  
72 final order. The authority to levy an administrative order is in  
73 addition to all other enforcement provisions in this act, and the  
74 payment of any assessment shall not be deemed to affect the  
75 availability of any other enforcement provisions in connection with  
76 the violation for which the assessment is levied. Any civil penalty  
77 assessed under this section may be compromised by the commis-  
78 sioner upon the posting of a performance bond by the violator, or  
79 upon such terms and conditions as the commissioner may establish  
80 by regulation.

81 e. Any person who violates this act or an administrative order  
82 issued pursuant to subsection b. or a court order issued pursuant  
83 to subsection c., or who fails to pay an administrative assessment  
84 in full pursuant to subsection d. shall be subject upon order of a  
85 court to a civil penalty not to exceed \$10,000.00 per day of such  
86 violation, and each day's continuance of the violation shall con-  
87 stitute a separate violation. Any penalty incurred under this sub-  
88 section may be recovered with costs in a summary proceeding pur-  
89 suant to [the "Penalty Enforcement Law"] "*the penalty enforce-*  
90 *ment law*" (N. J. S. 2A:58-1 et seq.). The Superior Court[, County

91 Court and county district court] shall have jurisdiction to enforce  
 92 [said Penalty Enforcement Law] “*the penalty enforcement law*”  
 92A in conjunction with this act.

93 f. Any person who willfully or negligently violates this act shall,  
 94 upon conviction, be guilty of a [misdemeanor] *crime of the fourth*  
 95 *degree* and shall be punished by fine of not less than \$2,500.00 nor  
 96 more than \$25,000.00 per day of violation, or by imprisonment for  
 97 not more than one year or by both. Punishment for a second offense  
 98 under this subsection shall be a fine of not less than \$5,000.00 nor  
 99 more than \$50,000.00 per day of violation, or by imprisonment for  
 100 not more than two years, or both. Any person who knowingly makes  
 101 a false statement, representation, or certification in any application,  
 102 record, or other document filed or required to be maintained under  
 103 this act or who falsifies, tampers with or knowingly renders in-  
 104 accurate, any monitoring device or method required to be main-  
 105 tained pursuant to this act, shall upon conviction, be subject to a fine  
 106 of not more than \$10,000.00 or by imprisonment for not more than  
 107 six months, or by both.

108 g. *All conveyances used or intended for use in the willful dis-*  
 109 *charge\**, in violation of the provisions of P. L. 1977, c. 74 (C.  
 110 58:10A-1 et seq.)\* of any \*[harmful or destructive substance which  
 111 is a]\* pollutant or toxic pollutant \*[under P. L. 1977, c. 74 (C.  
 112 58:10A-1 et seq.)]\* are subject to forfeiture to the State pursuant  
 113 to the provisions of P. L. 1981, c. 387 (C. 13:1K-1 et seq.) \*[and  
 114 in accordance with the proceedings contained therein]\*.

1 4. This act shall take effect immediately.

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A-391, sponsored by Assemblyman Vincent O. Pellecchia, D-Passaic, which gives a fraternal organization the right of first refusal to repurchase from the Department of Transportation property taken under eminent domain, at the same price paid at condemnation. The bill applies to the Junior Order of United American Mechanics of New Jersey, Elmwood Park, which in 1975 lost its fight against a condemnation action brought by the DOT in 1970 for land to be used at the interchange of Interstate 80 and Route 21. The Department more recently determined to place the interchange elsewhere.

A-631, sponsored by Assemblyman Joseph V. Doria, Jr., D-Hudson, which increases the public bidding threshold for State college contracts from \$2,500 to \$7,500, and provides that the Governor and the State Treasurer may adjust the threshold every two years in proportion to the rise or fall of the New York/Philadelphia Consumer Price Index.

A-727, sponsored by Assemblyman John O. Bennett, R-Monmouth, which amends the Solid Waste Management Act to clarify the enforcement powers of the Department of Environmental Protection and county and local boards of health and allows county and local health departments to investigate solid waste facilities at any time to ensure compliance with the facility's registration statement and engineering design, as well as with pertinent laws, rules and regulations.

A-1673, sponsored by Assemblyman Joseph L. Bocchini, D-Mercer, which increases the public bidding threshold for county colleges from \$4,500 to \$7,500 and provides that the Governor and the State Treasurer may adjust the threshold every two years in proportion to the rise and fall of the New York/Philadelphia Consumer Price Index.

A-2001, sponsored by Assemblyman Doria, which provides for the licensing of podiatric x-ray technologists, permitting them to operate small podiatric x-ray machines on the lower leg and foot area for diagnostic purposes only.

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