

13:1D-9

LEGISLATIVE HISTORY CHECKLIST

NJSA: 13:1D-9; 26:3A2-25 (Solid Waste Management Act - violations - county and municipal prosecution)

LAWS OF: 1983 CHAPTER: 38

Bill No.: A1096

Sponsor(s): Herman

Date Introduced: March 11, 1982

Committee: Assembly: Agriculture and Environment

Senate: Energy and Environment

Amended during passage: Yes // Amendments during passage denoted by asterisks

Date of Passage: Assembly: May 20, 1982

Senate: Nov. 29, 1982

Date of Approval: Jan. 26, 1983

Following statements are attached if available:

Sponsor statement: Yes // (Below)

Committee statement: Assembly Yes //

Senate Yes //

Fiscal Note: /// No

Veto Message: /// No

Message on Signing: /// ~~No~~ Yes.

Following were printed:

Reports: /// No

Hearings: /// No

Sponsor's statement:

This bill authorizes the Department of Environmental Protection to issue summonses and complaints for violations of environmental statutes, rules and regulations.

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## ASSEMBLY, No. 1096

**STATE OF NEW JERSEY**

INTRODUCED MARCH 11, 1982

By Assemblyman HERMAN

Referred to Committee on Agriculture and Environment

AN ACT concerning the State and local enforcement of environmental laws, rules, regulations and orders, amending P. L. 1970, c. 33, and the "County Environmental Health Act," approved March 2, 1978 (P. L. 1977, c. 443).

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

1 1. Section 12 of P. L. 1970, c. 33 (C. 13:1D-9) is amended to  
2 read as follows:

3 12. The department shall formulate comprehensive policies for  
4 the conservation of the natural resources of the State, the promo-  
5 tion of environmental protection and the prevention of pollution  
6 of the environment of the State. The department shall in addition  
7 to the powers and duties vested in it by this act or by any other  
8 law have the power to:

9 a. Conduct and supervise research programs for the purpose of  
10 determining the causes, effects and hazards to the environment and  
11 its ecology;

12 b. Conduct and supervise Statewide programs of education in-  
13 cluding the preparation and distribution of information relating  
14 to conservation, environmental protection and ecology;

15 c. Require the registration of persons engaged in operations  
16 which may result in pollution of the environment and the filing of  
17 reports by them containing such information as the department  
18 may prescribe to be filed relative to pollution of the environment,  
19 all in accordance with applicable codes, rules or regulations  
20 established by the 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:

\*—Senate committee amendments adopted July 12, 1982.

\*\*—Senate amendment adopted October 25, 1982.

21 d. Enter and inspect any building or place for the purpose of  
22 investigating an actual or suspected source of pollution of the  
23 environment and ascertaining compliance or noncompliance with  
24 any code, rules and regulations of the department. Any informa-  
25 tion relating to secret processes concerning methods of manufacture  
26 or production obtained in the course of such inspection, investiga-  
27 tion or determination, shall be kept confidential and shall not be  
28 admissible in evidence in any court or in any other proceeding  
29 except before the department as herein defined. If samples are  
30 taken for analysis, a duplicate of the analytical report shall be  
31 furnished promptly to the person suspected of causing pollution of  
32 the environment;

33 e. Receive or initiate complaints of pollution of the environment,  
34 including thermal pollution, hold hearings in connection therewith  
35 and institute legal proceedings for the prevention of pollution of  
36 the environment and abatement of nuisances in connection there-  
37 with and shall have the authority to seek and obtain injunctive  
38 relief and the recovery of fines and penalties in summary proceed-  
39 ings in the Superior Court;

40 f. Prepare, administer and supervise Statewide, regional and  
41 local programs of conservation and environmental protection,  
42 giving due regard for the ecology of the varied areas of the State  
43 and the relationship thereof to the environment, and in connection  
44 therewith prepare and make available to appropriate agencies in  
45 the State technical information concerning conservation and  
46 environmental protection, cooperate with the Commissioner of  
47 Health in the preparation and distribution of environmental protec-  
48 tion and health bulletins for the purpose of educating the public,  
49 and cooperate with the Commissioner of Health in the preparation  
50 of a program of environmental protection;

51 g. Encourage, direct and aid in coordinating State, regional and  
52 local plans and programs concerning conservation and environ-  
53 mental protection in accordance with a unified Statewide plan which  
54 shall be formulated, approved and supervised by the department.  
55 In reviewing such plans and programs and in determining condi-  
56 tions under which such plans may be approved, the department  
57 shall give due consideration to the development of a comprehensive  
58 ecological and environmental plan in order to be assured insofar  
59 as is practicable that all proposed plans and programs shall con-  
60 form to reasonably contemplated conservation and environmental  
61 protection plans for the State and the varied areas thereof;

62 h. Administer or supervise programs of conservation and en-  
63 vironmental protection, prescribe the minimum qualifications of  
64 all persons engaged in official environmental protection work, and  
65 encourage and aid in coordinating local environmental protection  
66 services;

67 i. Establish and maintain adequate bacteriological, radiological  
68 and chemical laboratories with such expert assistance and such  
69 facilities as are necessary for routine examinations and analyses,  
70 and for original investigations and research in matters affecting  
71 the environment and ecology;

72 j. Administer or supervise a program of industrial planning for  
73 environmental protection; encourage industrial plants in the State  
74 to undertake environmental and ecological engineering pro-  
75 grams, and cooperate with the State Departments of Health  
76 **[and]**, *Labor and Commerce and Economic Development* in  
77 formulating rules and regulations concerning industrial sanitary  
77A conditions;

78 k. Supervise sanitary engineering facilities and projects within  
79 the State, authority for which is now or may hereafter be vested by  
80 law in the department, and shall, in the exercise of such supervi-  
81 sion, make and enforce rules and regulations concerning plans and  
82 specifications, or either, for the construction, improvement, altera-  
83 tion or operation of all public water supplies, all public bathing  
84 places, land fill operations and of sewerage systems and disposal  
85 plants for treatment of sewage, wastes and other deleterious  
86 matter, liquid, solid or gaseous, require all such plans or specifica-  
87 tions, or either, to be first approved by it before any work there-  
88 under shall be commenced, inspect all such projects during the  
89 progress thereof and enforce compliance with such approved plans  
90 and specifications;

91 l. Undertake programs of research and development for the  
92 purpose of determining the most efficient, sanitary and economical  
93 ways of collecting, disposing or utilizing of solid waste;

94 m. Construct and operate, on an experimental basis, incinerators  
95 or other facilities for the disposal of solid waste, provide the  
96 various municipalities and counties of this State, the Board of  
97 Public Utilities, and the Division of Local Government Services in  
98 the Department of Community Affairs with statistical data on  
99 costs and methods of solid waste collection, disposal and  
100 utilization;

101 n. Enforce the State air pollution, water pollution, conservation,  
102 environmental protection, waste and refuse disposal laws, rules  
103 and regulations, *including the making and signing of a complaint*

104 *and summons for their violation by serving the summons upon the*  
105 *violator and thereafter filing the complaint promptly with a court*  
106 *having jurisdiction;*

107 o. Acquire by purchase, grant, contract or condemnation, title  
108 to real property, for the purpose of demonstrating new methods  
109 and techniques for the collection or disposal of solid waste;

110 p. Purchase, operate and maintain, pursuant to the provisions  
111 of this act, any facility, site, laboratory, equipment or machinery  
112 necessary to the performance of its duties pursuant to this act;

113 q. Contract with any other public agency or corporation in-  
114 corporated under the laws of this or any other state for the  
115 performance of any function under this act;

116 r. With the approval of the Governor, cooperate with, apply for,  
117 receive and expend funds from, the Federal Government, the State  
118 Government, or any county or municipal government or from any  
119 public or private sources for any of the objects of this act;

120 s. Make annual and such other reports as it may deem proper to  
121 the Governor and the Legislature evaluating the demonstrations  
122 conducted during each calendar year;

123 t. Keep complete and accurate minutes of all hearings held  
124 before the commissioner or any member of the department pursuant  
125 to the provisions of this act. All such minutes shall be retained  
126 in a permanent record, and shall be available for public inspection  
127 at all times during the office hours of the department;

128 u. Require any person subject to a lawful order of the depart-  
129 ment which provides for a period of time during which such person  
130 subject to the order is permitted to correct a violation to post a  
131 performance bond or other security with the department in such  
132 form and amount as shall be determined by the department. Such  
133 bond need not be for the full amount of the estimated cost to correct  
134 the violation but may be in such amount as will tend to insure good  
135 faith compliance with said order. The department shall not require  
136 such a bond or security from any public body, agency or authority.  
137 In the event of a failure to meet the schedule prescribed by the de-  
138 partment, the sum named in the bond or other security shall be  
139 forfeited unless the department shall find that the failure is excus-  
140 able in whole or in part for a good cause shown in which case the  
141 department shall determine what amount of said bond or security,  
142 if any, is a reasonable forfeiture under the circumstances. Any  
143 amount so forfeited shall be utilized by the department for the  
144 correction of the violation or violations, or for any other action  
145 required to insure compliance with the order.

1 Section 7 of P. L. 1977, c. 443 (C. 26:3A2-25) is amended to  
2 read as follows:

3 7. The county department *or certified health agency* shall investi-  
 4 gate citizen complaints and provide public information and citizen  
 5 education services in all matters concerning environmental health.  
 6 The county department *or certified health agency* shall monitor  
 7 the various State statutes, rules and regulations concerning envi-  
 8 ronmental health; shall report any violation of said statutes, rules  
 9 and regulations to the Department of Environmental Protection  
 10 **[for enforcement]**; shall gather evidence of said violations as re-  
 11 quired; and shall provide witnesses for any resultant court action  
 12 as needed. The county department *or certified health agency* may  
 13 maintain an action in a court of competent jurisdiction against  
 14 any other person to enforce, or to restrain the violation of, any  
 15 statute, regulation or ordinance which is designed to prevent or  
 16 minimize pollution, impairment or destruction of the environment  
 17 as provided in the "Environmental Rights Act," (P. L. 1974, c. 169;  
 18 C. 2A:35A-1 et seq.).

19 *The county department or certified health agency may initiate*  
 20 *legal proceedings for a violation of any environmental health law,*  
 21 *rule, regulation, ordinance or standard \*pursuant to section 10 of*  
 22 *P. L. 1977, c. 443 (C. 26:3A2-28)\*, including the making and issuing*  
 23 *of complaints and summonses by serving the summons upon the*  
 24 *violator and filing the complaint promptly with a court having*  
 25 *jurisdiction. The \* \*\***[county prosecutor,]**\*\* county counsel\*\***[.]**\*\**  
 26 *or the\* prosecutor of the municipality in which any such violation*  
 27 *has occurred shall be authorized to act as counsel to the county*  
 28 *department or certified health agency for the prosecution of any*  
 29 *such violation, and any penalties collected from the prosecution*  
 30 *shall accrue to the general revenue fund of the county or munici-*  
 31 *pality prosecuting such violations.*

1 3. This act shall take effect immediately.

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1 2. Section 7 of P. L. 1977, c. 443 (C. 26:3A2-25) is amended to  
2 read as follows:

3 7. The county department *or certified health agency* shall investi-  
4 gate citizen complaints and provide public information and citizen  
5 education services in all matters concerning environmental health.  
6 The county department *or certified health agency* shall monitor  
7 the various State statutes, rules and regulations concerning envi-  
8 ronmental health; shall report any violation of said statutes, rules  
9 and regulations to the Department of Environmental Protection  
10 **[for enforcement]**; shall gather evidence of said violations as re-  
11 quired; and shall provide witnesses for any resultant court action  
12 as needed. The county department *or certified health agency* may  
13 maintain an action in a court of competent jurisdiction against  
14 any other person to enforce, or to restrain the violation of, any  
15 statute, regulation or ordinance which is designed to prevent or  
16 minimize pollution, impairment or destruction of the environment  
17 as provided in the "Environmental Rights Act," (P. L. 1974, c. 169;  
18 C. 2A:35A-1 et seq.).

19 *The county department or certified health agency may initiate*  
20 *legal proceedings for a violation of any environmental health law,*  
21 *rule, regulation, ordinance or standard, including the making and*  
22 *issuing of complaints and summonses by serving the summons*  
23 *upon the violator and filing the complaint promptly with a court*  
24 *having jurisdiction. The prosecutor of the municipality in which*  
25 *any such violation has occurred shall be authorized to act as counsel*  
26 *to the county department or certified health agency for the prose-*  
27 *cution of any such violation, and any penalties collected from the*  
28 *prosecution shall accrue to the general revenue fund of the county*  
29 *or municipality prosecuting such violations.*

1 3. This act shall take effect immediately.

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#### STATEMENT

This bill authorizes the Department of Environmental Protection to issue summonses and complaints for violations of environmental statutes, rules and regulations.

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ASSEMBLY AGRICULTURE AND ENVIRONMENT  
COMMITTEE

STATEMENT TO  
ASSEMBLY, No. 1096

STATE OF NEW JERSEY

DATED: APRIL 19, 1982

This bill would strengthen the enforcement of environmental health laws, rules and regulations, and standards by authorizing county health departments or certified health agencies to issue complaints and summonses for violations and to prosecute them in local courts. Municipal prosecutors would be authorized to act as counsel to the county departments or certified health agencies in these prosecutions, and any penalties assessed would accrue to the county or municipality which instituted the action.

This bill also specifically authorizes the Department of Environmental Protection to issue complaints and summonses for violations of environmental health laws, and to use the funds from the forfeiture bonds posted to insure corrections of violations to correct the violation or violations or for any other action to insure compliance with the order.



SENATE ENERGY AND ENVIRONMENT COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1096

**STATE OF NEW JERSEY**

DATED: JULY 12, 1982

Assembly Bill No. 1096 provides both the Department of Environmental Protection and county health departments or health agencies with additional authority to enforce environmental laws, rules, and regulations.

Specifically, this bill expands the powers of the Department of Environmental Protection by authorizing it to file complaints for violations of environmental laws, rules, and regulations with courts of appropriate jurisdiction. Assembly Bill No. 1096 also provides that, in the event that a performance bond posted to insure the correction of a violation is forfeited, the department shall use the forfeited amount for the correction of the violation.

Additionally, this bill amends the "County Environmental Health Act" (P. L. 1977, c. 443), to provide that county health departments or certified health agencies may initiate legal proceedings for a violation of environmental health laws, rules, regulations, ordinances, or standards. The bill authorizes the prosecutor of the municipality in which the violation occurs to act as counsel to the county health department or health agency. Any penalties resulting from the prosecution shall accrue to the general revenue fund of the county or municipality prosecuting the violation.

The committee amended Assembly Bill No. 1096 to provide that (1) the county health department or certified health agency may enforce environmental health laws only if authorized by the "County Environmental Health Act," and, (2) either the county prosecutor, the county counsel, or the municipal prosecutor may act as counsel to the county health department or health agency.

OFFICE OF THE GOVERNOR

FOR IMMEDIATE RELEASE

CONTACT: KATHERINE BROKAW

WEDNESDAY, JANUARY 26, 1983

Governor Thomas H. Kean today signed the following bills:

A-1380, sponsored by Assemblyman Martin A. Herman (D-Salem), prohibits suspended sentences for those convicted of death by auto while intoxicated. The bill requires a minimum sentence of four months, but the sentencing judge may substitute four months of community service for imprisonment.

S-2060, sponsored by Senator John Caufield (D-Essex), extends the moratorium on reevaluations in the City of Newark for two years. The bill was originally vetoed by Governor Kean and has been signed on the condition that a commission be formed to study the issue and present its findings on the problem to the Governor within a year.

SJR-13, sponsored by Senator John Caufield, establishes the commission, which will study current methods of assessing property taxes and especially their impact on urban communities.

A-1096, sponsored by Assemblyman Martin A. Herman (D-Salem), allows county health departments or certified health agencies to prosecute violators of environmental health laws. They may also file complaints and issue summonses for such violations.

S-931, sponsored by Senator Laurence S. Weiss (D-Middlesex), extends the term of the Corporation Law Revision Commission until December 31, 1984.

A-833, sponsored by Assemblyman Walter Kern (R-Bergen), requires that the name and signature of an attorney who has drafted a deed appear on the first page of the deed.

A-2087, sponsored by Assemblywoman Angela Perun (D-Union), allows municipalities to license dogs in either January or June; the bill amends current law which requires that dog licenses be issued in January.

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