

39:5B-25 to 39:5B-29

LEGISLATIVE HISTORY CHECKLIST

NJSA: 39:5B-25 to 39:5B-29 (Hazardous materials -- transportation - adopt regulations)

LAWS OF: 1983

CHAPTER: 401

Bill No: A3572

Sponsor(s): Lesniak and others

Date Introduced: June 13, 1983

Committee: Assembly: ---

Senate: Law, Public Safety and Defense

Amended during passage: Yes Amendments denoted by asterisks. Substituted for S3402 (not attached since identical to original A3572)

Date of Passage: Assembly: June 16, 1983 Re-enacted 12-12-83

Senate: September 15, 1983 Re-enacted 12-15-83

Date of Approval: December 23, 1983

Following statements are attached if available:

Sponsor statement: Yes

Committee statement: Assembly No

Senate Yes

Fiscal Note: No

Veto Message: Yes

Message on Signing: ~~No~~ yes

Following were printed:

Reports: No

Hearings: No

RECEIVED  
LEGISLATIVE COUNCIL  
JUN 23 1983

# STATE OF NEW JERSEY

INTRODUCED JUNE 13, 1983

By Assemblymen LESNIAK, CHARLES, DORIA and  
JANISZEWSKI

AN Act providing for the adoption of regulations concerning the transportation of hazardous materials, providing penalties for violations thereof, supplementing Title 39 of the Revised Statutes, and making an appropriation.

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. "Department" means the Department of Transportation;

3 b. "Hazardous material" means a substance or material deter-  
4 mined by the Secretary of the United States Department of Trans-  
5 portation to be capable of posing an unreasonable risk to health,  
6 safety, and property when transported in commerce and so desig-  
7 nated pursuant to the provisions of the "Hazardous Materials  
8 Transportation Act," Pub. L. 93-633 (49 U.S.C. § 1801 et seq.).

1 2. The department, in consultation with the *\*Department of*  
2 *Environmental Protection, the* Department of Labor, the Depart-  
3 ment of Commerce and Economic Development, the Divisions of  
4 Motor Vehicles and State Police of the Department of Law and  
5 Public Safety, and other appropriate State departments and  
6 agencies shall adopt, within **\*\*[120 days]\*\*** *\*\*12 months\*\** of the  
7 effective date of this act and pursuant to the provisions of the  
8 "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1  
9 et seq.), rules and regulations concerning the transportation of  
10 hazardous material, which shall, to the maximum extent practi-  
11 cable, conform to the requirements established by 49 CFR Parts  
12 100-199, adopted by the United States Department of Transporta-  
13 tion pursuant to the provisions of the "Hazardous Materials

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 August 29, 1983.

\*\*—Assembly amendment adopted in accordance with Governor's recommendations December 8, 1983.

14 Transportation Act," Pub. L. 93-633 (49 U.S.C. § 1801 et seq.).  
15 \*["The rules and regulations shall be adopted within one year of  
16 the effective date of this act.]"\*

1 3. There is created in the Division of State Police of the Depart-  
2 ment of Law and Public Safety, an Office of Hazardous Materials  
3 Transportation Compliance and Enforcement. It shall be the re-  
4 sponsibility of this office to coordinate the implementation and  
5 enforcement of the provisions of this act and the rules and regu-  
6 lations adopted pursuant thereto.

1 4. The department, in consultation with the Department of En-  
2 vironmental Protection, the Department of Labor, the Department  
3 of Commerce and Economic Development, the Divisions of Motor  
4 Vehicles and State Police of the Department of Law and Public  
5 Safety, and other appropriate State departments and agencies  
6 shall, within one year of the effective date of this act, prepare and  
7 submit to the Governor and the Legislature a report detailing the  
8 incidence and means of the transportation of hazardous materials  
9 in this State, evaluating the protection afforded New Jersey citi-  
10 zens therefrom by all relevant federal and State statutes and regu-  
11 lations, and recommending executive or legislative actions neces-  
12 sary to insure the safe and proper transportation of hazardous  
13 material.

1 5. a. Any person who violates the provisions of this act or any  
2 rule or regulation adopted pursuant thereto shall be subject to a  
3 penalty of not less than \$1,000.00 nor more than \$5,000.00 for the  
4 first offense nor less than \$3,000.00 nor more than \$10,000.00 for  
5 the second or any subsequent offense. A penalty imposed pursuant  
6 to this act shall be collected in a civil action by a summary pro-  
7 ceeding under "the penalty enforcement law" (N. J. S. 2A:58-1 et  
8 seq.), or in any case before a court of competent jurisdiction  
9 wherein injunctive relief has been requested. In addition to the  
10 jurisdiction conferred by "the penalty enforcement law," the Su-  
11 perior Court shall have jurisdiction of proceedings for the enforce-  
12 ment of the penalties provided in this act.

13 b. Penalties imposed pursuant to this act shall in no way reduce  
14 or otherwise limit the liability of any person, pursuant to the laws  
15 of this State, for cleanup costs or other damages arising from a  
16 discharge of hazardous materials.

1 6. There is appropriated from the General Fund to the Depart-  
2 ment of Law and Public Safety the sum of \$50,000.00 to establish  
3 the Office of Hazardous Materials Transportation Compliance and  
4 Enforcement, which shall be paid back to the General Fund to the  
5 extent that funds become available from other sources.

1 7. This act shall take effect immediately.

---

[OFFICIAL COPY REPRINT]  
ASSEMBLY, No. 3572

STATE OF NEW JERSEY

INTRODUCED JUNE 13, 1983

By Assemblymen LESNIAK, CHARLES, DORIA and  
JANISZEWSKI

AN ACT providing for the adoption of regulations concerning the transportation of hazardous materials, providing penalties for violations thereof, supplementing Title 39 of the Revised Statutes, and making an appropriation.

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. "Department" means the Department of Transportation;

3 b. "Hazardous material" means a substance or material deter-  
4 mined by the Secretary of the United States Department of Trans-  
5 portation to be capable of posing an unreasonable risk to health,  
6 safety, and property when transported in commerce and so desig-  
7 nated pursuant to the provisions of the "Hazardous Materials  
8 Transportation Act," Pub. L. 93-633 (49 U.S.C. § 1801 et seq.).

1 2. The department, in consultation with the *\*Department of*  
2 *Environmental Protection, the\* Department of Labor, the Depart-*  
3 *ment of Commerce and Economic Development, the Divisions of*  
4 *Motor Vehicles and State Police of the Department of Law and*  
5 *Public Safety, and other appropriate State departments and*  
6 *agencies shall adopt, within 120 days of the effective date of this*  
7 *act and pursuant to the provisions of the "Administrative Pro-*  
8 *cedure Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.), rules and*  
9 *regulations concerning the transportation of hazardous material,*  
10 *which shall, to the maximum extent practicable, conform to the*  
11 *requirements established by 49 CFR Parts 100-199, adopted by*  
11A *the United States Department of Transportation pursuant to*  
12 *the provisions of the "Hazardous Materials Transportation Act,"*  
13 *Pub. L. 93-633 (49 U.S.C. § 1801 et seq.). \***[The rules and regula-***

**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 August 29, 1983.

14 tions shall be adopted within one year of the effective date of this  
15 act.]\*

1 3. There is created in the Division of State Police of the Depart-  
2 ment of Law and Public Safety, an Office of Hazardous Materials  
3 Transportation Compliance and Enforcement. It shall be the re-  
4 sponsibility of this office to coordinate the implementation and  
5 enforcement of the provisions of this act and the rules and regu-  
6 lations adopted pursuant thereto.

1 4. The department, in consultation with the Department of En-  
2 vironmental Protection, the Department of Labor, the Department  
3 of Commerce and Economic Development, the Divisions of Motor  
4 Vehicles and State Police of the Department of Law and Public  
5 Safety, and other appropriate State departments and agencies  
6 shall, within one year of the effective date of this act, prepare and  
7 submit to the Governor and the Legislature a report detailing the  
8 incidence and means of the transportation of hazardous materials  
9 in this State, evaluating the protection afforded New Jersey citi-  
10 zens therefrom by all relevant federal and State statutes and regu-  
11 lations, and recommending executive or legislative actions neces-  
12 sary to insure the safe and proper transportation of hazardous  
13 material.

1 5. a. Any person who violates the provisions of this act or any  
2 rule or regulation adopted pursuant thereto shall be subject to a  
3 penalty of not less than \$1,000.00 nor more than \$5,000.00 for the  
4 first offense nor less than \$3,000.00 nor more than \$10,000.00 for  
5 the second or any subsequent offense. A penalty imposed pursuant  
6 to this act shall be collected in a civil action by a summary pro-  
7 ceeding under "the penalty enforcement law" (N. J. S. 2A:58-1 et  
8 seq.), or in any case before a court of competent jurisdiction  
9 wherein injunctive relief has been requested. In addition to the  
10 jurisdiction conferred by "the penalty enforcement law," the Su-  
11 perior Court shall have jurisdiction of proceedings for the enforce-  
12 ment of the penalties provided in this act.

13 b. Penalties imposed pursuant to this act shall in no way reduce  
14 or otherwise limit the liability of any person, pursuant to the laws  
15 of this State, for cleanup costs or other damages arising from a  
16 discharge of hazardous materials.

1 6. There is appropriated from the General Fund to the Depart-  
2 ment of Law and Public Safety the sum of \$50,000.00 to establish  
3 the Office of Hazardous Materials Transportation Compliance and  
4 Enforcement, which shall be paid back to the General Fund to the  
5 extent that funds become available from other sources.

1 7. This act shall take effect immediately.

## STATEMENT

This bill directs the Department of Transportation, in consultation with the Department of Environmental Protection, the Department of Labor, the Department of Commerce and Economic Development, the Division of Motor Vehicles and the Division of State Police in the Department of Law and Public Safety, to adopt within 120 days of enactment rules and regulations concerning the transportation of hazardous materials which, to the maximum extent practicable, conform to federal regulations concerning the transportation of hazardous material. Hazardous materials are defined in the "Hazardous Materials Transportation Act," Pub. L. 93-633 (49 U.S.C. § 1801 et seq.) and includes hazardous substances and hazardous wastes, explosive, flammable, and corrosive material, gases, poisons, and disease causing agents.

The bill would create in the Division of State Police an Office of Hazardous Materials Transportation Compliance and Enforcement. While the Department of Transportation would be the lead agency and would adopt the regulations, the State Police would be primarily involved in roadside inspections for compliance with the federal placarding system established pursuant to 49 CFR 172.500 et seq. and provisions of the Hazardous Materials Transportation Act in general. Thus, the office would be charged with coordinating the implementation and enforcement of the regulations adopted. The bill appropriates \$50,000.00 from the General Fund for the establishment of the office. However, it should be noted that this initial "start-up" appropriation would be paid back upon the receipt of federal funds which are due to become available as the State implements the federal regulations.

The bill would also direct the Department of Transportation, in consultation with the various appropriate State departments and agencies, to report to the Governor and the Legislature within one year on the incidence and means of hazardous material transportation, the adequacy of existing regulations, and the need for any additional protection for the citizens of this State.

Finally, the bill establishes penalties for violations of the provisions of the bill.

A3572(1983)

SENATE LAW, PUBLIC SAFETY AND DEFENSE  
COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 3572**

with Senate committee amendments

---

**STATE OF NEW JERSEY**

---

DATED: AUGUST 26, 1983

The purpose of Assembly Bill No. 3572, as amended by the Senate Law, Public Safety and Defense Committee, is to require New Jersey's Department of Transportation to adopt rules that conform to federal regulation concerning the transportation of hazardous materials.

According to the sponsor's bill statement, implementation of these rules by the State of New Jersey will make federal funds available to the State.

The bill directs the Department of Transportation, in consultation with the Department of Labor, the Department of Commerce and Economic Development, the Division of Motor Vehicles and the Division of State Police in the Department of Law and Public Safety, to adopt rules and regulations concerning the transportation of hazardous materials which, the maximum extent practicable, conform to federal regulations concerning the transportation of hazardous material. Hazardous materials are defined in the "Hazardous Materials Transportation Act," (49 U. S. C. 1801 et seq.) and include hazardous substances and hazardous wastes; explosive, flammable, and corrosive material; gases; poisons; and disease-causing agents.

The bill would create in the Division of State Police an Office of Hazardous Materials Transportation Compliance and Enforcement. While the Department of Transportation would be the lead agency and would adopt the regulations, the State Police would be primarily involved in roadside inspections for compliance with the federal placarding system established pursuant to 49 CFR 172.500 et seq. and provisions of the Hazardous Materials Transportation Act in general. Thus, the Office of Hazardous Materials Transportation Compliance and Enforcement would be charged with coordinating the implementation and enforcement of the regulations adopted. The bill appropriates \$50,000.00 from the General Fund for the establishment of the office. This initial "start up" appropriation would be paid back upon the receipt of federal funds which are due to become available as the State implements the federal regulations.

The bill would also direct the Department of Transportation, in consultation with the various appropriate State departments and agencies, to report to the Governor and the Legislature within one year on the incidence and means of hazardous material transportation, the adequacy of existing regulations, and the need for any additional protection for the citizens of this State.

Finally, the bill establishes penalties for violations of the provisions of the bill. For a first offense, a person would be subject to a penalty of not less than \$1,000.00 nor more than \$5,000.00 and for a second or subsequent offense, to a penalty of not less than \$3,000.00 nor more than \$10,000.00.

The committee amended the bill to add the Department of Environmental Protection to the list of departments and agencies with whom the Department of Transportation must consult in adopting its rules and regulations. The committee also amended the bill to eliminate a drafting error that gave the Department of Transportation two conflicting deadlines for the adoption of rules and regulations governing the transportation of hazardous materials. The amendment requires the Department of Transportation to adopt its rules and regulations within 120 days of the effective date of the act.

---



STATE OF NEW JERSEY  
EXECUTIVE DEPARTMENT

November 21, 1983

ASSEMBLY BILL NO. 3572 (OCR)

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the Constitution, I herewith return Assembly Bill No. 3572 (OCR) with my objections for reconsideration by the Legislature.

This bill would require the Department of Transportation, in consultation with the Department of Environmental Protection, the Department of Labor, the Department of Commerce and Economic Development, the Division of Motor Vehicles and the Division of State Police, to adopt within 120 days rules and regulations concerning the transportation of hazardous materials. The bill requires that these regulations conform to the maximum extent practicable to existing federal regulations in this area. The bill would also create in the Division of State Police an Office of Hazardous Materials Transportation Compliance and Enforcement to coordinate the implementation and enforcement of the rules and regulations adopted by the Department of Transportation and would appropriate \$50,000 for the establishment of that office.

Unfortunately, this bill is defective in that the requirement that the regulations be promulgated by the Department of Transportation within 120 days **is unrealistic. The federal regulations which would, as the bill requires, serve as a basis for the department's rules and regulations are extremely voluminous.** The department could not adopt the regulations within 120 days unless it adopted them as a whole. This would be extremely unwise since some of the federal regulations undoubtedly conflict with existing State regulations. The Department of Transportation needs 12 months so that they can promulgate the regulations in a more judicious and selective way. This is the time period given to the department pursuant to an almost identical bill, S-291, sponsored by Senator Bassano and I would recommend that this legislation be brought into conformance in this respect with the Bassano legislation.

Accordingly, I herewith return Assembly Bill No. 3572 (OCR) with the following amendment for enactment by the Legislature:

STATE OF NEW JERSEY  
EXECUTIVE DEPARTMENT

2

Page 1, Section 2, Line 6: After "within" DELETE "120 days" and INSERT  
"twelve months"

Respectfully,

/s/ Thomas H. Kean

GOVERNOR

(seal)

Attest:

/s/ W. Cary Edwards  
Chief Counsel

OFFICE OF THE GOVERNOR

RELEASE: IMMEDIATE

CONTACT: CARL GOLDEN

FRIDAY, DECEMBER 23, 1983

Governor Thomas H. Kean today signed legislation which completes the merger of the Highway Patrol into the State Police.

The bill, A-4068, sponsored by Assemblyman Christopher Jackman, D-Hudson, abolishes certain positions in the Division of Motor Vehicles, of which the Highway Patrol was a part, and transfers the personnel in those positions to the State Police. An identical bill, S-3764, was sponsored by Senator Walter E. Foran, R-Hunterdon, and merged with the Assembly Bill.

The merger of the Highway Patrol into the State Police began several years ago and the legislation signed today completes the action.

Kean also signed A-3926, sponsored by Assemblyman William Schuber, R-Bergen, which validates bond proceedings in the Haworth School District, and A-3572, sponsored by Assemblyman Raymond Lesniak, D-Union, which provides for the adoption of regulations concerning the transportation of hazardous materials.

The Governor had conditionally vetoed the bill earlier and the Legislature accepted the Governor's recommendations.

#####