

13:1E-9

LEGISLATIVE HISTORY CHECKLIST

NJSA: 13:1E-9

(Solid Waste Management act-
violations-remove "cap" on
restitution for damages)

LAWS OF: 1983

CHAPTER: 569

Bill No: A2281

Sponsor(s): Lesniak and Benneh

Date Introduced: December 16, 1982

Committee: Assembly: -----

Senate: Energy and Environment

Amended during passage: Yes

Amendments during passage denoted
by asterisks

Date of Passage: Assembly: November 12, 1983

Senate: January 9, 1984

Date of Approval: January 17, 1984

Following statements are attached if available:

Sponsor statement: Yes

Committee statement: Assembly No

Senate Yes

Fiscal Note: No

Veto Message: No

Message on Signing: No

Following were printed:

Reports: No

Hearings: No

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ASSEMBLY, No. 2281

STATE OF NEW JERSEY

INTRODUCED DECEMBER 16, 1982

By Assemblymen LESNIAK and BENNETT

AN ACT to amend the "Solid Waste Management Act," approved May 6, 1970 (P. L. 1970, c. 39), as said short title was amended by P. L. 1975, c. 326.

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 amendments adopted November 21, 1983.

9 Any county health department may charge and collect from the
10 owner or operator of any sanitary landfill facility within its juris-
11 diction such fees for enforcement activities as may be established
12 by ordinance or resolution adopted by the governing body of any
13 such county. Such fees shall be established in accordance with a
14 fee schedule regulation to be adopted by the department, pursuant
15 to law, within 60 days of the effective date of this amendatory act
16 and shall be utilized exclusively to fund such enforcement activities.

17 All enforcement activities undertaken by county health depart-
18 ments pursuant to this subsection shall conform to all applicable
19 performance and administrative standards adopted pursuant to
20 section 10 of the "County Environment Health Act," P. L. 1977,
21 c. 443 (C. 26:3A2-28).

22 b. The commissioner*, *a local board of health or county health*
23 *department,** may institute an action or proceeding in the Superior
24 Court for injunctive and other relief, including the appointment of
25 a receiver for any solid waste collection or disposal facility or
26 operation, which is established or operated in violation of this act,
27 or of any code, rules or regulation promulgated pursuant to this act
28 and said court may proceed in the action in a summary manner.
29 In any such proceeding the court may grant temporary or inter-
29A locutory relief notwithstanding the provisions of R. S. 48:2-24.

30 Such relief may include, singly or in combination:

31 (1) A temporary or permanent injunction;

32 (2) Assessment of the violator for the costs of any investigation,
33 inspection, or monitoring survey which led to the establishment of
34 the violation, and for the reasonable costs of preparing and liti-
35 gating the case under this subsection;

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

41 (4) Assessment against the violator of compensatory damages
42 for any loss or destruction of wildlife, fish or aquatic life, and for
43 any other actual damages caused by any violation of this act or any
44 rules, regulations or condition of approval established pursuant
45 to this act for which the action under this subsection may have
46 been brought. Assessments under this subsection shall be paid to
47 the State Treasurer, or to the local board of health, or to the county
48 health department, as the case may be, except that compensatory
49 damages may be paid by specific order of the court to any persons
50 who have been aggrieved by the violation.

50A **If a proceeding is instituted by a local board of health or county*
50B *health department, notice thereof shall be served upon the*
50C *commissioner in the same manner as if the commissioner were a*
50D *named party to the action or proceeding. The department may*
50E *intervene as a matter of right in any proceeding brought by a local*
50F *board of health or county health department.**

51 c. Any person who violates the provisions of this act or any code,
52 rule or regulation promulgated pursuant to this act shall be liable
53 to a penalty of not more than \$25,000.00 per day to be collected in
54 a civil action commenced by a local board of health, a county health
55 department, or the commissioner by a summary proceeding under
56 “the penalty enforcement law” (N. J. S. 2A:58-1 et seq.) in the
57 Superior Court, county district court, or a municipal court, all of
58 which shall have jurisdiction to enforce **[said]* *the** “penalty
59 enforcement law” in connection with this act. If the violation is
60 of a continuing nature, each day during which it continues after
61 the date given by which the violation must be eliminated in accor-
62 dance with the order of the department shall constitute an addi-
63 tional, separate and distinct offense.

64 d. The department is hereby authorized and empowered to com-
65 promise and settle any claim for a penalty under this section in such
66 amount in the discretion of the department as may appear appro-
67 priate and equitable under all of the circumstances, including a
68 rebate of any such penalty paid up to 90% thereof where such
69 person satisfies the department within 1 year or such other period
70 as the department may deem reasonable that such violation has
71 been eliminated or removed or that such order or injunction has
72 been met or satisfied, as the case may be.

73 e. Any person who knowingly:

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

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

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

82 (4) Makes any false or misleading statement to any person who
83 prepares any hazardous waste application, label, manifest, record,
84 report, design or other document required to be submitted to the
85 department; or

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

88 document required to be submitted to the department shall, upon
89 conviction, be guilty of a crime of the third degree and, notwith-
90 standing the provisions of N. J. S. 2C:43-3, shall be subject to a
91 fine of not more than \$25,000.00 for the first offense and not more
92 than \$50,000.00 for the second and each subsequent offense and
93 restitution [of not more than \$100,000.00 for the first and each sub-
94 sequent offense], in addition to any other appropriate disposition
95 authorized by subsection b. of N. J. S. 2C:43-2.

96 f. Any person who recklessly:

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

100 (2) Generates and causes or permits to be transported any haz-
101 ardous waste to a facility or any other place which does not have
102 authorization from the department to accept such waste;

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

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

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

113 g. Any person who, regardless of intent, generates and causes or
114 permits any hazardous waste to be transported, transports, or re-
115 ceives transported hazardous waste without completing and sub-
116 mitting to the department a hazardous waste manifest in accordance
117 with the provisions of this act or any rule or regulation adopted
118 pursuant hereto shall, upon conviction, be guilty of a crime of the
119 fourth degree.

1 2. This act shall take effect immediately.

107 report, design or other document required to be submitted to the
108 department; or

109 (5) Makes any false or misleading statement on any hazardous
110 waste application, label, manifest, record, report, design or other
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118 pursuant hereto shall, upon conviction, be guilty of a crime of the
119 fourth degree.

1 2. This act shall take effect immediately.

STATEMENT

The purpose of this bill is to correct a technical error in P. L. 1982, c. 123 (C. 13:1E-9) which inadvertently imposed a \$100,000.00 cap on restitution for damages suffered due to a violation of the "Solid Waste Management Act," P. L. 1970, c. 39 (C. 13:1E-1 et seq.). Pursuant to the State criminal code, restitution is made for actual loss.

A2281 (1982)

SENATE ENERGY AND ENVIRONMENT COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2281

STATE OF NEW JERSEY

DATED: DECEMBER 8, 1983

Assembly Bill No. 2281 would remove the ceiling on restitution liability for a conviction of violating subsection e. of section 9 of the "Solid Waste Management Act," P. L. 1970, c. 39 (C. 13:1E-9) dealing with the transportation, generating and disposal, of hazardous waste. Currently, the act limits restitution for damages caused by improperly handling hazardous waste to \$100,000.00 for each offense. This bill would make a violator liable for any appropriate amount of restitution for damages or injury.