

52:27F-21; 52:27F-24

LEGISLATIVE HISTORY CHECKLIST

NJSA 52:27F-21; 52:27F-24; (Dept. of Energy--violation of law and
Repeals 52:27F-22 regulations--revise penalties)

LAWS 1980 CHAPTER 152

Bill No. S1311 (Substituted for A1657 (original bill, Assembly committee substitute
and Assembly committee statement attached)

Sponsor(s) Dodd

Date Introduced June 9, 1980

Committee: Assembly -----

Senate Energy and Environment

Amended during passage Yes ~~No~~ Amendments during passage
according to Governor's recommendations denoted by asterisks

Date of Passage: Assembly June 26, 1980

Re-enacted 10-16-80

Senate June 26, 1980

Re-enacted 10-6-80

Date of approval Nov. 22, 1980

Following statements are attached if available:

Sponsor statement Yes ~~No~~ (Below)

Committee Statement: Assembly Yes ~~No~~

Senate Yes ~~No~~

Fiscal Note Yes ~~No~~

Veto Message Yes ~~No~~

Message on signing Yes ~~No~~

Following were printed:

Reports Yes ~~No~~

Hearings Yes ~~No~~

Sponsor's statement:

This bill would revise the penalties for violations of the "Department of Energy Act" (P.L. 1977, c.146) and any rules and regulations adopted pursuant thereto, including energy emergency rules and regulations.

6/22/81

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11-22-80

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SENATE, No. 1311

STATE OF NEW JERSEY

INTRODUCED JUNE 9, 1980

By Senator DODD

Referred to Committee on Energy and Environment

AN ACT to amend the "Department of Energy Act," approved July 11, 1977 (P. L. 1977, c. 146) and repealing section 20 thereof.

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

1 1. Section 19 of P. L. 1977, c. 146 (C. 52:27F-21) is amended to
2 read as follows:

3 19. *a.* Upon a violation of this act or of any rules, regulations, or
4 orders promulgated hereunder, the commissioner, the county prose-
5 cutor of the county in which the violation occurs if he has the
6 approval of the commissioner, or any aggrieved person shall be
7 entitled to institute a civil action in a court of competent juris-
8 diction for injunctive relief to restrain such violation and for such
9 other relief as the court shall deem proper. The court may proceed
10 in a summary manner. **Neither the institution of such action, nor**
11 **any of the proceedings therein shall relieve any party to such**
12 **proceedings from other fines or penalties prescribed for such a**
13 **violation by this act or by any rule, regulation or order adopted**
14 **hereunder.**

15 *b.* *Except as otherwise specifically provided, any person who*
16 *violates the provisions of this act or any rule, regulation or order*
17 *adopted pursuant to this act shall be liable to a penalty of not*
18 *more than ***[\$3,000.00 for each offense]*** *\$300.00 for the first*
19 *offense and not more than \$3,000.00 for the second or any subse-*
20 *quent offense*, to be collected in a civil action by a summary pro-*
21 *ceeding under the penalty enforcement law (N. J. S. 2A:58-1 et*
22 *seq.), or in any case before a court of competent jurisdiction*
23 *wherein injunctive relief has been requested. The Superior Court*
24 *shall also have jurisdiction to enforce the penalty enforcement law.*
25 *If the violation is of a continuing nature, each day during which it*
25A *continues shall constitute an additional, separate and distinct of-*
25B *fense.*

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

26 *c. The department may compromise and settle any claim for a*
 27 *penalty under this section in such amount in the discretion of the*
 28 *department as may appear appropriate and equitable under all*
 29 *of the circumstances.*

1 2. Section 22 of P. L. 1977, c. 146 (C. 52:27F-24) is amended
 2 to read as follows:

3 22. a. **【**Any person purchasing or attempting to purchase energy
 4 in violation of section 15 of this act or any rules, regulations, or
 5 orders promulgated thereunder, shall be subject to a penalty of
 6 not more than \$25.00 for the first offense, not more than \$100.00
 7 for the second offense, and not more than \$200.00 for the third
 8 offense or subsequent offenses.

9 b. Any retail dealer who violates section 15 of this act or any
 10 rules, regulations, or orders promulgated thereunder, shall be
 11 subject to a penalty of not more than \$25.00 for the first offense,
 12 not more than \$200.00 for the second offense, and not more than
 13 \$400.00 for the third offense or subsequent offenses.

14 c. Any distributor or any other supplier of energy who violates
 15 any of the provisions of section 15 of this act or of any rules,
 16 regulations, or orders promulgated thereunder, shall be subject to
 17 a penalty of not more than \$1,000.00 for the first offense, not more
 18 than \$5,000.00 for the second offense, and not more than \$10,000.00
 19 for the third offense or subsequent offenses. **】** *Any person who*
 20 *violates any provision of section 15 (C. 52:27F-17) of this act, or*
 21 *any rule, regulation or order adopted pursuant thereto, shall be*
 22 *liable to a penalty of not more than ***【**\$5,000.00 for each offense**】****
 22A **\$500.00 for the first offense and not more than \$5,000.00 for the*
 22B *second or any subsequent offense*.*

23 **【d.】** *b. In addition to any other penalties provided under this or*
 24 *any other act, the commissioner may recommend to the appropriate*
 25 *agency the suspension or revocation of the license of any retail*
 26 *dealer, gasoline jobber, wholesale dealer, distributor, or supplier*
 27 *of fuel, who has violated this act or any rules, regulations, or orders*
 28 *promulgated hereunder.*

29 **【e.】** *c. All penalties imposed pursuant to this section shall be*
 30 *collected in a civil action by a summary proceeding under the*
 31 *Penalty Enforcement Law (N. J. S. 2A:58-1 et seq.). If the viola-*
 32 *tion is of a continuing nature, each day during which it continues*
 33 *shall constitute an additional and separate offense. In addition to*
 34 *the jurisdiction conferred by N. J. S. 2A:58-2, the municipal court*
 35 *and the Superior Court shall have jurisdiction of proceedings initi-*
 36 *ated on or after June 20, 1979 for the enforcement of the penalties*
 37 *provided by this section.*

38 *d. The department may compromise and settle any claim for a*
39 *penalty under this section in such amount in the discretion of the*
40 *department as may appear appropriate and equitable under all of*
41 *the circumstances.*

1 3. Section 20 of P. L. 1977, c. 146 (C. 52:27F-22) is repealed.

1 4. This act shall take effect immediately.

SENATE ENERGY AND ENVIRONMENT COMMITTEE

STATEMENT TO

SENATE, No. 1311

STATE OF NEW JERSEY

DATED: JUNE 12, 1980

This bill would establish a general civil penalty of \$3,000.00 per day for violations of the "Department of Energy Act" (P. L. 1977, c. 146) or of any rule, regulation or order adopted pursuant thereto. Under the current statutory provisions, no such penalty is provided, and the only avenue open to the department to restrain such violations is the institution of a civil action for injunctive relief.

This bill would also standardize the maximum penalty for violations of energy emergency rules, regulations and orders by imposing a maximum of \$5,000.00 per day, replacing the current maximums which range from \$25.00 to \$10,000.00 per day.

This bill also repeals section 20 of P. L. 1979, c. 146 (C. 52:27F-22). This section currently provides a \$3,000.00 per day penalty for failure to provide the Commissioner of Energy with certain energy information, as required by law. This separate penalty would be unnecessary because such a failure would subject a violator to the general civil penalty of \$3,000.00 per day provided in section 1 of this bill.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

September 22, 1980

SENATE BILL NO. 1311

To the Senate:

Pursuant to Article V, Section I, Paragraph 14(b) of the Constitution, I return Senate Bill No. 1311, with my objections, for reconsideration.

This bill would establish a general civil penalty of \$3,000 per day for violations of the Department of Energy Act (P.L. 1977, c. 146) or of any rule, regulation or order adopted pursuant thereto. Under the current statutory provisions, no such penalty is provided, and the only course available to the department to restrain such violations is the institution of a civil action for injunctive relief. The bill would also standardize the maximum penalty for violations of energy emergency rules, regulations and orders by imposing a maximum of \$5,000 per day to replace the current maximums which range from \$25 to \$10,000 per day.

I believe that the bill should include a lower maximum penalty for first time offenders of energy emergency regulations. This would deal more equitably with persons who under present law are now subject to lower penalties for first time offenses. Likewise, a lower maximum should be established for a first time offense of an energy regulation other than an emergency regulation. Otherwise, a situation would be created in which a person who violates an emergency rule would be liable for a lower penalty than a person who violates another kind of energy regulation less serious in nature.

Accordingly, I herewith return Senate Bill No. 1311 for reconsideration and recommend that it be amended as follows:

Page 1, Section 1, line 18: Delete "3,000.00 for each offense" and insert "300.00 for the first offense and not more than \$3,000.00 for the second or any subsequent offense".

Page 2, Section 2, line 22: Delete "5,000.00 for each offense" and insert "500.00 for the first offense and not more than \$5,000.00 for the second or any subsequent offense".

Respectfully,

/s/ Brendan Byrne

GOVERNOR

[seal]

Attest:

/s/ Harold L. Hodes

CHIEF OF STAFF, SECRETARY

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 1657

STATE OF NEW JERSEY

ADOPTED JUNE 16, 1980

By Assemblyman HOLLENBECK

AN ACT to amend the "Department of Energy Act," approved July 11, 1977 (P. L. 1977, c. 146), and repealing section 20 thereof.

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

1 1. Section 19 of P. L. 1977, c. 146 (C. 52:27F-21) is amended to
2 read as follows:

3 19. *a.* Upon a violation of this act or of any rules, regulations, or
4 orders promulgated hereunder, the commissioner, the county prose-
5 cutor of the county in which the violation occurs if he has the
6 approval of the commissioner, or any aggrieved person shall be
7 entitled to institute a civil action in a court of competent juris-
8 diction for injunctive relief to restrain such violation and for such
9 other relief as the court shall deem proper. The court may proceed
10 in a summary manner. [Neither the institution of such action, nor
11 any of the proceedings therein shall relieve any party to such
12 proceedings from other fines or penalties prescribed for such a
13 violation by this act or by any rule, regulation or order adopted
14 hereunder.]

15 *b.* Except as otherwise specifically provided, any person who
16 violates the provisions of this act or any rule, regulation or order
17 adopted pursuant to this act shall be liable to a penalty of not more
18 than \$3,000.00 for each offense, to be collected in a civil action by
19 a summary proceeding under "the penalty enforcement law"
20 (N. J. S. 2A:58-1 et seq.), or in any case before a court of compe-
21 tent jurisdiction wherein injunctive relief has been requested. The
22 Superior Court shall also have jurisdiction to enforce "the penalty
23 enforcement law". If the violation is of a continuing nature, each
24 day during which it continues shall constitute an additional, sepa-
25 rate and distinct offense.

26 *c.* The department may compromise and settle any claim for a
27 penalty under this section in such amount in the discretion of the
28 department as may appear appropriate and equitable under all of
29 the circumstances.

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

1 2. Section 22 of P. L. 1977, c. 146 (C. 52:27F-24) is amended to
2 read as follows:

3 22. a. **Any person purchasing or attempting to purchase energy**
4 **in violation of section 15 of this act or any rules, regulations, or**
5 **orders promulgated thereunder, shall be subject to a penalty of**
6 **not more than \$25.00 for the first offense, not more than \$100.00**
7 **for the second offense, and not more than \$200.00 for the third**
8 **offense or subsequent offenses.**

9 b. Any retail dealer who violates section 15 of this act or any
10 rules, regulations, or orders promulgated thereunder, shall be
11 subject to a penalty of not more than \$25.00 for the first offense,
12 not more than \$200.00 for the second offense, and not more than
13 \$400.00 for the third offense or subsequent offenses.

14 c. Any distributor or any other supplier of energy who violates
15 any of the provisions of section 15 of this act or of any rules,
16 regulations, or orders promulgated thereunder, shall be subject to
17 a penalty of not more than \$1,000.00 for the first offense, not more
18 than \$5,000.00 for the second offense, and not more than \$10,000.00
19 for the third offense or subsequent offenses. *Any person who*
20 *violates any provision of section 15 (C. 52:27F-17) of this act, or*
21 *any rule, regulation or order adopted pursuant thereto, shall be*
22 *liable to a penalty of not more than \$5,000.00 for each offense.*

23 **[d.] b.** In addition to any other penalties provided under this or
24 any other act, the commissioner may recommend to the appropriate
25 agency the suspension or revocation of the license of any retail
26 dealer, gasoline jobber, wholesale dealer, distributor, or supplier
27 of fuel, who has violated this act or any rules, regulations, or orders
28 promulgated hereunder.

29 **[e.] c.** All penalties imposed pursuant to this section shall be
30 collected in a civil action by a summary proceeding under "the
31 penalty enforcement law" (N. J. S. 2A:58-1 et seq.). If the viola-
32 tion is of a continuing nature, each day during which it continues
33 shall constitute an additional and separate offense. In addition to
34 the jurisdiction conferred by N. J. S. 2A:58-2, the municipal court
35 *and the Superior Court* shall have jurisdiction of proceedings ini-
36 tiated on or after June 20, 1979 for the enforcement of the penalties
37 provided by this section.

38 *d. The department may compromise and settle any claim for a*
39 *penalty under this section in such amount in the discretion of the*
40 *department as may appear appropriate and equitable under all of*
41 *the circumstances.*

1 3. Section 20 of P. L. 1977, c. 146 (C. 52:27F-22) is repealed.

1 4. This act shall take effect immediately.

ASSEMBLY ENERGY AND NATURAL RESOURCES
COMMITTEE

STATEMENT TO
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 1657

STATE OF NEW JERSEY

DATED: JUNE 16, 1980

As amended, this bill would provide for the imposition of penalties for violations of the "Department of Energy Act," P. L. 1977, c. 146, or any rule, regulation or order promulgated thereunder. At the present time, the only remedy available to the department to address violations of the act or regulations is to institute a civil action for injunctive relief under section 19 of P. L. 1977, c. 146 (C. 52:27F-21).

The injunctive relief remedy is often impractical and severely hampers the department's enforcement efforts, particularly in assuring compliance with energy conservation regulations such as boiler combustion efficiency and lighting efficiency standards. The authority to impose penalties for violations is a usual provision for enforcing regulations and will greatly facilitate enforcement by the Department of Energy.

ASSEMBLY, No. 1657

STATE OF NEW JERSEY

INTRODUCED APRIL 28, 1980

By Assemblymen HOLLENBECK, VISOTCKY and KARCHER

Referred to Committee on Energy and Natural Resources

AN ACT to amend the "Department of Energy Act," approved
July 11, 1977 (P. L. 1977, c. 146).

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

1 1. Section 20 of P. L. 1977, c. 146 (C. 52:27F-22) is amended to
2 read as follows:

3 20. Any person who fails to provide energy information in his
4 official custody when so required by the commissioner, *or any*
5 *person who violates this act or any rule, regulation or order*
6 *promulgated thereunder except as provided in section 22 of this*
7 *act*, shall be liable for a penalty of not more than \$3,000.00 for each
8 offense. If the violation is of a continuing nature, each day during
9 which it continues shall constitute an additional and separate
10 offense. Penalties shall be collected in a civil action by a summary
11 proceeding under the Penalty Enforcement Law (N. J. S. 2A:58-1
12 et seq.).

1 2. This act shall take effect immediately.

STATEMENT

This bill would provide for the imposition of penalties for violations of the "Department of Energy Act" or any rule, regulation or order promulgated thereunder. At the present time, the only remedy available to the department to address violations of the act or regulations is to institute a civil action for injunctive relief under section 19 of P. L. 1977, c. 146 (C. 52:27F-21). The penalty provisions in the act only apply to a failure to provide energy information or for violation of the department's energy emergency regulations.

The injunctive relief remedy is often impractical and severely hampers the department's enforcement efforts, particularly in assuring compliance with energy conservation regulations such as boiler combustion efficiency and lighting efficiency standards. The authority to impose penalties for violations is a usual provision for enforcing regulations and will greatly facilitate enforcement by the Department of Energy.