

13:1E-9; 13:1E-38

LEGISLATIVE HISTORY CHECKLIST

NJSA 13:1E-9; 13:1E-38 (Solid Waste Management Act--hazardous violations--criminal penalties)
LAWS OF 1979 CHAPTER 395
Bill No. A3473
Sponsor(s) Lesniak and others
Date Introduced June 13, 1979
Committee: Assembly Energy & Natural Resources
Senate Energy & Environment
Amended during passage Yes Amendments during passage denoted by asterisks
Date of Passage: Assembly Dec. 10, 1979
Senate Jan. 3, 1980
Date of approval Feb. 6, 1980

Following statements are attached if available:

Sponsor statement	Yes	<input checked="" type="checkbox"/> (Below)
Committee Statement: Assembly	Yes	<input checked="" type="checkbox"/>
Senate	Yes	<input checked="" type="checkbox"/>
Fiscal Note	<input checked="" type="checkbox"/>	No
Veto message	<input checked="" type="checkbox"/>	No
Message on signing	<input checked="" type="checkbox"/>	No

Following were printed:

Reports	Yes	<input checked="" type="checkbox"/>
Hearings	Yes	<input checked="" type="checkbox"/>

Sponsor's statement:

This bill provides for criminal penalties for violation of the provisions of the "Solid Waste Management Act" that pertain to the disposal, treatment or storage of hazardous waste, and clarifies the definition of hazardous waste.

For background and recommendations see:

(over)

9/1/78

974.90 New Jersey. Hazardous Waste Advisory Commission.
P777 Report...January, 1980. Trenton, 1980.
1980

974.90 New Jersey. Hazardous Waste Advisory Commission.
P777 Report: draft. November 14, 1979. Trenton, 1979.
1979c

974.90 New Jersey. Hazardous Waste Advisory Commission.
P777 Public hearing held 12-7-79. New Brunswick, 1979.
1979

(Only 1 or 2 copies were transcribed. Public may see it at Asst. Commissioner Paul Arbesman's office. Department of Environmental Protection, Room 805, Labor and Industry Building, 292-8058)

974.90 Booz, Allen and Hamilton
P777 Hazardous waste management capacity development in the
1980a Delaware River basin and New Jersey: a program strategy.
Bethesda, Maryland, 1980.

[OFFICIAL COPY REPRINT]

ASSEMBLY, No. 3473

STATE OF NEW JERSEY

INTRODUCED JUNE 18, 1979

By Assemblymen LESNIAK, STEWART, OTLOWSKI
and KARCHER

Referred to Committee on Energy and Natural Resources

AN ACT to amend the "Solid Waste Management Act" approved
May 6, 1970 (P. L. 1970, c. 39, C. 13:1E-1 et seq.).

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 every local board of health.

8 b. The commissioner may institute an action or proceeding in the
9 Superior Court for injunctive and other relief, including the ap-
10 pointment of a receiver for any solid waste collection or disposal
11 facility or operation, which is established or operated in violation of
12 this act, or of any code, rule or regulation promulgated pursuant to
13 this act and said court may proceed in the action in a summary
14 manner. In any such proceeding the court may grant temporary or
14A interlocutory relief notwithstanding the provisions of R. S. 48:2-24.

15 *Such relief may include, singly or in combination:

15A (1) *A temporary or permanent injunction;*

15B (2) *Assessment of the violator for the costs of any investigation,*
15C *inspection, or monitoring survey which led to the establishment of*
15D *the violation, and for the reasonable costs of preparing and liti-*
15E *gating the case under this subsection;*

15F (3) *Assessment of the violator for any cost incurred by the State*
15G *in removing, correcting or terminating the adverse effects upon*
15H *water and air quality resulting from any violation of any provision*
15I *of this act or any rule, regulation or condition of approval for*
15J *which the action under this subsection may have been brought;*

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

15K (4) *Assessment against the violator of compensatory damages*
 15L *for any loss or destruction of wildlife, fish or aquatic life, and for*
 15M *any other actual damages caused by any violation of this act or any*
 15N *rules, regulations or condition of approval established pursuant*
 15O *to this act for which the action under this subsection may have*
 15P *been brought. Assessments under this subsection shall be paid to*
 15Q *the State Treasurer, or to the local board of health, as the case*
 15R *may be, except that compensatory damages may be paid by specific*
 15S *order of the court to any persons who have been aggrieved by the*
 15T *violation.**

16 c. Any person who violates the provisions of this act or any code,
 17 rule or regulation promulgated pursuant to this act shall be liable
 18 to a penalty or not more than *~~[\$3,000.00]~~* *\$25,000.00* per day
 19 to be collected in a civil action commenced by a local board of health
 20 or the commissioner by a summary proceeding under The Penalty
 21 Enforcement Law (N. J. S. 2A :58-1 et seq.) in the Superior Court,
 22 ~~[County Court,]~~ county district court, or a municipal court, all of
 23 which shall have jurisdiction to enforce said Penalty Enforcement
 24 Law in connection with this act. If the violation is of a continuing
 25 nature, each day during which it continues after the date given by
 26 which the violation must be eliminated in accordance with the order
 27 of the department shall constitute an additional, separate and
 28 distinct offense.

29 d. The department is hereby authorized and empowered to com-
 30 promise and settle any claim for a penalty under this section in such
 31 amount in the discretion of the department as may appear appro-
 32 priate and equitable under all of the circumstances, including a
 33 rebate of any such penalty paid up to 90% thereof where such
 34 person satisfies the department within 1 year or such other period
 35 as the department may deem reasonable that such violation has
 36 been eliminated or removed or that such order or injunction has
 37 been met or satisfied, as the case may be.

38 e. *Any person who *~~[wilfully or negligently violates the provi-~~*
 39 *sions of this act pertaining to disposal, treatment, or storage of*
 40 *hazardous waste shall, upon conviction, be guilty of a crime of the*
 41 *third degree for the first offense, and a crime of the second degree*
 42 *for the second and each subsequent offense. Any person who know-*
 43 *ingly makes a false statement, representation, or certification in*
 44 *any application, record, or other document filed or required to be*
 45 *maintained under this act, shall, upon conviction, be guilty of a*
 46 *crime of the fourth degree.* knowingly:*

47 (1) *Transports any hazardous waste to a facility which does not*
 48 *have authorization from the department to accept such waste,*

49 (2) *Disposes, treats or stores hazardous waste without autho-*
 50 *rization from the department,*

51 (3) *Makes any false statement on any hazardous waste applica-*
 52 *tion, label, manifest, record, report, design or other document*
 53 *required to be submitted to the department shall, upon conviction,*
 54 *be guilty of a crime of the third degree and, notwithstanding the*
 55 *provisions of N. J. S. 2C:43-3, shall be subject to a fine of not more*
 56 *than \$25,000.00 for the first offense and not more than \$50,000.00*
 57 *for the second and each subsequent offense, in addition to any other*
 58 *appropriate disposition authorized by N. J. S. 2C:43-2.6.*

59 *f. Any person who recklessly:*

60 (1) *Transports any hazardous waste to a facility which does*
 61 *not have authorization from the department to accept such waste,*

62 (2) *Disposes, treats or stores hazardous waste without autho-*
 63 *rization from the department,*

64 (3) *Makes any false statement on any hazardous waste applica-*
 65 *tion, label, manifest, record, report, design or other document*
 66 *required to be submitted to the department, shall, upon conviction,*
 67 *be guilty of a crime of the fourth degree.**

1 2. Section 38 of P. L. 1970, c. 39 (C. 13:1E-38) is amended to
 2 read as follows:

3 1. As used in this act, the following words and phrases shall
 4 have the following meanings, unless the context clearly requires
 5 another meaning:

6 a. "Bulk liquids" means liquid or semiliquid waste, including
 7 petroleum products, which is contained within, or is discharged
 8 from, any one vessel, tank or other container which has a capacity
 9 or 20 or more gallons;

10 b. "Chemical waste" means a material normally generated by
 11 or used in chemical, petrochemical, plastic, pharmaceutical, bio-
 12 chemical or microbiological manufacturing processes or petroleum
 13 refining processes, which has been selected for waste disposal and
 14 which is known to hydrolyze, ionize or decompose, which is soluble,
 15 burns or oxidizes, or which may react with any of the waste
 16 materials which are introduced into the landfill, or which is buoyant
 17 on water, or which has a viscosity less than that of water or which
 18 produces a foul odor. Chemical waste may be either hazardous or
 19 nonhazardous.

20 c. "Hazardous waste" means any waste ***[or other matter]*** or
 21 *any combination ***[thereof]*** **[of waste]** *of waste** which poses a
 22 present or potential threat to human health, living organisms or
 23 the environment. "Hazardous waste" shall include, but not be
 24 limited to, waste material that is toxic, corrosive, irritating, sensi-
 25 tizing, radioactive, biologically infectious, explosive or flammable;

26 d. "Leachate" is a liquid that has been in contact with solid
27 waste and contains dissolved or suspended materials from that
28 solid waste.

29 e. "Pesticide" means and includes any substance or mixture of
30 substances labeled, designed, intended for or capable of use in
31 preventing, destroying, repelling, sterilizing or mitigating any
32 insects, rodents, nematodes, predatory animals, fungi, weeds and
33 other forms of plant or animal life or viruses, except viruses on or
34 in living man or other animals. "Pesticide" shall also include any
35 substance or mixture of substances labeled, designed or intended
36 for use as a defoliant, desiccant or plant regulator.

37 f. "Commercial solid waste facility" means any solid waste
38 facility operated for profit which accepts any solid waste generated
39 from any other source and is subject to the jurisdiction of the
40 *Board of Public Utilities* **[Commission]** pursuant to the provisions
41 of P. L. 1970, c. 40 (C. 48:13A-1 et seq.).

1 3. This act shall take effect ***[September 1, 1979]*** *60 days
2 following enactment*.

ASSEMBLY ENERGY AND NATURAL RESOURCES
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3473

with Assembly committee amendments

—•—
STATE OF NEW JERSEY
—•—

DATED: DECEMBER 3, 1979

As amended by the Committee, this legislation would amend portions of the "Solid Waste Management Act" (P. L. 1970, c. 39; C. 13:1E-1 et seq.) to make the penalties for the violation of the State's solid waste and hazardous waste laws comparable to the penalties imposed by the Federal government pertaining to the illegal disposal, treatment or storage of hazardous waste.

In addition, the penalty section includes a criminal penalty for the violation of the hazardous waste provisions of said act, and clarifies the definition of hazardous waste.

SENATE ENERGY AND ENVIRONMENT COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3473

[OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

DATED: DECEMBER 17, 1979

This bill would amend the "Solid Waste Management Act" P. L. 1970, c. 39 (C. 13:1E-1 et seq.) to authorize criminal penalties for violations of State statutes, rules and regulations pertaining to the disposal, treatment or storage of hazardous waste. The extent of such criminal penalties would be determined by whether a violation was committed knowingly, or recklessly. In addition, this bill would broaden the judicial remedies available to the Department of Environmental Protection for any violations of P. L. 1970, c. 39, as amended and supplemented, or of any rules or regulations adopted pursuant thereto. These remedies include: (1) injunctive relief; (2) recovery of investigation, inspection, monitoring and litigation costs; (3) recovery of removal or corrective costs; and (4) recovery of actual damages and compensatory damages for loss or destruction of wildlife, or fish, or aquatic life.

This bill further increases the civil penalty provided by section 9 of P. L. 1970, c. 39 (C. 13:1E-9) from a present maximum of \$3,000.00 per day to a maximum of \$25,000.00 per day.