

13:1E-99.28a
LEGISLATIVE HISTORY CHECKLIST
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LAWS OF: 2017 **CHAPTER:** 325
NJSA: 13:1E-99.28a (Allows expanded use of recycled asphalt pavement.)
BILL NO: S3521 (Substituted for A5194)
SPONSOR(S) Gordon and others
DATE INTRODUCED: 11/9/2017
COMMITTEE: **ASSEMBLY:** Environment & Solid Waste
 SENATE: Environment & Energy
AMENDED DURING PASSAGE: Yes
DATE OF PASSAGE: **ASSEMBLY:** 1/8/2018
 SENATE: 1/5/2018
DATE OF APPROVAL: 1/16/2018

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (First Reprint enacted) Yes

S3521

SPONSOR'S STATEMENT: (Begins on page 3 of introduced bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: Yes

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: Yes

LEGISLATIVE FISCAL ESTIMATE: No

A5194

SPONSOR'S STATEMENT: (Begins on page 3 of introduced bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes

SENATE: No

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: Yes

LEGISLATIVE FISCAL ESTIMATE: No

(continued)

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

RH/CL

P.L. 2017, CHAPTER 325, *approved January 16, 2018*
Senate, No. 3521 (*First Reprint*)

1 AN ACT concerning the use of recycled asphalt pavement, and
2 supplementing P.L.1987, c.102 (C.13:1E-99.11 et seq.).
3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:
6

7 1. a. Notwithstanding the provisions of any law, or any rule or
8 regulation adopted pursuant thereto, to the contrary, ¹a person may
9 use¹ recycled asphalt pavement ¹[may be used]¹, subject to the
10 limitations in ¹[subsections b. and c. of]¹ this section ¹as follows¹:

11 (1) unbound ¹[, as a surface material for a parking lot, farm road,
12 or pathway,]¹ in ¹bedrock¹ quarry reclamation ¹[, or underneath a
13 guardrail]¹; ¹[or]¹

14 (2) ¹[mixed with other materials as a base or subbase material]
15 unbound underneath a guardrail of a public road or highway;

16 (3) unbound or mixed with other materials for use as a base or
17 subbase material in accordance with applicable engineering designs;

18 (4) unbound as a surface material for a parking lot, farm road, or
19 pathway, or in any other location as authorized by the Department of
20 Environmental Protection; or

21 (5) in any other use authorized by the Department of
22 Environmental Protection¹ .

23 b. ¹[Unbound recycled asphalt pavement may be used as
24 authorized in subsection a. of this section, provided that the user
25 demonstrates to the Department of Environmental Protection that the
26 environment in which the material is used has a pH level greater than
27 four] A person shall not use recycled asphalt pavement as authorized
28 in subsection a. of this section in an environment in which the pH is
29 less than or equal to four, unless the person demonstrates to the
30 Department of Environmental Protection that the level of any
31 contaminant in the material is at or below a concentration such that, if
32 leaching occurs, the dissolved concentration of the contaminant in the
33 leachate is:

34 (1) at or below applicable drinking water quality standards
35 established by the Department of Environmental Protection and the
36 United States Environmental Protection Agency; and

37 (2) at or below all applicable groundwater quality standards
38 established by the Department of Environmental Protection¹ .

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 underlined **thus** is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate floor amendments adopted December 18, 2017.

1 c. ¹Recycled asphalt pavement may be used as authorized in
2 subsection a. of this section in environments where the pH level is less
3 than or equal to four if the user demonstrates to the Department of
4 Environmental Protection that:

5 (1) releasable levels of polycyclic aromatic hydrocarbons and
6 metals in the material to be used are at or below all applicable drinking
7 water quality standards established by the Department of
8 Environmental Protection and the United States Environmental
9 Protection Agency; or

10 (2) releasable levels of polycyclic aromatic hydrocarbons and
11 metals in the material to be used are above drinking water quality
12 standards established by the Department of Environmental Protection
13 and the United States Environmental Protection Agency, and a soil
14 layer at a depth determined by the Department of Environmental
15 Protection is installed between the recycled asphalt pavement and the
16 groundwater aquifer] If a person fails to demonstrate to the
17 Department of Environmental Protection pursuant to subsection b. of
18 this section that the dissolved concentration of any contaminant in the
19 leachate of recycled asphalt pavement proposed for use in an
20 environment in which the pH is less than or equal to four, is at or
21 below the drinking water quality standards established by the
22 Department of Environmental Protection and the United States
23 Environmental Protection Agency and the applicable groundwater
24 quality standards established by the Department of Environmental
25 Protection, as a condition for the use of the recycled asphalt pavement,
26 the department shall require the installation of a soil layer between the
27 recycled asphalt pavement and the groundwater aquifer at a depth to
28 be determined by the department¹ .

29 d. The Department of Environmental Protection, in consultation
30 with the Department of Transportation, shall adopt rules and
31 regulations pursuant to the “Administrative Procedure Act,” P.L.1968,
32 c.410 (C.52:14B-1 et seq.), to implement the provisions of this section.
33

34 2. This act shall take effect on the first day of the ninth month
35 next following the date of enactment, except the Commissioner of
36 Environmental Protection may take any anticipatory action in
37 advance thereof as shall be necessary for the implementation of this
38 act.
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Allows expanded use of recycled asphalt pavement.

SENATE, No. 3521

STATE OF NEW JERSEY
217th LEGISLATURE

INTRODUCED NOVEMBER 9, 2017

Sponsored by:

Senator ROBERT M. GORDON

District 38 (Bergen and Passaic)

Senator STEVEN V. OROHO

District 24 (Morris, Sussex and Warren)

Co-Sponsored by:

Senator Bateman

SYNOPSIS

Allows expanded use of recycled asphalt pavement.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/19/2017)

1 AN ACT concerning the use of recycled asphalt pavement, and
2 supplementing P.L.1987, c.102 (C.13:1E-99.11 et seq.).

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. a. Notwithstanding the provisions of any law, or any rule or
8 regulation adopted pursuant thereto, to the contrary, recycled
9 asphalt pavement may be used, subject to the limitations in
10 subsections b. and c. of this section:

11 (1) unbound, as a surface material for a parking lot, farm road,
12 or pathway, in quarry reclamation, or underneath a guardrail; or

13 (2) mixed with other materials as a base or subbase material.

14 b. Unbound recycled asphalt pavement may be used as
15 authorized in subsection a. of this section, provided that the user
16 demonstrates to the Department of Environmental Protection that
17 the environment in which the material is used has a pH level greater
18 than four.

19 c. Recycled asphalt pavement may be used as authorized in
20 subsection a. of this section in environments where the pH level is
21 less than or equal to four if the user demonstrates to the Department
22 of Environmental Protection that:

23 (1) releasable levels of polycyclic aromatic hydrocarbons and
24 metals in the material to be used are at or below all applicable
25 drinking water quality standards established by the Department of
26 Environmental Protection and the United States Environmental
27 Protection Agency; or

28 (2) releasable levels of polycyclic aromatic hydrocarbons and
29 metals in the material to be used are above drinking water quality
30 standards established by the Department of Environmental
31 Protection and the United States Environmental Protection Agency,
32 and a soil layer at a depth determined by the Department of
33 Environmental Protection is installed between the recycled asphalt
34 pavement and the groundwater aquifer.

35 d. The Department of Environmental Protection, in consultation
36 with the Department of Transportation, shall adopt rules and
37 regulations pursuant to the "Administrative Procedure Act,"
38 P.L.1968, c.410 (C.52:14B-1 et seq.), to implement the provisions
39 of this section.

40

41 2. This act shall take effect on the first day of the ninth month
42 next following the date of enactment, except the Commissioner of
43 Environmental Protection may take any anticipatory action in
44 advance thereof as shall be necessary for the implementation of this
45 act.

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This bill would allow the expanded use of use of recycled asphalt pavement. The bill provides that recycled asphalt pavement may be used, subject to certain limitations, either (1) unbound, as a surface material for parking lots, farm roads, or pathways, in quarry reclamation, or underneath guardrails, or (2) mixed with other materials as a base or subbase material. The bill provides that unbound recycled asphalt pavement may be used as described above, provided that the user demonstrates to the Department of Environmental Protection (DEP) that the environment in which the material is used has a pH level greater than four. Also, the bill allows the use of recycled asphalt pavement in environments where the pH level is less than or equal to four if the user demonstrates to the DEP that (1) releasable levels of polycyclic aromatic hydrocarbons and metals in the material to be used are at or below drinking water quality standards established by the DEP and United States Environmental Protection Agency (EPA), or (2) releasable levels of polycyclic aromatic hydrocarbons and metals in the material to be used are above drinking water quality standards established by the DEP and EPA, and a soil layer at a depth determined by the DEP is installed between the recycled asphalt pavement and the groundwater aquifer.

SENATE ENVIRONMENT AND ENERGY COMMITTEE

STATEMENT TO

SENATE, No. 3521

STATE OF NEW JERSEY

DATED: DECEMBER 11, 2017

The Senate Environment and Energy Committee favorably reports Senate Bill No. 3521.

This bill would allow the expanded use of recycled asphalt pavement. The bill provides that recycled asphalt pavement may be used, subject to certain limitations, either (1) unbound, as a surface material for parking lots, farm roads, or pathways, in quarry reclamation, or underneath guardrails, or (2) mixed with other materials as a base or subbase material.

The bill provides that unbound recycled asphalt pavement may be used as described above, provided that the user demonstrates to the Department of Environmental Protection (DEP) that the environment in which the material is used has a pH level greater than four. The bill also allows the use of recycled asphalt pavement in environments where the pH level is less than or equal to four if the user demonstrates to the DEP that (1) releasable levels of polycyclic aromatic hydrocarbons and metals in the material to be used are at or below drinking water quality standards established by the DEP and the United States Environmental Protection Agency (EPA), or (2) releasable levels of polycyclic aromatic hydrocarbons and metals in the material to be used are above drinking water quality standards established by the DEP and EPA, and a soil layer at a depth determined by the DEP is installed between the recycled asphalt pavement and the groundwater aquifer.

STATEMENT TO
SENATE, No. 3521

with Senate Floor Amendments
(Proposed by Senator GORDON)

ADOPTED: DECEMBER 18, 2017

These floor amendments would change the conditions of the use of recycled asphalt pavement to limit its quarry use to bedrock quarries. The amendments also add language to limit the use of unbound recycled asphalt pavement underneath a guardrail to public roads or highways, and to allow its use as a base or subbase material only in accordance with applicable engineering designs. The amendments also allow the Department of Environmental Protection (DEP) to authorize other uses of recycled asphalt pavement.

In addition, the amendments change the conditions under which recycled asphalt pavement may be used in environments where the pH is greater than four. The amendments provide that a person may use recycled asphalt pavement as authorized in the bill in an environment in which the pH is less than or equal to four, upon a demonstration to the DEP that the level of any contaminant in the material is at or below a concentration such that, if leaching occurs, the dissolved concentration of the contaminant in the leachate is (1) at or below applicable drinking water quality standards established by the DEP and the United States Environmental Protection Agency; and (2) at or below all applicable groundwater quality standards established by the DEP. The amendments provide that if a person fails to demonstrate to the DEP that the dissolved concentration of any contaminant in the leachate of the recycled asphalt pavement proposed for use in an environment in which the pH is less than or equal to four, is at or below the drinking water quality standards and the applicable groundwater quality standards, as a condition for the use of the recycled asphalt pavement the DEP is to require installation of a soil layer between the recycled asphalt pavement and the groundwater aquifer at a depth to be determined by the DEP.

ASSEMBLY, No. 5194

STATE OF NEW JERSEY 217th LEGISLATURE

INTRODUCED NOVEMBER 30, 2017

Sponsored by:

Assemblyman TIM EUSTACE

District 38 (Bergen and Passaic)

Assemblyman KEVIN J. ROONEY

District 40 (Bergen, Essex, Morris and Passaic)

Assemblyman JAMEL C. HOLLEY

District 20 (Union)

Assemblyman JOHN S. WISNIEWSKI

District 19 (Middlesex)

Co-Sponsored by:

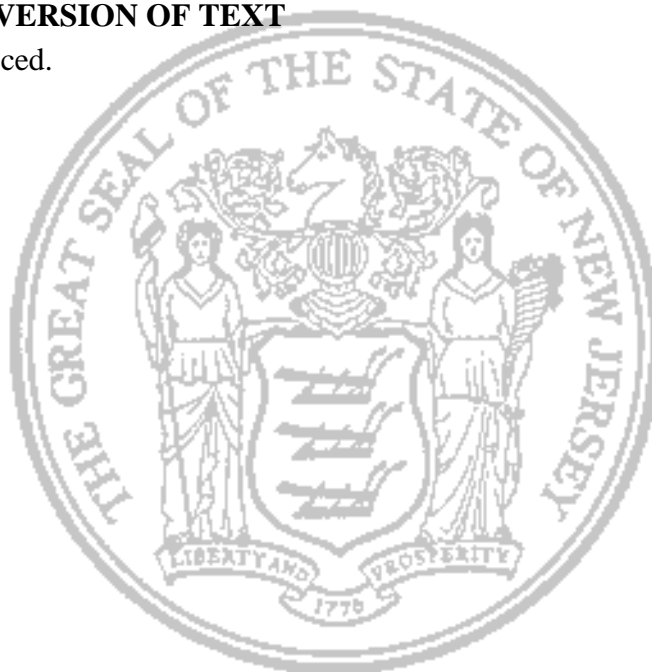
Assemblymen Gusciora, Space and Assemblywoman Jimenez

SYNOPSIS

Allows expanded use of recycled asphalt pavement.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 1/9/2018)

1 AN ACT concerning the use of recycled asphalt pavement, and
2 supplementing P.L.1987, c.102 (C.13:1E-99.11 et seq.).

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. a. Notwithstanding the provisions of any law, or any rule or
8 regulation adopted pursuant thereto, to the contrary, recycled
9 asphalt pavement may be used, subject to the limitations in
10 subsections b. and c. of this section:

11 (1) unbound, as a surface material for a parking lot, farm road,
12 or pathway, in quarry reclamation, or underneath a guardrail; or

13 (2) mixed with other materials as a base or subbase material.

14 b. Unbound recycled asphalt pavement may be used as
15 authorized in subsection a. of this section, provided that the user
16 demonstrates to the Department of Environmental Protection that
17 the environment in which the material is used has a pH level greater
18 than four.

19 c. Recycled asphalt pavement may be used as authorized in
20 subsection a. of this section in environments where the pH level is
21 less than or equal to four if the user demonstrates to the Department
22 of Environmental Protection that:

23 (1) releasable levels of polycyclic aromatic hydrocarbons and
24 metals in the material to be used are at or below all applicable
25 drinking water quality standards established by the Department of
26 Environmental Protection and the United States Environmental
27 Protection Agency; or

28 (2) releasable levels of polycyclic aromatic hydrocarbons and
29 metals in the material to be used are above drinking water quality
30 standards established by the Department of Environmental
31 Protection and the United States Environmental Protection Agency,
32 and a soil layer at a depth determined by the Department of
33 Environmental Protection is installed between the recycled asphalt
34 pavement and the groundwater aquifer.

35 d. The Department of Environmental Protection, in consultation
36 with the Department of Transportation, shall adopt rules and
37 regulations pursuant to the "Administrative Procedure Act,"
38 P.L.1968, c.410 (C.52:14B-1 et seq.), to implement the provisions
39 of this section.

40

41 2. This act shall take effect on the first day of the ninth month
42 next following the date of enactment, except the Commissioner of
43 Environmental Protection may take any anticipatory action in
44 advance thereof as shall be necessary for the implementation of this
45 act.

STATEMENT

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This bill would allow the expanded use of use of recycled asphalt pavement. The bill provides that recycled asphalt pavement may be used, subject to certain limitations, either (1) unbound, as a surface material for parking lots, farm roads, or pathways, in quarry reclamation, or underneath guardrails, or (2) mixed with other materials as a base or subbase material. The bill provides that unbound recycled asphalt pavement may be used as described above, provided that the user demonstrates to the Department of Environmental Protection (DEP) that the environment in which the material is used has a pH level greater than four. Also, the bill allows the use of recycled asphalt pavement in environments where the pH level is less than or equal to four if the user demonstrates to the DEP that (1) releasable levels of polycyclic aromatic hydrocarbons and metals in the material to be used are at or below drinking water quality standards established by the DEP and the United States Environmental Protection Agency (EPA), or (2) releasable levels of polycyclic aromatic hydrocarbons and metals in the material to be used are above drinking water quality standards established by the DEP and EPA, and a soil layer at a depth determined by the DEP is installed between the recycled asphalt pavement and the groundwater aquifer.

ASSEMBLY ENVIRONMENT AND SOLID WASTE
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 5194

STATE OF NEW JERSEY

DATED: DECEMBER 4, 2017

The Assembly Environment and Solid Waste Committee reports favorably Assembly Bill No. 5194.

This bill would allow the expanded use of use of recycled asphalt pavement. The bill provides that recycled asphalt pavement may be used, subject to certain limitations, either (1) unbound, as a surface material for parking lots, farm roads, or pathways, in quarry reclamation, or underneath guardrails, or (2) mixed with other materials as a base or subbase material. The bill provides that unbound recycled asphalt pavement may be used as described above, provided that the user demonstrates to the Department of Environmental Protection (DEP) that the environment in which the material is used has a pH level greater than four. Also, the bill allows the use of recycled asphalt pavement in environments where the pH level is less than or equal to four if the user demonstrates to the DEP that releasable levels of polycyclic aromatic hydrocarbons and metals in the material to be used are (1) at or below drinking water quality standards established by the DEP and United States Environmental Protection Agency (EPA), or (2) above drinking water quality standards established by the DEP and EPA, and a soil layer at a depth determined by the DEP is installed between the recycled asphalt pavement and the groundwater aquifer.

STATEMENT TO
ASSEMBLY, No. 5194

with Assembly Floor Amendments
(Proposed by Assemblyman EUSTACE)

ADOPTED: JANUARY 8, 2018

These floor amendments would change the conditions of the use of recycled asphalt pavement to limit its quarry use to bedrock quarries. The amendments also add language to limit the use of unbound recycled asphalt pavement underneath a guardrail to public roads or highways, and to allow its use as a base or subbase material only in accordance with applicable engineering designs. The amendments also allow the Department of Environmental Protection (DEP) to authorize other uses of recycled asphalt pavement.

In addition, the amendments change the conditions under which recycled asphalt pavement may be used in environments where the pH is greater than four. The amendments provide that a person may use recycled asphalt pavement as authorized in the bill in an environment in which the pH is less than or equal to four, upon a demonstration to the DEP that the level of any contaminant in the material is at or below a concentration such that, if leaching occurs, the dissolved concentration of the contaminant in the leachate is (1) at or below applicable drinking water quality standards established by the DEP and the United States Environmental Protection Agency; and (2) at or below all applicable groundwater quality standards established by the DEP. The amendments provide that if a person fails to demonstrate to the DEP that the dissolved concentration of any contaminant in the leachate of the recycled asphalt pavement proposed for use in an environment in which the pH is less than or equal to four, is at or below the drinking water quality standards and the applicable groundwater quality standards, as a condition for the use of the recycled asphalt pavement the DEP is to require installation of a soil layer between the recycled asphalt pavement and the groundwater aquifer at a depth to be determined by the DEP.