

**34:5A-40 & 34:5A-41**  
**LEGISLATIVE HISTORY CHECKLIST**  
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**LAWS OF:** 2022                    **CHAPTER:** 140

**NJSA:** 34:5A-40 & 34:5A-41  
(Increases maximum penalty for certain violations concerning asbestos hazard abatement; allocates moneys from increased penalties to asbestos programs.)

**BILL NO:** A1438                    (Substituted for S2196)

**SPONSOR(S)** James J. Kennedy and others

**DATE INTRODUCED:** 1/11/2022

**COMMITTEE:**                    **ASSEMBLY:** Environment and Solid Waste

**SENATE:** Environment and Energy

**AMENDED DURING PASSAGE:** No

**DATE OF PASSAGE:**    **ASSEMBLY:** 2/28/2022

**SENATE:** 11/21/2022

**DATE OF APPROVAL:** 1/10/2023

**FOLLOWING ARE ATTACHED IF AVAILABLE:**

**FINAL TEXT OF BILL** (Introduced bill enacted)                    Yes

**A1438**

**INTRODUCED BILL:** (Includes sponsor(s) statement)                    Yes

**COMMITTEE STATEMENT:**    **ASSEMBLY:**                    Yes      Environ. & Solid Waste

**SENATE:**                    Yes      Environ. & Energy

(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](http://www.njleg.state.nj.us))

**FLOOR AMENDMENT STATEMENT:**                    No

**LEGISLATIVE FISCAL ESTIMATE:**                    No

**S2196**

**INTRODUCED BILL:** (Includes sponsor(s) statement)                    Yes

**COMMITTEE STATEMENT:**    **ASSEMBLY:**                    No

**SENATE:**                    Yes      Environ. & Energy

(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](http://www.njleg.state.nj.us))

**FLOOR AMENDMENT STATEMENT:**                    No

**LEGISLATIVE FISCAL ESTIMATE:**                    No

**VETO MESSAGE:** No

**GOVERNOR'S PRESS RELEASE ON SIGNING:** Yes

**FOLLOWING WERE PRINTED:**

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**REPORTS:** No

**HEARINGS:** Yes

Committee meeting of Senate Environment and Energy Committee : the committee will meet to hear testimony from invited guests on the effects of climate change on agriculture in the state, and potential strategies to make agricultural operations more resilient to climate change [October 6, 2022]

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**NEWSPAPER ARTICLES:** No

end

P.L. 2022, CHAPTER 140, *approved January 10, 2023*

Assembly, No. 1438

1 AN ACT concerning certain asbestos violations and amending  
2 P.L.1984, c.173.

3  
4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6  
7 1. Section 9 of P.L.1984, c.173 (C.34:5A-40) is amended to  
8 read as follows:

9 9. **【This act】** P.L.1984, c.173 (C.34:5A-32 et seq.), and its  
10 standards and regulations, shall be enforced by the  
11 **【Commissioners】** Commissioner of Labor and Workforce  
12 Development and the Commissioner of Health, who have the right-  
13 of-entry to all pertinent premises and records for purposes of  
14 inspection and information. Both commissioners may employ the  
15 following powers and remedies in enforcing their respective  
16 responsibilities under **【this act】** P.L.1984, c.173 (C.34:5A-  
17 32 et seq.).

18 a. Whenever either commissioner finds that a person has  
19 violated any provision of **【this act】** P.L.1984, c.173 (C.34:5A-  
20 32 et seq.) for which that commissioner has the responsibility of  
21 enforcement, that commissioner may issue an administrative order  
22 specifying the provision or provisions of the act which the person  
23 has violated, ordering abatement of the violation and giving notice  
24 of the person's right to a hearing on the matters contained in the  
25 order. The person shall have 10 calendar days from receipt of the  
26 order within which to deliver to the commissioner a written request  
27 for a hearing. After the hearing, and upon finding that a violation  
28 has occurred, the commissioner may issue a final order. If no  
29 hearing is requested, the order shall become final upon expiration of  
30 the 10-day period. A request for a hearing shall not automatically  
31 stay the effect of an administrative order. A stay of an  
32 administrative order may only be granted by the commissioner upon  
33 a written request and a factual basis clearly supporting the  
34 appropriateness of the stay.

35 b. Either commissioner may institute an action or proceeding in  
36 the Superior Court for injunctive or other relief for any violation of  
37 **【this act】** P.L.1984, c.173 (C.34:5A-32 et seq.) for which that  
38 commissioner has the responsibility of enforcement, and the court  
39 may proceed in the action in a summary manner. In the proceeding,  
40 the relief may restrain any violation or compel the taking of any  
41 action required pursuant to **【this act】** P.L.1984, c.173 (C.34:5A-

**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.

1 32 et seq.), and the court may grant temporary or interlocutory  
2 relief. The relief may include, singularly or in combination:

3 (1) A temporary or permanent restraining order or injunctive  
4 relief;

5 (2) Assessment of the violator for the costs of any investigation  
6 or inspection leading to the establishment of the violation and for  
7 the reasonable costs of preparing and litigating the case; and

8 (3) Assessment of the violator for the costs incurred by the State  
9 in correcting or terminating any adverse health and environmental  
10 effects resulting from the violation.

11 c. Either commissioner may assess a civil administrative  
12 penalty for any violation of **【this act】** P.L.1984, c.173 (C.34:5A-  
13 32 et seq.) for which that commissioner has the responsibility of  
14 enforcement not to exceed **【\$25,000】** \$100,000 for each violation.  
15 Each day during which the violation continues shall constitute an  
16 additional, separate and distinct offense. No assessment shall be  
17 levied pursuant to this section until after the violator has been  
18 notified by certified mail or personal service. The notice shall  
19 include a reference to the section of the statute violated, a concise  
20 statement of the facts alleged to constitute a violation, a statement  
21 of the amount of civil administrative penalties to be imposed, and a  
22 statement of the violator's right to a hearing. The violator shall  
23 have 10 calendar days from receipt of the notice within which to  
24 deliver to the commissioner a written request for a hearing. After  
25 the hearing, and upon finding that a violation has occurred, the  
26 commissioner may issue a final order after assessing the amount of  
27 the fine specified in the notice. If no hearing is requested, the  
28 notice shall become a final order after the expiration of the 10-day  
29 period. Payment of the assessment is due when a final order is  
30 issued or the notice becomes a final order. The authority to levy a  
31 civil administrative penalty is in addition to all other enforcement  
32 provisions and the payment of any assessment shall not be deemed  
33 to affect the availability of any other enforcement provisions in  
34 connection with the violation for which the assessment is levied.  
35 The department may compromise any civil administrative penalty  
36 assessed under this section in an amount the department determines  
37 appropriate. Any penalty imposed pursuant to this section may be  
38 recovered with costs in a summary proceeding commenced by the  
39 commissioner pursuant to **【"the penalty enforcement law," N.J.S.**  
40 **2A:58-1 et seq.】** the "Penalty Enforcement Law of 1999," P.L.1999,  
41 c.274 (C.2A:58-10 et seq.). The balance of a penalty imposed  
42 pursuant to this section in excess of \$25,000 shall be allocated to  
43 the department that assessed the penalty and used to fund asbestos  
44 programs.

45 d. A person who violates an administrative order issued  
46 pursuant to subsection a. of this section, or a court order issued  
47 pursuant to subsection b. of this section, or who fails to pay in full  
48 an administrative assessment pursuant to subsection c. of this

1 section is subject, upon order of a court of competent jurisdiction,  
2 to a civil penalty not to exceed \$50,000 per day for such violation.

3 The pursuit of any of the remedies specified in this section shall  
4 not preclude the commissioner from seeking any other remedy.

5 (cf: P.L.1994, c.21, s.10)

6

7 2. Section 10 of P.L.1984, c.173 (C.34:5A-41) is amended to  
8 read as follows:

9 10. Any person who knowingly hinders or delays the  
10 Commissioners of Labor and Workforce Development or Health or  
11 the authorized representative thereof, in the performance of the duty  
12 to enforce **【this act】** P.L.1984, c.173 (C.34:5A-32 et seq.), or  
13 knowingly submits false or misleading information on any license  
14 or permit application required by **【this act】** P.L.1984, c.173  
15 (C.34:5A-32 et seq.), or fails to obtain licenses or permits required  
16 by the provisions of **【this act】** P.L.1984, c.173 (C.34:5A-  
17 32 et seq.), or refuses to make these licenses or permits accessible  
18 to either commissioner, or the authorized representative thereof, or  
19 otherwise violates any provision of **【this act】** P.L.1984, c.173  
20 (C.34:5A-32 et seq.) or any regulation adopted under **【this act】**  
21 P.L.1984, c.173 (C.34:5A-32 et seq.), shall, upon conviction, be  
22 guilty of a crime of the third degree and, notwithstanding the  
23 provisions of N.J.S.2C:43-3, shall be subject to a fine of not more  
24 than **【\$25,000】** \$100,000 in addition to any other appropriate  
25 disposition authorized by subsection b. of N.J.S.2C:43-2. The  
26 balance of a penalty imposed pursuant to this section in excess of  
27 \$25,000 shall be allocated to the department that was the subject of  
28 the violation and used to fund asbestos programs.

29 (cf: P.L.2012, c.17, s.405)

30

31 3. This act shall take effect immediately.

32

33

34

35

36 \_\_\_\_\_  
37 Increases maximum penalty for certain violations concerning  
38 asbestos hazard abatement; allocates moneys from increased  
penalties to asbestos programs.

# ASSEMBLY, No. 1438

## STATE OF NEW JERSEY 220th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2022 SESSION

**Sponsored by:**

**Assemblyman JAMES J. KENNEDY**

**District 22 (Middlesex, Somerset and Union)**

**Assemblyman RAJ MUKHERJI**

**District 33 (Hudson)**

**Assemblyman STERLEY S. STANLEY**

**District 18 (Middlesex)**

**Co-Sponsored by:**

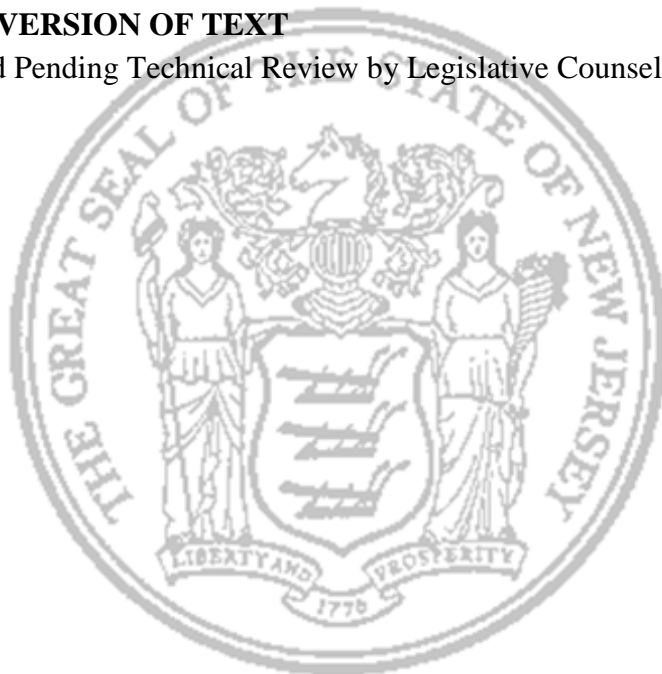
**Assemblywomen Swain, McKnight, Murphy and Assemblyman Tully**

**SYNOPSIS**

Increases maximum penalty for certain violations concerning asbestos hazard abatement; allocates moneys from increased penalties to asbestos programs.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning certain asbestos violations and amending  
2 P.L.1984, c.173.

3

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5 of New Jersey:

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12 Development and the Commissioner of Health, who have the right-  
13 of-entry to all pertinent premises and records for purposes of  
14 inspection and information. Both commissioners may employ the  
15 following powers and remedies in enforcing their respective  
16 responsibilities under **【this act】** P.L.1984, c.173 (C.34:5A-  
17 32 et seq.).

18 a. Whenever either commissioner finds that a person has  
19 violated any provision of **【this act】** P.L.1984, c.173 (C.34:5A-  
20 32 et seq.) for which that commissioner has the responsibility of  
21 enforcement, that commissioner may issue an administrative order  
22 specifying the provision or provisions of the act which the person  
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44 (1) A temporary or permanent restraining order or injunctive  
45 relief;

**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.

1 (2) Assessment of the violator for the costs of any investigation  
2 or inspection leading to the establishment of the violation and for  
3 the reasonable costs of preparing and litigating the case; and

4 (3) Assessment of the violator for the costs incurred by the State  
5 in correcting or terminating any adverse health and environmental  
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36 **2A:58-1 et seq.】** the "Penalty Enforcement Law of 1999," P.L.1999,  
37 c.274 (C.2A:58-10 et seq.). The balance of a penalty imposed  
38 pursuant to this section in excess of \$25,000 shall be allocated to  
39 the department that assessed the penalty and used to fund asbestos  
40 programs.

41 d. A person who violates an administrative order issued  
42 pursuant to subsection a. of this section, or a court order issued  
43 pursuant to subsection b. of this section, or who fails to pay in full  
44 an administrative assessment pursuant to subsection c. of this  
45 section is subject, upon order of a court of competent jurisdiction,  
46 to a civil penalty not to exceed \$50,000 per day for such violation.

47 The pursuit of any of the remedies specified in this section shall  
48 not preclude the commissioner from seeking any other remedy.  
49 (cf: P.L.1994, c.21, s.10)



1       2. Section 10 of P.L.1984, c.173 (C.34:5A-41) is amended to  
2 read as follows:

3       10. Any person who knowingly hinders or delays the  
4 Commissioners of Labor and Workforce Development or Health or  
5 the authorized representative thereof, in the performance of the duty  
6 to enforce **【this act】** P.L.1984, c.173 (C.34:5A-32 et seq.), or  
7 knowingly submits false or misleading information on any license  
8 or permit application required by **【this act】** P.L.1984, c.173  
9 (C.34:5A-32 et seq.), or fails to obtain licenses or permits required  
10 by the provisions of **【this act】** P.L.1984, c.173 (C.34:5A-  
11 32 et seq.), or refuses to make these licenses or permits accessible  
12 to either commissioner, or the authorized representative thereof, or  
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19 disposition authorized by subsection b. of N.J.S.2C:43-2. The  
20 balance of a penalty imposed pursuant to this section in excess of  
21 \$25,000 shall be allocated to the department that was the subject of  
22 the violation and used to fund asbestos programs.

23 (cf: P.L.2012, c.17, s.405)

24

25       3. This act shall take effect immediately.

26

27

28

#### STATEMENT

29

30       This bill would increase the maximum penalty for certain  
31 violations of P.L.1984, c.173 (C.34:5A-32 et seq.), unofficially known  
32 as the "Asbestos Control and Licensing Act," from \$25,000 to  
33 \$100,000. The bill would allocate any moneys in excess of \$25,000  
34 from a penalty assessed pursuant to P.L.1984, c.173 to the Department  
35 of Labor and Workforce Development to fund asbestos control and  
36 licensure programs.

ASSEMBLY ENVIRONMENT AND SOLID WASTE  
COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 1438**

**STATE OF NEW JERSEY**

DATED: FEBRUARY 7, 2022

The Assembly Environment and Solid Waste Committee reports favorably Assembly Bill No. 1438.

This bill would increase the maximum penalty for certain violations of P.L.1984, c.173 (C.34:5A-32 et seq.), unofficially known as the "Asbestos Control and Licensing Act," from \$25,000 to \$100,000. The bill would allocate any moneys in excess of \$25,000 from a penalty assessed pursuant to P.L.1984, c.173 to the Department of Labor and Workforce Development to fund asbestos control and licensure programs.

This bill was pre-filed for introduction in the 2022-2023 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

SENATE ENVIRONMENT AND ENERGY COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 1438**

**STATE OF NEW JERSEY**

DATED: OCTOBER 6, 2022

The Senate Environment and Energy Committee favorably reports Assembly Bill No. 1438.

This bill would increase the maximum penalty for certain violations of P.L.1984, c.173 (C.34:5A-32 et seq.) (unofficially known as the "asbestos control and licensing act") from \$25,000 to \$100,000. The bill would allocate any moneys in excess of \$25,000 from a penalty assessed pursuant to P.L.1984, c.173 to either the Department of Labor and Workforce Development or the Department of Health, depending on which department assessed the penalty or was the subject of a violation, to fund asbestos programs in that department.

The bill is identical to Senate Bill No. 2196, as also reported by the committee.

# SENATE, No. 2196

## STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED MARCH 7, 2022

**Sponsored by:**

**Senator NICHOLAS P. SCUTARI**

**District 22 (Middlesex, Somerset and Union)**

**SYNOPSIS**

Increases maximum penalty for certain violations concerning asbestos hazard abatement; allocates moneys from increased penalties to asbestos programs.

**CURRENT VERSION OF TEXT**

As introduced.



S2196 SCUTARI

2

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S2196 SCUTARI

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S2196 SCUTARI

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14 (C.34:5A-32 et seq.) or any regulation adopted under **【this act】**  
15 P.L.1984, c.173 (C.34:5A-32 et seq.), shall, upon conviction, be  
16 guilty of a crime of the third degree and, notwithstanding the  
17 provisions of N.J.S.2C:43-3, shall be subject to a fine of not more  
18 than **【\$25,000】** \$100,000 in addition to any other appropriate  
19 disposition authorized by subsection b. of N.J.S.2C:43-2. The  
20 balance of a penalty imposed pursuant to this section in excess of  
21 \$25,000 shall be allocated to the department that was the subject of  
22 the violation and used to fund asbestos programs.  
23 (cf: P.L.2012, c.17, s.405)

24

25 3. This act shall take effect immediately.

26

27

28

STATEMENT

29

30 This bill would increase the maximum penalty for certain  
31 violations of P.L.1984, c.173 (C.34:5A-32 et seq.), unofficially  
32 known as the "Asbestos Control and Licensing Act," from \$25,000  
33 to \$100,000. The bill would allocate any moneys in excess of  
34 \$25,000 from a penalty assessed pursuant to P.L.1984, c.173 to the  
35 Department of Labor and Workforce Development to fund asbestos  
36 control and licensure programs.

# SENATE ENVIRONMENT AND ENERGY COMMITTEE

## STATEMENT TO

### SENATE, No. 2196

# STATE OF NEW JERSEY

DATED: OCTOBER 6, 2022

The Senate Environment and Energy Committee favorably reports Senate Bill No. 2196.

This bill would increase the maximum penalty for certain violations of P.L.1984, c.173 (C.34:5A-32 et seq.) (unofficially known as the "asbestos control and licensing act") from \$25,000 to \$100,000. The bill would allocate any moneys in excess of \$25,000 from a penalty assessed pursuant to P.L.1984, c.173 to either the Department of Labor and Workforce Development or the Department of Health, depending on which department assessed the penalty or was the subject of a violation, to fund asbestos programs in that department.

The bill is identical to Assembly Bill No. 1438, as also reported by the committee.



# Governor Murphy Takes Action on Legislation

01/10/2023

**TRENTON** – Today, Governor Murphy signed the following bills into law:

**A-1438/S-2196 (Kennedy, Mukherji, Stanley/Scutari)** - Increases maximum penalty for certain violations concerning asbestos hazard abatement; allocates moneys from increased penalties to asbestos programs

**A-3444/S-3140 (Freiman, Swain/Zwicker, Gill)** - Establishes Organic Farming Board in Department of Agriculture

**A-4768/S-3162 (Quijano, Atkins/Cryan, Madden)** - Revises effective date of severance requirements under “Millville Dallas Airmotive Plant Job Loss Notification Act”

The Governor vetoed the following bill:

**A-2002/S-1656 (Conaway, Jimenez, Stanley/Pou) - CONDITIONAL** - Requires State registrar to permit county surrogate to provide certified copy of death certificate to authorized persons under certain circumstances

[Copy of Statement](#)