

2C:1-6

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2007 **CHAPTER:** 131
NJSA: 2C:1-6 (Eliminates statute of limitations for certain environmental crimes)
BILL NO: S1712 (Substituted for A1840)

SPONSOR(S): Buono and others

DATE INTRODUCED: March 20, 2006

COMMITTEE: **ASSEMBLY:**
SENATE: Environment

AMENDED DURING PASSAGE: No

DATE OF PASSAGE: **ASSEMBLY:** June 11, 2007
SENATE: June 26, 2006

DATE OF APPROVAL: August 6, 2007

FOLLOWING ARE ATTACHED IF AVAILABLE:

[FINAL TEXT OF BILL](#) (Original version of bill enacted)

S1712

[SPONSOR'S STATEMENT](#): (Begins on page 3 of original bill) [Yes](#)

COMMITTEE STATEMENT: **ASSEMBLY:** No

[SENATE:](#) [Yes](#)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

A1840

[SPONSOR'S STATEMENT](#): (Begins on page 3 of original bill) [Yes](#)

COMMITTEE STATEMENT: **ASSEMBLY:** Yes [Env & Solid Waste](#)
[2-27-06](#)
[Judiciary](#)
[5-15-06](#)

SENATE: No

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

IS 4/23/08

P.L. 2007, CHAPTER 131, *approved August 6, 2007*
Senate, No. 1712

1 **AN ACT** concerning the statute of limitations for certain
2 environmental crimes and crimes causing widespread injury or
3 damage and amending N.J.S.2C:1-6.
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 1. N.J.S.2C:1-6 is amended to read as follows

9 2C:1-6. Time Limitations. a. (1) A prosecution for any offense
10 set forth in N.J.S.2C:11-3, N.J.S.2C:11-4, N.J.S.2C:14-2 or sections
11 1 through 5 of P.L.2002, c.26 (C.2C:38-1 through C.2C:38-5) may
12 be commenced at any time.

13 (2) A prosecution for any offense set forth in N.J.S.2C:17-2,
14 section 9 of P.L.1970, c.39 (C.13:1E-9), section 20 of P.L.1989,
15 c.34 (C.13:1E-48.20), section 19 of P.L.1954, c.212 (C.26:2C-19),
16 section 10 of P.L.1984, c.173 (C.34:5A-41), or section 10 of
17 P.L.1977, c.74 (C.58:10A-10) may be commenced at any time.

18 b. Except as otherwise provided in this section, prosecutions for
19 other offenses are subject to the following periods of limitations:

20 (1) A prosecution for a crime must be commenced within five
21 years after it is committed;

22 (2) A prosecution for a disorderly persons offense or petty
23 disorderly persons offense must be commenced within one year
24 after it is committed;

25 (3) A prosecution for any offense set forth in N.J.S.2C:27-2,
26 N.J.S.2C:27-4, N.J.S.2C:27-6, N.J.S.2C:27-7, N.J.S.2C:29-4,
27 N.J.S.2C:30-2, N.J.S.2C:30-3, or any attempt or conspiracy to
28 commit such an offense, must be commenced within seven years
29 after the commission of the offense;

30 (4) A prosecution for an offense set forth in N.J.S.2C:14-3 or
31 N.J.S.2C:24-4, when the victim at the time of the offense is below
32 the age of 18 years, must be commenced within five years of the
33 victim's attaining the age of 18 or within two years of the discovery
34 of the offense by the victim, whichever is later;

35 (5) **[**A prosecution for any offense set forth in paragraph (2) of
36 subsection a. of N.J.S.2C:17-2, section 9 of P.L.1970, c.39
37 (C.13:1E-9), section 20 of P.L.1989, c.34 (C.13:1E-48.20), section
38 19 of P.L.1954, c.212 (C.26:2C-19), section 10 of P.L.1984, c.173
39 (C.34:5A-41), or section 10 of P.L.1977, c.74 (C.58:10A-10) must
40 be commenced within 10 years after the date of discovery of the
41 offense by a local law enforcement agency, a county prosecutor, or
42 the Department of Environmental Protection either directly by any
43 of those entities or indirectly by notice given to any of those
44 entities**]** Deleted by amendment, P.L. , c. (C.) (pending

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 before the Legislature as this bill).

2 c. An offense is committed either when every element occurs or,
3 if a legislative purpose to prohibit a continuing course of conduct
4 plainly appears, at the time when the course of conduct or the
5 defendant's complicity therein is terminated. Time starts to run on
6 the day after the offense is committed, except that when the
7 prosecution is supported by physical evidence that identifies the
8 actor by means of DNA testing or fingerprint analysis, time does
9 not start to run until the State is in possession of both the physical
10 evidence and the DNA or fingerprint evidence necessary to
11 establish the identification of the actor by means of comparison to
12 the physical evidence.

13 d. A prosecution is commenced for a crime when an indictment
14 is found and for a nonindictable offense when a warrant or other
15 process is issued, provided that such warrant or process is executed
16 without unreasonable delay. Nothing contained in this section,
17 however, shall be deemed to prohibit the downgrading of an offense
18 at any time if the prosecution of the greater offense was commenced
19 within the statute of limitations applicable to the greater offense.

20 e. The period of limitation does not run during any time when a
21 prosecution against the accused for the same conduct is pending in
22 this State.

23 f. The limitations in this section shall not apply to any person
24 fleeing from justice.

25 g. Except as otherwise provided in this code, no civil action
26 shall be brought pursuant to this code more than five years after
27 such action accrues.

28 (cf: P.L.2002, c.26, s.7)

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30 2. This act shall take effect immediately and shall apply to any
31 offense for which the time limitation for bringing a prosecution has
32 not expired.

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STATEMENT

36

37 This bill would eliminate the statute of limitations for criminal
38 offenses arising from violations of environmental crimes and
39 certain environmental laws and crimes causing widespread injury or
40 damage.

41 This bill would apply to violations of: N.J.S.2C:17-2 (the crime
42 of causing or risking widespread injury or damage); the "Solid
43 Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.); the
44 "Comprehensive Regulated Medical Waste Management Act,"
45 P.L.1989, c.34 (C.13:1E-48.1 et seq.); the "Air Pollution Control
46 Act (1954)," P.L.1954, c.212 (C.26:2C-1 et seq.); the asbestos law,
47 P.L.1984, c.173 (C.34:5A-32 et seq.); and the "Water Pollution
48 Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.).

1 Under current law, prosecution for violations of paragraph (2) of
2 subsection a. of N.J.S.2C:17-2 (the hazardous discharge, hazardous
3 waste, and toxic pollutant provisions of the crime of causing or
4 risking widespread injury or damage), the “Solid Waste
5 Management Act,” the “Comprehensive Regulated Medical Waste
6 Management Act,” the “Air Pollution Control Act (1954),” the
7 asbestos law and the “Water Pollution Control Act” must be
8 commenced within ten years after the date of discovery of the
9 offense by a local law enforcement agency, a county prosecutor, or
10 the Department of Environmental Protection either directly by any
11 of those entities or indirectly by notice given to any of those
12 entities. Under current law, prosecutions for violations of
13 N.J.S.2C:17-2, other than the hazardous discharge, hazardous
14 waste, and toxic pollutant provisions contained in paragraph (2) of
15 subsection a. of N.J.S.2C:17-2, must be commenced within five
16 years after the offense.

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21 Eliminates statute of limitations for certain environmental crimes
22 and crimes causing widespread injury or damage.

SENATE, No. 1712

STATE OF NEW JERSEY

212th LEGISLATURE

INTRODUCED MARCH 20, 2006

Sponsored by:

Senator BARBARA BUONO

District 18 (Middlesex)

Senator BOB SMITH

District 17 (Middlesex and Somerset)

Assemblywoman LINDA R. GREENSTEIN

District 14 (Mercer and Middlesex)

Assemblyman JOHN F. MCKEON

District 27 (Essex)

Assemblyman ROBERT M. GORDON

District 38 (Bergen)

Assemblyman LOUIS M. MANZO

District 31 (Hudson)

Assemblyman JOSEPH VAS

District 19 (Middlesex)

Co-Sponsored by:

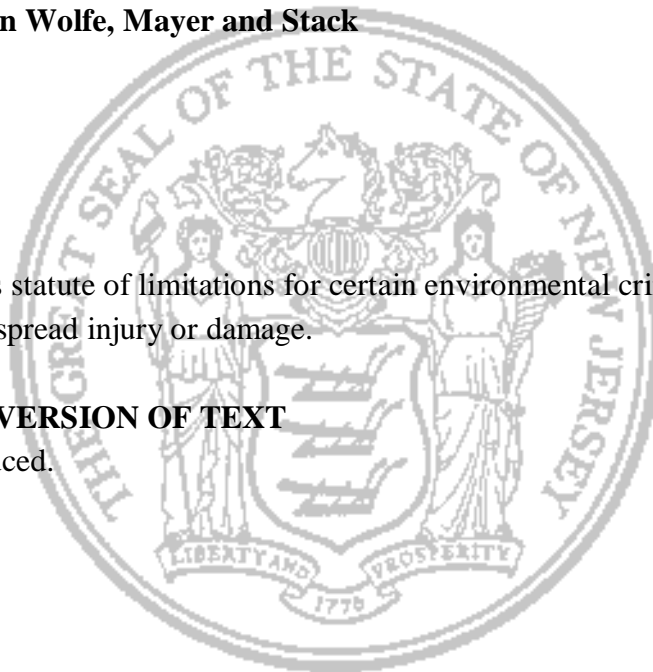
Assemblymen Wolfe, Mayer and Stack

SYNOPSIS

Eliminates statute of limitations for certain environmental crimes and crimes causing widespread injury or damage.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/12/2007)

1 AN ACT concerning the statute of limitations for certain
2 environmental crimes and crimes causing widespread injury or
3 damage and amending N.J.S.2C:1-6.

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

7
8 1. N.J.S.2C:1-6 is amended to read as follows

9 2C:1-6. Time Limitations. a. (1) A prosecution for any offense
10 set forth in N.J.S.2C:11-3, N.J.S.2C:11-4, N.J.S.2C:14-2 or sections
11 1 through 5 of P.L.2002, c.26 (C.2C:38-1 through C.2C:38-5) may
12 be commenced at any time.

13 (2) A prosecution for any offense set forth in N.J.S.2C:17-2,
14 section 9 of P.L.1970, c.39 (C.13:1E-9), section 20 of P.L.1989,
15 c.34 (C.13:1E-48.20), section 19 of P.L.1954, c.212 (C.26:2C-19),
16 section 10 of P.L.1984, c.173 (C.34:5A-41), or section 10 of
17 P.L.1977, c.74 (C.58:10A-10) may be commenced at any time.

18 b. Except as otherwise provided in this section, prosecutions for
19 other offenses are subject to the following periods of limitations:

20 (1) A prosecution for a crime must be commenced within five
21 years after it is committed;

22 (2) A prosecution for a disorderly persons offense or petty
23 disorderly persons offense must be commenced within one year
24 after it is committed;

25 (3) A prosecution for any offense set forth in N.J.S.2C:27-2,
26 N.J.S.2C:27-4, N.J.S.2C:27-6, N.J.S.2C:27-7, N.J.S.2C:29-4,
27 N.J.S.2C:30-2, N.J.S.2C:30-3, or any attempt or conspiracy to
28 commit such an offense, must be commenced within seven years
29 after the commission of the offense;

30 (4) A prosecution for an offense set forth in N.J.S.2C:14-3 or
31 N.J.S.2C:24-4, when the victim at the time of the offense is below
32 the age of 18 years, must be commenced within five years of the
33 victim's attaining the age of 18 or within two years of the discovery
34 of the offense by the victim, whichever is later;

35 (5) **[A** prosecution for any offense set forth in paragraph (2) of
36 subsection a. of N.J.S.2C:17-2, section 9 of P.L.1970, c.39
37 (C.13:1E-9), section 20 of P.L.1989, c.34 (C.13:1E-48.20), section
38 19 of P.L.1954, c.212 (C.26:2C-19), section 10 of P.L.1984, c.173
39 (C.34:5A-41), or section 10 of P.L.1977, c.74 (C.58:10A-10) must
40 be commenced within 10 years after the date of discovery of the
41 offense by a local law enforcement agency, a county prosecutor, or
42 the Department of Environmental Protection either directly by any
43 of those entities or indirectly by notice given to any of those
44 entities] Deleted by amendment, P.L. , c. (C.) (pending
45 before the Legislature as this bill).

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 c. An offense is committed either when every element occurs or,
2 if a legislative purpose to prohibit a continuing course of conduct
3 plainly appears, at the time when the course of conduct or the
4 defendant's complicity therein is terminated. Time starts to run on
5 the day after the offense is committed, except that when the
6 prosecution is supported by physical evidence that identifies the
7 actor by means of DNA testing or fingerprint analysis, time does
8 not start to run until the State is in possession of both the physical
9 evidence and the DNA or fingerprint evidence necessary to
10 establish the identification of the actor by means of comparison to
11 the physical evidence.

12 d. A prosecution is commenced for a crime when an indictment
13 is found and for a nonindictable offense when a warrant or other
14 process is issued, provided that such warrant or process is executed
15 without unreasonable delay. Nothing contained in this section,
16 however, shall be deemed to prohibit the downgrading of an offense
17 at any time if the prosecution of the greater offense was commenced
18 within the statute of limitations applicable to the greater offense.

19 e. The period of limitation does not run during any time when a
20 prosecution against the accused for the same conduct is pending in
21 this State.

22 f. The limitations in this section shall not apply to any person
23 fleeing from justice.

24 g. Except as otherwise provided in this code, no civil action
25 shall be brought pursuant to this code more than five years after
26 such action accrues.

27 (cf: P.L.2002, c.26, s.7)

28

29 2. This act shall take effect immediately and shall apply to any
30 offense for which the time limitation for bringing a prosecution has
31 not expired.

32

33

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STATEMENT

35

36 This bill would eliminate the statute of limitations for criminal
37 offenses arising from violations of environmental crimes and
38 certain environmental laws and crimes causing widespread injury or
39 damage.

40 This bill would apply to violations of: N.J.S.2C:17-2 (the crime
41 of causing or risking widespread injury or damage); the "Solid
42 Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.); the
43 "Comprehensive Regulated Medical Waste Management Act,"
44 P.L.1989, c.34 (C.13:1E-48.1 et seq.); the "Air Pollution Control
45 Act (1954)," P.L.1954, c.212 (C.26:2C-1 et seq.); the asbestos law,
46 P.L.1984, c.173 (C.34:5A-32 et seq.); and the "Water Pollution
47 Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.).

48 Under current law, prosecution for violations of paragraph (2) of

1 subsection a. of N.J.S.2C:17-2 (the hazardous discharge, hazardous
2 waste, and toxic pollutant provisions of the crime of causing or
3 risking widespread injury or damage), the “Solid Waste
4 Management Act,” the “Comprehensive Regulated Medical Waste
5 Management Act,” the “Air Pollution Control Act (1954),” the
6 asbestos law and the “Water Pollution Control Act” must be
7 commenced within ten years after the date of discovery of the
8 offense by a local law enforcement agency, a county prosecutor, or
9 the Department of Environmental Protection either directly by any
10 of those entities or indirectly by notice given to any of those
11 entities. Under current law, prosecutions for violations of
12 N.J.S.2C:17-2, other than the hazardous discharge, hazardous
13 waste, and toxic pollutant provisions contained in paragraph (2) of
14 subsection a. of N.J.S.2C:17-2, must be commenced within five
15 years after the offense.

SENATE ENVIRONMENT COMMITTEE

STATEMENT TO

SENATE, No. 1712

STATE OF NEW JERSEY

DATED: JUNE 12, 2006

The Senate Environment Committee reports favorably Senate Bill No. 1712.

This bill would eliminate the statute of limitations for criminal offenses arising from violations of certain environmental criminal statutes and certain environmental violations that address causing widespread injury or damage.

This bill would apply to violations of: N.J.S.2C:17-2 (the crime of causing or risking widespread injury or damage); the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.); the "Comprehensive Regulated Medical Waste Management Act," P.L.1989, c.34 (C.13:1E-48.1 et seq.); the "Air Pollution Control Act (1954)," P.L.1954, c.212 (C.26:2C-1 et seq.); the asbestos law, P.L.1984, c.173 (C.34:5A-32 et seq.); and the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.).

Under current law, prosecution for violations of paragraph (2) of subsection a. of N.J.S.2C:17-2 (the hazardous discharge, hazardous waste, and toxic pollutant provisions of the crime of causing or risking widespread injury or damage), the "Solid Waste Management Act," the "Comprehensive Regulated Medical Waste Management Act," the "Air Pollution Control Act (1954)," the asbestos law and the "Water Pollution Control Act" must be commenced within ten years after the date of discovery of the offense by a local law enforcement agency, a county prosecutor, or the Department of Environmental Protection either directly by any of those entities or indirectly by notice given to any of those entities. Under current law, prosecutions for violations of N.J.S.2C:17-2, other than the hazardous discharge, hazardous waste, and toxic pollutant provisions contained in paragraph (2) of subsection a. of N.J.S.2C:17-2, must be commenced within five years after the offense.

ASSEMBLY, No. 1840

STATE OF NEW JERSEY 212th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2006 SESSION

Sponsored by:

Assemblywoman LINDA R. GREENSTEIN

District 14 (Mercer and Middlesex)

Assemblyman JOHN F. MCKEON

District 27 (Essex)

SYNOPSIS

Eliminates the statute of limitations for certain environmental crimes.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



1 AN ACT concerning the statute of limitations for environmental
2 crimes and amending N.J.S.2C:1-6.

3

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

6

7 1. N.J.S.2C:1-6 is amended to read as follows

8 2C:1-6. Time Limitations. a. (1) A prosecution for any offense
9 set forth in N.J.S.2C:11-3, N.J.S.2C:11-4, N.J.S.2C:14-2 or sections
10 1 through 5 of P.L.2002, c.26 (C.2C:38-1 through C.2C:38-5) may
11 be commenced at any time.

12 (2) A prosecution for any offense set forth in paragraph (2) of
13 subsection a. of N.J.S.2C:17-2, section 9 of P.L.1970, c.39
14 (C.13:1E-9), section 20 of P.L.1989, c.34 (C.13:1E-48.20), section
15 19 of P.L.1954, c.212 (C.26:2C-19), section 10 of P.L.1984, c.173
16 (C.34:5A-41), or section 10 of P.L.1977, c.74 (C.58:10A-10) may
17 be commenced at any time.

18 b. Except as otherwise provided in this section, prosecutions for
19 other offenses are subject to the following periods of limitations:

20 (1) A prosecution for a crime must be commenced within five
21 years after it is committed;

22 (2) A prosecution for a disorderly persons offense or petty
23 disorderly persons offense must be commenced within one year
24 after it is committed;

25 (3) A prosecution for any offense set forth in N.J.S.2C:27-2,
26 N.J.S.2C:27-4, N.J.S.2C:27-6, N.J.S.2C:27-7, N.J.S.2C:29-4,
27 N.J.S.2C:30-2, N.J.S.2C:30-3, or any attempt or conspiracy to
28 commit such an offense, must be commenced within seven years
29 after the commission of the offense;

30 (4) A prosecution for an offense set forth in N.J.S.2C:14-3 or
31 N.J.S.2C:24-4, when the victim at the time of the offense is below
32 the age of 18 years, must be commenced within five years of the
33 victim's attaining the age of 18 or within two years of the discovery
34 of the offense by the victim, whichever is later;

35 (5) [A prosecution for any offense set forth in paragraph (2) of
36 subsection a. of N.J.S.2C:17-2, section 9 of P.L.1970, c.39
37 (C.13:1E-9), section 20 of P.L.1989, c.34 (C.13:1E-48.20), section
38 19 of P.L.1954, c.212 (C.26:2C-19), section 10 of P.L.1984, c.173
39 (C.34:5A-41), or section 10 of P.L.1977, c.74 (C.58:10A-10) must
40 be commenced within 10 years after the date of discovery of the
41 offense by a local law enforcement agency, a county prosecutor, or
42 the Department of Environmental Protection either directly by any
43 of those entities or indirectly by notice given to any of those
44 entities] Deleted by amendment, P.L. __, c. __ (C. __)(now pending

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 before the Legislature as this bill).

2 c. An offense is committed either when every element occurs or,
3 if a legislative purpose to prohibit a continuing course of conduct
4 plainly appears, at the time when the course of conduct or the
5 defendant's complicity therein is terminated. Time starts to run on
6 the day after the offense is committed, except that when the
7 prosecution is supported by physical evidence that identifies the
8 actor by means of DNA testing or fingerprint analysis, time does
9 not start to run until the State is in possession of both the physical
10 evidence and the DNA or fingerprint evidence necessary to
11 establish the identification of the actor by means of comparison to
12 the physical evidence.

13 d. A prosecution is commenced for a crime when an indictment
14 is found and for a nonindictable offense when a warrant or other
15 process is issued, provided that such warrant or process is executed
16 without unreasonable delay. Nothing contained in this section,
17 however, shall be deemed to prohibit the downgrading of an offense
18 at any time if the prosecution of the greater offense was commenced
19 within the statute of limitations applicable to the greater offense.

20 e. The period of limitation does not run during any time when a
21 prosecution against the accused for the same conduct is pending in
22 this State.

23 f. The limitations in this section shall not apply to any person
24 fleeing from justice.

25 g. Except as otherwise provided in this code, no civil action
26 shall be brought pursuant to this code more than five years after
27 such action accrues.

28 (cf: P.L.2002, c.26, s.7)

29

30 2. This act shall take effect immediately and shall apply to any
31 offense for which the time limitation for bringing a prosecution has
32 not expired.

33

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35

STATEMENT

36

37 This bill would eliminate the statute of limitations for criminal
38 offenses arising from violations of environmental crimes and
39 certain environmental laws.

40 This bill would apply to violations of paragraph (2) of
41 subsection a. of N.S.2C:17-2 (hazardous discharge provision of the
42 crime of causing or risking widespread injury or damage), the
43 "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.),
44 the "Air Pollution Control Act (1954)," P.L.1954, c.212 (C.26:2C-1
45 et seq.) and "Water Pollution Control Act," P.L.1977, c.74
46 (C.58:10A-1 et seq.), which includes violations for making false or
47 misleading statements on a report filed with the Department of
48 Environmental Protection (DEP).

1 Under current law, the statute of limitations for these
2 environmental crimes must be commenced within ten years after the
3 date of discovery of the offense by a local law enforcement agency,
4 a county prosecutor, or the Department of Environmental Protection
5 either directly by any of those entities or indirectly by notice given
6 to any of those entities.

7 Because of the potential long-term impact of criminal violations
8 of environmental laws, there is often a need to prosecute these
9 violations even many years after an offense has been committed or
10 after it has been discovered. Environmental crimes are unique and
11 pose a great threat to society as a whole because it may be difficult
12 to determine who is responsible. More importantly, the damage that
13 occurs is often not perceptible until many years after the violation
14 has discovered.

15 An example of the inadequacy of a ten year statute of limitation
16 is evident in the case of the former W.R. Grace site in Hamilton
17 where recent findings have demonstrated that an assertive approach
18 to monitoring environmental site cleanups is necessary. The
19 inefficient disposal of environmental hazardous products at the
20 former W.R. Grace site has resulted in the possible asbestos
21 contamination of an area which was deemed as "no cleanup or
22 testing required" by environmental standards in 1994. More than
23 ten years after the W.R. Grace vermiculite processing plant closed
24 the former employees of that company and the residents of that area
25 are still feeling the effects.

26 For forty years, this plant processed asbestos contaminated
27 vermiculite ore shipped from Libby, Montana which was later
28 found to be contaminated with tremolite asbestos, one of the most
29 dangerous forms of asbestos. More than ten years after the plant
30 closed, the State discovered that plant employees and nearby
31 residents may have been at risk for asbestos exposure. As of this
32 date, the State is still investigating the contamination caused by the
33 plant that closed down in 1994.

34 As the W.R. Grace case has demonstrated, a ten year statute of
35 limitations for environmental crimes is a constraint on the State's
36 obligation to its citizens to prosecute these crimes. It is the
37 sponsor's intent to protect the citizens of this State by eliminating
38 the statute of limitations for these crimes. This bill is intended to
39 provide adequate notice to all of the environmental business entities
40 that the State will prosecute. Such prosecutions will no longer be
41 hindered by the small window of opportunity for prosecution.

ASSEMBLY ENVIRONMENT AND SOLID WASTE
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1840

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 27, 2006

As amended, this bill would eliminate the statute of limitations for criminal offenses arising from violations of environmental crimes and certain environmental laws and crimes causing widespread injury or damage.

This bill, as amended, would apply to violations of: N.J.S.2C:17-2 (the crime of causing or risking widespread injury or damage); the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.); the "Comprehensive Regulated Medical Waste Management Act," P.L.1989, c.34 (C.13:1E-48.1 et seq.); the "Air Pollution Control Act (1954)," P.L.1954, c.212 (C.26:2C-1 et seq.); the asbestos law, P.L.1984, c.173 (C.34:5A-32 et seq.); and the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.).

Under current law, prosecution for violations of paragraph (2) of subsection a. of N.J.S.2C:17-2 (the hazardous discharge, hazardous waste, and toxic pollutant provisions of the crime of causing or risking widespread injury or damage), the "Solid Waste Management Act," the "Comprehensive Regulated Medical Waste Management Act," the "Air Pollution Control Act (1954)," the asbestos law and the "Water Pollution Control Act" must be commenced within ten years after the date of discovery of the offense by a local law enforcement agency, a county prosecutor, or the Department of Environmental Protection either directly by any of those entities or indirectly by notice given to any of those entities. Under current law, prosecutions for violations of N.J.S.2C:17-2, other than the hazardous discharge, hazardous waste, and toxic pollutant provisions contained in paragraph (2) of subsection a. of N.J.S.2C:17-2, must be commenced within five years after the offense.

This bill was pre-filed for introduction in the 2006-2007 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

COMMITTEE AMENDMENTS:

The committee amendments to the bill provide that prosecution for offenses of N.J.S.2C:17-2 (the crime of causing or risking widespread injury or damage) may be commenced at any time.

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 1840

STATE OF NEW JERSEY

DATED: MAY 15, 2006

The Assembly Judiciary Committee reports favorably Assembly Bill No. 1840(1R).

The bill would eliminate the statute of limitations for prosecutions for criminal offenses arising from violations of certain environmental laws.

Currently under N.J.S.A.2C:1-6 there is no statute of limitations for prosecutions for murder (N.J.S.A.2C:11-3), manslaughter (N.J.S.A.2C:11-4), sexual assault (N.J.S.A.2C:14-2), terrorism (N.J.S.A.2C:38-2), producing or possessing chemical weapons, biological agents or nuclear or radiological devices (N.J.S.A.2C:38-3), hindering apprehension or prosecution for terrorism (N.J.S.A.2C:38-4) or soliciting or providing material support or resources for terrorism (N.J.S.A.2C:38-5).

This bill would eliminate the statute of limitations for the following: (1) N.J.S.A.2C:17-2, causing or risking widespread injury or damage; (2) N.J.S.A.13:1E-9 of the "Solid Waste Management Act;" (3) N.J.S.A.13:1E-48.20 of the "Comprehensive Regulated Medical Waste Management Act;" (4) N.J.S.A.26:2C-19 of the "Air Pollution Control Act (1954);" (5) the law concerning asbestos, N.J.S.A. 34:5A-41; and (6) N.J.S.A.58:10A-10 of the "Water Pollution Control Act."

Under current law, the prosecutions for these environmental crimes must be commenced within ten years after the date of discovery of the offense by a local law enforcement agency, a county prosecutor, or the Department of Environmental Protection either directly by any of those entities or indirectly by notice given to any of those entities. The bill would provide that prosecutions for any of the enumerated offenses may be commenced at any time.

With regard to the crime of causing widespread injury pursuant to N.J.S.A.2C:17-2, the bill's provisions as originally introduced would have applied only to the offense of unlawfully causing a hazardous discharge under paragraph (2) of subsection a. of N.J.S.A.2C:17-2. The Assembly Environment Committee amended the bill to include recklessly causing or creating widespread injury and recklessly failing to take reasonable measures to prevent or mitigate widespread injury

or damage under subsections b., c., d., and e. or N.J.S.A.2C:17-2.

Elimination of the statute of limitations attempts to address the situation when the prosecution for environmental crimes is hindered because the statute of limitation has run. Often prosecution for these violations may occur many years after the discovery of the offense since the damage that occurred may not be perceptible until such time. A recent example of the inadequacy of a ten year statute of limitation is the case of the former W.R. Grace site in Hamilton. In this case, recent findings demonstrated that an inefficient disposal of environmentally hazardous products at the site may have resulted in the asbestos contamination of an area which was deemed as "no cleanup or testing required" by environmental standards in 1994.

For forty years, this plant processed vermiculite ore shipped from Libby, Montana which was later found to be contaminated with tremolite asbestos, one of the most dangerous forms of asbestos. More than ten years after the plant closed, the State discovered that plant employees and nearby residents may have been at risk for asbestos exposure. As of this date, the State is still investigating the contamination caused by the plant that closed down in 1994. The W.R. Grace case demonstrated that a ten year statute of limitations for environmental crimes is a constraint on the State's obligation to its citizens to prosecute these crimes.