

2C:1-6 et al

**LEGISLATIVE HISTORY CHECKLIST**

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(Statute of limitations--environmental offenses)

**NJSA:** 2C:1-6 et al

**LAWS OF:** 1997 **CHAPTER:** 325

**BILL NO:** A2667

**SPONSOR(S):** Holzapfel & others

**DATE INTRODUCED:** January 23, 1997

**COMMITTEE:** **ASSEMBLY:** Environment; Judiciary  
**SENATE:** Judiciary

**AMENDED DURING PASSAGE:** Yes Amendments during passage denoted by  
First reprint enacted superscript numbers

**DATE OF PASSAGE:** **ASSEMBLY:** June 19, 1997  
**SENATE:** December 18, 1997

**DATE OF APPROVAL:** January 8, 1998

**FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:**

**SPONSOR STATEMENT:** Yes

**COMMITTEE STATEMENT:** **ASSEMBLY:** Yes 5-12-97 & 6-12-97  
**SENATE:** Yes

**FISCAL NOTE:** No

**VETO MESSAGE:** No

**MESSAGE ON SIGNING:** No

**FOLLOWING WERE PRINTED:**

**REPORTS:** No

**HEARINGS:** No

KBP:pp

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P.L. 1997, CHAPTER 325, *approved January 8, 1998*  
Assembly, No. 2667 (*Frist Reprint*)

1 AN ACT concerning the statute of limitations for certain environmental  
2 criminal offenses and amending N.J.S.2C:1-6, N.J.S.2C:17-2,  
3 <sup>1</sup>**[and]**<sup>1</sup> P.L.1970, c.39 <sup>1</sup>, P.L.1989, c.34, and P.L.1984, c.173<sup>1</sup>.

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. <sup>1</sup>**[(1)]**<sup>1</sup> A prosecution for any  
10 offense set forth in N.J.S.2C:11-3, N.J.S.2C:11-4 or N.J.S.2C:14-2  
11 may be commenced at any time.

12 <sup>1</sup>**[(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 19 of P.L.1954, c.212 (C.26:2C-19), or section**  
15 **10 of P.L.1977, c.74 (C.58:10A-10) may be commenced at any time.]**<sup>1</sup>

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

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

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

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

28 (4) A prosecution for an offense set forth in N.J.S.2C:14-3 or  
29 N.J.S.2C:24-4, when the victim at the time of the offense is below the  
30 age of 18 years, must be commenced within five years of the victim's

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

**Matter underlined thus is new matter.**

**Matter enclosed in superscript numerals has been adopted as follows:**

<sup>1</sup> Assembly AES committee amendments adopted May 12, 1997.

1 attaining the age of 18 or within two years of the discovery of the  
2 offense by the victim, whichever is later <sup>1</sup>;

3 (5) A prosecution for any offense set forth in paragraph (2)  
4 of subsection a. of N.J.S.2C:17-2, section 9 of P.L.1970, c.39  
5 (C.13:1E-9), section 20 of P.L.1989, c.34 (C.13:1E-48.20), section 19  
6 of P.L.1954, c.212 (C.26:2C-19), section 10 of P.L.1984, c.173  
7 (C.34:5A-41), or section 10 of P.L.1977, c.74 (C.58:10A-10) must be  
8 commenced within 10 years after the date of discovery of the offense  
9 by a local law enforcement agency, a county prosecutor, or the  
10 Department of Environmental Protection either directly by any of  
11 those entities or indirectly by notice given to any of those entities<sup>1</sup>.

12 c. An offense is committed either when every element occurs or,  
13 if a legislative purpose to prohibit a continuing course of conduct  
14 plainly appears, at the time when the course of conduct or the  
15 defendant's complicity therein is terminated. Time starts to run on the  
16 day after the offense is committed.

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

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

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

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

32 (cf: P.L.1996, c.22, s.1)

33

34 2. N.J.S. 2C:17-2 is amended to read as follows:

35 2C:17-2. Causing or Risking Widespread Injury or Damage.

36 a. (1) A person who, purposely or knowingly, unlawfully causes  
37 an explosion, flood, avalanche, collapse of a building, release or  
38 abandonment of poison gas, radioactive material or any other harmful  
39 or destructive substance commits a crime of the second degree. A  
40 person who, purposely or knowingly, unlawfully causes widespread  
41 injury or damage in any manner commits a crime of the second degree.

42 (2) A person who, purposely or knowingly, unlawfully causes a  
43 hazardous discharge required to be reported pursuant to the "Spill  
44 Compensation and Control Act," P.L.1976, c.141 (C.58:10-23.11 et  
45 seq.) or any rules and regulations adopted pursuant thereto, or who,  
46 purposely or knowingly, unlawfully causes a release or abandonment

1 of hazardous waste as defined in section 1 of P.L.1976, c.99  
2 (C.13:1E-38) or a toxic pollutant as defined in section 3 of P.L.1977,  
3 c.74 (C.58:10A-3) commits a crime of the second degree. Any person  
4 who recklessly violates the provisions of this paragraph is guilty of a  
5 crime of the third degree. [The provisions of N.J.S.2C:1-6 to the  
6 contrary notwithstanding, a prosecution for a violation of the  
7 provisions of this paragraph shall be commenced within five years of  
8 the date of the discovery of the violation.]

9 b. A person who recklessly causes widespread injury or damage is  
10 guilty of a crime of the third degree.

11 c. A person who recklessly creates a risk of widespread injury or  
12 damage commits a crime of the fourth degree, even if no such injury  
13 or damage occurs.

14 d. A person who knowingly or recklessly fails to take reasonable  
15 measures to prevent or mitigate widespread injury or damage commits  
16 a crime of the fourth degree, if:

17 (1) He knows that he is under an official, contractual or other legal  
18 duty to take such measures; or

19 (2) He did or assented to the act causing or threatening the injury  
20 or damage.

21 e. For purposes of this section, widespread injury or damage means  
22 serious bodily injury to 10 or more people or damage to 10 or more  
23 habitations or to a building which would normally have contained 50  
24 or more persons at the time of the offense.

25 (cf: P.L.1985, c.348, s.1)

26

27 3. Section 9 of P.L.1970, c.39 (C.13:1E-9) is amended to read as  
28 follows:

29 9. a. All codes, rules and regulations adopted by the department  
30 related to solid waste collection and disposal shall have the force and  
31 effect of law. These codes, rules and regulations shall be observed  
32 throughout the State and shall be enforced by the department and by  
33 every local board of health, or county health department, as the case  
34 may be.

35 The department and the local board of health, or the county health  
36 department, as the case may be, shall have the right to enter a solid  
37 waste facility at any time in order to determine compliance with the  
38 registration statement and engineering design required pursuant to  
39 section 5 of P.L.1970, c.39 (C.13:1E-5), and with the provisions of all  
40 applicable laws or rules and regulations adopted pursuant thereto.

41 The municipal attorney or an attorney retained by a municipality in  
42 which a violation of such laws or rules and regulations adopted  
43 pursuant thereto is alleged to have occurred shall act as counsel to a  
44 local board of health.

45 The county counsel or an attorney retained by a county in which a  
46 violation of such laws or rules and regulations adopted pursuant

1 thereto is alleged to have occurred shall act as counsel to the county  
2 health department.

3 Any county health department may charge and collect from the  
4 owner or operator of any sanitary landfill facility within its jurisdiction  
5 such fees for enforcement activities as may be established by ordinance  
6 or resolution adopted by the governing body of any such county. The  
7 fees shall be established in accordance with a fee schedule regulation  
8 adopted by the department, pursuant to law, and shall be utilized  
9 exclusively to fund such enforcement activities.

10 All enforcement activities undertaken by county health departments  
11 pursuant to this subsection shall conform to all applicable performance  
12 and administrative standards adopted pursuant to section 10 of the  
13 "County Environmental Health Act," P.L.1977, c.443 (C.26:3A2-28).

14 b. Whenever the commissioner finds that a person has violated any  
15 provision of P.L.1970, c.39 (C.13:1E-1 et seq.), or any rule or  
16 regulation adopted, permit issued, or district solid waste management  
17 plan adopted pursuant to P.L.1970, c.39, he shall:

18 (1) Issue an order requiring the person found to be in violation to  
19 comply in accordance with subsection c. of this section;

20 (2) Bring a civil action in accordance with subsection d. of this  
21 section;

22 (3) Levy a civil administrative penalty in accordance with  
23 subsection e. of this section;

24 (4) Bring an action for a civil penalty in accordance with  
25 subsection f. of this section; or

26 (5) Petition the Attorney General to bring a criminal action in  
27 accordance with subsection g. of this section.

28 c. Whenever the commissioner finds that a person has violated any  
29 provision of P.L.1970, c.39, or any rule or regulation adopted, permit  
30 issued, or district solid waste management plan adopted pursuant to  
31 P.L.1970, c.39, he may issue an order specifying the provision or  
32 provisions of P.L.1970, c.39, or the rule, regulation, permit or district  
33 solid waste management plan of which the person is in violation, citing  
34 the action which constituted the violation, ordering abatement of the  
35 violation, and giving notice to the person of his right to a hearing on  
36 the matters contained in the order. The ordered party shall have 20  
37 calendar days from receipt of the order within which to deliver to the  
38 commissioner a written request for a hearing. Such order shall be  
39 effective upon receipt and any person to whom such order is directed  
40 shall comply with the order immediately. A request for hearing shall  
41 not automatically stay the effect of the order.

42 d. The commissioner, a local board of health or county health  
43 department may institute an action or proceeding in the Superior Court  
44 for injunctive and other relief, including the appointment of a receiver  
45 for any violation of this act, or of any code, rule or regulation adopted,  
46 permit issued, district solid waste management plan adopted or order

1 issued pursuant to this act and said court may proceed in the action in  
2 a summary manner. In any such proceeding the court may grant  
3 temporary or interlocutory relief, notwithstanding the provisions of  
4 R.S.48:2-24.

5 Such relief may include, singly or in combination:

6 (1) A temporary or permanent injunction;

7 (2) Assessment of the violator for the costs of any investigation,  
8 inspection, or monitoring survey which led to the establishment of the  
9 violation, and for the reasonable costs of preparing and litigating the  
10 case under this subsection;

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

16 (4) Assessment against the violator of compensatory damages for  
17 any loss or destruction of wildlife, fish or aquatic life, and for any  
18 other actual damages caused by any violation of this act or any rule,  
19 regulation or condition of approval established pursuant to this act for  
20 which the action under this subsection may have been brought.  
21 Assessments under this subsection shall be paid to the State Treasurer,  
22 or to the local board of health, or to the county health department, as  
23 the case may be, except that compensatory damages may be paid by  
24 specific order of the court to any persons who have been aggrieved by  
25 the violation.

26 If a proceeding is instituted by a local board of health or county  
27 health department, notice thereof shall be served upon the  
28 commissioner in the same manner as if the commissioner were a named  
29 party to the action or proceeding. The department may intervene as a  
30 matter of right in any proceeding brought by a local board of health or  
31 county health department.

32 e. The commissioner is authorized to assess a civil administrative  
33 penalty of not more than \$50,000.00 for each violation provided that  
34 each day during which the violation continues shall constitute an  
35 additional, separate and distinct offense. The commission shall not  
36 assess a civil administrative penalty in excess of \$25,000.00 for a  
37 single violation, or in excess of \$2,500.00 for each day during which  
38 a violation continues, until the department has adopted, pursuant to  
39 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
40 seq.), regulations requiring the commissioner, in assessing a civil  
41 administrative penalty, to consider the operational history of the solid  
42 waste facility at which the violation occurred, the severity of the  
43 violation, the measures taken to mitigate or prevent further violations,  
44 and whether the penalty will maintain an appropriate deterrent. No  
45 assessment shall be levied pursuant to this section until after the  
46 violator has been notified by certified mail or personal service. The

1 notice shall include a reference to the section of the statute, rule,  
2 regulation, order, permit condition or district solid waste management  
3 plan violated, a concise statement of the facts alleged to constitute a  
4 violation, a statement of the amount of the civil administrative  
5 penalties to be imposed, and a statement of the party's right to a  
6 hearing. The ordered party shall have 20 calendar days from receipt  
7 of the notice within which to deliver to the commissioner a written  
8 request for a hearing. After the hearing and upon finding that a  
9 violation has occurred, the commissioner may issue a final order after  
10 assessing the amount of the fine specified in the notice. If no hearing  
11 is requested, the notice shall become a final order after the expiration  
12 of the 20-day period. Payment of the assessment is due when a final  
13 order is issued or the notice becomes a final order. The authority to  
14 levy a civil administrative penalty is in addition to all other  
15 enforcement provisions in P.L.1970, c.39, and the payment of any  
16 assessment shall not be deemed to affect the availability of any other  
17 enforcement provisions in connection with the violation for which the  
18 assessment is levied. The department may compromise any civil  
19 administrative penalty assessed under this section in an amount the  
20 department determines appropriate.

21 f. Any person who violates the provisions of P.L.1970, c.39, or any  
22 code, rule or regulation adopted pursuant thereto shall be liable to a  
23 penalty of not more than \$50,000.00 per day, to be collected in a civil  
24 action commenced by a local board of health, a county health  
25 department, or the commissioner.

26 Any person who violates an administrative order issued pursuant to  
27 subsection c. of this section, or a court order issued pursuant to  
28 subsection d. of this section, or who fails to pay an administrative  
29 assessment in full pursuant to subsection e. of this section is subject  
30 upon order of a court to a civil penalty not to exceed \$100,000.00 per  
31 day of such violations.

32 Of the penalty imposed pursuant to this subsection, 10% or  
33 \$250.00, whichever is greater, shall be paid to the department from the  
34 General Fund if the Attorney General determines that a person is  
35 entitled to a reward pursuant to section 2 of P.L.1987, c.158  
36 (C.13:1E-9.2).

37 Any penalty imposed pursuant to this subsection may be collected  
38 with costs in a summary proceeding pursuant to "the penalty  
39 enforcement law" (N.J.S.2A:58-1 et seq.). The Superior Court and  
40 the municipal court shall have jurisdiction to enforce the provisions of  
41 "the penalty enforcement law" in connection with this act.

42 g. Any person who knowingly:

43 (1) Transports any hazardous waste to a facility or any other place  
44 which does not have authorization from the department to accept such  
45 waste;

46 (2) Generates and causes or permits to be transported any

- 1 hazardous waste to a facility or any other place which does not have  
2 authorization from the department to accept such waste;
- 3 (3) Disposes, treats, stores or transports hazardous waste without  
4 authorization from the department;
- 5 (4) Makes any false or misleading statement to any person who  
6 prepares any hazardous waste application, label, manifest, record,  
7 report, design or other document required to be submitted to the  
8 department; or
- 9 (5) Makes any false or misleading statement on any hazardous  
10 waste application, label, manifest, record, report, design or other  
11 document required to be submitted to the department shall, upon  
12 conviction, be guilty of a crime of the third degree and,  
13 notwithstanding the provisions of N.J.S.2C:43-3, shall be subject to a  
14 fine of not more than \$50,000.00 for the first offense and not more  
15 than \$100,000.00 for the second and each subsequent offense and  
16 restitution, in addition to any other appropriate disposition authorized  
17 by subsection b. of N.J.S.2C:43-2.
- 18 h. Any person who recklessly:
- 19 (1) Transports any hazardous waste to a facility or any other place  
20 which does not have authorization from the department to accept such  
21 waste;
- 22 (2) Generates and causes or permits to be transported any  
23 hazardous waste to a facility or any other place which does not have  
24 authorization from the department to accept such waste;
- 25 (3) Disposes, treats, stores or transports hazardous waste without  
26 authorization from the department;
- 27 (4) Makes any false or misleading statement to any person who  
28 prepares any hazardous waste application, label, manifest, record,  
29 report, design or other document required to be submitted to the  
30 department; or
- 31 (5) Makes any false or misleading statement on any hazardous  
32 waste application, label, manifest, record, report, design or other  
33 document required to be submitted to the department, shall, upon  
34 conviction, be guilty of a crime of the fourth degree.
- 35 i. Any person who, regardless of intent, generates and causes or  
36 permits any hazardous waste to be transported, transports, or receives  
37 transported hazardous waste without completing and submitting to the  
38 department a hazardous waste manifest in accordance with the  
39 provisions of this act or any rule or regulation adopted pursuant hereto  
40 shall, upon conviction, be guilty of a crime of the fourth degree.
- 41 j. All conveyances used or intended for use in the willful discharge,  
42 in violation of the provisions of P.L.1970, c.39 (C.13:1E-1 et seq.), of  
43 any solid waste, or hazardous waste as defined in P.L.1976, c.99  
44 (C.13:1E-38 et seq.) are subject to forfeiture to the State pursuant to  
45 the provisions of P.L.1981, c.387 (C.13:1K-1 et seq.).
- 46 k. [The provisions of N.J.S.2C:1-6 to the contrary



1 notwithstanding, a prosecution for a violation of the provisions of  
2 subsection g., subsection h. or subsection i. of this section shall be  
3 commenced within five years of the date of discovery of the violation.】  
4 (Deleted by amendment, P.L. , c. (before the Legislature as this  
5 bill))

6 l. Pursuit of any remedy specified in this section shall not preclude  
7 the pursuit of any other remedy provided by any other law.  
8 Administrative and judicial remedies provided in this section may be  
9 pursued simultaneously.

10 (cf: P.L.1990, c.70, s.1)

11  
12 <sup>14.</sup> Section 20 of P.L.1989, c.34 (C.13:1E-48.20) is amended to  
13 read as follows:

14 20. a. This act, and any rule or regulation adopted pursuant  
15 thereto, shall be enforced by the departments and by every local board  
16 of health, or county health department, as the case may be.

17 The departments and the local board of health, or the county health  
18 department, as the case may be, shall have the right to enter the  
19 premises of a generator, transporter, or facility at any time in order to  
20 determine compliance with this act.

21 The municipal attorney or an attorney retained by a municipality in  
22 which a violation of this act is alleged to have occurred shall act as  
23 counsel to a local board of health.

24 The county counsel or an attorney retained by a county in which a  
25 violation of this act is alleged to have occurred shall act as counsel to  
26 the county health department.

27 All enforcement activities undertaken by county health departments  
28 pursuant to this subsection shall conform to all applicable performance  
29 and administrative standards adopted pursuant to section 10 of the  
30 "County Environmental Health Act," P.L.1977, c.443 (C.26:3A2-28).

31 b. Whenever the Commissioner of Environmental Protection or the  
32 Commissioner of Health finds that a person has violated this act, or  
33 any rule or regulation adopted pursuant thereto, that commissioner  
34 shall:

35 (1) issue an order requiring the person found to be in violation to  
36 comply in accordance with subsection c. of this section;

37 (2) bring a civil action in accordance with subsection d. of this  
38 section;

39 (3) levy a civil administrative penalty in accordance with subsection  
40 e. of this section;

41 (4) bring an action for a civil penalty in accordance with subsection  
42 f. of this section; or

43 (5) petition the Attorney General to bring a criminal action in  
44 accordance with subsections g. through l. of this section.

45 Pursuit of any of the remedies specified under this section shall not  
46 preclude the seeking of any other remedy specified.

1 c. Whenever the Commissioner of Environmental Protection or the  
2 Commissioner of Health finds that a person has violated this act, or  
3 any rule or regulation adopted pursuant thereto, that commissioner  
4 may issue an order specifying the provision or provisions of this act,  
5 or the rule or regulation adopted pursuant thereto, of which the person  
6 is in violation, citing the action that constituted the violation, ordering  
7 abatement of the violation, and giving notice to the person of the  
8 person's right to a hearing on the matters contained in the order. The  
9 ordered party shall have 20 days from receipt of the order within  
10 which to deliver to the commissioner a written request for a hearing.  
11 After the hearing and upon finding that a violation has occurred, the  
12 commissioner may issue a final order. If no hearing is requested, the  
13 order shall become final after the expiration of the 20-day period. A  
14 request for hearing shall not automatically stay the effect of the order.

15 d. The Commissioner of Environmental Protection, the  
16 Commissioner of Health, a local board of health, or a county health  
17 department may institute an action or proceeding in the Superior Court  
18 for injunctive and other relief, including the appointment of a receiver  
19 for any violation of this act, or of any rule or regulation adopted  
20 pursuant thereto, and the court may proceed in the action in a  
21 summary manner. In any such proceeding the court may grant  
22 temporary or interlocutory relief.

23 Such relief may include, singly or in combination:

24 (1) a temporary or permanent injunction;

25 (2) assessment of the violator for the costs of any investigation,  
26 inspection, or monitoring survey that led to the establishment of the  
27 violation, and for the reasonable costs of preparing and litigating the  
28 case under this subsection;

29 (3) assessment of the violator for any cost incurred by the State in  
30 removing, correcting, or terminating the adverse effects upon  
31 environmental quality or public health resulting from any violation of  
32 this act, or any rule or regulation adopted pursuant thereto, for which  
33 the action under this subsection may have been brought;

34 (4) assessment against the violator of compensatory damages for  
35 any loss or destruction of wildlife, fish or aquatic life, and for any  
36 other actual damages caused by any violation of this act, or any rule  
37 or regulation adopted pursuant thereto, for which the action under this  
38 subsection may have been brought.

39 Assessments under this subsection shall be paid to the State  
40 Treasurer, or to the local board of health, or to the county health  
41 department, as the case may be, except that compensatory damages  
42 may be paid by specific order of the court to any persons who have  
43 been aggrieved by the violation.

44 If a proceeding is instituted by a local board of health or county  
45 health department, notice thereof shall be served upon the  
46 commissioners in the same manner as if the commissioners were named

1 parties to the action or proceeding. Either of the departments may  
2 intervene as a matter of right in any proceeding brought by a local  
3 board of health or county health department.

4 e. Either of the commissioners, as the case may be, may assess a  
5 civil administrative penalty of not more than \$50,000 for each  
6 violation. Each day that a violation continues shall constitute an  
7 additional, separate, and distinct offense. A commissioner may not  
8 assess a civil administrative penalty in excess of \$25,000 for a single  
9 violation, or in excess of \$2,500 for each day during which a violation  
10 continues, until the departments have respectively adopted, pursuant  
11 to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1  
12 et seq.), regulations requiring the appropriate commissioner, in  
13 assessing a civil administrative penalty, to consider the operational  
14 history of the violator, the severity of the violation, the measures taken  
15 to mitigate or prevent further violations, and whether the penalty will  
16 maintain an appropriate deterrent. No assessment may be levied  
17 pursuant to this section until after the violator has been notified by  
18 certified mail or personal service. The notice shall include a reference  
19 to the section of the statute, rule, regulation, or order violated, a  
20 concise statement of the facts alleged to constitute a violation, a  
21 statement of the amount of the civil administrative penalties to be  
22 imposed, and a statement of the party's right to a hearing. The  
23 ordered party shall have 20 calendar days from receipt of the notice  
24 within which to deliver to the appropriate commissioner a written  
25 request for a hearing. After the hearing and upon finding that a  
26 violation has occurred, that commissioner may issue a final order after  
27 assessing the amount of the fine specified in the notice. If no hearing  
28 is requested, the notice shall become a final order after the expiration  
29 of the 20-day period. Payment of the assessment is due when a final  
30 order is issued or the notice becomes a final order. The authority to  
31 levy a civil administrative penalty is in addition to all other  
32 enforcement provisions in this act, and the payment of any assessment  
33 shall not be deemed to affect the availability of any other enforcement  
34 provisions in connection with the violation for which the assessment  
35 is levied. Each department may compromise any civil administrative  
36 penalty assessed under this section in an amount the department  
37 determines appropriate.

38 f. A person who violates this act, or any rule or regulation adopted  
39 pursuant thereto, shall be liable for a penalty of not more than \$50,000  
40 per day, to be collected in a civil action commenced by the  
41 Commissioner of Environmental Protection, the Commissioner of  
42 Health, a local board of health, or a county health department.

43 A person who violates an administrative order issued pursuant to  
44 subsection c. of this section, or a court order issued pursuant to  
45 subsection d. of this section, or who fails to pay an administrative  
46 assessment in full pursuant to subsection e. of this section is subject

1 upon order of a court to a civil penalty not to exceed \$100,000 per  
2 day of each violation.

3 Of the penalty imposed pursuant to this subsection, 10% or \$250,  
4 whichever is greater, shall be paid to the appropriate department from  
5 the General Fund if the Attorney General determines that a person is  
6 entitled to a reward pursuant to section 24 of this act.

7 Any penalty imposed pursuant to this subsection may be collected,  
8 with costs, in a summary proceeding pursuant to "the penalty  
9 enforcement law" (N.J.S.2A:58-1 et seq.). The Superior Court and  
10 the municipal court shall have jurisdiction to enforce the provisions of  
11 "the penalty enforcement law" in connection with this act.

12 g. A person who purposely or knowingly:

13 (1) disposes or stores regulated medical waste without  
14 authorization from either the Department of Environmental Protection  
15 or the Department of Health, as appropriate, or in violation of this act,  
16 or any rule or regulation adopted pursuant thereto;

17 (2) makes any false or misleading statement to any person who  
18 prepares any regulated medical waste application, registration, form,  
19 label, certification, manifest, record, report, or other document  
20 required by this act, or any rule or regulation adopted pursuant  
21 thereto;

22 (3) makes any false or misleading statement on any regulated  
23 medical waste application, registration, form, label, certification,  
24 manifest, record, report, or other document required by this act, or any  
25 rule or regulation adopted pursuant thereto; or

26 (4) fails to properly treat certain types of regulated medical waste  
27 designated by the Department of Health in a prescribed manner; shall,  
28 upon conviction, be guilty of a crime of the third degree and,  
29 notwithstanding the provisions of N.J.S.2C:43-3, shall be subject to  
30 a fine of not more than \$50,000 for the first offense, and not more  
31 than \$100,000 for each subsequent offense, and restitution, in  
32 addition to any other appropriate disposition authorized by subsection  
33 b. of N.J.S.2C:43-2.

34 h. A person who recklessly or negligently:

35 (1) disposes or stores regulated medical waste without  
36 authorization from either the Department of Environmental Protection  
37 or the Department of Health, as appropriate, or in violation of this act,  
38 or any rule or regulation adopted pursuant thereto;

39 (2) makes any false or misleading statement to any person who  
40 prepares any regulated medical waste application, registration, form,  
41 label, certification, manifest, record, report, or other document  
42 required by this act, or any rule or regulation adopted pursuant  
43 thereto;

44 (3) makes any false or misleading statement on any regulated  
45 medical waste application, registration, form, label, certification,  
46 manifest, record, report, or other document required by this act, or any

1 rule or regulation adopted pursuant thereto; or

2 (4) fails to properly treat certain types of regulated medical waste  
3 designated by the Department of Health in a manner prescribed  
4 thereby; shall, upon conviction, be guilty of a crime of the fourth  
5 degree.

6 i. A person who, regardless of intent:

7 (1) transports any regulated medical waste to a facility or any other  
8 place in the State that does not have authorization from the  
9 Department of Environmental Protection and the Board of Public  
10 Utilities to accept such waste, or in violation of this act, or any rule or  
11 regulation adopted pursuant thereto; or

12 (2) transports, or receives transported, regulated medical waste  
13 without completing and submitting a manifest in accordance with this  
14 act, or any rule or regulation adopted pursuant thereto; shall, upon  
15 conviction, be guilty of a crime of the fourth degree.

16 j. A person who purposely, knowingly, or recklessly:

17 (1) generates and causes or permits to be transported any regulated  
18 medical waste to a facility or any other place in the State that does not  
19 have authorization from the Department of Environmental Protection  
20 and the Board of Public Utilities to accept such waste, or in violation  
21 of this act, or any rule or regulation adopted pursuant thereto; or

22 (2) violates any other provision of this act, or any rule or regulation  
23 adopted pursuant thereto, for which no other criminal penalty has been  
24 specifically provided for; shall, upon conviction, be guilty of a crime  
25 of the fourth degree.

26 k. All conveyances used or intended for use in the willful  
27 discharge, in violation of this act, or any rule or regulation adopted  
28 pursuant thereto, of regulated medical waste are subject to forfeiture  
29 to the State pursuant to P.L.1981, c.387 (C.13:1K-1 et seq.).

30 l. **[The provisions of N.J.S.2C:1-6 to the contrary notwithstanding,**  
31 **a prosecution for violation of subsection g., subsection h., subsection**  
32 **i., or subsection j. of this section shall be commenced within five years**  
33 **of the date of discovery of the violation.]** (Deleted by amendment, P.L.  
34 ., c. (now before the Legislature as this bill))

35 m. No prosecution for a violation under this act shall be deemed to  
36 preclude a prosecution for the violation of any other applicable  
37 statute.<sup>1</sup>

38 (cf: P.L.1989, c.34, s.20)

39

40 <sup>15.</sup> Section 10 of P.L.1984, c.173 (C.34:5A-41) is amended to read  
41 as follows:

42 10. Any person who knowingly hinders or delays the Commissioner  
43 of Labor or Health or the authorized representative thereof, in the  
44 performance of the duty to enforce this act, or knowingly submits false  
45 or misleading information on any license or permit application required  
46 by this act, or fails to obtain licenses or permits required by the

1 provisions of this act, or refuses to make these licenses or permits  
2 accessible to either commissioner, or the authorized representative  
3 thereof, or otherwise violates any provision of this act or any  
4 regulation adopted under this act, shall, upon conviction, be guilty of  
5 a crime of the third degree and, notwithstanding the provisions of  
6 N.J.S.2C:43-3, shall be subject to a fine of not more than \$25,000 in  
7 addition to any other appropriate disposition authorized by subsection  
8 b. of N.J.S.2C:43-2. **[Notwithstanding N.J.S.2C:1-6, any prosecution**  
9 **for a violation of this section shall be commenced within five years of**  
10 **the date of discovery of the violation.]<sup>1</sup>**

11 (cf: P.L.1994, c.21, s.11)

12

13 **<sup>1</sup>[4.] 6.<sup>1</sup>** This act shall take effect immediately and shall apply to  
14 any offense committed for which the time limitation for bringing a  
15 prosecution against the person who committed the offense has not  
16 expired.

17

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20

21 Amends statute of limitations for certain environmental criminal  
22 offenses.

1 prosecution against the person who committed the offense has not  
2 expired.

3

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#### STATEMENT

6

7 This bill would eliminate the statute of limitations for criminal  
8 offenses under several of the State's major environmental laws. This  
9 bill would apply to violations of the "Solid Waste Management Act,"  
10 P.L.1970, c.39 (C.13:1E-1 et seq.), the "Air Pollution Control Act  
11 (1954)," P.L.1954, c.212 (C.26:2C-1 et seq.), the hazardous waste  
12 discharge provisions of N.J.S.2C:17-2, and the "Water Pollution  
13 Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.).

14 Under current law, criminal offenses under the "Solid Waste  
15 Management Act" and the discharge provisions of N.J.S.2C:17-2 are  
16 subject to a statute of limitations that is set at five years from the date  
17 of discovery of the violation. Criminal offenses under the "Air  
18 Pollution Control Act (1954)" and the "Water Pollution Control Act"  
19 are set at five years from the commission of the offense.

20 Because of the potential long term impacts from criminal violations  
21 of these environmental laws, there is a need to be able to prosecute  
22 those criminal actions even many years after an offense has been  
23 committed and in certain instances even many years after it has been  
24 discovered. This is especially so because it is often difficult to  
25 determine who committed environmental crimes and the damage that  
26 occurs is often not perceptible until many years after the violation is  
27 discovered. These unique aspects of environmental crimes necessitate  
28 that they not be subject to the artificial and constraining conditions of  
29 a statute of limitations.

30

31

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34 Eliminates statute of limitations for certain environmental criminal  
35 offenses.

[Passed Both Houses]

[First Reprint]

ASSEMBLY, No. 2667

# STATE OF NEW JERSEY

INTRODUCED JANUARY 23, 1997

By Assemblymen **HOLZAPFEL, WOLFE, Moran, Connors,**  
**Bucco, Senators Ciesla, Connors and Singer**

1 AN ACT concerning the statute of limitations for certain environmental  
2 criminal offenses and amending N.J.S.2C:1-6, N.J.S.2C:17-2,  
3 <sup>1</sup>**[and]**<sup>1</sup> P.L.1970, c.39 <sup>1</sup> , P.L.1989, c.34, and P.L.1984, c.173<sup>1</sup>.

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. <sup>1</sup>**[(1)]**<sup>1</sup> A prosecution for any  
10 offense set forth in N.J.S.2C:11-3, N.J.S.2C:11-4 or N.J.S.2C:14-2  
11 may be commenced at any time.

12 <sup>1</sup>**[(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 19 of P.L.1954, c.212 (C.26:2C-19), or section  
15 10 of P.L.1977, c.74 (C.58:10A-10) may be commenced at any time.<sup>1</sup>

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

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

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

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

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup> Assembly AES committee amendments adopted May 12, 1997.



1 (4) A prosecution for an offense set forth in N.J.S.2C:14-3 or  
2 N.J.S.2C:24-4, when the victim at the time of the offense is below the  
3 age of 18 years, must be commenced within five years of the victim's  
4 attaining the age of 18 or within two years of the discovery of the  
5 offense by the victim, whichever is later <sup>1</sup>;

6 (5) A prosecution for any offense set forth in paragraph (2)  
7 of subsection a. of N.J.S.2C:17-2, section 9 of P.L.1970, c.39  
8 (C.13:1E-9), section 20 of P.L.1989, c.34 (C.13:1E-48.20), section 19  
9 of P.L.1954, c.212 (C.26:2C-19), section 10 of P.L.1984, c.173  
10 (C.34:5A-41), or section 10 of P.L.1977, c.74 (C.58:10A-10) must be  
11 commenced within 10 years after the date of discovery of the offense  
12 by a local law enforcement agency, a county prosecutor, or the  
13 Department of Environmental Protection either directly by any of  
14 those entities or indirectly by notice given to any of those entities<sup>1</sup> .

15 c. An offense is committed either when every element occurs or,  
16 if a legislative purpose to prohibit a continuing course of conduct  
17 plainly appears, at the time when the course of conduct or the  
18 defendant's complicity therein is terminated. Time starts to run on the  
19 day after the offense is committed.

20 d. A prosecution is commenced for a crime when an indictment is  
21 found and for a nonindictable offense when a warrant or other process  
22 is issued, provided that such warrant or process is executed without  
23 unreasonable delay. Nothing contained in this section, however, shall  
24 be deemed to prohibit the downgrading of an indictable offense to a  
25 nonindictable offense at any time if the indictable offense was filed  
26 within the statute of limitations applicable to indictable offenses.

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

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

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

35 (cf: P.L.1996, c.22, s.1)

36

37 2. N.J.S. 2C:17-2 is amended to read as follows:

38 2C:17-2. Causing or Risking Widespread Injury or Damage.

39 a. (1) A person who, purposely or knowingly, unlawfully causes  
40 an explosion, flood, avalanche, collapse of a building, release or  
41 abandonment of poison gas, radioactive material or any other harmful  
42 or destructive substance commits a crime of the second degree. A  
43 person who, purposely or knowingly, unlawfully causes widespread  
44 injury or damage in any manner commits a crime of the second degree.

45 (2) A person who, purposely or knowingly, unlawfully causes a  
46 hazardous discharge required to be reported pursuant to the "Spill

1 Compensation and Control Act," P.L.1976, c.141 (C.58:10-23.11 et  
2 seq.) or any rules and regulations adopted pursuant thereto, or who,  
3 purposely or knowingly, unlawfully causes a release or abandonment  
4 of hazardous waste as defined in section 1 of P.L.1976, c.99  
5 (C.13:1E-38) or a toxic pollutant as defined in section 3 of P.L.1977,  
6 c.74 (C.58:10A-3) commits a crime of the second degree. Any person  
7 who recklessly violates the provisions of this paragraph is guilty of a  
8 crime of the third degree. 【The provisions of N.J.S.2C:1-6 to the  
9 contrary notwithstanding, a prosecution for a violation of the  
10 provisions of this paragraph shall be commenced within five years of  
11 the date of the discovery of the violation.】

12 b. A person who recklessly causes widespread injury or damage is  
13 guilty of a crime of the third degree.

14 c. A person who recklessly creates a risk of widespread injury or  
15 damage commits a crime of the fourth degree, even if no such injury  
16 or damage occurs.

17 d. A person who knowingly or recklessly fails to take reasonable  
18 measures to prevent or mitigate widespread injury or damage commits  
19 a crime of the fourth degree, if:

20 (1) He knows that he is under an official, contractual or other legal  
21 duty to take such measures; or

22 (2) He did or assented to the act causing or threatening the injury  
23 or damage.

24 e. For purposes of this section, widespread injury or damage means  
25 serious bodily injury to 10 or more people or damage to 10 or more  
26 habitations or to a building which would normally have contained 50  
27 or more persons at the time of the offense.

28 (cf: P.L.1985, c.348, s.1)

29

30 3. Section 9 of P.L.1970, c.39 (C.13:1E-9) is amended to read as  
31 follows:

32 9. a. All codes, rules and regulations adopted by the department  
33 related to solid waste collection and disposal shall have the force and  
34 effect of law. These codes, rules and regulations shall be observed  
35 throughout the State and shall be enforced by the department and by  
36 every local board of health, or county health department, as the case  
37 may be.

38 The department and the local board of health, or the county health  
39 department, as the case may be, shall have the right to enter a solid  
40 waste facility at any time in order to determine compliance with the  
41 registration statement and engineering design required pursuant to  
42 section 5 of P.L.1970, c.39 (C.13:1E-5), and with the provisions of all  
43 applicable laws or rules and regulations adopted pursuant thereto.

44 The municipal attorney or an attorney retained by a municipality in  
45 which a violation of such laws or rules and regulations adopted  
46 pursuant thereto is alleged to have occurred shall act as counsel to a

1 local board of health.

2 The county counsel or an attorney retained by a county in which a  
3 violation of such laws or rules and regulations adopted pursuant  
4 thereto is alleged to have occurred shall act as counsel to the county  
5 health department.

6 Any county health department may charge and collect from the  
7 owner or operator of any sanitary landfill facility within its jurisdiction  
8 such fees for enforcement activities as may be established by ordinance  
9 or resolution adopted by the governing body of any such county. The  
10 fees shall be established in accordance with a fee schedule regulation  
11 adopted by the department, pursuant to law, and shall be utilized  
12 exclusively to fund such enforcement activities.

13 All enforcement activities undertaken by county health departments  
14 pursuant to this subsection shall conform to all applicable performance  
15 and administrative standards adopted pursuant to section 10 of the  
16 "County Environmental Health Act," P.L.1977, c.443 (C.26:3A2-28).

17 b. Whenever the commissioner finds that a person has violated any  
18 provision of P.L.1970, c.39 (C.13:1E-1 et seq.), or any rule or  
19 regulation adopted, permit issued, or district solid waste management  
20 plan adopted pursuant to P.L.1970, c.39, he shall:

21 (1) Issue an order requiring the person found to be in violation to  
22 comply in accordance with subsection c. of this section;

23 (2) Bring a civil action in accordance with subsection d. of this  
24 section;

25 (3) Levy a civil administrative penalty in accordance with  
26 subsection e. of this section;

27 (4) Bring an action for a civil penalty in accordance with  
28 subsection f. of this section; or

29 (5) Petition the Attorney General to bring a criminal action in  
30 accordance with subsection g. of this section.

31 c. Whenever the commissioner finds that a person has violated any  
32 provision of P.L.1970, c.39, or any rule or regulation adopted, permit  
33 issued, or district solid waste management plan adopted pursuant to  
34 P.L.1970, c.39, he may issue an order specifying the provision or  
35 provisions of P.L.1970, c.39, or the rule, regulation, permit or district  
36 solid waste management plan of which the person is in violation, citing  
37 the action which constituted the violation, ordering abatement of the  
38 violation, and giving notice to the person of his right to a hearing on  
39 the matters contained in the order. The ordered party shall have 20  
40 calendar days from receipt of the order within which to deliver to the  
41 commissioner a written request for a hearing. Such order shall be  
42 effective upon receipt and any person to whom such order is directed  
43 shall comply with the order immediately. A request for hearing shall  
44 not automatically stay the effect of the order.

45 d. The commissioner, a local board of health or county health  
46 department may institute an action or proceeding in the Superior Court

1 for injunctive and other relief, including the appointment of a receiver  
2 for any violation of this act, or of any code, rule or regulation adopted,  
3 permit issued, district solid waste management plan adopted or order  
4 issued pursuant to this act and said court may proceed in the action in  
5 a summary manner. In any such proceeding the court may grant  
6 temporary or interlocutory relief, notwithstanding the provisions of  
7 R.S.48:2-24.

8 Such relief may include, singly or in combination:

9 (1) A temporary or permanent injunction;

10 (2) Assessment of the violator for the costs of any investigation,  
11 inspection, or monitoring survey which led to the establishment of the  
12 violation, and for the reasonable costs of preparing and litigating the  
13 case under this subsection;

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

19 (4) Assessment against the violator of compensatory damages for  
20 any loss or destruction of wildlife, fish or aquatic life, and for any  
21 other actual damages caused by any violation of this act or any rule,  
22 regulation or condition of approval established pursuant to this act for  
23 which the action under this subsection may have been brought.  
24 Assessments under this subsection shall be paid to the State Treasurer,  
25 or to the local board of health, or to the county health department, as  
26 the case may be, except that compensatory damages may be paid by  
27 specific order of the court to any persons who have been aggrieved by  
28 the violation.

29 If a proceeding is instituted by a local board of health or county  
30 health department, notice thereof shall be served upon the  
31 commissioner in the same manner as if the commissioner were a named  
32 party to the action or proceeding. The department may intervene as a  
33 matter of right in any proceeding brought by a local board of health or  
34 county health department.

35 e. The commissioner is authorized to assess a civil administrative  
36 penalty of not more than \$50,000.00 for each violation provided that  
37 each day during which the violation continues shall constitute an  
38 additional, separate and distinct offense. The commission shall not  
39 assess a civil administrative penalty in excess of \$25,000.00 for a  
40 single violation, or in excess of \$2,500.00 for each day during which  
41 a violation continues, until the department has adopted, pursuant to  
42 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
43 seq.), regulations requiring the commissioner, in assessing a civil  
44 administrative penalty, to consider the operational history of the solid  
45 waste facility at which the violation occurred, the severity of the  
46 violation, the measures taken to mitigate or prevent further violations,

1 and whether the penalty will maintain an appropriate deterrent. No  
2 assessment shall be levied pursuant to this section until after the  
3 violator has been notified by certified mail or personal service. The  
4 notice shall include a reference to the section of the statute, rule,  
5 regulation, order, permit condition or district solid waste management  
6 plan violated, a concise statement of the facts alleged to constitute a  
7 violation, a statement of the amount of the civil administrative  
8 penalties to be imposed, and a statement of the party's right to a  
9 hearing. The ordered party shall have 20 calendar days from receipt  
10 of the notice within which to deliver to the commissioner a written  
11 request for a hearing. After the hearing and upon finding that a  
12 violation has occurred, the commissioner may issue a final order after  
13 assessing the amount of the fine specified in the notice. If no hearing  
14 is requested, the notice shall become a final order after the expiration  
15 of the 20-day period. Payment of the assessment is due when a final  
16 order is issued or the notice becomes a final order. The authority to  
17 levy a civil administrative penalty is in addition to all other  
18 enforcement provisions in P.L.1970, c.39, and the payment of any  
19 assessment shall not be deemed to affect the availability of any other  
20 enforcement provisions in connection with the violation for which the  
21 assessment is levied. The department may compromise any civil  
22 administrative penalty assessed under this section in an amount the  
23 department determines appropriate.

24 f. Any person who violates the provisions of P.L.1970, c.39, or any  
25 code, rule or regulation adopted pursuant thereto shall be liable to a  
26 penalty of not more than \$50,000.00 per day, to be collected in a civil  
27 action commenced by a local board of health, a county health  
28 department, or the commissioner.

29 Any person who violates an administrative order issued pursuant to  
30 subsection c. of this section, or a court order issued pursuant to  
31 subsection d. of this section, or who fails to pay an administrative  
32 assessment in full pursuant to subsection e. of this section is subject  
33 upon order of a court to a civil penalty not to exceed \$100,000.00 per  
34 day of such violations.

35 Of the penalty imposed pursuant to this subsection, 10% or  
36 \$250.00, whichever is greater, shall be paid to the department from the  
37 General Fund if the Attorney General determines that a person is  
38 entitled to a reward pursuant to section 2 of P.L.1987, c.158  
39 (C.13:1E-9.2).

40 Any penalty imposed pursuant to this subsection may be collected  
41 with costs in a summary proceeding pursuant to "the penalty  
42 enforcement law" (N.J.S.2A:58-1 et seq.). The Superior Court and  
43 the municipal court shall have jurisdiction to enforce the provisions of  
44 "the penalty enforcement law" in connection with this act.

45 g. Any person who knowingly:

46 (1) Transports any hazardous waste to a facility or any other place

1 which does not have authorization from the department to accept such  
2 waste;

3 (2) Generates and causes or permits to be transported any  
4 hazardous waste to a facility or any other place which does not have  
5 authorization from the department to accept such waste;

6 (3) Disposes, treats, stores or transports hazardous waste without  
7 authorization from the department;

8 (4) Makes any false or misleading statement to any person who  
9 prepares any hazardous waste application, label, manifest, record,  
10 report, design or other document required to be submitted to the  
11 department; or

12 (5) Makes any false or misleading statement on any hazardous  
13 waste application, label, manifest, record, report, design or other  
14 document required to be submitted to the department shall, upon  
15 conviction, be guilty of a crime of the third degree and,  
16 notwithstanding the provisions of N.J.S.2C:43-3, shall be subject to a  
17 fine of not more than \$50,000.00 for the first offense and not more  
18 than \$100,000.00 for the second and each subsequent offense and  
19 restitution, in addition to any other appropriate disposition authorized  
20 by subsection b. of N.J.S.2C:43-2.

21 h. Any person who recklessly:

22 (1) Transports any hazardous waste to a facility or any other place  
23 which does not have authorization from the department to accept such  
24 waste;

25 (2) Generates and causes or permits to be transported any  
26 hazardous waste to a facility or any other place which does not have  
27 authorization from the department to accept such waste;

28 (3) Disposes, treats, stores or transports hazardous waste without  
29 authorization from the department;

30 (4) Makes any false or misleading statement to any person who  
31 prepares any hazardous waste application, label, manifest, record,  
32 report, design or other document required to be submitted to the  
33 department; or

34 (5) Makes any false or misleading statement on any hazardous  
35 waste application, label, manifest, record, report, design or other  
36 document required to be submitted to the department, shall, upon  
37 conviction, be guilty of a crime of the fourth degree.

38 i. Any person who, regardless of intent, generates and causes or  
39 permits any hazardous waste to be transported, transports, or receives  
40 transported hazardous waste without completing and submitting to the  
41 department a hazardous waste manifest in accordance with the  
42 provisions of this act or any rule or regulation adopted pursuant hereto  
43 shall, upon conviction, be guilty of a crime of the fourth degree.

44 j. All conveyances used or intended for use in the willful discharge,  
45 in violation of the provisions of P.L.1970, c.39 (C.13:1E-1 et seq.), of  
46 any solid waste, or hazardous waste as defined in P.L.1976, c.99

1 (C.13:1E-38 et seq.) are subject to forfeiture to the State pursuant to  
2 the provisions of P.L.1981, c.387 (C.13:1K-1 et seq.).

3 k. **【The provisions of N.J.S.2C:1-6 to the contrary**  
4 **notwithstanding, a prosecution for a violation of the provisions of**  
5 **subsection g., subsection h. or subsection i. of this section shall be**  
6 **commenced within five years of the date of discovery of the violation.】**  
7 (Deleted by amendment, P.L. , c. (before the Legislature as this  
8 bill))

9 l. Pursuit of any remedy specified in this section shall not preclude  
10 the pursuit of any other remedy provided by any other law.  
11 Administrative and judicial remedies provided in this section may be  
12 pursued simultaneously.  
13 (cf: P.L.1990, c.70, s.1)

14  
15 <sup>1</sup>4. Section 20 of P.L.1989, c.34 (C.13:1E-48.20) is amended to  
16 read as follows:

17 20. a. This act, and any rule or regulation adopted pursuant  
18 thereto, shall be enforced by the departments and by every local board  
19 of health, or county health department, as the case may be.

20 The departments and the local board of health, or the county health  
21 department, as the case may be, shall have the right to enter the  
22 premises of a generator, transporter, or facility at any time in order to  
23 determine compliance with this act.

24 The municipal attorney or an attorney retained by a municipality in  
25 which a violation of this act is alleged to have occurred shall act as  
26 counsel to a local board of health.

27 The county counsel or an attorney retained by a county in which a  
28 violation of this act is alleged to have occurred shall act as counsel to  
29 the county health department.

30 All enforcement activities undertaken by county health departments  
31 pursuant to this subsection shall conform to all applicable performance  
32 and administrative standards adopted pursuant to section 10 of the  
33 "County Environmental Health Act," P.L.1977, c.443 (C.26:3A2-28).

34 b. Whenever the Commissioner of Environmental Protection or the  
35 Commissioner of Health finds that a person has violated this act, or  
36 any rule or regulation adopted pursuant thereto, that commissioner  
37 shall:

38 (1) issue an order requiring the person found to be in violation to  
39 comply in accordance with subsection c. of this section;

40 (2) bring a civil action in accordance with subsection d. of this  
41 section;

42 (3) levy a civil administrative penalty in accordance with subsection  
43 e. of this section;

44 (4) bring an action for a civil penalty in accordance with subsection  
45 f. of this section; or

46 (5) petition the Attorney General to bring a criminal action in

1 accordance with subsections g. through l. of this section.

2 Pursuit of any of the remedies specified under this section shall not  
3 preclude the seeking of any other remedy specified.

4 c. Whenever the Commissioner of Environmental Protection or the  
5 Commissioner of Health finds that a person has violated this act, or  
6 any rule or regulation adopted pursuant thereto, that commissioner  
7 may issue an order specifying the provision or provisions of this act,  
8 or the rule or regulation adopted pursuant thereto, of which the person  
9 is in violation, citing the action that constituted the violation, ordering  
10 abatement of the violation, and giving notice to the person of the  
11 person's right to a hearing on the matters contained in the order. The  
12 ordered party shall have 20 days from receipt of the order within  
13 which to deliver to the commissioner a written request for a hearing.  
14 After the hearing and upon finding that a violation has occurred, the  
15 commissioner may issue a final order. If no hearing is requested, the  
16 order shall become final after the expiration of the 20-day period. A  
17 request for hearing shall not automatically stay the effect of the order.

18 d. The Commissioner of Environmental Protection, the  
19 Commissioner of Health, a local board of health, or a county health  
20 department may institute an action or proceeding in the Superior Court  
21 for injunctive and other relief, including the appointment of a receiver  
22 for any violation of this act, or of any rule or regulation adopted  
23 pursuant thereto, and the court may proceed in the action in a  
24 summary manner. In any such proceeding the court may grant  
25 temporary or interlocutory relief.

26 Such relief may include, singly or in combination:

27 (1) a temporary or permanent injunction;

28 (2) assessment of the violator for the costs of any investigation,  
29 inspection, or monitoring survey that led to the establishment of the  
30 violation, and for the reasonable costs of preparing and litigating the  
31 case under this subsection;

32 (3) assessment of the violator for any cost incurred by the State in  
33 removing, correcting, or terminating the adverse effects upon  
34 environmental quality or public health resulting from any violation of  
35 this act, or any rule or regulation adopted pursuant thereto, for which  
36 the action under this subsection may have been brought;

37 (4) assessment against the violator of compensatory damages for  
38 any loss or destruction of wildlife, fish or aquatic life, and for any  
39 other actual damages caused by any violation of this act, or any rule  
40 or regulation adopted pursuant thereto, for which the action under this  
41 subsection may have been brought.

42 Assessments under this subsection shall be paid to the State  
43 Treasurer, or to the local board of health, or to the county health  
44 department, as the case may be, except that compensatory damages  
45 may be paid by specific order of the court to any persons who have  
46 been aggrieved by the violation.



1 If a proceeding is instituted by a local board of health or county  
2 health department, notice thereof shall be served upon the  
3 commissioners in the same manner as if the commissioners were named  
4 parties to the action or proceeding. Either of the departments may  
5 intervene as a matter of right in any proceeding brought by a local  
6 board of health or county health department.

7 e. Either of the commissioners, as the case may be, may assess a  
8 civil administrative penalty of not more than \$50,000 for each  
9 violation. Each day that a violation continues shall constitute an  
10 additional, separate, and distinct offense. A commissioner may not  
11 assess a civil administrative penalty in excess of \$25,000 for a single  
12 violation, or in excess of \$2,500 for each day during which a violation  
13 continues, until the departments have respectively adopted, pursuant  
14 to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1  
15 et seq.), regulations requiring the appropriate commissioner, in  
16 assessing a civil administrative penalty, to consider the operational  
17 history of the violator, the severity of the violation, the measures taken  
18 to mitigate or prevent further violations, and whether the penalty will  
19 maintain an appropriate deterrent. No assessment may be levied  
20 pursuant to this section until after the violator has been notified by  
21 certified mail or personal service. The notice shall include a reference  
22 to the section of the statute, rule, regulation, or order violated, a  
23 concise statement of the facts alleged to constitute a violation, a  
24 statement of the amount of the civil administrative penalties to be  
25 imposed, and a statement of the party's right to a hearing. The  
26 ordered party shall have 20 calendar days from receipt of the notice  
27 within which to deliver to the appropriate commissioner a written  
28 request for a hearing. After the hearing and upon finding that a  
29 violation has occurred, that commissioner may issue a final order after  
30 assessing the amount of the fine specified in the notice. If no hearing  
31 is requested, the notice shall become a final order after the expiration  
32 of the 20-day period. Payment of the assessment is due when a final  
33 order is issued or the notice becomes a final order. The authority to  
34 levy a civil administrative penalty is in addition to all other  
35 enforcement provisions in this act, and the payment of any assessment  
36 shall not be deemed to affect the availability of any other enforcement  
37 provisions in connection with the violation for which the assessment  
38 is levied. Each department may compromise any civil administrative  
39 penalty assessed under this section in an amount the department  
40 determines appropriate.

41 f. A person who violates this act, or any rule or regulation adopted  
42 pursuant thereto, shall be liable for a penalty of not more than \$50,000  
43 per day, to be collected in a civil action commenced by the  
44 Commissioner of Environmental Protection, the Commissioner of  
45 Health, a local board of health, or a county health department.

46 A person who violates an administrative order issued pursuant to

1 subsection c. of this section, or a court order issued pursuant to  
2 subsection d. of this section, or who fails to pay an administrative  
3 assessment in full pursuant to subsection e. of this section is subject  
4 upon order of a court to a civil penalty not to exceed \$100,000 per  
5 day of each violation.

6 Of the penalty imposed pursuant to this subsection, 10% or \$250,  
7 whichever is greater, shall be paid to the appropriate department from  
8 the General Fund if the Attorney General determines that a person is  
9 entitled to a reward pursuant to section 24 of this act.

10 Any penalty imposed pursuant to this subsection may be collected,  
11 with costs, in a summary proceeding pursuant to "the penalty  
12 enforcement law" (N.J.S.2A:58-1 et seq.). The Superior Court and  
13 the municipal court shall have jurisdiction to enforce the provisions of  
14 "the penalty enforcement law" in connection with this act.

15 g. A person who purposely or knowingly:

16 (1) disposes or stores regulated medical waste without  
17 authorization from either the Department of Environmental Protection  
18 or the Department of Health, as appropriate, or in violation of this act,  
19 or any rule or regulation adopted pursuant thereto;

20 (2) makes any false or misleading statement to any person who  
21 prepares any regulated medical waste application, registration, form,  
22 label, certification, manifest, record, report, or other document  
23 required by this act, or any rule or regulation adopted pursuant  
24 thereto;

25 (3) makes any false or misleading statement on any regulated  
26 medical waste application, registration, form, label, certification,  
27 manifest, record, report, or other document required by this act, or any  
28 rule or regulation adopted pursuant thereto; or

29 (4) fails to properly treat certain types of regulated medical waste  
30 designated by the Department of Health in a prescribed manner; shall,  
31 upon conviction, be guilty of a crime of the third degree and,  
32 notwithstanding the provisions of N.J.S.2C:43-3, shall be subject to  
33 a fine of not more than \$50,000 for the first offense, and not more  
34 than \$100,000 for each subsequent offense, and restitution, in  
35 addition to any other appropriate disposition authorized by subsection  
36 b. of N.J.S.2C:43-2.

37 h. A person who recklessly or negligently:

38 (1) disposes or stores regulated medical waste without  
39 authorization from either the Department of Environmental Protection  
40 or the Department of Health, as appropriate, or in violation of this act,  
41 or any rule or regulation adopted pursuant thereto;

42 (2) makes any false or misleading statement to any person who  
43 prepares any regulated medical waste application, registration, form,  
44 label, certification, manifest, record, report, or other document  
45 required by this act, or any rule or regulation adopted pursuant  
46 thereto;

1 (3) makes any false or misleading statement on any regulated  
2 medical waste application, registration, form, label, certification,  
3 manifest, record, report, or other document required by this act, or any  
4 rule or regulation adopted pursuant thereto; or

5 (4) fails to properly treat certain types of regulated medical waste  
6 designated by the Department of Health in a manner prescribed  
7 thereby; shall, upon conviction, be guilty of a crime of the fourth  
8 degree.

9 i. A person who, regardless of intent:

10 (1) transports any regulated medical waste to a facility or any other  
11 place in the State that does not have authorization from the  
12 Department of Environmental Protection and the Board of Public  
13 Utilities to accept such waste, or in violation of this act, or any rule or  
14 regulation adopted pursuant thereto; or

15 (2) transports, or receives transported, regulated medical waste  
16 without completing and submitting a manifest in accordance with this  
17 act, or any rule or regulation adopted pursuant thereto; shall, upon  
18 conviction, be guilty of a crime of the fourth degree.

19 j. A person who purposely, knowingly, or recklessly:

20 (1) generates and causes or permits to be transported any regulated  
21 medical waste to a facility or any other place in the State that does not  
22 have authorization from the Department of Environmental Protection  
23 and the Board of Public Utilities to accept such waste, or in violation  
24 of this act, or any rule or regulation adopted pursuant thereto; or

25 (2) violates any other provision of this act, or any rule or regulation  
26 adopted pursuant thereto, for which no other criminal penalty has been  
27 specifically provided for; shall, upon conviction, be guilty of a crime  
28 of the fourth degree.

29 k. All conveyances used or intended for use in the willful  
30 discharge, in violation of this act, or any rule or regulation adopted  
31 pursuant thereto, of regulated medical waste are subject to forfeiture  
32 to the State pursuant to P.L.1981, c.387 (C.13:1K-1 et seq.).

33 l. **【The provisions of N.J.S.2C:1-6 to the contrary notwithstanding,**  
34 **a prosecution for violation of subsection g., subsection h., subsection**  
35 **i., or subsection j. of this section shall be commenced within five years**  
36 **of the date of discovery of the violation.】** (Deleted by amendment,  
37 P.L. , c. (now before the Legislature as this bill))

38 m. No prosecution for a violation under this act shall be deemed to  
39 preclude a prosecution for the violation of any other applicable  
40 statute.<sup>1</sup>

41 (cf: P.L.1989, c.34, s.20)

42

43 <sup>1</sup>5. Section 10 of P.L.1984, c.173 (C.34:5A-41) is amended to read  
44 as follows:

45 10. Any person who knowingly hinders or delays the Commissioner  
46 of Labor or Health or the authorized representative thereof, in the

1 performance of the duty to enforce this act, or knowingly submits false  
2 or misleading information on any license or permit application required  
3 by this act, or fails to obtain licenses or permits required by the  
4 provisions of this act, or refuses to make these licenses or permits  
5 accessible to either commissioner, or the authorized representative  
6 thereof, or otherwise violates any provision of this act or any  
7 regulation adopted under this act, shall, upon conviction, be guilty of  
8 a crime of the third degree and, notwithstanding the provisions of  
9 N.J.S.2C:43-3, shall be subject to a fine of not more than \$25,000 in  
10 addition to any other appropriate disposition authorized by subsection  
11 b. of N.J.S.2C:43-2. **【Notwithstanding N.J.S.2C:1-6, any prosecution  
12 for a violation of this section shall be commenced within five years of  
13 the date of discovery of the violation.】<sup>1</sup>**

14 (cf: P.L.1994, c.21, s.11)

15

16 **‘【4.】 6.’** This act shall take effect immediately and shall apply to  
17 any offense committed for which the time limitation for bringing a  
18 prosecution against the person who committed the offense has not  
19 expired.

20

21

22

23

24 Amends statute of limitations for certain environmental criminal  
25 offenses.

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 2667

**STATE OF NEW JERSEY**

DATED: JUNE 12, 1997

The Assembly Judiciary Committee reports favorably Assembly Bill No. 2667 (1R).

This bill would revise the statute of limitations for criminal offenses under several of the State's major environmental laws. The bill would apply to violations of: the hazardous discharge, hazardous waste, and toxic pollutant provisions of N.J.S.2C:17-2; 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 the bill the statute of limitations for these six laws would be 10 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 also would consolidate the statute of limitations for the six laws within the appropriate section of Title 2C (the New Jersey Code of Criminal Justice).

Under current law, criminal offenses under the hazardous or toxic discharge or waste provisions of N.J.S.2C:17-2, the "Solid Waste Management Act," the "Comprehensive Regulated Medical Waste Management Act," and the asbestos law are subject to a statute of limitations that is set at five years from the date of discovery of the violation. Criminal offenses under the "Air Pollution Control Act (1954)" and the "Water Pollution Control Act" are subject to a statute of limitations that is set at five years from the commission of the offense.

ASSEMBLY ENVIRONMENT, SCIENCE AND TECHNOLOGY  
COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 2667**

with committee amendments

**STATE OF NEW JERSEY**

DATED: MAY 12, 1997

The Assembly Environment, Science and Technology Committee favorably reports Assembly Bill No. 2667 with committee amendments.

This bill, as amended by the committee, would revise the statute of limitations for criminal offenses under several of the State's major environmental laws. The bill, as amended, would apply to violations of: the hazardous discharge, hazardous waste, and toxic pollutant provisions of N.J.S.2C:17-2; 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 the bill, as amended by the committee, the statute of limitations for these six laws would be 10 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 as amended also would consolidate the statute of limitations for the six laws within the appropriate section of Title 2C (the New Jersey Code of Criminal Justice).

Under current law, criminal offenses under the hazardous or toxic discharge or waste provisions of N.J.S.2C:17-2, the "Solid Waste Management Act," the "Comprehensive Regulated Medical Waste Management Act," and the asbestos law are subject to a statute of limitations that is set at five years from the date of discovery of the violation. Criminal offenses under the "Air Pollution Control Act (1954)" and the "Water Pollution Control Act" are subject to a statute of limitations that is set at five years from the commission of the offense.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

[First Reprint]

**ASSEMBLY, No. 2667**

**STATE OF NEW JERSEY**

DATED: DECEMBER 11, 1997

The Senate Judiciary Committee reports favorably Assembly Bill No. 2667 (1R).

This bill would revise the statute of limitations for criminal offenses under several of the State's major environmental laws. A-2667 would apply to violations of: the hazardous discharge, hazardous waste, and toxic pollutant provisions of N.J.S.2C:17-2; 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(C13:1E-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 this bill, the statute of limitations for these six laws would be 10 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. This bill also would consolidate the statute of limitations for the six laws within the appropriate section of Title 2C (the New Jersey Code of Criminal Justice).

Under current law, criminal offenses under the hazardous of toxic discharge or waste provisions of N.J.S.2C:17-2, the "Solid Waste Management Act," the "Comprehensive Regulated Medical Waste Management Act," and the asbestos law are subject to a statute of imitations that is set at five years from the date of discovery of the violation. Criminal offenses under the "Air Pollution Control Act (1954)" and the "Water Pollution Control Act" are subject to a statute of limitations that is set at five years from the commission of the offense.