

12:1E-9.3

LEGISLATIVE HISTORY CHECKLIST
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(Railroad property--disposal of
solid waste)

NJSA: 12:1E-9.3

LAWS OF: 1995 **CHAPTER:** 11

BILL NO: S436

SPONSOR(S): Haines

DATE INTRODUCED: January 18, 1994

COMMITTEE: **ASSEMBLY:** ---
SENATE: Transportation

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

DATE OF PASSAGE: **ASSEMBLY:** December 5, 1994
SENATE: October 3, 1994

DATE OF APPROVAL: January 18, 1995

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: **ASSEMBLY:** No
SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

KBG:pp

[FIRST REPRINT]

SENATE, No. 436

STATE OF NEW JERSEY

INTRODUCED JANUARY 18, 1994

By Senator HAINES

1 AN ACT concerning the unlawful disposal of solid waste on
2 railroad property, and amending P.L.1989, c.118.

3

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

6 1. Section 2 of P.L.1989, c.118 (C.13:1E-9.3) is amended to
7 read as follows:

8 2. a. No person shall, regardless of intent, engage, or be
9 permitted to engage, in the collection or disposal of solid waste
10 in excess of 0.148 cubic yards of solids or 30 United States
11 gallons of liquids, whether for profit or otherwise, except at a
12 disposal site or any other place which has authorization from the
13 Department of Environmental Protection [or the Board of Public
14 Utilities] to accept solid waste.

15 b. No person shall, regardless of intent, transport or cause or
16 permit to be transported any solid waste in excess of 0.148 cubic
17 yards of solids or 30 United States gallons of liquids, whether for
18 profit or otherwise, to a disposal site or any other place which
19 does not have authorization from the Department of
20 Environmental Protection [or the Board of Public Utilities] to
21 accept solid waste.

22 c. ¹[The provisions of subsections a. or b. of this section to the
23 contrary notwithstanding, no No¹ person shall, regardless of
24 intent, cause, engage in or be permitted to engage in, the disposal
25 of any amount of solid waste on real property subject to the use,
26 control or ownership of a railroad company, unless such disposal
27 is expressly authorized by the railroad company and approved by
28 the Department of Environmental Protection. ¹[However, the
29 disposal of solid waste of 0.148 cubic yards of solids or less or 30
30 United States gallons of liquids or less shall be subject to the
31 provisions of section 8 of P.L.1985, c.533 (C.13:1E-99.3).]¹

32 d. The provisions of this section shall be enforced by the
33 Department of Environmental Protection [or the Board of Public
34 Utilities] and by every municipality, local board of health, or
35 county health department, as the case may be.

36 (cf: P.L.1989, c.118, s.2)

37 2. Section 3 of P.L.1989, c.118 (C.13:1E-9.4) is amended to
38 read as follows:

39 3. a. Any person who violates the provisions of ¹subsections a.
40 or b. of¹ section 2 of P.L.1989, c.118 (C.13:1E-9.3) commits a
41 disorderly persons offense.

42 b. Any person convicted of a violation of the provisions of
43 ¹subsections a. or b. of¹ section 2 of P.L.1989, c.118

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate floor amendments adopted May 23, 1994.

1 (C.13:1E-9.3) is subject to a fine of not less than \$2,500.00 for a
 2 first offense, not more than \$5,000.00 for a second offense and
 3 not more than \$10,000.00 for a third and every subsequent
 4 offense. Each day during which the violation continues
 5 constitutes an additional, separate and distinct offense.

6 c. If a person is convicted of a violation of the provisions of
 7 subsections a. or b. of¹ section 2 of P.L.1989, c.118
 8 (C.13:1E-9.3), the court shall, in addition to the penalties
 9 provided under subsection b. of this section, require the person to
 10 perform community service for a term of not more than 90 days,
 11 and the person shall forthwith forfeit his right to operate a motor
 12 vehicle over the highways of this State for a period of not less
 13 than six months nor more than one year.

14 d. All conveyances used or intended for use in the unlawful
 15 transportation or disposal of solid waste in violation of the
 16 provisions of subsections a. or b. of¹ section 2 of P.L.1989, c.118
 17 (C.13:1E-9.3) are subject to forfeiture to the State pursuant to
 18 the provisions of P.L.1981, c.387 (C.13:1K-1 et seq.).

19 e. The provisions of P.L.1981, c.387 (C.13:1K-1 et seq.) or any
 20 other law to the contrary notwithstanding, whenever a
 21 conveyance is forfeited to the State pursuant to subsection d. of
 22 this section, the proceeds from the disposal and sale of such
 23 conveyance shall be remitted to the chief financial officer of the
 24 municipality wherein the violation occurred, to be used by the
 25 municipality to help finance enforcement activities undertaken
 26 pursuant to section 13 of P.L.1970, c.40 (C.48:13A-12) or section
 27 2 of P.L.1989, c.118 (C.13:1E-9.3).

28 f. ¹[If a] A¹ person ¹[is]¹ convicted of a violation of the
 29 provisions of subsection c. of section 2 of P.L.1989, c.118
 30 (C.13:1E-9.3)¹, in addition to the penalties provided under
 31 subsection b. of this section, the person¹ shall be liable to the
 32 railroad company ¹[for civil penalties]¹ in the amount of three
 33 times the damages caused directly or indirectly by the unlawful
 34 disposal together with three times the costs associated with the
 35 cleanup of the real property upon which the violation occurred,
 36 including, but not limited to, all attorneys' fees and costs ¹which
 37 the railroad company may reasonably expend in a civil suit
 38 brought in a court of competent jurisdiction to collect the sums
 39 imposed by this subsection. In any such suit, a final judgment of
 40 conviction shall be admissible as conclusive proof that the person
 41 violated the provisions of subsection c. of section 2 of P.L.1989,
 42 c.118 (C.13:1E-9.3)¹.

43 ¹[g. Notwithstanding the provisions of this section to the
 44 contrary, if the disposal of solid waste is subject to the provisions
 45 of section 8 of P.L. 1958, c.533 (C.13:1E-99.3) only the penalties
 46 provided in section 10 of P.L.1985, c.533 (C.13:1E-99.5) for that
 47 violation shall apply.]¹

48 (cf: P.L.1989, c.118, s.3)

49 3. This act shall take effect immediately.

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 54 Creates a separate offense for the unlawful disposal of solid
 55 waste on railroad property.

1 section 2 of P.L.1989, c.118 (C.13:1E-9.3) is subject to a fine of
2 not less than \$2,500.00 for a first offense, not more than
3 \$5,000.00 for a second offense and not more than \$10,000.00 for a
4 third and every subsequent offense. Each day during which the
5 violation continues constitutes an additional, separate and
6 distinct offense.

7 c. If a person is convicted of a violation of the provisions of
8 section 2 of P.L.1989, c.118 (C.13:1E-9.3), the court shall, in
9 addition to the penalties provided under subsection b. of this
10 section, require the person to perform community service for a
11 term of not more than 90 days, and the person shall forthwith
12 forfeit his right to operate a motor vehicle over the highways of
13 this State for a period of not less than six months nor more than
14 one year.

15 d. All conveyances used or intended for use in the unlawful
16 transportation or disposal of solid waste in violation of the
17 provisions of section 2 of P.L.1989, c.118 (C.13:1E-9.3) are
18 subject to forfeiture to the State pursuant to the provisions of
19 P.L.1981, c.387 (C.13:1K-1 et seq.).

20 e. The provisions of P.L.1981, c.387 (C.13:1K-1 et seq.) or any
21 other law to the contrary notwithstanding, whenever a
22 conveyance is forfeited to the State pursuant to subsection d. of
23 this section, the proceeds from the disposal and sale of such
24 conveyance shall be remitted to the chief financial officer of the
25 municipality wherein the violation occurred, to be used by the
26 municipality to help finance enforcement activities undertaken
27 pursuant to section 13 of P.L.1970, c.40 (C.48:13A-12) or section
28 2 of P.L.1989, c.118 (C.13:1E-9.3).

29 f. If a person is convicted of a violation of the provisions of
30 subsection c. of section 2 of P.L.1989, c.118 (C.13:1E-9.3), in
31 addition to the penalties provided under subsection b. of this
32 section, the person shall be liable to the railroad company for
33 civil penalties in the amount of three times the damages caused
34 directly or indirectly by the unlawful disposal together with three
35 times the costs associated with the cleanup of the real property
36 upon which the violation occurred, including, but not limited to,
37 all attorneys' fees and costs.

38 g. Notwithstanding the provisions of this section to the
39 contrary, if the disposal of solid waste is subject to the provisions
40 of section 8 of P.L. 1958, c.533 (C.13:1E-99.3) only the penalties
41 provided in section 10 of P.L.1985, c.533 (C.13:1E-99.5) for that
42 violation shall apply.

43 (cf: P.L.1989, c.118, s.3)

44 3. This act shall take effect immediately.

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STATEMENT

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49 This bill would amend P.L.1989, c.118 to establish that the
50 unlawful disposal of solid waste upon real property owned or used
51 by a railroad company is a separate disorderly persons offense
52 with a minimum fine of \$2,500 for the first offense and providing
53 for other penalties.

54 Specifically, the bill provides that no person may, regardless of

1 intent, cause, engage in or be permitted to engage in, the disposal
2 of solid waste, in amounts exceeding 0.148 cubic yards of solids
3 or 30 United States gallons of liquids, on real property owned or
4 used by a railroad company without the express prior
5 authorization of the railroad company and approval of the
6 Department of Environmental Protection.

7 Further, the bill provides that a person who is convicted of this
8 offense would additionally be liable to the railroad company for
9 civil penalties in the amount of three times the damages caused
10 directly or indirectly by the unlawful disposal, as well as three
11 times the costs associated with the cleanup of the real property
12 upon which the violation occurred, including, but not limited to,
13 all attorneys' fees and costs. The penalties for littering,
14 however, would apply to disposals of 0.148 cubic yards or less of
15 solids or 30 or fewer United States gallons of liquid, which is the
16 amount which can be held in the average 30 gallon plastic trash
17 bag and is consistent with subsections a. and b. of section 2 of
18 P.L.1989, c.118 (C.13:1E-9.3).

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23 Creates a separate offense for the unlawful disposal of solid
24 waste on railroad property.

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SENATE TRANSPORTATION COMMITTEE

STATEMENT TO

SENATE, No. 436

STATE OF NEW JERSEY

DATED: FEBRUARY 24, 1994

The Senate Transportation Committee favorably reports Senate Bill No. 436.

This bill would amend P.L.1989, c.118 to establish that the unlawful disposal of solid waste upon real property owned or used by a railroad company is a separate disorderly persons offense with a minimum fine of \$2,500 for the first offense and providing for other penalties.

Specifically, the bill provides that no person may, regardless of intent, cause, engage in or be permitted to engage in, the disposal of solid waste, in amounts exceeding 0.148 cubic yards of solids or 30 United States gallons of liquids, on real property owned or used by a railroad company without the express prior authorization of the railroad company and approval of the Department of Environmental Protection.

Further, the bill provides that a person who is convicted of this offense would additionally be liable to the railroad company for civil penalties in the amount of three times the damages caused directly or indirectly by the unlawful disposal, as well as three times the costs associated with the cleanup of the real property upon which the violation occurred, including, but not limited to, all attorneys' fees and costs. The penalties for littering, however, would apply to disposals of 0.148 cubic yards or less of solids or 30 or fewer United States gallons of liquid, which is the amount which can be held in the average 30 gallon plastic trash bag and is consistent with subsections a. and b. of section 2 of P.L.1989, c.118 (C.13:1E-9.3).
