

26:2C-9

LEGISLATIVE HISTORY CHECKLIST
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(Air pollution--registration)

NJSA: 26:2C-9

LAWS OF: 1993 **CHAPTER:** 257

BILL NO: A2692

SPONSOR(S) Kramer

DATE INTRODUCED: June 10, 1993

COMMITTEE: **ASSEMBLY:** Energy and Hazardous Waste
SENATE: ---

AMENDED DURING PASSAGE: No

DATE OF PASSAGE: **ASSEMBLY:** June 21, 1993
SENATE: June 21, 1993

DATE OF APPROVAL: August 13, 1993

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

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

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

KBG:pp

ASSEMBLY, No. 2692

STATE OF NEW JERSEY

INTRODUCED JUNE 10, 1993

By Assemblyman KRAMER and Assemblywoman OGDEN

1 **AN ACT** concerning the availability of certain air pollution
2 registration information and amending P.L.1954, c.212.

3

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

6 1. Section 9 of P.L.1954, c.212 (C.26:2C-9) is amended to read
7 as follows:

8 9. The department shall control air pollution in accordance
9 with the provisions of any applicable code, rule or regulation
10 promulgated by the department and for this purpose shall have
11 power to--

12 (a) Conduct and supervise research programs for the purpose of
13 determining the causes, effects and hazards of air pollution;

14 (b) Conduct and supervise Statewide programs of air pollution
15 control education including the preparation and distribution of
16 information relating to air pollution control;

17 (c) Require the registration of persons engaged in operations
18 which may result in air pollution and the filing of reports by them
19 containing information relating to location, size of outlet, height
20 of outlet, rate and period of emission and composition of
21 effluent, and such other information as the department shall
22 prescribe to be filed relative to air pollution, all in accordance
23 with applicable codes, rules or regulations established by the
24 department. Registration reports filed with the department
25 shall be privileged and not admissible in evidence in any court;

26 (d) Enter and inspect any building or place, except private
27 residences, for the purpose of investigating an actual or
28 suspected source of air pollution and ascertaining compliance or
29 noncompliance with any code, rules and regulations of the
30 department. Any information relating to secret processes or
31 methods of manufacture or production obtained in the course of
32 such inspection, investigation or determination, shall be kept
33 confidential and shall not be admissible in evidence in any court
34 or in any other proceeding except before the department as
35 herein defined. If samples are taken for analysis, a duplicate of
36 the analytical report shall be furnished promptly to the person
37 suspected of causing air pollution;

38 (e) Receive or initiate complaints of air pollution, hold hearings
39 in connection with air pollution and institute legal proceedings
40 for the prevention of air pollution and for the recovery of
41 penalties, in accordance with this act;

42 (f) With the approval of the Governor, cooperate with, and

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

Matter underlined thus is new matter.

1 receive money from, the Federal Government, the State
2 Government, or any county or municipal government or from
3 private sources for the study and control of air pollution;

4 (g) The department may in accordance with a fee schedule
5 adopted as a rule or regulation establish and charge fees for any
6 of the services it performs, which fees shall be annual or periodic
7 as the department shall determine. The fees charged by the
8 department pursuant to this section shall not be less than \$10.00
9 nor more than \$500.00 based on criteria contained in the fee
10 schedule.

11 (cf: P.L.1971, c.155, s.1)

12 2. This act shall take effect immediately.
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15 STATEMENT 16

17 This bill would amend the "Air Pollution Control Act (1954)" to
18 delete the requirement that registration reports filed with the
19 Department of Environmental Protection be privileged
20 information and not admissible in any court. According to the
21 United States Environmental Protection Agency (EPA), this
22 amendment is critical to State compliance with Title V of the
23 Clean Air Act Amendments of 1990 (42 U.S.C.7861 et seq.).

24 The Clean Air Act mandated Operating Permit Program poses
25 a major challenge to State permitting authorities. By November
26 15, 1993, each state must submit to EPA for approval an
27 operating permit program that meets the requirements of Title V
28 and all regulations adopted pursuant thereto.

29 Title V requires each affected facility, as defined in the Act,
30 to apply to the State permitting authority for an operating
31 permit. An operating permit does not impose substantive new
32 emission control requirements on impacted facilities. An
33 operating permit is a facility specific permit that groups all air
34 pollution control requirements for that facility into one permit.

35 A specific federal requirement of the State's Operating Permit
36 Program is that operating permit applications be submitted to the
37 department as registration statements and be enforceable and
38 available as public information. This bill would amend current
39 law to provide for this.

40 Failure to implement an operating permit program could
41 subject New Jersey to federal sanctions that could involve the
42 federal government taking over the implementation of the
43 operating permit program. The consequence of the imposition of
44 this sanction would be that businesses' would be subject to
45 separate State and federal permitting requirements. This
46 separation of permitting authority would subject business to many
47 duplicative and time consuming permitting requirements.
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53 Makes available certain information filed with air pollution
registration reports.

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52 Makes available certain information filed with air pollution
53 registration reports.

ASSEMBLY ENERGY AND HAZARDOUS WASTE COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2692

STATE OF NEW JERSEY

DATED: JUNE 14, 1993

The Assembly Energy and Hazardous Waste Committee favorably reports Assembly, No. 2692.

This bill would amend the "Air Pollution Control Act (1954)" to delete the requirement that registration reports filed with the Department of Environmental Protection be privileged information and not admissible in any court. According to the United States Environmental Protection Agency (EPA), this amendment is required for State compliance with Title V of the Clean Air Act Amendments of 1990 (42 U.S.C.7661 et seq.).

Title V requires each affected facility, as defined in the Clean Air Act, to apply to the State permitting authority for an operating permit. An operating permit is a facility specific permit that groups all air pollution control requirements for that facility into one permit. It does not impose substantive new emission control requirements on impacted facilities

A specific federal requirement of the State's Operating Permit Program is that operating permit applications be submitted to the department as registration statements and be enforceable and available as public information. This bill would amend current law to provide for this public access.