

48:13A-1

LEGISLATIVE HISTORY CHECKLIST
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NJSA: 48:13A-1

(Food
transportation
trucks--unlawful)

LAWS OF: 1991

CHAPTER: 214

Bill No: A1817

Sponsor(s): McEnroe

Date Introduced: Pre-filed

Committee: Assembly: Waste Management

Senate: Land Use

Amended during passage: Yes According to Governor's recommendations;
amendments denoted by asterisks.

Date of Passage: Assembly: November 19, 1990

Senate: March 14, 1991

Date of Approval: July 24, 1991

Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly: Yes

Senate: Yes

Fiscal Note: No

Veto Message: Yes

Message on signing: No

Following were printed:

Reports: No

Hearings: No

KBG/SLJ

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1990 SESSION

By Assemblyman McENROE, Assemblywoman FARRAGHER,
Assemblymen Mazur and Baer

1 AN ACT concerning the unlawful transportation of solid waste,
2 and supplementing P.L.1970, c.40 (C.48:13A-1 et seq.).

3

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

6 1. a. ²Except as provided in subsections b., c. or d.,² No
7 vehicle, including any truck, trailer or other haulage vehicle
8 other than a truck tractor, ²[owned or operated by any person
9 engaging in] utilized for the transportation of solid waste in this
10 State shall be subsequently utilized for² the transportation of
11 fresh food or fresh food products, including meat, poultry,
12 produce or other non-processed fresh food products intended for
13 sale for² human consumption ²[, shall be utilized for the
14 transportation of solid waste in this State]². The presence of
15 refrigeration equipment in a vehicle shall be prima facie evidence
16 that the vehicle is used for the transportation of fresh food or
17 fresh food products ², unless the vehicle is lawfully registered,
18 equipped and operated for the transportation of medical waste².

19 b. No ²[solid waste haulage]² vehicle which is ²[designed and
20 operated] registered pursuant to State solid waste laws and
21 regulations² for lawful solid waste transportation activities in
22 this State shall be utilized ²[by any person or business concern]²
23 for the transportation of fresh food or fresh food products,
24 including meat, poultry, produce or other non-processed fresh
25 food products intended for sale for² human consumption, unless
26 that vehicle has been appropriately cleaned and sanitized ²in
27 accordance with rules and regulations adopted by the Department
28 of Environmental Protection, after consultation with the
29 Department of Health,² prior to ²any² use for the transportation
30 of fresh food or fresh food products. ²The Department of
31 Environmental Protection may adopt rules and regulations
32 requiring notification, recordkeeping or reporting of the use of
33 registered vehicles for the transportation of fresh food or fresh
34 food products.²

35 c. The provisions of this section shall not apply to any vehicles
36 utilized for the transportation of source separated recyclable
37 materials as defined in section 2 of P.L.1987, c.102

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 February 28, 1991.

² Assembly amendments adopted in accordance with Governor's
recommendations June 10, 1991.

1 (C.13:1E-99.12) ²[or regulated medical waste as defined in
2 section 3 of P.L.1989, c.34 (C.13:1E-48.3)]².

3 ¹d. A vehicle, including any truck, trailer or other haulage
4 vehicle other than a truck tractor, owned or operated by any
5 person engaging in the transportation of fresh produce intended
6 for human consumption, may be utilized for the transportation of
7 vegetative waste material generated from the fresh produce that
8 was transported in that vehicle if the vegetative waste material
9 is transported without delay to a vegetative waste composting
10 facility.¹

11 2. a. Any ²[person] owner or operator² who ²knowingly²
12 violates the provisions of section 1 of P.L.1990, c. (C.) (now
13 before the Legislature as this bill) is guilty of a crime of the third
14 degree.

15 b. The provisions of N.J.S.2C:43-3 to the contrary
16 notwithstanding, any person convicted of a violation of the
17 provisions of section 1 of P.L.1990, c. (C.) (now before the
18 Legislature as this bill) is subject to a fine of not less than
19 \$7,500.00 for a first offense, not more than \$10,000.00 for a
20 second offense and not more than \$25,000.00 for a third and
21 every subsequent offense. Each day during which the violation
22 continues constitutes an additional, separate and distinct offense.

23 c. If a person is convicted of a violation of the provisions of
24 section 1 of P.L.1990, c. (C.) (now before the Legislature as
25 this bill), the court shall, in addition to the penalties provided
26 under this section, require the person to perform community
27 service for a term of not more than 90 days, and the person shall
28 forthwith forfeit his right to operate a motor vehicle over the
29 highways of this State for a period of not less than six months nor
30 more than one year.

31 d. All conveyances used or intended for use in the unlawful
32 transportation of solid waste in violation of the provisions of
33 section 1 of P.L.1990, c. (C.) (now before the Legislature as
34 this bill) are subject to forfeiture to the State pursuant to the
35 provisions of P.L.1981, c.387 (C.13:1K-1 et seq.).

36 3. This act shall take effect immediately.
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39 WASTE MANAGEMENT

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41 Prohibits persons operating vehicles utilized for the
42 transportation of food to utilize that vehicle for the
43 transportation of solid waste.

1 under this section, require the person to perform community
2 service for a term of not more than 90 days, and the person shall
3 forthwith forfeit his right to operate a motor vehicle over the
4 highways of this State for a period of not less than six months nor
5 more than one year.

6 d. All conveyances used or intended for use in the unlawful
7 transportation of solid waste in violation of the provisions of
8 section 1 of P.L.1989, c. (C.) (now before the Legislature as
9 this bill) are subject to forfeiture to the State pursuant to the
10 provisions of P.L.1981, c.387 (C.13:1K-1 et seq.).

11 3. This act shall take effect immediately.
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14 STATEMENT 15

16 This bill would regulate the "backhauling" of solid waste in
17 trailer trucks that are used for the transportation of food.
18 Specifically, the bill would prohibit the use of any vehicle,
19 including any truck, trailer or other haulage vehicle other than a
20 truck tractor, owned or operated by any person engaging in the
21 transportation of fresh food or fresh food products, including
22 meat, poultry, produce or other non-processed fresh food
23 products intended for human consumption, to be utilized for the
24 transportation of solid waste in this State. The presence of
25 refrigeration equipment in a vehicle would be considered prima
26 facie evidence that the vehicle is used for the transportation of
27 fresh food or fresh food products.

28 The bill would also provide that no solid waste haulage vehicle
29 which is operated for solid waste transportation purposes may be
30 utilized by any person or business concern for the transportation
31 of fresh food or fresh food products unless that vehicle has been
32 appropriately cleaned and sanitized prior to use for the
33 transportation of fresh food or fresh food products.

34 The bill would not apply to any vehicles utilized for the
35 transportation of source separated recyclable materials as
36 defined in P.L.1987, c.102 (C.13:1E-99.11 et al.) or regulated
37 medical waste as defined in P.L.1989, c.34 (C.13:1E-48.1 et seq.).

38 Any person who violates the provisions of this bill is guilty of a
39 crime of the third degree. Any person convicted of a violation of
40 the provisions of this bill is subject to a fine of not less than
41 \$7,500.00 for a first offense, not more than \$10,000.00 for a
42 second offense and not more than \$25,000.00 for a third and
43 every subsequent offense. Each day during which the violation
44 continues constitutes an additional, separate and distinct offense.

45 If a person is convicted of a violation of the provisions of this
46 bill, in addition to the aforementioned penalties, the court would
47 require that person to perform up to 90 days of community

1 service, and the person would forthwith forfeit his right to
2 operate a motor vehicle in this State for at least six months and
3 up to one year.

4 The bill would also provide that all conveyances used or
5 intended for use in the unlawful transportation of solid waste in
6 violation of the provisions of this bill are subject to forfeiture to
7 the State.

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WASTE MANAGEMENT

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Prohibits persons operating vehicles utilized for the
transportation of food to utilize that vehicle for the
transportation of solid waste.

ASSEMBLY WASTE MANAGEMENT, PLANNING
AND RECYCLING COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1817

STATE OF NEW JERSEY

DATED: SEPTEMBER 17, 1990

The Assembly Waste Management, Planning and Recycling Committee favorably reports Assembly Bill No. 1817.

This bill would regulate the "backhauling" of solid waste in trailer trucks that are used for the transportation of food. Specifically, the bill would prohibit the use of any vehicle, including any truck, trailer or other haulage vehicle other than a truck tractor, owned or operated by any person engaging in the transportation of fresh food or fresh food products, including meat, poultry, produce or other non-processed fresh food products intended for human consumption, for the transportation of solid waste in this State. The presence of refrigeration equipment in a vehicle would be considered prima facie evidence that the vehicle is used for the transportation of fresh food or fresh food products.

The bill would also provide that no solid waste haulage vehicle that is operated for solid waste transportation purposes may be utilized by any person or business concern for the transportation of fresh food or fresh food products unless that vehicle has been appropriately cleaned and sanitized prior to use for the transportation of fresh food or fresh food products.

The bill would not apply to any vehicles utilized for the transportation of source separated recyclable materials as defined in P.L.1987, c.102 (C.13:1E-99.11 et al.) or regulated medical waste as defined in P.L.1989, c.34 (C.13:1E-48.1 et seq.).

Any person who violates the provisions of this bill would be guilty of a crime of the third degree. Any person convicted of a violation of the provisions of this bill would be subject to a fine of not less than \$7,500.00 for a first offense, not more than \$10,000.00 for a second offense and not more than \$25,000.00 for a third and every subsequent offense. Each day during which the violation continues would constitute an additional, separate and distinct offense.

If a person is convicted of a violation of the provisions of this bill, in addition to the aforementioned penalties, the court would require that person to perform up to 90 days of community service, and the person would forthwith forfeit his right to operate a motor vehicle in this State for at least six months and up to one year.

The bill would also provide that all conveyances used or intended for use in the unlawful transportation of solid waste in violation of the provisions of this bill are subject to forfeiture to the State.

This bill was prefiled for introduction in the 1990 session pending technical review. As reported the bill includes the changes required by technical review, which has been completed.

SENATE LAND USE MANAGEMENT
AND REGIONAL AFFAIRS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1817

STATE OF NEW JERSEY

DATED: JANUARY 10, 1991

The Senate Land Use Management and Regional Affairs Committee favorably reports Assembly Bill No. 1817.

Assembly Bill No. 1817 would regulate the "backhauling" of solid waste in trailer trucks that are used for the transportation of food. Specifically, the bill would prohibit the use of any vehicle, including any truck, trailer or other haulage vehicle other than a truck tractor, owned or operated by any person engaging in the transportation of fresh food or fresh food products, including meat, poultry, produce or other non-processed fresh food products intended for human consumption, for the transportation of solid waste in this State. The presence of refrigeration equipment in a vehicle would be considered prima facie evidence that the vehicle is used for the transportation of fresh food or fresh food products.

The bill would also provide that no solid waste haulage vehicle that is operated for solid waste transportation purposes may be utilized by any person or business concern for the transportation of fresh food or fresh food products unless that vehicle has been appropriately cleaned and sanitized prior to use for the transportation of fresh food or fresh food products.

The bill would not apply to any vehicles utilized for the transportation of source separated recyclable materials as defined in P.L.1987, c.102 (C.13:1E-99.11 et al.) or regulated medical waste as defined in P.L.1989, c.34 (C.13:1E-48.1 et seq.).

Any person who violates the provisions of this bill would be guilty of a crime of the third degree. Any person convicted of a violation of the provisions of this bill would be subject to a fine of not less than \$7,500.00 for a first offense, not more than \$10,000.00 for a second offense and not more than \$25,000.00 for a third and every subsequent offense. Each day during which the violation continues would constitute an additional, separate and distinct offense.

If a person is convicted of a violation of the provisions of this bill, in addition to the aforementioned penalties, the court would require that person to perform up to 90 days of community service, and the person would forthwith forfeit his right to operate a motor vehicle in this State for at least six months and up to one year.

The bill would also provide that all conveyances used or intended for use in the unlawful transportation of solid waste in violation of the provisions of this bill are subject to forfeiture to the State.

Assembly Bill No. 1817 is identical to Senate Bill No. 3098.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

June 10, 1991

ASSEMBLY BILL NO. 1817

(First Reprint)

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Assembly Bill No. 1817 (First Reprint) with my objections for reconsideration.

This bill would protect the citizens of New Jersey by curbing so-called "backhauling" practices, where the same trucks are used to haul both garbage and fresh food products, such as poultry or vegetables. These questionable practices have emerged in recent years as haulers transporting garbage to distant landfills have sometimes turned to the backhauling of various food commodities to utilize excess capacity on their return trips.

As a result, I fully support this timely legislation as a means to halt these dangerous practices and safeguard the quality and purity of New Jersey food supplies.

After careful review of this bill, however, I believe that the key backhauling prohibitions contained in this bill can be further clarified and strengthened to ensure their enforceability by State law enforcement officials. The need for clarity in defining this new form of criminal conduct is critical since this bill would classify illegal backhauling as a third degree crime in New Jersey, and could subject a convicted offender to as many as three to five years of imprisonment.

With the inclusion of the amendments I am recommending, the bill would initially establish a broad prohibition on backhauling practices by solid waste transporters. This modified provision would clearly define a backhauling violation to include any case where a vehicle is first utilized to haul solid waste and subsequently utilized to transport fresh food.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

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Also, the exemptions to this ban would be more narrowly defined to ensure that any permissible usage of a vehicle to haul both solid waste and food would be subject to closer scrutiny and tighter control by our State agencies.

Accordingly, a registered solid waste vehicle would not be allowed to transport food products unless the vehicle is first cleaned and sanitized in accordance with regulations adopted by the Department of Environmental Protection, in close consultation with the Department of Health. To monitor any backhauling activities that may occur, the Department of Environmental Protection would be authorized to require notification, recordkeeping and reporting by solid waste transporters.

I am also recommending amendments that would remove the statutory exemption for regulated medical waste. I believe that the sensible health protections afforded by this bill should apply equally to these additional waste materials, which may contain high concentrations of dangerous infectious agents.

To ensure that medical waste transporters carrying refrigeration equipment are not mistaken for food trucks, I am also proposing the modification of a statutory provision which defines the presence of refrigeration equipment in a vehicle as prima facie evidence that the vehicle is used for food transport. Based on my recommended amendments, this provision would not apply to vehicles that are properly registered, equipped and operated for the transportation of regulated medical waste.

For these reasons, I herewith return Assembly Bill No. 1817 (First Reprint) and recommend that it be amended as follows:

Page 1, Section 1, Line 6:

Before "No vehicle" insert
"Except as provided in
subsections b., c. or d.,"

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EXECUTIVE DEPARTMENT

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- Page 1, Section 1, Lines 7-8: Delete "owned or operated by any person engaging in" insert "utilized for the transportation of solid waste in this State shall be subsequently utilized for"
- Page 1, Section 1, Line 10: After "intended for" insert "sale for"
- Page 1, Section 1, Lines 10-11: After "human consumption" delete ", shall be utilized for the transportation of solid waste in this State"
- Page 1, Section 1, Line 14: After "food products" insert ", unless the vehicle is lawfully registered, equipped and operated for the transportation of regulated medical waste"
- Page 1, Section 1, Line 15: After "No" delete "solid waste haulage"
- Page 1, Section 1, Lines 15-16: After "which is" delete "designed and operated" insert "registered pursuant to State solid waste laws and regulations"
- Page 1, Section 1, Line 17: After "utilized" delete "by any person or business concern"

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Page 1, Section 1, Line 20: After "intended for" insert
"sale for"

Page 1, Section 1, Line 21: After "cleaned and sanitized"
insert "in accordance with
rules and regulations adopted
by the Department of
Environmental Protection,
after consultation with the
Department of Health,"

Page 1, Section 1, Line 21: After "prior to" insert "any"

Page 1, Section 1, Line 22: After "fresh food products."
insert "The Department of
Environmental Protection may
adopt rules and regulations
requiring notification,
recordkeeping or reporting of
the use of registered
vehicles for the
transportation of fresh food
or fresh food products."

Page 1, Section 1, Lines 26-27: After "(C.13:1E-99.12)"
delete "or regulated medical
waste as defined in section 3
of P.L.1989, c.34(C.13:1E-
48.3)"

Page 1, Section 2, Line 36: After "any" delete "person"
insert "owner or operator"

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EXECUTIVE DEPARTMENT

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Page 1, Section 2, Line 36:

After "who" insert "knowingly"

Respectfully,

/s/ James J. Florio

GOVERNOR

[seal]

Attest:

/s/ Andrew Weber

Chief Counsel to the Governor