

26:2C-1

LEGISLATIVE HISTORY CHECKLIST  
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NJSA: 26:2C-1

(Air Pollution  
Control Act--  
penalties)

LAWS OF: 1989

CHAPTER: 333

Bill No: A3832

Sponsor(s): Bennett

Date Introduced: October 13, 1988

Committee: Assembly: Environmental Quality

Senate: Energy & Environment

Amended during passage: No

Date of Passage: Assembly: September 28, 1989

Senate: January 8, 1990

Date of Approval: January 12, 1990

Following statements are attached if available:

Sponsor statement: Yes (Below)

Committee Statement: Assembly: Yes

Senate: Yes

Fiscal Note: No

Veto Message: No

Message on signing: No

Following were printed:

Reports: No

Hearings: No

(over)

**Sponsor's statement:**

This bill would establish criminal penalties of the third or fourth degree, depending on the state of mind of the defendant, for violations of the "Air Pollution Control Act (1954)." Current law provides for civil penalties.

**KBG/SLJ**

1 **AN ACT concerning air pollution and amending P.L.1954, c.212.**

2

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

5 1. Section 19 of P.L.1954, c.212 (C.26:2C-19) is amended to  
6 read as follows:

7 19. a. If any person violates any of the provisions of this act  
8 or any code, rule, regulation or order promulgated or issued  
9 pursuant to the provisions of this act, the department may  
10 institute a civil action in a court of competent jurisdiction for  
11 injunctive or any other appropriate relief to prohibit and prevent  
12 such violation or violations and the said court may proceed in the  
13 action in a summary manner.

14 b. Any person who violates the provisions of this act or any  
15 code, rule, regulation or order promulgated or issued pursuant to  
16 this act shall be liable to a civil administrative penalty of not  
17 more than \$10,000.00 for the first offense, not more than  
18 \$25,000.00 for the second offense, and not more than \$50,000.00  
19 for the third and each subsequent offense. If the violation is of a  
20 continuing nature, each day during which it continues shall  
21 constitute an additional, separate and distinct offense. No civil  
22 administrative penalty shall be levied except upon an  
23 administrative order issued pursuant to section 14 of P.L.1954,  
24 c.212 (C.26:2C-14).

25 c. The department is hereby authorized and empowered to  
26 compromise and settle any claim for a penalty under this section  
27 in such amount in the discretion of the department as may appear  
28 appropriate and equitable under all of the circumstances.

29 d. Any person who violates the provisions of P.L.1954, c.212  
30 (C.26:2C-1 et seq.) or any code, rule, regulation, or order  
31 promulgated or issued pursuant to that act, or a court order  
32 issued pursuant to subsection a. of this section, or who fails to  
33 pay a civil administrative penalty in full pursuant to section 9 of  
34 P.L.1982, c.215 (C.26:2C-14.1), is subject, upon order of the  
35 court, to a civil penalty of not more than \$10,000.00 for the first

**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 offense, not more than \$25,000.00 for the second offense, and not  
2 more than \$50,000.00 for the third and each subsequent offense.  
3 If the violation is of a continuing nature, each day during which  
4 the violation continues, or each day in which the civil  
5 administrative penalty is not paid in full, constitutes an  
6 additional, separate and distinct offense. Any penalty imposed  
7 under this subsection may be recovered with costs in a summary  
8 proceeding pursuant to "the penalty enforcement law"  
9 (N.J.S.2A:58-1 et seq.). The Law Division of the Superior Court  
10 has jurisdiction to enforce "the penalty enforcement law."

11 e. A person who causes a release of air contaminants in a  
12 quantity or concentration which poses a potential threat to public  
13 health, welfare or the environment or which might reasonably  
14 result in citizen complaints shall immediately notify the  
15 department. A person who fails to so notify the department is  
16 liable to the penalties and procedures prescribed in this section.

17 f. Any person who:

18 (1) purposely or knowingly violates the provisions of P.L.1954,  
19 c.212 (C.26:2C-1 et seq.), or any code, rule, regulation,  
20 administrative order, or court order promulgated or issued  
21 pursuant thereto, is guilty of a crime of the third degree;

22 (2) recklessly violates the provisions of P.L.1954, c.212  
23 (C.26:2C-1 et seq.), or any code, rule, regulation, administrative  
24 order, or court order promulgated or issued pursuant thereto, is  
25 guilty of a crime of the fourth degree.

26 (cf: P.L.1985, c.12, s.1)

27 2. This act shall take effect immediately.

28

29

### STATEMENT

30

31 This bill would establish criminal penalties of the third or  
32 fourth degree, depending on the state of mind of the defendant,  
33 for violations of the "Air Pollution Control Act (1954)." Current  
34 law provides only for civil penalties.

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### ENVIRONMENT

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#### Air and Water Pollution

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39 Provides criminal penalties for violations of "Air Pollution  
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ASSEMBLY ENVIRONMENTAL QUALITY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3832

STATE OF NEW JERSEY

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DATED: JANUARY 26, 1989

Assembly Bill No. 3832 is reported favorably by the committee.

This bill establishes criminal penalty for purposely, knowingly or recklessly violates the provisions of the "Air Pollution Control Act (1954)," P.L.1954, c.212 (C.26:2C-1 et seq.).

A person who purposely or knowingly violates any provision of the Air Pollution Control Act, or code, rule, regulation or order promulgated or issued thereunder, shall be guilty of a crime of the third degree. A person who recklessly violates any of the foregoing provisions or order issued thereunder shall be guilty of a crime of the fourth degree. Monetary penalties (i.e., fines or restitutions) for both a crime of the third or fourth degree may not exceed \$7,500. The term of imprisonment for a crime of the third degree is three to five years, and may not to exceed 18 months for a crime of the fourth degree.

SENATE ENERGY AND ENVIRONMENT COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3832

STATE OF NEW JERSEY

DATED: DECEMBER 14, 1989

The Senate Energy and Environment Committee favorably reports Assembly Bill No. 3832.

This bill would establish criminal penalties for any person who purposely, knowingly or recklessly violates the provisions of the "Air Pollution Control Act (1954)," P.L.1954, c.212 (C.26:2C-1 et seq.).

A person who purposely or knowingly violates any provision of the "Air Pollution Control Act (1954)," or code, rule, regulation or order promulgated or issued thereunder, shall be guilty of a crime of the third degree. A person who recklessly violates any of the foregoing provisions or order issued thereunder shall be guilty of a crime of the fourth degree. Monetary penalties (i.e., fines or restitutions) for both a crime of the third or fourth degree may not exceed \$7,500. The term of imprisonment for a crime of the third degree is three to five years, and may not to exceed 18 months for a crime of the fourth degree.