

## LEGISLATIVE HISTORY CHECKLIST

**NJSA:** 48:13A-12, 13:1E-9.3 and (Solid waste laws--violations--increase  
13:1E-9.4 penalties)

**LAWS OF:** 1989 **CHAPTER:** 118

**Bill No:** S602

**Sponsor(s):** Rice

**Date Introduced:** Pre-filed

**Committee: Assembly:** Solid Waste Management

**Senate:** Energy and Environment

**Amended during passage:** Yes Assembly committee substitute  
according to Governor's (1st reprint) enacted.  
recommendation

**Date of Passage: Assembly:** February 6, 1989 Re-enacted 5-15-89

**Senate:** April 18, 1988 Re-enacted 6-19-89

**Date of Approval:** June 29, 1989

**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

see newspaper clippings -- attached:

"Rigorous anti-littering measure sent to Kean," 6-20-89 Star Ledger.

[FIRST REPRINT]

ASSEMBLY COMMITTEE SUBSTITUTE FOR  
SENATE, No. 602 [2R]

STATE OF NEW JERSEY

ADOPTED SEPTEMBER 26, 1988

Sponsored by Senator RICE

1 AN ACT concerning the unlawful disposal of solid waste,  
amending P.L.1970, c.40, and supplementing P.L.1970, c.39  
3 (C.13:1E-1 et seq.).

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

7 1. Section 13 of P.L.1970, c.40 (C.48:13A-12) is amended to  
read as follows:

9 13. a. Any person or any officer or agent thereof who shall  
knowingly violate any of the provisions of this act or aid or  
11 advise in such violation, or who, as principal, manager, director,  
agent, servant or employee knowingly does any act comprising a  
13 part of such violation, is guilty of a misdemeanor and shall be  
punished by imprisonment for not more than three years or by a  
15 fine of not more than \$50,000.00, or both; and if a corporation  
by a fine of not more than \$100,000.00.

17 b. Any person who shall violate any provision of this act or  
any rule, regulation or administrative order promulgated  
19 hereunder, or under any applicable provision of Title 48 of the  
Revised Statutes, or who shall engage in the solid waste  
21 collection business or solid waste disposal business without  
having been issued a certificate of public convenience and  
23 necessity, shall be liable to a penalty of not more than  
[~~\$1,000.00~~ \$10,000.00 for a first offense, not more than  
25 [~~\$5,000.00~~ \$25,000.00 for a second offense and not more than  
[~~\$10,000.00~~ \$50,000.00 for a third and every subsequent  
27 offense. The penalties herein provided shall be enforced by  
summary proceedings instituted by the board under "the penalty  
29 enforcement law" (N.J.S.2A:58-1 et seq.). The Superior Court  
and the municipal courts shall all have jurisdiction to enforce  
31 "the penalty enforcement law" in connection with this act.

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 Assembly amendments adopted in accordance with Governor's  
recommendations April 27, 1989.

1 c. Whenever it shall appear to the [board] Board, a  
2 municipality, local board of health, or county health  
3 department, as the case may be, that any person has violated,  
4 intends to violate, or will violate any provision of this act or any  
5 rule, regulation or administrative order duly promulgated  
6 hereunder, or under any applicable provision of Title 48 of the  
7 Revised Statutes, the [board] Board, the municipality, local  
8 board of health or county health department may institute a  
9 civil action in the Superior Court for injunctive relief and for  
10 such other relief as may be appropriate in the circumstances,  
11 and the said court may proceed in any such action in a summary  
12 manner.

13 (cf: P.L.1987, c.149, s.1)

14 2. (New section) a. No person shall, regardless of intent,  
15 engage, or be permitted to engage, in the collection or disposal  
16 of solid waste in excess of 0.148 cubic yards of solids or 30  
17 United States gallons of liquids, whether for profit or otherwise,  
18 except at a disposal site or any other place which has  
19 authorization from the Department of Environmental Protection  
20 <sup>1</sup>or the Board of Public Utilities<sup>1</sup> to accept solid waste  
21 <sup>1</sup>[pursuant to an interdistrict or intradistrict waste flow order  
22 issued by the department, in conjunction with the Board of  
23 Public Utilities]<sup>1</sup>.

24 b. No person shall, regardless of intent, transport or cause or  
25 permit to be transported any solid waste in excess of 0.148 cubic  
26 yards of solids or 30 United States gallons of liquids, whether for  
27 profit or otherwise, to a disposal site or any other place which  
28 does not have authorization from the Department of  
29 Environmental Protection or the Board of Public Utilities to  
30 accept solid waste <sup>1</sup>[pursuant to an interdistrict or intradistrict  
31 waste flow order issued by the department, in conjunction with  
32 the Board of Public Utilities]<sup>1</sup>.

33 c. The provisions of this section shall be enforced by the  
34 Department of Environmental Protection <sup>1</sup>or the Board of  
35 Public Utilities<sup>1</sup> and by every municipality, local board of  
36 health, or county health department, as the case may be.

37 3. (New section) a. Any person who violates the provisions of  
38 section 2 of P.L.1988, c.....(C.....) (now before the Legislature  
39 as this bill) commits a disorderly persons offense.

b. Any person convicted of a violation of the provisions of

1 section 2 of P.L.1988, c.....(C.....) (now before the Legislature  
as this bill) is subject to a fine of not less than \$2,500.00 for a  
3 first offense, not more than \$5,000.00 for a second offense and  
not more than \$10,000.00 for a third and every subsequent  
5 offense. Each day during which the violation continues  
constitutes an additional, separate and distinct offense.

7 c. If a person is convicted of a violation of the provisions of  
section 2 of P.L.1988, c.....(C.....) (now before the Legislature  
9 as this bill), the court shall, in addition to the penalties provided  
under subsection b. of this section, require the person to  
11 perform community service for a term of not more than 90 days,  
and the person shall forthwith forfeit his right to operate a  
13 motor vehicle over the highways of this State for a period of not  
less than six months nor more than one year.

15 d. All conveyances used or intended for use in the unlawful  
transportation or disposal of solid waste in violation of the  
17 provisions of section 2 of P.L.1988, c.....(C.....) (now before the  
Legislature as this bill) are subject to forfeiture to the State  
19 pursuant to the provisions of P.L.1981, c.387 (C.13:1K-1 et seq.).

e. The provisions of P.L.1981, c.387 (C.13:1K-1 et seq.) or  
21 any other law to the contrary notwithstanding, whenever a  
conveyance is forfeited to the State pursuant to subsection d. of  
23 this section, the proceeds from the disposal and sale of such  
conveyance shall be remitted to the chief financial officer of  
25 the municipality wherein the violation occurred, to be used by  
the municipality to help finance enforcement activities  
27 undertaken pursuant to section 13 of P.L.1970, c.40  
(C.48:13A-12) or section 2 of P.L.1988, c.....(C.....) (now before  
29 the Legislature as this bill).

4. This act shall take effect immediately.

31

33 ENVIRONMENT

Solid Waste

35

Increases penalties for violations of solid waste laws, rules,  
37 regulations, and orders.

LAW LIBRARY COPY  
DUPLICATE

SENATE, No. 002

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1988 SESSION

By Senator RICE

1 AN ACT concerning the unlawful disposal of solid waste, and  
amending P.L. 1970, c. 40.

2

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

5 1. Section 13 of P.L. 1970, c. 40 (C. 48:13A-12) is amended  
6 to read as follows:

7 13. a. Any person or any officer or agent thereof who shall  
8 knowingly violate any of the provisions of this act or aid or  
9 advise in such violation, or who, as principal, manager, director,  
10 agent, servant or employee knowingly does any act comprising a  
11 part of such violation, is guilty of a misdemeanor and shall be  
12 punished by imprisonment for not more than three years or by a  
13 fine of not more than \$50,000.00, or both; and if a corporation  
14 by a fine of not more than \$100,000.00.

15 b. Any person who shall violate any provision of this act or  
16 any rule, regulation or administrative order promulgated  
17 hereunder, including an interdistrict waste flow order issued in  
18 conjunction with the Department of Environmental Protection,  
19 or under any applicable provision of Title 48 of the Revised  
20 Statutes, or who shall engage in the solid waste collection  
21 business or solid waste disposal business without having been  
22 issued a certificate of public convenience and necessity, shall be  
23 liable to a penalty of not [more] less than [\$1,000.00] \$2,500.00  
24 for a first offense, not more than \$5,000.00 for a second offense  
25 and not more than \$10,000.00 for a third and every subsequent  
26 offense. The penalties herein provided shall be enforced by  
27 summary proceedings instituted by the board under "the penalty  
28 enforcement law" (N.J.S. 2A:58-1 et seq.). The Superior Court  
29 and the municipal courts shall all have jurisdiction to enforce  
30 "the penalty enforcement law" in connection with this act.

31 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.



SENATE ENERGY AND ENVIRONMENT COMMITTEE

STATEMENT TO

SENATE, No. 602

STATE OF NEW JERSEY

DATED: FEBRUARY 18, 1988

The Senate Energy and Environment Committee favorably reports Senate Bill No. 602.

This bill would increase the amount of the penalties the Board of Public Utilities may seek to collect against persons who violate any provision of the "Solid Waste Utility Control Act of 1970," P.L. 1970, c.40 (C.48:13A-1 et seq.), or any rule, regulation or administrative order adopted by the BPU pursuant thereto. This bill would also allow these penalties to be imposed for a violation of any interdistrict waste flow order issued in conjunction with the Department of Environmental Protection directing solid waste collector-haulers to utilize specific transfer stations or solid waste disposal facilities.

Specifically, the minimum penalties for a first offense would be increased from \$1,000.00 to \$2,500.00. In addition to the monetary penalties provided under the "Solid Waste Utility Control Act of 1970," the bill would require the court to direct the violator to perform at least 90 days of community service, and the violator would also forfeit his right to operate a commercial motor vehicle for a period of not less than six months nor more than one year.

This bill was pre-filed for introduction in the 1988 session pending technical review. As reported the bill includes the changes required by technical review which has been performed.

ASSEMBLY SOLID WASTE MANAGEMENT COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR

SENATE, No. 602 [2R]

STATE OF NEW JERSEY

DATED: SEPTEMBER 26, 1988

The Assembly Solid Waste Management Committee favorably reports an Assembly Committee Substitute for Senate Bill No. 602 [2R].

The Assembly Committee Substitute for Senate Bill No. 602 [2R] would increase the penalties for a violation of the "Solid Waste Utility Control Act of 1970," P.L.1970, c.40 (C.48:13A-1 et seq.), and would prohibit certain actions related to the collection, disposal and transportation of solid waste.

Specifically, S-602 [2R] ACS would provide that any person violating the provisions of P.L.1970, c.40 would be liable to a penalty of not more than \$10,000.00 for a first offense, not more than \$25,000.00 for a second offense, and not more than \$50,000.00 for a third offense.

S-602 [2R] ACS would prohibit any person from engaging in the collection and disposal of solid waste in amounts greater than 0.148 cubic yards (solids) or 30 gallons (liquids), whether or not for profit, unless the solid waste is taken to a disposal site or other destination which is authorized by the Department of Environmental Protection or the Board of Public Utilities to accept solid waste pursuant to an intradistrict or interdistrict waste flow order. S-602 [2R] ACS would also prohibit the transportation of solid waste in excess of these amounts to any disposal site or other destination which does not have authorization from the Department of Environmental Protection or the Board of Public Utilities to accept solid waste pursuant to an intradistrict or interdistrict waste flow order.

S-602 [2R] ACS would also provide that any person violating these provisions would be guilty of a disorderly persons offense. Any person convicted of a violation would be subject to a fine of not less than \$2,500.00 for a first offense, not more than \$5,000.00 for a second offense, and not more than \$10,000.00 for a third offense. If the violation is of a continuing nature, each day during which it continues would be considered a separate offense. In addition, the bill provides that a person convicted of a violation of these



provisions would be required to perform community service for at least 90 days, and would forfeit the right to operate a motor vehicle in this State for at least six months. Further, S-602 [2R] ACS would provide for the forfeiture of any vehicles used in the violation of the provisions of this bill.

S-602 [2R] ACS would also provide that all conveyances used or intended for use in the unlawful transportation or disposal of solid waste in violation of these provisions are subject to forfeiture to the State. Whenever a conveyance is forfeited to the State, the proceeds from the disposal and sale of such conveyance must be remitted to the chief financial officer of the municipality wherein the violation occurred, to be used by the municipality to help finance enforcement actions relating to unlawful solid waste collection, disposal or transportation activities.

STATE OF NEW JERSEY  
EXECUTIVE DEPARTMENT

April 24, 1989

ASSEMBLY COMMITTEE SUBSTITUTE FOR  
SENATE BILL NO. 602  
(SECOND REPRINT)

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the Constitution, I am returning Assembly Committee Substitute for Senate Bill No. 602 (Second Reprint) with my objections for reconsideration.

This bill has two primary objectives. First, the bill would increase the penalties for violation of the Solid Waste Utility Control Act of 1970 as the present penalties are too low to deter violation of the Act especially given the rapidly increasing costs of solid waste disposal. Specifically, this Assembly Committee Substitute provides that any person violating the Solid Waste Utility Control Act would be liable to a penalty of not more than \$10,000 for the first offense, not more than \$25,000 for the second offense, and not more than \$50,000 for the third offense. Under the current law, penalties for violation of the Act have not been increased since the Act's original passage in 1970 and are presently unrealistically low: \$1,000 for the first offense, not more than \$5,000 for the second offense, and not more than \$10,000 for a third or subsequent offense. I wholeheartedly support this increase in penalties for violation of the Solid Waste Utility Control Act and view it as essential to deterring haulers from making a conscious and habitual practice of violating the Act.

Second, the bill creates enhanced penalties, over and above those which are presently available in our general littering statutes, for those who illegally dump solid waste in quantities in excess of what can be held in the average garbage bag. Specifically, the Assembly Committee Substitute prohibits any person from engaging in the collection, disposal or transportation of solid waste in amounts greater than 0.148 cubic yards (solids) or 30 gallons (liquids), whether or not for profit, unless the solid waste is taken to a disposal site or other destination which is authorized by the Department of Environmental Protection (DEP) or the Board of Public Utilities (BPU) to accept solid waste pursuant to an interdistrict or intradistrict waste flow order. Violators of this provision would be guilty of a disorderly persons offense, susceptible to fines of up to \$10,000, required to submit to mandatory community service,

STATE OF NEW JERSEY  
EXECUTIVE DEPARTMENT

required to forfeit their right to operate a motor vehicle for six months, and would subject any conveyance used in the unlawful transportation or disposal of solid waste in violation of this Act to forfeiture to the State.

This enhanced penalty mechanism is necessary to deter individuals from illegally dumping solid wastes in vacant lots, wooded areas and other places in order to avoid the rising costs associated with legal disposal. Senator Rice, the sponsor, has pointed to a particularly high incidence of such illegal dumping in the vacant lots in the City of Newark. Under present law, if illegal dumping does not involve a registered hauler who is clearly susceptible to the penalties of the Solid Waste Utility Control Act, the maximum penalties are \$500 pursuant to N.J.S.A. 39:4-63 and 64 or conviction of a petty disorderly persons offense and discretionary community service pursuant to the Clean Communities Act, N.J.S.A. 13:1E-99.3. It is generally acknowledged that these penalties are too minimal to deter illegal dumpers, particularly in light of the ever-increasing costs of legal disposal. In fact, I am told that in Newark the same illegal dumpers are often apprehended again and again, pay these minimal fines, and immediately resume their illegal practices.

While I support these enhanced penalties to deter illegal dumping, the bill results in some attendant problems which must be corrected. As currently worded, the Assembly Committee Substitute states that no person shall collect, dispose or transport solid waste in excess of a specified amount except at a disposal site or any other place which has the authorization of the Department of Environmental Protection or the Board of Public Utilities to accept solid waste "pursuant to an interdistrict or intradistrict waste flow order...." The Assembly Committee Substitute should have referenced the entire DEP regulatory scheme rather than being limited to waste flow orders, as there are DEP-approved solid waste disposal sites where authorization to accept solid waste is unrelated to waste flow orders. For example, there are convenience centers situated in many rural areas, particularly in the southern counties, where citizens can bring their household garbage for disposal because at-the-curb collection is impractical. While these convenience centers are authorized by the DEP, they are not authorized pursuant to a waste flow order. Consequently, the present Assembly Committee Substitute makes it illegal for a citizen to dump more than one garbage bag of solid waste at these convenience centers; clearly this

**STATE OF NEW JERSEY**  
EXECUTIVE DEPARTMENT

result was unintended by the Legislature. The Assembly Committee Substitute's primary intent of increasing penalties for any unauthorized transportation, collection or disposal of solid waste--whether the conduct is contrary to a waste flow order or other DEP rule or regulation--would be better advanced if the DEP's entire regulatory scheme is referenced in the bill. I have recommended changes to the bill which would correct this deficiency.

Therefore, I herewith return Assembly Committee Substitute for Senate Bill No. 602 (Second Reprint) and recommend that it be amended as follows:

<u>Page 2, Section 2, Line 19:</u>	After "Department of Environmental Protection", insert "or Board of Public Utilities"
<u>Page 2, Section 2, Line 20:</u>	After "solid waste", insert "."; delete "pursuant to an interdistrict or intradistrict"
<u>Page 2, Section 2, Lines 21 and 22:</u>	Delete in entirety
<u>Page 2, Section 2, Line 29:</u>	After "solid waste", insert "."; delete "pursuant to an interdistrict or intradistrict"
<u>Page 2, Section 2, Lines 30 and 31:</u>	Delete in entirety
<u>Page 2, Section 2, Line 33:</u>	After "Department of Environmental Protection", insert "or the Board of Public Utilities"

Respectfully,

/s/ Thomas H. Kean

GOVERNOR

[seal]

Attest:

/s/ Deborah T. Poritz

Chief Counsel