

58:10-23.11h

LEGISLATIVE HISTORY CHECKLIST

("Spill Compensation & Control Act" --  
affix responsibility for payment of  
tax)

HJSA 58:10-23.11h

LAWS OF 1979

CHAPTER 6

Bill No. A1542

Sponsor(s) Van Wagner, Flynn

Date Introduced June 26, 1978

Committee: Assembly Taxation

Senate Revenue, Finance & Appropriations

Amended during passage

Yes

Amendments during passage  
~~XX~~ denoted by asterisks.

Date of Passage: Assembly October 5, 1978

Senate November 20, 1978

Date of approval January 18, 1979

Following statements are attached if available:

Sponsor statement

Yes

~~XX~~

Committee Statement: Assembly

~~XXX~~

No

Senate

Yes

~~XX~~

Fiscal Note

~~XXX~~

No

Veto message

~~XXX~~

No

Message on signing

~~XXX~~

No

Following were printed:

Reports

~~XXX~~

No

Hearings

~~XXX~~

No

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9/1/78

79  
11-18-79

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**ASSEMBLY, No. 1542**

**STATE OF NEW JERSEY**

INTRODUCED JUNE 26, 1978

By Assemblymen VAN WAGNER and FLYNN

Referred to Committee on Taxation

AN ACT to amend the "Spill Compensation and Control Act,"  
approved January 6, 1977 (P. L. 1976, c. 141).

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

1 1. Section 9 of P. L. 1976, c. 141 (C. 58:10-23.11h) is amended to  
2 read as follows:

3 9. a. There is hereby levied upon each owner or operator of one  
4 or more major facilities a tax to insure compensation for cleanup  
5 costs and damages associated with any discharge of hazardous  
6 substances to be paid by the transferee; *provided, however, that*  
7 *in the case of a major facility which operates as a public storage*  
8 *terminal for hazardous substances owned by others, the owner of*  
9 *the hazardous substance transferred to such major facility \*or his*  
10 *authorized agent\* shall be considered to be the transferee for the*  
10A *purposes of this section \*\*and shall be deemed to be a taxpayer for*  
10B *purposes of this act. Where such person has failed to file a return*  
10C *or pay the tax imposed by this act within 60 days after the due*  
10D *date thereof, the director shall forthwith take appropriate steps*  
11 *to collect same from the owner of the hazardous substance. In the*  
11A *event the director is not successful in collecting said tax then on*  
11B *notice to the owner or operator of the public storage terminal of*  
11C *said fact said owner or operator shall not release any hazardous*  
11D *substance owned by the taxpayer. The director may forthwith pro-*  
12 *ceed to satisfy any tax liability of the taxpayer by seizing, selling*  
12A *or otherwise disposing of said hazardous substance to satisfy the*  
12B *taxpayer's tax liability and to take any further steps permitted by*  
12C *law for its collection\*\*.* \*For the purposes of this act public storage  
12D *terminal shall mean a public or privately owned major facility*  
13 *operated for public use which is used for the storage or transfer*

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

13A *of hazardous substances.\** The tax shall be measured by the  
 13B number of barrels of hazardous substances transferred to the  
 13C major facility, provided, however, that the same barrel, including  
 13D any products derived therefrom, subject to multiple transfers from  
 14 or between major facilities shall be taxed only once at the point of  
 15 the first transfer.

16 b. The tax shall be \$0.01 per barrel transferred until the balance  
 17 in the fund equals or exceeds \$25,000,000.00. In each fiscal year  
 18 following any year in which the balance of the fund equals or  
 19 exceeds \$25,000,000.00, no tax shall be levied unless (1) the current  
 20 balance in the fund is less than \$20,000,000.00 or (2) pending claims  
 21 against the fund exceed 50% of the existing balance of the fund.  
 22 The provisions of the foregoing notwithstanding, should claims  
 23 paid from the fund not exceed \$5,000,000.00 within 3 years after  
 24 the tax is first levied, the tax shall be \$0.01 per barrel transferred  
 25 until the balance in the fund equals or exceeds \$18,000,000.00, and  
 26 thereafter shall not be levied unless: (1) the current balance in  
 27 the fund is less than \$15,000,000.00 or (2) pending claims against  
 28 the fund exceed 50% of the existing balance of the fund. In the  
 29 event of either such occurrence and upon certification thereof by  
 30 the State Treasurer, the director shall within 10 days of the date  
 31 of such certification relevel the excise tax, which shall take effect  
 32 on the first day of the month following such relevel. In the event  
 33 of a major discharge or series of discharges resulting in claims  
 34 against the fund exceeding the existing balance of the fund, the  
 35 tax shall be levied at the rate of \$0.04 per barrel transferred until  
 36 the balance in the fund equals pending claims against the fund;  
 37 provided, however, that the rate may be set at less than \$0.04 per  
 38 barrel transferred if the administrator determines that the revenue  
 39 produced by such lower rate shall be sufficient to pay outstanding  
 40 claims against the fund within 1 year of such levy. *Interest re-*  
 41 *ceived on moneys in the fund shall be credited to the fund.* Should  
 42 the fund exceed \$18,000,000.00 or \$25,000,000.00, as herein provided,  
 43 as a result of such interest, the administrator and the commissioner  
 44 shall report to the Legislature and the Governor concerning the  
 45 options for the use of such interest.

46 c. (1) Every taxpayer *\*\*and owner or operator of a public*  
 47 *storage terminal for hazardous substances\*\** shall on or before the  
 48 twentieth day of the month following the close of each tax period  
 49 render a return under oath to the director on such forms as may  
 50 be prescribed by the director indicating the number of barrels of  
 51 hazardous substances transferred to *\*\*[his]\*\** *\*\*the\*\** major fa-

52 cility during the tax period and at said time *\*\*the taxpayer\*\** shall  
52A pay the full amount of the tax due. (2) Every *\*\*taxpayer or\*\**  
52B owner or operator of a major facility or vessel which transfers a  
53 hazardous substance, as defined in this act, and who is subject to  
54 the tax under subsection a. shall within 20 days after the first such  
55 transfer in any fiscal year register with the director on such form  
56 as shall be prescribed by him.

57 d. If a return required by this act is not filed, or if a return when  
58 filed is incorrect or insufficient in the opinion of the director, the  
59 amount of tax due shall be determined by the director from such  
60 information as may be available. Notice of such determination  
61 shall be given to the taxpayer liable for the payment of the tax.  
62 Such determination shall finally and irrevocably fix the tax unless  
63 the person against whom it is assessed, within 30 days after receiv-  
64 ing notice of such determination, shall apply to the director for a  
65 hearing, or unless the director on his own motion shall redetermine  
66 the same. After such hearing the director shall give notice of his  
67 determination to the person to whom the tax is assessed.

68 e. Any taxpayer who shall fail to file his return when due or to  
69 pay any tax when the same becomes due, as herein provided, shall  
70 be subject to such penalties and interest as provided in the "State  
71 Tax Uniform Procedure Law," Subtitle 9 of Title 54 of the Revised  
72 Statutes. If the division of Taxation determines that the failure  
73 to comply with any provision of this section was excusable under  
74 the circumstances, it may remit such part or all of the penalty as  
75 shall be appropriate under such circumstances.

76 f. (1) Any person failing to file a return, failing to pay the tax,  
77 or filing or causing to be filed, or making or causing to be made,  
78 or giving or causing to be given any return, certificate, affidavit,  
79 representation, information, testimony or statement required or  
80 authorized by this act, or rules or regulations adopted hereunder  
81 which is willfully false, or failing to keep any records required  
82 by this act or rules and regulations adopted hereunder, shall, in  
83 addition to any other penalties herein or elsewhere prescribed, be  
84 guilty of a misdemeanor.

85 (2) The certificate of the director to the effect that a tax has not  
86 been paid, that a return has not been filed, that information has  
87 not been supplied or that inaccurate information has been supplied  
88 pursuant to the provisions of this act or rules or regulations  
89 adopted hereunder shall be presumptive evidence thereof.

90 g. In addition to the other powers granted to the director in this  
91 section, he is hereby authorized and empowered:

92 (1) To delegate to any officer or employee of his division such of  
93 his powers and duties as he may deem necessary to carry out  
94 efficiently the provisions of this section, and the person or persons  
95 to whom such power has been delegated shall possess and may  
96 exercise all of said powers and perform all of the duties delegated  
97 by the director;

98 (2) To prescribe and distribute all necessary forms for the  
99 implementation of this section.

100 h. The tax imposed by this section shall be governed in all  
101 respects by the provisions of the "State Tax Uniform Procedure  
102 Law," Subtitle 9 of Title 54 of the Revised Statutes, except only  
103 to the extent that a specific provision of this section may be in  
104 conflict therewith.

1 2. This act shall take effect immediately.

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## STATEMENT

This bill would amend the "Spill Compensation and Control Act" (P. L. 1976, c. 141), to provide that the owner of hazardous substances transferred to a public storage terminal, rather than the owner or operator of such terminal, be subject to the tax levied upon such substances and the reporting requirements with respect thereto.

This bill would also make a technical amendment to the aforesaid act, which amendment clarifies the disposition of interest received on moneys in the Spill Compensation Fund.

A1542 (1979)

SENATE REVENUE, FINANCE AND  
APPROPRIATIONS COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 1542**

with committee amendments

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**STATE OF NEW JERSEY**

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DATED: OCTOBER 19, 1978

This bill would amend the "Spill Compensation and Control Act" (P. L. 1976, c. 141), to provide that the owner of hazardous substances transferred to a public storage terminal, rather than the owner or operator of such terminal, be subject to the tax levied upon such substances and the reporting requirements with respect thereto.

COMMITTEE AMENDMENTS

Committee amendments are technical in nature addressing certain administrative problems identified by the Division of Taxation and are adopted by the committee at the recommendation of the division.