CHAPTER 87

AN ACT to eliminate inactive boards, commissions, committees, councils, and task forces, and amending and repealing various parts of the statutory law.

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

1. Section 5 of P.L.1977, c.240 (C.24:6E-4) is amended to read as follows:

C.24:6E-4 Definitions.

5. As used in this act unless the context clearly indicates otherwise:

a. "Drug product" means a dosage form containing one or more active therapeutic ingredients along with other substances included during the manufacturing process.

b. "Brand name" means the proprietary name assigned to a drug by the manufacturer thereof.

c. "Established name" with respect to a drug or ingredient thereof, means (1) the applicable official name designated pursuant to the Federal Food, Drug and Cosmetic Act (Title 21, U.S.C. s.301 et seq.), or (2) if there is no such official name and such drug or ingredient is recognized in an official compendium, then the official title thereof in such compendium, except that where a drug or ingredient is recognized in the United States Pharmacopoeia and in the Homeopathic Pharmacopoeia under different official titles, the official title used in the United States Pharmacopoeia shall apply unless it is labeled and offered for sale as a homeopathic drug, in which case the official title used in the Homeopathic Pharmacopoeia shall apply, or (3) if neither (1) nor (2) is applicable, then the common or usual name, if any, of such drug or ingredient.

d. "Prescription" means an order for drugs or combinations or mixtures thereof, written or signed by a duly licensed physician, dentist, veterinarian or other medical practitioner licensed to write prescriptions intended for the treatment or prevention of disease in man or animals, and includes orders for drugs or medicines or combinations or mixtures thereof transmitted to pharmacists through word of mouth, telephone, telegraph or other means of communication by a duly licensed physician, dentist, veterinarian or other medical practitioner licensed to write prescriptions intended for the treatment or prevention of disease in man or animals.

e. “Department” means the Department of Health and Senior Services.

f. "Chemical equivalents" means those drug products that contain the same amounts of the same therapeutically active ingredients in the same dosage forms and that meet present compendial standards.

g. "Reference drug product" means the product which is adopted by the department as the standard for other chemically equivalent drugs in terms of testing for the therapeutic equivalence. In all cases, the reference drug product shall be a currently marketed drug which is the subject of a full (not abbreviated) new drug application approved by the Federal Food and Drug Administration.

h. "Therapeutic equivalents" means chemical equivalents which, when administered to the same individuals in the same dosage regimen, will provide essentially the same efficacy or toxicity as their respective reference drug products.

i. "Bioavailability" means the extent and rate of absorption from a dosage form as reflected by the time-concentration curve of the administered drug in the systemic circulation.

j. "Bioequivalents" means chemical equivalents which, when administered to the same individuals in the same dosage regimen, will result in comparable bioavailability.

k. "Pharmaceutical equivalents" means those drug products that contain the same amounts of the same therapeutically active ingredients in the same dosage form and that meet established standards.

l. "Interchangeable drug products" means pharmaceutical equivalents or bioequivalents that are determined to be therapeutic equivalents by the department.

m. "Present compendial standards" means the official standards for drug excipients and drug products listed in the latest revision of the United States Pharmacopoeia (USP) and the National Formulary (NF).

n. "Dosage form" means the physical formulation or medium in which the product is intended, manufactured and made available for use, including, but not limited to: tablets, capsules, oral solutions, aerosols, inhalers, gels, lotions, creams, ointments, transdermals and suppositories, and the particular form of the above which utilizes a specific technology or mechanism to control, enhance or direct the release, targeting, systemic absorption or other delivery of a dosage regimen in the body.

2. Section 7 of P.L.1977, c.240 (C.24:6E-6) is amended to read as follows:

C.24:6E-6 List of interchangeable drug products.

7. a. The department shall prepare a list of interchangeable drug products. This list shall be periodically reviewed in accordance with a schedule of and procedure for such review as shall be established by the department. In development of the list, distinctions shall be made when: (1) evidence of bioequivalence is considered critical and when it is not; (2) when levels of toxicity are considered critical and when they are not. The list may include interchangeable drug products used by the United States Government and its agencies, where the government or such agency has established the reliability of the drug products interchanged.

b. No drug products shall be included in such list until after a public hearing has been held thereon after at least 20 days' notice. Such notice shall be mailed to every drug company that is authorized to do business in the State of New Jersey and to all persons who have made a timely request of the department for advance notice of its public hearings and shall be published in the New Jersey Register.

c. Manufacturers shall, upon the request of the department, be required to submit any information in their files that relates manufacturing processes and in vivo and in vitro tests to the bioavailability of any drug product. This requirement shall also apply to technical information obtained during research related to the development of new drug products, even when such information bears only an indirect relationship to the final dosage form. The department shall not make such information public when there is a proprietary interest on the part of the manufacturer.

d. Any manufacturer of drug products shall have the right to request the department to evaluate its drug products for the purpose of inclusion on the list of interchangeable drug products, or to request that the department consider removal of any drug product from the list. Any such request shall be accompanied by such information as the department shall require, and any drug product involved shall be evaluated in the same manner and shall be subject to the same procedures and requirements as all other drug products evaluated by the department for inclusion on or removal from the list.

e. Prior to any drug product being approved by the department, the manufacturer shall be required to demonstrate that it has complied with the standards set forth in the Current Good Manufacturing Practices of Title 21 U.S.C. or in such standards relating to drug

manufacturing practices as may be promulgated by the department from time to time and must show evidence of a satisfactory inspection by the Federal Food and Drug Administration or the department.

f. The department shall distribute copies of the list of interchangeable drug products and revisions thereof and additions thereto among physicians and other authorized prescribers and licensed pharmacists, and shall supply a copy to any person upon request, upon payment of the price established by the department.

g. The department shall be authorized to adopt reasonable rules and regulations, in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to carry out its functions and duties under this act and to effectuate its purposes.

3. Section 35 of P.L.1993, c.139 (C.58:10B-12) is amended to read as follows:

C.58:10B-12 Adoption of remedial standards.

35. a. The Department of Environmental Protection shall adopt minimum remediation standards for soil, groundwater, and surface water quality necessary for the remediation of contamination of real property. The remediation standards shall be developed to ensure that the potential for harm to public health and safety and to the environment is minimized to acceptable levels, taking into consideration the location, the surroundings, the intended use of the property, the potential exposure to the discharge, and the surrounding ambient conditions, whether naturally occurring or man-made.

Until the minimum remediation standards for the protection of public health and safety as described herein are adopted, the department shall apply public health and safety remediation standards for contamination at a site on a case-by-case basis based upon the considerations and criteria enumerated in this section.

The department may not require any person to perform an ecological evaluation of any area of concern that consists of an underground storage tank storing heating oil for on-site consumption in a one to four family residential building.

b. In developing minimum remediation standards the department shall:

(1) base the standards on generally accepted and peer reviewed scientific evidence or methodologies;

(2) base the standards upon reasonable assumptions of exposure scenarios as to amounts of contaminants to which humans or other receptors will be exposed, when and where those exposures will occur, and the amount of that exposure;

(3) avoid the use of redundant conservative assumptions. The department shall avoid the use of redundant conservative assumptions by the use of parameters that provide an adequate margin of safety and which avoid the use of unrealistic conservative exposure parameters and which guidelines make use of the guidance and regulations for exposure assessment developed by the United States Environmental Protection Agency pursuant to the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 42 U.S.C. s.9601 et seq. and other statutory authorities as applicable;

(4) where feasible, establish the remediation standards as numeric or narrative standards setting forth acceptable levels or concentrations for particular contaminants; and

(5) consider and utilize, in the absence of other standards used or developed by the Department of Environmental Protection and the United States Environmental Protection Agency, the toxicity factors, slope factors for carcinogens and reference doses for non-

carcinogens from the United States Environmental Protection Agency's Integrated Risk Information System (IRIS).

c. (1) The department shall develop residential and nonresidential soil remediation standards that are protective of public health and safety. For contaminants that are mobile and transportable to groundwater or surface water, the residential and nonresidential soil remediation standards shall be protective of groundwater and surface water. Residential soil remediation standards shall be set at levels or concentrations of contamination for real property based upon the use of that property for residential or similar uses and which will allow the unrestricted use of that property without the need of engineering devices or any institutional controls and without exceeding a health risk standard greater than that provided in subsection d. of this section. Nonresidential soil remediation standards shall be set at levels or concentrations of contaminants that recognize the lower likelihood of exposure to contamination on property that will not be used for residential or similar uses, which will allow for the unrestricted use of that property for nonresidential purposes, and that can be met without the need of engineering controls. Whenever real property is remediated to a nonresidential soil remediation standard, except as otherwise provided in paragraph (3) of subsection g. of this section, the department shall require, pursuant to section 36 of P.L.1993, c.139 (C.58:10B-13), that the use of the property be restricted to nonresidential or other uses compatible with the extent of the contamination of the soil and that access to that site be restricted in a manner compatible with the allowable use of that property.

(2) The department may develop differential remediation standards for surface water or groundwater that take into account the current, planned, or potential use of that water in accordance with the "Clean Water Act" (33 U.S.C. s.1251 et seq.) and the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.).

d. The department shall develop minimum remediation standards for soil, groundwater, and surface water intended to be protective of public health and safety taking into account the provisions of this section. In developing these minimum health risk remediation standards the department shall identify the hazards posed by a contaminant to determine whether exposure to that contaminant can cause an increase in the incidence of an adverse health effect and whether the adverse health effect may occur in humans. The department shall set minimum soil remediation health risk standards for both residential and nonresidential uses that:

(1) for human carcinogens, as categorized by the United States Environmental Protection Agency, will result in an additional cancer risk of one in one million;

(2) for noncarcinogens, will limit the Hazard Index for any given effect to a value not exceeding one.

The health risk standards established in this subsection are for any particular contaminant and not for the cumulative effects of more than one contaminant at a site.

e. Remediation standards and other remediation requirements established pursuant to this section and regulations adopted pursuant thereto shall apply to remediation activities required pursuant to the "Spill Compensation and Control Act," P.L.1976, c.141 (C.58:10-23.11 et seq.), the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.), P.L.1986, c.102 (C.58:10A-21 et seq.), the "Industrial Site Recovery Act," P.L.1983, c.330 (C.13:1K-6 et al.), the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.), the "Comprehensive Regulated Medical Waste Management Act," sections 1 through 25 of P.L.1989, c.34 (C.13:1E-48.1 et seq.), the "Major Hazardous Waste Facilities Siting Act," P.L.1981, c.279 (C.13:1E-49 et seq.), the "Sanitary Landfill Facility Closure and Contingency Fund Act," P.L.1981, c.306 (C.13:1E-100 et seq.), the "Regional Low-Level

Radioactive Waste Disposal Facility Siting Act," P.L.1987, c.333 (C.13:1E-177 et seq.), or any other law or regulation by which the State may compel a person to perform remediation activities on contaminated property. However, nothing in this subsection shall be construed to limit the authority of the department to establish discharge limits for pollutants or to prescribe penalties for violations of those limits pursuant to P.L.1977, c.74 (C.58:10A-1 et seq.), or to require the complete removal of nonhazardous solid waste pursuant to law.

f. (1) A person performing a remediation of contaminated real property, in lieu of using the established minimum soil remediation standard for either residential use or nonresidential use adopted by the department pursuant to subsection c. of this section, may submit to the department a request to use an alternative residential use or nonresidential use soil remediation standard. The use of an alternative soil remediation standard shall be based upon site specific factors which may include (1) physical site characteristics which may vary from those used by the department in the development of the soil remediation standards adopted pursuant to this section; or (2) a site specific risk assessment. If a person performing a remediation requests to use an alternative soil remediation standard based upon a site specific risk assessment, that person shall demonstrate to the department that the requested deviation from the risk assessment protocol used by the department in the development of soil remediation standards pursuant to this section is consistent with the guidance and regulations for exposure assessment developed by the United States Environmental Protection Agency pursuant to the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 42 U.S.C.s.9601 et seq. and other statutory authorities as applicable. A site specific risk assessment may consider exposure scenarios and assumptions that take into account the form of the contaminant present, natural biodegradation, fate and transport of the contaminant, available toxicological data that are based upon generally accepted and peer reviewed scientific evidence or methodologies, and physical characteristics of the site, including, but not limited to, climatic conditions and topographic conditions. Nothing in this subsection shall be construed to authorize the use of an alternative soil remediation standard in those instances where an engineering control is the appropriate remedial action, as determined by the department, to prevent exposure to contamination.

Upon a determination by the department that the requested alternative remediation standard satisfies the department's regulations, is protective of public health and safety, as established in subsection d. of this section, and is protective of the environment pursuant to subsection a. of this section, the alternative residential use or nonresidential use soil remediation standard shall be approved by the department. The burden to demonstrate that the requested alternative remediation standard is protective rests with the person requesting the alternative standard and the department may require the submission of any documentation as the department determines to be necessary in order for the person to meet that burden.

(2) The department may, upon its own initiative, require an alternative remediation standard for a particular contaminant for a specific real property site, in lieu of using the established minimum residential use or nonresidential use soil remediation standard adopted by the department for a particular contaminant pursuant to this section. The department may require an alternative remediation standard pursuant to this paragraph upon a determination by the department, based on the weight of the scientific evidence, that due to specific physical site characteristics of the subject real property, including, but not limited to, its proximity to surface water, the use of the adopted residential use or nonresidential use soil

remediation standards would not be protective, or would be unnecessarily overprotective, of public health or safety or of the environment, as appropriate.

g. The development, selection, and implementation of any remediation standard or remedial action shall ensure that it is protective of public health, safety, and the environment, as applicable, as provided in this section. In determining the appropriate remediation standard or remedial action that shall occur at a site, the department and any person performing the remediation, shall base the decision on the following factors:

(1) Unrestricted use remedial actions, limited restricted use remedial actions and restricted use remedial actions shall be allowed except that unrestricted use remedial actions and limited restricted use remedial actions shall be preferred over restricted use remedial actions. For any remediation initiated one year after the date of enactment of P.L.2009, c.60 (C.58:10C-1 et al.), the department shall require the use of an unrestricted use remedial action, or a presumptive remedy or an alternative remedy as provided in paragraph (10) of this subsection, at a site or area of concern where new construction is proposed for residential purposes, for use as a child care center licensed pursuant to P.L.1983, c.492 (C.30:5B-1 et seq.), or as a public school or private school as defined in N.J.S.18A:1-1, as a charter school established pursuant to P.L.1995, c.426 (C.18A:36A-1 et seq.), or where there will be a change in the use of the site to residential, child care, or public school, private school, or charter school purposes or another purpose that involves use by a sensitive population. For any remediation initiated on or after the date of enactment of P.L.2009, c.60 (C.58:10C-1 et al.), the department may require the use of an unrestricted use remedial action or a presumptive remedy as provided in guidelines adopted pursuant to paragraph (10) of this subsection for a site or area of concern that is to be used for residential, child care, or public school, private school, or charter school purposes or another purpose that involves use by a sensitive population. Except as provided in this subsection, and section 27 of P.L.2009, c.60 (C.58:10C-27), the department, however, may not disapprove the use of a restricted use remedial action or a limited restricted use remedial action so long as the selected remedial action meets the health risk standard established in subsection d. of this section, and where, as applicable, is protective of the environment. Except as provided in this subsection and section 27 of P.L.2009, c.60 (C.58:10C-27), the choice of the remedial action to be implemented shall be made by the person responsible for conducting the remediation in accordance with regulations adopted by the department and that choice of the remedial action shall be approved by the department if all the criteria for remedial action selection enumerated in this section, as applicable, are met. Except as provided in section 27 of P.L.2009, c.60 (C.58:10C-27), the department may not require a person to compare or investigate any alternative remedial action as part of its review of the selected remedial action. The department may disapprove the selection of a remedial action for a site on which the proposed remedial action will render the property unusable for future redevelopment or for recreational use;

(2) Contamination may, upon the department's approval, be left onsite at levels or concentrations that exceed the minimum soil remediation standards for residential use if the implementation of institutional or engineering controls at that site will result in the protection of public health, safety and the environment at the health risk standard established in subsection d. of this section, if the requirements established in subsections a., b., c. and d. of section 36 of P.L.1993, c.139 (C.58:10B-13), and paragraphs (1) and (10) of this subsection, are met. The department may also require the treatment or removal of contaminated material that would pose an acute health or safety hazard in the event of failure of an engineering control;

(3) Real property on which there is soil that has not been remediated to the residential soil remediation standards, or real property on which the soil, groundwater, or surface water has been remediated to meet the required health risk standard by the use of engineering or institutional controls, may be developed or used for residential purposes, or for any other similar purpose, if (a) all areas of that real property at which a person may come into contact with soil are remediated to meet the residential soil remediation standards, (b) it is clearly demonstrated that for all areas of the real property, other than those described in subparagraph (a) above, engineering and institutional controls can be implemented and maintained on the real property sufficient to meet the health risk standard as established in subsection d. of this section, and (c) a presumptive remedy established and approved by the department pursuant to paragraph (10) of this subsection, or an alternative remedy approved by the department pursuant to paragraph (10) of this subsection, has been approved, as provided in paragraphs (1) and (10) of this subsection;

(4) Remediation shall not be required beyond the regional natural background levels for any particular contaminant. The department shall develop regulations that set forth a process to identify background levels of contaminants for a particular region. For the purpose of this paragraph "regional natural background levels" means the concentration of a contaminant consistently present in the environment of the region of the site and which has not been influenced by localized human activities;

(5) Remediation shall not be required of the owner or operator of real property for contamination coming onto the site from another property owned and operated by another person, unless the owner or operator is the person who is liable for cleanup and removal costs pursuant to P.L.1976, c.141 (C.58:10-23.11 et seq.);

(6) Groundwater that is contaminated shall not be required to be remediated to a level or concentration for any particular contaminant lower than the level or concentration that is migrating onto the property from another property owned and operated by another person;

(7) The technical performance, effectiveness and reliability of the proposed remedial action in attaining and maintaining compliance with applicable remediation standards and required health risk standards shall be considered. In reviewing a proposed remedial action, the department or the licensed site remediation professional shall also consider the ability of the owner or operator to implement the proposed remedial action within a reasonable time frame without jeopardizing public health, safety or the environment;

(8) The use of a remedial action for soil contamination that is determined by the department to be effective in its guidance document created pursuant to section 38 of P.L.1993, c.139 (C.58:10B-14), is presumed to be an appropriate remedial action if it is to be implemented on a site in the manner described by the department in the guidance document and applicable regulations and if all of the conditions for remedy selection provided for in this section are met. The burden to prove compliance with the criteria in the guidance document is with the person responsible for conducting the remediation;

(9) (Deleted by amendment, P.L.1997, c.278);

(10) The department shall, by rule or regulation, establish presumptive remedies, use of which shall be required on any site or area of concern to be used for residential purposes, as a child care center licensed pursuant to P.L.1983, c.492 (C.30:5B-1 et seq.), as a public school or private school as defined in N.J.S.18A:1-1, or as a charter school established pursuant to P.L.1995, c.426 (C.18A:36A-1 et seq.). The department may also issue guidelines that provide for presumptive remedies that may be required as provided in paragraph (1) of this subsection, on a site to be used for residential purposes, as a child care center, or as a public school, private school or charter school. The presumptive remedies

shall be based on the historic use of the property, the nature and extent of the contamination at the site, the future use of the site and any other factors deemed relevant by the department. The department may include the use of engineering and institutional controls in the presumptive remedies authorized pursuant to this subsection. If the person responsible for conducting the remediation demonstrates to the department that the use of an unrestricted use remedial action or a presumptive remedy is impractical due to conditions at the site, or that an alternative remedy would be equally protective over time as a presumptive remedy, then an alternative remedy for the site that is protective of the public health and safety may be proposed for review and approval by the department;

(11) The department may authorize a person conducting a remediation to divide a contaminated site into one or more areas of concern. For each area of concern, a different remedial action may be selected provided the requirements of this subsection are met and the remedial action selected is consistent with the future use of the property; and

(12) The construction of single family residences, public schools, private schools, or charter schools, or child care centers shall be prohibited on a landfill that undergoes a remediation if engineering controls are required for the management of landfill gas or leachate.

The burden to demonstrate that a remedial action is protective of public health, safety and the environment, as applicable, and has been selected in conformance with the provisions of this subsection is with the person responsible for conducting the remediation.

The department may require the person responsible for conducting the remediation to supply the information required pursuant to this subsection as is necessary for the department to make a determination.

h. (1) The department shall adopt regulations which establish a procedure for a person to demonstrate that a particular parcel of land contains large quantities of historical fill material. Upon a determination by the department that large quantities of historic fill material exist on that parcel of land, there is a rebuttable presumption that the department shall not require any person to remove or treat the fill material in order to comply with applicable health risk or environmental standards. In these areas the department shall establish by regulation the requirement for engineering or institutional controls that are designed to prevent exposure of these contaminants to humans, that allow for the continued use of the property, that are less costly than removal or treatment, which maintain the health risk standards as established in subsection d. of this section, and, as applicable, are protective of the environment. The department may rebut the presumption only upon a finding by the preponderance of the evidence that the use of engineering or institutional controls would not be effective in protecting public health, safety, and the environment. The department may not adopt any rule or regulation that has the effect of shifting the burden of rebutting the presumption. For the purposes of this paragraph "historic fill material" means generally large volumes of non-indigenous material, no matter what date they were emplaced on the site, used to raise the topographic elevation of a site, which were contaminated prior to emplacement and are in no way connected with the operations at the location of emplacement and which include, but are not limited to, construction debris, dredge spoils, incinerator residue, demolition debris, fly ash, and non-hazardous solid waste. Historic fill material shall not include any material which is substantially chromate chemical production waste or any other chemical production waste or waste from processing of metal or mineral ores, residues, slags or tailings.

(2) The department shall develop recommendations for remedial actions in large areas of historic industrial contamination. These recommendations shall be designed to meet the

health risk standards established in subsection d. of this section, and to be protective of the environment and shall take into account the industrial history of these sites, the extent of the contamination that may exist, the costs of remedial actions, the economic impacts of these policies, and the anticipated uses of these properties. The department shall issue a report to the Senate Environment Committee and to the Assembly Environment and Solid Waste Committee, or their successors, explaining these recommendations and making any recommendations for legislative or regulatory action.

(3) The department may not, as a condition of allowing the use of a nonresidential use soil remediation standard, or the use of institutional or engineering controls, require the owner of that real property, except as provided in section 36 of P.L.1993, c.139 (C.58:10B-13), to restrict the use of that property through the filing of a deed easement, covenant, or condition.

i. The department may not require a remedial action workplan to be prepared or implemented or engineering or institutional controls to be imposed upon any real property unless sampling performed at that real property demonstrates the existence of contamination above the applicable remediation standards.

j. Upon the approval by the department or by a licensed site remediation professional of a remedial action workplan, or similar plan that describes the extent of contamination at a site and the remedial action to be implemented to address that contamination, the department may not subsequently require a change to that workplan or similar plan in order to compel a different remediation standard due to the fact that the established remediation standards have changed; however, the department may compel a different remediation standard if the difference between the new remediation standard and the remediation standard approved in the workplan or other plan differs by an order of magnitude. The limitation to the department's authority to change a workplan or similar plan pursuant to this subsection shall only apply if the workplan or similar plan is being implemented in a reasonable timeframe, as may be indicated in the approved remedial action workplan or similar plan.

k. Notwithstanding any other provisions of this section, all remediation standards and remedial actions that involve real property located in the Pinelands area shall be consistent with the provisions of the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.), any rules and regulations promulgated pursuant thereto, and with section 502 of the "National Parks and Recreation Act of 1978," 16 U.S.C. s.471i; and all remediation standards and remedial actions that involve real property located in the Highlands preservation area shall be consistent with the provisions of the "Highlands Water Protection and Planning Act," P.L.2004, c.120 (C.13:20-1 et al.), and any rules and regulations and the Highlands regional master plan adopted pursuant thereto.

l. Upon the adoption of a remediation standard for a particular contaminant in soil, groundwater, or surface water pursuant to this section, the department may amend that remediation standard only upon a finding that a new standard is necessary to maintain the health risk standards established in subsection d. of section 35 of P.L.1993, c.139 (C.58:10B-12) or to protect the environment, as applicable. The department may not amend a public health based soil remediation standard to a level that would result in a health risk standard more protective than that provided for in subsection d. of section 35 of P.L.1993, c.139 (C.58:10B-12).

m. Nothing in P.L.1993, c.139 shall be construed to restrict or in any way diminish the public participation which is otherwise provided under the provisions of the "Spill Compensation and Control Act," P.L.1976, c.141 (C.58:10-23.11 et seq.).

n. Notwithstanding any provision of subsection a. of section 36 of P.L.1993, c.139 (C.58:10B-13) to the contrary, the department may not require a person intending to implement a remedial action at an underground storage tank facility storing heating oil for on-site consumption at a one to four family residential dwelling to provide advance notice to a municipality prior to implementing that remedial action.

o. A person who has remediated a site pursuant to the provisions of this section, who was liable for the cleanup and removal costs of that discharge pursuant to the provisions of paragraph (1) of subsection c. of section 8 of P.L.1976, c.141 (C.58:10-23.11g), and who remains liable for the discharge on that site due to a possibility that a remediation standard may change, undiscovered contamination may be found, or because an engineering control was used to remediate the discharge, shall maintain with the department a current address at which that person may be contacted in the event additional remediation needs to be performed at the site. The requirement to maintain the current address shall be made part of the conditions of the permit issued pursuant to section 19 of P.L.2009, c.60 (C.58:10C-19) and the final remediation document.

4. Section 1 of P.L.2003, c.112 (C.17B:30-41) is amended to read as follows:

C.17B:30-41 Findings, declarations relative to collection of unpaid hospital accounts.

1. The Legislature finds and declares that:

a. The rising cost of hospital-based health care in this State impedes the ability of the State and insurers to provide reasonably priced, comprehensive health insurance to the citizens of the State.

b. Hospitals located within the State report more than $1 billion annually in debts that they are unable to collect.

c. The cost of covering the unpaid care represented by the debt is spread among citizens, private insurers, hospitals and the State in the form of higher bills for hospital-based care.

d. A significant portion of the uncollected debt is related to copayments and deductibles that are difficult for hospitals to collect efficiently.

e. The State's Set off of Individual Liability (SOIL) program has proven to be an administratively efficient means of collecting debts owed to State agencies.

f. It is, therefore, in the public interest to create a system for using the State's SOIL program to collect valid hospital debts.

5. Section 2 of P.L.2003, c.112 (C.17B:30-42) is amended to read as follows:

C.17B:30-42 Definitions relative to collection of unpaid hospital accounts.

2. As used in this act:

"Coinsurance" means the percentage of a charge covered by a health plan that must be paid by a person covered under the health plan.

"Collection agency" means the Department of the Treasury and any company, agency or law firm engaged in collecting debts that the Department of the Treasury may determine to engage to assist it in collecting debts.

"Debt" means money owed by a patient to a hospital, or by someone who is legally responsible for payment for a patient, and includes late payment penalties and interest thereon. It does not include monies owed to a hospital by a health plan for services provided by the hospital to a person with coverage under that plan, or amounts subject to dispute between a health plan and a hospital.

"Debtor" means an individual owing money to or having a delinquent account with a hospital, which obligation has not been adjudicated, satisfied by court order, set aside by court order or discharged in bankruptcy.

"Deductible" means the amount of covered charges under a health plan that an individual must pay for services before a health plan begins to pay on a covered charge.

“Department” means the Department of Health and Senior Services.

"General Hospital" and "hospital" have the meanings set forth in N.J.A.C.8:43G-1.2.

"Health plan" means an individual or group health benefits plan that provides or pays the cost of hospital and medical expenses, dental or vision care, or prescription drugs, and is provided by or through an insurer, health maintenance organization, the Medicaid program, the Medicare program, a Medicare+Choice provider or Medicare supplemental insurer, an employer-sponsored group health benefits plan, government or church-sponsored health benefits plan or a multi-employer welfare arrangement.

"Medicaid" means the program established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).

"Medicare" means the program established by Pub.L.89-97 (42 U.S.C. s.1395 et seq.) as amended, or its successor plan or plans.

"Patient" means a person who receives services in a hospital on an inpatient or outpatient basis.

6. Section 4 of P.L.2003, c.112 (C.17B:30-44) is amended to read as follows:

C.17B:30-44 “New Jersey Hospital Care Payment Fund.”

4. a. There is established the "New Jersey Hospital Care Payment Fund" in the Department of the Treasury.

b. The fund shall be comprised of monies collected from debtors of hospitals pursuant to this act, and any other monies appropriated thereto to carry out the purposes of this act.

c. The fund shall be a nonlapsing fund, from which costs shall be paid in the following order, for each hospital participating:

(1) administrative costs of the department to implement the provisions of P.L.2003, c.112 (C.17B:30-41 et seq.);

(2) administrative fees to the collection agency;

(3) 50% of the remainder, but only from monies collected from debtors of hospitals pursuant to this act after paragraphs (1) and (2) of this subsection are paid, shall be payable to the hospital from which the debt originated within 90 days of receipt of monies related to discharge of the assigned debt into the fund; and

(4) the remainder, after paragraphs (1), (2) and (3) of this subsection are paid, shall be deposited into the General Fund.

7. Section 5 of P.L.2003, c.112 (C.17B:30-45) is amended to read as follows:

C.17B:30-45 Authority of department.

5. The department is authorized to:

a. Accept assignment of debts from hospitals which have followed the procedures outlined in section 7 of this act, or such other procedures as the department shall adopt.

b. Pursue collection of debts pursuant to this act. The department shall initiate the program in phases. The first phase may involve acceptance of assignment of debt that:

(1) derives from a limited number of hospitals;

(2) consists of coinsurance and deductibles that remain payable after adjudication by a health plan;

(3) is assigned by a general hospital;

(4) is less than two years old at the date of assignment to the department, as determined by the date of discharge for inpatient services and date of service for outpatient services;

(5) involves any of the above or any combination of the above, or includes such other limitations as the department determines are desirable to smooth implementation of the program created by this act.

After the first phase, the department may expand acceptance of assignments as it shall determine pursuant to this act.

c. Test assignment data received from the hospitals to determine whether the records are sufficient to make set-off practicable, and return records that do not pass the test to the hospitals.

d. Conduct such fact-finding, as is necessary, in preparation for making a determination as to the validity of debts.

e. Make final determinations as to the validity of debts.

f. Determine the payment to be collected from the debtor, based upon a "fairness formula" to be determined by the department. For debt processed by the department during the fiscal year starting on July 1, 2003, the fairness formula shall be based upon the department’s report entitled "Net Patient Revenue to Charge Ratio," for the most recent year available. For debt processed by the department during the fiscal year starting on July 1, 2004 and thereafter, the fairness formula shall be based upon the most recent available "Net Patient Revenue to Charge Ratio" report, or such other measure as the department determines would most fairly reimburse hospitals for treatment.

g. Offset liability for the hospital debts against the New Jersey Gross Income Tax pursuant to N.J.S.54A:1-1 et seq., including an earned income tax credit provided as a refund pursuant to P.L.2000, c.80 (C.54A:4-6 et al.), or whenever any individual is eligible to receive an NJ SAVER rebate or a homestead rebate pursuant to P.L.1990, c.61 (C.54:4-8.57 et al.) or P.L.1999, c.63 (C.54:4-8.58a et al.), and if the rebate is not required to be paid over to the municipal tax collector under the provisions of section 8 of P.L.1990, c.61 (C.54:4-8.64), and including any other financial resource authorized as a source capable of offset for any reason by section 1 of P.L.1981, c.239 (C.54A:9-8.1 et seq.).

h. Adjudicate the validity of all set-off challenges pursuant to N.J.A.C.18:35-10.1 et seq.

i. Make such decisions as to compromise and waiver of interest, penalties, post-judgment interest and write-off as it shall deem prudent.

j. Refer assigned debts under section 7 of this act to a collection agency in the event that offsetting is not practical or is not successful in fully resolving the debt.

k. Create standards for settlement of debts through the collection agency process.

l. Determine to cease accepting debt from a hospital until such time as the hospital can demonstrate to the satisfaction of the department that its accuracy has improved to acceptable levels where the department determines that data forwarded by a hospital to the department has an unacceptable level of inaccuracies regarding validity or quality of the debt forwarded to the department.

m. Contract with other State agencies for services, including administrative services necessary to carry out the duties of the department.

n. Fund the cost of its operations from the fund created by section 4 of this act.

o. Adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to effectuate the purposes of this act; except that,

notwithstanding any provision of P.L.1968, c.410 to the contrary, the department may adopt, immediately upon filing with the Office of Administrative Law, such regulations as the department deems necessary to implement the provisions of this act, which shall be effective for a period not to exceed six months and may thereafter be amended, adopted or readopted by the department in accordance with the requirements of P.L.1968, c.410.

8. Section 6 of P.L.2003, c.112 (C.17B:30-46) is amended to read as follows:

C.17B:30-46 Decisions of department constitute final agency action.

6. Decisions of the department, regarding the fairness formula, the validity of debts, the adequacy of data provided to the department by hospitals for use in the program, and other such matters as shall arise concerning the administration of the program, shall constitute final agency action.

9. Section 7 of P.L.2003, c.112 (C.17B:30-47) is amended to read as follows:

C.17B:30-47 Procedures for participating hospitals.

7. a. The following procedures shall apply for those hospitals that wish to participate in the voluntary assignment program created by this act.

b. The hospital shall file with the department a notice signifying its intent to participate voluntarily and certifying the following:

(1) the hospital has determined that the patient is not eligible for charity care under the New Jersey Hospital Care Payment Assistance Program established by the Department of Health and Senior Services pursuant to section 10 of P.L.1992, c.160 (C.26:2H-18.60);

(2) the hospital has submitted a "clean claim" pursuant to P.L.1999, c.154 (C.17B:30-23 et al.) and P.L.1999, c.155 (C.17B:30-26 et seq.) to the patient, a responsible party, Medicaid, Medicare or a health plan, as applicable, within a reasonable time following the patient's discharge, or in the case of outpatient service, the date of service;

(3) the claims have been fully adjudicated by a health plan, Medicare or Medicaid, where applicable, and a debt remains outstanding;

(4) the hospital has not initiated collection procedures against the patient or responsible party while a claim was pending adjudication with Medicare or a health plan, for which a debt remains outstanding;

(5) the hospital has notified the patient of the hospital's intention, if the account is not paid in full, or alternatively through a payment plan with the hospital, to proceed with legal action, or to turn the bill over to the department for collection.

c. Nothing herein shall be deemed to create any new right to collection of hospital debts by hospitals beyond existing law; nor shall it be deemed to preclude any existing right to collection.

d. The department may determine the content of the notice required by paragraph (5) of subsection b. of this section to the patient concerning the likelihood that the account will be turned over to the department for collection.

e. The minimum amount of an unpaid bill that may be assigned to the department by a hospital is $100, or such other minimum as the department shall determine by regulation.

f. Upon receipt of the voluntary assignment, the Department of the Treasury shall send, on behalf of the department, a notice to the person named as a debtor of the hospital, notifying the person as to receipt of the assignment by the department, providing the person with 30 days to challenge the validity of the debt, and providing notice that in the absence of

such challenge, a Certificate of Debt will be filed with the Superior Court of New Jersey. The notice shall also include a statement on the department's intention to take action to set off the liability against any refund of taxes pursuant to the "New Jersey Gross Income Tax Act" including an earned income tax credit, a NJ SAVER rebate or a homestead rebate, or other such funds as may be authorized by law.

g. If the person named as a debtor responds within the 30-day period, the person shall be provided with an opportunity to present, either in writing or in person, evidence as to why the person does not believe he is responsible for the debt. The department shall provide written notice to both the person and the hospital as to its determination regarding the validity of the debt, including the imposition of collection fees and interest, if applicable.

h. If the person fails to respond within 30 days to the department, the department may utilize the provisions of the Set off of Individual Liability (SOIL) program established pursuant to P.L.1981, c.239 (C.54A:9-8.1 et seq.), to collect any surcharge levied under this section that is unpaid on or after the effective date of this act.

As additional remedies, the department may utilize the services of a collection agency to settle the debt and may also issue a certificate to the Clerk of the Superior Court stating that the person identified in the certificate is indebted under this law in such amount as shall be stated in the certificate. The certificate shall reference this act. Thereupon the clerk to whom such certificate shall have been issued shall immediately enter upon the record of docketed judgments: the name of the person as debtor; the State as creditor; the address of the person, if shown in the certificate; the amount of the debt so certified; a reference to this act under which the debt is assessed; and the date of making the entries. The docketing of the entries shall have the same force and effect as a civil judgment docketed in the Superior Court, and the department shall have all the remedies and may take all of the proceedings for the collection thereof which may be had or taken upon the recovery of a judgment in an action, but without prejudice to any right of appeal. Upon entry by the clerk of the certificate in the record of docketed judgments in accordance with this provision, interest in the amount specified by the court rules for post-judgment interest shall accrue from the date of the docketing of the certificate; however, payment of the interest may be waived by the department.

i. Any collection efforts undertaken pursuant to this act shall be undertaken in accordance with the "Health Insurance Portability and Accountability Act of 1996," Pub.L.104-191 and 45 C.F.R. 160.101 to 164.534, or any other similar law. The department and any other entity performing collection activities pursuant to this act is authorized to enter into any agreements required to comply with such laws, including, but not limited to, entering into agreements with the hospitals and collection agencies to provide for appropriate safeguarding of information.

10. Section 1 of P.L.2001, c.192 (C.52:9YY-1) is amended to read as follows:

C.52:9YY-1 Short title.

1. This act shall be known and may be cited as the "Health Data Act."

11. Section 2 of P.L.2001, c.192 (C.52:9YY-2) is amended to read as follows:

C.52:9YY-2 Findings, declarations relative to availability of health data.

2. The Legislature finds and declares that:

a. It is the intention of the Legislature to establish a single point of contact for members of the public to obtain health data;

b. The purpose of this initiative is to compile health care access, quality and cost data produced within the State from public and private entities and maximize the usefulness of the data for the public without duplicating existing data collection efforts by State agencies; and

c. It is anticipated that the expense to the State of compiling and disseminating the available and useful health data for the benefit of the public will be minimal and will be partially offset by subscriptions to routinely published documents of the Department of Health and Senior Services, the purchase of special reports of the Department of Health and Senior Services, and the receipt of grants to provide health data information to the public.

12. Section 3 of P.L.2001, c.192 (C.52:9YY-3) is amended to read as follows:

C.52:9YY-3 Definitions relative to availability of health data.

3. As used in this act:

“Department” means the Department of Health and Senior Services.

"Disclosure" means the disclosure of health data to a person or entity outside the department.

"Health data" means any information, except vital statistics as defined in R.S.26:8-1, relating to the health status of people, the availability of health care resources and services, or the use and cost of these resources and services. Health data shall not include information that is created or received by members of the clergy or others who use spiritual means alone for healing.

"Identifiable health data" means any item, collection or grouping of health data which makes the person supplying it or described in it identifiable.

"Research and statistical purposes" means the performance of certain activities relating to health data, including, but not limited to: describing the group characteristics of persons or entities; analyzing the interrelationships among various characteristics of persons or entities; the conduct of statistical procedures or studies to improve the quality of health data; the design of sample surveys and the selection of samples of persons or entities; the preparation and publication of reports describing these activities; and other related functions; but excluding the use of health data for a person or entity to make a determination directly affecting the rights, benefits or entitlements of that person or entity.

13. Section 5 of P.L.2001, c.192 (C.52:9YY-5) is amended to read as follows:

C.52:9YY-5 Duties of the department.

5. a. The department may:

(1) collect and maintain health data from State government agencies or other entities on:

(a) the extent, nature and impact of illness and disability on the population of the State;

(b) the determinants of health and health hazards;

(c) health resources, including the extent of available personnel and resources;

(d) utilization of health care;

(e) health care costs and financing; and

(f) other health-related matters;

(2) undertake and support research, demonstrations and evaluations concerning new or improved methods for obtaining current data with respect to any of the health data described in paragraph (1) of this subsection; and

(3) promote standards for health data that will facilitate the comparison of information and ease the burden of data preparation and reporting.

b. The department may collect health data on behalf of other entities.

c. The department shall collect health data only on a voluntary basis from persons and entities, except to the extent that specific statutory authority exists to compel the reporting of such data. When requesting health data from a person or entity, the agency shall notify the person or entity in writing as to the following:

(1) whether the person or entity is required to supply the health data and any sanctions which may be imposed for noncompliance;

(2) the purposes for which the health data is being collected; and

(3) if the department intends to disclose identifiable health data for other than research and statistical purposes, the information to be disclosed, to whom it is to be disclosed, and for what purposes.

d. No health data obtained by the department under this section may be used for any purpose other than the purpose for which they were supplied or for which the person or entity described in the data has otherwise consented.

e. The department shall:

(1) take such actions as may be necessary to assure that the health data which it obtains and maintains are accurate, timely and comprehensive, as well as specific, standardized and adequately analyzed and indexed; and

(2) publish, disseminate and otherwise make available these data on as wide a basis as practicable.

f. The department shall take such actions as are appropriate to effect the collection and compilation of health data produced within the State and to maximize the usefulness of the data collected.

g. The department shall:

(1) participate with federal, State and local government agencies in the design and implementation of a cooperative system of producing comparable and uniform health data at the federal, State and local levels;

(2) undertake and support research, development, demonstrations and evaluations concerning such a cooperative system; and

(3) assume its fair share of the data costs associated with implementing and maintaining such a system.

14. Section 6 of P.L.2001, c.192 (C.52:9YY-6) is amended to read as follows:

C.52:9YY-6 Disclosure of health data, conditions.

6. a. The department shall make no disclosure of any health data which identifies a person's health status or utilization of health care unless the person described in the data has consented to the disclosure.

b. A person or entity to whom the department has disclosed health data shall make no disclosure of any health data which identifies a person's health status or utilization of health care unless the person described in the data has consented to the disclosure.

c. No identifiable health data obtained by the department shall be subject to subpoena or similar compulsory process in a civil or criminal, judicial, administrative or legislative proceeding, nor shall a person or entity with lawful access to identifiable health data pursuant to this act be compelled to testify with regard to that data; except that data

pertaining to a party in litigation may be subject to subpoena or similar compulsory process in an action brought by or on behalf of that party to enforce a liability arising under this act.

15. Section 7 of P.L.2001, c.192 (C.52:9YY-7) is amended to read as follows:

C.52:9YY-7 Security of health data.

7. The department shall take appropriate measures to protect the security of health data which it obtains, including:

a. limiting access to the data to authorized persons;

b. designating a person to be responsible for the physical security of the data;

c. developing and implementing a system for monitoring the security of the data;

d. periodically reviewing all health data to evaluate whether it is appropriate to remove identifying characteristics from the data; and

e. developing a program for the routine scheduled destruction of all forms, records or electronic files maintained by the department which contain identifiable health data.

16. Section 8 of P.L.2001, c.192 (C.52:9YY-8) is amended to read as follows:

C.52:9YY-8 Additional powers of department.

8. To effectuate the purposes of P.L.2001, c.192 (C.52:9YY-1 et seq.), and in addition to any other powers authorized by law, the department shall have the authority, in accordance with State law, to:

a. make and enter into contracts to purchase services and supplies and to hire consultants;

b. develop and submit a proposed budget;

c. accept gifts and charitable contributions;

d. apply for, receive and expend grants;

e. adopt regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the purposes of this act;

f. establish charges for and collect payment from persons and entities for the provision of services, including the dissemination of health data;

g. receive and expend appropriations;

h. enter into a reimbursable work program with other State government agencies or private entities under which funds are transferred from the other agencies or entities to the department for the performance of activities pursuant to this act; and

i. provide such other services and perform such other functions as the department deems necessary to fulfill its responsibilities under this act.

17. Section 9 of P.L.2001, c.192 (C.52:9YY-9) is amended to read as follows:

C.52:9YY-9 Penalties for unauthorized disclosures; liability of department.

9. a. A person or entity whom the department determines has violated the provisions of section 6 of P.L.2001, c.192 (C.52:9YY-6), regarding the disclosure of health data shall be subject, in addition to any other penalties that may be prescribed by law, to: a civil penalty of not more than $10,000 for each such violation, but not to exceed $50,000 in the aggregate for multiple violations; or a civil penalty of not more than $250,000, if the department finds that these violations have occurred with such frequency as to constitute a general business practice.

The penalty shall be sued for and collected in the name of the department in a summary proceeding in accordance with the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

b. The department or an entity acting on its behalf shall be liable to a person or entity injured by the intentional or negligent violation of the provisions of section 6 of P.L.2001, c.192 (C.52:9YY-6), in an amount equal to the damages sustained by the person or entity, together with the cost of the action and reasonable attorney's fees, as determined by the court.

18. Section 3 of P.L.1991, c.235 (C.13:1D-37) is amended to read as follows:

C.13:1D-37 Definitions.

3. As used in this act:

"Commissioner" means the Commissioner of the Department of Environmental Protection.

"Consume" means to change or alter the molecular structure of a hazardous substance within a production process.

"Department" means the Department of Environmental Protection.

"Facility" means all buildings, equipment, structures, and other property that are located on a single site or on contiguous or adjacent sites and that are owned or operated by the same person.

"Facility-wide permit" means a single permit issued by the department to the owner or operator of a priority industrial facility incorporating the permits, certificates, registrations, or any other relevant department approvals previously issued to the owner or operator of the priority industrial facility pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.), P.L.1977, c.74 (C.58:10A-1 et seq.), or P.L.1954, c.212 (C.26:2C-1 et seq.), and the appropriate provisions of the pollution prevention plan prepared by the owner or operator of the priority industrial facility pursuant to section 7 and section 8 of this act.

"Hazardous substance" means any substance on the list established by the United States Environmental Protection Agency for reporting pursuant to 42 U.S.C. s.11023, and any other substance which the department, pursuant to the provisions of subsection i. of section 8 of this act, defines as a hazardous substance for the purposes of this act.

"Hazardous waste" means any solid waste defined as hazardous waste by the department pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.).

"Industrial facility" means any facility having a Standard Industrial Classification, as designated in the Standard Industrial Classification Manual prepared by the federal Office of Management and Budget, within the Major Group Numbers, Group Numbers, or Industry Numbers listed in subsection h. of section 3 of P.L.1983, c.315 (C.34:5A-3) and which is subject to the regulatory requirements of P.L.1970, c.39 (C.13:1E-1 et seq.), P.L.1977, c.74 (C.58:10A-1 et seq.), or P.L.1954, c.212 (C.26:2C-1 et seq.).

"Manufacture" means to produce, prepare, import, or compound a hazardous substance.

"Multimedia release" means the release of a hazardous substance to any environmental medium, or any combination of media, including the air, water or land, and shall include any release into workplaces.

"Nonproduct output" means all hazardous substances or hazardous wastes that are generated prior to storage, recycling, treatment, control, or disposal and that are not intended for use as a product.

"Office" means the Office of Pollution Prevention established in the department pursuant to section 4 of this act.

"Operator" means any person in control of, or exercising responsibility for, the daily operation of an industrial facility or a priority industrial facility.

"Owner" means any person who owns an industrial facility or a priority industrial facility.

"Person" means any individual, partnership, company, corporation, society, firm, consortium, joint venture, or any commercial or other legal entity.

"Pilot facility" means a facility or designated area of a facility used for pilot-scale development of products or processes.

"Pollution prevention" means: changes in production technologies, raw materials or products, that result in the reduction of the demand for hazardous substances per unit of product manufactured and the creation of hazardous products or nonproduct outputs; or changes in the use of raw materials, products, or production technologies that result in the reduction of the input use of hazardous substances and the creation of hazardous by-products or destructive results; or on-site facility changes in production processes, products, or the use of substitute raw materials that result in the reduction of the amount of hazardous waste generated and disposed of on the land or hazardous substances discharged into the air or water per unit of product manufactured prior to treatment, and that reduce or eliminate, without shifting, the risks that the use of hazardous substances at an industrial facility pose to employees, consumers, and the environment and human health. "Pollution prevention" shall include, but need not be limited to, raw material substitution, product reformulation, production process redesign or modification, in-process recycling, and improved operation and maintenance of production process equipment. "Pollution prevention" shall not include any action or change entailing a substitution of one hazardous substance, product or nonproduct output for another that results in the creation of substantial new risk, and shall not include treatment, increased pollution control, out-of-process recycling, or incineration, except as otherwise provided pursuant to subsection f. of section 7 of this act.

"Pollution prevention plan" means a plan required to be prepared by an industrial facility pursuant to the provisions of section 7 of this act.

"Pollution prevention plan progress report" means a report required to be submitted annually to the department by the owner or operator of an industrial facility pursuant to the provisions of section 7 of this act.

"Pollution prevention plan summary" means a summary of a pollution prevention plan required to be prepared by an industrial facility and submitted to the department pursuant to the provisions of section 7 of this act.

"Priority industrial facility" means any industrial facility required to prepare and submit a toxic chemical release form pursuant to 42 U.S.C. s.11023, or any other facility designated a priority industrial facility pursuant to rules and regulations adopted by the department pursuant to the provisions of subsection h. of section 8 of this act.

"Process" means the preparation of a hazardous substance, after its manufacture, for sale or use in the same form or physical state, or in a different form or physical state, as that in which it was received at the industrial facility where it is processed, or as part of an article or product containing the hazardous substance.

"Product" means a desired result of a production process that is used as a commodity in trade in the channels of commerce by the general public in the same form as it is produced.

"Production process" means a process, line, method, activity or technique, or a series or combination of processes, lines, methods or techniques used to produce a product or reach a planned result.

"Research and development laboratory" means a facility or a specially designated area of a facility used primarily for research, development, and testing activity, and not primarily involved in the production of goods for commercial sale, in which hazardous substances are used by, or under, the direct supervision of a technically qualified person.

"Source" means a point or location in a production process at which a nonproduct output is generated or released, provided, however, that similar, related, or identical kinds of sources may be considered a single source for the purposes of this act.

"Targeted production process" means any production process which significantly contributes to the use or release of hazardous substances or the generation of hazardous waste or nonproduct output, as determined by the owner or operator of an industrial facility pursuant to criteria established by the department.

"Targeted source" means any source which significantly contributes to the generation of nonproduct output, as determined by the owner or operator of an industrial facility pursuant to criteria established by the department.

"Use" means to process or otherwise use a hazardous substance.

"Violation of this act" means a violation of any provision of this act, or any rule or regulation, administrative order, or facility-wide permit adopted or issued pursuant thereto.

19. Section 21 of P.L.1983, c.315 (C.34:5A-21) is amended to read as follows:

C.34:5A-21 Joint procedure concerning revision of workplace or environmental hazardous substance list.

21. The Department of Health and Senior Services, the Department of Environmental Protection, and the Department of Labor and Workforce Development shall jointly establish a procedure for annually receiving information from the public and any other interested party, concerning any revision of the workplace hazardous substance list and any revision of the environmental hazardous substance list. This procedure shall include a mechanism for revising the workplace hazardous substance list and the environmental hazardous substance list. Any revision of the workplace hazardous substance list or environmental hazardous substance list shall be based on documented scientific evidence. The Department of Health and Senior Services and the Department of Environmental Protection shall publicly announce any revisions of the workplace hazardous substance list or the environmental hazardous substance list, and any such additions or revisions shall be made pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

20. Section 8 of P.L.1998, c.108 (C.27:5F-41) is amended to read as follows:

C.27:5F-41 Development of curriculum guidelines for safe operation of motor vehicles.

8. a. The Director of the Office of Highway Traffic Safety in the Department of Law and Public Safety, after consultation with the Chief Administrator of the New Jersey Motor Vehicle Commission in, but not of, the Department of Transportation, shall develop curriculum guidelines for use by teachers of approved classroom driver education courses. The course of instruction for approved courses shall be no less than 30 hours in length and be designed to develop and instill the knowledge and attitudes necessary for the safe operation and driving of motor vehicles. Defensive driving, highway courtesy, accident avoidance, understanding and respect for the State's motor vehicle laws, insurance fraud and State requirements for and benefits of maintaining automobile insurance shall be emphasized. The incorporation of these curriculum guidelines in these classroom courses and the use of

related instructional materials shall be a requirement for approval of the course by the chief administrator.

b. The Director of the Office of Highway Traffic Safety, in consultation with the Chief Administrator of the New Jersey Motor Vehicle Commission, shall produce an informational brochure for parents and guardians of beginning drivers under the age of 18 years. The commission shall ensure that the parents or guardians of a permit holder receive these brochures at the time a permit is issued to a beginning driver. The brochures shall include, but not be limited to, the following information:

(1) Setting an example for the beginning driver;

(2) Accident and fatality statistics about beginning drivers;

(3) Causes of accidents among beginning drivers;

(4) The need to supervise vehicle operation by a beginning driver;

(5) Methods to coach a beginning driver on how to reduce accidents;

(6) A description of the graduated driver's license program; and

(7) Benefits of classroom and behind-the-wheel driver education under the direction of State certified or licensed driving instructors, as the case may be.

21. Section 9 of P.L.1998, c.108 (C.27:5F-42) is amended to read as follows:

C.27:5F-42 “Graduated Driver License Fund.”

9. a. There is created in the Department of Transportation a special non-lapsing fund to be known as the "Graduated Driver License Fund." There shall be deposited in the fund up to $5 from each special learner's permit fee and examination permit fee for a passenger automobile that is established pursuant to R.S.39:3-13 and any other monies that may be made available for graduated license program start-up costs. The New Jersey Motor Vehicle Commission shall administer expenditures from this fund.

b. Amounts necessary to reimburse the New Jersey Motor Vehicle Commission in, but not of, the Department of Transportation and the Office of Highway Traffic Safety in the Department of Law and Public Safety for all costs reasonably and actually incurred in the initial implementation and continuing administration of this act shall be appropriated from the fund. The New Jersey Motor Vehicle Commission and the Office of Highway Traffic Safety shall certify to the State Treasurer their start-up costs to carry out their responsibilities under P.L.1998, c.108, and the program's costs annually thereafter. This amount shall be reimbursed to the New Jersey Motor Vehicle Commission and the Office of Highway Traffic Safety from the Graduated Driver License Fund. In the event the fund's balance is insufficient to fully reimburse these costs, the State Treasurer shall provide to the Graduated Driver License Fund a loan from the General Fund in the amount needed to fully defray these costs. This loan shall be repaid to the General Fund when the balance in the Graduated Driver License Fund exceeds the amount necessary to reimburse these costs.

22. Section 10 of P.L.1998, c.108 (C.27:5F-43) is amended to read as follows:

C.27:5F-43 Recommendations with respect to rules, regulations.

10. a. The Director of the Office of Highway Traffic Safety shall make recommendations to the Chief Administrator of the New Jersey Motor Vehicle Commission with respect to rules and regulations promulgated under P.L.1998, c.108 including, but not limited to, the development of uniform curriculum guidelines for approved classroom and behind-the-wheel driver education.

b. The course of instruction for behind-the-wheel driver education shall be designed to develop the skills necessary for the safe and lawful operation of a motor vehicle. Defensive driving, highway courtesy, appropriate driving behavior and attitudes, accident avoidance, safe passing and lane changing, and a general understanding of and respect for the State's motor vehicle laws shall be emphasized.

23. Section 4 of P.L.1969, c.95 (C.18A:61A-4) is amended to read as follows:

C.18A:61A-4 Employment of coordinators, professional staff.

4. The school shall employ northern, central and southern coordinators and hire appropriate professional staff to implement programs in music, dance, visual arts and creative writing in each of the 21 counties of the State.

24. Section 6 of P.L.1969, c.95 (C.18A:61A-6) is amended to read as follows:

C.18A:61A-6 Commissioner supervision; powers, duties.

6. The school shall be governed by the Commissioner of Education under the general policies and guidelines set by the State Board of Education, and the commissioner shall have general supervision over, and shall be vested with the conduct of, the school. The commissioner shall, within the general policies and guidelines set by the State Board of Education, have the power and duty to:

a. Determine the educational curriculum and program of the school in accordance with the arts standards, frameworks and assessments;

b. Determine policies for the organization, administration and development of the school;

c. Study the educational and financial needs of the school; annually acquaint the Governor and Legislature with the condition of the school; and prepare, and after concurrence by and jointly with the State Board of Education, present the annual budget to the Governor and Legislature, in accordance with law;

d. Subject to the provisions of P.L.1944, c.112 (C.52:27B-1 et seq.), direct and control the expenditures of the school in accordance with the provisions of the budget and the appropriations acts of the Legislature, except that with respect to transfers of funds pursuant to P.L.1944, c.112 (C.52:27B-1 et seq.), the school shall be deemed a spending agency, and as to funds received or solicited from other sources, in accordance with the terms of any applicable trusts, gifts, bequests, or other special provisions, the counsel, advice and assistance of the Division of Investment in the Department of the Treasury shall be available to the commissioner in the establishment and maintenance of endowment and trust funds;

e. With the approval of the State Board of Education appoint and fix the compensation of a director of the school who shall be its executive officer and shall serve at the pleasure of the commissioner;

f. Appoint members of the academic, administrative and teaching staffs as shall be required and fix their compensation and terms of employment in accordance with salary policies adopted by the State Board of Education, which salary policies shall prescribe qualifications for the education staff that may be in any given classification;

g. Appoint, remove, promote and transfer such other officers, agents or employees as may be required for carrying out the purposes of the school and assign their duties, determine their salaries and prescribe qualifications for all positions, all in accordance with the provisions of Title 11A, Civil Service, of the New Jersey Statutes;

h. Subject to the provisions of P.L.1954, c.48 (C.52:34-6 et seq.), to enter into contracts and agreements with the State or any of its political subdivisions or with the United States, or with any public body, department or other agency of the State or the United States or with any individual, firm, or corporation which are deemed necessary or advisable by the commissioner for carrying out the purposes of the school;

i. Adopt bylaws and make and promulgate such rules, regulations and orders, not inconsistent with the provisions of this act that are necessary and proper for the administration and operation of the school and the carrying out of its purposes;

j. Receive and accept private and corporate contributions for such purposes and upon such terms as the donor may prescribe consistent with the purposes of the school and general policies and guidelines set by the State Board of Education.

25. Section 7 of P.L.1969, c.95 (C.18A:61A-7) is amended to read as follows:

C.18A:61A-7 Contracts by commissioner.

7. Subject to the approval of the State Board of Education or the board of education of a school district, as the case may be, the Commissioner of Education may contract for the use of existing facilities, courses of instruction and programs in academic and other nonarts courses and instruction of other educational institutions and to employ faculty and other personnel jointly or on a co-operative or cost sharing basis with such other educational institutions.

26. Section 2 of P.L.1981, c.311 (C.45:14D-2) is amended to read as follows:

C.45:14D-2 Definitions.

2. As used in this act:

a. "Accessorial service" means the preparation of articles for shipment, including, but not limited to, the packing, crating, boxing and servicing of appliances, the furnishing of containers, unpacking, uncrating and reassembling of articles, placing them at final destination and the moving or shifting of articles from one location to another within a building, or at a single address;

b. (Deleted by amendment, P.L.2010, c.87)

c. (Deleted by amendment, P.L.1993, c.365).

d. "Department" means the Department of Law and Public Safety;

e. "Household goods" means personal effects, fixtures, equipment, stock and supplies or other property usually used in or as part of the stock of a dwelling, when it is put into storage or when it is transported by virtue of its removal, in whole or in part, by a householder from one dwelling to another, or from the dwelling of a householder to the dwelling of another householder, or between the dwelling of a householder and a repair or storage facility, or from the dwelling to an auction house or other place of sale. The term "household goods" shall not apply to property moving from a factory or store, except property which the householder has purchased and which is transported at his request as part of the movement by the householder from one dwelling to another;

f. "Intrastate commerce" means commerce moving wholly between points within the State over all public highways, or at a single location;

g. "License" means a license issued by the director;

h. "Motor vehicle" means any vehicle, machine, tractor, truck or semitrailer, or any combination thereof, propelled, driven or drawn by mechanical power, and used upon the

public highways in the transportation of household goods, office goods and special commodities in intrastate commerce;

i. "Mover's services" means all of the services rendered by a public mover;

j. "Storage services" means all of the services rendered by a warehouseman;

k. "Office goods" means personal effects, fixtures, furniture, equipment, stock and supplies or other property usually used in or as part of the stock of any office, or commercial, institutional, professional or other type of establishment, when it is put into storage or when the property is transported by virtue of its removal, in whole or in part, from one location to another, but does not mean or include stock and supplies or other property usually used in or as part of the stock of any office, or commercial, institutional, professional or other type of establishment, when put into storage;

l. "Person" means any individual, copartnership, association, company, or corporation, and includes any trustee, receiver, assignee, lessee, or personal representative of any person herein defined;

m. "Place of business" means a business office located in New Jersey from which the mover or warehouseman conducts his daily business and where records are kept;

n. "Property" means all of the articles in the definition of household goods, office goods or special commodities;

o. "Public highway" or "highway" means any public street, road, thoroughfare, bridge and way in this State open to the use of the public as a matter of right for purposes of motor vehicular travel, including those that impose toll charges;

p. "Public mover" or "mover" means any person who engages in the transportation of household goods, office goods or special commodities by motor vehicle for compensation in intrastate commerce between points in this State, including the moving of household goods, office goods or special commodities from one location to another at a single address, and any person who engages in the performance of accessorial services; except that the term "public mover" or "mover" shall not apply to an owner-operator, or any person who engages in, or holds himself out to the general public as engaging in, the transportation of special commodities when such commodities are not transported by virtue of a removal, in whole or in part, and who does not engage, nor hold himself out to the general public as engaging in, the transportation of household or office goods;

q. "Special commodities" means uncrated or unboxed works of art, fixtures, appliances, business machines, electronic equipment, displays, exhibits, home, office, store, theatrical or show equipment, musical instruments, or other articles being put into storage or being moved, and which require the use of equipment and personnel usually furnished or employed by warehousemen or public movers, except that the provisions of P.L.1981, c.311 (C.45:14D-1 et seq.) shall not apply to any person engaged in the transportation or storage of special commodities when these commodities are not transported by virtue of a removal, in whole or in part;

r. "Storage" means the safekeeping of property in a depository for compensation;

s. "Tariff" means a schedule of rates and charges for the storage or transportation of property in intrastate commerce on file with the director, which shall be used, except in the use of binding estimates by movers, in computing all charges on the storage or transportation of property as of the date of the time in storage or transportation;

t. "Warehouseman" means a person engaged in the business of storage;

u. "Removal" means the physical relocation, in whole or in part, of either household goods, office goods or special commodities from one location to another location, including internal relocations within the same room or facility, for compensation;

v. "Bill of lading" means "bill of lading" as defined by paragraph (6) of N.J.S.12A:1-201;

w. "Consumer" means a person who contracts with a public mover for mover's services;

x. "Contracting public mover" means a licensed public mover who contracts with an owner-operator to provide any mover's service of the licensed public mover, and is liable for any mover's services performed or agreed to be performed by the owner-operator pursuant to that contract;

y. "Director" means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety;

z. "Owner-operator" means a person who owns, leases, or rents one or more motor vehicles and who uses the vehicles to provide mover's services for a contracting public mover.

27. Section 6 of P.L.1981, c.311 (C.45:14D-6) is amended to read as follows:

C.45:14D-6 Powers and duties of director.

6. The director shall, in addition to such other powers and duties as the director may possess by law:

a. Administer and enforce the provisions of this act;

b. Adopt and promulgate rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the purposes of this act;

c. Examine and pass on the qualifications of all applicants for license under this act, and issue a license to each qualified applicant;

d. Establish professional standards for persons licensed under this act;

e. Conduct hearings pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.); except that the director shall have the right to administer oaths to witnesses, and shall have the power to issue subpoenas for the compulsory attendance of witnesses and the production of pertinent books, papers, or records;

f. Conduct proceedings before any board, agency or court of competent jurisdiction for the enforcement of the provisions of this act;

g. Annually publish a list of the names, addresses and tariffs of all persons who are licensed under this act;

h. Establish reasonable requirements with respect to proper and adequate movers' and warehousemen's services and the furnishing of estimates, and prescribe a uniform system of accounts, records and reports;

i. Adopt and promulgate rules and regulations to protect the interests of the consumer, including, but not limited to, regulations concerning the contents of information brochures which a mover or warehouseman shall give to a customer prior to the signing of a contract for moving or storage services.

28. Section 7 of P.L.1981, c.311 (C.45:14D-7) is amended to read as follows:

C.45:14D-7 Revocation, suspension, nonrenewal, nonissuance of licenses; grounds, hearing.

7. The director may, after notice and opportunity for a hearing, revoke, suspend or refuse to renew or issue any license issued pursuant to this act upon a finding that the applicant or holder of a license:

a. Has obtained a license by means of fraud, misrepresentation or concealment of material facts;

b. Has engaged in the use or employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense;

c. Has engaged in gross negligence or gross incompetence;

d. Has engaged in repeated acts of negligence or incompetence;

e. Has repeatedly failed to discharge contractual obligations to any person contracting for moving or storage services;

f. Has engaged in occupational misconduct;

g. Has been convicted of any crime involving moral turpitude or any crime relating adversely to the activities regulated by P.L.1981, c.311 (C.45:14D-1 et seq.). For the purpose of this subsection, a plea of guilty, non vult, nolo contendere or any other similar disposition of alleged criminal activity shall be deemed a conviction;

h. Has had his authority to engage in the activities regulated by P.L.1981, c.311 (C.45:14D-1 et seq.) revoked or suspended by any other state, agency or authority for reasons consistent with that act; or

i. Has violated or failed to comply with the provisions of P.L.1981, c.311 (C.45:14D-1 et seq.) or any regulation adopted thereunder.

The licensee or applicant shall be furnished with an official statement of the reasons for the director’s proposed action and shall be afforded an opportunity for a hearing.

29. Section 8 of P.L.1981, c.311 (C.45:14D-8) is amended to read as follows:

C.45:14D-8 Restoration after one year.

8. The director may, after one year from the date of the revocation of any license, restore the license.

30. Section 9 of P.L.1981, c.311 (C.45:14D-9) is amended to read as follows:

C.45:14D-9 License required, application, issuance.

9. a. It shall be unlawful for any person to engage in the business of public moving or storage unless he shall have obtained from the director a license to engage in the business and shall have a permanent place of business in this State;

b. Application for a license shall be made in writing to the director, be verified under oath by the agent in charge and shall contain the following information: (1) the name and location of the applicant; (2) description of the applicant's moving vehicles and storage facilities; (3) identification of the issuer and amount of any insurance or surety bonds maintained by the applicant. A license shall be issued to a qualified applicant if it is found that the applicant is fit, willing and able to perform the service of a mover or warehouseman, and to conform to the provisions of this act;

c. Every person advertising moving or storage services shall include in any advertisement the number of his license, and his New Jersey business address and telephone number;

d. No license shall be issued to an applicant if the applicant has: (1) committed any act which if committed by a licensee would be grounds for suspension or revocation; (2) misrepresented any material fact on his application; (3) not registered each vehicle which will be performing intrastate moves in New Jersey, except on vehicles which have been rented or leased and are operated by a public mover licensed under this act; (4) not established or maintained a place of business in New Jersey;

e. A copy of the license shall be carried on each truck, tractor, trailer or semitrailer or combination thereof at all times when the vehicle is being used in operations subject to this act.

31. Section 11 of P.L.1981, c.311 (C.45:14D-11) is amended to read as follows:

C.45:14D-11 Observance of rules and regulations.

11. Every warehouseman or mover shall provide safe, proper and adequate service and shall observe the director's rules and regulations concerning the storage or transportation of property.

32. Section 14 of P.L.1981, c.311 (C.45:14D-14) is amended to read as follows:

C.45:14D-14 Tariffs.

14. a. Public movers and warehousemen shall file their tariffs with the director semiannually;

b. Except in the use of binding estimates provided for in section 6 of P.L.1998, c.60 (C.45:14D-29), no public mover or warehouseman shall charge, demand, collect or receive a greater compensation for his service than specified in the tariff.

33. Section 15 of P.L.1981, c.311 (C.45:14D-15) is amended to read as follows:

C.45:14D-15 Fees; one-year licenses; fees only to defray expenses.

15. a. The director shall by rule or regulation establish, prescribe or change the fees for licenses, renewals of licenses or other services. Licenses shall expire one year from the date of issue unless the holder thereof shall, 30 days before such expiration, pay to the director a renewal fee accompanied by a renewal application on a form prescribed by the director.

b. The director's fees established, prescribed or changed pursuant to this section shall be established, prescribed or changed to such extent as shall be necessary to defray all proper expenses incurred by the director and any staff employed to administer this act; but such fees shall not be fixed at a level that will raise amounts in excess of the amount estimated to be so required.

c. All fees and any fines imposed by the director shall be paid to the director and shall be forwarded by the director to the State Treasurer and become part of the General Fund.

d. There shall be annually appropriated to the Department of Law and Public Safety for the use of the director such sums as shall be necessary to implement and effectuate the provisions of this act.

34. Section 16 of P.L.1981, c.311 (C.45:14D-16) is amended to read as follows:

C.45:14D-16 Violations of act; penalties.

16. Any person violating any provision of P.L.1981, c.311 (C.45:14D-1 et seq.) shall, in addition to any other sanctions provided herein, be liable to a civil penalty of not more than $2,500.00 for the first offense and not more than $5,000.00 for the second and each subsequent offense. For the purpose of this section, each transaction or violation shall constitute a separate offense; except a second or subsequent offense shall not be deemed to exist unless an administrative or court order has been entered in a prior, separate and independent proceeding. In lieu of an administrative proceeding or an action in the Superior

Court, the Attorney General may bring an action in the name of the director for the collection or enforcement of civil penalties for the violation of any provision of that act. The action may be brought in a summary manner pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), and the rules of court governing actions for the collection of civil penalties in the municipal or Special Civil Part of the Law Division of the Superior Court where the offense occurred. Process in the action may be by summons or warrant and if the defendant in the action fails to answer the action, the court shall, upon finding an unlawful act or practice to have been committed by the defendant, issue a warrant for the defendant's arrest in order to bring the person before the court to satisfy the civil penalties imposed. In an action commenced pursuant to this section, the court may order restored to any person in interest any moneys or property acquired by means of an unlawful act or practice. Any action alleging the unlicensed practice of the activities regulated by P.L.1981, c.311 (C.45:14D-1 et seq.) shall be brought pursuant to this section or, where injunctive relief is sought, by an action commenced in the Superior Court. In an action brought pursuant to that act, the director or the court may order the payment of costs for the use of the State.

35. Section 7 of P.L.1984, c.140 (C.45:14D-17) is amended to read as follows:

C.45:14D-17 Investigations of suspected violations.

7. Whenever it shall appear to the director or the Attorney General that a person has engaged in, or is engaging in, any act or practice declared unlawful by P.L.1981, c.311 (C.45:14D-1 et seq.), or when the director or the Attorney General shall deem it to be in the public interest to inquire whether a violation may exist, the director through the Attorney General, or the Attorney General acting independently, may:

a. Require any person to file, on a form to be prescribed, a statement or report in writing under oath, or otherwise, as to the facts and circumstances concerning the rendition of any service or conduct of any sale incidental to the discharge of any act or practice subject to that act;

b. Examine under oath any person in connection with any act or practice subject to that act;

c. Inspect any premises from which the activity regulated by that act is conducted;

d. Examine any goods, ware or item used in the rendition of any service by a public mover or warehouseman;

e. Examine any record, book, document, account or paper maintained by or for any public mover or warehouseman in the regular course of engaging in the activities regulated by that act or regulations promulgated pursuant to that act;

f. For the purpose of preserving evidence of an unlawful act or practice, pursuant to an order of the Superior Court, impound any record, book, document, account, paper, goods, ware, or item used or maintained by or for any public mover or warehouseman in the regular course of engaging in the activities regulated by that act or regulations promulgated pursuant to that act. When necessary, the Superior Court may, on application of the Attorney General, issue an order sealing items or material subject to this subsection.

In order to accomplish the objectives of P.L.1981, c.311 (C.45:14D-1 et seq.) or the regulations promulgated pursuant to that act, the director or the Attorney General may hold investigative hearings as necessary and may issue subpoenas to compel the attendance of any person or the production of books, records or papers at a hearing or inquiry.

36. Section 8 of P.L.1984, c.140 (C.45:14D-18) is amended to read as follows:

C.45:14D-18 Court order.

8. If a person fails or refuses to file any statement or report, or refuses access to premises from which activities regulated by P.L.1981, c.311 (C.45:14D-1 et seq.) are conducted in any lawfully conducted investigative matter or fails to obey a subpoena issued pursuant to that act, the director or the Attorney General may apply to the Superior Court and obtain an order:

a. Adjudging that person in contempt of court and assessing civil penalties in accordance with the amounts prescribed by that act; or

b. Granting other relief as required; or

c. Suspending the license of that person until compliance with the subpoena or investigative demand is effected.

37. Section 10 of P.L.1984, c.140 (C.45:14D-20) is amended to read as follows:

C.45:14D-20 Additional penalties.

10. In addition or as an alternative, as the case may be, to revoking, suspending or refusing to renew any license, the director may, after affording an opportunity to be heard:

a. Assess civil penalties in accordance with P.L.1981, c.311 (C.45:14D-1 et seq.);

b. Order that any person violating any provision of that act cease and desist from future violations thereof or take affirmative corrective action as necessary with regard to any act or practice found to be unlawful by the director;

c. Order any person found to have violated any provision of that act to restore or to return to any person aggrieved by an unlawful act or practice any moneys or property, real or personal, acquired by means of that act or practice; except that the director shall not order restoration in a dollar amount greater than those moneys received by a licensee or his agent or any other person violating that act.

In any administrative proceeding on a complaint alleging a violation of that act, the director may issue subpoenas to compel the attendance of witnesses or the production of books, records, or documents at the hearing on the complaint.

38. Section 11 of P.L.1984, c.140 (C.45:14D-21) is amended to read as follows:

C.45:14D-21 Injunctive relief.

11. Whenever it shall appear to the director or the Attorney General that a violation of P.L.1981, c.311 (C.45:14D-1 et seq.), including the unlicensed practice of the activities regulated therein, has occurred, is occurring, or will occur, the Attorney General, in addition to any other proceeding authorized by law, may seek and obtain in a summary proceeding in the Superior Court an injunction prohibiting the act or practice. In the proceeding the court may assess a civil penalty in accordance with the provisions of that act, order restoration to any person in interest of any moneys or property, real or personal, acquired by means of an unlawful act or practice and may enter any orders necessary to prevent the performance of an unlawful practice in the future and to remedy fully any past unlawful activity. In any action brought pursuant to this section, the court shall not suspend or revoke any license issued by the director.

39. Section 12 of P.L.1984, c.140 (C.45:14D-22) is amended to read as follows:

C.45:14D-22 Docketing of judgment.

12. Upon the failure of any person to comply within 10 days after service of any order of the director directing payment of penalties or restoration of moneys or property, the Attorney General or the director may issue a certificate to the Clerk of the Superior Court that the person is indebted to the State for the payment of the penalty and the moneys or property ordered restored. A copy of the certificate shall be served upon the person against whom the order was entered. Thereupon the clerk shall immediately enter upon his record of docketed judgments the name of the person so indebted and of the State, a designation of the statute under which the penalty is imposed, the amount of the penalty imposed, and amount of moneys ordered restored, a listing of property ordered restored, and the date of the certification. The entry shall have the same force and effect as the entry of a docketed judgment in the Superior Court, and the Attorney General shall have all rights and remedies of a judgment creditor, in addition to exercising any other available remedies. The entry, however, shall be without prejudice to the right of appeal to the Appellate Division of the Superior Court from the director's order.

An action to enforce the provisions of an order entered by the director or to collect a penalty levied thereby may be brought in any municipal or Special Civil Part of the Law Division of the Superior Court or the Superior Court in a summary manner pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.) and the rules of court governing the collection of civil penalties. Process in the action shall be by summons or warrant, and if the defendant fails to answer the action, the court shall issue a warrant for the defendant's arrest for the purpose of bringing the person before the court to satisfy any order entered.

40. Section 13 of P.L.1984, c.140 (C.45:14D-23) is amended to read as follows:

C.45:14D-23 Violation of cease and desist order.

13. When it shall appear to the director or the Attorney General that a person against whom a cease and desist order has been entered has violated the order, the director or the Attorney General may initiate a summary proceeding in the Superior Court for the violation thereof. Any person found to have violated a cease and desist order shall pay to the State of New Jersey civil penalties in the amount of not more than $25,000.00 for each violation of the order. If a person fails to pay a civil penalty assessed by the court for violation of a cease and desist order, the court assessing the unpaid penalty is authorized, upon application of the director or the Attorney General, to grant any relief which may be obtained under any statute or court rule governing the collection and enforcement of penalties.

41. Section 15 of P.L.1984, c.140 (C.45:14D-25) is amended to read as follows:

C.45:14D-25 Insurance requirements.

15. No license shall be issued to a warehouseman or mover or remain in force unless the warehouseman or mover complies with the rules or regulations that the director shall prescribe governing policies of insurance, qualifications as a self-insurer or other securities or agreements in the amount that the director may require.

42. Section 3 of P.L.1998, c.60 (C.45:14D-26) is amended to read as follows:

C.45:14D-26 Notification to BPU of unlicensed mover.

3. The director shall notify the Board of Public Utilities of the business location and telephone number of any public mover that does not have a valid license issued by the director.

43. Section 4 of P.L.1998, c.60 (C.45:14D-27) is amended to read as follows:

C.45:14D-27 Order to disconnect unlicensed mover's telephone.

4. When notified by the director pursuant to section 3 of P.L.1998, c.60 (C.45:14D-26), the Board of Public Utilities shall order the servicing telecommunications company to disconnect that mover's telephone number that is published in any commercial listing.

44. Section 12 of P.L.1969, c.158 (C.18A:73-27) is amended to read as follows:

C.18A:73-27 State Library personnel.

12. The State Library shall consist of the State Librarian and such other personnel as the President of Thomas Edison State College may deem necessary for the efficient administration thereof.

45. N.J.S.18A:74-10 is amended to read as follows:

Compliance with regulations, standards.

18A:74-10. In order to participate in any apportionment made according to the provisions of this chapter, municipalities and counties shall comply with the regulations and standards which have been, or which may be, prescribed by law or recommended by the State Librarian for the operation and improvement of free public libraries to provide efficient and effective library services, to insure public benefit and convenience therefrom and to achieve the objects of this chapter.

46. Section 4 of P.L.1973, c.381 (C.18A:74-17) is amended to read as follows:

C.18A:74-17 Administration of act.

4. The administration of this act shall be governed by rules and regulations recommended and promulgated by the State Librarian with the approval of the President of Thomas Edison State College.

47. Section 3 of P.L.1999, c.184 (C.18A:74-26) is amended to read as follows:

C.18A:74-26 Public Library Construction Advisory Board.

3. There is created a Public Library Construction Advisory Board to be comprised of seven members as follows: the Secretary of State or the secretary's designee who shall serve as the chair; the State Librarian or the librarian's designee; the President of Thomas Edison State College, or the president's designee; and four persons with library, construction, or finance experience who shall be appointed by the Governor with the advice and consent of the Senate and who shall serve at the pleasure of the Governor and until their successors are appointed and shall have qualified.

Moneys in the fund shall be distributed as grants to public libraries for part of eligible project costs as enumerated in section 4 of P.L.1999, c.184 (C.18A:74-27), based on criteria

and a competitive selection process established by the board. The board shall promulgate regulations prescribing procedures for applying for a grant and the terms and conditions for receiving a grant. A grant application shall include a complete description of the project to be financed and an identification of additional sources of revenue to be used. An application shall be reviewed, and approved or denied by the board in accordance with uniform procedures by resolution of the board. When a grant is approved by the board, the board shall establish the recommended grant amount and shall submit to the Joint Budget Oversight Committee, or its successor, the board's approved amount of the grant and a brief description of the project for approval by the committee. Any grant not disapproved by the Joint Budget Oversight Committee within 30 days of such submission shall be deemed approved by the committee. After a grant application is approved by the committee, the board shall forward a copy of the application and certify the approved amount of the grant to the authority.

Repealer.

48. The following are repealed:

Sections 13, 15, and 16 of P.L.1969, c.158 (C.18A:73-28, 18A:73-30 and 31);

Section 7 of P.L.1983, c.486 (C.18A:73-31.1);

P.L.1979, c.443;

Section 9 of P.L.1999, c.156 (C.52:27D-118.30b);

P.L.1983, c.378 (C.52:9V-1 et seq.);

Section 12 of P.L.1971, c.134 (C.52:17B-129);

Section 1 of P.L.2000, c.138 (C.18A:44-5);

P.L.1978, c.68;

Section 1 of P.L.1994, c.191;

Section 31 of P.L.2002, c.40 (C.54:10A-41);

Sections 2 through 4 of P.L.1985, c.1 (C.52:17B-77.1 through 52:17B-77.3, inclusive);

Sections 8 through 12 of P.L.1991, c.344;

Section 6 of P.L.1977, c.240 (C.24:6E-5);

Section 37 of P.L.1993, c.139;

P.L.2003, c.58;

Section 2 of P.L.1999, c.419 (C.18A:65-87);

Section 2 of P.L.1995, c.419 (C.6:1-99);

Section 3 of P.L.2003, c.112 (C.17B:30-43);

P.L.2003, c.47;

Section 5 of P.L.1998, c.37;

P.L.2004, c.121;

P.L.1997, J.R.7;

Section 4 of P.L.2001, c.192 (C.52:9YY-4);

P.L.2003, c.303;

Sections 1 through 7 of P.L.1993, c.209 (C.52:16A-43 through 52:16A-49, inclusive);

P.L.1993, J.R.7;

Section 4 of P.L.1999, c.111 (C.2A:34-12.4);

Section 43 of P.L.2000, c.126;

Section 5 of P.L.1991, c.235 (C.13:1D-39);

Sections 1 through 17 of P.L.2001, c.262 (C.18A:71B-64 through 18A:71B-80, inclusive);

P.L.2004, c.85;

P.L.1993, J.R.8;

P.L.1998, J.R.7;

Sections 18 through 20 of P.L.1983, c.315 (C.34:5A-18 through 34:5A-20, inclusive);
P.L.2005, c.117;
Section 4 of P.L.1981, c.311 (C.45:14D-4);
P.L.1984, J.R.8;
P.L.1992, c.75 (C.52:9H-31 et seq.);
P.L.1994, c.146;
P.L.2002, c.49;
P.L.2004, J.R.1;
Section 3 of P.L.1969, c.95 (C.18A:61A-3); and
Sections 1 through 7 of P.L.2001, c.203.

49. This act shall take effect immediately.

Approved November 3, 2010.