

ASSEMBLY, No. 764

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblywoman BUONO

1 AN ACT concerning the unwanted delivery of certain printed matter,  
2 amending P.L.1981, c.278 and amending and supplementing  
3 P.L.1985, c.533.

4

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

7

8 1. Section 3 of P.L.1981, c.278 (C.13:1E-94) is amended to read  
9 as follows:

10 3. As used in this act:

11 a. "Department" means the State Department of Environmental  
12 Protection;

13 b. "Division" means the Division of Taxation in the Department of  
14 the Treasury;

15 c. "Director" means the Director of the Division of Taxation in the  
16 Department of the Treasury;

17 d. "Litter" means any used or unconsumed substance or waste  
18 material which has been discarded, whether made of aluminum, glass,  
19 plastic, rubber, paper, or other natural or synthetic material, or any  
20 combination thereof, including, but not limited to, any bottle, jar or  
21 can, or any top, cap or detachable tab of any bottle, jar or can, any  
22 unlighted cigarette, cigar, match or any flaming or glowing material or  
23 any garbage, trash, refuse, debris, rubbish, grass clippings or other  
24 lawn or garden waste, newspapers, magazines, glass, metal, plastic or  
25 paper containers or other packaging or construction material, but does  
26 not include the waste of the primary processes of mining or other  
27 extraction processes, logging, sawmilling, farming or manufacturing;

28 e. "Litter-generating products" means the following specific goods  
29 which are produced, distributed, or purchased in disposable containers,  
30 packages or wrappings; or which are not usually sold in packages,  
31 containers, or wrappings but which are commonly discarded in public  
32 places; or which are of an unsightly or unsanitary nature, commonly

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

**Matter underlined thus is new matter.**

1 thrown, dropped, discarded, placed, or deposited by a person on  
2 public property, or on private property not owned by him:

- 3 (1) Beer and other malt beverages;
- 4 (2) Cigarettes and tobacco products;
- 5 (3) Cleaning agents and toiletries;
- 6 (4) Distilled spirits;
- 7 (5) Food for human or pet consumption;
- 8 (6) Glass containers sold as such;
- 9 (7) Groceries;
- 10 (8) Metal containers sold as such;
- 11 (9) Motor vehicle tires;
- 12 (10) Newsprint and magazine paper stock, including any  
13 newspaper or commercial advertising brochure or circular that is  
14 dropped, placed, deposited or delivered by a person on private  
15 property contrary to a written request by the owner thereof, as  
16 described in section 3 of P.L. , c. (C. )(now pending before  
17 the Legislature as this bill);
- 18 (11) Drugstore sundry products, but not including prescription  
19 drugs or nonprescription drugs;
- 20 (12) Paper products and household paper;
- 21 (13) Plastic or fiber containers made of synthetic material and sold  
22 as such, but not including any container which is routinely reused, has  
23 a useful life of more than one year and is ordinarily sold empty at  
24 retail;
- 25 (14) Soft drinks and carbonated waters; and
- 26 (15) Wine;
- 27 f. "Litter receptacle" means a container suitable for the depositing  
28 of litter;
- 29 g. "Municipality" means any city, borough, town, township or  
30 village situated within the boundaries of this State;
- 31 h. "Public place" means any area that is used or held out for use by  
32 the public, whether owned or operated by public or private interests;
- 33 i. "Recycling" means any process by which materials which would  
34 otherwise become solid waste are collected, separated or processed  
35 and returned to the economic mainstream in the form of raw materials  
36 or products;
- 37 j. "Sold within the State" or "sales within the State" means all sales  
38 of retailers engaged in business within the State and, in the case of  
39 manufacturers, wholesalers and distributors, all sales of products for  
40 use and consumption within the State. It shall be presumed that all  
41 sales of manufacturers, wholesalers and distributors sold within the  
42 State are for use and consumption within the State unless the taxpayer  
43 shows that the products are shipped out of State for out-of-State use;
- 44 k. "Tax period" means every calendar month or any other period  
45 as may be prescribed by rule and regulation adopted by the director,  
46 on the basis of which the owner or operator of a solid waste facility is

1 required to report to the director pursuant to section 4 of P.L.1981,  
2 c.278 (C.13:1E-95);

3 1. "Taxpayer" means the owner or operator of a solid waste facility  
4 or the manufacturer, wholesaler, distributor, or retailer of  
5 litter-generating products subject to the tax provisions of section 4 of  
6 P.L.1981, c.278 (C.13:1E-95) or section 6 of P.L.1985, c.533  
7 (C.13:1E-99.1), as the case may be.  
8 (cf: P.L.1987, c.102, s.34)

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10 2. Section 8 of P.L.1985, c.533 (C.13:1E-99.3) is amended to read  
11 as follows:

12 8. a. A person who throws, drops, discards or otherwise places  
13 any litter of any nature upon public or private property other than in  
14 a litter receptacle, or a person who repeatedly drops, places, deposits  
15 or delivers newspapers or commercial advertising brochures or  
16 circulars on private property contrary to a written request by the  
17 owner thereof, as described in section 3 of P.L. \_\_\_\_\_, c. \_\_\_\_\_  
18 (C. \_\_\_\_\_)(now pending before the Legislature as this bill), and the  
19 owner, publisher, printer or distributor of a newspaper or commercial  
20 advertising brochure or circular who fails to stop the dropping,  
21 placing, depositing or delivery of such printed matter on private  
22 property contrary to a written request by the owner thereof, pursuant  
23 to the provisions of section 3 of P.L. \_\_\_\_\_, c. \_\_\_\_\_ (C. \_\_\_\_\_)(now pending  
24 before the Legislature as this bill), commits a petty disorderly persons  
25 offense. The Superior Court and every municipal court shall have  
26 jurisdiction to enforce this section. The State or any municipality may  
27 institute proceedings under this section. If a money judgment is  
28 rendered against a defendant, the payment made to the court shall be  
29 remitted to the chief financial officer of the municipality wherein the  
30 violation occurred, to be used by the municipality to help finance litter  
31 control activities in addition to or supplementing existing litter pickup  
32 and removal activities in the municipality.

33 b. If a person violates subsection a. of this section the court, in  
34 addition to any penalty imposed under that subsection, may direct the  
35 person to perform community service, including litter pickup and  
36 removal from any public property, or any private property with  
37 permission of the owner, upon which the person deposited litter, for  
38 a term of not less than 20 hours nor more than 40 hours.

39 c. A person who is convicted of an offense under subsection a. of  
40 this section within one year of the date of a previous conviction  
41 thereunder may be sentenced to imprisonment for a definite term not  
42 to exceed 60 days, may in addition be sentenced to pay a fine not to  
43 exceed \$1,000 and may be directed to perform community service,  
44 including litter pickup and removal from any public property or from  
45 any private property if permission of the owner has been granted, for

1 a term of not less than 40 nor more than 80 hours.

2 (cf: P.L.1989, c.108, s.3)

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4 3. (New section) a. Any person who owns private property may  
5 request that no newspaper or commercial advertising brochure or  
6 circular be dropped, placed, or deposited at or delivered to that  
7 property by directing a communication in writing to the owner,  
8 publisher, printer or distributor of any such publication which is  
9 dropped, placed, deposited or delivered on the property of that person.  
10 The communication shall note that the property owner: (1) does not  
11 wish to have the newspaper or commercial advertising brochure or  
12 circular dropped, placed, or deposited at or delivered to that person's  
13 property; (2) regards the newspaper or commercial advertising  
14 brochure or circular as litter, as defined pursuant to section 3 of  
15 P.L.1981, c.278 (C.13:1E-94), and not as a form of communication  
16 protected by the First Amendment of the United States Constitution;  
17 and (3) wishes to have the delivery of the newspaper or commercial  
18 advertising brochure or circular terminated immediately.

19 b. The owner, publisher, printer or distributor of a newspaper or  
20 commercial advertising brochure or circular who receives a  
21 communication in writing, pursuant to the provisions of subsection a.  
22 of this section, shall subsequently be responsible for making certain  
23 that no person who is an employee or agent of that owner, publisher,  
24 printer or distributor drops, places, deposits, or delivers that  
25 newspaper or commercial advertising brochure or circular on the  
26 private property of the person who initiated the communication  
27 provided for by subsection a. of this section.

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29 4. This act shall take effect immediately.

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#### STATEMENT

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34 This bill provides that any person who owns private property may  
35 request that no newspaper or commercial advertising brochure or  
36 circular be dropped, placed, deposited or delivered by directing a  
37 written communication to the owner, publisher, printer or distributor  
38 of that newspaper or commercial advertising brochure or circular  
39 which makes clear that the owner of the property does not wish to  
40 have the publication delivered, regards it as litter and not a  
41 Constitutionally-protected form of communication and wishes that  
42 delivery be terminated immediately. The bill also provides that the  
43 owner, publisher, printer or distributor of a newspaper or commercial  
44 advertising brochure or circular who receives a communication in  
45 writing asking that the delivery of the publication stop shall  
46 subsequently be responsible for making certain that no person who is

1 an employee or agent of that owner, publisher, printer or distributor  
2 drops, deposits, places or delivers that newspaper or commercial  
3 advertising brochure or circular on the private property of the person  
4 who initiated the communication.

5 Any person who continues the delivery of the newspapers or the  
6 commercial advertising brochures or circulars and any owner,  
7 publisher, printer or distributor of such printed matter who fails to  
8 stop the the delivery thereof would be considered to have committed  
9 a petty disorderly persons offense by violating the State's anti-littering  
10 laws. Upon conviction for a first offense, the defendant would be  
11 subject to a \$100 fine, and may also be directed by the court to  
12 perform between 20 - 40 hours of community service, including litter  
13 pickup and removal.

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18 Permits property owner to request that no newspaper or commercial  
19 advertising brochure or circular be delivered thereto; makes owner,  
20 publisher, printer or distributor of publication responsible for stopping  
21 delivery.