

SENATE, No. 1743

STATE OF NEW JERSEY

INTRODUCED DECEMBER 19, 1996

By Senators CONNORS, BUBBA and McNamara

1 AN ACT concerning the regulation of junkyards and supplementing
2 Title 13 of the Revised Statutes.

3

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

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7 1. As used in this act:

8 "Commissioner" means the Commissioner of Environmental
9 Protection.

10 "Department" means the Department of Environmental Protection.

11 "Delegated local agency" means a political subdivision of the State,
12 or an agency or instrumentality thereof, with a facility inspection
13 program approved by the State.

14 "Facility" means any scrap metal processing and recycling facility
15 which is classified under the Standard Industrial Classification Number
16 5053, or facility engaged in the dismantling of motor vehicles for the
17 purpose of selling parts classified under Standard Industrial
18 Classification Number 5015, as designated in the Standard Industrial
19 Classifications Manual prepared by the Office of Management and
20 Budget in the Executive Office of the President of the United States;
21 any place of business which is maintained, operated or used for
22 storing, keeping, buying or selling junk or scrap, including the
23 temporary storage of motor vehicle bodies and parts awaiting
24 recycling or disposal; and all motor vehicle wrecking yards, salvage
25 yards, scrap yards, motor vehicle recycling yards, and used motor
26 vehicle parts yards to the extent such facilities are engaged in activities
27 regulated by this act but are not classified under Standard Industrial
28 Classification Numbers 5053 or 5015.

29 "Hazardous substance" shall have the same meaning as in section
30 3 of P.L.1976, c.141 (C.58:10-23.11b).

31 "Hazardous waste" shall have the same meaning as in section 1 of
32 P.L.1976, c.99 (C.13:1E-38).

33 "Junk" or "scrap" means copper, brass, iron, steel, all other ferrous
34 and nonferrous metals, rope, rags, batteries, glass, paper, plastic,
35 rubber, or other materials derived from the dismantling of motor
36 vehicles and scrap metal processing and recycling activities.

- 1 2. a. Within 270 days of the effective date of this act, an owner or
2 operator of a facility or a person who plans to own or operate a
3 facility shall apply for a permit pursuant to this act.
- 4 b. No person shall operate a facility without first filing an
5 application for a permit and the Department of Environmental
6 Protection shall approve, approve with conditions, or deny an
7 application for a permit within 365 days of the effective date of this
8 act. A permit issued by the department pursuant to this act shall
9 require the owner or operator of the facility to:
- 10 (1) comply with all applicable environmental laws concerning the
11 treatment, handling and disposal of hazardous substances or hazardous
12 waste;
- 13 (2) establish a closure plan for the facility to prevent, minimize, or
14 monitor pollution or health hazards resulting from the facility; and
- 15 (3) comply with procedures established by the department for
16 activities that pose a threat of a discharge of a hazardous substance or
17 a hazardous waste into the environment.
- 18 c. The application for a permit shall be made on forms and in a
19 manner as provided by the department and shall contain such
20 information as may be prescribed by the department. The application
21 shall include the following information:
- 22 (1) the name and address of the facility;
- 23 (2) a site plan of the facility and its perimeter indicating the size of
24 the facility, the location of all junk or scrap thereon, all permanent
25 structures, and the location of any on-site or off-site areas that may be
26 environmentally impacted by the facility activities;
- 27 (3) the nature and location of any activities regulated by the
28 department pursuant to current law; and
- 29 (4) Any other relevant information requested by the department.
- 30 d. The department shall establish and charge reasonable fees which
31 shall be based upon the costs of processing, monitoring and
32 administering permits issued pursuant to this act and enforcing
33 compliance with this act. The application form shall be submitted with
34 a registration fee. The fees shall be deposited to the credit of the State
35 and be deemed a part of the General Fund. The Legislature shall
36 annually appropriate an amount equivalent to the amount anticipated
37 to be collected as fees charged pursuant to this section.
- 38 e. Facility operations must at all times be in compliance with any
39 applicable federal, state, or local laws, rules and regulations, and
40 ordinances.
- 41 f. The closure of a facility must be in accordance with rules and
42 regulations adopted by the department pursuant to the "Administrative
43 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).
- 44 g. No permit shall be approved by the department when in the
45 opinion of the department the facility's operations do not meet

1 standards or criteria set forth in this act or in any rules and regulations
2 adopted pursuant thereto.

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4 3. Within 180 days of the effective date of this act, the
5 commissioner shall adopt, pursuant to the “Administrative Procedure
6 Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations to:

7 (1) prescribe the forms for the application for a permit for facilities
8 and the procedures for the filing of such forms;

9 (2) establish procedures for the proper operation and closure of a
10 facility and to remediate any contamination resulting from operation
11 of the facility;

12 (3) establish specific procedures for all activities at such facilities
13 that could pose a threat of a discharge of a hazardous substance or
14 hazardous waste to the environment;

15 (4) provide for the delegation of facility inspection authority to
16 delegated local agencies with an inspection program approved by the
17 department;

18 (5) establish a fee schedule based upon reasonable annual estimated
19 costs to the department of processing, monitoring, and administering
20 permits pursuant to this act and enforcing compliance with this act;

21 (6) establish penalties pursuant to section 6 of this act; and

22 (7) adopt such other requirements as may be necessary to carry out
23 its responsibilities pursuant to this act.

24 In developing rules and regulations, the department may provide for
25 the issuance of individual or a general facility-wide permits providing
26 comprehensive regulation of the various environmental concerns at
27 such facilities.

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29 4. a. The commissioner or a delegated local agency shall have the
30 right to enter to inspect any facility for the purpose of inspection,
31 sampling, copying or photographing or otherwise determining a
32 facility’s compliance with this act.

33 b. The department or a delegated local agency shall conduct an
34 inspection of each facility at least once a year. Delegated local
35 agencies may charge inspection fees based on the reasonable costs of
36 facility inspections.

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38 5. a. The department may, after conducting a hearing, deny,
39 suspend, revoke, or refuse to renew a permit, if the owner or operator
40 of the facility:

41 (1) violates any law concerning the treatment, handling or disposal
42 of hazardous substances or wastes, abetts another to commit a
43 violation, or violates any provision of this act or any other act
44 conferring authority upon the department to regulate activities at such
45 facilities, or any rule or regulation adopted pursuant thereto, or order
46 issued pursuant to this act or any other act;

- 1 (2) makes a false statement on an application for a permit or other
2 information provided to the department pursuant to this act;
- 3 b. The suspension, revocation, or refusal to renew a permit shall
4 not bar the department from pursuing against the applicant or
5 permittee any other lawful remedy available to the department.
- 6 c. If the department has reason to believe that a condition exists at
7 the facility that poses an imminent threat to the public health, safety or
8 welfare, it may order the applicant or permittee to cease operations
9 immediately pending the outcome of the hearing.
- 10
- 11 6. a. Whenever the department finds that a person has violated any
12 provision of this act, any rule or regulation adopted pursuant thereto,
13 or any order issued pursuant thereto, the department may:
- 14 (1) Issue an order requiring the person found to be in violation to
15 comply in accordance with subsection b. of this section;
- 16 (2) Bring a civil action in accordance with subsection c. of this
17 section;
- 18 (3) Levy a civil administrative penalty in accordance with
19 subsection d. of this section;
- 20 (4) Bring an action for a civil penalty in accordance with
21 subsection e. of this section..
- 22 b. Whenever the department finds that a person has violated any
23 provision of this act, or any rule or regulation adopted, or order issued
24 pursuant thereto, the department may issue an order specifying the
25 provision or provisions of this act, or the rule, regulation, or order
26 issued, pursuant thereto, of which the person is in violation, citing the
27 action which constituted the violation, ordering abatement of the
28 violation, and giving notice to the person of the right to a hearing on
29 the matters contained in the order. The ordered party shall have 20
30 calendar days from receipt of the order within which to deliver to the
31 department a written request for a hearing. Such order shall be
32 effective upon receipt and any person to whom such order is directed
33 shall comply with the order immediately. A request for hearing shall
34 not automatically stay the effect of the order.
- 35 c. The department may institute an action or proceeding in the
36 Superior Court for injunctive and other relief for any violation of this
37 act or of any rule, regulation, or order issued pursuant thereto, and
38 the court may proceed in the action in a summary manner. Such relief
39 may include, singly or in combination:
- 40 (1) Assessment of the reasonable costs of any investigation,
41 inspection or monitoring survey that led to the establishment of the
42 violation, and for the reasonable costs of preparing and litigating the
43 case under this subsection;
- 44 (2) Assessment of the reasonable cost incurred by the State in
45 terminating any adverse effects of a violation on water quality or other
46 elements of the environment;

1 (3) Assessment of compensatory damages for any loss or
2 destruction of wildlife, fish or other aquatic life, or other natural
3 resources, and for any other actual damages; and

4 (4) A temporary or permanent injunction.

5 Compensatory damages collected pursuant to paragraph (3) of this
6 subsection shall be paid to the General Fund, except that
7 compensatory damages shall be paid by specific order of the court to
8 any persons who have been aggrieved by the violation.

9 d. The department may assess a civil administrative penalty of not
10 more than \$50,000 for each violation, and each day during which a
11 violation continues shall constitute an additional, separate and distinct
12 offense.

13 No civil administrative penalty shall be levied pursuant to this
14 subsection until after the violator has been notified by certified mail or
15 personal service. The notice shall include a reference to the section of
16 the statute, rule, regulation, or order violated; a concise statement of
17 the facts alleged to constitute a violation; a statement of the amount
18 of the civil administrative penalties to be imposed; and a statement of
19 the party's right to a hearing. The party shall have twenty days from
20 the receipt of the notice within which to deliver to the commissioner
21 a written request for a hearing. After the hearing and upon finding
22 that a violation has occurred, the department may issue a final order
23 assessing a penalty up to the amount of the penalty specified in the
24 order. If no hearing is requested, the notice shall become a final order
25 on the twenty-first day after receipt of the notice. Payment of the
26 assessment is due when a final order is issued, or the notice becomes
27 a final order.

28 Agreement to, or payment of a civil administrative penalty shall not
29 be deemed to affect the availability of any other enforcement provision
30 in connection with the violation for which the penalty is levied.

31 e. Any person who violates the provisions of this act, or any rule
32 or regulation adopted, pursuant thereto, shall be subject, upon order
33 of a court, to a civil penalty of not more than \$50,000 for each
34 violation, and each day the violation continues shall constitute an
35 additional, separate, and distinct offense. Any person violating an
36 administrative order issued pursuant to subsection b. of this section,
37 or a court order issued pursuant to subsection c. of this section, or
38 who fails to pay a civil administrative penalty when due and owing as
39 provided in subsection d. of this section, shall be subject, upon order
40 of a court, to a civil penalty of not more than to a civil penalty not to
41 exceed \$25,000 per day of the violation and each day the violation
42 continues shall constitute an additional, separate, and distinct offense.

43 Any civil action to impose a penalty pursuant to this subsection may
44 be commenced in the Superior Court and that penalty may be enforced
45 and collected with costs in a summary proceeding pursuant to "the
46 penalty enforcement law," N.J.S.2A:58-1 et seq.

1 f. The department may compromise and settle any claim for a
2 penalty under this section in such amount as the department may
3 determine to be appropriate and equitable under all of the
4 circumstances.

5 g. Any person who fails to contest or to pay, in whole or in part,
6 a penalty imposed pursuant to this section, or who fails to agree to a
7 payment schedule therefor, within 30 days of the date that the penalty
8 is due and owing, shall be subject to an interest charge on the amount
9 of the penalty from the date that the amount was due and owing. The
10 rate of interest shall be that established by the New Jersey Supreme
11 Court for interest rates on judgments, as set forth in the Rules
12 Governing the Courts of the State of New Jersey.

13 h. The penalty provisions of this section shall not preclude the
14 department from assessing such penalties as mat be authorized
15 pursuant to any other act.

16 i. All penalties monies, and any interest thereon, assessed and
17 collected pursuant to this section shall be deposited into the "New
18 Jersey Spill Compensation Fund," established pursuant to section 10
19 P.L. 1976, c.141 (C.58:10-23.11i) for use for any of the authorized
20 purposes of the fund.

21 j. Nothing in this act shall prevent the State from undertaking a
22 criminal prosecution of a person for any criminal offense enumerated
23 by the New Jersey Statutes.

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25 7. This act shall take effect immediately.
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28 STATEMENT

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30 This bill would require as a condition to operate, that all junkyards
31 and scrap yards obtain a permit from the Department of Environmental
32 Protection. A permit issued by the department pursuant to this act
33 would require the owner or operator of the facility to comply with all
34 applicable environmental laws concerning the treatment, handling and
35 disposal of hazardous substances or hazardous waste, establish a
36 closure plan for the facility to prevent, minimize, or monitor pollution
37 or health hazards resulting from the facility, and comply with
38 procedures established by the department for activities that pose a
39 threat of a discharge of a hazardous substance or a hazardous waste
40 into the environment. The bill would provide for penalties for
41 violations of the act up to \$50,000 per day.
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46 Provides for the regulation of junkyards.