

[First Reprint]
SENATE, No. 1789

STATE OF NEW JERSEY

INTRODUCED JANUARY 23, 1997

By Senators CIESLA, CONNORS and Singer

1 AN ACT concerning the statute of limitations for certain environmental
2 criminal offenses and amending N.J.S.2C:1-6, N.J.S.2C:17-2,
3 ¹[and]¹ P.L.1970, c.39 ¹, P.L.1989, c.34, and P.L.1984, c.173¹.

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

7
8 1. N.J.S.2C:1-6 is amended to read as follows:

9 2C:1-6. Time Limitations. a. ¹[(1)]¹ A prosecution for any offense
10 set forth in N.J.S.2C:11-3, N.J.S.2C:11-4 or N.J.S.2C:14-2 may be
11 commenced at any time.

12 ¹[(2) A prosecution for any offense set forth in paragraph (2) of
13 subsection a. of N.J.S.2C:17-2, section 9 of P.L.1970, c.39
14 (C.13:1E-9), section 19 of P.L.1954, c.212 (C.26:2C-19), or section
15 10 of P.L.1977, c.74 (C.58:10A-10) may be commenced at any time.]¹

16 b. Except as otherwise provided in this section, prosecutions for
17 other offenses are subject to the following periods of limitations:

18 (1) A prosecution for a crime must be commenced within five years
19 after it is committed;

20 (2) A prosecution for a disorderly persons offense or petty
21 disorderly persons offense must be commenced within one year after
22 it is committed;

23 (3) A prosecution for any offense set forth in N.J.S.2C:27-2,
24 N.J.S.2C:27-4, N.J.S.2C:27-6, N.J.S.2C:27-7, N.J.S.2C:29-4,
25 N.J.S.2C:30-2, N.J.S.2C:30-3, or any attempt or conspiracy to commit
26 such an offense, must be commenced within seven years after the
27 commission of the offense;

28 (4) A prosecution for an offense set forth in N.J.S.2C:14-3 or
29 N.J.S.2C:24-4, when the victim at the time of the offense is below the
30 age of 18 years, must be commenced within five years of the victim's
31 attaining the age of 18 or within two years of the discovery of the

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SJU committee amendments adopted December 11, 1997.

1 offense by the victim, whichever is later ¹;

2 (5) A prosecution for any offense set forth in paragraph (2) of
3 subsection a. of N.J.S.2C:17-2, section 9 of P.L.1970, c.39 (C.13:1E-
4 9), section 20 of P.L.1989, c.34 (C.13:1E-48.20), section 19 of
5 P.L.1954, c.212 (C.26:2C-19), section 10 of P.L.1984, c.173
6 (C.34:5A-41), or section 10 of P.L.1977, c.74 (C.58:10A-10) must be
7 commenced within 10 years after the date of discovery of the offense
8 by a local law enforcement agency, a county prosecutor, or the
9 Department of Environmental Protection either directly by any of
10 those entities or indirectly by notice given to any of those entities¹ .

11 c. An offense is committed either when every element occurs or,
12 if a legislative purpose to prohibit a continuing course of conduct
13 plainly appears, at the time when the course of conduct or the
14 defendant's complicity therein is terminated. Time starts to run on the
15 day after the offense is committed.

16 d. A prosecution is commenced for a crime when an indictment is
17 found and for a nonindictable offense when a warrant or other process
18 is issued, provided that such warrant or process is executed without
19 unreasonable delay. Nothing contained in this section, however, shall
20 be deemed to prohibit the downgrading of an indictable offense to a
21 nonindictable offense at any time if the indictable offense was filed
22 within the statute of limitations applicable to indictable offenses.

23 e. The period of limitation does not run during any time when a
24 prosecution against the accused for the same conduct is pending in this
25 State.

26 f. The limitations in this section shall not apply to any person
27 fleeing from justice.

28 g. Except as otherwise provided in this code, no civil action shall
29 be brought pursuant to this code more than five years after such action
30 accrues.

31 (cf: P.L.1996, c.22, s.1)

32

33 2. N.J.S. 2C:17-2 is amended to read as follows:

34 2C:17-2. Causing or Risking Widespread Injury or Damage. a. (1)
35 A person who, purposely or knowingly, unlawfully causes an
36 explosion, flood, avalanche, collapse of a building, release or
37 abandonment of poison gas, radioactive material or any other harmful
38 or destructive substance commits a crime of the second degree. A
39 person who, purposely or knowingly, unlawfully causes widespread
40 injury or damage in any manner commits a crime of the second degree.

41 (2) A person who, purposely or knowingly, unlawfully causes a
42 hazardous discharge required to be reported pursuant to the "Spill
43 Compensation and Control Act," P.L.1976, c.141 (C.58:10-23.11 et
44 seq.) or any rules and regulations adopted pursuant thereto, or who,
45 purposely or knowingly, unlawfully causes a release or abandonment
46 of hazardous waste as defined in section 1 of P.L.1976, c.99

1 (C.13:1E-38) or a toxic pollutant as defined in section 3 of P.L.1977,
2 c.74 (C.58:10A-3) commits a crime of the second degree. Any person
3 who recklessly violates the provisions of this paragraph is guilty of a
4 crime of the third degree. [The provisions of N.J.S.2C:1-6 to the
5 contrary notwithstanding, a prosecution for a violation of the
6 provisions of this paragraph shall be commenced within five years of
7 the date of the discovery of the violation.]

8 b. A person who recklessly causes widespread injury or damage is
9 guilty of a crime of the third degree.

10 c. A person who recklessly creates a risk of widespread injury or
11 damage commits a crime of the fourth degree, even if no such injury
12 or damage occurs.

13 d. A person who knowingly or recklessly fails to take reasonable
14 measures to prevent or mitigate widespread injury or damage commits
15 a crime of the fourth degree, if:

16 (1) He knows that he is under an official, contractual or other legal
17 duty to take such measures; or

18 (2) He did or assented to the act causing or threatening the injury
19 or damage.

20 e. For purposes of this section, widespread injury or damage means
21 serious bodily injury to 10 or more people or damage to 10 or more
22 habitations or to a building which would normally have contained 50
23 or more persons at the time of the offense.

24 (cf: P.L.1985, c. 348, s.1)

25
26 3. Section 9 of P.L.1970, c.39 (C.13:1E-9) is amended to read as
27 follows:

28 9. a. All codes, rules and regulations adopted by the department
29 related to solid waste collection and disposal shall have the force and
30 effect of law. These codes, rules and regulations shall be observed
31 throughout the State and shall be enforced by the department and by
32 every local board of health, or county health department, as the case
33 may be.

34 The department and the local board of health, or the county health
35 department, as the case may be, shall have the right to enter a solid
36 waste facility at any time in order to determine compliance with the
37 registration statement and engineering design required pursuant to
38 section 5 of P.L.1970, c.39 (C.13:1E-5), and with the provisions of all
39 applicable laws or rules and regulations adopted pursuant thereto.

40 The municipal attorney or an attorney retained by a municipality in
41 which a violation of such laws or rules and regulations adopted
42 pursuant thereto is alleged to have occurred shall act as counsel to a
43 local board of health.

44 The county counsel or an attorney retained by a county in which a
45 violation of such laws or rules and regulations adopted pursuant
46 thereto is alleged to have occurred shall act as counsel to the county

1 health department.

2 Any county health department may charge and collect from the
3 owner or operator of any sanitary landfill facility within its jurisdiction
4 such fees for enforcement activities as may be established by ordinance
5 or resolution adopted by the governing body of any such county. The
6 fees shall be established in accordance with a fee schedule regulation
7 adopted by the department, pursuant to law, and shall be utilized
8 exclusively to fund such enforcement activities.

9 All enforcement activities undertaken by county health departments
10 pursuant to this subsection shall conform to all applicable performance
11 and administrative standards adopted pursuant to section 10 of the
12 "County Environmental Health Act," P.L.1977, c.443 (C.26:3A2-28).

13 b. Whenever the commissioner finds that a person has violated any
14 provision of P.L.1970, c.39 (C.13:1E-1 et seq.), or any rule or
15 regulation adopted, permit issued, or district solid waste management
16 plan adopted pursuant to P.L.1970, c.39, he shall:

17 (1) Issue an order requiring the person found to be in violation to
18 comply in accordance with subsection c. of this section;

19 (2) Bring a civil action in accordance with subsection d. of this
20 section;

21 (3) Levy a civil administrative penalty in accordance with
22 subsection e. of this section;

23 (4) Bring an action for a civil penalty in accordance with
24 subsection f. of this section; or

25 (5) Petition the Attorney General to bring a criminal action in
26 accordance with subsection g. of this section.

27 c. Whenever the commissioner finds that a person has violated any
28 provision of P.L.1970, c.39, or any rule or regulation adopted, permit
29 issued, or district solid waste management plan adopted pursuant to
30 P.L.1970, c.39, he may issue an order specifying the provision or
31 provisions of P.L.1970, c.39, or the rule, regulation, permit or district
32 solid waste management plan of which the person is in violation, citing
33 the action which constituted the violation, ordering abatement of the
34 violation, and giving notice to the person of his right to a hearing on
35 the matters contained in the order. The ordered party shall have 20
36 calendar days from receipt of the order within which to deliver to the
37 commissioner a written request for a hearing. Such order shall be
38 effective upon receipt and any person to whom such order is directed
39 shall comply with the order immediately. A request for hearing shall
40 not automatically stay the effect of the order.

41 d. The commissioner, a local board of health or county health
42 department may institute an action or proceeding in the Superior Court
43 for injunctive and other relief, including the appointment of a receiver
44 for any violation of this act, or of any code, rule or regulation adopted,
45 permit issued, district solid waste management plan adopted or order
46 issued pursuant to this act and said court may proceed in the action in

1 a summary manner. In any such proceeding the court may grant
2 temporary or interlocutory relief, notwithstanding the provisions of
3 R.S.48:2-24.

4 Such relief may include, singly or in combination:

5 (1) A temporary or permanent injunction;

6 (2) Assessment of the violator for the costs of any investigation,
7 inspection, or monitoring survey which led to the establishment of the
8 violation, and for the reasonable costs of preparing and litigating the
9 case under this subsection;

10 (3) Assessment of the violator for any cost incurred by the State in
11 removing, correcting or terminating the adverse effects upon water
12 and air quality resulting from any violation of any provision of this act
13 or any rule, regulation or condition of approval for which the action
14 under this subsection may have been brought;

15 (4) Assessment against the violator of compensatory damages for
16 any loss or destruction of wildlife, fish or aquatic life, and for any
17 other actual damages caused by any violation of this act or any rule,
18 regulation or condition of approval established pursuant to this act for
19 which the action under this subsection may have been brought.
20 Assessments under this subsection shall be paid to the State Treasurer,
21 or to the local board of health, or to the county health department, as
22 the case may be, except that compensatory damages may be paid by
23 specific order of the court to any persons who have been aggrieved by
24 the violation.

25 If a proceeding is instituted by a local board of health or county
26 health department, notice thereof shall be served upon the
27 commissioner in the same manner as if the commissioner were a named
28 party to the action or proceeding. The department may intervene as
29 a matter of right in any proceeding brought by a local board of health
30 or county health department.

31 e. The commissioner is authorized to assess a civil administrative
32 penalty of not more than \$50,000.00 for each violation provided that
33 each day during which the violation continues shall constitute an
34 additional, separate and distinct offense. The commission shall not
35 assess a civil administrative penalty in excess of \$25,000.00 for a
36 single violation, or in excess of \$2,500.00 for each day during which
37 a violation continues, until the department has adopted, pursuant to
38 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
39 seq.), regulations requiring the commissioner, in assessing a civil
40 administrative penalty, to consider the operational history of the solid
41 waste facility at which the violation occurred, the severity of the
42 violation, the measures taken to mitigate or prevent further violations,
43 and whether the penalty will maintain an appropriate deterrent. No
44 assessment shall be levied pursuant to this section until after the
45 violator has been notified by certified mail or personal service. The
46 notice shall include a reference to the section of the statute, rule,

1 regulation, order, permit condition or district solid waste management
2 plan violated, a concise statement of the facts alleged to constitute a
3 violation, a statement of the amount of the civil administrative
4 penalties to be imposed, and a statement of the party's right to a
5 hearing. The ordered party shall have 20 calendar days from receipt
6 of the notice within which to deliver to the commissioner a written
7 request for a hearing. After the hearing and upon finding that a
8 violation has occurred, the commissioner may issue a final order after
9 assessing the amount of the fine specified in the notice. If no hearing
10 is requested, the notice shall become a final order after the expiration
11 of the 20-day period. Payment of the assessment is due when a final
12 order is issued or the notice becomes a final order. The authority to
13 levy a civil administrative penalty is in addition to all other
14 enforcement provisions in P.L.1970, c.39, and the payment of any
15 assessment shall not be deemed to affect the availability of any other
16 enforcement provisions in connection with the violation for which the
17 assessment is levied. The department may compromise any civil
18 administrative penalty assessed under this section in an amount the
19 department determines appropriate.

20 f. Any person who violates the provisions of P.L.1970, c.39, or any
21 code, rule or regulation adopted pursuant thereto shall be liable to a
22 penalty of not more than \$50,000.00 per day, to be collected in a civil
23 action commenced by a local board of health, a county health
24 department, or the commissioner.

25 Any person who violates an administrative order issued pursuant to
26 subsection c. of this section, or a court order issued pursuant to
27 subsection d. of this section, or who fails to pay an administrative
28 assessment in full pursuant to subsection e. of this section is subject
29 upon order of a court to a civil penalty not to exceed \$100,000.00 per
30 day of such violations.

31 Of the penalty imposed pursuant to this subsection, 10% or
32 \$250.00, whichever is greater, shall be paid to the department from the
33 General Fund if the Attorney General determines that a person is
34 entitled to a reward pursuant to section 2 of P.L.1987, c.158
35 (C.13:1E-9.2).

36 Any penalty imposed pursuant to this subsection may be collected
37 with costs in a summary proceeding pursuant to "the penalty
38 enforcement law" (N.J.S.2A:58-1 et seq.). The Superior Court and
39 the municipal court shall have jurisdiction to enforce the provisions of
40 "the penalty enforcement law" in connection with this act.

41 g. Any person who knowingly:

42 (1) Transports any hazardous waste to a facility or any other place
43 which does not have authorization from the department to accept such
44 waste;

45 (2) Generates and causes or permits to be transported any
46 hazardous waste to a facility or any other place which does not have

- 1 authorization from the department to accept such waste;
- 2 (3) Disposes, treats, stores or transports hazardous waste without
3 authorization from the department;
- 4 (4) Makes any false or misleading statement to any person who
5 prepares any hazardous waste application, label, manifest, record,
6 report, design or other document required to be submitted to the
7 department; or
- 8 (5) Makes any false or misleading statement on any hazardous
9 waste application, label, manifest, record, report, design or other
10 document required to be submitted to the department shall, upon
11 conviction, be guilty of a crime of the third degree and,
12 notwithstanding the provisions of N.J.S.2C:43-3, shall be subject to a
13 fine of not more than \$50,000.00 for the first offense and not more
14 than \$100,000.00 for the second and each subsequent offense and
15 restitution, in addition to any other appropriate disposition authorized
16 by subsection b. of N.J.S.2C:43-2.
- 17 h. Any person who recklessly:
- 18 (1) Transports any hazardous waste to a facility or any other place
19 which does not have authorization from the department to accept such
20 waste;
- 21 (2) Generates and causes or permits to be transported any
22 hazardous waste to a facility or any other place which does not have
23 authorization from the department to accept such waste;
- 24 (3) Disposes, treats, stores or transports hazardous waste without
25 authorization from the department;
- 26 (4) Makes any false or misleading statement to any person who
27 prepares any hazardous waste application, label, manifest, record,
28 report, design or other document required to be submitted to the
29 department; or
- 30 (5) Makes any false or misleading statement on any hazardous
31 waste application, label, manifest, record, report, design or other
32 document required to be submitted to the department, shall, upon
33 conviction, be guilty of a crime of the fourth degree.
- 34 i. Any person who, regardless of intent, generates and causes or
35 permits any hazardous waste to be transported, transports, or receives
36 transported hazardous waste without completing and submitting to the
37 department a hazardous waste manifest in accordance with the
38 provisions of this act or any rule or regulation adopted pursuant hereto
39 shall, upon conviction, be guilty of a crime of the fourth degree.
- 40 j. All conveyances used or intended for use in the willful discharge,
41 in violation of the provisions of P.L.1970, c.39 (C.13:1E-1 et seq.), of
42 any solid waste, or hazardous waste as defined in P.L.1976, c.99
43 (C.13:1E-38 et seq.) are subject to forfeiture to the State pursuant to
44 the provisions of P.L.1981, c.387 (C.13:1K-1 et seq.).
- 45 k. [The provisions of N.J.S.2C:1-6 to the contrary
46 notwithstanding, a prosecution for a violation of the provisions of

1 subsection g., subsection h. or subsection i. of this section shall be
2 commenced within five years of the date of discovery of the violation.]

3 (Deleted by amendment, P.L. , c. (before the Legislature as this
4 bill))

5 1. Pursuit of any remedy specified in this section shall not preclude
6 the pursuit of any other remedy provided by any other law.
7 Administrative and judicial remedies provided in this section may be
8 pursued simultaneously.

9 (cf: P.L.1990, c.70, s.1)

10
11 ¹4. Section 20 of P.L.1989, c.34 (C.13:1E-48.20) is amended to
12 read as follows:

13 20. a. This act, and any rule or regulation adopted pursuant
14 thereto, shall be enforced by the departments and by every local board
15 of health, or county health department, as the case may be.

16 The departments and the local board of health, or the county health
17 department, as the case may be, shall have the right to enter the
18 premises of a generator, transporter, or facility at any time in order to
19 determine compliance with this act.

20 The municipal attorney or an attorney retained by a municipality in
21 which a violation of this act is alleged to have occurred shall act as
22 counsel to a local board of health.

23 The county counsel or an attorney retained by a county in which a
24 violation of this act is alleged to have occurred shall act as counsel to
25 the county health department.

26 All enforcement activities undertaken by county health departments
27 pursuant to this subsection shall conform to all applicable performance
28 and administrative standards adopted pursuant to section 10 of the
29 "County Environmental Health Act," P.L.1977, c.443 (C.26:3A2-28).

30 b. Whenever the Commissioner of Environmental Protection or
31 the Commissioner of Health finds that a person has violated this act,
32 or any rule or regulation adopted pursuant thereto, that commissioner
33 shall:

34 (1) issue an order requiring the person found to be in violation to
35 comply in accordance with subsection c. of this section;

36 (2) bring a civil action in accordance with subsection d. of this
37 section;

38 (3) levy a civil administrative penalty in accordance with subsection
39 e. of this section;

40 (4) bring an action for a civil penalty in accordance with subsection
41 f. of this section; or

42 (5) petition the Attorney General to bring a criminal action in
43 accordance with subsections g. through l. of this section.

44 Pursuit of any of the remedies specified under this section shall not
45 preclude the seeking of any other remedy specified.

46 c. Whenever the Commissioner of Environmental Protection or

1 the Commissioner of Health finds that a person has violated this act,
2 or any rule or regulation adopted pursuant thereto, that commissioner
3 may issue an order specifying the provision or provisions of this act,
4 or the rule or regulation adopted pursuant thereto, of which the person
5 is in violation, citing the action that constituted the violation, ordering
6 abatement of the violation, and giving notice to the person of the
7 person's right to a hearing on the matters contained in the order. The
8 ordered party shall have 20 days from receipt of the order within
9 which to deliver to the commissioner a written request for a hearing.
10 After the hearing and upon finding that a violation has occurred, the
11 commissioner may issue a final order. If no hearing is requested, the
12 order shall become final after the expiration of the 20-day period. A
13 request for hearing shall not automatically stay the effect of the order.

14 d. The Commissioner of Environmental Protection, the
15 Commissioner of Health, a local board of health, or a county health
16 department may institute an action or proceeding in the Superior Court
17 for injunctive and other relief, including the appointment of a receiver
18 for any violation of this act, or of any rule or regulation adopted
19 pursuant thereto, and the court may proceed in the action in a
20 summary manner. In any such proceeding the court may grant
21 temporary or interlocutory relief.

22 Such relief may include, singly or in combination:

23 (1) a temporary or permanent injunction;

24 (2) assessment of the violator for the costs of any investigation,
25 inspection, or monitoring survey that led to the establishment of the
26 violation, and for the reasonable costs of preparing and litigating the
27 case under this subsection;

28 (3) assessment of the violator for any cost incurred by the State in
29 removing, correcting, or terminating the adverse effects upon
30 environmental quality or public health resulting from any violation of
31 this act, or any rule or regulation adopted pursuant thereto, for which
32 the action under this subsection may have been brought;

33 (4) assessment against the violator of compensatory damages for
34 any loss or destruction of wildlife, fish or aquatic life, and for any
35 other actual damages caused by any violation of this act, or any rule
36 or regulation adopted pursuant thereto, for which the action under this
37 subsection may have been brought.

38 Assessments under this subsection shall be paid to the State
39 Treasurer, or to the local board of health, or to the county health
40 department, as the case may be, except that compensatory damages
41 may be paid by specific order of the court to any persons who have
42 been aggrieved by the violation.

43 If a proceeding is instituted by a local board of health or county
44 health department, notice thereof shall be served upon the
45 commissioners in the same manner as if the commissioners were named
46 parties to the action or proceeding. Either of the departments may

1 intervene as a matter of right in any proceeding brought by a local
2 board of health or county health department.

3 e. Either of the commissioners, as the case may be, may assess a
4 civil administrative penalty of not more than \$50,000 for each
5 violation. Each day that a violation continues shall constitute an
6 additional, separate, and distinct offense. A commissioner may not
7 assess a civil administrative penalty in excess of \$25,000 for a single
8 violation, or in excess of \$2,500 for each day during which a violation
9 continues, until the departments have respectively adopted, pursuant
10 to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1
11 et seq.), regulations requiring the appropriate commissioner, in
12 assessing a civil administrative penalty, to consider the operational
13 history of the violator, the severity of the violation, the measures taken
14 to mitigate or prevent further violations, and whether the penalty will
15 maintain an appropriate deterrent. No assessment may be levied
16 pursuant to this section until after the violator has been notified by
17 certified mail or personal service. The notice shall include a reference
18 to the section of the statute, rule, regulation, or order violated, a
19 concise statement of the facts alleged to constitute a violation, a
20 statement of the amount of the civil administrative penalties to be
21 imposed, and a statement of the party's right to a hearing. The
22 ordered party shall have 20 calendar days from receipt of the notice
23 within which to deliver to the appropriate commissioner a written
24 request for a hearing. After the hearing and upon finding that a
25 violation has occurred, that commissioner may issue a final order after
26 assessing the amount of the fine specified in the notice. If no hearing
27 is requested, the notice shall become a final order after the expiration
28 of the 20-day period. Payment of the assessment is due when a final
29 order is issued or the notice becomes a final order. The authority to
30 levy a civil administrative penalty is in addition to all other
31 enforcement provisions in this act, and the payment of any assessment
32 shall not be deemed to affect the availability of any other enforcement
33 provisions in connection with the violation for which the assessment
34 is levied. Each department may compromise any civil administrative
35 penalty assessed under this section in an amount the department
36 determines appropriate.

37 f. A person who violates this act, or any rule or regulation
38 adopted pursuant thereto, shall be liable for a penalty of not more than
39 \$50,000 per day, to be collected in a civil action commenced by the
40 Commissioner of Environmental Protection, the Commissioner of
41 Health, a local board of health, or a county health department.

42 A person who violates an administrative order issued pursuant to
43 subsection c. of this section, or a court order issued pursuant to
44 subsection d. of this section, or who fails to pay an administrative
45 assessment in full pursuant to subsection e. of this section is subject
46 upon order of a court to a civil penalty not to exceed \$100,000 per

1 day of each violation.

2 Of the penalty imposed pursuant to this subsection, 10% or \$250,
3 whichever is greater, shall be paid to the appropriate department from
4 the General Fund if the Attorney General determines that a person is
5 entitled to a reward pursuant to section 24 of this act.

6 Any penalty imposed pursuant to this subsection may be collected,
7 with costs, in a summary proceeding pursuant to "the penalty
8 enforcement law" (N.J.S.2A:58-1 et seq.). The Superior Court and
9 the municipal court shall have jurisdiction to enforce the provisions of
10 "the penalty enforcement law" in connection with this act.

11 g. A person who purposely or knowingly:

12 (1) disposes or stores regulated medical waste without
13 authorization from either the Department of Environmental Protection
14 or the Department of Health, as appropriate, or in violation of this act,
15 or any rule or regulation adopted pursuant thereto;

16 (2) makes any false or misleading statement to any person who
17 prepares any regulated medical waste application, registration, form,
18 label, certification, manifest, record, report, or other document
19 required by this act, or any rule or regulation adopted pursuant
20 thereto;

21 (3) makes any false or misleading statement on any regulated
22 medical waste application, registration, form, label, certification,
23 manifest, record, report, or other document required by this act, or any
24 rule or regulation adopted pursuant thereto; or

25 (4) fails to properly treat certain types of regulated medical waste
26 designated by the Department of Health in a prescribed manner; shall,
27 upon conviction, be guilty of a crime of the third degree and,
28 notwithstanding the provisions of N.J.S.2C:43-3, shall be subject to a
29 fine of not more than \$50,000 for the first offense, and not more than
30 \$100,000 for each subsequent offense, and restitution, in addition to
31 any other appropriate disposition authorized by subsection b. of
32 N.J.S.2C:43-2.

33 h. A person who recklessly or negligently:

34 (1) disposes or stores regulated medical waste without
35 authorization from either the Department of Environmental Protection
36 or the Department of Health, as appropriate, or in violation of this act,
37 or any rule or regulation adopted pursuant thereto;

38 (2) makes any false or misleading statement to any person who
39 prepares any regulated medical waste application, registration, form,
40 label, certification, manifest, record, report, or other document
41 required by this act, or any rule or regulation adopted pursuant
42 thereto;

43 (3) makes any false or misleading statement on any regulated
44 medical waste application, registration, form, label, certification,
45 manifest, record, report, or other document required by this act, or any
46 rule or regulation adopted pursuant thereto; or

1 (4) fails to properly treat certain types of regulated medical waste
2 designated by the Department of Health in a manner prescribed
3 thereby; shall, upon conviction, be guilty of a crime of the fourth
4 degree.

5 i. A person who, regardless of intent:

6 (1) transports any regulated medical waste to a facility or any other
7 place in the State that does not have authorization from the
8 Department of Environmental Protection and the Board of Public
9 Utilities to accept such waste, or in violation of this act, or any rule or
10 regulation adopted pursuant thereto; or

11 (2) transports, or receives transported, regulated medical waste
12 without completing and submitting a manifest in accordance with this
13 act, or any rule or regulation adopted pursuant thereto; shall, upon
14 conviction, be guilty of a crime of the fourth degree.

15 j. A person who purposely, knowingly, or recklessly:

16 (1) generates and causes or permits to be transported any regulated
17 medical waste to a facility or any other place in the State that does not
18 have authorization from the Department of Environmental Protection
19 and the Board of Public Utilities to accept such waste, or in violation
20 of this act, or any rule or regulation adopted pursuant thereto; or

21 (2) violates any other provision of this act, or any rule or regulation
22 adopted pursuant thereto, for which no other criminal penalty has been
23 specifically provided for; shall, upon conviction, be guilty of a crime
24 of the fourth degree.

25 k. All conveyances used or intended for use in the willful
26 discharge, in violation of this act, or any rule or regulation adopted
27 pursuant thereto, of regulated medical waste are subject to forfeiture
28 to the State pursuant to P.L.1981, c.387 (C.13:1K-1 et seq.).

29 l. [The provisions of N.J.S.2C:1-6 to the contrary
30 notwithstanding, a prosecution for violation of subsection g.,
31 subsection h., subsection i., or subsection j. of this section shall be
32 commenced within five years of the date of discovery of the violation.]

33 (Deleted by amendment, P.L. , c. (now before the Legislature as
34 this bill))

35 m. No prosecution for a violation under this act shall be deemed
36 to preclude a prosecution for the violation of any other applicable
37 statute.¹

38 (cf: P.L.1989, c.34, s.20)

39
40 ¹5. Section 10 of P.L.1984, c.173 (C.34:5A-41) is amended to
41 read as follows:

42 10. Any person who knowingly hinders or delays the Commissioner
43 of Labor or Health or the authorized representative thereof, in the
44 performance of the duty to enforce this act, or knowingly submits false
45 or misleading information on any license or permit application required
46 by this act, or fails to obtain licenses or permits required by the

1 provisions of this act, or refuses to make these licenses or permits
2 accessible to either commissioner, or the authorized representative
3 thereof, or otherwise violates any provision of this act or any
4 regulation adopted under this act, shall, upon conviction, be guilty of
5 a crime of the third degree and, notwithstanding the provisions of
6 N.J.S.2C:43-3, shall be subject to a fine of not more than \$25,000 in
7 addition to any other appropriate disposition authorized by subsection
8 b. of N.J.S.2C:43-2. [Notwithstanding N.J.S.2C:1-6, any prosecution
9 for a violation of this section shall be commenced within five years of
10 the date of discovery of the violation.]¹
11 (cf: P.L.1994, c.21, s.11)

12

13 ¹[4.] 6.¹ This act shall take effect immediately and shall apply to
14 any offense committed for which the time limitation for bringing a
15 prosecution against the person who committed the offense has not
16 expired.

17

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21 Amends statute of limitations for certain environmental criminal
22 offenses.