

ASSEMBLY, No. 5663

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED MAY 12, 2021

Sponsored by:

Assemblyman WILLIAM F. MOEN, JR.

District 5 (Camden and Gloucester)

Assemblywoman ELIANA PINTOR MARIN

District 29 (Essex)

Assemblyman BENJIE E. WIMBERLY

District 35 (Bergen and Passaic)

Co-Sponsored by:

Assemblywoman Tucker, Assemblyman Caputo, Assemblywoman Timberlake, Assemblymen Bergen, Holley, Calabrese, Space, Wirths, Karabinchak, Assemblywoman Jasey, Assemblymen Stanley, Conaway, Assemblywoman Downey and Assemblyman Houghtaling

SYNOPSIS

Increases penalties for unauthorized transportation or disposal of solid waste.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/6/2021)

1 AN ACT concerning the unauthorized transportation and disposal of
2 solid waste and amending P.L.1989, c.118.

3

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

6

7 1. Section 2 of P.L.1989, c.118 (C.13:1E-9.3) is amended to
8 read as follows:

9 2. a. No person shall, regardless of intent, engage, or be
10 permitted to engage, in the disposal of solid waste in excess of
11 0.148 cubic yards of solids or 30 United States gallons of liquids,
12 whether for profit or otherwise, except at a solid waste facility or an
13 out-of-State disposal site which has authorization from the
14 appropriate state regulatory agency having jurisdiction over solid
15 waste management to accept solid waste for disposal, or any other
16 place in this State which has authorization from the Department of
17 Environmental Protection to accept solid waste for disposal, as the
18 case may be.

19 b. No person shall, regardless of intent, transport or cause or
20 permit to be transported any solid waste in excess of 0.148 cubic
21 yards of solids or 30 United States gallons of liquids, whether for
22 profit or otherwise, except to a solid waste facility or an out-of-
23 State disposal site which has authorization from the appropriate
24 state regulatory agency having jurisdiction over solid waste
25 management to accept solid waste for disposal, or to any other place
26 in this State which has authorization from the Department of
27 Environmental Protection to accept solid waste for disposal, as the
28 case may be.

29 c. **[No person shall, regardless of intent, cause, engage in or be**
30 **permitted to engage in, the disposal of any amount of solid waste on**
31 **real property subject to the use, control or ownership of a railroad**
32 **company, unless such disposal is expressly authorized by the**
33 **railroad company and approved by the Department of**
34 **Environmental Protection.]** (Deleted by amendment, P.L. ,
35 c. (C.) (pending before the Legislature as this bill).)

36 d. The provisions of this section shall be enforced by the
37 Department of Environmental Protection and by every relevant
38 municipality, local board of health, or county health department, as
39 the case may be.

40 (cf: P.L.2003, c.231, s.4)

41

42 2. Section 3 of P.L.1989, c.118 (C.13:1E-9.4) is amended to
43 read as follows:

44 3. a. Any person who violates the provisions of subsection a. or

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

Matter underlined thus is new matter.

- 1 b. of section 2 of P.L.1989, c.118 (C.13:1E-9.3) commits a
2 disorderly persons offense.
- 3 b. Any person convicted of a violation of the provisions of
4 subsection a. or b. of section 2 of P.L.1989, c.118 (C.13:1E-9.3) is
5 subject to a fine of not less than **[\$2,500.00]** \$5,000 for a first
6 offense, not more than **[\$5,000.00]** \$10,000 for a second offense
7 and not more than **[\$10,000.00]** \$20,000 for a third and every
8 subsequent offense. Each day during which the violation continues
9 constitutes an additional, separate and distinct offense.
- 10 c. If a person is convicted of a violation of the provisions of
11 subsection a. or b. of section 2 of P.L.1989, c.118 (C.13:1E-9.3),
12 the court shall, in addition to the penalties provided under
13 subsection b. of this section, require the person to perform
14 community service for a term of not more than **[90]** 180 days.
- 15 d. All conveyances used or intended for use in the unlawful
16 transportation or disposal of solid waste in violation of the
17 provisions of subsection a. or b. of section 2 of P.L.1989, c.118
18 (C.13:1E-9.3) are subject to forfeiture to the State pursuant to the
19 provisions of P.L.1981, c.387 (C.13:1K-1 et seq.).
- 20 e. The provisions of P.L.1981, c.387 (C.13:1K-1 et seq.) or any
21 other law to the contrary notwithstanding, whenever a conveyance
22 is forfeited to the State pursuant to subsection d. of this section, the
23 proceeds from the disposal and sale of such conveyance shall be
24 remitted to the chief financial officer of the municipality wherein
25 the violation occurred, to be used by the municipality to help
26 finance enforcement activities undertaken pursuant to section 13 of
27 P.L.1970, c.40 (C.48:13A-12) or section 2 of P.L.1989, c.118
28 (C.13:1E-9.3).
- 29 f. A person convicted of a violation of the provisions of
30 subsection **[c.]** a. of section 2 of P.L.1989, c.118 (C.13:1E-9.3)
31 shall be liable to the **[railroad company]** owner of the real property
32 on which the unlawful disposal occurred in the amount of three
33 times the damages caused directly or indirectly by the unlawful
34 disposal together with three times the costs associated with the
35 cleanup of the real property upon which the violation occurred,
36 including, but not limited to, all attorneys' fees and costs which the
37 **[railroad company]** property owner may reasonably expend in a
38 civil suit brought in a court of competent jurisdiction to collect the
39 sums imposed by this subsection. In any such suit, a final judgment
40 of conviction shall be admissible as conclusive proof that the person
41 violated the provisions of subsection **[c.]** a. of section 2 of
42 P.L.1989, c.118 (C.13:1E-9.3). If a local government unit performs
43 a cleanup of a real property as a result of an unlawful disposal, the
44 person convicted shall also be liable to the local government unit in
45 the amount of the costs associated with the cleanup.
46 (cf: P.L.2019, c.276, s.9)

1 3. This act shall take effect immediately.

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STATEMENT

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6 This bill would increase the penalties for transporting or
7 disposing of solid waste in excess of 0.148 cubic yards of solids or
8 30 gallons of liquids except to an authorized solid waste facility or
9 out-of-State disposal site. Under current law, these acts constitute a
10 disorderly persons offense and are subject to a maximum fine of
11 \$2,500 for a first offense, \$5,000 for a second offense, and \$10,000
12 for subsequent offenses, as well as a term community service with a
13 maximum duration of 90 days. This bill would increase the
14 maximum fines to \$5,000 for a first offense, \$10,000 for a second
15 offense, and \$20,000 for subsequent offenses. The bill would also
16 increase the maximum community service term to 180 days.

17 The bill would also delete a provision in existing law that
18 prohibits the disposal of any amount of solid waste on real property
19 subject to the use, control or ownership of a railroad company.
20 Under current law, persons found guilty of violating this provision
21 are liable for three times the damages caused by the unlawful
22 disposal together with three times the cleanup costs, attorney's fees,
23 and other reasonable costs expended by a railroad company. This
24 bill would instead provide that persons who unlawfully dispose of
25 solid waste in excess of 0.148 cubic yards of solids or 30 gallons of
26 liquids are liable for the damages described above to the owner of
27 the property on which the unlawful disposal occurred, regardless of
28 whether or not the owner is a railroad company. In addition, under
29 the bill, if a local government unit performs a cleanup of a real
30 property as a result of an unlawful disposal, the person convicted
31 would also be liable to the local government unit in the amount of
32 the costs associated with the cleanup.