

CHAPTER 231

AN ACT concerning unlawful solid waste disposal, amending and supplementing P.L.1970, c.39, and amending P.L.1989, c.118, R.S.40:49-5 and P.L.1950, c.210.

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

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

C.13:1E-3 Definitions.

3. As used in the provisions of P.L.1970, c.39 (C.13:1E-1 et seq.):

"Solid waste" means garbage, refuse, and other discarded materials resulting from industrial, commercial and agricultural operations, and from domestic and community activities, and shall include all other waste materials including liquids, except for source separated recyclable materials or source separated food waste collected by livestock producers approved by the State Department of Agriculture to collect, prepare and feed such wastes to livestock on their own farms.

"Solid waste collection" means the activity related to pick-up and transportation of solid waste from its source or location to a solid waste facility or other destination.

"Disposal" means the storage, treatment, utilization, processing, resource recovery of, or the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid or hazardous waste into or on any land or water, so that the solid or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

"Solid waste management" includes all activities related to the collection or disposal of solid waste by any person engaging in any such process.

"Council" means the Advisory Council on Solid Waste Management.

"Department" means the Department of Environmental Protection.

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

"Solid waste facilities" means and includes the plants, structures and other real and personal property acquired, constructed or operated or to be acquired, constructed or operated by, or on behalf of, any person, public authority or county pursuant to the provisions of P.L.1970, c.39 (C.13:1E-1 et seq.) or any other act, including transfer stations, incinerators, resource recovery facilities, sanitary landfill facilities or other plants for the disposal of solid waste, and all vehicles, equipment and other real and personal property and rights therein and appurtenances necessary or useful and convenient for the collection or disposal of solid waste in a sanitary manner.

"Public authority" means a municipal or county utilities authority created pursuant to the "municipal and county utilities authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.); a county improvement authority created pursuant to the "county improvement authorities law," P.L.1960, c.183 (C.40:37A-44 et seq.); a pollution control financing authority created pursuant to the "New Jersey Pollution Control Financing Law," P.L.1973, c.376 (C.40:37C-1 et seq.); or any other public body corporate and politic created for solid waste management purposes in any county, pursuant to the provisions of any law.

"Hackensack Meadowlands District" means the area within the jurisdiction of the New Jersey Meadowlands Commission created pursuant to the provisions of the "Hackensack Meadowlands Reclamation and Development Act," P.L.1968, c.404 (C.13:17-1 et seq.).

"Hackensack Commission" means the New Jersey Meadowlands Commission created pursuant to the provisions of the "Hackensack Meadowlands Reclamation and Development Act," P.L.1968, c.404 (C.13:17-1 et seq.).

"Public sewage treatment plant" means any structure or structures required to be approved by the department pursuant to P.L.1977, c.224 (C.58:12A-1 et seq.) or P.L.1977, c.74 (C.58:10A-1 et seq.), by means of which domestic wastes are subjected to any artificial process in order to remove or so alter constituents as to render the waste less offensive or dangerous to the public health, comfort or property of any of the inhabitants of this State, before the discharge of the plant effluent into any of the waters of this State; this definition includes plants for the treatment of industrial wastes, as well as a combination of domestic and industrial wastes.

"Resource recovery" means the collection, separation, recycling and recovery of metals, glass, paper and other materials for reuse; or the incineration of solid waste for energy production and the recovery of metals and other materials for reuse.

"Resource recovery facility" means a solid waste facility constructed and operated for the incineration of solid waste for energy production and the recovery of metals and other materials for reuse; or a mechanized composting facility, or any other solid waste facility.

"Sanitary landfill facility" means a solid waste facility at which solid waste is deposited on or in the land as fill for the purpose of permanent disposal or storage for a period exceeding six months, except that it shall not include any waste facility approved for disposal of hazardous waste.

"Transfer station" means a solid waste facility at which solid waste is transferred from a solid waste collection vehicle to a registered solid waste haulage vehicle, including a rail car, for transportation to an offsite sanitary landfill facility, resource recovery facility, or designated out-of-State disposal site for disposal.

2. Section 4 of P.L.1970, c.39 (C.13:1E-4) is amended to read as follows:

C.13:1E-4 Supervision of solid waste collection activities, facilities, disposal operations.

4. The department shall have power to supervise solid waste collection activities, solid waste facilities and solid waste disposal operations, and shall in the exercise of this supervision require the registration of all solid waste collection activities, solid waste facilities and solid waste disposal operations in this State. The department may exempt from the requirement of registration any class of solid waste collection activity, solid waste facility or solid waste disposal operation if the department determines that the exemption is necessitated by the public interest.

- b. The department in reviewing the registration statement for a new solid waste collection activity, solid waste facility or disposal operation and in determining the conditions under which it may be approved, shall not approve the registration of any new solid waste collection activity, solid waste facility or disposal operation that does not conform to the district solid waste management plan of the district in which the proposed solid waste collection activity, solid waste facility or disposal operation is to be located, as the relevant district plan shall have been approved by the department as hereinafter provided.

3. Section 5 of P.L.1970, c.39 (C.13:1E-5) is amended to read as follows:

C.13:1E-5 Registration statement, engineering design; approval.

5. a. No person shall engage in the collection or disposal of solid waste in this State without first filing an application for a registration statement or engineering design approval and obtaining approval thereof from the department. A person seeking to engage in solid waste disposal shall file a separate application for a registration statement and an engineering design approval for each particular solid waste facility.

- b. The application for a registration statement or an engineering design approval shall be made on forms provided by the department and shall contain whatever information as may be prescribed by the department. The State and any of its political subdivisions, public agencies and public authorities shall be deemed a person within the meaning of P.L.1970, c.39 (C.13:1E-1 et seq.).

- c. The application for a registration statement or an engineering design approval shall not be approved by the department if the department determines that the solid waste collection activity, solid waste facility or solid waste disposal operation will not meet the standards or criteria set forth in P.L.1970, c.39 (C.13:1E-1 et seq.) or in rules or regulations as may be adopted pursuant thereto. The department may require the amendment of an approved registration statement or engineering design approval if the department determines that the continued solid waste collection activity or continued operation of a solid waste facility in accordance with its approved registration would not meet these standards, criteria or regulations.

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

C.13:1E-9.3 Disposal, transportation of solid waste; authorization.

2. a. No person shall, regardless of intent, engage, or be permitted to engage, in the disposal

of solid waste in excess of 0.148 cubic yards of solids or 30 United States gallons of liquids, whether for profit or otherwise, except at a solid waste facility or an out-of-State disposal site which has authorization from the appropriate state regulatory agency having jurisdiction over solid waste management to accept solid waste for disposal, or any other place in this State which has authorization from the Department of Environmental Protection to accept solid waste for disposal, as the case may be.

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

c. No person shall, regardless of intent, cause, engage in or be permitted to engage in, the disposal of any amount of solid waste on real property subject to the use, control or ownership of a railroad company, unless such disposal is expressly authorized by the railroad company and approved by the Department of Environmental Protection.

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

C.13:1E-9.6 Solid waste disposal offenses, degree of crime, penalties.

5. a. A person is guilty of a crime of the second degree if that person knowingly:

(1) disposes of solid waste, or causes or permits the disposal of solid waste, or otherwise engages in the disposal of solid waste within this State in the amount of 1,000 cubic yards or more of solids or 10,000 United States gallons or more of liquids, whether for profit or otherwise, except at a solid waste facility which has received approval from the department pursuant to section 5 of P.L.1970, c.39 (C.13:1E-5) or any other place in this State which has authorization from the Department of Environmental Protection to accept solid waste for disposal, as the case may be; or

(2) transports or causes or permits to be transported any solid waste in the amount of 1,000 cubic yards or more of solids or 10,000 United States gallons or more of liquids, whether for profit or otherwise, to a disposal site within this State which does not have approval from the department pursuant to section 5 of P.L.1970, c.39 (C.13:1E-5) to accept solid waste for disposal.

b. A person is guilty of a crime of the third degree if that person:

(1) recklessly disposes of solid waste, or causes or permits the disposal of solid waste, or otherwise engages in the disposal of solid waste within this State in the amount of 100 cubic yards or more of solids or 1,000 United States gallons or more of liquids, whether for profit or otherwise, except at a solid waste facility which has received approval from the department pursuant to section 5 of P.L.1970, c.39 (C.13:1E-5) or any other place in this State which has authorization from the Department of Environmental Protection to accept solid waste for disposal, as the case may be; or

(2) recklessly transports or causes or permits to be transported any solid waste in the amount of 100 cubic yards or more of solids or 1,000 United States gallons or more of liquids, whether for profit or otherwise, to a disposal site within this State which does not have approval from the department pursuant to section 5 of P.L.1970, c.39 (C.13:1E-5) to accept solid waste for disposal; or

(3) knowingly disposes of solid waste, or causes or permits the disposal of solid waste, or otherwise engages in the disposal of solid waste within this State in an amount of at least 10 but less than 100 cubic yards of solids or an amount of at least 250 but less than 1,000 United States gallons of liquids, whether for profit or otherwise, except at a solid waste facility which has received approval from the department pursuant to section 5 of P.L.1970, c.39 (C.13:1E-5) or any other place in this State which has authorization from the Department of Environmental Protection to accept solid waste for disposal, as the case may be; or

(4) knowingly transports or causes or permits to be transported any solid waste in an amount of at least 10 but less than 100 cubic yards of solids or an amount of at least 250 but less than 1,000 United States gallons of liquids, whether for profit or otherwise, to a disposal site within this State which does not have approval from the department pursuant to section 5 of P.L.1970, c.39 (C.13:1E-5) to accept solid waste for disposal .

Notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, a fine of up to \$50,000 may be imposed for a violation of this subsection.

c. A person is guilty of a crime of the fourth degree if that person recklessly:

(1) disposes of solid waste, or causes or permits the disposal of solid waste, or otherwise engages in the disposal of solid waste within this State in an amount of at least 10 but less than 100 cubic yards of solids or an amount of at least 250 but less than 1,000 United States gallons of liquids, whether for profit or otherwise, except at a solid waste facility which has received approval from the department pursuant to section 5 of P.L.1970, c.39 (C.13:1E-5) or any other place in this State which has authorization from the Department of Environmental Protection to accept solid waste for disposal, as the case may be; or

(2) transports or causes or permits to be transported any solid waste in an amount of at least 10 but less than 100 cubic yards of solids or an amount of at least 250 but less than 1,000 United States gallons of liquids, whether for profit or otherwise, to a disposal site within this State which does not have approval from the department pursuant to section 5 of P.L.1970, c.39 (C.13:1E-5) to accept solid waste for disposal.

Notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, a fine of up to \$25,000 may be imposed for a violation of this subsection.

d. A person who knowingly or recklessly engages in the collection of solid waste, whether for profit or otherwise, in violation of the requirements of section 5 of P.L.1970, c.39 (C.13:1E-5), is guilty of an offense.

It is a crime of the third degree if the amount of solid waste collected is in the amount of 100 cubic yards or more of solids or 1,000 United States gallons or more of liquids, and it is a crime of the fourth degree if the amount of solid waste collected is at least 10 but less than 100 cubic yards of solids or at least 250 but less than 1,000 United States gallons of liquids.

e. A prosecution for a violation of the provisions of this section shall be commenced within ten years of the date of discovery of the violation.

f. The quantity of solid waste involved in an offense under this section shall be determined by the trier of fact. The quantity of solid waste involved in offenses committed pursuant to one scheme or course of conduct, whether at one or several locations, may be aggregated in determining the degree of the offense.

6. R.S.40:49-5 is amended to read as follows:

Penalties for violations of municipal ordinances.

40:49-5. The governing body may prescribe penalties for the violation of ordinances it may have authority to pass, by one or more of the following: imprisonment in the county jail or in any place provided by the municipality for the detention of prisoners, for any term not exceeding 90 days; or by a fine not exceeding \$1,250; or by a period of community service not exceeding 90 days.

The governing body may prescribe that for the violation of any particular ordinance at least a minimum penalty shall be imposed which shall consist of a fine which may be fixed at an amount not exceeding \$100.

The governing body may prescribe that for the violation of an ordinance pertaining to unlawful solid waste disposal at least a minimum penalty shall be imposed which shall consist of a fine which may be fixed at an amount not exceeding \$2,500 or a maximum penalty by a fine not exceeding \$10,000.

The court before which any person is convicted of violating any ordinance of a municipality shall have power to impose any fine, term of imprisonment, or period of community service not less than the minimum and not exceeding the maximum fixed in such ordinance.

Any person who is convicted of violating an ordinance within one year of the date of a previous violation of the same ordinance and who was fined for the previous violation, shall be sentenced by a court to an additional fine as a repeat offender. The additional fine imposed by

the court upon a person for a repeated offense shall not be less than the minimum or exceed the maximum fine fixed for a violation of the ordinance, but shall be calculated separately from the fine imposed for the violation of the ordinance.

Any municipality which chooses not to impose an additional fine upon a person for a repeated violation of any municipal ordinance may waive the additional fine by ordinance or resolution.

Any person convicted of the violation of any ordinance may, in the discretion of the court by which he was convicted, and in default of the payment of any fine imposed therefor, be imprisoned in the county jail or place of detention provided by the municipality, for any term not exceeding 90 days, or be required to perform community service for a period not exceeding 90 days.

7. Section 2-4 of P.L.1950, c.210 (C.40:69A-29) is amended to read as follows:

C.40:69A-29 Powers of municipality.

2-4. Each municipality governed by an optional form of government pursuant to this act shall, subject to the provisions of this act or other general laws, have full power to:

(a) Organize and regulate its internal affairs, and to establish, alter, and abolish offices, positions and employments and to define the functions, powers and duties thereof and fix their terms, tenure and compensation;

(b) Adopt and enforce local police ordinances of all kinds and impose one or more of the following penalties: fines not exceeding \$1,250 or imprisonment for any term not exceeding 90 days, or a period of community service not exceeding 90 days for the violation thereof; prescribe that for the violation of particular ordinances at least a minimum penalty shall be imposed which shall consist of a fine which may be fixed at an amount not exceeding \$100 prescribe that for the violation of an ordinance pertaining to unlawful solid waste disposal at least a minimum penalty shall be imposed which shall consist of a fine which may be fixed at an amount not exceeding \$2,500 or a maximum penalty by a fine not exceeding \$10,000; to construct, acquire, operate or maintain any and all public improvements, projects or enterprises for any public purpose, subject to referendum requirements otherwise imposed by law, and to exercise all powers of local government in such manner as its governing body may determine;

(c) Sue and be sued, to have a corporate seal, to contract and be contracted with, to buy, sell, lease, hold and dispose of real and personal property, to appropriate and expend moneys, and to adopt, amend and repeal such ordinances and resolutions as may be required for the good government thereof;

(d) Exercise powers of condemnation, borrowing and taxation in the manner provided by general law.

Any person who is convicted of violating an ordinance within one year of the date of a previous violation of the same ordinance and who was fined for the previous violation, shall be sentenced by a court to an additional fine as a repeat offender. The additional fine imposed by the court upon a person for a repeated offense shall not be less than the minimum or exceed the maximum fine fixed for a violation of the ordinance, but shall be calculated separately from the fine imposed for the violation of the ordinance.

Any municipality which chooses not to impose an additional fine upon a person for a repeated violation of any municipal ordinance may waive the additional fine by ordinance or resolution.

8. This act shall take effect immediately.

Approved January 9, 2004.