

CHAPTER 113

AN ACT concerning the sale, use, and burning of creosote or creosote-treated wood, and supplementing Title 13 of the Revised Statutes.

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

C.13:1K-36 Findings, declarations, determinations relative to sale, use, burning of creosote.

1. The Legislature finds and declares that creosote, commonly used as a wood preservative to repel insects and prevent rot and water damage of wood and wooden structures, is a hazardous substance, is recognized by the United States Environmental Protection Agency as a carcinogen and regulated as a restricted-use pesticide, and is composed of over 300 chemicals known to pose a threat to the environment and human health; that leakage of creosote from industrial and other hazardous waste sites and seepage from in-use creosote-treated wood have led to the contamination of soil and groundwater; and that ingestion of water, plant material, or animal tissues contaminated with creosote or absorption of creosote through the skin may result in skin irritation, chemical burns, convulsions and mental confusion, liver or kidney disease, damage to the nervous or reproductive systems, development of skin cancer, or, in extreme cases, death.

The Legislature therefore determines that it is in the public interest to prohibit the sale, use, and burning of creosote and creosote-treated wood products.

C.13:1K-37 "Creosote," "utility company" defined.

2. As used in this act:

"Creosote" means the substance produced by the high temperature treatment of coal tar and used primarily as a wood preservative.

"Utility company" means any public utility company as defined by R.S.48:2-13.

C.13:1K-38 Sale, use of certain creosote products prohibited.

3. On or after July 1, 2007 neither creosote nor any wood or other product treated with or containing creosote shall be sold, offered for sale, or used in this State. Nothing in this section shall prohibit the removal, demolition or repair of existing structures that contain products treated with or containing creosote.

C.13:1K-39 Burning, disposal of certain creosote products prohibited.

4. On or after July 1, 2007 neither creosote nor any wood or other product treated with or containing creosote shall be burned in any manner in this State, including in fireplaces and stoves, or shall be disposed of in this State, except in a landfill properly lined to prevent groundwater contamination.

C.13:1K-40 Inapplicability of act.

5. The provisions of this act shall not apply to:

- a. the operation, use or maintenance of railroad and railroad shipping facilities, including but not limited to, the right of way, tracks, track siding, team tracks and bridges; or
- b. the operation, use or maintenance of any new or existing power pole or facility owned or used, in whole or in part, by any utility company.

C.13:1K-41 Violations, penalties, civil actions.

6. a. Any person who violates this act shall be subject to a civil penalty of \$500 for the first offense and \$1,000 for the second or subsequent offense, to be collected in a civil action

by a summary proceeding under the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). If the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate and distinct offense.

b. The Department of Environmental Protection may institute a civil action for injunctive relief to enforce this act and to prohibit and prevent a violation of this act, and the court may proceed in the action in a summary manner.

C.13:1K-42 Rules, regulations; temporary waivers.

7. a. The Department of Environmental Protection shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations, as appropriate, to implement the provisions of this act.

b. The department shall have the authority to temporarily waive the provisions of this act on a case by case basis if it is determined by the department to be necessary to meet the construction and reconstruction need as a result of a declared state of emergency. The waiver, once granted by the department, shall expire within one year after receipt of the waiver.

8. This act shall take effect immediately.

Approved July 13, 2007.