

CHAPTER 65

AN ACT concerning medical waste disposal, amending and supplementing P.L.1989, c.34, supplementing P.L.1977, c.74 (C.58:10A-1 et seq.), and amending P.L.1988, c.61.

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

1. Section 2 of P.L.1989, c.34 (C.13:1E-48.2) is amended to read as follows:

C.13:1E-48.2 Findings, declarations.

2. The Legislature finds and declares that:

- a. Various human and animal health care centers and clinics, hospitals, laboratories, and other facilities generate substantial volumes of medical waste that must be transported and disposed in a sanitary and environmentally sound manner; that this waste poses both a potential threat to the health of those persons who handle, transport, dispose, or otherwise come into contact with it and to the public health; that, in addition to the actual and perceived risks associated with the management of medical waste, there are important aesthetic concerns that must be addressed; that the present regulatory scheme for medical waste is confusing and inadequate, and the enforcement thereof has been lacking and the penalties assessed for violations insufficient; and that the citizens of the State generally lack confidence that medical waste in the State is being managed in a proper and safe manner;

- b. The beaches, coastline, and waters of New Jersey are a natural treasure cherished by the people of the State, provide a superior national recreational destination protected by State and federal law, host a myriad of commercial industries intrinsically linked to the economic prosperity of the State, are a reflection of the State and its reputation, and are host to a tourist industry that provides hundreds of thousands of jobs for New Jersey's workers and generates more than \$36 billion for the State's economy;

- c. Medical waste illegally dumped in State waters or washing onto the shores is a health, safety, and environmental hazard, contaminating and polluting highly visited and beloved beaches that are open to the public and supported by both the State and coastal municipalities, and that any disturbance on the beach, in the waters of the State, or otherwise threatening the visitors to such places harms the State's reputation, deters future tourism, diminishes the revenue realized from those places and severely impacts the local economy; and

- d. It is therefore appropriate, necessary, and in the best interest of the State to establish a comprehensive management system that provides for the proper and safe tracking, identification, packaging, storage, control, monitoring, handling, collection, and disposal of regulated medical waste; that monitoring of the regulated medical waste stream is best accomplished through the creation of a manifest tracking system for regulated medical waste; and strict enforcement of the law concerning regulated medical waste and the establishment of substantial civil and criminal penalties for violations thereof will deter unlawful behavior and further protect the State's beaches, coastline, waters, and land from illegally dumped medical waste that so greatly affects the health and welfare of citizens and visitors, the quality and safety of State waters, the valuable tourism industry, and the State and local economies.

2. Section 3 of P.L.1989, c.34 (C.13:1E-48.3) is amended to read as follows:

C.13:1E-48.3 Definitions.

3. As used in P.L.1989, c.34 (C.13:1E-48.1 et al.):

"Board" means the Board of Public Utilities.

"Collection" means the activity related to pick-up and transportation of regulated medical waste from a generator, or from an intermediate location, to a facility, or to a site outside the State, for disposal.

"Commissioners" means the Commissioner of Environmental Protection and the Commissioner of Health and Senior Services.

"Departments" means the Department of Environmental Protection and the Department of Health and Senior Services.

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

"Facility" means a solid waste facility as defined in section 3 of P.L.1970, c.39 (C.13:1E-3); or any other incinerator or commercial or noncommercial regulated medical waste disposal facility in this State that accepts regulated medical waste for disposal.

"Federal Act" means the "Medical Waste Tracking Act of 1988" (42 U.S.C. s.6903 et seq.), or any rule or regulation adopted pursuant thereto.

"Generator" means an ambulatory surgical or care facility, community health center, medical doctor's office, dentist's office, podiatrist's office, home health care agency, health care facility, hospital, medical clinic, morgue, nursing home, urgent care center, sterile syringe access program operating pursuant to sections 3 and 4 of P.L.2006, c.99 (C.26:5C-27 and C.26:5C-28), veterinary office or clinic, animal, biological, clinical, medical, microbiological, or pathological diagnostic or research laboratory, any of which generates regulated medical waste, or any other facility identified by the departments that generates regulated medical waste. "Generator" shall not include individual households utilizing home self-care.

"Health care professional" means a person licensed or otherwise authorized pursuant to Title 45 of the Revised Statutes to practice a health care profession that is regulated by one of the following boards: the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Dentistry, the New Jersey State Board of Pharmacy, the Acupuncture Examining Board, or the State Board of Veterinary Medical Examiners.

"Regulated medical waste" means blood vials; cultures and stocks of infectious agents and associated biologicals, including cultures from medical and pathological laboratories, cultures and stocks of infectious agents from research and industrial laboratories, wastes from the production of biologicals, discarded live and attenuated vaccines, and culture dishes and devices used to transfer, inoculate, and mix cultures; pathological wastes, including tissues, organs, and body parts that are removed during surgery or autopsy; waste human blood and products of blood, including serum, plasma, and other blood components; sharps that have been used in patient care or in medical, research, or industrial laboratories engaged in medical research, testing, or analysis of diseases affecting the human body, including hypodermic needles, syringes, Pasteur pipettes, broken glass, and scalpel blades; contaminated animal carcasses, body parts, and bedding of animals that were exposed to infectious agents during research, production of biologicals, or testing of pharmaceuticals; any other substance or material related to the transmission of disease as may be deemed appropriate by the departments; and any other substance or material as may be required to be regulated by, or permitted to be exempted from, the Federal Act. The departments may adopt, by rule or regulation and pursuant to the "Administrative Procedure Act," P.L.1968,

c.410 (C.52:14B-1 et seq.), a more specific definition of regulated medical waste upon the expiration of the demonstration program established under the Federal Act.

"Noncommercial facility" means a facility or on-site generator, as the case may be, which accepts regulated medical waste from other generators for on-site disposal for a cost-based fee not in excess of the costs actually incurred by the facility or on-site generator for the treatment or disposal of the regulated medical waste.

"Transporter" means a person engaged in the collection or transportation of regulated medical waste.

3. Section 23 of P.L.1989, c.34 (C.13:1E-48.23) is amended to read as follows:

C.13:1E-48.23 Revocation; suspension of registration; reissuance, reinstatement.

23. a. The departments, after hearing, may revoke or suspend the registration issued to any transporter or facility upon a finding that the transporter or facility has:

(1) violated this act, or any rule, regulation, or administrative order adopted or issued pursuant thereto;

(2) violated any law, or any rule, regulation, or administrative order adopted or issued pursuant thereto, related to pollution of the environment or endangerment of the public health; or

(3) refused or failed to comply with any lawful order of either of the departments.

b. If the transporter or facility continues to operate while suspended the departments shall revoke the registration and authorization of the transporter or facility to operate in the State. After completion of the term of suspension, a transporter or facility may, after a hearing, reapply to the departments to have their registration, or other authorization to operate, reissued or reinstated.

(1) If a violation involving the illegal or improper disposal of regulated medical waste in New Jersey is committed by a transporter or facility that is registered and authorized in another state, the Attorney General of New Jersey shall notify the Attorney General or other equivalent authority of that state within 30 days.

(2) If information concerning a transporter or facility registered and authorized in this State and found in violation of another state's medical waste disposal laws is received by the Attorney General or another State governmental entity, the Attorney General or other State governmental entity shall forward the information to the departments. Within 60 days, the departments shall determine if the information is sufficient to hold a hearing and consider the suspension or revocation of any registration or other authorization to operate, pursuant to this section.

C.13:1E-48.23a Violations, revocation of generator's registration; application for reissuance.

4. If, after a hearing, the Commissioner of Environmental Protection and Commissioner of Health and Senior Services determine that a generator is in violation of P.L.1989, c.34 (C.13:1E-48.1 et al.), or any rule or regulation adopted pursuant thereto, and the violation relates to the willful illegal or improper disposal of regulated medical waste, the Department of Environmental Protection and Department of Health and Senior Services, in addition to any other applicable penalties, may suspend or revoke the generator's registration issued by the departments for the generator to operate in the State. After completion of the term of suspension, a generator may, after a hearing, reapply to the department to have their registration reissued.

a. If a violation involving the illegal or improper disposal of regulated medical waste in New Jersey is committed by a generator that is registered and authorized in another state, the

Attorney General of New Jersey shall notify the Attorney General or other equivalent authority of that state within 30 days.

b. If information concerning a generator who is registered in this State and found in violation of another state's medical waste disposal laws is received by the Attorney General or another State governmental entity, the Attorney General or other State governmental entity shall forward the information to the departments. Within 60 days, the departments shall determine if the information is sufficient to hold a hearing and consider the suspension or revocation of any registration or other authorization to operate, pursuant to this section.

C.13:1E-48.23b Violations, revocation of health care professionals' license; application for reissuance.

5. In addition to any other applicable penalties, if, after a hearing, the Commissioner of Environmental Protection or Commissioner of Health and Senior Services determines that a violation of P.L.1989, c.34 (C.13:1E-48.1 et al.), or any rule or regulation adopted pursuant thereto, has been committed by a health care professional, then the appropriate professional licensing board of the health care professional, or the Division of Consumer Affairs in the Department of Law and Public Safety, as the case may be, after a hearing, may suspend or revoke the health care professional's license or other authorization to practice in the State. After completion of the term of suspension, a health care professional may, after a hearing, reapply to the appropriate professional licensing board of the health care professional, or the Division of Consumer Affairs, to have their license reinstated.

a. If a violation is committed by a health care professional who is licensed or residing in another state, the Attorney General of New Jersey shall notify the Attorney General or other equivalent authority of that state within 30 days.

b. If information concerning a health care professional licensed in this State and found in violation of another state's medical waste disposal laws is received by the Attorney General or another State governmental entity, the Attorney General or the other State governmental entity shall forward the information to the appropriate professional licensing board, or the Division of Consumer Affairs as the case may be. Within 60 days, the appropriate professional licensing board or the division shall determine if the information is sufficient to hold a hearing and consider the licensure suspension under this section.

C.58:10A-10.12 Additional penalties for illegal, improper disposal of regulated medical waste.

6. If a violation of P.L.1977, c.74 (C.58:10A-1 et seq.) involves the willful, illegal or improper disposal of regulated medical waste, as defined pursuant to section 3 of P.L.1989, c.34 (C.13:1E-48.3), and the person found guilty or liable for the violation is a health care professional, facility, generator, or transporter, as also defined under P.L.1989, c.34, the violator shall also be subject to any applicable penalties under P.L.1989, c.34 (C.13:1E-48.1 et al.), including but not limited to the suspension and revocation provisions of section 23 of P.L.1989, c.34 (C.13:1E-48.23) and sections 4 and 5 of P.L.2012, c.65 (C.13:1E-48.23a and C.13:1E-48.23b).

7. Section 3 of P.L.1988, c.61 (C.58:10A-49) is amended to read as follows:

C.58:10A-49 Crime of third degree; penalty; reward.

3. a. (1)A person who intentionally dumps any material into the ocean waters within the jurisdiction of this State, or into the waters outside the jurisdiction of this State, which

material enters the ocean waters within the jurisdiction of this State, is guilty of a crime of the third degree.

(2) If the violation involves the willful illegal or improper disposal of regulated medical waste, as defined pursuant to section 3 of P.L.1989, c.34 (C.13:1E-48.3), and the person found guilty or liable for the violation is a health care professional, facility, generator, or transporter, as also defined under P.L.1989, c.34, the violator shall also be subject to any applicable penalties under P.L.1977, c.74 (C.58:10A-1 et seq.) and P.L.1989, c.34 (C.13:1E-48.1 et al.), including but not limited to the suspension and revocation provisions of section 23 of P.L.1989, c.34 (C.13:1E-48.23) and sections 4 and 5 of P.L.2012, c.65 (C.13:1E-48.23a and C.13:1E-48.23b).

b. Of the monetary penalty imposed pursuant to this section, 10% shall be paid to the Department of Environmental Protection from the General Fund if the Attorney General determines that a person or persons are entitled to a reward pursuant to subsection c. of this section.

c. Any person who provides information to an enforcing authority concerning a violation of this act that proximately results in the imposition and collection of a criminal penalty as the result of a criminal action brought pursuant to this act shall be entitled to a reward of 10% of the penalty collected. The reward shall be paid by the department from moneys received pursuant to subsection b. of this section. If more than one person is entitled to a reward, the Attorney General shall determine the percentage of the reward that each person shall receive. The Attorney General shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations necessary to implement this section, including procedures to assure the anonymity of the person or persons providing the information to the enforcing authority when appropriate.

8. This act shall take effect immediately.

Approved November 19, 2012.