

RS 26:2C-19

April 10, 1969

LEGISLATIVE HISTORY OF R.S. 26:2C-19
(Penalty for violation of Air Pollution Control Act)

L. 1967, Chapter 105 - S180

COPY NO. 2

January 23 - Introduced by Parsekian.
April 17 - Passed in Senate, amended.
April 27 - Passed in Assembly.
June 15 - Approved, chapter 105.
Statement, copy attached.
Amended during passage; copy attached.
Governor's message on signing attached.

JH/PC

974.90 HEARING ON AIR POLLUTION
P777 BILLS INCLUDING S180
1967

974.90 REPORT
P777
1967a

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SENATE, No. 180

STATE OF NEW JERSEY

INTRODUCED JANUARY 23, 1967

By Senators PARSEKIAN, BIGLEY, GUARINI, O'CONNOR
and KIEFERReferred to Committee on Air and Water Pollution
and Public HealthAN ACT to amend the "Air Pollution Control Act (1954)," ap-
proved September 16, 1954 (P. L. 1954, c. 212).

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

3 1. Section 19 of the act of which this act is amendatory is
4 amended to read as follows:

5 ***[19. If preventive or corrective measures are not taken in ac-**
6 **cordance with any order of the department, the department may**
7 **institute a civil action in any court of competent jurisdiction for**
8 **injunctive relief to prevent any further violation of such code,**
9 **rule or regulation. Said court shall have power to grant such**
10 **injunctive relief upon notice and hearing.]***

11 **19. If any person violates any of the provisions of this act or*
12 *any code, rule, regulation or order promulgated or issued pursuant*
13 *to the provisions of this act, the department may institute a civil*
14 *action in the Superior Court for injunctive relief to prohibit and*
15 *prevent such violation or violations and the said court may pro-*
16 *ceed in the action in a summary manner.**

17 Any person who violates the provisions of this act or any code,
18 rule, regulation or order promulgated or issued pursuant to this
19 act shall be liable to a penalty of not **[less than \$25.00, nor]** more
20 than **[\$500.00] *[\$25,000.00] *\$2,500.00*** to be collected in a civil
21 action by a summary proceeding under the penalty enforcement
22 law (N. J. S. 2A:58-1 et seq.) or in any case before a court of
23 competent jurisdiction wherein injunctive relief has been requested.
24 If the violation is of a continuing nature, each **[week]** *day* during
25 which it continues after the date given by which the violation must
26 be eliminated in accordance with the order of the department shall
27 constitute an additional, separate and distinct offense.

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

1 The department is hereby authorized and empowered to compro-
2 mise and settle any claim for a penalty under this section in such
3 amount in the discretion of the department as may appear appro-
4 priate and equitable under all of the circumstances, *including a*
5 *rebate of any such penalty paid to the extent of 90% thereof where*
6 *such person satisfies the department within 1 year or such other*
7 *period as the department may deem reasonable that such violation*
8 *has been eliminated or removed or that such order or injunction*
9 *has been met or satisfied, as the case may be, by the installation*
10 *of air pollution control ***[devices or otherwise]*** *apparatus*.*
11 2. This act shall take effect immediately.

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2 *period as the department may deem reasonable that such violation*
3 *has been eliminated or removed or that such order or injunction*
4 *has been met or satisfied, as the case may be, by the installation*
5 *of air pollution control devices or otherwise.*
6 2. This act shall take effect immediately.

STATEMENT

The New Jersey-New York metropolitan area is considered to have the greatest concentration of dangerous air pollutants of any metropolitan area of the nation. Our interest in controlling and reducing air pollution caused by industrial plants must be translated now into action.

The existing statutes, which provide minimum penalties, have been demonstrably ineffective. More than an increase in the limits of fines is necessary. This bill is designed not only to deter continued pollution of the air, but to take immediate steps which will result in reducing noxious gases which are emitted by industries of our State.

This bill would increase the maximum fine which may be assessed by the Department of Health to \$25,000.00. This bill would give the Commissioner of Health the power to assess fines which can be rebated up to 90% within a set period of time; provided the violator installs air pollution devices which result in compliance with the standards set by the State.

SENATE COMMITTEE AMENDMENTS TO

SENATE, No. 180

STATE OF NEW JERSEY

ADOPTED APRIL 10, 1967

Amend page 1, section 1, lines 5 to 10, delete lines 5 through 10 in their entirety and insert in lieu thereof:

“19. If any person violates any of the provisions of this act or any code, rule, regulation or order promulgated or issued pursuant to the provisions of this act, the department may institute a civil action in the Superior Court for injunctive relief to prohibit and prevent such violation or violations and the said court may proceed in the action in a summary manner.”

Amend page 1, section 1, line 14, after “**[\$500.00]**” delete “\$25,000.00”, and insert in lieu thereof “\$2,500.00”.

Amend page 2, section 1, line 5, after “control”, delete “*devices or otherwise*”, and insert in lieu thereof “*apparatus*”.

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

STATEMENT BY GOVERNOR RICHARD J. HUGHES
ON SIGNING THE AIR AND WATER POLLUTION BILLS

~~"The signing of these control measures places this State in the forefront~~
of the fight for clean air and water. These meaningful bills constitute a
recognition by government that vigorous and effective means can be brought to
bear in a real effort to assure clean air and water for the health and recreation
of our citizens.

"Senate Bill No. 345 creates a Clean Air Council which will act in an
advisory capacity to the Department of Health, which is charged under this
measure, with the responsibility for the enforcement of the air pollution law,
codes and regulations. To insure, however, that local municipalities which have
gone ahead with effective pollution control programs will be guaranteed their
continued authority to do so, provision is made for the right of municipalities
to promulgate codes, rules and regulations which may be more stringent than those
of the State, in order to meet peculiar local problems. Another significant
contribution of Senate Bill No. 345 is the establishment of a permit and opera-
tion certificate system of prior approval by the State for the construction or
installation of equipment which may potentially pollute the atmosphere. Of
great import, too, is the provision in Senate Bill No. 345 for a Clean Air
Scholarship Program in the Department of Health. This will insure that the State
will have the advantage of having available trained personnel for years ahead in
the quest for clean air.

"Enforcement of the State air pollution law, codes and regulations is en-
hanced by Senate Bill No. 180 which increases the penalties for violation of the
act or the codes promulgated thereunder. However, since our goal in this area
is not only of a penal nature, but one of prevention as well, provision is made
in Senate Bill No. 180 for rebate of up to 90 per cent of penalties paid, where
the violator has met the pollution problem by the installation of suitable
control devices within the period of one year.

"While air pollution is of major concern, we have also taken steps in the
legislation approved today to guarantee that similar effective control will be
available to guard against pollution of our streams, lakes and rivers. Assembly

Bill No. 677 creates a Clean Water Council which will act in an advisory capacity to the Department of Health in conjunction with the Department's enforcement of the water pollution law, codes and regulations. In addition, Assembly Bill No. 677 broadens the State's program of grants and loans to municipalities for the planning of sewerage facilities and treatment facilities. Moreover, a construction grant program is established by this measure to enable the Department of Health to match federal funds made available under the Federal Pollution Control Act for the aid of local, county and regional sewerage construction facilities.

"Assembly Bill No. 228 provides for emergency air pollution alerts and grants power to the State Commissioner of Health to determine that an air pollution emergency may exist within the State or in a particular locality. In turn, I, as Governor, am authorized upon written recommendations of the Commissioner of Health to take such steps as are necessary to eliminate the emergency condition. Failure by any person to comply with such an order subjects such person to penalties under the provisions of Assembly Bill No. 228.

"In line with our policy to prevent increased air and water pollution and to reduce present levels of pollution, Senate Bill No. 160 provides for tax exemptions for air and water pollution devices when such devices are approved by the Department of Health.

"All of us must recognize, of course, that pollution does not confine itself to State boundaries. Therefore, the enactment of Senate Bill No. 443, which joins New Jersey to the Mid-Atlantic States Air Pollution Control Compact and also provides for representation of the States of New York, Connecticut, Pennsylvania, Delaware and the Federal government, is a most significant step in the finding of approaches to combat pollution on a federal-state level. I am pleased that the entire New Jersey Congressional delegation will sponsor same in the United States Congress.

"These measures, which have already received nation-wide and international interest, are vivid examples of the extraordinary performance of this latest session of the State Legislature. The perils of air and water pollution are so vast and so ominous that we must never relax in our efforts to assure to our

citizens two basic God-given rights, which have too often been overlooked in our modern age -- clean air and clean water. The assurances of these rights to present and future generations of New Jerseyans is a goal which will not be easily realized. However, I think this day will go down in the history of our State as the day that New Jersey took a bold and very large step toward reaching that goal and I want to commend the Legislature for their action."