

58:10-1, 2, 4

December 28, 1970

LEGISLATIVE HISTORY OF R.S.58:10-1; 58:10-2; 58:10-4
(Water pollute-Penalties)

Copy 2

L.1970 - Ch90 - A794.

March 16 - Introduced by Kean, Wilson, Dennis and others.
Bill had statement (copy enclosed).
April 20 - Passed Assembly, amended (copy enclosed).
May 11 - Passed Senate, amended.
May 14 - Senate Amended. Passed in Assembly (copy enclosed).
June 8 - Approved.

Newspaper clippings - Vertical file - New Jersey - Water
Pollution.

Pollution penalties stiffened - 5/10/70 - TET
Pollution fines bill approved - 5/15/70 - NEN
Pollution fines bill passed - 5/15/70 - APP
New water legislation - 6/9/70 - NEN

(copies of the above clippings are enclosed)

This bill listed as "approved" in:

974.905
M95

League of New Jersey Municipalities
Legislative bulletin
No.6, p.2, April 9, 1970

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[OFFICIAL COPY REPRINT]
ASSEMBLY, No. 794

STATE OF NEW JERSEY

INTRODUCED MARCH 16, 1970

By Assemblymen KEAN, WILSON, DENNIS, FIORE, GOLDFARB,
RINALDI, CAPUTO and KALTENBACHER

Referred to Committee on Agriculture, Conservation and
Natural Resources

AN ACT concerning waters and water supply, and amending R. S.
58:10-1, R. S. 58:10-2 and R. S. 58:10-4.

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

1 1. Section 58:10-1 of the Revised Statutes is amended to read
2 as follows:

3 58:10-1. No excremental matter, domestic, factory, workshop,
4 mill, gas house or slaughterhouse refuse, creamery or cheese fac-
5 tory waste, garbage, dyestuff, coal tar, sawdust, tan bark, or other
6 polluting matter shall be placed in, or discharged into, the waters
7 of or placed or suffered to remain upon the ice or banks of, any
8 river, brook, stream, or any tributary or branch thereof, lake,
9 pond, well, spring or other reservoir, above the point from which
10 any municipality shall or may obtain its supply of water for do-
11 mestic use.

12 Whoever violates any of the provisions of this section shall be
13 liable to a penalty of *no more than* ***[\$500.00]*** *\$1,000.00* *for the*
14 *first violation and of no more than* ***[\$2,500.00]*** *\$3,000.00* *for*
15 *each subsequent violation* **[\$100.00 for each offense]**, and each
16 **[week's]** *day's* continuance of the violation **[after notice to abate**
17 **or remove such pollution shall have been given by the State Depart-**
18 **ment of Health, hereinafter in this chapter designated as the "de-**
19 **partment,"** the local board of health having jurisdiction over the
20 place where such offense was committed, the local board of health
21 of any municipality, or any corporation engaged in the business of
22 supplying water for sale for potable purposes, the potable water
23 supply of which municipality or corporation is or may be affected
24 by such offense,**]** shall constitute a separate **[offense]** *violation.*

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

25 Nothing in this section shall be construed to modify or other-
 26 wise affect any other law or statute conferring upon any local
 27 board of health the power or authority to institute any proceed-
 28 ings in any court of this State for the recovery of any penalty for,
 29 or obtaining any injunction against, the pollution of any of the
 30 waters of this State.

1 2. Section 58:10-2 of the Revised Statutes is amended to read
 2 as follows:

3 58:10-2. Any penalty incurred under any of the provisions of
 4 section 58:10-1 of this Title may be recovered, with costs, in a
 5 summary proceeding *in any court of competent jurisdiction* pur-
 6 suant to the Penalty Enforcement Law (N. J. S. 2A :58-1 et seq.)
 7 in the name of the department or of **any local board of health**
 8 **or corporation specified in said section 58:10-1.** *the local board*
 9 *of health having jurisdiction over the place where such violation*
 10 *was committed, or the local board of health of any municipality*
 11 *or any authority, commission or other public body supplying water*
 12 *for sale for potable purposes, the potable water supply of which*
 13 *municipality, authority, commission or other public body is or may*
 14 *be affected by such violation.*

15 **Every county district court and municipal court shall have**
 16 **jurisdiction of such proceedings, within the territorial jurisdiction**
 17 **of the court, of any provision of section 58:10-1. Process shall be**
 18 **either in the nature of a summons or warrant.**

19 When the plaintiff in any such proceeding is the department,
 20 or any corporation engaged in the business of supplying water for
 21 sale for potable purposes, the moneys, when recovered, shall be
 22 paid to the department and by it paid into the State treasury;
 23 and when the plaintiff in any such proceeding is the local board
 24 of health of a municipality, *or any authority, commission or other*
 25 *public body supplying water for sale for potable purposes* the
 26 moneys recovered shall be paid into the treasury of the munici-
 27 pality *or the treasury of said authority, commission or other pub-*
 28 *lic body.*

1 3. Section 58:10-4 of the Revised Statutes is amended to read
 2 as follows:

3 58:10-4. If any person, corporation, municipality, or any mu-
 4 nicipal authority, shall violate any of the provisions of section
 5 58:10-1 of this Title, the department, whether or not the penalty
 6 prescribed by said section 58:10-1 shall have been sued for or
 7 recovered, may institute a civil action in the Superior Court in
 8 the name of the State on the relation of the department for in-
 9 junctive relief to prohibit the further violation of said section

10 58:10-1, *and said court may proceed in the action in a summary*
11 *manner.*

12 The local board of health having jurisdiction over the place
13 where such [offense] *violation* was committed, or the local board
14 of health of any municipality, the potable water supply of which
15 is or may be affected by such offense, or any corporation engaged
16 in the business of supplying water for sale for potable purposes,
17 whose supply of potable water is or may be affected by such [of-
18 fense] *violation*, whether or not such penalty shall have been sued
19 for or revoked, may institute a civil action in such court in the
20 name of such board or corporation for injunctive relief to prohibit
21 the further violation of said section 58:10-1, *and said court may*
22 *proceed in the action in a summary manner.*

1 4. This act shall take effect immediately.

ASSEMBLY, No. 794

STATE OF NEW JERSEY

INTRODUCED MARCH 16, 1970

By Assemblymen KEAN, WILSON, DENNIS, FIORE, GOLDFARB,
RINALDI, CAPUTO and KALTENBACHER

Referred to Committee on Agriculture, Conservation and
Natural Resources

AN ACT concerning waters and water supply, and amending R. S.
58:10-1, R. S. 58:10-2 and R. S. 58:10-4.

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

1 1. Section 58:10-1 of the Revised Statutes is amended to read
2 as follows:

3 58:10-1. No excremental matter, domestic, factory, workshop,
4 mill, gas house or slaughterhouse refuse, creamery or cheese fac-
5 tory waste, garbage, dyestuff, coal tar, sawdust, tan bark, or other
6 polluting matter shall be placed in, or discharged into, the waters
7 of or placed or suffered to remain upon the ice or banks of, any
8 river, brook, stream, or any tributary or branch thereof, lake,
9 pond, well, spring or other reservoir, above the point from which
10 any municipality shall or may obtain its supply of water for do-
11 mestic use.

12 Whoever violates any of the provisions of this section shall be
13 liable to a penalty of *no more than \$500.00 for the first violation*
14 *and of no more than \$2,500.00 for each subsequent violation*
15 **[\$100.00 for each offense]**, and each **[week's]** *day's* continuance
16 of the violation **[after notice to abate or remove such pollution**
17 **shall have been given by the State Department of Health, herein-**
18 **after in this chapter designated as the "department," the local**
19 **board of health having jurisdiction over the place where such**
20 **offense was committed, the local board of health of any munici-**
21 **pality, or any corporation engaged in the business of supplying**
22 **water for sale for potable purposes, the potable water supply of**
23 **which municipality or corporation is or may be affected by such**
24 **offense,]** shall constitute a separate **[offense]** *violation.*

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

25 Nothing in this section shall be construed to modify or other-
 26 wise affect any other law or statute conferring upon any local
 27 board of health the power or authority to institute any proceed-
 28 ings in any court of this State for the recovery of any penalty for,
 29 or obtaining any injunction against, the pollution of any of the
 30 waters of this State.

1 2. Section 58:10-2 of the Revised Statutes is amended to read
 2 as follows:

3 58:10-2. Any penalty incurred under any of the provisions of
 4 section 58:10-1 of this Title may be recovered, with costs, in a
 5 summary proceeding *in any court of competent jurisdiction* pur-
 6 suant to the Penalty Enforcement Law (N. J. S. 2A:58-1 et seq.)
 7 in the name of the department or of **any local board of health**
 8 **or corporation specified in said section 58:10-1.** *the local board*
 9 *of health having jurisdiction over the place where such violation*
 10 *was committed, or the local board of health of any municipality*
 11 *or any authority, commission or other public body supplying water*
 12 *for sale for potable purposes, the potable water supply of which*
 13 *municipality, authority, commission or other public body is or may*
 14 *be affected by such violation.*

15 **Every county district court and municipal court shall have**
 16 **jurisdiction of such proceedings, within the territorial jurisdiction**
 17 **of the court, of any provision of section 58:10-1. Process shall be**
 18 **either in the nature of a summons or warrant.**

19 When the plaintiff in any such proceeding is the department,
 20 or any corporation engaged in the business of supplying water for
 21 sale for potable purposes, the moneys, when recovered, shall be
 22 paid to the department and by it paid into the State treasury;
 23 and when the plaintiff in any such proceeding is the local board
 24 of health of a municipality, *or any authority, commission or other*
 25 *public body supplying water for sale for potable purposes* the
 26 moneys recovered shall be paid into the treasury of the munici-
 27 pality *or the treasury of said authority, commission or other pub-*
 28 *lic body.*

1 3. Section 58:10-4 of the Revised Statutes is amended to read
 2 as follows:

3 58:10-4. If any person, corporation, municipality, or any mu-
 4 nicipal authority, shall violate any of the provisions of section
 5 58:10-1 of this Title, the department, whether or not the penalty
 6 prescribed by said section 58:10-1 shall have been sued for or
 7 recovered, may institute a civil action in the Superior Court in
 8 the name of the State on the relation of the department for in-
 9 junctive relief to prohibit the further violation of said section

10 58:10-1, and said court may proceed in the action in a summary
11 manner.

12 The local board of health having jurisdiction over the place
13 where such [offense] violation was committed, or the local board
14 of health of any municipality, the potable water supply of which
15 is or may be affected by such offense, or any corporation engaged
16 in the business of supplying water for sale for potable purposes,
17 whose supply of potable water is or may be affected by such [of-
18 fense] violation, whether or not such penalty shall have been sued
19 for or revoked, may institute a civil action in such court in the
20 name of such board or corporation for injunctive relief to prohibit
21 the further violation of said section 58:10-1, and said court may
22 proceed in the action in a summary manner.

1 4. This act shall take effect immediately.

STATEMENT

This bill would amend various sections of chapter 10 of Title 58 dealing with pollution of potable waters. It would provide for increased penalties for violations of provisions prohibiting the pollution of streams used as sources of potable water. This bill would enable any agency supplying water to initiate court action against polluters and would provide that any fines assessed against such polluters would accrue to the agency.

ASSEMBLY COMMITTEE AMENDMENTS TO
ASSEMBLY, No. 794
STATE OF NEW JERSEY

ADOPTED APRIL 13, 1970

Amend page 1, section 1, line 13, omit "\$500.00", insert "\$1,000.00".

Amend page 1, section 1, line 14, omit "\$2,500.00", insert "\$3,000.00".

SENATE COMMITTEE AMENDMENTS TO
ASSEMBLY, No. 794
[OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

ADOPTED MAY 7, 1970

Amend page 2, section 2, line 5, delete “in any court of competent jurisdiction”.

Amend page 2, section 2, line 18, after “warrant.】”, insert the following: “The Superior Court, County Court, county district court and the municipal courts shall all have jurisdiction to enforce said Penalty Enforcement Law in connection with this act.”.

Amend page 2, section 2, after line 18 add new paragraph as follows:

“The department is hereby authorized and empowered to compromise and settle any claim for a penalty under this section in such amount in the discretion of the department as may appear appropriate and equitable under all of the circumstances, including, in the case of a first violation only, a rebate of any such penalty paid to the extent of 90% thereof where such person satisfies the department within one year or such other period as the department may deem reasonable that such violation has been removed or that such order or injunction has been met or satisfied, as the case may be.”.

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

CHAPTER 90 LAWS OF N. J. 19 70

APPROVED 6/8/70

[SECOND OFFICIAL COPY REPRINT]

ASSEMBLY, No. 794

STATE OF NEW JERSEY

INTRODUCED MARCH 16, 1970

By Assemblymen KEAN, WILSON, DENNIS, FIORE, GOLDFARB,
RINALDI, CAPUTO and KALTENBACHER

Referred to Committee on Agriculture, Conservation and
Natural Resources

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58:10-1, R. S. 58:10-2 and R. S. 58:10-4.

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2 *of New Jersey:*

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2 as follows:

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5 tory waste, garbage, dyestuff, coal tar, sawdust, tan bark, or other
6 polluting matter shall be placed in, or discharged into, the waters
7 of or placed or suffered to remain upon the ice or banks of, any
8 river, brook, stream, or any tributary or branch thereof, lake,
9 pond, well, spring or other reservoir, above the point from which
10 any municipality shall or may obtain its supply of water for do-
11 mestic use.

12 Whoever violates any of the provisions of this section shall be
13 liable to a penalty of *no more than* ***[\$500.00]*** *\$1,000.00* *for the*
14 *first violation and of no more than* ***[\$2,500.00]*** *\$3,000.00* *for*
15 *each subsequent violation* **[\$100.00 for each offense]**, and each
16 **[week's]** *day's* continuance of the violation **[after notice to abate**
17 **or remove such pollution shall have been given by the State Depart-**
18 **ment of Health, hereinafter in this chapter designated as the "de-**
19 **partment,"** the local board of health having jurisdiction over the
20 place where such offense was committed, the local board of health
21 of any municipality, or any corporation engaged in the business of
22 supplying water for sale for potable purposes, the potable water

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is not enacted and is intended to be omitted in the law.**

23 supply of which municipality or corporation is or may be affected
24 by such offense,] shall constitute a separate [offense] violation.

25 Nothing in this section shall be construed to modify or other-
26 wise affect any other law or statute conferring upon any local
27 board of health the power or authority to institute any proceed-
28 ings in any court of this State for the recovery of any penalty for,
29 or obtaining any injunction against, the pollution of any of the
30 waters of this State.

1 2. Section 58:10-2 of the Revised Statutes is amended to read
2 as follows:

3 58:10-2. Any penalty incurred under any of the provisions of
4 section 58:10-1 of this Title may be recovered, with costs, in a
5 summary proceeding ****[in any court of competent jurisdiction]****
6 pursuant to the Penalty Enforcement Law (N. J. S. 2A:58-1 et seq.)
7 in the name of the department or of [any local board of health
8 or corporation specified in said section 58:10-1.] *the local board*
9 *of health having jurisdiction over the place where such violation*
10 *was committed, or the local board of health of any municipality*
11 *or any authority, commission or other public body supplying water*
12 *for sale for potable purposes, the potable water supply of which*
13 *municipality, authority, commission or other public body is or may*
14 *be affected by such violation.*

15 [Every county district court and municipal court shall have
16 jurisdiction of such proceedings, within the territorial jurisdiction
17 of the court, of any provision of section 58:10-1. Process shall be
18 either in the nature of a summons or warrant.] ****The Superior**
18A **Court, County Court, county district court and the municipal courts**
18B **shall all have jurisdiction to enforce said Penalty Enforcement Law**
18C **in connection with this act.****

18D ****The department is hereby authorized and empowered to com-**
18E **promise and settle any claim for a penalty under this section in such**
18F **amount in the discretion of the department as may appear appro-**
18G **priate and equitable under all of the circumstances, including, in the**
18H **case of a first violation only, a rebate of any such penalty paid to**
18I **the extent of 90% thereof where such person satisfies the depart-**
18J **ment within one year or such other period as the department may**
18K **deem reasonable that such violation has been removed or that such**
18L **order or injunction has been met or satisfied, as the case may be.****

19 When the plaintiff in any such proceeding is the department,
20 or any corporation engaged in the business of supplying water for
21 sale for potable purposes, the moneys, when recovered, shall be
22 paid to the department and by it paid into the State treasury;

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24 of health of a municipality, *or any authority, commission or other*
25 *public body supplying water for sale for potable purposes* the
26 moneys recovered shall be paid into the treasury of the munici-
27 pality *or the treasury of said authority, commission or other pub-*
28 *lic body.*

1 3. Section 58:10-4 of the Revised Statutes is amended to read
2 as follows:

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5 58:10-1 of this Title, the department, whether or not the penalty
6 prescribed by said section 58:10-1 shall have been sued for or
7 recovered, may institute a civil action in the Superior Court in
8 the name of the State on the relation of the department for in-
9 junctive relief to prohibit the further violation of said section
10 58:10-1, *and said court may proceed in the action in a summary*
11 *manner.*

12 The local board of health having jurisdiction over the place
13 where such [offense] *violation* was committed, or the local board
14 of health of any municipality, the potable water supply of which
15 is or may be affected by such offense, or any corporation engaged
16 in the business of supplying water for sale for potable purposes,
17 whose supply of potable water is or may be affected by such [of-
18 fense] *violation*, whether or not such penalty shall have been sued
19 for or recovered, may institute a civil action in such court in the
20 name of such board or corporation for injunctive relief to prohibit
21 the further violation of said section 58:10-1, *and said court may*
22 *proceed in the action in a summary manner.*

1 4. This act shall take effect immediately.