

13:16-1 ET SEQ.

LEGISLATIVE HISTORY CHECKLIST

NJSA 13:16-1 et seq. (Noise control)

Laws of 1971 Chapter 418

Bill No. A2181

Sponsor(s) Wilson & others

Date Introduced Feb. 16, 1971

Committee: Assembly Air, Water Pollution & Public Health

Senate No ref.

Amended during passage Yes No Amendments during passage denoted by asterisks.

Date of passage: Assembly May 6, 1971

Senate Dec. 6, 1971

Date of approval Jan. 24, 1972

Following statements are attached if available:

Sponsor statement Yes No

Committee Statement: Assembly Yes No

Senate Yes No

Fiscal Note Yes No

Veto message Yes No

Message on signing Yes No

Following were printed:

Reports Yes No

Hearings Yes No

974.90 New Jersey. Legislature. Assembly. Committee on Air
H434 and Water Pollution & Public Health.
1971b Public hearing on A2181 and S2069 (noise control)
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CHAPTER 418 LAWS OF N. J. 1971

APPROVED 1-24-72

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ASSEMBLY, No. 2181

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 16, 1971

By Assemblymen WILSON, DAWES, MACRAE, KIEHN, FAY,
GAVAN, DENNIS, GOLDFARB, CAPUTO, KALTEN-
BACHER and KEAN

Referred to Committee on Air and Water Pollution and Public Health

AN ACT relating to the control and abatement of noise, empowering the State Department of Environmental Protection to promulgate codes, rules and regulations for such purposes, creating a Noise Control Council, and making an appropriation therefor.

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

1 1. This act shall be known and may be cited as the "Noise Con-
2 trol Act of 1971."

1 ****[2.** It is hereby declared the policy of the State of New Jersey
2 to control noise from industrial, commercial, residential and ve-
3 hicular sources to the degree necessary for the (a) protection of
4 the health, safety and well-being of its citizens, (b) protection of
5 the convenience and comfort of the public, and (c) development,
6 attraction and expansion of industry, commerce, and agricul-
7 ture.]**

8 ****2.** *The Legislature finds and determines that the people of the*
9 *State are entitled to and should be insured an environment free*
10 *from noise which unnecessarily degrades the quality of life; that*
11 *the levels of noise in the community have reached such a degree*
12 *as to endanger the health, safety and welfare of the people of this*
13 *State as well as the integrity of the environment; and that this*
14 *threat can be abated by the adoption and enforcement of noise*
15 *standards embodied in regulations.***

1 3. For the purposes of this act, the following words shall have
2 the following meanings:

3 a. "Commissioner" means the Commissioner of the State De-
4 partment of Environmental Protection.

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

5 b. "Council" means the Noise Control Council created under
6 this act.

7 c. "Department" means the State Department of Environmental
8 Protection.

9 **[d. "Noise means any sound which, because of any of its char-
10 acteristics, including but not limited to its intensity, amplitude,
11 pitch, degree of regularity or intermittance, duration, its source
12 and time of day and other factors, is deleterious to the health,
13 safety or comfort of the people of this State. It shall not include
14 any aspect of employer-employee relationships.]**

14A ***d. "Noise" means any sounds of such level and duration as*
14B *to be or tend to be injurious to human health or welfare, or which*
14C *would unreasonably interfere with the enjoyment of life or prop-*
14D *erty throughout the State or in any portions thereof, but excludes*
14E *all aspects of the employer-employee relationship concerning health*
14F *and safety hazards within the confines of a place of employment.***

15 e. "Person" means any corporation, company, association, so-
16 ciety, firm, partnership, and joint stock company as well as indi-
17 viduals, and shall also include the State and all its political sub-
18 divisions and any agencies or instrumentalities thereof.

1 4. The department, in accordance with the "Administrative
2 Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.) shall, from
3 time to time, adopt, amend, repeal and enforce reasonable codes,
4 rules and regulations necessary to carry out the intent of this act.
5 Such codes, rules and regulations may include, but shall not be
6 limited to the following:

7 a. Antidegradation provisions which *[establish existing ex-
8 posure levels as a matter of record and prohibit the worsening of
9 the quietude]* **restrain noisemakers from raising their noise*
9A *output to the maximum allowable limit*.*

10 b. Curfew provisions which prohibit particular noisemaking
11 activities or operations during particular days or particular hours;

12 c. Spill-over provisions which consider noise only to the extent
13 that it spills over a property line;

14 d. Zonal provisions which restrict particular noisemaking activi-
15 ties to specified areas;

16 e. Accessory provisions which prohibit the use of machines or
17 vehicles without noise quieting devices and materials such as
18 mufflers, insulation or isolators; and

19 f. License and permit provisions which limit or require compli-
20 ance with performance standards as a condition to the installation
21 or operation of machinery and equipment in the conduct of noise-
22 making activities.

1 5. The department, in addition to its power to make and enforce
2 codes, rules or regulations promulgated by it, and in furtherance
3 of said power, shall also have the power to:

4 a. Conduct and supervise research programs for the purpose
5 of determining the causes, effects and hazards of noise.

6 b. Conduct and supervise Statewide programs of noise control
7 education, including the preparation and distribution of informa-
8 tion relating to noise control.

9 c. Require the registration of persons involved in operations
10 which may result in noise and the filing of reports by them con-
11 taining information relating to the sources of said noise and such
12 other information as the department shall prescribe. ****[Any such**
13 **reports filed with the department shall be privileged and not ad-**
14 **missible in evidence in any court.]**** ***Such registration may be*
14A *revoked or suspended or renewal withheld, for any violation of*
14B *this act or of any codes, rules, regulations or orders promulgated*
14C *hereunder. The department may in accordance with a fee schedule*
14D *adopted as a rule or regulation establish and charge nonrefundable*
14E *fees for registration which may be annual or periodic as the de-*
14F *partment shall determine. The registration fee shall not be less*
14G *than \$10.00 nor more than \$250.00 based on criteria contained in*
14H *the fee schedule.***

15 d. Enter and inspect any building or place, except private resi-
16 dences, for the purpose of investigating an actual or suspected
17 source of noise and ascertaining compliance or noncompliance of
18 any code, rule and regulation of the department. Any information
19 relating to secret processes or methods of manufacture or produc-
20 tion obtained in the course of such inspection, investigation or de-
21 termination shall be kept confidential and shall not be admissible
22 in evidence in any court or in any other proceeding except to the
23 extent herein provided. If tests of any type are made for the pur-
24 pose of determining whether or not a violation has occurred, or
25 for any other purpose in connection with such entry and inspection,
26 a duplicate of the results of the tests shall be furnished promptly
27 to the person suspected of violating the code, rule or regulation.

28 e. With the approval of the Governor, cooperate with and re-
29 ceive money from the Federal Government, the State Government
30 or any county or municipal government or from private sources
31 for the study and control of noise.

32 ****[f. Act as staff for the council.]****

33 ****f. Receive or initiate complaints of noise, hold hearings in**
34 **connection therewith and institute legal proceedings for the pre-**

35 *vention of noise and for the recovery of penalties, in accordance*
 36 *with this act.***

1 6. The department, after consultation with the Director of the
 2 Division of Motor Vehicles, shall have the power to formulate,
 3 promulate, amend and repeal codes, rules and regulations ****[gov-**
 4 **erning the amount]**** ***establishing standards and requirements*
 4A *for the control*** of noise ****[to be emitted by]**** ***from*** motor
 4B vehicles.

5 ****[The department may adopt codes, rules and regulations con-**
 6 **trolling and limiting noise emitted by aircraft, trains, or any other**
 7 **mode of transportation; provided, however, that any regulation**
 8 **concerning aircraft shall be prepared only after consultation with**
 9 **the Federal Aviation Administration.])****

1 ***7. Any code, rule or regulation establishing standards and*
 2 *requirements for the control of noise from motor vehicles shall*
 3 *be applicable to such classification of motor vehicles as the depart-*
 4 *ment shall determine to be necessary to carry out the purpose of*
 5 *this act and shall apply to such motor vehicles not earlier than 180*
 6 *days following the date of adoption.*

1 8. *Any motor vehicle which is subject to inspection by the Di-*
 2 *vision of Motor Vehicles or any other duly authorized body shall,*
 3 *as a condition of compliance with said inspection, pass such tests*
 4 *as may be required to demonstrate that the motor vehicle compli-*
 5 *ance with any standards and requirements for the control of noise*
 6 *established by the New Jersey State Department of Environmental*
 7 *Protection which are applicable to such motor vehicle.*

1 9. *Any person who operates a motor vehicle or owns a motor*
 2 *vehicle which he permits to be operated upon the public highways*
 3 *of this State which generates noise in excess of standards adopted*
 4 *by the department shall be liable to a penalty of not less than \$25.00*
 5 *nor more than \$1,000.00 which shall be enforced in accordance with*
 6 *the provisions of chapter 5 of Title 39 of the Revised Statutes.*

1 10. *No person shall obstruct, hinder or delay, or interfere with*
 2 *by force or otherwise, the performance by the department or its*
 3 *personnel of any duty under the provisions of this act, or refuse*
 4 *to permit such personnel to perform their duties by refusing them,*
 5 *upon proper identification or presentation of a written order of*
 6 *the department, entrance to any premises.***

1 ***[7. In case any written complaint is filed with the department or**
 2 **the department has cause to believe that any person is violating**
 3 **any code, rule or regulation promulgated pursuant to this act, the**
 4 **department shall cause a prompt investigation to be made in con-**
 5 **nection therewith and if it shall find, after such investigation, that**

6 a violation of any code, rule or regulation exists, it shall initiate
7 action under this act to have the violator eliminate the violation.

8 In case of the failure to eliminate a violation of any such code,
9 rule or regulation within a reasonable time, the department shall
10 cause to be issued and served a written notice, together with the
11 copy of a complaint made by it, or a copy of the complaint made
12 to it, requiring the person so complained against to answer the
13 charges of such complaint at a hearing before the department at
14 a time and place to be specified in such notice.

15 The respondent to such complaint may file a written answer
16 thereto and may appear at such hearing in person or by repre-
17 sentative, with or without counsel, and submit testimony, or both.
18 The testimony taken at the hearing shall be under oath and re-
19 corded stenographically, but the parties shall not be bound by the
20 strict rules of evidence prevailing in the courts of law and equity
21 at such hearing, provided, that true copies of any transcript and
22 of any other record made of or at such hearing shall be furnished
23 to the respondent upon request at his expense.

24 Any hearing required by this act to be held before the depart-
25 ment shall be held before the commissioner, or a member of the
26 department designated by him, who shall have power to subpoena
27 witnesses and compel their attendance, administer oaths and re-
28 quire the production for examination of any books or papers re-
29 lating to any matter under investigation in any such hearing. The
30 department, at the request of any respondent to a complaint made
31 by it, or to it, pursuant to this act, shall subpoena and compel the
32 attendance of such witnesses as the respondent may designate and
33 require the production for examination of any books or papers
34 relating to any matter under investigation in any such hearing.

35 If, at said hearing, the department shall determine that the per-
36 son against whom the complaint is made is violating any code, rule
37 or regulation adopted to carry out the purposes of this act, it shall
38 fix a reasonable time during which said person shall be required
39 to take such measures as may be necessary to correct or eliminate
40 the same and to give periodic progress reports. Any information
41 as to secret processes or methods of manufacture or production
42 revealed by such hearings or periodic progress reports shall be
43 kept confidential.]*

1 ***[*7.*]** **11.** Whenever the department has cause to be-
2 lieve that any person is violating any code, rule or regulation pro-
3 mulgated by the department, the department shall cause a prompt
4 investigation to be made in connection therewith.*

5 If upon inspection the department discovers a condition which
 6 is in violation of ****[the]**** ****any**** provision of this act or any
 7 code, rule or regulation promulgated pursuant thereto, it shall be
 8 authorized to order such violation to cease and to take such steps
 9 necessary to enforce such an order. The said order shall state the
 10 items which are in violation and shall provide a reasonable speci-
 11 fied time within which the violation must cease.

12 The person responsible shall make the corrections necessary to
 13 comply with the requirements of this act or code, rule or regulation
 14 promulgated pursuant thereto within the time specified in the order.

15 Nothing herein shall be deemed to prevent the department from
 16 prosecuting any violation of this act or any code, rule or regulation
 17 promulgated pursuant thereto notwithstanding that such violation
 18 is corrected in accordance with its order. ****The department shall**
 18A **not be prevented from directly prosecuting any violations of this**
 18B **act or any code, rule, regulation promulgated pursuant thereto,**
 18C **without the necessity of first issuing an order.****

19 Any person aggrieved by an order of the department under this
 20 act may, upon application made within 15 days after notice thereof,
 21 be intitled to a hearing before the department which shall within
 22 30 days thereafter hold a hearing of which at least 15 days' written
 23 notice shall be given to such persons. Within 30 days after such
 24 hearing the department shall issue an appropriate order modifying,
 25 approving or disapproving its prior order. A copy of such order
 26 shall be served upon all interested parties. Pending the determin-
 27 ation by the department and upon application therefor the depart-
 28 ment may stay the operation of such order upon such terms and
 29 conditions as it may deem proper.*

1 ****12.** The testimony taken at any hearing shall be under oath and
 2 recorder stenographically, but the parties shall not be bound by the
 3 strict rules of evidence prevailing in the courts of law and equity.
 4 True copies of any transcript and of any other record made of or
 5 at such hearings shall be furnished to any party thereto upon
 6 request and at his expense.

1 13. Any hearing required by this act to be held before the depart-
 2 ment shall be held before the commissioner or a member of the
 3 department designated by him, who shall have power to subpoena
 4 witnesses and compel their attendance, administer oaths and require
 5 the production for examination of any books or papers relating to
 6 any matter under investigation in any such hearing. The depart-
 7 ment, at the request of any respondent to a complaint made by it,
 8 or to it, pursuant to this act, shall subpoena and compel the attend-
 9 ance of such witnesses as the respondent may designate and require

10 *the production for examination of any books or papers relating to*
11 *any matter under investigation in any such hearing.***

1 **[8. If such preventive or corrective measures are not taken in
2 accordance with the order of the department, the department may
3 institute a civil action in any court of competent jurisdiction for
4 injunctive relief to prevent any further violation of such code,
5 rule or regulation. Said court shall have power to grant such in-
6 junctive relief upon notice and hearing. Any person thus deter-
7 mined by the department to have violated any of said codes, rules
8 or regulations shall be liable for a penalty of up to *[\$500.00]*
9 *\$3,000.00* per day beginning with the day after the expiration of
10 the time fixed for the taking of preventive or corrective measures in
11 the department's order. Any penalty imposed under this act may
12 be collected by a summary proceeding under the penalty enforce-
13 ment law (N. J. S. 2A:58-1 et seq.) or in any case before a court of
14 competent jurisdiction wherein injunctive relief has been
15 requested.]**

1 **14. If any person violates any of the provisions of this act or
2 any rule, regulation or order promulgated pursuant to the provi-
3 sions of this act, the department may institute an action in a court
4 of competent jurisdiction for injunctive relief to prohibit and
5 prevent such violation or violations and the said court may proceed
6 in the action in a summary manner.

7 Any person who violates the provisions of this act or any rule,
8 regulation or order promulgated pursuant to this act shall be liable
9 to a penalty of not more than \$3,000.00 for each offense, to be
10 collected in a summary proceeding under the Penalty Enforcement
11 Law (N. J. S. 2A:58-1 et seq.), and in any case before a court of
12 competent jurisdiction wherein injunctive relief has been requested,
13 except as provided in section 9 of this act. The Superior Court,
14 County Court and county district court shall have jurisdiction to
15 enforce said Penalty Enforcement Law. If the violation is of a con-
16 tinuing nature, each day during which it continues shall constitute
17 an additional, separate and distinct offense. The department is
18 hereby authorized and empowered to compromise and settle any
19 claim for a penalty under this section in such amount in the discre-
20 tion of the department as may appear appropriate and equitable
21 under all of the circumstances, including a rebate of any such
22 penalty paid to the extent of 75% thereof where such person
23 satisfies the department within 1 year or such other period as the
24 department may deem reasonable that such violation has been
25 eliminated or removed or that such order or injunction has been
26 met or satisfied as the case may be.**

1 **[9.]** **15.** Review of any final decision or action by the
 2 department or review of the validity of any code, rule or regulation
 3 of the department shall be **[by procedure in lieu of prerogative
 4 writ]** *in accordance with the rules of court*.

1 **[10.]** **16.** The department shall cooperate with the
 2 Departments of Labor and Industry, Health, Community Affairs,
 3 Transportation, and Agriculture, with the State Division of Motor
 4 Vehicles, with the Federal Aviation Administration and with any
 5 other appropriate governmental agency while preparing and
 6 before promulgating any codes, rules and regulations. The depart-
 7 ment shall also be empowered to enter into agreements with the
 8 above mentioned agencies to expedite the administration of said
 9 codes, rules and regulations and to reduce the number of inspec-
 10 tions with any person or premise might be subjected to.

1 **[11.]** **17.** There is hereby created in the Department of
 2 Environmental Protection a Noise Control Council, which shall
 3 consist of 13 members, four of whom shall be the Commissioner of
 4 Community Affairs or a member of the Department of Community
 5 Affairs designated by him, the Commissioner of Health, or a
 6 member of the Department of Health designated by him, the Com-
 7 missioner of Labor and Industry, or a member of the Department
 8 of Labor and Industry designated by him, and the Director of the
 9 Division of Motor Vehicles, or a member of the Division of Motor
 10 Vehicles designated by him, all of whom shall serve ex officio, *
 11 five members to be appointed from persons to be nominated by the
 12 organizations hereinafter enumerated and four members of the
 13 general public, one of whom shall be a medical doctor licensed to
 14 practice in this State, all of whom shall be appointed by the
 14A Governor.

15 On or before January 1, 1972 and thereafter as required, at least
 16 one month prior to the expiration of the term of the member chosen
 17 from nominees of each organization hereafter enumerated, each
 18 such organization shall submit to the Governor a list of three rec-
 19 ommended nominees for membership on the council from which
 20 list the Governor shall appoint one.

21 If any organization does not submit a list of recommended nomi-
 22 nees at any time required by this act, the Governor may appoint
 23 a member of his choice.

24 The organizations which shall be entitled to submit recommended
 25 nominees are: New Jersey State League of Municipalities, New
 26 Jersey State Chamber of Commerce, New Jersey Manufacturers'
 27 Association, New Jersey A.F.L.- C.I.O. and the New Jersey Free-
 28 holders' Association] * *and nine public members, all of whom shall*

28A *be appointed by the Governor. The public members shall include*
 28B *a medical doctor, an industrialist, an ecologist, a civil engineer and*
 28C *a member of a local governing body*.*

29 Of the nine members first to be appointed by the Governor, two
 30 shall be appointed for a term of 1 year, two for a term of 2 years,
 31 two for a term of 3 years, and three for terms of 4 years beginning
 32 on January 1, 1972. Thereafter, all appointments shall be made
 33 for terms of 4 years beginning on January 1. All appointed mem-
 34 bers shall serve after the expiration of their terms until their
 35 respective successors are appointed and shall qualify, and any
 36 vacancy occurring in the appointed membership of the council, by
 37 expiration of term or otherwise, shall be filled in the same manner
 38 as the original appointment for the unexpired term only, notwith-
 39 standing that the previous incumbent may have held over and
 40 continued in office as aforesaid. The Governor may remove any
 41 appointed member of the council for cause after a public hearing.

42 Members of the council shall serve without compensation, but
 43 shall be reimbursed for expenses actually incurred in attending
 44 meetings of the council and in the performance of their duties as
 45 members thereof.

46 The council shall elect biannually a chairman and vice-chairman
 47 from its own membership, and seven members of the council shall
 48 constitute a quorum to transact its business.

1 ****[12.]** **18.**** The Noise Control Council shall:

- 2 a. Request from the commissioner information concerning the
 3 noise control program.
- 4 b. Consider any matter relating to the preservation and im-
 5 provement of the noise control program and advise the commis-
 6 sioner thereof.
- 7 c. From time to time, submit to the commissioner any recom-
 8 mendations which it deems necessary for the proper conduct and
 9 improvement of the noise control program.
- 10 d. Study the noise control program and make its recommenda-
 11 tions thereon to the commissioner.
- 12 e. Study the codes, rules and regulations promulgated by the
 13 department in regard to noise control and make its recommenda-
 14 tions for their improvement to the commissioner.
- 15 f. Study and investigate the state of the art and the technical
 16 capabilities and limitations of noise control and report its findings
 17 and recommendations thereon to the commissioner.
- 18 g. Study and investigate the need for programs for the long-
 19 range technical support of the noise control program and report
 20 its findings and recommendations thereon to the commissioner.

21 h. Hold public hearings at least once a year in regard to exist-
 22 ing noise control statutes, codes, rules and regulations and upon
 23 the state of the art and technical capabilities and limitations in
 24 noise control and report its recommendations thereon to the com-
 25 missioner.

26 ***[i. Be empowered to veto the adoption, amendment or repeal of**
 27 **any code, rule or regulation for the control of noise. By majority**
 28 **vote of the whole council, the council may vote its disapproval of**
 29 **any code, rule or regulation or any change therein. The council**
 30 **may exercise its veto at any time before the promulgation by the**
 31 **commissioner of any such code, rule or regulation.]***

32 ****i. Be empowered to veto the adoption, amendment or repeal of*
 33 *any code, rule or regulation for the control of noise. By majority*
 34 *vote of the whole council, the council may vote its disapproval of*
 35 *any code, rule or regulation or any change therein. The council*
 36 *may exercise its veto at any time before the promulgation by the*
 37 *commissioner of any such code, rule or regulation.****

1 ****[13.]** **19.**** The commissioner shall consult with the council
 2 to afford them an opportunity to express their opinion concerning
 3 any proposed code, rule or regulation at least 30 days prior to the
 4 public advertisement thereof.

1 ****[14. Any and all private remedies, whether for nuisance or**
 2 **otherwise, now allowed under law, whether statutory or case, shall**
 3 **not be affected or impaired by this act unless such remedy is specifi-**
 4 **cally restricted or otherwise affected by any code, rule or regula-**
 5 **tion promulgated by the department. Whatever power any mu-**
 6 **nicipality or other governmental entity may now have to control**
 7 **noise shall similarly not be affected in any way whatsoever by**
 8 **this act unless and until the department specifically by code, rule**
 9 **or regulation takes some action concerning such matter. In that**
 10 **connection, the department may supersede by its own rules, regu-**
 11 **lations or codes all municipal ordinances concerning noise, or some,**
 12 **in whole or in part, or it may exempt certain municipalities which**
 13 **have noise control ordinances from the effect of any of the depart-**
 14 **ment's codes, rules or regulations.]****

1 ***20. The powers, duties and functions vested in State Govern-*
 2 *ment under the provisions of this act shall not be construed to limit*
 3 *in any manner the powers, duties and functions vested therein or*
 4 *in any person under any other provision of law or any civil or*
 5 *criminal remedies now or hereafter available to any person related*
 6 *to community noise control.*

1 21. No existing civil or criminal remedy now or hereafter avail-
 2 able to any person shall be superseded by this act or any code, rules,

3 *regulations or orders promulgated pursuant thereto.*

4 *No ordinances or resolutions of any governing body of a munici-*
5 *pality or county or board of health which establish specific stand-*
6 *ards for the level or duration of community noise more stringent*
7 *than this act or any code, rules, regulations or orders promulgated*
8 *pursuant thereto shall be superseded. Nothing in this act or in*
9 *any code, rules, regulations or orders promulgated pursuant*
10 *thereto shall preclude the right of any governing body of a munici-*
11 *pality or county board of health, subject to the approval of the*
12 *department, to adopt ordinances, resolutions or regulations which*
13 *establish specific standards for the level or duration of community*
14 *noise more stringent than this act or any code, rules or regulations*
15 *promulgated pursuant thereto.*

1 *22. This act shall be liberally construed to effectuate the purpose*
2 *and intent thereof.***

1 ***[15.]** **23.*** If any provision of this act or the application
2 thereof to any person or circumstances is held invalid, the
3 remainder of the act and the application of such provision to
4 persons or circumstances other than those to which it ***is*** held
5 invalid, shall not be affected thereby.

1 ***[16.]** **24.*** There is hereby appropriated for the purposes
2 of this act the sum of \$100,000.00.

1 ***[17.]** **25.*** This act shall take effect immediately.

ASSEMBLY, No. 2181

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 16, 1971

By Assemblymen WILSON, DAWES, MACRAE, KIEHN, FAY,
GAVAN, DENNIS, GOLDFARB, CAPUTO, KALTEN-
BACHER and KEAN

Referred to Committee on Air and Water Pollution and Public Health

AN ACT relating to the control and abatement of noise, empowering the State Department of Environmental Protection to promulgate codes, rules and regulations for such purposes, creating a Noise Control Council, and making an appropriation therefor.

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

1 1. This act shall be known and may be cited as the "Noise Con-
2 trol Act of 1971."

1 2. It is hereby declared the policy of the State of New Jersey
2 to control noise from industrial, commercial, residential and ve-
3 hicular sources to the degree necessary for the (a) protection of
4 the health, safety and well-being of its citizens, (b) protection of
5 the convenience and comfort of the public, and (c) development,
6 attraction and expansion of industry, commerce, and agriculture.

1 3. For the purposes of this act, the following words shall have
2 the following meanings:

3 a. "Commissioner" means the Commissioner of the State De-
4 partment of Environmental Protection.

5 b. "Council" means the Noise Control Council created under
6 this act.

7 c. "Department" means the State Department of Environmental
8 Protection.

9 d. "Noise" means any sound which, because of any of its char-
10 acteristics, including but not limited to its intensity, amplitude,
11 pitch, degree of regularity or intermittance, duration, its source
12 and time of day and other factors, is deleterious to the health,
13 safety or comfort of the people of this State. It shall not include
14 any aspect of employer-employee relationships.

15 e. "Person" means any corporation, company, association, so-
16 ciety, firm, partnership, and joint stock company as well as indi-
17 viduals, and shall also include the State and all its political sub-
18 divisions and any agencies or instrumentalities thereof.

1 4. The department, in accordance with the "Administrative
2 Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.) shall, from
3 time to time, adopt, amend, repeal and enforce reasonable codes,
4 rules and regulations necessary to carry out the intent of this act.
5 Such codes, rules and regulations may include, but shall not be
6 limited to the following:

7 a. Antidegradation provisions which establish existing exposure
8 levels as a matter of record and prohibit the worsening of the
9 quietude.

10 b. Curfew provisions which prohibit particular noisemaking
11 activities or operations during particular days or particular hours;

12 c. Spill-over provisions which consider noise only to the extent
13 that it spills over a property line;

14 d. Zonal provisions which restrict particular noisemaking activi-
15 ties to specified areas;

16 e. Accessory provisions which prohibit the use of machines or
17 vehicles without noise quieting devices and materials such as
18 mufflers, insulation or isolators; and

19 f. License and permit provisions which limit or require compli-
20 ance with performance standards as a condition to the installation
21 or operation of machinery and equipment in the conduct of noise-
22 making activities.

1 5. The department, in addition to its power to make and enforce
2 codes, rules or regulations promulgated by it, and in furtherance
3 of said power, shall also have the power to:

4 a. Conduct and supervise research programs for the purpose
5 of determining the causes, effects and hazards of noise.

6 b. Conduct and supervise Statewide programs of noise control
7 education, including the preparation and distribution of informa-
8 tion relating to noise control.

9 c. Require the registration of persons involved in operations
10 which may result in noise and the filing of reports by them con-
11 taining information relating to the sources of said noise and such
12 other information as the department shall prescribe. Any such
13 reports filed with the department shall be privileged and not ad-
14 missible in evidence in any court.

15 d. Enter and inspect any building or place, except private resi-
16 dences, for the purpose of investigating an actual or suspected

17 source of noise and ascertaining compliance or noncompliance of
18 any code, rule and regulation of the department. Any information
19 relating to secret processes or methods of manufacture or produc-
20 tion obtained in the course of such inspection, investigation or de-
21 termination shall be kept confidential and shall not be admissible
22 in evidence in any court or in any other proceeding except to the
23 extent herein provided. If tests of any type are made for the pur-
24 pose of determining whether or not a violation has occurred, or
25 for any other purpose in connection with such entry and inspection,
26 a duplicate of the results of the tests shall be furnished promptly
27 to the person suspected of violating the code, rule or regulation.

28 e. With the approval of the Governor, cooperate with and re-
29 ceive money from the Federal Government, the State Government
30 or any county or municipal government or from private sources
31 for the study and control of noise.

32 f. Act as staff for the council.

1 6. The department, after consultation with the Director of the
2 Division of Motor Vehicles, shall have the power to formulate,
3 promulgate, amend and repeal codes, rules and regulations gov-
4 erning the amount of noise to be emitted by motor vehicles.

5 The department may adopt codes, rules and regulations con-
6 trolling and limiting noise emitted by aircraft, trains, or any other
7 mode of transportation; provided, however, that any regulation
8 concerning aircraft shall be prepared only after consultation with
9 the Federal Aviation Administration.

1 7. In case any written complaint is filed with the department or
2 the department has cause to believe that any person is violating
3 any code, rule or regulation promulgated pursuant to this act, the
4 department shall cause a prompt investigation to be made in con-
5 nection therewith and if it shall find, after such investigation, that
6 a violation of any code, rule or regulation exists, it shall initiate
7 action under this act to have the violator eliminate the violation.

8 In case of the failure to eliminate a violation of any such code,
9 rule or regulation within a reasonable time, the department shall
10 cause to be issued and served a written notice, together with the
11 copy of a complaint made by it, or a copy of the complaint made
12 to it, requiring the person so complained against to answer the
13 charges of such complaint at a hearing before the department at
14 a time and place to be specified in such notice.

15 The respondent to such complaint may file a written answer
16 thereto and may appear at such hearing in person or by repre-
17 sentative, with or without counsel, and submit testimony, or both.

18 The testimony taken at the hearing shall be under oath and re-
19 corded stenographically, but the parties shall not be bound by the
20 strict rules of evidence prevailing in the courts of law and equity
21 at such hearing, provided, that true copies of any transcript and
22 of any other record made of or at such hearing shall be furnished
23 to the respondent upon request at his expense.

24 Any hearing required by this act to be held before the depart-
25 ment shall be held before the commissioner, or a member of the
26 department designated by him, who shall have power to subpoena
27 witnesses and compel their attendance, administer oaths and re-
28 quire the production for examination of any books or papers re-
29 lating to any matter under investigation in any such hearing. The
30 department, at the request of any respondent to a complaint made
31 by it, or to it, pursuant to this act, shall subpoena and compel the
32 attendance of such witnesses as the respondent may designate and
33 require the production for examination of any books or papers
34 relating to any matter under investigation in any such hearing.

35 If, at said hearing, the department shall determine that the per-
36 son against whom the complaint is made is violating any code, rule
37 or regulation adopted to carry out the purposes of this act, it shall
38 fix a reasonable time during which said person shall be required
39 to take such measures as may be necessary to correct or eliminate
40 the same and to give periodic progress reports. Any information
41 as to secret processes or methods of manufacture or production
42 revealed by such hearings or periodic progress reports shall be
43 kept confidential.

1 8. If such preventive or corrective measures are not taken in
2 accordance with the order of the department, the department may
3 institute a civil action in any court of competent jurisdiction for
4 injunctive relief to prevent any further violation of such code,
5 rule or regulation. Said court shall have power to grant such in-
6 junctive relief upon notice and hearing. Any person thus deter-
7 mined by the department to have violated any of said codes, rules
8 or regulations shall be liable for a penalty of up to \$500.00 per day
9 beginning with the day after the expiration of the time fixed for
10 the taking of preventive or corrective measures in the department's
11 order. Any penalty imposed under this act may be collected by a
12 summary proceeding under the penalty enforcement law (N. J. S.
13 2A:58-1 et seq.) or in any case before a court of competent juris-
14 diction wherein injunctive relief has been requested.

1 9. Review of any final decision or action by the department or
2 review of the validity of any code, rule or regulation of the de-
3 partment shall be by procedure in lieu of prerogative writ.

1 10. The department shall cooperate with the Departments of
2 Labor and Industry, Health, Community Affairs, Transportation,
3 and Agriculture, with the State Division of Motor Vehicles, with
4 the Federal Aviation Administration and with any other appro-
5 priate governmental agency while preparing and before promul-
6 gating any codes, rules and regulations. The department shall also
7 be empowered to enter into agreements with the above mentioned
8 agencies to expedite the administration of said codes, rules and
9 regulations and to reduce the number of inspections which any
10 person or premise might be subjected to.

1 11. There is hereby created in the Department of Environmental
2 Protection a Noise Control Council, which shall consist of 13 mem-
3 bers, four of whom shall be the Commissioner of Community Af-
4 fairs or a member of the Department of Community Affairs desig-
5 nated by him, the Commissioner of Health, or a member of the
6 Department of Health designated by him, the Commissioner of
7 Labor and Industry, or a member of the Department of Labor and
8 Industry designated by him, and the Director of the Division of
9 Motor Vehicles, or a member of the Division of Motor Vehicles
10 designated by him, all of whom shall serve ex officio, and five mem-
11 bers to be appointed from persons to be nominated by the organi-
12 zations hereinafter enumerated and four members of the general
13 public, one of whom shall be a medical doctor licensed to practice
14 in this State, all of whom shall be appointed by the Governor.

15 On or before January 1, 1972 and thereafter as required, at least
16 one month prior to the expiration of the term of the member chosen
17 from nominees of each organization hereafter enumerated, each
18 such organization shall submit to the Governor a list of three rec-
19 ommended nominees for membership on the council from which
20 list the Governor shall appoint one.

21 If any organization does not submit a list of recommended nomi-
22 nees at any time required by this act, the Governor may appoint
23 a member of his choice.

24 The organizations which shall be entitled to submit recommended
25 nominees are: New Jersey State League of Municipalities, New
26 Jersey State Chamber of Commerce, New Jersey Manufacturers'
27 Association, New Jersey A.F.L.- C.I.O. and the New Jersey Free-
28 holders' Association.

29 Of the nine members first to be appointed by the Governor, two
30 shall be appointed for a term of 1 year, two for a term of 2 years,
31 two for a term of 3 years, and three for terms of 4 years beginning
32 on January 1, 1972. Thereafter, all appointments shall be made
33 for terms of 4 years beginning on January 1. All appointed mem-
34 bers shall serve after the expiration of their terms until their
35 respective successors are appointed and shall qualify, and any
36 vacancy occurring in the appointed membership of the council, by
37 expiration of term or otherwise, shall be filled in the same manner
38 as the original appointment for the unexpired term only, notwith-
39 standing that the previous incumbent may have held over and
40 continued in office as aforesaid. The Governor may remove any
41 appointed member of the council for cause after a public hearing.

42 Members of the council shall serve without compensation, but
43 shall be reimbursed for expenses actually incurred in attending
44 meetings of the council and in the performance of their duties as
45 members thereof.

46 The council shall elect biannually a chairman and vice-chairman
47 from its own membership, and seven members of the council shall
48 constitute a quorum to transact its business.

1 12. The Noise Control Council shall:

2 a. Request from the commissioner information concerning the
3 noise control program.

4 b. Consider any matter relating to the preservation and im-
5 provement of the noise control program and advise the commis-
6 sioner thereof.

7 c. From time to time, submit to the commissioner any recom-
8 mendations which it deems necessary for the proper conduct and
9 improvement of the noise control program.

10 d. Study the noise control program and make its recommenda-
11 tions thereon to the commissioner.

12 e. Study the codes, rules and regulations promulgated by the
13 department in regard to noise control and make its recommenda-
14 tions for their improvement to the commissioner.

15 f. Study and investigate the state of the art and the technical
16 capabilities and limitations of noise control and report its findings
17 and recommendations thereon to the commissioner.

18 g. Study and investigate the need for programs for the long-
19 range technical support of the noise control program and report
20 its findings and recommendations thereon to the commissioner.

21 h. Hold public hearings at least once a year in regard to exist-
22 ing noise control statutes, codes, rules and regulations and upon

23 the state of the art and technical capabilities and limitations in
 24 noise control and report its recommendations thereon to the com-
 25 missioner.

26 i. Be empowered to veto the adoption, amendment or repeal of
 27 any code, rule or regulation for the control of noise. By majority
 28 vote of the whole council, the council may vote its disapproval of
 29 any code, rule or regulation or any change therein. The council
 30 may exercise its veto at any time before the promulgation by the
 31 commissioner of any such code, rule or regulation.

1 13. The commissioner shall consult with the council to afford
 2 them an opportunity to express their opinion concerning any pro-
 3 posed code, rule or regulation at least 30 days prior to the public
 4 advertisement thereof.

1 14. Any and all private remedies, whether for nuisance or other-
 2 wise, now allowed under law, whether statutory or case, shall not
 3 be affected or impaired by this act unless such remedy is specifi-
 4 cally restricted or otherwise affected by any code, rule or regula-
 5 tion promulgated by the department. Whatever power any mu-
 6 nicipality or other governmental entity may now have to control
 7 noise shall similarly not be affected in any way whatsoever by
 8 this act unless and until the department specifically by code, rule
 9 or regulation takes some action concerning such matter. In that
 10 connection, the department may supersede by its own rules, regu-
 11 lations or codes all municipal ordinances concerning noise, or some,
 12 in whole or in part, or it may exempt certain municipalities which
 13 have noise control ordinances from the effect of any of the depart-
 14 ment's codes, rules or regulations.

1 15. If any provision of this act or the application thereof to any
 2 person or circumstance is held invalid, the remainder of the act
 3 and the application of such provision to persons or circumstances
 4 other than those to which it held invalid, shall not be affected
 5 thereby.

1 16. There is hereby appropriated for the purposes of this act
 2 the sum of \$100,000.00.

1 17. This act shall take effect immediately.

STATEMENT

Noise or unwanted disturbing sound imposes psychological and physiological stress on our citizens. In New Jersey, noise levels are fast approaching or exceeding the dangerous level in many areas of the State. The reasons for this increase in noise levels are the same ones which brought air and water pollution to crisis

proportions—increased population, urbanization, industrialization, transportation needs and the concurrent failure to plan for and preserve our environment.

We now need to recognize that the preservation of a quiet environment is a matter of the highest urgency and that it can be preserved by reducing sound levels to as natural a condition as possible. Enactment of this bill will provide the Department of Environmental Protection the power to deal with the hazards of noise. The department will have the authority to exercise the police power of the State to require the prompt reduction of excessive noise.

A principal aspect of this bill is the creation of a Noise Control Council. This council is to be composed of members representing industry, local government and the public at large. It will promote citizen participation and interaction with outside specialists for developing a strong departmental program of regulation, administration and research. Basic responsibility for the noise control program remains with the new State Department of Environmental Protection, while a strong role is preserved for the Noise Control Council, which will have a qualified veto concerning the promulgation of codes, rules and regulations.

ASSEMBLY COMMITTEE AMENDMENTS TO
ASSEMBLY, No. 2181

STATE OF NEW JERSEY

ADOPTED APRIL 19, 1971

Amend page 2, section 4, line 7, after "provisions which", delete "establish existing exposure", insert "restrain noisemakers from raising their noise output to the maximum allowable limit".

Amend page 2, section 4, lines 8 and 9, delete completely.

Amend pages 3 and 4, section 7, lines 1 to 43, delete completely and insert:

"7. Whenever the department has cause to believe that any person is violating any code, rule or regulation promulgated by the department, the department shall cause a prompt investigation to be made in connection therewith.

If upon inspection the department discovers a condition which is in violation of the provision of this act or any code, rule or regulation promulgated pursuant thereto, it shall be authorized to order such violation to cease and to take such steps necessary to enforce such an order. The said order shall state the items which are in violation and shall provide a reasonable specified time within which the violation must cease.

The person responsible shall make the corrections necessary to comply with the requirements of this act or code, rule or regulation promulgated pursuant thereto within the time specified in the order.

Nothing herein shall be deemed to prevent the department from prosecuting any violation of this act or any code, rule or regulation promulgated pursuant thereto notwithstanding that such violation is corrected in accordance with its order.

Any person aggrieved by an order of the department under this act may, upon application made within 15 days after notice thereof, be entitled to a hearing before the department which shall within 30 days thereafter hold a hearing of which at least 15 days' written notice shall be given to such persons. Within 30 days after such hearing the department shall issue an appropriate order modifying, approving or dis-

approving its prior order. A copy of such order shall be served upon all interested parties. Pending the determination by the department and upon application therefor the department may stay the operation of such order upon such terms and conditions as it may deem proper.”.

Amend page 4, section 8, line 8, after “of up to”, delete “\$500.00”, and insert “3,000.00”.

Amend page 5, section 11, line 10, after “ex officio,”, delete “and five mem-”.

Amend page 5, section 11, lines 11 to 28, delete completely and insert: “and nine public members, all of whom shall be appointed by the Governor. The public members shall include a medical doctor, an industrialist, an ecologist, a civil engineer and a member of a local governing body”.

Amend page 7, section 12, lines 26 to 31, delete completely.

[OFFICIAL COPY REPRINT]
ASSEMBLY, No. 2181

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 16, 1971

By Assemblymen WILSON, DAWES, MACRAE, KIEHN, FAY,
GAVAN, DENNIS, GOLDFARB, CAPUTO, KALTEN-
BACHER and KEAN

Referred to Committee on Air and Water Pollution and Public Health

AN ACT relating to the control and abatement of noise, empowering the State Department of Environmental Protection to promulgate codes, rules and regulations for such purposes, creating a Noise Control Council, and making an appropriation therefor.

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

1 1. This act shall be known and may be cited as the "Noise Con-
2 trol Act of 1971."

1 2. It is hereby declared the policy of the State of New Jersey
2 to control noise from industrial, commercial, residential and ve-
3 hicular sources to the degree necessary for the (a) protection of
4 the health, safety and well-being of its citizens, (b) protection of
5 the convenience and comfort of the public, and (c) development,
6 attraction and expansion of industry, commerce, and agriculture.

1 3. For the purposes of this act, the following words shall have
2 the following meanings:

3 a. "Commissioner" means the Commissioner of the State De-
4 partment of Environmental Protection.

5 b. "Council" means the Noise Control Council created under
6 this act.

7 c. "Department" means the State Department of Environmental
8 Protection.

9 d. "Noise" means any sound which, because of any of its char-
10 acteristics, including but not limited to its intensity, amplitude,
11 pitch, degree of regularity or intermittance, duration, its source
12 and time of day and other factors, is deleterious to the health,
13 safety or comfort of the people of this State. It shall not include
14 any aspect of employer-employee relationships.

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

15 e. "Person" means any corporation, company, association, so-
 16 ciety, firm, partnership, and joint stock company as well as indi-
 17 viduals, and shall also include the State and all its political sub-
 18 divisions and any agencies or instrumentalities thereof.

1 4. The department, in accordance with the "Administrative
 2 Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.) shall, from
 3 time to time, adopt, amend, repeal and enforce reasonable codes,
 4 rules and regulations necessary to carry out the intent of this act.
 5 Such codes, rules and regulations may include, but shall not be
 6 limited to the following:

7 a. Antidegradation provisions which ***[**establish existing ex-
 8 posure levels as a matter of record and prohibit the worsening of
 9 the quietude**]*** **restrain noisemakers from raising their noise*
 9A *output to the maximum allowable limit**.

10 b. Curfew provisions which prohibit particular noisemaking
 11 activities or operations during particular days or particular hours;

12 c. Spill-over provisions which consider noise only to the extent
 13 that it spills over a property line;

14 d. Zonal provisions which restrict particular noisemaking activi-
 15 ties to specified areas;

16 e. Accessory provisions which prohibit the use of machines or
 17 vehicles without noise quieting devices and materials such as
 18 mufflers, insulation or isolators; and

19 f. License and permit provisions which limit or require compli-
 20 ance with performance standards as a condition to the installation
 21 or operation of machinery and equipment in the conduct of noise-
 22 making activities.

1 5. The department, in addition to its power to make and enforce
 2 codes, rules or regulations promulgated by it, and in furtherance
 3 of said power, shall also have the power to:

4 a. Conduct and supervise research programs for the purpose
 5 of determining the causes, effects and hazards of noise.

6 b. Conduct and supervise Statewide programs of noise control
 7 education, including the preparation and distribution of informa-
 8 tion relating to noise control.

9 c. Require the registration of persons involved in operations
 10 which may result in noise and the filing of reports by them con-
 11 taining information relating to the sources of said noise and such
 12 other information as the department shall prescribe. Any such
 13 reports filed with the department shall be privileged and not ad-
 14 missible in evidence in any court.

15 d. Enter and inspect any building or place, except private resi-
 16 dences, for the purpose of investigating an actual or suspected

17 source of noise and ascertaining compliance or noncompliance of
18 any code, rule and regulation of the department. Any information
19 relating to secret processes or methods of manufacture or produc-
20 tion obtained in the course of such inspection, investigation or de-
21 termination shall be kept confidential and shall not be admissible
22 in evidence in any court or in any other proceeding except to the
23 extent herein provided. If tests of any type are made for the pur-
24 pose of determining whether or not a violation has occurred, or
25 for any other purpose in connection with such entry and inspection,
26 a duplicate of the results of the tests shall be furnished promptly
27 to the person suspected of violating the code, rule or regulation.

28 e. With the approval of the Governor, cooperate with and re-
29 ceive money from the Federal Government, the State Government
30 or any county or municipal government or from private sources
31 for the study and control of noise.

32 f. Act as staff for the council.

1 6. The department, after consultation with the Director of the
2 Division of Motor Vehicles, shall have the power to formulate,
3 promulgate, amend and repeal codes, rules and regulations gov-
4 erning the amount of noise to be emitted by motor vehicles.

5 The department may adopt codes, rules and regulations con-
6 trolling and limiting noise emitted by aircraft, trains, or any other
7 mode of transportation; provided, however, that any regulation
8 concerning aircraft shall be prepared only after consultation with
9 the Federal Aviation Administration.

1 *7. In case any written complaint is filed with the department or
2 the department has cause to believe that any person is violating
3 any code, rule or regulation promulgated pursuant to this act, the
4 department shall cause a prompt investigation to be made in con-
5 nection therewith and if it shall find, after such investigation, that
6 a violation of any code, rule or regulation exists, it shall initiate
7 action under this act to have the violator eliminate the violation.

8 In case of the failure to eliminate a violation of any such code,
9 rule or regulation within a reasonable time, the department shall
10 cause to be issued and served a written notice, together with the
11 copy of a complaint made by it, or a copy of the complaint made
12 to it, requiring the person so complained against to answer the
13 charges of such complaint at a hearing before the department at
14 a time and place to be specified in such notice.

15 The respondent to such complaint may file a written answer
16 thereto and may appear at such hearing in person or by repre-
17 sentative, with or without counsel, and submit testimony, or both.

18 The testimony taken at the hearing shall be under oath and re-
19 corded stenographically, but the parties shall not be bound by the
20 strict rules of evidence prevailing in the courts of law and equity
21 at such hearing, provided, that true copies of any transcript and
22 of any other record made of or at such hearing shall be furnished
23 to the respondent upon request at his expense.

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25 ment shall be held before the commissioner, or a member of the
26 department designated by him, who shall have power to subpoena
27 witnesses and compel their attendance, administer oaths and re-
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30 department, at the request of any respondent to a complaint made
31 by it, or to it, pursuant to this act, shall subpoena and compel the
32 attendance of such witnesses as the respondent may designate and
33 require the production for examination of any books or papers
34 relating to any matter under investigation in any such hearing.

35 If, at said hearing, the department shall determine that the per-
36 son against whom the complaint is made is violating any code, rule
37 or regulation adopted to carry out the purposes of this act, it shall
38 fix a reasonable time during which said person shall be required
39 to take such measures as may be necessary to correct or eliminate
40 the same and to give periodic progress reports. Any information
41 as to secret processes or methods of manufacture or production
42 revealed by such hearings or periodic progress reports shall be
43 kept confidential.]*

1 *7. *Whenever the department has cause to believe that any per-
2 son is violating any code, rule or regulation promulgated by the
3 department, the department shall cause a prompt investigation to
4 be made in connection therewith.*

5 *If upon inspection the department discovers a condition which
6 is in violation of the provision of this act or any code, rule or regu-
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8 such violation to cease and to take such steps necessary to enforce
9 such an order. The said order shall state the items which are in
10 violation and shall provide a reasonable specified time within which
11 the violation must cease.*

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13 comply with the requirements of this act or code, rule or regulation
14 promulgated pursuant thereto within the time specified in the order.*

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16 prosecuting any violation of this act or any code, rule or regulation*

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18 is corrected in accordance with its order.

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20 act may, upon application made within 15 days after notice thereof,
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22 30 days thereafter hold a hearing of which at least 15 days' written
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24 hearing the department shall issue an appropriate order modifying,
25 approving or disapproving its prior order. A copy of such order
26 shall be served upon all interested parties. Pending the determin-
27 ation by the department and upon application therefor the depart-
28 ment may stay the operation of such order upon such terms and
29 conditions as it may deem proper.*

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2 accordance with the order of the department, the department may
3 institute a civil action in any court of competent jurisdiction for
4 injunctive relief to prevent any further violation of such code,
5 rule or regulation. Said court shall have power to grant such in-
6 junctive relief upon notice and hearing. Any person thus deter-
7 mined by the department to have violated any of said codes, rules
8 or regulations shall be liable for a penalty of up to *~~[\$500.00]~~*
9 *\$3,000.00* per day beginning with the day after the expiration of
10 the time fixed for the taking of preventive or corrective measures in
11 the department's order. Any penalty imposed under this act may
12 be collected by a summary proceeding under the penalty enforce-
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6 Department of Health designated by him, the Commissioner of
7 Labor and Industry, or a member of the Department of Labor and
8 Industry designated by him, and the Director of the Division of
9 Motor Vehicles, or a member of the Division of Motor Vehicles des-
10 ignated by him, all of whom shall serve ex officio, * and five mem-
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12 zations hereinafter enumerated and four members of the general
13 public, one of whom shall be a medical doctor licensed to practice
14 in this State, all of whom shall be appointed by the Governor.

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16 one month prior to the expiration of the term of the member chosen
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27 Association, New Jersey A.F.L.-C.I.O. and the New Jersey Free-
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17 and recommendations thereon to the commissioner.

18 g. Study and investigate the need for programs for the long-
19 range technical support of the noise control program and report
20 its findings and recommendations thereon to the commissioner.

21 h. Hold public hearings at least once a year in regard to exist-
22 ing noise control statutes, codes, rules and regulations and upon
23 the state of the art and technical capabilities and limitations in
24 noise control and report its recommendations thereon to the com-
25 missioner.

26 ***[i.** Be empowered to veto the adoption, amendment or repeal of
27 any code, rule or regulation for the control of noise. By majority
28 vote of the whole council, the council may vote its disapproval of
29 any code, rule or regulation or any change therein. The council
30 may exercise its veto at any time before the promulgation by the
31 commissioner of any such code, rule or regulation.]*

1 13. The commissioner shall consult with the council to afford
2 them an opportunity to express their opinion concerning any pro-
3 posed code, rule or regulation at least 30 days prior to the public
4 advertisement thereof.

1 14. Any and all private remedies, whether for nuisance or other-
2 wise, now allowed under law, whether statutory or case, shall not
3 be affected or impaired by this act unless such remedy is specifi-

4 cally restricted or otherwise affected by any code, rule or regula-
5 tion promulgated by the department. Whatever power any mu-
6 nicipality or other governmental entity may now have to control
7 noise shall similarly not be affected in any way whatsoever by
8 this act unless and until the department specifically by code, rule
9 or regulation takes some action concerning such matter. In that
10 connection, the department may supersede by its own rules, regu-
11 lations or codes all municipal ordinances concerning noise, or some,
12 in whole or in part, or it may exempt certain municipalities which
13 have noise control ordinances from the effect of any of the depart-
14 ment's codes, rules or regulations.

1 15. If any provision of this act or the application thereof to any
2 person or circumstance is held invalid, the remainder of the act
3 and the application of such provision to persons or circumstances
4 other than those to which it held invalid, shall not be affected
5 thereby.

1 16. There is hereby appropriated for the purposes of this act
2 the sum of \$100,000.00.

1 17. This act shall take effect immediately.

ASSEMBLY AMENDMENTS TO
ASSEMBLY, No. 2181
[OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

ADOPTED MAY 3, 1971

Amend page 1, section 2, lines 1-6, delete in its entirety and insert in lieu thereof:

“2. The Legislature finds and determines that the people of the State are entitled to and should be insured an environment free from noise which unnecessarily degrades the quality of life; that the levels of noise in the community have reached such a degree as to endanger the health, safety and welfare of the people of this State as well as the integrity of the environment; and that this threat can be abated by the adoption and enforcement of noise standards embodied in regulations.”.

Amend page 1, section 3, lines 9-14, delete in its entirety and insert in lieu thereof:

“d. ‘Noise’ means any sounds of such level and duration as to be or tend to be injurious to human health or welfare, or which would unreasonably interfere with the enjoyment of life or property throughout the State or in any portions thereof, but excludes all aspects of the employer-employee relationship concerning health and safety hazards within the confines of a place of employment.”.

Amend page 2, section 5, line 12, delete “Any such”.

Amend page 2, section 5, lines 13-14, delete in its entirety and insert in lieu thereof: “Such registration may be revoked or suspended or renewal withheld, for any violation of this act or of any codes, rules, regulations or orders promulgated hereunder. The department may in accordance with a fee schedule adopted as a rule or regulation establish and charge nonrefundable fees for registration which may be annual or periodic as the department shall determine. The registration fee shall not be less than \$10.00 nor more than \$250.00 based on criteria contained in the fee schedule.”.

Amend page 3, section 5, line 32, delete in its entirety and insert in lieu thereof:

“f. Receive or initiate complaints of noise, hold hearings in connection therewith and institute legal proceedings for the prevention of

noise and for the recovery of penalties, in accordance with this act.”.

Amend page 3, section 6, lines 3-4, delete “governing the amount”, and insert in lieu thereof “establishing standards and requirements for the control”.

Amend page 3, section 6, line 4, delete “to be emitted by”, and insert in lieu thereof “from”.

Amend page 3, section 6, lines 5-9, delete in its entirety and insert in lieu thereof:

“7. Any code, rule or regulation establishing standards and requirements for the control of noise from motor vehicles shall be applicable to such classification of motor vehicles as the department shall determine to be necessary to carry out the purpose of this act and shall apply to such motor vehicles not earlier than 180 days following the date of adoption.

8. Any motor vehicle which is subject to inspection by the Division of Motor Vehicle or any other duly authorized body shall, as a condition of compliance with said inspection, pass such tests as may be required to demonstrate that the motor vehicle compliance with any standards and requirements for the control of noise established by the New Jersey State Department of Environmental Protection which are applicable to such motor vehicle.

9. Any person who operates a motor vehicle or owns a motor vehicle which he permits to be operated upon the public highways of this State which generates noise in excess of standards adopted by the department shall be liable to a penalty of not less than \$25.00 nor more than \$1,000.00 which shall be enforced in accordance with the provisions of chapter 5 of Title 39 of the Revised Statutes.

10. No person shall obstruct, hinder or delay, or interfere with by force or otherwise, the performance by the department or its personnel of any duty under the provisions of this act, or refuse to permit such personnel to perform their duties by refusing them, upon proper identification or presentation of a written order of the department, entrance to any premises.”.

Amend page 4, section 7, line 1, delete “7”, and insert in lieu thereof “11”.

Amend page 4, section 7, line 6, delete “the”, and insert in lieu thereof “any”.

Amend page 5, section 7, line 18, after “order.”, insert “The department shall not be prevented from directly prosecuting any violations of this act or any code, rule, regulation promulgated pursuant thereto, without the necessity of first issuing an order.”.

Amend page 5, section 7, line 29, after this line insert:

“12. The testimony taken at any hearing shall be under oath and

recorded stenographically, but the parties shall not be bound by the strict rules of evidence prevailing in the courts of law and equity. True copies of any transcript and of any other record made of or at such hearings shall be furnished to any party thereto upon request and at his expense.

13. Any hearing required by this act to be held before the department shall be held before the commissioner or a member of the department designated by him, who shall have power to subpoena witnesses and compel their attendance, administer oaths and require the production for examination of any books or papers relating to any matter under investigation in any such hearing. The department, at the request of any respondent to a complaint made by it, or to it, pursuant to this act, shall subpoena and compel the attendance of such witnesses as the respondent may designate and require the production for examination of any books or papers relating to any matter under investigation in any such hearing.”

Amend page 5, section 8, lines 1-4, delete in its entirety and insert in lieu thereof:

“14. If any person violates any of the provisions of this act or any rule, regulation or order promulgated pursuant to the provisions of this act, the department may institute an action in a court of competent jurisdiction for injunctive relief to prohibit and prevent such violation or violations and the said court may proceed in the action in a summary manner.

Any person who violates the provisions of this act or any rule, regulation or order promulgated pursuant to this act shall be liable to a penalty of not more than \$3,000.00 for each offense, to be collected in a summary proceeding under the Penalty Enforcement Law (N. J. S. 2A:58-1 et seq.), and in any case before a court of competent jurisdiction wherein injunctive relief has been requested, except as provided in section 9 of this act. The Superior Court, County Court and county district court shall have jurisdiction to enforce said Penalty Enforcement Law. If the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate and distinct offense. 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 a rebate of any such penalty paid to the extent of 75% thereof where such person satisfies the department within 1 year or such other period as the department may deem reasonable that such violation has been eliminated or removed or that such order or injunction has been met or satisfied as the case may be.”

Amend page 5, section 9, line 1, delete "9", and insert in lieu thereof "15".

Amend page 5, section 9, line 3, delete "by procedure in lieu of prerogative writ", and insert in lieu thereof "in accordance with the rules of court".

Amend page 5, section 10, line 1, delete "10", and insert in lieu thereof "16".

Amend page 5, section 11, line 1, delete "11", and insert in lieu thereof "17".

Amend page 7, section 12, line 1, delete "12", and insert in lieu thereof "18".

Amend page 7, section 13, line 1, delete "13", and insert in lieu thereof "19".

Amend page 7, section 14, lines 1-3, delete in its entirety.

Amend page 8, section 14, lines 4-14, delete in its entirety and insert in lieu thereof:

"20. The powers, duties and functions vested in State Government under the provisions of this act shall not be construed to limit in any manner the powers, duties and functions vested therein or in any person under any other provision of law or any civil or criminal remedies now or hereafter available to any person related to community noise control.

21. No existing civil or criminal remedy now or hereafter available to any person shall be superseded by this act or any code, rules, regulations or orders promulgated pursuant thereto.

No ordinances or resolutions of any governing body of a municipality or county or board of health which establish specific standards for the level or duration of community noise more stringent than this act or any code, rules, regulations or orders promulgated pursuant thereto shall be superseded. Nothing in this act or in any code, rules, regulations or orders promulgated pursuant thereto shall preclude the right of any governing body of a municipality or county board of health, subject to the approval of the department, to adopt ordinances, resolutions or regulations which establish specific standards for the level or duration of community noise more stringent than this act or any code, rules or regulations promulgated pursuant thereto.

22. This act shall be liberally construed to effectuate the purpose and intent thereof."

Amend page 8, section 15, line 1, delete "15", and insert in lieu thereof "23".

Amend page 8, section 15, line 4, after "it", insert "is".

Amend page 8, section 16, line 1, delete "16", and insert in lieu thereof "24".

Amend page 8, section 17, line 1, delete "17", and insert in lieu thereof "25".

[SECOND OFFICIAL COPY REPRINT]

ASSEMBLY, No. 2181

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 16, 1971

By Assemblymen WILSON, DAWES, MACRAE, KIEHN, FAY,
GAVAN, DENNIS, GOLDFARB, CAPUTO, KALTEN-
BACHER and KEAN

Referred to Committee on Air and Water Pollution and Public Health

AN ACT relating to the control and abatement of noise, empowering
the State Department of Environmental Protection to promul-
gate codes, rules and regulations for such purposes, creating a
Noise Control Council, and making an appropriation therefor.

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

1 1. This act shall be known and may be cited as the "Noise Con-
2 trol Act of 1971."

1 ****[2. It is hereby declared the policy of the State of New Jersey**
2 **to control noise from industrial, commercial, residential and ve-**
3 **hicular sources to the degree necessary for the (a) protection of**
4 **the health, safety and well-being of its citizens, (b) protection of**
5 **the convenience and comfort of the public, and (c) development,**
6 **attraction and expansion of industry, commerce, and agricul-**
7 **ture.]****

8 ****2. The Legislature finds and determines that the people of the**
9 **State are entitled to and should be insured an environment free**
10 **from noise which unnecessarily degrades the quality of life; that**
11 **the levels of noise in the community have reached such a degree**
12 **as to endanger the health, safety and welfare of the people of this**
13 **State as well as the integrity of the environment; and that this**
14 **threat can be abated by the adoption and enforcement of noise**
15 **standards embodied in regulations.****

1 3. For the purposes of this act, the following words shall have
2 the following meanings:

3 a. "Commissioner" means the Commissioner of the State De-
4 partment of Environmental Protection.

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

5 b. "Council" means the Noise Control Council created under
6 this act.

7 c. "Department" means the State Department of Environmental
8 Protection.

9 **d. "Noise means any sound which, because of any of its char-
10 acteristics, including but not limited to its intensity, amplitude,
11 pitch, degree of regularity or intermittance, duration, its source
12 and time of day and other factors, is deleterious to the health,
13 safety or comfort of the people of this State. It shall not include
14 any aspect of employer-employee relationships.]"**

14A **d. "Noise" means any sounds of such level and duration as
14B to be or tend to be injurious to human health or welfare, or which
14C would unreasonably interfere with the enjoyment of life or prop-
14D erty throughout the State or in any portions thereof, but excludes
14E all aspects of the employer-employee relationship concerning health
14F and safety hazards within the confines of a place of employment.**

15 e. "Person" means any corporation, company, association, so-
16 ciety, firm, partnership, and joint stock company as well as indi-
17 viduals, and shall also include the State and all its political sub-
18 divisions and any agencies or instrumentalities thereof.

1 4. The department, in accordance with the "Administrative
2 Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.) shall, from
3 time to time, adopt, amend, repeal and enforce reasonable codes,
4 rules and regulations necessary to carry out the intent of this act.
5 Such codes, rules and regulations may include, but shall not be
6 limited to the following:

7 a. Antidegradation provisions which *["establish existing ex-
8 posure levels as a matter of record and prohibit the worsening of
9 the quietude]"* **restrain noisemakers from raising their noise
9A output to the maximum allowable limit*.*

10 b. Curfew provisions which prohibit particular noisemaking
11 activities or operations during particular days or particular hours;

12 c. Spill-over provisions which consider noise only to the extent
13 that it spills over a property line;

14 d. Zonal provisions which restrict particular noisemaking activi-
15 ties to specified areas;

16 e. Accessory provisions which prohibit the use of machines or
17 vehicles without noise quieting devices and materials such as
18 mufflers, insulation or isolators; and

19 f. License and permit provisions which limit or require compli-
20 ance with performance standards as a condition to the installation
21 or operation of machinery and equipment in the conduct of noise-
22 making activities.

1 5. The department, in addition to its power to make and enforce
2 codes, rules or regulations promulgated by it, and in furtherance
3 of said power, shall also have the power to:

4 a. Conduct and supervise research programs for the purpose
5 of determining the causes, effects and hazards of noise.

6 b. Conduct and supervise Statewide programs of noise control
7 education, including the preparation and distribution of informa-
8 tion relating to noise control.

9 c. Require the registration of persons involved in operations
10 which may result in noise and the filing of reports by them con-
11 taining information relating to the sources of said noise and such
12 other information as the department shall prescribe. ****[Any such**
13 **reports filed with the department shall be privileged and not ad-**
14 **missible in evidence in any court.]**** ***Such registration may be*
14A *revoked or suspended or renewal withheld, for any violation of*
14B *this act or of any codes, rules, regulations or orders promulgated*
14C *hereunder. The department may in accordance with a fee schedule*
14D *adopted as a rule or regulation establish and charge nonrefundable*
14E *fees for registration which may be annual or periodic as the de-*
14F *partment shall determine. The registration fee shall not be less*
14G *than \$10.00 nor more than \$250.00 based on criteria contained in*
14H *the fee schedule.***

15 d. Enter and inspect any building or place, except private resi-
16 dences, for the purpose of investigating an actual or suspected
17 source of noise and ascertaining compliance or noncompliance of
18 any code, rule and regulation of the department. Any information
19 relating to secret processes or methods of manufacture or produc-
20 tion obtained in the course of such inspection, investigation or de-
21 termination shall be kept confidential and shall not be admissible
22 in evidence in any court or in any other proceeding except to the
23 extent herein provided. If tests of any type are made for the pur-
24 pose of determining whether or not a violation has occurred, or
25 for any other purpose in connection with such entry and inspection,
26 a duplicate of the results of the tests shall be furnished promptly
27 to the person suspected of violating the code, rule or regulation.

28 e. With the approval of the Governor, cooperate with and re-
29 ceive money from the Federal Government, the State Government
30 or any county or municipal government or from private sources
31 for the study and control of noise.

32 ****[f. Act as staff for the council.]****

33 ***f. Receive or initiate complaints of noise, hold hearings in*
34 *connection therewith and institute legal proceedings for the pre-*

35 *vention of noise and for the recovery of penalties, in accordance*
 36 *with this act.***

1 6. The department, after consultation with the Director of the
 2 Division of Motor Vehicles, shall have the power to formulate,
 3 promulate, amend and repeal codes, rules and regulations ****[gov-**
 4 **erning the amount]**** ***establishing standards and requirements*
 4A *for the control*** of noise ****[to be emitted by]**** ***from*** motor
 4B vehicles.

5 ****[The department may adopt codes, rules and regulations con-**
 6 **trolling and limiting noise emitted by aircraft, trains, or any other**
 7 **mode of transportation; provided, however, that any regulation**
 8 **concerning aircraft shall be prepared only after consultation with**
 9 **the Federal Aviation Administration.]****

1 ****7. Any code, rule or regulation establishing standards and**
 2 **requirements for the control of noise from motor vehicles shall**
 3 **be applicable to such classification of motor vehicles as the depart-**
 4 **ment shall determine to be necessary to carry out the purpose of**
 5 **this act and shall apply to such motor vehicles not earlier than 180**
 6 **days following the date of adoption.**

1 8. *Any motor vehicle which is subject to inspection by the Di-*
 2 *vision of Motor Vehicles or any other duly authorized body shall,*
 3 *as a condition of compliance with said inspection, pass such tests*
 4 *as may be required to demonstrate that the motor vehicle compli-*
 5 *ance with any standards and requirements for the control of noise*
 6 *established by the New Jersey State Department of Environmental*
 7 *Protection which are applicable to such motor vehicle.*

1 9. *Any person who operates a motor vehicle or owns a motor*
 2 *vehicle which he permits to be operated upon the public highways*
 3 *of this State which generates noise in excess of standards adopted*
 4 *by the department shall be liable to a penalty of not less than \$25.00*
 5 *nor more than \$1,000.00 which shall be enforced in accordance with*
 6 *the provisions of chapter 5 of Title 39 of the Revised Statutes.*

1 10. *No person shall obstruct, hinder or delay, or interfere with*
 2 *by force or otherwise, the performance by the department or its*
 3 *personnel of any duty under the provisions of this act, or refuse*
 4 *to permit such personnel to perform their duties by refusing them,*
 5 *upon proper identification or presentation of a written order of*
 6 *the department, entrance to any premises.***

1 ****[7. In case any written complaint is filed with the department or**
 2 **the department has cause to believe that any person is violating**
 3 **any code, rule or regulation promulgated pursuant to this act, the**
 4 **department shall cause a prompt investigation to be made in con-**
 5 **nection therewith and if it shall find, after such investigation, that**

6 a violation of any code, rule or regulation exists, it shall initiate
7 action under this act to have the violator eliminate the violation.

8 In case of the failure to eliminate a violation of any such code,
9 rule or regulation within a reasonable time, the department shall
10 cause to be issued and served a written notice, together with the
11 copy of a complaint made by it, or a copy of the complaint made
12 to it, requiring the person so complained against to answer the
13 charges of such complaint at a hearing before the department at
14 a time and place to be specified in such notice.

15 The respondent to such complaint may file a written answer
16 thereto and may appear at such hearing in person or by repre-
17 sentative, with or without counsel, and submit testimony, or both.
18 The testimony taken at the hearing shall be under oath and re-
19 corded stenographically, but the parties shall not be bound by the
20 strict rules of evidence prevailing in the courts of law and equity
21 at such hearing, provided, that true copies of any transcript and
22 of any other record made of or at such hearing shall be furnished
23 to the respondent upon request at his expense.

24 Any hearing required by this act to be held before the depart-
25 ment shall be held before the commissioner, or a member of the
26 department designated by him, who shall have power to subpoena
27 witnesses and compel their attendance, administer oaths and re-
28 quire the production for examination of any books or papers re-
29 lating to any matter under investigation in any such hearing. The
30 department, at the request of any respondent to a complaint made
31 by it, or to it, pursuant to this act, shall subpoena and compel the
32 attendance of such witnesses as the respondent may designate and
33 require the production for examination of any books or papers
34 relating to any matter under investigation in any such hearing.

35 If, at said hearing, the department shall determine that the per-
36 son against whom the complaint is made is violating any code, rule
37 or regulation adopted to carry out the purposes of this act, it shall
38 fix a reasonable time during which said person shall be required
39 to take such measures as may be necessary to correct or eliminate
40 the same and to give periodic progress reports. Any information
41 as to secret processes or methods of manufacture or production
42 revealed by such hearings or periodic progress reports shall be
43 kept confidential.]*

1 **[*7.*]** **11.** Whenever the department has cause to be-
2 lieve that any person is violating any code, rule or regulation pro-
3 mulgated by the department, the department shall cause a prompt
4 investigation to be made in connection therewith.

5 If upon inspection the department discovers a condition which
6 is in violation of ****[the]**** ****any**** provision of this act or any
7 code, rule or regulation promulgated pursuant thereto, it shall be
8 authorized to order such violation to cease and to take such steps
9 necessary to enforce such an order. The said order shall state the
10 items which are in violation and shall provide a reasonable speci-
11 fied time within which the violation must cease.

12 The person responsible shall make the corrections necessary to
13 comply with the requirements of this act or code, rule or regulation
14 promulgated pursuant thereto within the time specified in the order.

15 Nothing herein shall be deemed to prevent the department from
16 prosecuting any violation of this act or any code, rule or regulation
17 promulgated pursuant thereto notwithstanding that such violation
18 is corrected in accordance with its order. ****The department shall**
18A **not be prevented from directly prosecuting any violations of this**
18B **act or any code, rule, regulation promulgated pursuant thereto,**
18C **without the necessity of first issuing an order.****

19 Any person aggrieved by an order of the department under this
20 act may, upon application made within 15 days after notice thereof,
21 be intitled to a hearing before the department which shall within
22 30 days thereafter hold a hearing of which at least 15 days' written
23 notice shall be given to such persons. Within 30 days after such
24 hearing the department shall issue an appropriate order modifying,
25 approving or disapproving its prior order. A copy of such order
26 shall be served upon all interested parties. Pending the determin-
27 ation by the department and upon application therefor the depart-
28 ment may stay the operation of such order upon such terms and
29 conditions as it may deem proper.*

1 ****12. The testimony taken at any hearing shall be under oath and**
2 **recorder stenographically, but the parties shall not be bound by the**
3 **strict rules of evidence prevailing in the courts of law and equity.**
4 **True copies of any transcript and of any other record made of or**
5 **at such hearings shall be furnished to any party thereto upon**
6 **request and at his expense.**

1 13. Any hearing required by this act to be held before the depart-
2 ment shall be held before the commissioner or a member of the
3 department designated by him, who shall have power to subpoena
4 witnesses and compel their attendance, administer oaths and require
5 the production for examination of any books or papers relating to
6 any matter under investigation in any such hearing. The depart-
7 ment, at the request of any respondent to a complaint made by it,
8 or to it, pursuant to this act, shall subpoena and compel the attend-
9 ance of such witnesses as the respondent may designate and require

10 *the production for examination of any books or papers relating to*
11 *any matter under investigation in any such hearing.***

1 ****[8.** If such preventive or corrective measures are not taken in
2 accordance with the order of the department, the department may
3 institute a civil action in any court of competent jurisdiction for
4 injunctive relief to prevent any further violation of such code,
5 rule or regulation. Said court shall have power to grant such in-
6 junctive relief upon notice and hearing. Any person thus deter-
7 mined by the department to have violated any of said codes, rules
8 or regulations shall be liable for a penalty of up to ***[\$500.00]***
9 ***\$3,000.00*** per day beginning with the day after the expiration of
10 the time fixed for the taking of preventive or corrective measures in
11 the department's order. Any penalty imposed under this act may
12 be collected by a summary proceeding under the penalty enforce-
13 ment law (N. J. S. 2A:58-1 et seq.) or in any case before a court of
14 competent jurisdiction wherein injunctive relief has been
15 requested. **]****

1 ****14.** *If any person violates any of the provisions of this act or*
2 *any rule, regulation or order promulgated pursuant to the provi-*
3 *sions of this act, the department may institute an action in a court*
4 *of competent jurisdiction for injunctive relief to prohibit and*
5 *prevent such violation or violations and the said court may proceed*
6 *in the action in a summary manner.*

7 *Any person who violates the provisions of this act or any rule,*
8 *regulation or order promulgated pursuant to this act shall be liable*
9 *to a penalty of not more than \$3,000.00 for each offense, to be*
10 *collected in a summary proceeding under the Penalty Enforcement*
11 *Law (N. J. S. 2A:58-1 et seq.), and in any case before a court of*
12 *competent jurisdiction wherein injunctive relief has been requested,*
13 *except as provided in section 9 of this act. The Superior Court,*
14 *County Court and county district court shall have jurisdiction to*
15 *enforce said Penalty Enforcement Law. If the violation is of a con-*
16 *tinuing nature, each day during which it continues shall constitute*
17 *an additional, separate and distinct offense. The department is*
18 *hereby authorized and empowered to compromise and settle any*
19 *claim for a penalty under this section in such amount in the discre-*
20 *tion of the department as may appear appropriate and equitable*
21 *under all of the circumstances, including a rebate of any such*
22 *penalty paid to the extent of 75% thereof where such person*
23 *satisfies the department within 1 year or such other period as the*
24 *department may deem reasonable that such violation has been*
25 *eliminated or removed or that such order or injunction has been*
26 *met or satisfied as the case may be.***

1 **[9.]** **15.** Review of any final decision or action by the
 2 department or review of the validity of any code, rule or regulation
 3 of the department shall be **[by procedure in lieu of prerogative
 4 writ]** ***in accordance with the rules of court***.

1 **[10.]** **16.** The department shall cooperate with the
 2 Departments of Labor and Industry, Health, Community Affairs,
 3 Transportation, and Agriculture, with the State Division of Motor
 4 Vehicles, with the Federal Aviation Administration and with any
 5 other appropriate governmental agency while preparing and
 6 before promulgating any codes, rules and regulations. The depart-
 7 ment shall also be empowered to enter into agreements with the
 8 above mentioned agencies to expedite the administration of said
 9 codes, rules and regulations and to reduce the number of inspec-
 10 tions with any person or premise might be subjected to.

1 **[11.]** **17.** There is hereby created in the Department of
 2 Environmental Protection a Noise Control Council, which shall
 3 consist of 13 members, four of whom shall be the Commissioner of
 4 Community Affairs or a member of the Department of Community
 5 Affairs designated by him, the Commissioner of Health, or a
 6 member of the Department of Health designated by him, the Com-
 7 missioner of Labor and Industry, or a member of the Department
 8 of Labor and Industry designated by him, and the Director of the
 9 Division of Motor Vehicles, or a member of the Division of Motor
 10 Vehicles designated by him, all of whom shall serve ex officio, * [and
 11 five members to be appointed from persons to be nominated by the
 12 organizations hereinafter enumerated and four members of the
 13 general public, one of whom shall be a medical doctor licensed to
 14 practice in this State, all of whom shall be appointed by the
 14A Governor.

15 On or before January 1, 1972 and thereafter as required, at least
 16 one month prior to the expiration of the term of the member chosen
 17 from nominees of each organization hereafter enumerated, each
 18 such organization shall submit to the Governor a list of three rec-
 19 ommended nominees for membership on the council from which
 20 list the Governor shall appoint one.

21 If any organization does not submit a list of recommended nomi-
 22 nees at any time required by this act, the Governor may appoint
 23 a member of his choice.

24 The organizations which shall be entitled to submit recommended
 25 nominees are: New Jersey State League of Municipalities, New
 26 Jersey State Chamber of Commerce, New Jersey Manufacturers'
 27 Association, New Jersey A.F.L.-C.I.O. and the New Jersey Free-
 28 holders' Association] * *and nine public members, all of whom shall*

28A *be appointed by the Governor. The public members shall include*
 28B *a medical doctor, an industrialist, an ecologist, a civil engineer and*
 28C *a member of a local governing body*.*

29 Of the nine members first to be appointed by the Governor, two
 30 shall be appointed for a term of 1 year, two for a term of 2 years,
 31 two for a term of 3 years, and three for terms of 4 years beginning
 32 on January 1, 1972. Thereafter, all appointments shall be made
 33 for terms of 4 years beginning on January 1. All appointed mem-
 34 bers shall serve after the expiration of their terms until their
 35 respective successors are appointed and shall qualify, and any
 36 vacancy occurring in the appointed membership of the council, by
 37 expiration of term or otherwise, shall be filled in the same manner
 38 as the original appointment for the unexpired term only, notwith-
 39 standing that the previous incumbent may have held over and
 40 continued in office as aforesaid. The Governor may remove any
 41 appointed member of the council for cause after a public hearing.

42 Members of the council shall serve without compensation, but
 43 shall be reimbursed for expenses actually incurred in attending
 44 meetings of the council and in the performance of their duties as
 45 members thereof.

46 The council shall elect biannually a chairman and vice-chairman
 47 from its own membership, and seven members of the council shall
 48 constitute a quorum to transact its business.

1 ****[12.]** **18.**** The Noise Control Council shall:

- 2 a. Request from the commissioner information concerning the
 3 noise control program.
- 4 b. Consider any matter relating to the preservation and im-
 5 provement of the noise control program and advise the commis-
 6 sioner thereof.
- 7 c. From time to time, submit to the commissioner any recom-
 8 mendations which it deems necessary for the proper conduct and
 9 improvement of the noise control program.
- 10 d. Study the noise control program and make its recommenda-
 11 tions thereon to the commissioner.
- 12 e. Study the codes, rules and regulations promulgated by the
 13 department in regard to noise control and make its recommenda-
 14 tions for their improvement to the commissioner.
- 15 f. Study and investigate the state of the art and the technical
 16 capabilities and limitations of noise control and report its findings
 17 and recommendations thereon to the commissioner.
- 18 g. Study and investigate the need for programs for the long-
 19 range technical support of the noise control program and report
 20 its findings and recommendations thereon to the commissioner.

21 h. Hold public hearings at least once a year in regard to exist-
 22 ing noise control statutes, codes, rules and regulations and upon
 23 the state of the art and technical capabilities and limitations in
 24 noise control and report its recommendations thereon to the com-
 25 missioner.

26 ***[i. Be empowered to veto the adoption, amendment or repeal of**
 27 **any code, rule or regulation for the control of noise. By majority**
 28 **vote of the whole council, the council may vote its disapproval of**
 29 **any code, rule or regulation or any change therein. The council**
 30 **may exercise its veto at any time before the promulgation by the**
 31 **commissioner of any such code, rule or regulation.]***

1 ****[13.]** **19.**** The commissioner shall consult with the council
 2 to afford them an opportunity to express their opinion concerning
 3 any proposed code, rule or regulation at least 30 days prior to the
 4 public advertisement thereof.

1 ****[14. Any and all private remedies, whether for nuisance or**
 2 **otherwise, now allowed under law, whether statutory or case, shall**
 3 **not be affected or impaired by this act unless such remedy is specifi-**
 4 **cally restricted or otherwise affected by any code, rule or regula-**
 5 **tion promulgated by the department. Whatever power any mu-**
 6 **nicipality or other governmental entity may now have to control**
 7 **noise shall similarly not be affected in any way whatsoever by**
 8 **this act unless and until the department specifically by code, rule**
 9 **or regulation takes some action concerning such matter. In that**
 10 **connection, the department may supersede by its own rules, regu-**
 11 **lations or codes all municipal ordinances concerning noise, or some,**
 12 **in whole or in part, or it may exempt certain municipalities which**
 13 **have noise control ordinances from the effect of any of the depart-**
 14 **ment's codes, rules or regulations.]****

1 ****20. The powers, duties and functions vested in State Govern-**
 2 **ment under the provisions of this act shall not be construed to limit**
 3 **in any manner the powers, duties and functions vested therein or**
 4 **in any person under any other provision of law or any civil or**
 5 **criminal remedies now or hereafter available to any person related**
 6 **to community noise control.**

1 21. *No existing civil or criminal remedy now or hereafter avail-*
 2 *able to any person shall be superseded by this act or any code, rules,*
 3 *regulations or orders promulgated pursuant thereto.*

4 *No ordinances or resolutions of any governing body of a munici-*
 5 *pality or county or board of health which establish specific stand-*
 6 *ards for the level or duration of community noise more stringent*
 7 *than this act or any code, rules, regulations or orders promulgated*
 8 *pursuant thereto shall be superseded. Nothing in this act or in*

9 any code, rules, regulations or orders promulgated pursuant
10 thereto shall preclude the right of any governing body of a municipi-
11 pality or county board of health, subject to the approval of the
12 department, to adopt ordinances, resolutions or regulations which
13 establish specific standards for the level or duration of community
14 noise more stringent than this act or any code, rules or regulations
15 promulgated pursuant thereto.

1 22. This act shall be liberally construed to effectuate the purpose
2 and intent thereof.**

1 **[15.]** **23.** If any provision of this act or the application
2 thereof to any person or circumstances is held invalid, the
3 remainder of the act and the application of such provision to
4 persons or circumstances other than those to which it *is* held
5 invalid, shall not be affected thereby.

1 **[16.]** **24.** There is hereby appropriated for the purposes
2 of this act the sum of \$100,000.00.

1 **[17.]** **25.** This act shall take effect immediately.

SENATE AMENDMENT TO
ASSEMBLY, No. 2181
[SECOND OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

ADOPTED JUNE 14, 1971

Amend page 10, section 18, after line 31, reinsert a paragraph:

“i. Be empowered to veto the adoption, amendment or repeal of any code, rule or regulation for the control of noise. By majority vote of the whole council, the council may vote its disapproval of any code, rule or regulation or any change therein. The council may exercise its veto at any time before the promulgation by the commissioner of any such code, rule or regulation.”

JANUARY 24, 1972

FOR RELEASE:
IMMEDIATE

Governor William T. Cahill today signed into law three Assembly bills designed to provide greater protection for the environment and added benefits for New Jersey citizens.

The Governor signed into law Assembly bill 2555, sponsored by Assemblyman Thomas H. Vean (R., District 11E) which appropriates \$20 million to acquire lands for public recreation and conservation.

The law appropriates \$10 million to be used by the State for acquisition of lands and \$10 million to be used as grants to assist local governments in acquiring land.

The money is available under the 1971 New Jersey Green Acres Bond Act. The Bond Act provides for a formula for payment in lieu of taxes to municipal governments

As new projects are developed, additional funds will be appropriated up to the maximum authorized by the Bond Act.

The second bill, Assembly 2096, sponsored by Barry T. Parker (R., District 4B), provides for the creation of the "Pinelands Environmental Concept" with the responsibility for the protection and development of the Pinelands.

The council will consist of 15 members with representatives of the various interests in Burlington and Ocean Counties and Richard J. Sullivan, Commissioner of the Department of Environmental Protection. The Pinelands embraces large areas of land in central and southern New Jersey in Burlington and Ocean Counties.

The responsibilities of the new council include preparing

of a comprehensive plan for a region which will take into account protection of water resources and other natural features of the Piedlands.

The new law provides for an equal sharing in the funding of this organization with local agencies.

The Governor also signed Assembly bill 2181, sponsored by former Assemblyman Kenneth T. Wilson (R., District 11E), known as the Noise Control Act of 1971. The bill empowers the Department of Environmental Protection to regulate excessive noises which may be injurious to the public's health. In signing the law, the Governor made New Jersey the first state to legislate in this area.