

R.S. 23:5-28

copy 2  
July 9, 1973

LEGISLATIVE NOTES ON R.S. 23:5-28  
(Turning deleterious substances into waters  
prohibited; exceptions; penalties)

L.1968 - chap.329 - S299

Jan. 22 - Introduced by Beadleston and Wallwork.

Feb. 5 - Passed in Senate.

May 20 - Passed in Assembly, amended.

May 27 - Assembly amendment passed in Senate.

Nov. 13 - Approved, chapter 329.

No Statement.

Amended during passage (copies enclosed).

PROPERTY OF  
RECEIVED

OCT 24 1974

Division of State Library  
Archives and History  
Trenton, N. J.

Hearings and Reports.

974.90  
P777  
1968

New Jersey. Legislature. Assembly.  
Committee on Air and Water Pollution  
and Public Health.

Public hearing on Senate Bills no. 299  
and 300 (Water Pollution Control)  
1968.

Do Not Remove From Library

DEPOSITORY COPY

DEPOSITORY COPY  
Do Not Remove From Library

JH/EH  
Encl.

SENATE, No. 299

STATE OF NEW JERSEY

INTRODUCED JANUARY 22, 1968

By Senator BEADLESTON

Referred to Committee on Air and Water Pollution and Public Health

AN ACT respecting pollution of the fresh or tidal waters of this State and amending sections 23:5-28, 23:8-5, 23:9-36 and 23:9-52 of the Revised Statutes.

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

1 1. Section 23:5-28 of the Revised Statutes is amended to read as fol-  
2 lows:

3 23:5-28. No person shall [allow any dyestuff, coal tar, sawdust, tan-  
4 bark, lime, refuse from gas houses, oil tanks or vessels, vitriol or any of the  
5 compounds thereof, or other deleterious or poisonous substance to be turned  
6 into or allowed to run into] *put or place into, turn into, drain into, or place*  
7 *where it can run, flow, wash or be emptied into, or where it can find its way*  
8 *into any of the fresh or tidal waters within the jurisdiction of this State [in*  
9 *quantities] any deleterious, destructive or poisonous substances of any kind*  
10 *[destructive of life or disturbing the habits of the fish or birds inhabiting*  
11 *the same,]; provided, however, that the use of chemicals by any State,*  
12 *county or municipal governmental agency in any program of mosquito or*  
13 *other pest control or the use of chemicals by any person on agricultural, hor-*  
14 *ticultural or forestry crops, or in connection with livestock, in a manner*  
15 *prescribed by the United States Department of Agriculture, the State De-*  
16 *partment of Agriculture, or the College of Agriculture, Rutgers the State*  
17 *University, shall not constitute a violation of this section. In case of pol-*  
18 *lution of said waters by substances known to be injurious to fish, birds or*  
19 *mammals, it shall not be necessary to show that the substances have actually*  
20 *caused the death of any of these organisms. A person violating this section*  
21 *shall be liable to [under] a penalty of \$500.00 for the first offense, and*  
22 *\$1,000.00 for any subsequent offense.*

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

1       2. Section 23:8-5 of the Revised Statutes is hereby amended to read  
2 as follows:

3       23:8-5. No person shall put or place in any water used by a State fish  
4 hatchery any explosive or poisonous substances, or any drug or poison bait,  
5 or allow any dyestuff, coal or gas tar, coal oil, sawdust, tanbark, cocculus  
6 indicus, otherwise known as fishberries, lime, vitriol or any of the com-  
7 pounds thereof, refuse from gas houses, oil tanks or tanneries, or any de-  
8 leterious, destructive or poisonous substances of any kind, to be turned into  
9 or allowed to run, flow, wash or to be emptied, or find its way into any  
10 water used by a State fish hatchery, or erect or maintain any privy, water-  
11 closet, pigsty, hogpen, inclosure for poultry, barn or barnyard, in which  
12 animals or poultry are kept, or drain from any building or the cellars thereof,  
13 where drainage or refuse therefrom will find its way into waters used by a  
14 State fish hatchery. In case of the pollution of water used by a State fish  
15 hatchery, by substances known to be injurious to fish or fish food, it shall  
16 not be necessary to prove that the substances have actually caused the death  
17 of any particular fish.

18       A person violating this section shall be subject to a penalty of \$500.00  
19 *for the first offense and \$1,000.00 for any subsequent offense.*

20       3. Section 23:9-36 of the Revised Statutes is amended to read as fol-  
21 lows:

22       23:9-36. No person shall put or place in the waters mentioned in section  
23 23:9-22 of this Title, any explosive or poisonous substances whatsoever, or  
24 any drug or any poison bait for the purpose of catching, taking, killing or in-  
25 juring the fish, [or allow any dyestuff, coal or gas tar, coal oil, sawdust, tan-  
26 bark, cocculus indicus (otherwise known as fishberries), lime, vitriol, or any of  
27 the compounds thereof, refuse from gas houses, oil tanks or vessels, or] *and no*  
28 *person shall put or place into, turn into, drain into, or place where it can run,*  
29 *flow, wash or be emptied into, or where it can find its way into said waters*  
30 *within the jurisdiction of this State any deleterious, destructive or poisonous*  
31 *substances of any kind [or character to be turned into or allowed to run,*  
32 *flow, wash or be emptied into any of the said waters unless it is shown*  
33 *that every practicable means has been used to prevent the pollution of said*  
34 *waters by the escape of deleterious substances]; provided, however, that*  
35 *the use of chemicals by any State, county or municipal governmental agency*  
36 *in any program of mosquito or other pest control or the use of chemicals by*  
37 *any person on agricultural, horticultural or forestry crops, or in connection*  
38 *with livestock, in a manner prescribed by the United States Department of*  
39 *Agriculture, the State Department of Agriculture, or the College of Agricul-*  
40 *ture, Rutgers the State University, shall not constitute a violation of this*  
41 *section. In the case of the pollution of said waters by substances known*  
42

23 to be injurious to **[fishes, or to fish food]** *fish, birds or mammals*, it shall not  
 24 be necessary to prove that such substances have actually caused the death  
 25 of any **[particular fish]** *of these organisms*. Any person violating any of  
 26 the provisions of this section shall be subject to a fine of **[\$200.00]** *\$500.00*  
 27 *for the first offense and \$1,000.00 for any subsequent offense.*

1 4. Section 23:9-52 of the Revised Statutes is amended to read as fol-  
 2 lows:

3 23:9-52. No person shall *put or place*, in the waters mentioned in section  
 4 23:9-39 of this Title, any explosive or poisonous substances, drug or  
 5 poison bait for the purpose of catching, taking, killing or injuring the fish,  
 6 **[or allow any dyestuff, coal or gas tar, coal oil, sawdust, tanbark, cocculus**  
 7 *indicus, otherwise known as fishberries, lime, vitriol, any of the compounds*  
 8 *thereof, refuse from gas houses, oil tanks or vessels, or]* *and no person shall*  
 9 *put or place into, turn into, drain into, or place where it can run, flow, wash*  
 10 *or be emptied into, or where it can find its way into said waters within the*  
 11 *jurisdiction of this State any deleterious, destructive or poisonous substances*  
 12 *of any kind [to be turned into or allowed to run, flow, wash or be emptied*  
 13 *into any of said waters, unless it is shown that every practicable means has*  
 14 *been used to prevent the pollution of these waters by the escape of deleteri-*  
 15 *ous substances]; provided, however, that the use of chemicals by any State,*  
 16 *county or municipal governmental agency in any program of mosquito or*  
 17 *other pest control or the use of chemicals by any person on agricultural, hor-*  
 18 *ticultural or forestry crops, or in connection with livestock, in a manner pre-*  
 19 *scribed by the United States Department of Agriculture, the State Depart-*  
 20 *ment of Agriculture, or the College of Agriculture, Rutgers the State Uni-*  
 21 *versity, shall not constitute a violation of this section. In the case of the*  
 22 *pollution of said waters by substances known to be injurious to [fish, or to*  
 23 *fish food]* *fish, birds or mammals*, it shall not be necessary to prove that these  
 24 substances have actually caused the death of **[a particular fish]** *any of these*  
 25 *organisms*. A person violating this section shall be subject to a fine of  
 26 **[\$200.00]** *\$500.00 for the first offense and \$1,000.00 for any subsequent*  
 27 *offense.*

1 5. This act shall take effect immediately.

ASSEMBLY COMMITTEE AMENDMENTS TO  
SENATE, No. 299

STATE OF NEW JERSEY

ADOPTED APRIL 29, 1968

Amend page 1, section 1, line 14, after "livestock," insert "or aquatic weed control or structural pest and rodent control,".

Amend page 1, section 1, line 16, after "Rutgers", insert ",".

Amend page 1, section 1, line 17, after "University," insert "or discharges from facilities for the treatment, or the disposal of sewage or other wastes in a manner which conforms to rules and regulations promulgated by the State Department of Health,".

Amend page 2, section 3, line 19, after "livestock," insert "or aquatic weed control or structural pest and rodent control,".

Amend page 2, section 3, line 21, after "Rutgers", insert ",".

CORRECTED COPY  
ASSEMBLY COMMITTEE AMENDMENTS TO  
SENATE, No. 299

STATE OF NEW JERSEY

ADOPTED APRIL 29, 1968

Amend page 1, section 1, line 14, after "livestock," insert "or aquatic weed control or structural pest and rodent control,".

Amend page 1, section 1, line 16, after "Rutgers", insert ",".

Amend page 1, section 1, line 17, after "University," insert "or discharges from facilities for the treatment, or the disposal of sewage or other wastes in a manner which conforms to rules and regulations promulgated by the State Department of Health,".

Amend page 2, section 3, line 19, after "livestock," insert "or aquatic weed control or structural pest and rodent control,".

Amend page 2, section 3, line 21, after "Rutgers", insert ","; after "University," insert "or discharges from facilities for the treatment, or the disposal of sewage or other wastes in a manner which conforms to rules and regulations promulgated by the State Department of Health,".

Amend page 3, section 4, line 18, after "livestock," insert "or aquatic weed control or structural pest and rodent control,".

Amend page 3, section 4, line 20, after "Rutgers", insert ",".

Amend page 3, section 4, line 21, after "University," insert "or discharges from facilities for the treatment, or the disposal of sewage or other wastes in a manner which conforms to rules and regulations promulgated by the State Department of Health,".