

LEGISLATIVE NOTES ON R.S. 26:2C-6 et seq.
(Air Pollution Control)

COPY NO. 1

L. 1962, Chapter 215 - A509
Introduced March 19 by Mr. Beadleston.
Amended during passage.
No statement on bill.
(Copies of all forms of bill enclosed)

*For materials
see entry 2*

We could not find any official reports or hearings on this law.

See the following newspaper articles:

"Red tape, long delays impede state air sanitation program."
Asbury Park Evening Press, January 23, 1961.

"Terms fear stumbling block in war against air pollution."
Asbury Park Evening Press, February 9, 1962.

"Stronger law due on air pollution." Newark Evening News,
February 21, 1962.

"Bill is planned to tighten law on air pollution."
Philadelphia Inquirer, March 16, 1962

"Unbelling the cat." Newark Evening News, May 11, 1962.

"No excuse now for polluted air." Asbury Park Evening Press,
January 11, 1963.

CK/ei

ASSEMBLY, No. 509

STATE OF NEW JERSEY

INTRODUCED MARCH 19, 1962

By Assemblyman BEADLESTON

Referred to Committee on Institutions, Public Health and Welfare

AN ACT to amend and supplement the "Air Pollution Control Act (1954)," approved September 16, 1954 (P. L. 1954, c. 212), and to repeal sections 10, 15 and 18 of said act.

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

1 1. Section 8 of the act of which this act is amendatory is amended to read
2 as follows:

3 8. The commission shall have power to formulate and promulgate,
4 amend and repeal codes and rules and regulations controlling and prohibit-
5 ing air pollution throughout the State or in such territories of the State as
6 shall be affected thereby; provided, however, that no such code, rule or
7 regulation and no such amendment or repeal shall be adopted except after
8 public hearing to be held after 30 days prior notice thereof by public adver-
9 tisement of the date, time and place of such hearing, at which opportunity to
10 be heard by the commission with respect thereto shall be given to the public;
11 and provided, further, that no such code, rule or regulation and no such
12 amendment or repeal shall be or become effective until 60 days after the
13 adoption thereof as aforesaid. Any person heard at such public hearing
14 shall be given written notice of the determination of the commission.

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 *The public hearing required by this act to be held before the commission*
16 *shall be held before not less than 3 members of the commission designated*
17 *by the chairman.*

1 2. Section 9 of the act of which this act is amendatory is amended to
2 read as follows:

3 9. The department shall control air pollution in accordance with any
4 code, rule or regulation promulgated by the commission and for this pur-
5 pose shall have power to—

6 (a) Conduct and supervise research programs for the purpose of de-
7 termining the causes, effects and hazards of air pollution;

8 (b) Conduct and supervise State-wide programs of air pollution control
9 education including the preparation and distribution of information relating
10 to air pollution control;

11 (c) Require the registration of persons engaged in operations which
12 may result in air pollution and the filing of reports by them containing in-
13 formation relating to location, size of outlet, height of outlet, rate and period
14 of emission and composition of effluent, and such other information as the
15 department shall prescribe to be filed relative to air pollution. [The re-
16 quirement for filing of reports shall be conditional upon either the consent
17 of the person engaged in operations which may result in air pollution or the
18 direction of the department, which direction may be granted only after a
19 hearing upon notice to the person engaged in such operations]. *Registra-*
20 *tion reports filed with the department shall be privileged and not admissible*
21 *in evidence in a court of law in a civil action;*

22 (d) Enter and inspect any building or place, except private residences,
23 for the purpose of investigating an actual or suspected source of air pollu-
24 tion and ascertaining compliance or noncompliance with any code, rules and
25 regulations of the commission. [The right to enter and inspect shall be con-
26 ditional upon either the consent of the owner or lessee of the premises or the
27 direction of the department, which direction may be granted only after a
28 hearing upon notice to the owner or lessee of the premises. Before any

29 entry and inspection is made, the person who is to make the same shall
 30 sign a statement in the presence of and witnessed by a notary public or other
 31 officer qualified to take acknowledgment to deeds, that all information ob-
 32 tained shall be kept confidential except as it relates directly to air pollu-
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 34 *kept confidential except as it relates directly to air pollution.* If samples are
 35 taken for analysis, a duplicate of the analytical report shall be furnished
 36 promptly to the person suspected of causing air pollution;

37 (e) Receive or initiate complaints of air pollution, hold hearings in con-
 38 nection with air pollution and institute legal proceedings for the prevention
 39 of air pollution and for the recovery of penalties, in accordance with this
 40 act;

41 (f) With the approval of the Governor, co-operate with, and receive
 42 money from, the Federal Government, the State Government, or any county
 43 or municipal government or from private sources for the study and control
 44 of air pollution.

1 3. Section 10 of chapter 212 of the laws of 1954 is repealed.

1 4. No person shall obstruct, hinder or delay, or interfere with by force
 2 or otherwise, the performance by the department of any duty under the pro-
 3 visions of this act, or of the act of which this act is amendatory and sup-
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1 5. Section 14 of the act of which this act is amendatory is amended to
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3 14. [In case any written complaint is filed with the department, or]
 4 *Whenever* the department has cause to believe, that any person is violating
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 7 if the department shall find, after such investigation, that a violation of any
 8 code, rule or regulation of the commission exists, it shall immediately en-
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 10 violation by conference, conciliation and persuasion].

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 13 *mulgated pursuant thereto, it shall be authorized to order such violation to*
 14 *cease and to take such steps necessary to enforce such an order. The said*
 15 *order shall state the items which are in violation and shall provide a reason-*
 16 *able specified time within which the violation must cease.*

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

20 *Nothing herein shall be deemed to prevent the department from prosecut-*
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3 16. [The respondent to such complaint may file a written answer thereto
 4 and may appear at such hearing in person or by representative, with or with-
 5 out counsel, and submit testimony, or both.] The testimony taken at the
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 7 shall not be bound by the strict rules of evidence prevailing in the courts of
 8 law and equity at such hearing. [, provided, however, that true] True copies
 9 of any transcript and of any other record made of or at such hearing shall
 10 be furnished to the respondent upon request and at his expense.

1 8. Section 18 of chapter 212 of the laws of 1954 is repealed.

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

3 19. If such preventive or corrective measures are not taken in accord-
 4 ance with the order of the department, the department may institute a civil
 5 action in any court of competent jurisdiction for injunctive relief to prevent

6 any further violation of such code, rule or regulation. Said court shall have
7 power to grant such injunctive relief upon notice and hearing. [Any per-
8 son thus determined by the department to have violated a code, rule or regu-
9 lation promulgated by the commission shall be liable for a penalty of \$100.00
10 per week beginning with the tenth day after the expiration of the time fixed
11 for the taking of preventive or corrective measures in the department's
12 order. In the event that he continues to maintain or to permit the mainte-
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15 suant to the penalty enforcement law. (N. J. S. 2A:58-1 et seq.).]

16 *Any person who violates the provisions of this act or any code, rule, regu-*
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18 *a penalty of not less than \$25.00, nor more than \$500.00 to be collected in a*
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25 *The department is hereby authorized and empowered to compromise and*
26 *settle any claim for a penalty under this section in such amount in the dis-*
27 *cretion of the department as may appear appropriate and equitable under*
28 *all of the circumstances.*

1 10. This act shall take effect immediately.

(CORRECTED COPY)
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STATE OF NEW JERSEY

INTRODUCED MARCH 19, 1962

By Assemblyman BEADLESTON, BARKALOW, KEITH and RIMM

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28 *all of the circumstances.*

1 10. This act shall take effect immediately.

ASSEMBLY AMENDMENTS TO

ASSEMBLY, No. 509

[CORRECTED COPY]

STATE OF NEW JERSEY

ADOPTED APRIL 16, 1962

Amend page 1, section 1, before line 1, insert:

"1. Section 6 of the act of which this act is amendatory is amended to read as follows:

6. The commission shall elect annually a chairman and vice-chairman from its own membership, and 5 members of the commission shall constitute a quorum to transact its business, except that any action *to adopt, amend or repeal a code, rule or regulation* shall be by at least a majority vote of the entire commission."

Amend page 1, section 1, line 1, omit "1.", insert "2."

Amend page 2, section 2, line 1, omit "2.", insert "3."

Amend page 2, section 2, line 3, omit "any", insert "the provisions of any applicable".

Amend page 2, section 2, line 21, omit "a court of law in a civil action", insert "any court".

Amend page 3, section 2, lines 33 and 34, omit "All information obtained as a result of such investigation shall be kept confidential except as it relates directly to air pollution.", insert "Any information relating to secret processes or methods of manufacture or production obtained in the course of such inspection, investigation or determination, shall be kept confidential and shall not be admissible in evidence in any court or in any other proceeding except before the department as herein defined."

Amend page 3, section 3, line 1, omit "3.", insert "4.".

Amend page 3, section 4, line 1, omit "4.", insert "5.".

Amend page 3, section 4, line 2, after "department" insert "or its personnel".

Amend page 3, section 4, line 4, before the period insert ", 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 at reasonable hours".

Amend page 3, section 5, line 1, omit "5.", insert "6.".

Amend page 3, section 5, line 4, omit the comma.

Amend page 4, section 6, line 1, omit "6.", insert "7.".

Amend page 4, section 7, line 1, omit "7.", insert "8.".

Amend page 4, section 7, line 5, omit the last word "the", insert "any".

Amend page 4, section 7, line 8, omit "at such hearing".

Amend page 4, section 7, line 10, omit "the respondent", insert "any party thereto".

Amend page 4, before section 8, insert a new section as follows:

"9. 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 disapproving 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 1, omit "8.", insert "10.".

Amend page 4, section 9, line 1, omit "9.", insert "11.".

Amend page 4, section 9, line 3, omit "such".

Amend page 4, section 9, line 4, omit "the" before "order", insert "any".

Amend page 5, section 10, line 1, omit "10", insert "12".

[OFFICIAL COPY REPRINT]

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1 9. Any person aggrieved by an order of the department under this act
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 7 A copy of such order shall be served upon all interested parties. Pending
 8 the determination by the department and upon application therefor the de-
 9 partment may stay the operation of such order upon such terms and condi-
 10 tions as it may deem proper.

1 [8.] 10. Section 18 of chapter 212 of the laws of 1954 is repealed.

1 [9.] 11. Section 19 of the act of which this act is amendatory is amended
 2 to read as follows:

3 19. If [such] preventive or corrective measures are not taken in accord-
 4 ance with [the] any order of the department, the department may institute a
 5 civil action in any court of competent jurisdiction for injunctive relief to pre-
 6 vent any further violation of such code, rule or regulation. Said court shall
 7 have power to grant such injunctive relief upon notice and hearing. [Any per-
 8 son thus determined by the department to have violated a code, rule or regu-
 9 lation promulgated by the commission shall be liable for a penalty of \$100.00
 10 per week beginning with the tenth day after the expiration of the time fixed
 11 for the taking of preventive or corrective measures in the department's
 12 order. In the event that he continues to maintain or to permit the mainte-
 13 nance of any condition which has been determined by the department to con-
 14 stitute such a violation, the method of recovery of said penalty shall be pur-

15 suant to the penalty enforcement law. (N. J. S. 2A:58-1 et seq.).]

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

25 *The department is hereby authorized and empowered to compromise and*
26 *settle any claim for a penalty under this section in such amount in the dis-*
27 *cretion of the department as may appear appropriate and equitable under*
28 *all of the circumstances.*

1 [10.] 12. This act shall take effect immediately.

SENATE COMMITTEE AMENDMENTS TO

ASSEMBLY, No. 509

STATE OF NEW JERSEY

ADOPTED DECEMBER 3, 1962

Amend page 2, section 3, line 15, after "pollution" insert " , all in accordance with applicable codes, rules or regulations established by the Air Pollution Control Commission."

Amend page 4, section 6, after line 16, insert a paragraph as follows:

"In any case where no code, rule or regulation has been promulgated which sets specific limits for emissions to the atmosphere of the type discovered and alleged, no order to cease such emissions shall be issued until the holding of a preliminary hearing thereon which shall be held upon not less than 15 days' notice by the department to all interested persons."

ASSEMBLY, No. 509

STATE OF NEW JERSEY

INTRODUCED MARCH 19, 1962

By Assemblymen BEADLESTON, BARKALOW, KEITH and RIMM

Referred to Committee on Institutions, Public Health and Welfare

AN ACT to amend and supplement the "Air Pollution Control Act (1954)," approved September 16, 1954 (P. L. 1954, c. 212), and to repeal sections 10, 15 and 18 of said act.

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

1 1. Section 6 of the act of which this act is amendatory is amended to read
2 as follows:

3 6. The commission shall elect annually a chairman and vice-chairman
4 from its own membership, and 5 members of the commission shall constitute
5 a quorum to transact its business, except that any action to adopt, amend or
6 repeal a code, rule or regulation shall be by at least a majority vote of the
7 entire commission.

1 [1.] 2. Section 8 of the act of which this act is amendatory is amended to
2 read as follows:

3 8. The commission shall have power to formulate and promulgate,
4 amend and repeal codes and rules and regulations controlling and prohibit-
5 ing air pollution throughout the State or in such territories of the State as
6 shall be affected thereby; provided, however, that no such code, rule or
7 regulation and no such amendment or repeal shall be adopted except after
8 public hearing to be held after 30 days prior notice thereof by public adver-
9 tisement of the date, time and place of such hearing, at which opportunity to

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

10 be heard by the commission with respect thereto shall be given to the public;
11 and provided, further, that no such code, rule or regulation and no such
12 amendment or repeal shall be or become effective until 60 days after the
13 adoption thereof as aforesaid. Any person heard at such public hearing
14 shall be given written notice of the determination of the commission.

15 *The public hearing required by this act to be held before the commission*
16 *shall be held before not less than 3 members of the commission designated*
17 *by the chairman.*

1 [2.] 3. Section 9 of the act of which this act is amendatory is amended to
2 read as follows:

3 9. The department shall control air pollution in accordance with [any]
4 *the provisions of any applicable* code, rule or regulation promulgated by the
5 commission and for this purpose shall have power to—

6 (a) Conduct and supervise research programs for the purpose of de-
7 termining the causes, effects and hazards of air pollution;

8 (b) Conduct and supervise State-wide programs of air pollution control
9 education including the preparation and distribution of information relating
10 to air pollution control;

11 (c) Require the registration of persons engaged in operations which
12 may result in air pollution and the filing of reports by them containing in-
13 formation relating to location, size of outlet, height of outlet, rate and period
14 of emission and composition of effluent, and such other information as the
15 department shall prescribe to be filed relative to air pollution, *all in ac-*
16 *cordance with applicable codes, rules or regulations established by the Air*
17 *Pollution Control Commission* [The requirement for filing of reports shall
18 be conditional upon either the consent of the person engaged in operations
19 which may result in air pollution or the direction of the department, which
20 direction may be granted only after a hearing upon notice to the person
21 engaged in such operations]. *Registration reports filed with the department*
21A *shall be privileged and not admissible in evidence in [a court of law in a*
21B *civil action] any court;*

22 (d) Enter and inspect any building or place, except private residences,
 23 for the purpose of investigating an actual or suspected source of air pollu-
 24 tion and ascertaining compliance or noncompliance with any code, rules and
 25 regulations of the commission. [The right to enter and inspect shall be con-
 26 ditional upon either the consent of the owner or lessee of the premises or the
 27 direction of the department, which direction may be granted only after a
 28 hearing upon notice to the owner or lessee of the premises. Before any
 29 entry and inspection is made, the person who is to make the same shall
 30 sign a statement in the presence of and witnessed by a notary public or other
 31 officer qualified to take acknowledgment to deeds, that all information ob-
 32 tained shall be kept confidential except as it relates directly to air pollu-
 33 tion.] *[All information obtained as a result of such investigation shall be*
 34 *kept confidential except as it relates directly to air pollution.] Any informa-*
 35 *tion relating to secret processes or methods of manufacture or production*
 36 *obtained in the course of such inspection, investigation or determination, shall*
 36A *be kept confidential and shall not be admissible in evidence in any*
 36B *court or in any other proceeding except before the department as herein*
 36C *defined.* If samples are taken for analysis, a duplicate of the analytical
 36D report shall be furnished promptly to the person suspected of causing air
 36E pollution;

37 (e) Receive or initiate complaints of air pollution, hold hearings in con-
 38 nection with air pollution and institute legal proceedings for the prevention
 39 of air pollution and for the recovery of penalties, in accordance with this
 40 act;

41 (f) With the approval of the Governor, co-operate with, and receive
 42 money from, the Federal Government, the State Government, or any county
 43 or municipal government or from private sources for the study and control
 44 of air pollution.

1 [3.] 4. Section 10 of chapter 212 of the laws of 1954 is repealed.

1 [4.] 5. No person shall obstruct, hinder or delay, or interfere with by
 2 force or otherwise, the performance by the department or its personnel of

3 any duty under the provisions of this act, or of the act of which this act is
4 amendatory and supplementary, or refuse to permit such personnel to per-
5 form their duties by refusing them, upon proper identification or presenta-
6 tion of a written order of the department, entrance to any premises at
7 reasonable hours.

1 [5.] 6. Section 14 of the act of which this act is amendatory is amended
2 to read as follows:

3 14. [In case any written complaint is filed with the department, or]
4 Whenever the department has cause to believe[,] that any person is violating
5 any code, rule or regulation promulgated by the commission, the department
6 shall cause a prompt investigation to be made in connection therewith [and
7 if the department shall find, after such investigation, that a violation of any
8 code, rule or regulation of the commission exists, it shall immediately en-
9 deavor to eliminate any source or cause of air pollution resulting from such
10 violation by conference, conciliation and persuasion].

11 If upon inspection the department discovers a condition which is in
12 violation of the provisions of this act or any code, rule or regulation pro-
13 mulgated pursuant thereto, it shall be authorized to order such violation to
14 cease and to take such steps necessary to enforce such an order. The said
15 order shall state the items which are in violation and shall provide a reason-
16 able specified time within which the violation must cease.

17 In any case where no code, rule or regulation has been promulgated
18 which sets specific limits for emissions to the atmosphere of the type dis-
19 covered and alleged, no order to cease such emissions shall be issued until
20 the holding of a preliminary hearing thereon which shall be held upon not
21 less than 15 days' notice by the department to all interested persons.

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

25 Nothing herein shall be deemed to prevent the department from prosecut-
26 ing any violation of this act or any code, rule or regulation promulgated

27 pursuant thereto notwithstanding that such violation is corrected in accord-
28 ance with its order.

1 [6.] 7. Section 15 of chapter 212 of the laws of 1954 is repealed.

1 [7.] 8. Section 16 of the act of which this act is amendatory is amended
2 to read as follows:

3 16. [The respondent to such complaint may file a written answer thereto
4 and may appear at such hearing in person or by representative, with or with-
5 out counsel, and submit testimony, or both.] The testimony taken at [the] any
6 hearing shall be under oath and recorded stenographically, but the parties
7 shall not be bound by the strict rules of evidence prevailing in the courts of
8 law and equity [at such hearing]. [, provided, however, that true] True
9 copies of any transcript and of any other record made of or at such hearing
10 shall be furnished to [the respondent] any party thereto upon request and
11 at his expense.

1 9. Any person aggrieved by an order of the department under this act
2 may, upon application made within 15 days after notice thereof, be entitled
3 to a hearing before the department which shall within 30 days thereafter
4 hold a hearing of which at least 15 days written notice shall be given to
5 such persons. Within 30 days after such hearing the department shall issue
6 an appropriate order modifying, approving or disapproving its prior order.
7 A copy of such order shall be served upon all interested parties. Pending
8 the determination by the department and upon application therefor the de-
9 partment may stay the operation of such order upon such terms and condi-
10 tions as it may deem proper.

1 [8.] 10. Section 18 of chapter 212 of the laws of 1954 is repealed.

1 [9.] 11. Section 19 of the act of which this act is amendatory is amended
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3 19. If [such] preventive or corrective measures are not taken in accord-
4 ance with [the] any order of the department, the department may institute a
5 civil action in any court of competent jurisdiction for injunctive relief to pre-
6 vent any further violation of such code, rule or regulation. Said court shall

7 have power to grant such injunctive relief upon notice and hearing. [Any per-
 8 son thus determined by the department to have violated a code, rule or regu-
 9 lation promulgated by the commission shall be liable for a penalty of \$100.00
 10 per week beginning with the tenth day after the expiration of the time fixed
 11 for the taking of preventive or corrective measures in the department's
 12 order. In the event that he continues to maintain or to permit the mainte-
 13 nance of any condition which has been determined by the department to con-
 14 stitute such a violation, the method of recovery of said penalty shall be pur-
 15 suant to the penalty enforcement law. (N. J. S. 2A:58-1 et seq.).]

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

25 *The department is hereby authorized and empowered to compromise and*
 26 *settle any claim for a penalty under this section in such amount in the dis-*
 27 *cretion of the department as may appear appropriate and equitable under*
 28 *all of the circumstances.*

1 **[10.] 12.** This act shall take effect immediately.