58:11-51

LEGISLATIVE HISTORY CHECKLIST

NJSA: 58:11-51

(Sewage treatment--civil actions for illegal discharges)

LAWS OF: 1988 **CHAPTER:** 170

Bill No: S2339

Sponsor(s): Connors & others

Date Introduced: March 28, 1988

Committee: **Assembly:** -----

Senate: Energy and Environment

Amended during passage: Yes Amendments denoted by asterisks.
According to Governor's recommendations

Date of Passage: **Assembly:** May 23, 1988 Re-enacted 11-21-88

Senate: May 23, 1988 Re-enacted 10-17-88

Date of Approval: December 2, 1988

Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: **Assembly:** Yes

Senate: Yes

Fiscal Note: No

Veto Message: No

Message on signing: No

Following were printed:

Reports: No

Hearings: No

See newspaper clipping--attached:
"Kean vetoes sewer bill, asks changes, "8-5-88 Trenton Times

[SECOND REPRINT]

SENATE, No. 2339

STATE OF NEW JERSEY

INTRODUCED MARCH 28, 1988

By Senators CONNORS, CARDINALE, BUBBA, GAGLIANO, ZIMMER, GORMLEY, HURLEY, PALLONE, VAN WAGNER and RUSSO

AN ACT concerning pretreatment standards for sewage treatment plants, the enforcement thereof, and amending P.L.1972, c.42.

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

[1][1. Section 3 of P.L.1972, c.42 (C.58:11-51) is amended to read as follows:

3. The commissioner shall have the power to establish and from time to time alter or abolish rules and regulations establishing pretreatment standards to which sewage must conform before it may lawfully be discharged into the collection system of a public sewage treatment plant in this State. Any county, municipality, authority, commission, or any public body or agency owning, operating or controlling, separately or jointly, a public sewage treatment plant may, upon application and with the commissioner's approval, establish, alter, or abolish pretreatment standards for its particular public sewage treatment plant. In establishing, altering or abolishing such rules and regulations, the commissioner shall give due consideration to: (1) the treatment capabilities and operating efficiency of the plant or plants to which they apply and (2) the standards required of the effluent of such plant or plants in conformity with established policy of the State and existing rules of the department concerning the prevention and abatement of water pollution.

(cf: P.L.1972, c.42, s.3)][1]

[1][2.] 1.[1] Section 7 of P.L.1972, c.42 (C.58:11-55) is amended to read as follows:

7. [1]a.[1] Any person, corporation, or municipality who shall violate any of the provisions of this act or any rules or

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

Matter underlined thus is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
1 Senate SEN committee amendments adopted May 2, 1988.
2 Senate amendments adopted in accordance with Governor's recommendations September 29, 1988.

regulations promulgated thereunder shall be liable to a penalty of not more [1][$5,000.00] $50,000.00[1] to be collected [2][1]by the department[1][2] in a civil action by a summary proceeding under [the penalty enforcement law] "the penalty enforcement law" (N.J.S.2A:58-1 et seq.) or in any case before a court of competent jurisdiction wherein injunctive relief has been requested. [1][An action to impose this penalty may be brought by the department or any county, municipality, authority, commission, or any other public body or agency owning, operating, or controlling, separately or jointly, the public sewage treatment plant wherein the violation occurs. The suit may be brought in the name of the entity bringing this action.][1] The Superior Court[, County Court and county district court] shall have jurisdiction to enforce [said Penalty Enforcement Law] "the penalty enforcement law". If the violation is of a continuing nature each day during which it continues shall constitute an additional separate and distinct violation.

[1]b. A public entity operating and controlling a sewage public treatment plant may, in accordance with subsection a. of this section, enforce any applicable pretreatment standards adopted by the commissioner pursuant to section 3 of P.L.1972, c.42 (C.58:11-51) or by the public entity pursuant to section 9 of P.L.1972, c.42 (C.58:11-57), or may obtain injunctive relief against a violation or threatened violation of any pretreatment standard. The action shall be brought in the name of the public entity.[1]

(cf: P.L.1972, c.42, s.7).

[1][3.] 2.[1] This act shall take effect immediately.

ENVIRONMENT

Sewerage

Permits sewage treatment plants to bring civil action to impose penalties for illegal discharges and to establish pretreatment standards.

proceeding under [the penalty enforcement law] "the penalty enforcement law" (N.J.S. 2A:58-1 et seq.) or in any case before a court of competent jurisdiction wherein injunctive relief has been requested. An action to impose this penalty may be brought by the department or any county, municipality, authority, commission, or any other public body or agency owning, operating, or controlling, separately or jointly, the public sewage treatment plant wherein the violation occurs. The suit may be brought in the name of the entity bringing this action. The Superior Court[, County Court and county district court] shall have jurisdiction to enforce [said Penalty Enforcement Law] "the penalty enforcement law". If the violation is of a continuing nature each day during which it continues shall constitute an additional separate and distinct violation.

(cf: P.L.1972, c.42, s.7).

3. This act shall take effect immediately.

SPONSORS' STATEMENT

Sewage treatment plants have experienced problems with the discharge of industrial waste waters into their systems. These discharges have a significant effect on the quality of treatment and of the resultant effluent and sludge. Currently, the only enforcement measures a sewage treatment plant owner or operator has is to seek injunctive relief or to terminate service. Both procedures are time consuming and are not effective deterrents.

The Department of Environmental Protection does have the power to impose fines but does not have the manpower to sufficiently monitor all industrial discharges, many of which are monitored by sewage treatment plants designated by the department to assume this responsibility. This bill gives these facilities the power to bring civil action to impose penalties on persons who unlawfully discharge pollutants into the sewerage systems or who fail to report these discharges. This bill also gives these facilities the power to establish pretreatment standards with the approval of the Commissioner of Environmental Protection.

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SENATE ENERGY AND ENVIRONMENT COMMITTEE

STATEMENT TO

SENATE, No. 2339

with Senate committee amendments

STATE OF NEW JERSEY

DATED: APRIL 28, 1988

The Senate Energy and Environment Committee favorably reports Senate Bill No. 2339 with Senate Committee Amendments.

S-2339, as amended by the Committee, amends the State's wastewater pretreatment statute (P.L. 1972, c. 42; C. 58:11-49 et seq.) to authorize a public agency operating a wastewater treatment system to enforce pretreatment standards established by the Department of Environmental Protection or by the public agency. This bill also increases the maximum civil penalty for a violation of the pretreatment statute from $5,000.00 to $50,000.00. This increase would make a violator of the pretreatment statute subject to the same maximum penalty as a violator of the "Water Pollution Control Act," P.L. 1977, c. 74 (C. 58:10A-1 et seq.).

As amended by the Committee, S-2339 is identical to A-2850 1R.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

August 4, 1988

SENATE BILL NO. 2339 (First Reprint)

To the Senate:

Pursuant to Article V, Section I, Paragraph 14 of the Constitution, I am returning Senate Bill No. 2339 (First Reprint) with my objections for reconsideration.

Through this bill the Legislature is seeking to encourage public entities which operate sewage treatment facilities to file civil actions to enforce State and locally adopted pretreatment standards and to obtain injunctive relief against violations or threatened violations of these standards. The bill increases monetary penalties which may be sought where violations occur from a maximum $5,000 per day of violation to $50,000 per day. The bill amends existing law such, however, that only the Department of Environmental Protection (DEP) may actually collect monetary penalties where pretreatment standards have been violated.

I share the Legislature's interest in ensuring that State and locally adopted pretreatment standards are enforced to the maximum extent possible. Accordingly, I am most supportive of this bill's increase in the amount of penalties which may be collected for violations of pretreatment standards.

The bill, however, specifies that, while both the DEP and other public entities may enforce against violations of pretreatment standards, only the DEP may collect monetary penalties for such violations.

I believe that these public entities, authorized by law to enforce pretreatment standards, will have more incentive to do so if allowed to retain any penalties which might result from their enforcement efforts.

Therefore, I herewith return Senate Bill No. 2339 (First Reprint) and recommend that it be amended as follows:

Page 2, Section 1, Lines 1-2: Delete "by the department"

Respectfully,

/s/ Thomas H. Kean

GOVERNOR

[seal]

Attest:

/s/ Michael R. Cole

Chief Counsel