

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 797

Session of
1975

INTRODUCED BY MESSRS. LAUDADIO, ZORD, GREEN, GREENFIELD,
LETTERMAN, PETRARCA, HASKELL, FISHER, MANMILLER, M. E.
MILLER, LEVI AND MRS. GILLETTE, MARCH 18, 1975

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, JUNE 29, 1976

AN ACT

1 Amending the act of June 22, 1937 (P.L.1987, No.394), entitled,
2 as amended, "An act to preserve and improve the purity of the
3 waters of the Commonwealth for the protection of public
4 health, animal and aquatic life, and for industrial
5 consumption, and recreation; empowering and directing the
6 creation of indebtedness or the issuing of non-debt revenue
7 bonds by political subdivisions to provide works to abate
8 pollution; providing protection of water supply; providing
9 for the jurisdiction of courts in the enforcement thereof;
10 providing additional remedies for abating pollution of
11 waters; imposing certain penalties; repealing certain acts;
12 regulating discharges of sewage and industrial wastes;
13 regulating the operation of mines; and placing
14 responsibilities upon landowners and land occupiers,"
15 changing provisions relating to penalties.

16 The General Assembly of the Commonwealth of Pennsylvania
17 hereby enacts as follows:

18 Section 1. Sections 602 and 605, act of June 22, 1937
19 (P.L.1987, No.394), known as "The Clean Streams Law," amended
20 July 31, 1970 (P.L.653, No.222), are amended to read:

21 Section 602. Penalties.--(a) ~~{Any} Without regard to intent,~~ <—
22 ~~knowledge, recklessness or negligence any~~ person or municipality
23 who violates any provision of this act, [or] any rule or

1 regulation [or] of the department, any order of [the board or
2 any order of] the department, OR ANY CONDITION OF ANY PERMIT <—
3 issued pursuant to this act is guilty of a summary offense and,
4 upon conviction, such person or municipality shall be subject to
5 a fine of not less than one hundred dollars (\$100) nor more than
6 one thousand dollars (\$1,000) for each separate offense, and, in
7 default of the payment of such fine, [the] a person[, or if such
8 person be a partnership, then the members thereof, or if such
9 person be a corporation or association, then the officers,
10 members, agents, servants or employees thereof,] shall be
11 imprisoned [in the county jail] for a period of sixty days. <—

12 (b) Any person or municipality who wilfully or negligently
13 violates any provision of this act, any rule or regulation of
14 the department, any order of the department, or any condition of
15 any permit issued pursuant to the act is guilty of a misdemeanor
16 of the third degree and, upon conviction, shall be subject to a
17 fine of not less than two thousand five hundred dollars (\$2,500)
18 nor more than twenty-five thousand dollars (\$25,000) for each
19 separate offense or to imprisonment in the county jail for a
20 period of not more than one year, or both.

21 (c) Any person or municipality who, after a conviction [in a
22 summary proceeding] of a misdemeanor for any violation within
23 ~~{two years} one year~~ as above provided, wilfully or negligently <—
24 violates any provision of this act, [or] any rule or regulation,
25 [or] of the department, any order of [the board or any order of]
26 the department, or any condition of any permit issued pursuant
27 to this act is guilty of a misdemeanor of the second degree and,
28 upon conviction, shall be subject to a fine of not less than
29 [one hundred dollars (\$100)] two thousand five hundred dollars
30 (\$2,500) nor more than [five thousand dollars (\$5,000)] fifty

1 thousand dollars (\$50,000) for each separate offense or to
2 imprisonment [in the county jail] for a period of not more than <—
3 [one year] TWO YEARS, or both. [In the case of a partnership the <—
4 members thereof, and in the case of a corporation or an
5 association the officers, members, agents, servants or employes
6 thereof, may be subject to any such sentence of imprisonment.]

7 [(c)] (d) Each day of continued violation of any provision
8 of this act, [or] any rule or regulation, [or] of the
9 department, any order of [the board or any order of] the
10 department, or any condition of any permit issued pursuant to
11 this act shall constitute a separate offense [under subsections
12 (a) and (b) of this section].

13 (e) The maximum fines specified under this section are
14 established pursuant to requirements set forth by the United
15 States Environmental Protection Agency in accordance with the
16 "Federal Water Pollution Control Act" (33U.S.C.§1251 et seq.).

17 Section 605. Civil Penalties.--In addition to proceeding
18 under any other remedy available at law or in equity for a
19 violation of a provision of this act, [or a] rule, [or]
20 regulation, [of the board or an] order of the department, or a
21 condition of any permit issued pursuant to this act, the [board]
22 department, after hearing, may assess a civil penalty upon a
23 person or municipality for such violation. Such a penalty may be
24 assessed whether or not the violation was wilful. The civil
25 penalty so assessed shall not exceed ten thousand dollars
26 (\$10,000) [plus five hundred dollars (\$500) for each day of
27 continued violation] per day for each violation. In determining
28 the amount of the civil penalty the [board] department shall
29 consider the wilfulness of the violation, damage or injury to
30 the waters of the Commonwealth or their uses, cost of

1 restoration, and other relevant factors. It shall be payable to
2 the Commonwealth of Pennsylvania and shall be collectible in any
3 manner provided at law for the collection of debts. If any
4 person liable to pay any such penalty neglects or refuses to pay
5 the same after demand, the amount, together with interest and
6 any costs that may accrue, shall be a lien in favor of the
7 Commonwealth upon the property, both real and personal, of such
8 person but only after same has been entered and docketed of
9 record by the prothonotary of the county where such is situated.
10 The [board] department may, at any time, transmit to the
11 prothonotaries of the respective counties certified copies of
12 all such liens, and it shall be the duty of each prothonotary to
13 enter and docket the same of record in his office, and to index
14 the same as judgments are indexed, without requiring the payment
15 of costs as a condition precedent to the entry thereof.