

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 201

Session of
1983INTRODUCED BY REIBMAN, FISHER, LLOYD, SINGEL, O'PAKE,
ANDREZESKI, LINCOLN AND LEWIS, FEBRUARY 4, 1983SENATOR FISHER, ENVIRONMENTAL RESOURCES AND ENERGY, AS AMENDED,
JUNE 21, 1983

AN ACT

1 Providing for safe drinking water; and imposing powers and
2 duties on the Department of Environmental Resources in
3 relation thereto.

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7 The General Assembly of the Commonwealth of Pennsylvania

8 hereby enacts as follows:

9 Section 1. Short title.

10 This act shall be known and may be cited as the PENNSYLVANIA <—

11 Safe Drinking Water Act.

12 Section 2. Legislative findings and declaration.

13 (a) Findings.--The General Assembly finds and declares that:

(1) An adequate supply of safe, pure drinking water is essential to the public health, safety and welfare and that such a supply is an important natural resource in the economic development of the Commonwealth.

(2) The Federal Safe Drinking Water Act provides a comprehensive framework for regulating the collection, treatment, storage and distribution of potable water.

21 (3) It is in the public interest for the Department of <

22 ~~Environmental Resources~~ COMMONWEALTH to assume primary <

23 enforcement responsibility under the Federal Safe Drinking
24 Water Act.

25 (b) Declaration.--It is the purpose of this act to further
26 the intent of section 27, Article I of the Constitution of
27 Pennsylvania by:

(1) Establishing a State program to assure the provision of safe drinking water to the public by establishing drinking water standards and developing a State program to implement

1 and enforce the standards.

2 (2) Developing a process for implementing plans for the
3 provision of safe drinking water in emergencies.

4 (3) Providing public notice of potentially hazardous
5 conditions that may exist in a water supply.

6 Section 3. Definitions.

7 The following words and phrases when used in this act shall
8 have the meanings given to them in this section unless the
9 context clearly indicates otherwise:

10 "Administrator." The Administrator of the United States
11 Environmental Protection Agency or his authorized
12 representative.

13 "Contaminant." Any physical, chemical, biological or
14 radiological substance or matter in water.

15 "Department." The Department of Environmental Resources.

16 "Drinking water standards." Any requirements established by
17 the National Primary Drinking Water Regulations and National
18 Secondary Drinking Water Regulations or any State regulations
19 adopted pursuant to this act.

20 "Environmental Hearing Board." The board established
21 pursuant to section 1921-A of the act of April 9, 1929 (P.L.177,
22 No.175), known as The Administrative Code of 1929, for the
23 purposes set forth in that section.

24 "Environmental Quality Board." The board established
25 pursuant to section 1920-A of The Administrative Code of 1929,
26 for the purposes set forth in that section.

27 "Federal Act." The Federal Safe Drinking Water Act, as
28 amended, (Public Law 93-593, 42 U.S.C. § 300(f) et seq.).

29 "Maximum contaminant level." The maximum permissible level
30 of a contaminant in water which is delivered to any user of a

1 public water system.

2 "National primary drinking water regulations." Primary
3 drinking water regulations promulgated by the administrator
4 pursuant to the Federal act.

5 "National secondary drinking water regulations." Secondary
6 drinking water regulations promulgated by the administrator
7 pursuant to the Federal act.

8 "Person." Any ~~natural person~~ INDIVIDUAL, partnership, <—
9 association, ~~or~~ COMPANY, corporation, MUNICIPALITY, MUNICIPAL <—
10 AUTHORITY, POLITICAL SUBDIVISION or any agency, ~~instrumentality~~ <—
11 ~~or entity~~ of Federal or State government. When used in any
12 clause prescribing and imposing a penalty, or imposing a fine or
13 imprisonment, or both, the term "person" shall not exclude the
14 members of an association and the directors, officers or agents
15 of a corporation.

16 "Public water system." A system for the provision to the
17 public of water for human consumption which has at least 15
18 service connections or regularly serves an average of at least
19 25 individuals daily at least 60 days out of the year. The term
20 includes:

21 (1) Any collection, treatment, storage and distribution
22 facilities under control of the operator of such system and
23 used ~~primarily~~ in connection with such system. <—

24 (2) Any collection or pretreatment storage facilities
25 not under such control which are used ~~primarily~~ in connection <—
26 with such a system.

27 (3) A system which provides ~~bottled water~~ WATER FOR <—
28 BOTTLING OR BULK HANDLING for human consumption.

29 "SECRETARY." THE SECRETARY OF THE DEPARTMENT OF <—
30 ENVIRONMENTAL RESOURCES.

1 "State agency." Any State department, board, commission or
2 agency other than the Department of Environmental Resources.

3 "Supplier of water." Any person who owns or operates a
4 public water system.

5 Section 4. Powers and duties of Environmental Quality Board.

6 (a) Board to establish standards, rules and regulations.--

7 The Environmental Quality Board shall have the power and its
8 duty shall be to adopt such ~~standards~~, rules and regulations of <—

9 the department, as it deems necessary for the implementation of
10 the provisions of this act. , ~~which shall be no less stringent~~ <—

11 ~~than the National Primary Drinking Water Regulations and the~~
12 ~~National Secondary Drinking Water Regulations.~~ THE DRINKING <—

13 WATER STANDARDS SHALL BE NO LESS AND NO MORE STRINGENT THAN THE

14 NATIONAL PRIMARY DRINKING WATER REGULATIONS AND SHALL BE NO MORE

15 STRINGENT THAN THE NATIONAL SECONDARY DRINKING WATER

16 REGULATIONS.

17 (b) Applicability of ~~standards~~, rules and regulations.-- <—

18 ~~Standards, rules~~ RULES and regulations shall apply to each <—
19 public water system in the Commonwealth except that such

20 ~~standards~~, rules and regulations shall not apply to a public <—
21 water system which:

22 (1) ~~Consists~~ CONSISTS only of distribution and storage <—
23 facilities and which does not have any collection and
24 treatment facilities; <—

25 (2) ~~Obtains~~ OBTAINS all of its water from, but is not <—
26 owned or operated by, a public water system to which such
27 standards, rules and regulations apply; <—

28 (3) ~~Does~~ DOES not sell water to any person; AND <—

29 (4) ~~Does~~ DOES not provide water for potable purposes to <—
30 any carrier which conveys passengers in interstate commerce.

1 (c) ~~Permit fees~~ FEES to be established.--The Environmental <—
2 Quality Board shall establish ~~reasonable permit~~ fees FOR PERMIT <—
3 APPLICATIONS, LABORATORY CERTIFICATION AND OTHER SERVICES. SUCH
4 FEES SHALL BEAR A REASONABLE RELATIONSHIP TO THE COST OF
5 ADMINISTERING THIS ACT.

6 Section 5. Powers and duties of department.

7 (a) State to assume primary enforcement.--The department
8 shall adopt and implement A PUBLIC WATER SUPPLY PROGRAM WHICH <—
9 INCLUDES, BUT IS NOT LIMITED TO, those program elements
10 necessary to assume State primary enforcement responsibility
11 under the Federal act. ~~including, but not limited to, safe~~ <—
12 ~~drinking water regulations, surveillance, technical assistance,~~
13 ~~plan review, laboratory certification, laboratory capability,~~
14 ~~training, enforcement, cross connection control, data~~
15 ~~management, disease surveillance and public participation.~~

16 (b) Department to ~~enforce drinking water standards~~ ESTABLISH <—
17 COMPLIANCE PROCEDURES.--The department shall ~~adopt~~ DEVELOP and <—
18 implement procedures ~~and issue such orders~~ as may be necessary <—
19 and appropriate ~~for the enforcement of drinking water standards~~ <—
20 ~~and~~ in order to obtain compliance with this act or the rules and
21 regulations promulgated, or permits issued hereunder. Such
22 procedures shall include, but not be limited to:

23 (1) ~~Proper monitoring~~ MONITORING and inspection. <—

24 (2) Maintaining an inventory of public water systems in
25 the Commonwealth.

26 (3) A systematic program for conducting SANITARY surveys <—
27 of public water systems throughout the Commonwealth. ~~or in a~~ <—
28 ~~part thereof whenever the commissioner determines that such~~
29 ~~surveys are necessary or advisable.~~

30 (4) The establishment and maintenance of a program for

1 the certification of laboratories conducting analytical
2 measurements of drinking water contaminants specified in the
3 ~~Commonwealth primary and secondary~~ drinking water regulations <—
4 STANDARDS; and the assurance of the availability to the <—
5 department of laboratory facilities certified by the
6 administrator and capable of performing analytical
7 measurements of all contaminants specified in the drinking
8 water standards.

9 (5) The establishment and maintenance of a PERMIT <—
10 program concerning plans and specifications for the design
11 and construction of new or substantially modified public
12 water systems, which program:

13 (i) Requires all such plans and specifications, or
14 either, to be first approved by the department before any
15 work thereunder shall be commenced.

16 (ii) ~~Assures~~ REQUIRES that all such projects, ~~upon~~ <—
17 ~~completion, will~~ ARE DESIGNED TO comply with any rules <—
18 and regulations of the department concerning their
19 construction AND OPERATION; AND ONCE COMPLETED will be <—
20 capable of compliance with the drinking water standards;
21 and will deliver water with sufficient volume and
22 pressure to the users of such systems.

23 (C) DEPARTMENT TO ENFORCE DRINKING WATER STANDARDS.--THE <—
24 DEPARTMENT SHALL HAVE THE POWER AND ITS DUTIES SHALL BE TO ISSUE
25 SUCH ORDERS AND INITIATE SUCH PROCEEDINGS AS MAY BE NECESSARY
26 AND APPROPRIATE FOR THE ENFORCEMENT OF DRINKING WATER STANDARDS,
27 ANY OTHER PROVISION OF LAW NOTWITHSTANDING. THESE ACTIONS SHALL
28 INCLUDE BUT ARE NOT LIMITED TO THE FOLLOWING:

29 (1) TO INSTITUTE IN A COURT OF COMPETENT JURISDICTION,
30 PROCEEDINGS AGAINST ANY PERSON TO COMPEL COMPLIANCE WITH THE

1 PROVISIONS OF THIS ACT, OR THE RULES AND REGULATIONS
2 PROMULGATED OR CONDITIONS OF PERMIT ISSUED HEREUNDER.

3 (2) TO INITIATE CRIMINAL PROSECUTIONS, INCLUDING
4 ISSUANCE OF SUMMARY CITATIONS BY AGENTS OF THE DEPARTMENT.

5 (3) TO DO ANY AND ALL THINGS AND ACTIONS NOT
6 INCONSISTENT WITH ANY PROVISION OF THIS ACT FOR THE EFFECTIVE
7 ENFORCEMENT OF THIS ACT, RULES AND REGULATIONS OR PERMITS
8 ISSUED HEREUNDER.

9 ~~(e)~~ (D) Department to keep records.--The department shall <—
10 keep such records and make such reports as may be required by
11 regulations established by the administrator pursuant to the
12 Federal act.

13 ~~(d)~~ (E) Department may require information from public water <—
14 systems.--The department may require any public water system to
15 install, use and maintain such monitoring equipment and methods
16 to perform such sampling, to maintain and retain such records of
17 information from monitoring and sampling activities, to submit
18 such reports of monitoring and sampling results and to provide
19 such other information as ~~he may require to assist in the~~ <—
20 ~~establishment of regulations under this act or~~ MAY BE REQUIRED <—
21 to determine compliance or noncompliance with this act or with
22 regulations promulgated pursuant to this act.

23 ~~(e)~~ (F) Department has right to enter premises.--The <—
24 department and its agents shall have the right to enter any
25 premise upon presentation of appropriate credentials at any
26 reasonable time in order to determine compliance with this act,
27 and to that end may test, inspect or sample any feature of a
28 public water system and inspect, copy or photograph any
29 monitoring equipment OR OTHER FEATURE OF A PUBLIC WATER SYSTEM, <—
30 or records required to be kept under provisions of this act.

1 ~~(f) Department to issue permits. The department may issue~~ <—
2 ~~permits and orders and specify the terms and conditions thereof,~~
3 ~~conduct inspections and abate public nuisances.~~

4 (G) SEARCH WARRANTS.--AN AGENT OR EMPLOYEE OF THE DEPARTMENT <—
5 MAY APPLY FOR A SEARCH WARRANT TO ANY COMMONWEALTH OFFICIAL
6 AUTHORIZED TO ISSUE A SEARCH WARRANT FOR THE PURPOSES OF
7 INSPECTING OR EXAMINING ANY PROPERTY, BUILDING, PREMISE, PLACE,
8 BOOK, RECORD OR OTHER PHYSICAL EVIDENCE, OF CONDUCTING TESTS OR
9 TAKING SAMPLES. SUCH WARRANT SHALL BE ISSUED UPON PROBABLE
10 CAUSE. IT SHALL BE SUFFICIENT PROBABLE CAUSE TO SHOW ANY OF THE
11 FOLLOWING:

12 (1) THE INSPECTION, EXAMINATION, TEST OR SAMPLING IS
13 PURSUANT TO A GENERAL ADMINISTRATIVE PLAN TO DETERMINE
14 COMPLIANCE WITH THIS ACT;

15 (2) THE AGENT OR EMPLOYEE HAS REASON TO BELIEVE THAT A
16 VIOLATION OF THIS ACT HAS OCCURRED OR MAY OCCUR; OR

17 (3) THE AGENT OR EMPLOYEE HAS BEEN REFUSED ACCESS TO THE
18 PROPERTY, BUILDING, PREMISE, PLACE, BOOK, RECORD OR PHYSICAL
19 EVIDENCE, OR HAS BEEN PREVENTED FROM CONDUCTING TESTS OR
20 TAKING SAMPLES.

21 ~~(g)~~ (H) Additional authority of the department.--The <—
22 department is authorized to:

23 (1) Enter into agreements, contracts, or cooperative
24 arrangements under such terms and conditions as may be deemed
25 appropriate with other State agencies, Federal agencies,
26 interstate compact agencies, political subdivisions or other
27 persons, INCLUDING AGREEMENTS WITH COUNTY HEALTH DEPARTMENTS <—
28 TO DELEGATE ONE OR MORE OF ITS REGULATORY FUNCTIONS TO
29 INSPECT, MONITOR AND ENFORCE THE ACT AND DRINKING WATER
30 STANDARDS.

1 (2) Receive financial and technical assistance from the
2 Federal Government and other public or private agencies
3 appropriate.

4 (3) Establish fiscal controls and accounting procedures.

5 (4) Establish and collect fees for conducting
6 inspections, laboratory analyses and certifications as may be
7 necessary.

8 Section 6. Variances.

9 (a) Department may authorize variances.--The department may
10 authorize variances from the regulations issued to this act
11 under conditions and in such manner as are deemed necessary and
12 desirable; provided, however, that such variances ~~or exemptions~~ <—
13 shall be granted only ~~under conditions and in a manner which are~~ <—
14 ~~no less stringent than the conditions under, and the manner in~~
15 ~~which, variances and exemptions may be granted under the Federal~~
16 ~~act.~~ UPON FINDING THAT: <—

17 (1) BECAUSE OF CHARACTERISTICS OF THE RAW WATER SOURCES
18 WHICH ARE REASONABLY AVAILABLE, THE PUBLIC WATER SYSTEM IS
19 UNABLE TO COMPLY WITH SUCH REGULATIONS DESPITE APPLICATION OF
20 THE BEST TECHNOLOGY, TREATMENT TECHNIQUES OR OTHER MEANS
21 WHICH THE DEPARTMENT FINDS ARE GENERALLY AVAILABLE, TAKING
22 COSTS INTO CONSIDERATION.

23 (2) THE GRANTING OF THE VARIANCE WILL NOT RESULT IN AN
24 UNREASONABLE RISK TO HEALTH.

25 Notwithstanding the foregoing, variances may be granted for no
26 longer than five years, subject to one or more renewals of no
27 longer than five years each. Before a variance is granted, the
28 department shall provide public notice and an opportunity for a
29 public hearing.

30 (B) DEPARTMENT MAY AUTHORIZE EXEMPTIONS.--THE DEPARTMENT MAY <—

1 EXEMPT ANY PUBLIC WATER SYSTEM FROM ANY REQUIREMENT OF AN
2 APPLICABLE DRINKING WATER STANDARD UPON FINDING THAT:

3 (1) DUE TO COMPELLING FACTORS (WHICH MAY INCLUDE
4 ECONOMIC FACTORS), THE PUBLIC WATER SYSTEM IS UNABLE TO
5 COMPLY WITH SUCH REQUIREMENTS;

6 (2) THE PUBLIC WATER SYSTEM WAS IN OPERATION ON THE
7 EFFECTIVE DATE OF SUCH REQUIREMENT; AND

8 (3) THE GRANTING OF THE EXEMPTION WILL NOT RESULT IN AN
9 UNREASONABLE RISK TO HEALTH.

10 BEFORE AN EXEMPTION TO BE GRANTED UNDER THIS SUBSECTION MAY TAKE
11 EFFECT, THE DEPARTMENT SHALL PROVIDE NOTICE AND OPPORTUNITY FOR
12 PUBLIC HEARING ON THE PROPOSED EXEMPTION. ALL EXEMPTIONS GRANTED
13 WITH RESPECT TO A CONTAMINANT LEVEL OR TREATMENT TECHNIQUE
14 PRESCRIBED BY THE FEDERAL REGULATION SHALL EXPIRE ON DATES
15 PRESCRIBED IN THE FEDERAL ACT.

16 ~~(b) Department to promulgate~~ (C) BOARD TO ADOPT regulations <—
17 governing variances AND EXEMPTIONS.--Before the department shall <—
18 grant any variance,~~it~~ OR EXEMPTION, THE BOARD shall first <—
19 ~~promulgate~~ ADOPT regulations governing the procedures and <—
20 conditions under which variances OR EXEMPTIONS may be granted. <—

21 Section 7. Permits.

22 (a) Permit required.--It shall be unlawful for any person to
23 construct, operate or SUBSTANTIALLY modify a public water system <—
24 without FIRST HAVING RECEIVED a written permit from the <—
25 department; PROVIDED THAT NOTHING IN THIS SECTION SHALL BE <—
26 CONSTRUED TO MEAN THAT A PERMIT SHALL BE REQUIRED BY THE
27 DEPARTMENT FOR WATER LINE EXTENSIONS TO A PUBLIC WATER SYSTEM.
28 HOWEVER, THE PUBLIC WATER SYSTEM MUST NOTIFY THE DEPARTMENT IN
29 WRITING OF SUCH EXTENSIONS, AND THE DEPARTMENT SHALL MODIFY THE
30 EXISTING PERMIT TO REFLECT SUCH A CHANGE.

1 (b) Applications.--Applications for permits shall be
2 submitted in writing to the department in such form and with
3 such accompanying data as shall be prescribed by the department,
4 and shall include maps, drawing specifications and designers'
5 reports prepared by a professional engineer, registered to
6 practice in Pennsylvania.

7 (c) Permit fee.--Each application shall be accompanied by a
8 permit fee established by regulations under this act.

9 (d) Permits issued under prior law.--Any permits issued
10 prior to the effective date of this act, under the act of April
11 22, 1905 (P.L.260, No.182), entitled "An act to preserve the
12 purity of the waters of the State, for the protection of the
13 public health," and the act of April 9, 1929 (P.L.177, No.175),
14 known as The Administrative Code of 1929, shall be deemed a
15 permit issued pursuant to this act.

16 (e) Conditions may be included in permit.--The department
17 ~~shall~~ MAY include in each permit general and specific conditions <—
18 to insure the proper operation of the public water system and
19 the furnishing of an adequate, safe and potable supply of water.

20 (f) Permit not transferable.--No permit may be transferred
21 without written approval by the department.

22 (g) Permit may be denied, etc.--The department may deny,
23 revoke, suspend, limit or modify a permit due to a violation of <—
24 ~~this act, a rule or regulation adopted pursuant to this act or a~~
25 ~~failure to satisfy a condition of a permit.~~ A FINDING THAT THE <—
26 CONTINUED OPERATION OF A PUBLIC WATER SYSTEM IS PREJUDICIAL TO
27 THE PUBLIC HEALTH.

28 Section 8. Inspections and recordkeeping requirements.

29 (a) Department authorized to inspect, test, etc.--The
30 department is authorized to make inspections and conduct tests

1 or sampling, including the examination and copying of books,
2 papers, records and data, pertinent to any matter under
3 investigation in order to determine compliance with this act and
4 for this purpose, the duly authorized agents and employees of
5 the department are authorized at all reasonable times to enter
6 and examine any property, facility, operation or activity.

7 (b) Department authorized to establish recordkeeping
8 requirements.--The department and its agents are authorized to
9 require any supplier of water to establish and maintain such
10 records and make such reports and furnish such information as
11 the department may prescribe.

12 Section 9. Laboratories.

13 (a) Department to establish standards of performance.--The
14 department shall establish standards of performance, by rule or
15 regulation, for laboratories and laboratory officers which
16 conduct analytical measurements for the purpose of ascertaining
17 compliance by public water systems, including bottled and bulk
18 water operations, with the requirements of this act.

19 (b) Items to be included in standards.--Such standards may
20 include, but are not limited to, equipment, laboratory
21 procedures, standards for analytical methods, quality control,
22 staffing, records, reports and any other matters that may affect
23 the quality and reliability of laboratory performance.

24 (c) Laboratories to be inspected.--The department shall
25 periodically inspect and certify laboratories and laboratory
26 offices that meet the standards established under subsection
27 (a).

28 Section 10. Emergencies and imminent hazards.

29 (a) Plan to be promulgated for emergencies.--~~The department~~ <—
30 ~~shall promulgate and the Environmental Quality Board shall~~

1 ~~approve an adequate plan for the provision of safe drinking~~
2 ~~water under emergency circumstances. When in the judgment of the~~
3 ~~department an emergency exists which poses a danger to the~~
4 ~~public health, the department may take such actions and issue~~
5 ~~such orders as may be necessary to implement such a plan and to~~
6 ~~assure that safe drinking water is available.~~ THE DEPARTMENT, IN <—
7 CONJUNCTION WITH THE PENNSYLVANIA EMERGENCY MANAGEMENT AGENCY,
8 SHALL PROMULGATE WITH THE APPROVAL OF THE BOARD, AN ADEQUATE
9 PLAN FOR THE PROVISION OF SAFE DRINKING WATER UNDER EMERGENCY
10 CIRCUMSTANCES. WHEN IN THE JUDGMENT OF THE DEPARTMENT AN
11 EMERGENCY EXISTS WHICH POSES A DANGER TO THE PUBLIC HEALTH, THE
12 DEPARTMENT SHALL NOTIFY THE PENNSYLVANIA EMERGENCY MANAGEMENT
13 AGENCY. THE PENNSYLVANIA EMERGENCY MANAGEMENT AGENCY AND THE
14 DEPARTMENT MAY TAKE SUCH ACTIONS AND ISSUE SUCH ORDERS AS MAY BE
15 NECESSARY TO IMPLEMENT THE PLAN AND TO ASSURE THAT SAFE DRINKING
16 WATER IS AVAILABLE.

17 (b) Department may order temporary emergency actions.--The
18 department, upon receipt of information that a contaminant which
19 is present in or is likely to enter a public water system may
20 present an imminent and substantial risk to the health of
21 persons, may take or order a public water system to take such
22 temporary emergency actions as it deems necessary in order to
23 protect the health of such persons.

24 (c) Department may implement emergency measures.--The
25 department shall be authorized to implement whatever measures
26 may be necessary and appropriate to notify the public of an
27 emergency or imminent hazard AND TO ASSESS COSTS OF NOTIFICATION <—
28 ON THE RESPONSIBLE WATER SUPPLIER.

29 SECTION 11. PUBLIC NOTIFICATION.

30 (A) GENERAL RULE.--THE PERMITTEE OF A PUBLIC WATER SUPPLY

1 SYSTEM SHALL, AS SOON AS PRACTICABLE, GIVE PUBLIC NOTIFICATION
2 WHENEVER THE PUBLIC WATER SUPPLY SYSTEM:

3 (1) IS NOT IN COMPLIANCE WITH THE REGULATIONS ADOPTED TO
4 COMPLY WITH NATIONAL PRIMARY DRINKING WATER REGULATIONS;

5 (2) FAILS TO PERFORM MONITORING AS REQUIRED BY THE
6 DRINKING WATER STANDARDS;

7 (3) IS SUBJECT TO A VARIANCE GRANTED FOR AN INABILITY TO
8 MEET A MAXIMUM CONTAMINANT LEVEL REQUIREMENT;

9 (4) IS SUBJECT TO AN EXEMPTION; OR

10 (5) FAILS TO COMPLY WITH THE REQUIREMENTS PRESCRIBED BY
11 A VARIANCE OR EXEMPTION.

12 (B) NEWSPAPER NOTICE.--SUCH NOTICE SHALL BE GIVEN BY THE
13 PERMITTEE BY PUBLICATION IN A NEWSPAPER OF GENERAL CIRCULATION
14 WITHIN THE AREA SERVED BY SUCH WATER SYSTEM AT LEAST ONCE EVERY
15 THREE MONTHS SO LONG AS THE VIOLATION, VARIANCE OR EXEMPTION
16 CONTINUES.

17 (C) DIRECT NOTICE.--SUCH NOTICE SHALL ALSO BE GIVEN WITH THE
18 WATER BILLS OR IN WRITING TO THE CUSTOMER AT LEAST ONCE EVERY
19 THREE MONTHS SO LONG AS THE VIOLATION, VARIANCE OR EXEMPTION
20 CONTINUES.

21 (D) ALTERNATE NOTICE.--THE DEPARTMENT MAY PRESCRIBE
22 ALTERNATIVE NOTICE REQUIREMENTS FOR VIOLATIONS OF OTHER
23 REGULATIONS ADOPTED PURSUANT TO THIS ACT.

24 Section ~~11~~ 12. Public nuisances.

25 (a) Violation constitutes a public nuisance.--Any violation
26 of any provision of this act, any rule or regulation of the
27 department, any order of the department, or any term or
28 condition of any permit, shall constitute a public nuisance. Any
29 person or municipality committing such a violation shall be
30 liable for the costs of abatement of any pollution and any

<—

1 public nuisance caused by such violation. The Environmental
2 Hearing Board and any court of competent jurisdiction is hereby
3 given jurisdiction over actions to recover the costs of such
4 abatement.

5 (b) Abatement of violation.--Any activity or condition
6 declared by this act to be a nuisance or which is otherwise in
7 violation of this act, shall be abatable in the manner provided
8 by law or equity for the abatement of public nuisances. In
9 addition, ~~suits~~ THE DEPARTMENT MAY PROCEED IN EQUITY to abate <—
10 such nuisances or ~~suits~~ to restrain or prevent any violation of <—
11 this act. ~~may be instituted in equity.~~ <—

12 ~~(c) Civil action to compel compliance. Any person having an~~
13 ~~interest which is or may be adversely affected may commence a~~
14 ~~civil action on his own behalf to compel compliance with this~~
15 ~~act or any rule, regulation, order or permit issued pursuant to~~
16 ~~this act against the department where there is alleged a failure~~
17 ~~of the department to perform any act which is not discretionary~~
18 ~~with the department or against any other person alleged to be in~~
19 ~~violation of any provision of this act or any rule, regulation,~~
20 ~~order or permit issued pursuant to this act. Any other provision~~
21 ~~of law to the contrary notwithstanding, the courts of common~~
22 ~~pleas shall have jurisdiction of such actions and venue in such~~
23 ~~actions shall be as set forth in the Rules of Civil Procedure~~
24 ~~concerning actions in assumpsit.~~

25 Section ~~12~~ 13. Penalties and remedies. <—

26 (A) DUTY TO COMPLY WITH ORDERS OF THE DEPARTMENT.--IT SHALL <—
27 BE THE DUTY OF ANY PERSON TO PROCEED DILIGENTLY TO COMPLY WITH
28 ANY ORDER ISSUED PURSUANT TO SECTION 5. IF SUCH PERSON FAILS TO
29 PROCEED DILIGENTLY OR FAILS TO COMPLY WITH THE ORDER WITHIN SUCH
30 TIME, IF ANY, AS MAY BE SPECIFIED, THE PERSON SHALL BE GUILTY OF

1 CONTEMPT AND SHALL BE PUNISHED BY THE COURT IN AN APPROPRIATE
2 MANNER AND FOR THIS PURPOSE, APPLICATION MAY BE MADE BY THE
3 DEPARTMENT TO THE COMMONWEALTH COURT, WHICH COURT IS HEREBY
4 GRANTED JURISDICTION.

5 (B) CIVIL ACTION TO COMPEL COMPLIANCE.--ANY PERSON HAVING AN
6 INTEREST WHICH IS OR MAY BE ADVERSELY AFFECTED MAY COMMENCE A
7 CIVIL ACTION ON HIS OWN BEHALF TO COMPEL COMPLIANCE WITH THIS
8 ACT OR ANY RULE, REGULATION, ORDER OR PERMIT ISSUED PURSUANT TO
9 THIS ACT:

10 (1) AGAINST THE DEPARTMENT WHERE THERE IS ALLEGED A
11 FAILURE OF THE DEPARTMENT TO PERFORM ANY ACT WHICH IS NOT
12 DISCRETIONARY WITH THE DEPARTMENT. JURISDICTION FOR SUCH
13 ACTIONS IS IN COMMONWEALTH COURT; OR

14 (2) AGAINST ANY OTHER PERSON ALLEGED TO BE IN VIOLATION
15 OF ANY PROVISION OF THIS ACT OR ANY RULE, REGULATION, ORDER
16 OR PERMIT ISSUED PURSUANT TO THIS ACT. ANY OTHER PROVISION OF
17 LAW TO THE CONTRARY NOTWITHSTANDING, THE COURTS OF COMMON
18 PLEAS SHALL HAVE JURISDICTION OF SUCH ACTIONS AND VENUE IN
19 SUCH ACTIONS SHALL BE AS SET FORTH IN THE RULES OF CIVIL
20 PROCEDURE CONCERNING ACTIONS IN ASSUMPSIT.

21 ~~(a)~~ (C) Summary offense.--Any person who violates any <—
22 provision of this act, or any rule or regulation of the
23 department, any order of the department, or any condition of any
24 permit of the department issued pursuant to this act, is guilty
25 of a summary offense and, upon conviction, shall be subject to a
26 fine of not less than ~~\$100~~ \$50 nor more than ~~\$10,000~~ \$5,000, and <—
27 costs, for each separate offense and, in default of the payment
28 of such fine or costs, a person shall be imprisoned for not less
29 than 30 days nor more than 90 days.

30 ~~(b)~~ (D) Misdemeanor of the third degree.--Any person who <—

1 willfully or negligently violates any provision of this act, any
2 rule or regulation of the department, any order of the
3 department, or any condition of any permit issued pursuant to
4 the act is guilty of a misdemeanor of the third degree and, upon
5 conviction, shall be subject to a fine of not less than ~~\$2,500~~ <—
6 \$1,250 nor more than ~~\$25,000~~ \$12,500 for each separate offense <—
7 or to imprisonment for a period of not more than one year, or
8 both.

9 ~~(e)~~ (E) Misdemeanor of the second degree.--Any person who, <—
10 after a conviction of a misdemeanor for any violation within two
11 years as above provided, willfully or negligently violates any
12 provision of this act, any rule or regulation of the department,
13 any order of the department, or any condition of any permit
14 issued pursuant to this act is guilty of a misdemeanor of the
15 second degree and, upon conviction, shall be subject to a fine
16 of not less than ~~\$2,500~~ \$1,250 nor more than ~~\$50,000~~ \$25,000 for <—
17 each offense or to imprisonment for a period of not more than
18 two years, or both.

19 ~~(d) Civil penalties. In addition to proceeding under any~~ <—
20 ~~other remedy available at law or in equity for a violation of a~~
21 ~~provision of this act, rule, regulation, order of the~~
22 ~~department, or a condition of any permit issued pursuant to this~~
23 ~~act, the department, after hearing, may assess a civil penalty~~
24 ~~upon a person for such violation. Such a penalty may be assessed~~
25 ~~whether or not the violation was willful. The civil penalty so~~
26 ~~assessed shall not exceed \$10,000 per day for each violation. It~~
27 ~~shall be payable to the Commonwealth and shall be collectible in~~
28 ~~any manner provided by law for the collection of debts. If any~~
29 ~~person liable to pay any such penalty neglects or refuses to pay~~
30 ~~the same after demand, the amount, together with interest and~~

1 ~~any costs that may accrue, shall constitute a judgment in favor~~
2 ~~of the Commonwealth upon the property of such person from the~~
3 ~~date it has been entered and docketed of record by the~~
4 ~~prothonotary of the county where such is situated. The~~
5 ~~department may, at any time, transmit to the prothonotaries of~~
6 ~~the respective counties certified copies of all such judgments~~
7 ~~and it shall be the duty of each prothonotary to enter and~~
8 ~~docket such judgments of record in his office and to index them~~
9 ~~as judgments are indexed, without requiring the payment of costs~~
10 ~~as a condition precedent to the entry thereof.~~

11 (F) CIVIL PENALTIES.--IN ADDITION TO PROCEEDING UNDER ANY <—
12 OTHER REMEDY AVAILABLE AT LAW OR IN EQUITY FOR A VIOLATION OF
13 ANY PROVISION OF THIS ACT, ANY RULE OR REGULATION OF THE
14 DEPARTMENT OR ORDER OF THE DEPARTMENT OR ANY TERM OR CONDITION
15 OF ANY PERMIT ISSUED BY THE DEPARTMENT, THE DEPARTMENT MAY
16 ASSESS A CIVIL PENALTY UPON A PERSON FOR SUCH VIOLATION. SUCH A
17 PENALTY MAY BE ASSESSED WHETHER OR NOT THE VIOLATION WAS WILLFUL
18 OR NEGLIGENT. WHEN THE DEPARTMENT ASSESSES A CIVIL PENALTY, IT
19 SHALL INFORM THE PERSON OF THE AMOUNT OF THE PENALTY. THE PERSON
20 CHARGED WITH THE PENALTY SHALL THEN HAVE 30 DAYS TO PAY THE
21 PENALTY IN FULL OR, IF THE PERSON WISHES TO CONTEST EITHER THE
22 AMOUNT OF THE PENALTY OR THE FACT OF THE VIOLATION, THE PERSON
23 SHALL WITHIN THE 30-DAY PERIOD, FILE AN APPEAL OF THE ACTION
24 WITH THE ENVIRONMENTAL HEARING BOARD. FAILURE TO APPEAL WITHIN
25 30 DAYS SHALL RESULT IN A WAIVER OF ALL LEGAL RIGHTS TO CONTEST
26 THE VIOLATION OR THE AMOUNT OF THE PENALTY. THE MAXIMUM CIVIL
27 PENALTY WHICH MAY BE ASSESSED PURSUANT TO THIS SECTION IS \$5,000
28 PER DAY FOR EACH VIOLATION. EACH VIOLATION FOR EACH SEPARATE DAY
29 AND EACH VIOLATION OF ANY PROVISION OF THIS ACT, ANY RULE OR
30 REGULATION UNDER THIS ACT, ANY ORDER TO THE DEPARTMENT OR ANY

1 TERM OR CONDITION OF THE PERMIT SHALL CAUSE THROUGH THE SEPARATE
2 AND DISTINCT OFFENSE UNDER THIS SECTION.

3 ~~(e)~~ (G) Penalties to be concurrent.--The penalties and <—
4 remedies prescribed by this act shall be deemed concurrent and
5 the existence of or exercise of any remedy shall not prevent the
6 department from exercising any other remedy hereunder, at law or
7 in equity.

8 ~~(f)~~ (H) Separate offenses.--Violations on separate days <—
9 shall constitute separate offenses for purposes of this act.

10 Section ~~13~~ 14. Safe Drinking Water Fund. <—

11 All fines and penalties collected under the penalty
12 provisions of this act and all permit fees shall be paid into
13 the State Treasury in a special fund known as the Safe Drinking
14 Water Fund which shall be administered by the department for use
15 in protecting the public from the hazards of unsafe drinking
16 water.

17 Section ~~14~~ 15. Continuation of existing rules and regulations. <—

18 All rules and regulations promulgated pursuant to any
19 statutes repealed by this act are continued in full force and
20 effect until superseded and repealed by rules and regulations
21 promulgated pursuant to this act.

22 Section ~~15~~ 16. Repeals. <—

23 The following acts are repealed:

24 Act of April 22, 1905 (P.L.260, No.182), entitled "An act to
25 preserve the purity of the waters of the State, for the
26 protection of the public health."

27 Act of April 30, 1929 (P.L.897, No.396), entitled "An act
28 regulating the manufacturing, bottling, and selling of certain
29 waters, and requiring permits therefor; prescribing the
30 authority of the Department of Health and of local boards of

1 health and health officers with respect thereto; and providing
2 penalties."

3 Section ~~16~~ 17. Effective date.

<—

4 ~~This act shall take effect in 60 days.~~

<—

5 (A) THE PROVISIONS IN SECTION 3, SECTION 4 AND SECTION 5(A)
6 AND (B) SHALL TAKE EFFECT IMMEDIATELY.

<—

7 (B) THE REMAINING PROVISIONS OF THIS ACT, INCLUDING THE
8 REPEALER PROVISIONS OF SECTION 16, SHALL BE EFFECTIVE UPON
9 PUBLICATION IN THE PENNSYLVANIA BULLETIN OF THE NOTICE OF THE
10 PERTINENT ADOPTED REGULATIONS.