

Refunds to
municipalities.

Section 6. 75% of the tax on punchboards collected from sales thereof within incorporated cities shall be refunded to such cities and the balance shall be deposited in the general fund of the Territory of Alaska.

Section 7. The effective date of this Act shall be April 1, 1949.

Approved March 26, 1949.

CHAPTER 117

AN ACT

[S. B. 61]

To safeguard the waters of Alaska from pollution, providing for maintenance of standards of purity of the waters of Alaska consistent with public health, public enjoyment of such waters, propagation and protection of fish and wildlife and the industrial development of Alaska, establishing a water pollution control board, defining the duties and powers of said board, providing for the enforcement of water pollution control measures, providing penalties for the violation of this Act, amending Sections 39-2-31 and 39-2-32 of the Alaska Compiled Laws Annotated 1949 and repealing Section 40-9-1 of the Alaska Compiled Laws Annotated 1949.

Be it enacted by the Legislature of the Territory of Alaska:

Section 1. This Act may be cited as the Alaska Water Pollution Control Act.

Definitions.

Section 2. For the purpose of this Act:

(a) "Person" or "persons" means any individual, public or private corporation, political subdivision, government agency, municipality, industry, co-partnership,

association, firm, trust, estate, or any other entity whatsoever.

(b) "Waters" shall include lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, straits, passages, canals, the Pacific Ocean, Gulf of Alaska, Bering Sea and Arctic Ocean, within the territorial limits of the Territory of Alaska, and all other bodies of surface or underground water, natural or artificial, public or private, inland or coastal, fresh or salt, which are wholly or partially within or bordering the Territory or within its jurisdiction. Waters included.

(c) "Sewage" means the water-carried human or animal wastes from residences, buildings, industrial establishments, or other places, together with such ground water infiltration and surface water as may be present. The admixture with sewage as above defined of industrial wastes or other wastes as hereafter defined, shall also be considered "sewage" within the meaning of this article. Sewage.

(d) "Industrial waste" means any liquid, gaseous, solid or other waste substance or a combination thereof resulting from any process of industry, manufacturing trade or business or from the development of any natural resources; provided, however, that gravel, sand, mud or earth taken from its original situs and put through sluice boxes, dredges, or other devices for the washing and recovery of the precious metal contained in said gravel, sand, mud or earth, and redeposited in the same watershed from which it came, shall not be classed as industrial waste. Industrial waste.

(e) "Other wastes" means garbage, refuse, decayed wood, sawdust, shavings, bark, trimmings from logging operations, sand, lime, cinders, ashes, offal, oil, tar, dye-stuffs, acids, chemicals, and all other substances not Other waste.

sewage or industrial waste which may cause or tend to cause pollution of the waters of the Territory.

Pollution.

(f) "Pollution" means the contamination or altering of any waters of Alaska so as to create a nuisance or render such waters unclean, or noxious, or impure, or unfit so as to be actually or potentially harmful or detrimental or injurious to public health, safety or welfare, to domestic, commercial, industrial or recreational use, or to livestock, wild animals, bird, fish, or other aquatic life; ~~the results of activities connected with gravel washing plants and all phases of Placer Mining Operations shall not be considered pollution within the meaning of this Act.~~

Standards.

(g) "Standard" or "standards" means such measure of purity or quality for any waters in relation to their reasonable and necessary use, as may after hearing be established by the Board.

(h) "Board" means the Territory of Alaska Water Pollution Control Board created by this article.

Sewer system.

(i) "Sewer system" or "sewerage system" means pipe lines or conduits, pumping stations, and force mains, and all other constructions, devices, and appliances appurtenant thereto, used for conducting sewage, industrial waste or other wastes to a point of ultimate disposal.

Treatment works.

(j) "Treatment works" means any plant, disposal field, lagoon, pumping station, constructed drainage ditch or surface water intercepting ditch, incinerator, area devoted to sanitary land fills, or other works not specifically mentioned herein, installed for the purpose of treating, neutralizing, stabilizing or disposing of sewage, industrial waste or other wastes.

Section 3. It is declared to be the public policy of the Territory of Alaska to maintain reasonable standards of

purity of the waters of the Territory consistent with public health and public enjoyment thereof, the propagation and protection of fish and wild life, including birds, mammals and other terrestrial and aquatic life, and the industrial development of the Territory, and to that end require the use of all known available and reasonable methods to prevent and control the pollution of the waters of the Territory of Alaska. Policy outlined.

Section 4.

(a) There is hereby created within the Department of Health, the "Water Pollution Control Board" of the Territory of Alaska. Board created.

(b) The members of such Board shall be the members of the Board of Health. Membership.

(c) The Board shall appoint an Executive Secretary who shall be the Commissioner of Health for the Territory of Alaska.

(d) The Board shall also appoint an Administrator who shall actively administer a water pollution control program and shall secure and assemble data and plans for executive and/or Board action. Such administrator shall be a member of the staff of the Alaska Department of Health and shall be duly qualified, fully trained and experienced in the field of sanitation, pollution abatement and public health. Administrator to be appointed.

(e) The Executive Secretary and the Administrator shall attend meetings of the Board and take part in its discussions, but shall not be entitled to a vote.

(f) Appointment, tenure of office, qualifications, compensation for services, allowance for travel and subsistence expenses for Board members shall be the same as for Board of Health members, and Board meetings Tenure.

may be convened in the same manner and frequency as for the Board of Health.

Powers.

(g) The Board, in matters pertaining to water pollution control, shall have the same powers of promulgating and adopting regulations, holding hearings, administering oaths and issuing orders as are authorized for the Board of Health in Compiled Laws of Alaska Annotated 1940 *Sections* 40-1-3, 40-1-4, 40-1-5, 40-1-6, and 40-1-7.

Enlist local agencies.

(h) The Board is authorized and directed to enlist the aid of representatives of local Territorial and Federal governmental agencies and units charged with matters relating to fisheries, mines, agriculture, forests, water resources, conservation, recreation, public health and other fields related to water usage as well as representatives of private industry which may be affected by water usage.

(i) The Executive Secretary and the Administrator for the Board shall receive no additional compensation for their services in connection with water pollution control activities, but shall be allowed travel and subsistence expenses in the performances of their duties under this Act.

Section 5.

Abate and prevent pollution.

(a) The Board shall have the jurisdiction to abate and prevent the pollution of the waters of the Territory, including but not limited to authority to —

Hearings.

(1) Hold public hearings at centrally located points, provided at least 60 days public notice shall be given prior to the date such hearings are to be held, receive pertinent and relevant proof from any party in interest who appears before the Board, compel the attendance of witnesses, make findings of fact and determinations, and assess such penalties therefor as are hereinafter pre-

scribed, all with respect to the violations of the provisions of this article or the orders issued by the Board;

(2) After public hearing as herein prescribed, adopt and make public such standards and determine what qualities and properties of water shall indicate a polluted condition of the waters of the Territory which is actually or potentially deleterious, harmful, detrimental or injurious to the public health, safety or welfare, to terrestrial aquatic life or the growth and propagation thereof, or to the use of such waters for domestic, commercial, industrial, agricultural, recreational or other reasonable purposes;

Establish standards.

(3) After public hearing as herein prescribed make, alter or modify orders requiring the discontinuance of the discharge of sewage, industrial waste or other wastes into any waters of the Territory resulting in pollution in excess of the applicable standards established under subdivision (2) of this Section, and specifying the conditions and the time within which such discontinuance must be accomplished;

Regulation after hearing.

(4) Institute or cause to be instituted in a court of competent jurisdiction legal proceedings to compel compliance with the provisions of this Article or the determinations and orders of the Board;

Compel compliance.

(5) After public hearing as herein prescribed may require, issue, continue in effect, or deny permits, under such conditions as the Board may prescribe for the prevention and abatement of pollution, for the discharge of sewage, industrial waste or other wastes, or for the installation or operation of disposal systems or parts thereof;

Other action by board.

(6) May revoke or modify any permit issued under this Article, or under the authority of laws previously enacted and herewith amended or repealed, whenever,

Revoking or modifying orders.

after public hearing thereon, the Board determines that such revocation or modification is necessary to prevent or abate pollution of any waters of the Territory;

Develop plans.

(7) Shall develop comprehensive plans for water pollution control in Alaska and/or conduct such investigations as it may deem advisable and necessary for the discharge of its duties under this Article;

Settle suits brought hereunder.

(8) Settle or compromise in its discretion any action or cause of action for the recovery of a penalty under this Article as it may deem advantageous to the Territory;

Receive money from Federal agencies.

(9) Serve as the agency of the Territory of Alaska for the receipt of moneys from the Federal Government, or other public or private agencies, and to expend the same, after appropriation therefor, for the purpose of pollution control investigations, studies, research or otherwise;

Submission of plans.

(10) Require at its discretion the submission of plans for sewage and for industrial waste disposal and/or treatment for any industrial establishment, community, public or private property subdivision or development whether publicly or privately owned or operated.

Other functions.

(11) Perform such other and further acts as may be necessary to carry out effectively the duties and responsibilities of the Board prescribed in this Act.

Cooperate with other agencies.

(b) The Board is hereby specifically authorized to cooperate with other Territorial departments, other state officers, with municipalities of all kinds, with other states, with the United States, the Dominion of Canada or any province thereof, industries, societies, corporations, and individuals to the end and purpose of protecting and freeing the waters of the Territory of pollution.

(c) The Board or its duly appointed agent shall have the right to enter at all reasonable times in or upon any property, public or private, for the purpose of inspecting and investigating conditions relating to pollution, or the possible pollution of any waters of the Territory.

Inspection of property.

Section 6. It is recognized that, due to variable factors, no single standard of quality and purity of the waters is applicable to all waters of the Territory.

The Board, after proper study, and after conducting public hearing upon due notice, may establish standards and/or group the designated waters of the Territory into classes. Such classification shall be made in accordance with considerations of best usage in the interest of the public. Such classification may, from time to time, be altered or modified by the Board after hearings are held.

Establish water standards.

Section 7. It shall be unlawful for any person to construct, extend, install or operate any sewage system or treatment works, or any part thereof, until plans therefor shall have been submitted to the Board for review, and written approval has been issued thereon, unless the Board shall have waived the submission thereof to it and a written permit shall have been granted by the Board; and it shall be unlawful for any person to create any new or added pollution to any waters of the Territory.

Plans submitted to Board.

Section 8. Whenever it shall appear to the Board, after investigation, that there has been a violation of any of the provisions of this Act or regulations promulgated thereunder or any order of the Board, the Board shall give written notice to the alleged violator or violators setting forth any thing or act done or omitted to be done or claimed to be in violation of any such provision, and requiring that the matters complained of be satisfied, or that the alleged violator appear in person or by attorney before the Board or its duly

Violations.

designated agent, at the time and place in said notice specified, and answer the charges complained of.

Final order in writing.

After due consideration of written and oral statements, and testimony and arguments filed with the Board or on default in appearance on said return day, the Board may issue such final order or make such final determination as it deems appropriate under the circumstances, and shall notify such person or persons thereof in writing, personally, or by registered mail.

Authority to act in emergencies.

Whenever the Board, after investigation, is of the opinion that any person has polluted or is polluting the waters of Alaska by a discharge therein, directly or indirectly, of a sewage, industrial waste or other wastes, and three or more members of the Board certify that it would be prejudicial to the interests of the Territory to delay action, the Board may declare an emergency and notify the person by written notice that he must discontinue immediately the discharge of such sewage, industrial waste or other wastes, or the effluent therefrom, into the waters of the Territory or into a sewer or sewerage system, the content of which ultimately is discharged into the waters of the Territory, and thereupon the person so polluting shall immediately discontinue the discharge of said polluting substances.

Attorney General to prosecute.

Section 9. The Attorney General is authorized upon the request of the Board to bring an action for an injunction against any person violating the provisions of this article, or violating any order or determination of the Board. In any action for an injunction brought pursuant to this article, any finding of the Board made after hearing on due notice shall be prima facie evidence of the fact or facts found therein.

Penalty.

Section 10. Any person who shall wilfully violate any final determination or order of the Board promulgated pursuant to this article, shall be guilty of a misdemeanor

and, upon conviction thereof, shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars or by imprisonment for a term of not more than thirty days, or by both such fine and imprisonment, for each separate violation. Each day upon which such violation occurs shall constitute a separate violation.

In any action brought against a corporation under this section, the directors and officers of such corporation shall be jointly and severally liable for any fine imposed against the corporation.

Section 11. If any section, sub-section, sentence, clause or phrase of this Act is for any reason held to be unconstitutional, such decision shall not be held to affect the validity of any other portion of this Act.

Savings clause.

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Section 12. Sections 39-2-31 and 32-2-32 Alaska Compiled Laws Annotated 1949 are hereby amended by deleting the words "Territorial Fish Commissioners" or "Commissioners" and substituting in their stead wherever they appear in said sections the words "Water Pollution Control Board". Nothing herein contained shall be construed to postpone, stay, or abrogate the enforcement of the provisions of the Alaska Health and safety code in respect to nuisances.

Section 13. Section 40-9-1 of the Alaska Compiled Laws Annotated 1949 is hereby repealed.

Repeal.

Approved March 26, 1949.