

# MAINE STATE LEGISLATURE

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THE MICHIE COMPANY, Inc.  
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## Chapter 79.

### Water Improvement Commission.

**Sec. 1. Water improvement commission; organization.**—The water improvement commission, as heretofore established and hereinafter in this chapter called the “commission,” shall consist of the commissioner of health and welfare who shall serve during his term of office and 6 members appointed by the governor with the advice and consent of the council, 2 of whom shall represent manufacturing interests of the state, 2 of whom shall be representatives of municipalities and 2 of whom shall represent the public generally. The members appointed by the governor shall be appointed for a term of 3 years and until their successors are appointed and duly qualified.

The members appointed by the governor shall receive \$10 per day for their services at meetings or hearings and all members shall receive necessary traveling expenses for attending any meetings of the commission or for any other travel in connection with the official business of the commission and under the specific authority of the commission, which traveling expenses shall be paid out of the general fund.

Meetings of the commission shall be held at such time and place as shall be determined by the commission but not less than 2 meetings per year shall be held. The commission shall organize in October of each year by electing one of its members as chairman but in his absence any other member of the commission shall be elected to act as chairman. The commission shall also at the same time elect a secretary who need not be chosen from among the members of the commission. Four members of the commission shall constitute a quorum.

The commission may employ, subject to the provisions of the personnel law, and prescribe the powers and duties of such employees and consultants as may be necessary to carry out the provisions of this chapter. Technical services shall be performed in so far as practicable by personnel of the department of health and welfare and by other state departments, agencies and offices.

It shall be the duty of the commission to study, investigate and from time to time recommend to the persons responsible for the conditions, ways and means, so far as practicable and consistent with the public interest, of controlling the pollution of the rivers, waters and coastal flats of the state by the deposit therein or thereon of municipal sewage, industrial waste and other substances and materials in so far as the same are detrimental to the public health or to animal, fish or aquatic life, or to the practicable and beneficial use of said rivers, waters and coastal flats. The commission shall make recommendations to each subsequent legislature with respect to the classification of the rivers, waters and coastal flats and sections thereof within the state, based upon reasonable standards of quality and use. (R. S. c. 72, § 1. 1945, c. 345, § 1. 1949, c. 418. 1951, c. 383, § 1. 1953, c. 403, § 1.)

**Sec. 2. Standards of classification.** — The commission shall have 4 standards for the classification of surface waters and tidal flats.

Class A shall be the highest classification and shall be of such quality that it can be used for bathing and for public water supplies after disinfection, and the dissolved oxygen content of such waters shall not be less than 75% saturation and contain not more than 100 coliform bacteria per 100 milliliters.

There shall be no discharge of sewage or other wastes into water of this classification and no deposits of such material on the banks of such waters in such a manner that transfer of the material into the waters is likely. Such waters may be used for log driving or other commercial purposes which will not lower its classification.

Class B shall be the second highest classification and the dissolved oxygen

content of such waters shall not be less than 75% saturation and contain not more than 300 coliform bacteria per 100 milliliters.

There shall be no disposal of sewage into such waters except from a sewage treatment plant with disinfected effluent, and no disposal of other wastes except those that will not lower the classification of the water or be injurious to aquatic life or render such dangerous for human consumption if commonly so used. Waters of this class shall be considered acceptable for recreational purposes and, after adequate treatment, for use as a public water supply.

Class C waters, the third highest classification, shall be free from scums, slicks, odors and objectionable floating solids, and shall be free from chemicals and other conditions inimical to fish life and the dissolved oxygen content of such waters shall not be less than 5 parts per million. During a period of temporary reduction in the dissolved oxygen content in this class water, due to abnormal conditions of temperature or stream flow for the particular season involved, the commission shall take no action to reduce the amount of pollution from any source which is allowed in such class water under normal conditions.

Class D waters, the lowest classification, shall be considered as primarily devoted to the transportation of sewage and industrial wastes without the creation of a nuisance condition and such waters shall contain dissolved oxygen at all times. During a period of temporary reduction in the dissolved oxygen content in this class water, due to abnormal conditions of temperature or stream flow for the particular season involved, the commission, provided a nuisance condition has not then been created in such water and in the opinion of the commission is not likely to be created during such season, shall take no action to reduce the amount of pollution from any source which is allowed in such class water under normal conditions. (1953, c. 403, § 2.)

**Sec. 3. Classification procedure.** — The commission, having made its studies and investigations of given drainage area or portion thereof, shall call public hearings in the area or reasonably adjacent thereto, for the purpose of presenting to all interested people the proposed classification for the particular body of surface waters or tidal flats. Such meeting shall be preceded by public notice of the meeting in a newspaper of state-wide distribution, said notice to appear 3 times within 30 days preceding the meeting and the last publication to be at least 10 days prior to the hearing and giving the time, place and purpose of the hearing. At least 2 members of the commission shall attend each such hearing.

Within a reasonable time following the hearing the commission shall give public notice of the proposed classification arrived at after considering the results of the hearing.

The commission shall submit as legislative proposals to each legislature its proposed and recommended classification or reclassification of the various specific surface waters and tidal flats concerning which hearings have been held. Such legislative proposals shall be accompanied by information relative to action necessary to raise the said classification. (1953, c. 403, § 2.)

**Sec. 4. Enforcement.**—After adoption of any classification by the legislature for surface waters or tidal flats or sections thereof, it shall be unlawful for any person, corporation, municipality or other legal entity to dispose of any sewage, industrial or other waste, either alone or in conjunction with another or others, in such manner as will lower the quality of the said waters, tidal flats or section thereof below the minimum requirements of such classification, and notwithstanding any licenses which may have been granted or issued under sections 8, 9 and 10.

The commission shall enforce the provisions of this section by appropriate orders, and in the event such orders are not complied with within such time as the commission shall stipulate, appropriate legal action shall be instituted by the

commission to enforce compliance or to punish violators. Provided, however, that any persons, corporation, municipality or other legal entity aggrieved by any such order of the commission shall have the right of appeal in similar manner as is provided for appeals under the provisions of section 10. On such evidence as may be pertinent to the issues and on the basis of such evidence and the provisions of this chapter, the court shall enter its findings and issue its decree sustaining, reversing or modifying such order of the commission. (1953, c. 403, § 2.)

**Sec. 5. Forms filed.**—Municipalities shall file, not more than once annually, with the commission information relative to the present method of sewage collection and disposal in such municipality, on forms prepared and supplied by the commission within 30 days after receipt of said forms. (1953, c. 403, § 2.)

**Sec. 6. Penalties.**—Any person, corporation or other legal entity, who shall violate any of the provisions of the 4 preceding sections or who shall fail, neglect or refuse to obey any order of the commission lawfully issued pursuant hereto, shall be punished by a fine of not less than \$25 nor more than \$200 for each day of such violation, failure, neglect or refusal after the expiration of any time limit set by the commission. (1953, c. 403, § 2.)

**Sec. 7. Cooperation with other departments and agencies.** — The commission is authorized to cooperate with other departments of this state and with any other state or states and with the federal government for the purpose of carrying out the provisions of this chapter relating to rivers and waters which run through this state and any other state or states; and said commission is authorized to cooperate with the federal government for the purpose of carrying out the provisions of this chapter relating to any and all rivers and waters which, in whole or in part, are located in or run through this state. (R. S. c. 72, § 2. 1951, c. 383, § 2.)

**Sec. 8. Pollution restricted.**—No person, firm, corporation or municipality or agency thereof shall discharge into any stream, river, pond, lake or other body of water or watercourse or any tidal waters any waste, refuse or effluent from any manufacturing, processing or industrial plant or establishment or any sewage so as to constitute a new source of pollution to said waters without first obtaining a license therefor from the water improvement commission; provided, however, that no application for a license shall be required hereunder for any manufacturing, processing or industrial plant or establishment, now or heretofore operated, for any such discharge at its present general location, such license being hereby granted. (1945, c. 345, § 2. 1951, c. 383, § 2. 1953, c. 403, § 3.)

**Sec. 9. Application for licenses.**—Applications for licenses for such discharge shall be in writing signed by the applicant and filed with the water improvement commission in such form as the commission may require. Said commission shall set a time and place for hearing on said application, which time shall be within 30 days from the date of the filing of the application and shall give such notice of the hearing as it deems adequate. If after hearing the commission shall determine that such discharge will not cause or increase the pollution of any stream, river, pond, lake or other body of water or watercourse or tidal waters to such extent as to be inconsistent with the public interest, it shall issue such license to the applicant upon payment of the sum of \$50. (1945, c. 345, § 2. 1951, c. 383, § 2.)

**Sec. 10. Appeals.**—Any person aggrieved by any order or decision of said commission with respect to any application for license may, within 30 days after notice of the filing of such order or decision, appeal therefrom to any justice of the superior court by presenting a copy of such order or decision, certified

by the clerk of said commission to the clerk of courts for the county of Kennebec; whereupon said court shall fix a time and place for hearing thereon and order such notice as to the court appears reasonable, at which hearing the applicant and any other interested persons shall submit evidence and the court shall enter its findings and decree sustaining, reversing or modifying such order or decision of said commission in such manner and to such extent as the court determines not to be inconsistent with the public interest.

Such decree shall have the same effect and all proceedings in relationship thereto shall thereafter be the same as though rendered in a suit in equity duly heard and determined by said court, and appeal may be had therefrom in the same manner as in appeals in equity procedure and the law court may after consideration reverse or modify any decree so made. (1945, c. 345, § 2. 1951, c. 383, § 2.)

**Sec. 11. Deposit of slabs, edgings, sawdust, etc., in streams.**—No person, corporation or other party shall place or deposit in the inland waters or tidal waters of this state, or on the banks thereof so that the same shall fall or be washed into such waters, any slabs, edgings, sawdust, chips, bark or shavings created in the manufacture of lumber or other wood products, or so deposit any oil regardless of its source, or so pollute said waters. The water improvement commission shall make surveys concerning pollution of said waters. Whenever said commission finds conditions inconsistent with this section, it shall attempt to correct the same through negotiation; and upon failure to procure correction, it shall apply to any justice of the supreme or superior court, in an action as in equity. Said court, on due notice and hearing, may abate said condition to an extent consistent with the public interest and shall impose limitations on the nature and extent of deposit in said waters consistent with the public interest. Any person, corporation or other party aggrieved thereby may appeal therefrom to the law court as in equity.

The following rivers are exempted until the 1st day of September, 1955 and no longer from all of the provisions of this section: Salmon Falls river, Mousam river, Saco river, Presumpscot river, Androscoggin river, Little Androscoggin river, Kennebec river, Penobscot river and the West Branch of the Penobscot river and Millinocket stream up to and including the town of Millinocket, St. Croix river and St. John river, excepting all tributaries of the aforesaid rivers. Whoever violates any provision of this section shall pay a fine of not less than \$25 nor more than \$200, and costs, for each offense.

Nothing contained in this section shall nullify, modify or in any way affect any license granted by said commission or otherwise granted pursuant to or by the provisions of section 8.

If any person, corporation or other party believes it to be necessary in the prosecution of his or its business to deposit some or all of the materials hereinbefore mentioned in this section in any of said waters, or on the banks thereof, to an extent prohibited by this section, he or it may make application to such commission, which shall give notice thereof and hold a hearing thereon, and which shall have authority to issue an order thereon granting such permit as it deems advisable or denying such application.

Any person, corporation or party aggrieved by any order or decision of said commission made pursuant to any of the provisions of this section may appeal from such order or decision to any justice of the superior court in accordance with the procedure outlined in section 10 and all further proceedings upon such appeal shall be in accordance with the provisions of said section 10. (1947, c. 266, § 3. 1949, c. 332. 1951, c. 383, § 2. 1953, c. 403, § 4.)

**Sec. 12. Injunctions.**—In the event of the violation of any of the provisions of this chapter, or of any order or decision of the water improvement commission hereunder, or decree of the court hereunder, as the case may be, the

attorney general may institute injunction proceedings to enjoin the further violation thereof. (1945, c. 345, § 2. 1947, c. 266, § 2. 1951, c. 383, § 2.)

**Sec. 13. Exceptions.**—The granting of any license or authority under the provisions of this chapter shall not limit the powers of the state to initiate, prosecute and maintain actions to abate public nuisances to the extent consistent with the public interest, nor shall any license granted under the provisions of this chapter constitute a defense to any action at law for damages. (1945, c. 345, § 2. 1947, c. 266, § 2.)

**Sec. 14. Deposit of potatoes into streams, etc., duty of water improvement commission.**—No person, firm, corporation or federal agency shall deposit or cause to be deposited potatoes or any part or parts thereof, except the potato pulp resulting from the manufacture of potato starch, into any stream, pond, lake or other body of water or watercourse, or on the ice thereof, or on the banks of the same where such potatoes or any part or parts thereof may pollute such waters. The provisions of this section shall not apply to industries licensed under this chapter.

The water improvement commission shall be charged with the duty of enforcing the provisions of this section.

Whoever violates the provisions of this section shall be punished by a fine of not less than \$25 nor more than \$200, and costs, for each offense. (1947, c. 158. 1951, c. 140; c. 383, § 2. 1953, c. 403, § 5.)

**Sec. 15. Classification of surface waters.**—The following surface waters shall be classified in accordance with the provisions of this chapter:

#### **Androscoggin River Basin**

- I. The Magalloway river and its tributaries above the first crossing of the Maine-New Hampshire state line—Class A.
- II. Kennebago stream and its tributaries above its confluence with Mooselookmeguntic lake—Class A.
- III. Cupsuptic stream and its tributaries above its confluence with Cupsuptic lake—Class A.

#### **Kennebec River Basin**

- I. Moose river and its tributaries above the outlet of Big Wood pond in Jackman—Class A.
- II. North Branch of Dead river and its tributaries above its confluence with Flagstaff lake—Class A.
- III. Austin stream and its tributaries above the highway bridge on route 201 in the town of Bingham—Class A.
- IV. Carrabassett river and its tributaries above a point immediately downstream of its junction with the West Branch of the Carrabassett river in Kingfield—Class A.
- V. Sandy river and its tributaries above Phillips at the highway bridge on route 142 — Class A.

#### **Penobscot River Basin**

- I. Penobscot river and its tributaries above Seboomook lake—Class A.
- II. East Branch of the Penobscot river and its tributaries above the outlet of Mattagamom lake—Class A.

- III. The East and West Branches of the Piscataquis river and their tributaries above their confluence near Blanchard — Class A.
- IV. The Sebec river and its tributaries above the outlet of Monson stream —Class A.
- V. The East and West Branches of the Pleasant river and their respective tributaries above the confluence of these two streams above Brownville Jct.—Class A.
- VI. The Passadumkeag river and its tributaries above Grand Falls—Class A.
- VII. Olamon stream and its tributaries above the bridge on Horseback road —Class A.
- VIII. Orland river and its tributaries above the outlet of Alamoosook lake—Class A.
- IX. Great Works stream and its tributaries above the highway bridge on route 178 in the town of Bradley—Class A.
- X. Sunkhaze stream and its tributaries above its confluence with the Penobscot river—Class A.
- XI. Sourdabscook stream and its tributaries above the dam of the Hampden Water District at Hampden—Class A.

#### **St. Croix River Basin**

- I. All tributaries of the St. Croix river, the drainage areas of which are wholly within the state of Maine, and including the West Branch of the St. Croix river and its tributaries which enter through Grand lake flowage—Class A.

#### **Meduxnekeag River Basin**

- I. The North Branch of the Meduxnekeag river and its tributaries above the Monticello—T C R 2 boundary—Class A.

#### **Aroostook River Basin**

- I. The Little Madawaska river and tributaries including Madawaska lake and tributaries above the route 161 highway bridge in Stockholm—Class A.
- II. Pattee brook at Fort Fairfield and its tributaries above the dam just upstream of the highway bridge on route 167 — Class A.
- III. Presque Isle stream and its tributaries above its confluence with the North Branch of Presque Isle stream — Class A.
- IV. Little Machias river and its tributaries—Class A.
- V. The Machias river and its tributaries above the Garfield plantation — Ashland town line—Class A.
- VI. Squapan stream and tributaries above the B. & A. R. R. bridge—Class A.
- VII. The Aroostook river and its branches including St. Croix stream above the junction with St. Croix stream—Class A.

#### **St. John River Basin**

- I. The Fish river and its tributaries above the highway bridge over the Fish river at the outlet of St. Froid lake on highway route 11—Class A.
- II. Negro brook and its tributaries—Class A.
- III. The Allagash river and its tributaries—Class A.



**IV.** The tributaries of the St. Francis river, the drainage areas of which are wholly within the state of Maine—Class A.

**V.** All tributaries and branches of the St. John river above the outlet of Allagash river, the drainage areas of which are wholly within the state of Maine, including that portion of the river above the St. John pond dam—Class A.

#### **Coastal Streams**

**I.** Dennys river and its tributaries above the highway bridge on route 1 in the town of Dennysville—Class A.

**II.** Orange river and its tributaries above the highway bridge on route 1—Class A.

**III.** East Machias river and its tributaries above the highway bridge on route 191—Class A.

**IV.** Machias river and its tributaries above the mill pond at Whitneyville—Class A.

**V.** Chandler river and its tributaries above the highway bridge on route 1—Class A.

**VI.** Pleasant river and its tributaries above the highway bridge on route 1—Class A.

**VII.** East and West Branches of the Narraguagus river and their tributaries above the confluence of the two streams—Class A.

**VIII.** Tunk lake and Tunk stream drainage system above the Smithville bridge near the section called Unionville—Class A. (1953, c. 331.)