

# MAINE STATE LEGISLATURE

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FIRST SPECIAL SESSION

ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 2198

S. P. 687

In Senate, February 9, 1976

Reported by the Majority from the Committee on Public Utilities pursuant to Joint Order S. P. 540 and printed under Joint Rules No. 3.

HARRY N. STARBRANCH, Secretary  
Public Utilities Committee pursuant to S. P. 540.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-SIX

AN ACT to Regulate Drinking Water.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. 22 MRSA § 3, last ¶, as amended by PL 1965, c. 207, § 1, is repealed.

Sec. 2. 22 MRSA c. 559, as amended, is repealed.

Sec. 3. 22 MRSA c. 560, as enacted by PL 1969, c. 209, § 1 and as amended, is repealed.

Sec. 4. 22 MRSA c. 601 is enacted to read:

CHAPTER 601

WATER FOR HUMAN CONSUMPTION

SUBCHAPTER I

GENERAL PROVISIONS

§ 2601. Definitions

As used in this chapter, unless the context otherwise indicates, the following words shall have the following meanings.

1. Contaminant. "Contaminant" means any physical, chemical, biological or radiological substance or matter in water.

2. Feasible. "Feasible" means capable of being done within the current limitation of economics and technology, as determined by the commissioner.

3. **Maximum contaminant level.** "Maximum contaminant level" means the maximum concentration of a contaminant allowed under the State Primary Drinking Water Regulations in water supplied for human consumption.

4. **National Drinking Water Regulations.** "National Drinking Water Regulations" means the drinking water regulations promulgated by the Administrator of the U.S. Environmental Protection Agency under the authority of the Safe Drinking Water Act, P.L. 93-523.

5. **Operator.** "Operator" means the individual who has direct management responsibility for the routine supervision and operation of a public water system or of a water treatment plant or collection, treatment, storage or distribution facility or structure that is a part of a system. Shift operators or other employees under the supervision of the operator in the performance of their duties are not operators.

6. **Person.** "Person" means any individual, partnership, company, public or private corporation, political subdivision or agency of the State, department, agency or instrumentality of the United States or any other legal entity.

7. **Political subdivision.** "Political subdivision" means any municipality, county, district or any portion or combination of 2 or more thereof.

8. **Public water system.** "Public water system" means any publicly or privately-owned system of pipes, structures and facilities through which water is obtained for or sold, furnished or distributed to the public for human consumption, if such system has at least 15 service connections, regularly serves an average of at least 25 individuals daily at least 30 days out of the year or bottles water for sale. Any publicly or privately-owned system that only stores and distributes water, without treating or collecting it; obtains all its water from, but is not owned or operated by, a public water system; and does not sell water or bottled water to any person, is not a "public water system." The term "public water system" shall include any collection, treatment, storage or distribution pipes, structures or facilities under the control of the supplier of water and used primarily in connection with such system, and any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. The system shall not include the portion of service pipe owned and maintained by a customer of the public water system.

9. **Supplier of water.** "Supplier of water" means any person who controls, owns or generally manages a public water system.

10. **Water treatment plant.** "Water treatment plant" means that portion of the public water system which is designed to alter the physical, chemical, biological or radiological quality of the water or to remove any contaminants.

#### § 2602. Fees for testing

The department shall charge the average cost of the analysis for any examination, testing or analysis required under this chapter and performed in the departmental diagnostic laboratory. Such fees shall be recalculated and deposited according to section 562.

**§ 2603. Shipping costs**

Any person required under this chapter to submit samples of water to the department for analysis shall pay the shipping charges thereon.

**§ 2604. Schools, sampling and examination of water**

Any school, which takes water from a source other than a public water system and uses such water for drinking or culinary purposes, shall submit samples of such water to the department for analysis at least once during each school year. Such samples shall be analyzed by the department. If the water is found to violate the state primary drinking water regulations, the department shall issue an order prohibiting the use of the water for drinking or culinary purposes by the school, which order shall remain in force until the water conforms to the state primary drinking water regulations.

Violation of this section shall, on conviction, be punished by a fine of not more than \$500.

**§ 2605. Administration**

To carry out this chapter, the commissioner is authorized and empowered to:

1. **Agreements.** Enter into agreements, contracts or cooperative arrangements under such terms and conditions as he deems appropriate with other state, federal or interstate agencies, municipalities, education institutions, local health departments or other organizations or individuals;
2. **Assistance.** Receive financial and technical assistance from the Federal Government and other public or private agencies;
3. **Program participation.** Participate in related programs of the Federal Government, other states, interstate agencies or other public agencies or organizations; and
4. **Fiscal control and accounting.** Establish adequate fiscal controls and accounting procedures to assure proper disbursement of and accounting for funds.

**§ 2606. Emergency planning**

The department shall develop plans, with the advice and assistance of the Bureau of Emergency Preparedness and of the public water systems of the State, for emergency conditions and situations that may endanger the public health or welfare by contamination of drinking water. Such plans shall include potential sources of contaminants and situations or conditions that could place them in the sources of public drinking water, techniques and methods to be used by public water systems to reduce or eliminate the dangers to public health caused thereby, methods and times for analysis or testing during such emergency conditions or situations, alternate sources of water available to public water systems and methods of supplying drinking water to consumers if a public water system cannot supply such water.

**§ 2607. Approved laboratories**

The department shall approve the facilities, techniques, testing methods and training of personnel of any laboratories that analyze water samples to

determine compliance with State Primary Drinking Water Regulations. Such approval shall be based on the capability of the laboratory to accurately and reliably analyze samples to determine their contaminant levels under the State Primary Drinking Water Regulations, and may be limited to approval of only certain tests or contaminant level determinations. Any sample analysis performed by a laboratory not approved by the department shall not be considered in determining the compliance of a public water system with the State Primary Drinking Water Regulations.

## SUBCHAPTER II

### SAFE DRINKING WATER ACT

#### § 2611. Drinking water regulations

1. State primary drinking water regulations. The commissioner shall promulgate and enforce primary drinking water regulations which are necessary to protect the public health. Such regulations shall include:

A. Identification of contaminants which may have an adverse effect on the health of persons;

B. Specifies for each contaminant either:

(1) A maximum contaminant level that is acceptable in water for human consumption, if it is feasible to ascertain the level of such contaminant in water in public water systems; or

(2) One or more treatment techniques or methods which lead to a reduction of the level of such contaminant sufficient to protect the public health, if it is not feasible to ascertain the level of such contaminant in water in the public water system; and

C. Criteria and procedures to assure compliance with the levels or methods determined under paragraph B, including quality control and testing procedures to insure compliance with such levels or methods and to insure proper operation and maintenance of the system, and requirements as to the minimum quality of water which may be taken into the system and the siting for new facilities.

Such regulations shall be no less stringent than the most recent National Primary Drinking Water Regulations in effect, as issued or promulgated by the United States Environmental Protection Agency. Regulations under this subsection may be amended from time to time, as necessary.

2. State secondary drinking water regulations or guidelines. The commissioner shall adopt secondary drinking water regulations or guidelines which are necessary to protect the public welfare. Such regulations or guidelines may apply to any contaminant in drinking water which may adversely affect the color, odor or appearance of the water and consequently may cause a substantial number of persons to discontinue using a public water system, or which may otherwise adversely affect the public welfare. Such regulations or guidelines may vary according to geographic, economic, technical or other relevant circumstances. Such regulations or guidelines shall reason-

ably assure the protection of the public welfare and the supply of aesthetically adequate drinking water; and shall be based upon the National Secondary Drinking Water Regulations promulgated by the United States Environmental Protection Agency. Regulations or guidelines under this subsection may be amended from time to time, as necessary.

3. Procedure for adopting or amending regulations or guidelines. Prior to promulgating, adopting or amending primary or secondary drinking water regulations or guidelines under this section, the commissioner shall hold public hearings on the proposed regulations, guidelines or amendments. Public notice of such hearings shall be given at least 30 and not more than 60 days before such hearing by at least one publication in a newspaper of general circulation in each United States Congressional District in the State.

4. Report to the Legislature. The commissioner shall report to the Legislature prior to January 1, 1978, all regulations or guidelines adopted under this section and shall include in such report the reasons for adopting each standard or level of contaminant, the compliance of suppliers of water or public water systems, and departures from the federal primary and secondary drinking water regulations and the reasons therefor.

§ 2612. Approval of construction or alteration, training, inspection, regulations and records

1. Construction or alteration of public water systems. No new construction, addition or alteration involving the source, treatment or pumping of water in any public water system shall be commenced until the plans and specifications have been submitted to and approved by the department; except, if such construction, addition or alteration is exempted by the commissioner because it will have no effect on public health or welfare, then such submission and approval is not required. The department shall consult with and advise persons planning or operating a public water system as to the most appropriate source of supply and the best methods of assuring its purity. In granting approval of plans and specifications, the Department may require modifications, conditions or procedures to insure, as far as feasible, the protection of the public health. The department may adopt and enforce rules and regulations governing the construction or alteration of public water systems to insure the protection of the public health, and may require the submission of water samples for analysis to determine the extent of treatment required. Records of construction, including plans and descriptions of existing public water systems, shall be maintained by such systems and shall be made available to the department upon request. The supplier of water shall promptly comply with such request.

2. Operation and maintenance of public water systems. The department shall generally supervise and monitor the operation and maintenance of any public water system in the State. Such general supervision and monitoring shall include all aspects of operation and maintenance which may affect the quality of the water supply. The department may adopt rules and regulations relating to operation and maintenance of public water systems to insure the purity of water and the protection of public health. Such rules and regulations may apply to all aspects of operation and maintenance which may affect

the quality of water supplied to the public, including feasible purification methods, equipment and systems. The department may require, by rule or regulation, any public water system to submit water samples for analysis on a regular basis, as often as necessary to insure the public health. Records of operation and maintenance of public water systems shall be kept on forms approved or specified by the department and this data shall be submitted to the department at the times and in the manner as the department directs. The supplier of water shall promptly comply with such department directions.

3. **Inspection.** Any officer or employee duly designated by the commissioner, upon presenting appropriate credentials and a written notice of his authority to inspect, signed by the commissioner, is authorized to enter any part of a public water system in order to determine whether such supplier is complying with this chapter and any departmental rules, regulations or orders issued hereunder. The inspection may include any portion of a public water system, including the sources of supply, treatment facilities and materials, pumping facilities, distribution and storage facilities, records, files, and reports on operation. The inspection may also include the testing of any feature of a public water system, including raw and processed water, of any samples necessary to insure compliance with this chapter and the rules, regulations or orders issued hereunder. Each inspection shall take place at a reasonable time and be commenced and completed with reasonable promptness. The supplier shall be notified of the results of the inspection.

4. **Engineering studies.** The commissioner may order a public water supplier to carry out an engineering study of the water works system or any portion thereof, if such study is required to identify potential threats to the public health and remedies that will remove such threats. The purpose of such study shall be to ascertain the best methods of complying with this chapter and departmental rules and regulations. The department may further order a public water system to implement the feasible recommendations of the study required to protect the public health. Prior to issuing any order under this subsection, this commissioner shall provide written notice to the public water system and public notice in a newspaper of general circulation in the area served by the public water system, and shall also provide the opportunity for a public hearing on the proposed order.

5. **Cross connections.** The department may adopt and enforce regulations governing the connection of any public water systems to any pipes, facilities or structures that carry, store or distribute water that has not been analyzed for compliance or cannot comply with the State Primary Drinking Water Standards, or any connection that may introduce contamination into the system, in order to protect the system from contamination.

6. **Training.** The department may provide training in operations and maintenance of public water systems, techniques and methods of testing and analysis of water, and the requirements of this chapter and departmental rules and regulations, for suppliers of water and operators and employees of public water systems.

#### § 2613. Variances and exemptions

1. **Variances.** The commissioner may grant one or more variances from an applicable state primary water drinking regulation to a public water

system, if the variance will not result in an unreasonable risk to the public health, and if:

A. Because of the characteristics of the raw water sources reasonably available to the systems, the system cannot meet the maximum contaminant levels of such drinking water regulation despite application of the best feasible technology, treatment techniques or other means; or

B. Where a specified treatment technique for a contaminate is required by the state primary water drinking regulation, the system demonstrates to the commissioner's satisfaction that such treatment technique is not required to protect the public health because of the nature of the raw water source.

Prior to granting a variance, the commissioner shall provide notice in the state newspaper and an opportunity for public hearing on the proposed variance. Variances may be conditioned on monitoring, testing, analyzing or other requirements to insure the protection of the public health; and variances granted under paragraph A, shall include a compliance schedule under which the public water system will meet each contaminant level for which a variance is granted as expeditiously as is practicable.

2. Exemptions. The commissioner may grant one or more exemptions from an applicable state primary water drinking regulation to a public water system, if:

A. The exemption will not result in an unreasonable risk to the public health;

B. The public water system is unable to comply with the regulation due to compelling factors, which may include economic factors; and

C. The public water system was in operation on the earliest effective date under present or prior law of the contaminant level or treatment technique requirement.

Prior to granting an exemption, the commissioner shall provide notice in the state newspaper and an opportunity for public hearing on the proposed exemption. Each exemption shall also be conditioned on monitoring, testing, analyzing or other requirements to insure the protection of the public health, and shall include a compliance schedule under which the public water system will meet each contaminant level for which an exemption is granted not later than 7 years after the adoption of the state primary drinking regulation.

#### § 2614. Imminent hazards to public health

1. Determination of imminent hazard. An imminent hazard shall be considered to exist when there is a violation of the state primary drinking water regulations, or when, in the judgment of the commissioner, a condition exists in a public water system or water supply which will cause a violation and will result in a serious risk to public health.

2. Elimination of imminent hazard. In order to eliminate an imminent hazard, the commissioner may, without a prior hearing, issue an emergency



order requiring the supplier of water to immediately take such action as is required under the circumstances to protect the public health. Actions required under the emergency order may include:

- A. The prohibition of transportation, sale, distribution or supplying of water;
- B. The repair, installation or operation of feasible purification equipment or methods;
- C. The notification of all potential users of the system, including travelers, of the nature, extent and possible health effects of the imminent hazard and precautions to be taken by users; or
- D. The testing, sampling or other analytical operations required to determine the nature, extent, duration or termination of the imminent hazard.

A copy of the emergency order shall be served in the same manner as the service of notice of the commencement of a civil action in Superior Court. An emergency order issued by the commissioner shall be effective immediately and shall be binding for no more than 90 days unless sooner revoked, reviewed by the department at a public hearing or modified or rescinded by a Superior Court. At the written request of the supplier of water, a public hearing shall be held on the emergency order within 15 days of receipt of such request.

3. Civil suit. The commissioner may commence a civil action in the Superior Court of either Kennebec County or of the county in which the principal place of business of the supplier of water is located, to require the supplier of water to take actions to protect the public health. The civil action may be commenced with or without a prior emergency order and may seek appropriate relief, including a temporary or permanent injunction or a restraining order.

#### § 2615. Notification of noncompliance to regulatory agencies and users

1. Notification. Whenever a public water supply system:

- A. Is not in compliance with the state primary drinking water regulations;
- B. Fails to perform monitoring, testing or analyzing, or fails to provide samples as required by rules and regulations of the department;
- C. Is subject to a variance granted under section 2613;
- D. Is subject to an exemption granted under section 2613; or
- E. Is not in compliance with the requirements prescribed by a variance or exemption;

The supplier of water shall, as soon as practicable, notify the local health officer, the department, and through the department, the Administrator of the U.S. Environmental Protection Agency and the communications media serving the area served by the system of that fact, and of the nature, extent and

possible health effects of that fact. As long as the noncompliance, failure, variance or exemption continues, notification shall be given of that fact at least once every 90 days by publication in a newspaper of general circulation within the area served by the system. In addition, the supplier of water shall directly notify the users by mail and renotify them regularly as required under the regulation of the department. The department shall adopt regulations for direct mail notification of users to insure that the users are aware of potential public health dangers, and to insure their continued awareness during the continuation of the noncompliance, failure, variance or exemption.

2. Certain uses of notification prohibited. Notification received pursuant to this section or information obtained by the exploitation of such notification shall not be used against any person or system provided such notice in any criminal case, except for prosecutions for perjury or the giving of a false statement.

#### § 2616. Prohibited acts

The following acts and the causing thereof are prohibited:

1. Failure to comply with section 2615 or dissemination of certain misleading information. Failure by a supplier of water to comply with the requirements of section 2615, or dissemination by such supplier of any false or misleading information with respect to remedial actions being undertaken to achieve compliance with state primary drinking water regulations;

2. Failure to comply with certain regulations and actions under sections 2612, 2613 and 2614. Failure by a supplier of water to comply with the regulations for monitoring, maintenance, operations, reporting and corrective actions pursuant to sections 2612, 2613 and 2614; and

3. Refusal to allow entry under section 2612. The refusal of a supplier of water to allow entry and inspection of establishments, facilities or other property pursuant to section 2612.

#### § 2617. Penalties and remedies

1. Violation of section 2616. Any person willfully violating section 2616 shall, on conviction, be punished by a fine of not more than \$500. Each day of operation in violation of section 2616 shall constitute a separate offense.

2. Injunctive relief. The commissioner may cause to be instituted a civil action in any court of applicable jurisdiction for injunctive relief to prevent violation of any order issued pursuant to section 2612, 2613 and 2614.

### SUBCHAPTER III

#### CERTIFICATION OF OPERATORS

##### § 2621. Definitions

As used in this subchapter, unless the context otherwise indicates, the following words shall have the following meanings.

1. Board. "Board" shall mean the Board of Certification referred to in this subchapter.

2. Certificate. "Certificate" shall mean a certificate issued by the board stating that the applicant has met the requirements for the specified operator classification.

§ 2622. Classification of public water systems and parts thereof

The commissioner shall classify all public water systems and the water treatment plants or collection, treatment or storage facilities or structures that are part of a system with due regard to the size and type of facilities, the character of water to be treated and any other physical conditions affecting such system or part thereof and specify the qualifications the operator of the system or of a part of a system must have to supervise successfully the operation of the system or parts thereof so as to protect the public health or prevent nuisance conditions.

§ 2623. Certification

The board shall certify persons as to their competency to supervise successfully the operation of a public water system or of a part of a system.

§ 2624. Board of Certification

The Governor shall appoint a Board of Certification composed of 5 persons as follows: Two operators who shall be certified as to competency under this chapter, with one of these holding a certificate of the highest classification issued by the board; one person who shall be from the Department of Human Services, as the commissioner may recommend; one person who shall be a water utility management representative; and one person who shall be an educator whose field of interest is related to water supply.

Each member of the board, with the exception of the ex officio member from the Department of Human Services, shall be appointed for a 3-year term. Vacancies shall be filled by appointment of the Governor for unexpired terms.

Members of the board, at the call of the commissioner, shall organize and elect from their number a chairman. Thereafter, annually, a chairman shall be elected. The Department of Human Services representative of the board shall serve as secretary of the board and be responsible for maintaining records and providing administrative support.

The board shall hold at least one examination each year at a time and place designated by them for the purpose of examining candidates for certifications. Additional meetings may be called by the chairman, or by him at the request of any other 2 members, as may be necessary to carry out this chapter.

The members of the board shall serve without compensation, except for their actual and necessary expenses incurred while discharging their official duties.

The commissioner with the advice of the board shall establish the criteria and conditions for the classification of public water systems and water treatment plants or collection, treatment or storage facilities or structures that are part of a system.

The board with the advice of the commissioner shall establish by regulation the qualifications, conditions and licensing standards and procedures for the certification of individuals to act as operators.

#### § 2625. Certificates

The board shall issue certificates to individuals to act as operators. The certificate shall indicate the classification level of the systems or parts of systems for the operation of which the individual is qualified to act as an operator.

Certificates shall continue in effect unless revoked by the board but remain the property of the board and the certification shall so state.

The board may revoke the certificate of an operator, when the board determines, after notice and opportunity for a hearing that the operator has practiced fraud or deception; that he has been negligent in that reasonable care, judgment or the application of his knowledge or ability was not used in the performance of his duties; or that the operator is incompetent or unable properly to perform his duties.

Prior to revocation of a certificate, the board shall notify the operator in writing by registered or certified mail of the intent to revoke, the specific reasons therefor and the time, date and place of the hearing on the revocation. The hearing shall take place within 30 days of the notice and shall include an opportunity for all parties to present evidence and argument on all issues involved. A written decision shall be issued by the board and sent to the operator by registered or certified mail within 10 days after the close of the hearing.

The certificates of operators who terminate their employment at a public water system will remain renewable for 3 years. After 3 years, the certificates will be automatically invalidated. Operators whose certificates are invalidated under this section may be issued new certificates of a like classification provided appropriate proof of competency is presented to the board.

This chapter shall not be construed to affect or prevent the practices of any other legally recognized profession.

#### § 2626. Certificate from outside of Maine

The board, upon application therefor, may issue a certificate, without examination, in a comparable classification, to any person who holds a certificate in any state, territory or possession of the United States or any country, providing the requirements for certification of operators under which the person's certificate was issued does not conflict with this chapter and in the opinion of the board are of a standard not lower than that specified by regulations adopted under this chapter.

#### § 2627. Certificate from owner of particular system

Certificates may be issued without examination to the person or persons certified by the governing body or owner to have been in direct responsible charge of a water treatment plant or a water distribution or public water

system between October 1, 1966 and October 1, 1969. A certificate so issued shall be valid only for that particular classification level of treatment plant or system.

§ 2628. Rules and regulations

The board, with the advice of the commissioner in accordance with any other appropriate state laws, shall make such rules and regulations as are reasonably necessary to carry out the intent of this subchapter. The rules and regulations shall include, but are not limited to, provisions establishing requirements for certification and procedures for examination of candidates and such other provisions as are necessary for the administration of this subchapter.

§ 2629. Fees

Initial certification with examination	\$25
Initial certification without examination	10
Reexamination	25
Reinstatement of certificate	5
Annual renewal fee	3

Fees from those failing to pass an examination will not be returned. All fees shall be credited to the General Fund of the State.

§ 2630. Certification; temporary

On and after October 1, 1971, it shall be unlawful for any supplier of water to operate a public water system unless the competency of the operator or operators is duly certified by the board under this subchapter. The commissioner may issue a temporary waiver for a period of time not exceeding 60 days in the event of extenuating circumstances. The commissioner may further grant a waiver for a period not exceeding one year to a public water system serving not more than 500 service connections in the event that the certification requirements cannot be met. It shall be unlawful for any person to perform the duties of an operator, as defined, without being duly certified under this subchapter.

§ 2631. Penalties

Any person willfully violating any provisions of this subchapter or the rules and regulations adopted under this subchapter shall, on conviction, be punished by a fine of not more than \$500. Each day of operation in violation of this subchapter or any rules and regulations adopted under this subchapter shall constitute a separate offense.

## SUBCHAPTER IV

### PUBLIC WATER SUPPLIES

#### ARTICLE I. MUNICIPAL REGULATIONS

§ 2641. Source of public water supply defined

As used in this article, unless the context otherwise indicates, "source of public water supply" means any natural or man-made empoundment, pond or

lake, of under 2,500 acres whose waters are transported or delivered by a public water system to the public. Where the intake of a public water supply is on the outlet or any empoundment, pond or lake, the source of such public water supply shall be considered to be the empoundment, pond or lake itself.

§ 2642. Municipal regulation authorized; penalty

1. Municipal regulations authorized. The municipal officers of each municipality shall have the authority, after notice and public hearing, to adopt regulations governing the surface uses of sources of public water supply, or portions thereof, located within that municipality in order to protect the quality of such sources of public water supply or the health, safety or welfare of persons dependent upon such supplies.

At least 15 days prior to public hearings held hereunder, notice of the hearing shall be published in a newspaper of general circulation in the county in which the municipality is located and shall be mailed by registered mail to each owner of land bordering the source of public water supply within that municipality. Regulations adopted pursuant to this section shall become void upon the expiration of one year from the date of the adoption unless sooner ratified by vote of the legislative body of the municipality.

2. Penalty. Whoever willfully violates any regulation established under the authority of this section shall, upon conviction, be punished by a fine of not more than \$500.

## ARTICLE 2. PROTECTION OF WATER SOURCES

§ 2646. Definitions

As used in this article, unless the context otherwise indicates, the following words shall have the following meanings.

1. Public water source. "Public water source" means any lake, pond, brook, stream or river and their tributaries, or any well, spring or other natural or man-made empoundment of water whose waters are transported or delivered by a public water system to the public for human consumption.

2. Water utility. "Water utility" means any public water system regulated by the Public Utilities Commission under Title 35.

§ 2647. Protection of public water source

Any water utility or municipality, or the department, is authorized to take reasonable methods to protect a public water source from pollution. It may enter upon land within 1,000 feet of the high water mark of a public water source and upon land used for commercial or industrial purposes having a system of drainage or sewage flowing or seeping into a public water source and inspect the system of drainage or sewage disposal of any building or structure thereon. Such power of entry and inspection shall be exercised only after the water utility, municipality or department has made a reasonable effort to obtain permission therefor from the landowner. Any local or state health inspector or officer may order the owner of any building or structure thereon having a system of drainage or sewage flowing or seeping into

and contaminating the public water source to remedy the situation. Such order shall be in writing and state a time in which the order must be complied with.

Either party may call upon the department for technical advice. Any person aggrieved by an order may appeal to the Superior Court within 30 days after receiving such order.

The water utility, municipality or department may petition the Superior Court upon failure of the person named in such order to comply with any order made by it. The court, after hearing, may make such order as may be appropriate.

Nothing in this section shall be construed to limit in any way any private and special law granting a water utility or municipality greater controls for protecting its public water source than those set forth in this section.

#### § 2648. Protection of intake of public water supply

Any water utility or municipality is authorized to designate by buoys in water or markers on the ice in an area on a lake or pond from which water is taken, with a radius commencing at its point of intake. Such radius shall not exceed 100 feet and within that area no person shall anchor or moor a boat or carry on ice fishing. Any such buoys placed in the water shall be plainly marked as required by the Director of the Bureau of Parks and Recreation under Title 38, section 323. Any person violating this section shall, on conviction, be punished by a fine of not more than \$50 for each offense.

Nothing in this section shall be construed to limit in any way any private and special law granting a water utility or municipality greater controls for protecting the intake of its public water supply than those set forth in this section.

### Subcharter V

## FLUORIDATION

#### § 2651. Fluoridation

No public water system shall add any fluoride to its water supply without written approval of the department. The department is authorized to make such rules and regulations as it deems necessary to carry out this section.

#### § 2652. Authorization

No public water system shall add any fluoride to any such water supply without first having been authorized to do so by the municipality or municipalities served by it. Any public water system duly authorized to add fluoride to any water supply shall do so within 9 months after being notified in accordance with this section. The town or city clerk shall, within 10 days after the vote, notify the public water system of the vote favoring the addition of fluoride to the public water supply. In the case of a city, such authorization shall be by a majority vote of the legal voters voting at a regular or special city election. In the case of a town or plantation, such authorization shall be

by a majority vote of the inhabitants present at an annual town or plantation meeting. In the case of a public water system serving more than one municipality, such authorization shall be by a majority vote of the voters voting at such city election and a majority vote of the inhabitants present at an annual town or plantation meeting of each town or plantation served by the public water system. Authorization by municipalities representing 80% of the customers served by such public water system shall be sufficient. Whenever a municipality shall have approved fluoridation, it may not again vote on the matter for a minimum period of 2 years from the date of installation of fluoride. The Public Utilities Commission, upon application, shall determine and allocate the cost of such fluoridation among the customers of such public water system and shall from time to time review such determination and allocation as required. In the event that a municipality which shall have approved fluoridation shall vote to discontinue such fluoridation, the public water system shall be entitled to amortize the remaining cost of its investment in such facilities and to allocate the cost of such amortization among its customers, over such period of time as shall be approved by the Public Utilities Commission.

#### STATEMENT OF FACT

The purpose of this bill is to allow the State to become a "primary enforcer" under the Federal Safe Drinking Water Act. If the State has not begun a program prior to December, 1976, the Federal Government has the authority to directly enforce the requirements of the federal act in this State.

To meet the requirements of the federal, act this bill:

1. Requires the Department of Human Services to promulgate regulations governing the quality of drinking water that are no less stringent than those of the federal regulation, (most of the present State requirements already equal or exceed the proposed federal requirements);
2. Authorize the department to enforce such regulations;
3. Require the water suppliers and the department to keep records and reports;
4. Authorize the department to grant variances and exemptions; and
5. Authorize the department to plan for emergency conditions or situations.

In addition, this bill also reorganizes the statutes presently regulating drinking water into one consistent chapter. Slight changes in terminology are made to conform to consistent definitions, but substantive changes to the present law are not made. No changes are made in the sections relating to fluoridation except renumbering.