

MAINE STATE LEGISLATURE

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SEVENTY-FOURTH LEGISLATURE

SENATE.

No. 79

STATE OF MAINE.

IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND NINE.

AN ACT to Prevent the Pollution of Water Supplies and
their Sources.

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

Section 1. The State board of health shall have the gen-
2 eral oversight and care of all inland waters and all streams
3 and ponds used by any city, town, or public institution or by
4 any water district, or water or ice company in this State as
5 sources of water or ice supply, and of all springs, streams
6 and water courses tributary thereto. It shall provide itself
7 with such maps, plans, and documents as it deems are neces-
8 sary for such purposes, and it shall keep records of all its
9 transactions relative thereto.

Sect. 2. Said board may cause examinations of such
2 waters to be made to ascertain their purity and fitness for
3 domestic use or their liability to impair the interest of the
4 public or of persons lawfully using them, or to imperil the
5 public health. It may make rules and regulations to pre-
6 vent the pollution, and to secure the sanitary protection, of
7 all such waters as are used as sources of water or ice sup-
8 ply within the State.

Sect. 3. The publication of an order, rule or regulation
2 made by said board under the provisions of this chapter in
3 a newspaper of the city or town in which said order, rule or
4 regulation is to take effect, or, if no newspaper is published
5 in such city or town, the posting of a copy of such order,
6 rule or regulation in three public places in such city or town
7 shall be legal notice to all persons, and an affidavit of such
8 publication or posting by the person causing such notice to
9 be published or posted, filed and recorded with a copy of the
10 notice, in the office of the clerk of such city or town shall be
11 admitted as evidence of the time at which, and the place and
12 manner in which the notice was given.

Sect. 4. Said board shall include in its biennial report its
2 doings for the preceding biennial term and shall recommend
3 measures for the prevention of the pollution of such waters
4 and for the removal of polluting substances in order to pro-
5 tect and develop the rights and interests of the State therein
6 and to protect the public health, and recommend any legis-
7 lation or plans for systems of main sewers necessary for the

8 preservation of the public health and for the purification and
9 prevention of pollution of the ponds, streams and inland
10 waters of this State. It shall also give notice to the county
11 attorney of the county in which occurs any violation of law
12 relative to the pollution of water or ice supplies and inland
13 waters.

Sect. 5. Said board may appoint, employ and fix the com-
2 pensation of such agents, clerks, servants, engineers and ex-
3 pert assistants as is considered by said board necessary.
4 Such agents and servants shall cause to be enforced the pro-
5 visions of law relative to the pollution of water and ice sup-
6 ply and of the rules and regulations of said board.

Sect. 6. Said board shall consult with and advise the
2 authorities of cities, towns, persons, corporations and water
3 districts, having or about to have systems of water supply,
4 drainings or sewerage as to the most appropriate source of
5 water supply, and the best method of assuring its purity and
6 as to the best method of disposing of their drainage or sew-
7 age with reference to the existing and future needs of other
8 cities, towns, or persons, which may be affected thereby.
9 Said board shall also consult with and advise persons, firms,
10 or corporations engaged, or intending to engage, in any
11 manufacturing or other business whose drainage or sewage
12 may tend to pollute any inland water, as to the best method
13 of preventing such pollution and it may conduct experi-
14 ments to determine the best methods of the purification or
15 disposal of drainage or sewage. No person, firm, or cor-

16 poration shall be required to bear the expense of such con-
17 sultation, advice, or experiments. Cities, towns, persons,
18 corporations and water districts shall submit to said board,
19 for its advice, their proposed systems of water supply or of
20 the disposal of drainage and sewage, and all petitions to the
21 legislature for authority to introduce a system of water sup-
22 ply, drainage or sewerage shall be accompanied by a copy
23 of the recommendation and advice of said board thereon.
24 In this section the term "drainage" means rainfall, surface
25 and subsoil water, and "sewage" means domestic and man-
26 ufacturing filth and refuse.

Sect. 7. Upon petition to said board by the mayor of a
2 city, the selectmen of a town, the trustees of a water dis-
3 trict, the managing board or managing officer of any public
4 institution, or by a board of water commissioners or the
5 president of a water or ice company, stating that manure,
6 excrement, garbage, sewage or any other matter which
7 pollutes or tends to pollute the waters of any stream, pond,
8 spring or water course used by such city, town, water dis-
9 trict, institution, or company as a source of water or ice
10 supply, the board shall appoint a time and place within the
11 county where the nuisance of pollution is alleged to exist for
12 a hearing, and after notice thereof to persons or corpora-
13 tions interested and a hearing, if, in its judgment, the pub-
14 lic health so requires, shall, by an order served upon the
15 person or corporation alleged to cause or permit such pol-
16 lution, prohibit the deposit, keeping or discharge of any such

17 cause of pollution, and shall order said person or corpora-
18 tion to desist therefrom and to remove any such cause of
19 pollution, but said board shall not prohibit the cultivation or
20 use of the soil in question in the ordinary methods of agri-
21 culture if no human excrement is used thereon. Said board
22 shall not prohibit the use of any structure which was in
23 existence on or before the first day of January in the year
24 1909 upon a complaint made by any city, town, corporation
25 or water district, or water or ice company unless such city,
26 town, corporation, water district or company files with the
27 State board of health a vote of its city council, selectmen,
28 corporation, water district or company, respectively, that
29 such city, town, corporation, water district or company will,
30 at its own expense, make such changes in said structure or
31 its location as said board shall deem expedient. Such vote
32 shall be binding on such city, town, corporation, water dis-
33 trict or company. All damages caused by such changes
34 shall be paid by such city, town, corporation, water district
35 or company. If the parties cannot agree thereon, the dam-
36 ages shall, on petition of either party, filed within one year
37 after such changes are made, be assessed by a jury in the
38 supreme judicial court for the county where such structure
39 is located.

Sect. 8. Whoever is aggrieved by an order passed under
2 the provisions of the preceding section may, within three
3 days after the service of the order upon him, appeal there-

4 from by giving written notice of appeal to the board and file
5 a petition for a trial by jury in the supreme judicial court
6 in the county in which the premises alleged to be affected
7 are located, and, after notice to the board, may have a trial
8 in the same manner as other civil cases are tried by jury.
9 If, by mistake of law or fact or by accident, he fails within
10 said three days to apply as aforesaid, and if it appears to
11 the court that such failure was caused by said mistake or
12 accident, and that he has not, since the service of such order
13 upon him, violated it, he may within thirty days after the
14 service of the order upon him apply for a jury. The ver-
15 dict may either alter, affirm or annul the order, and shall be
16 returned to the court for acceptance; and if accepted, shall
17 have the effect of a valid order of the board, and may also
18 be enforced by the court in equity. Such notice as the court
19 shall order shall be given to the board of water commis-
20 sioners, if any, mayor of the city, or chairman of the select-
21 men of the town or president of the trustees of a corpora-
22 tion or water district or any officer or director of the water
23 or ice company interested in such order. While the appeal
24 is pending the order of the board shall be complied with,
25 unless otherwise authorized by the board.

Sect. 9. The supreme judicial court shall have jurisdic-
2 tion in equity, upon the application of the State board of
3 health or any person or corporation interested, to enforce its
4 orders, or the orders, rules and regulations of said board
5 of health, and to restrain the use or occupation of the prem-

6 ises or such portion thereof as said board may specify, on
7 which such material is deposited or kept, or such other cause
8 of pollution exists, until the orders, rules and regulations of
9 said board have been complied with.

Sect. 10. The agents or servants of said board may enter
2 any building, structure or premises for the purpose of ascer-
3 taining whether sources of pollution or danger to the water
4 supply there exist and whether the rules, regulations and
5 orders aforesaid are being and have been obeyed. Their
6 compensation for services rendered in connection with pro-
7 ceedings under the provisions of section seven shall be fixed
8 by the board, and shall, if approved by the governor and
9 executive council, be paid by the State; but the whole
10 amount so paid shall, at the end of each year ending Decem-
11 ber 31st, be justly and equitably apportioned by the State
12 board of assessors between such cities, towns and companies
13 as during said year have instituted said proceedings, and
14 may be recovered in an action by the State treasurer with
15 interest from date of demand. The members of said board
16 except the secretary shall receive no salaries, but for ser-
17 vices rendered by them in making examinations of suspect-
18 ed waters and for bearing complaints as herein provided, they
19 shall be allowed the sum of five dollars per day and traveling
20 expenses, to be audited, paid and apportioned and recovered
21 as herein provided in case of the agents and servants of said
22 board.

Sect. 11. Whoever violates any rule, regulation or order
2 made under the provisions of this chapter shall be punished
3 for each offense by a fine of not more than \$500 to the use
4 of the State, or by imprisonment for not more than one
5 year, or by both such fine and imprisonment.

Sect. 12. No sewage, drainage, refuse or polluting mat-
2 ter of such kind and amount as, either by itself or in con-
3 nection with other matter, will corrupt or impair the quality
4 of the water of any pond or stream used as a source of water
5 or ice supply by a city, town, corporation, water district,
6 public institution or water or ice company, or persons for
7 domestic use, or render it injurious to health, shall be dis-
8 charged into any such stream or pond or feeders of such
9 stream or pond or upon their banks.

Sect. 13. The supreme judicial court upon application of
2 the mayor of a city, the selectmen of a town, the trustees of
3 a corporation or of a water district, or the managing board
4 or managing officer of a public institution, or a water or ice
5 company interested, or any local board of health, or the
6 State board of health, shall have jurisdiction in equity to
7 enjoin the violation of the provisions of section twelve of
8 this act.

Sect. 14. Whoever wilfully and maliciously defiles or
2 corrupts any spring or other source of water, or reservoir,
3 or destroys or injures any pipe, conductor of water or other
4 property pertaining to an aqueduct or aids or abets in any
5 such trespass, shall be punished by a fine of not more than

6 one thousand dollars or by imprisonment for not more than
7 one year.

Sect. 15. Whoever wilfully deposits excrement or foul or
2 decaying matter in water which is used for the purpose of
3 domestic water or ice supply, or upon the shore thereof
4 within five rods of the water shall be punished by a fine of
5 not more than fifty dollars or by imprisonment for not more
6 than thirty days; and a police officer or constable of a city
7 or town in which such water is wholly or partly situated,
8 acting within the limits of his city or town and any execu-
9 tive officer or agent of a water board, water district, board
10 of water commissioners, public institution, or water or ice
11 company furnishing water or ice for domestic purposes
12 acting upon the premises of such board, water district, insti-
13 tution or company and not more than five rods from the
14 water, may without a warrant arrest any person found in
15 the act of violating the provisions of this section, and detain
16 him until a complaint can be made against him therefor.
17 But the provisions of this section shall not interfere with
18 the sewage of a city, town, or public institution or prevent
19 the enriching of land for agricultural purposes by the owner
20 or occupant thereof.

Sect. 16. The sum of four thousand dollars shall annual-
2 ly be appropriated to enable the State board of health to
3 carry out the provisions of this act.



STATE OF MAINE.

IN SENATE,

January 28, 1909.

Reported by Mr. BAXTER from the Committee on Judiciary
and ordered printed and recommitted.

F. G. FARRINGTON, *Secretary*.