

No. 222

AN ACT

HB 797

Amending the act of June 22, 1937 (P.L.1987, No.394), entitled, as amended, "An act to preserve and improve the purity of the waters of the Commonwealth for the protection of public health, animal and aquatic life, and for industrial consumption, and recreation; empowering and directing the creation of indebtedness or the issuing of non-debt revenue bonds by political subdivisions to provide works to abate pollution; providing protection of water supply; providing for the jurisdiction of courts in the enforcement thereof; providing additional remedies for abating pollution of waters; imposing certain penalties; repealing certain acts; regulating discharges of sewage and industrial wastes; regulating the operation of mines; and placing responsibilities upon landowners and land occupiers," changing provisions relating to penalties.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Sections 602 and 605, act of June 22, 1937 (P.L.1987, No.394), known as "The Clean Streams Law," amended July 31, 1970 (P.L.653, No.222), are amended to read:

Section 602. Penalties.—(a) Any person or municipality who violates any provision of this act, **[or] any rule or regulation [or] of the department, any order of [the board or any order of] the department, or any condition of any permit** issued pursuant to this act is guilty of a summary offense and, upon conviction, **such person or municipality** shall be subject to a fine of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each separate offense, and, in default of the payment of such fine, **[the] a person[, or if such person be a partnership, then the members thereof, or if such person be a corporation or association, then the officers, members, agents, servants or employes thereof,]** shall be imprisoned **[in the county jail]** for a period of sixty days.

(b) **Any person or municipality who wilfully or negligently violates any provision of this act, any rule or regulation of the department, any order of the department, or any condition of any permit issued pursuant to the act is guilty of a misdemeanor of the third degree and, upon conviction, shall be subject to a fine of not less than two thousand five hundred dollars (\$2,500) nor more than twenty-five thousand dollars (\$25,000) for each separate offense or to imprisonment in the county jail for a period of not more than one year, or both.**

(c) Any person or municipality who, after a conviction **[in a summary proceeding] of a misdemeanor for any violation** within two years as above provided, **wilfully or negligently** violates any provision of this act, **[or] any rule or regulation [or] of the department, any order of [the board or any order of] the department, or any condition of any permit** issued pursuant to this act is guilty of a misdemeanor **of the second degree** and, upon conviction, shall be subject to a fine of not less than **[one hundred dollars**

(\$100) two thousand five hundred dollars (\$2,500) nor more than [five thousand dollars (\$5,000)] fifty thousand dollars (\$50,000) for each separate offense or to imprisonment [in the county jail] for a period of not more than [one year] two years, or both. [In the case of a partnership the members thereof, and in the case of a corporation or an association the officers, members, agents, servants or employes thereof, may be subject to any such sentence of imprisonment.]

[(c)] (d) Each day of continued violation of any provision of this act, **[or] any rule or regulation [or] of the department, any order of [the board or any order of] the department, or any condition of any permit** issued pursuant to this act shall constitute a separate offense **[under subsections (a) and (b) of this section].**

(e) The maximum fines specified under this section are established pursuant to requirements set forth by the United States Environmental Protection Agency in accordance with the "Federal Water Pollution Control Act" (33 U.S.C. § 1251 et seq.).

Section 605. Civil Penalties.—In addition to proceeding under any other remedy available at law or in equity for a violation of a provision of this act, **[or a] rule, [or] regulation, [of the board or an] order of the department, or a condition of any permit issued pursuant to this act, the [board] department,** after hearing, may assess a civil penalty upon a person or municipality for such violation. Such a penalty may be assessed whether or not the violation was wilful. The civil penalty so assessed shall not exceed ten thousand dollars (\$10,000) **[plus five hundred dollars (\$500) for each day of continued violation] per day for each violation.** In determining the amount of the civil penalty the **[board] department** shall consider the wilfulness of the violation, damage or injury to the waters of the Commonwealth or their uses, cost of restoration, and other relevant factors. It shall be payable to the Commonwealth of Pennsylvania and shall be collectible in any manner provided at law for the collection of debts. If any person liable to pay any such penalty neglects or refuses to pay the same after demand, the amount, together with interest and any costs that may accrue, shall be a lien in favor of the Commonwealth upon the property, both real and personal, of such person but only after same has been entered and docketed of record by the prothonotary of the county where such is situated. The **[board] department** may, at any time, transmit to the prothonotaries of the respective counties certified copies of all such liens, and it shall be the duty of each prothonotary to enter and docket the same of record in his office, and to index the same as judgments are indexed, without requiring the payment of costs as a condition precedent to the entry thereof.

APPROVED—The 7th day of October, A. D. 1976.

MILTON J. SHAPP