

No. 439, S.]

[Published August 6, 1949.

CHAPTER 603.

AN ACT to amend 29.29 (3), 144.53 (5), 144.56 (introductory paragraph) and (1) and 144.57; to repeal and recreate 20.505, 144.51 and 144.52 (2), and to create 20.506, 144.535, 144.536, and 144.537 of the statutes, relating to deleterious substances, water pollution, powers of the water pollution committee, providing a penalty and making an appropriation.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 20.505 of the statutes is repealed and recreated to read:

20.505 WATER POLLUTION PREVENTION. There is appropriated from the general fund on July 1, 1949, \$50,000, and annually beginning July 1, 1950, \$75,000, to the committee on water pollution for the execution of its functions under sections 144.51 to 144.57. Of these appropriations there is allotted for the following purposes:

	1949-1950	1950-1951
Personal services	\$31,980	\$52,560
Materials and expense.....	15,520	19,440
Capital outlay	2,500	3,000

SECTION 1a. 20.506 of the statutes is created to read:

20.506 TRANSFER FROM CONSERVATION FUND TO GENERAL FUND FOR WATER POLLUTION COMMITTEE. There is appropriated from the conservation fund to the general fund on July 1, 1949, \$25,000, and annually, beginning July 1, 1950, \$37,500, as the conservation fund's share of the cost of carrying out the functions of the committee on water pollution under sections 144.51 to 144.57, for which appropriation is made in section 20.505.

SECTION 2. 29.29 (3) of the statutes is amended to read:

29.29 (3) No person shall cast, deposit, or throw overboard from any boat, vessel or other craft into any waters within the jurisdiction of the state, or deposit or leave upon the ice thereof until it melts, any fish offal; or throw or deposit, or permit to be thrown or deposited, into any waters within the jurisdiction of the state any lime, tan-bark, ship ballast, stone, sand, slabs, decayed wood, sawdust, sawmill refuse, planing mill shavings, or any acids or chemicals or waste or refuse arising from the manufacture of any article of commerce, or any other substance deleterious to fish life other than authorized drainage and sewage from municipalities *and industrial or other wastes discharged from mines, or commercial, or industrial, or ore processing plants, or operations, through treatment and disposal facilities installed and operated in accordance with plans submitted to and approved by the committee on water pollution under chapter 144, or in compliance with orders of that committee. Any such order shall be subject to modification by subsequent orders.*

SECTION 3. 144.51 of the statutes is repealed and recreated to read:

144.51 WATER POLLUTION, DEFINITIONS. As used in sections 144.51 to 144.57, unless the context otherwise requires, the following terms mean:

- (1) "Surface waters" include all lakes, rivers and water courses within the state.
- (2) "Industrial wastes" include liquid or other wastes resulting from any process of industry, manufacture, trade or business or the development of any natural resource.
- (3) "Other wastes" include all other substances, except industrial wastes and sewage, as this latter term is defined in section 144.01, which pollute any of the surface waters of the state.

(4) "Pollution" includes contaminating or rendering unclean or impure the waters of the state, or making the same injurious to public health, harmful for commercial or recreational use, or deleterious to fish, bird, animal or plant life.

SECTION 4. 144.52 (2) of the statutes is repealed and recreated to read:

144.52 (2) DIRECTOR. The state board of health shall, subject to the approval of the committee and pursuant to chapter 16, employ a full-time director of the committee on water pollution whose salary shall be fixed by the committee and shall not exceed \$8,000 per year. Such director shall be a person having special training and skill in matters relating to water pollution, and shall have administrative ability. The administrative and executive powers and duties of the committee shall be vested in the director, subject to the direction of the committee, its orders and rules and regulations which it may adopt.

SECTION 5. 144.53 (5) of the statutes is amended to read:

144.53 (5) To issue special orders directing particular owners to secure such operating results toward the control of pollution of the surface waters as the committee may prescribe, within a specified time. *Pending efforts to comply with any order, the committee may permit continuance of operations on such conditions as it may prescribe.* If such results are not secured in the specified time, the committee may direct the owner to take certain steps, or to use or adopt designated systems, devices and methods for handling industrial wastes, refuse and other wastes within a specified time. *Any such orders may be modified by subsequent orders. The committee shall have the same power and authority as has been conferred upon the state board of health by section 144.04 with reference to ordering and approving plans. Any presently outstanding orders of the committee with reference to submission of plans are hereby validated unless the same be vacated or set aside or modified in proceedings for review commenced not later than 60 days after the effective date (1949) of this amendment.*

SECTION 6. 144.535 of the statutes is created to read:

144.535 JURISDICTION. In any case where a problem of continuing pollution is involved coming within the jurisdiction of the committee on water pollution or the state board of health or both, and either or both of such agencies have assumed jurisdiction, such jurisdiction shall be exclusive notwithstanding the provisions of any statutes other than sections 144.01 to 144.57.

SECTION 7. 144.536 of the statutes is created to read:

144.536 ENFORCEMENT OF ORDERS; DUTY OF ATTORNEY-GENERAL; EXPENSES. All orders of the committee shall be enforced by the attorney-general. The circuit court of Dane county or any other county where violation of such an order has occurred in whole or in part shall have jurisdiction to enforce the order by injunctive and other relief appropriate to the enforcement of the order. For purposes of such proceeding where the order prohibits in whole or in part any pollution, a violation thereof shall be deemed a public nuisance. The expenses incurred by the attorney-general and his staff in assisting with the administration of chapter 144 shall be charged to the appropriation made by section 20.505.

SECTION 8. 144.537 of the statutes is created to read:

144.537 HEARINGS; PROCEDURE, REVIEW. In addition to all other powers and duties of the committee on water pollution, it shall have the power and it shall be its duty to hold a public hearing relating to alleged water pollution upon the verified complaint of 6 or more citizens filed with the committee. The complaint shall state the name and address of a person within the state authorized to receive service of answer and other papers in behalf of complainants. The committee shall serve a copy of the complaint and notice of the hearing upon the alleged polluter either personally or by registered mail directed to his last known post office address at least 20 days prior to the time set for the hearing which shall be held not later than 90 days from the filing of the complaint. The respondent shall file his verified answer to the complaint with the committee and serve a copy on the person so designated by the complaints by not later than 5 days prior to the date set for the hearing, unless the time for answering is extended by the committee for cause shown. For purposes of any hearing under this chapter, the director or any member of the committee may issue subpoenas and administer oaths. Within 90 days after the closing of the hearing, the committee shall make and file its findings of fact, conclusions of law and order, which shall be subject to review in the manner provided in chapter 227 or section 144.56. If the committee determines that any complaint has been filed maliciously or in bad faith it shall so find, and the person complained against shall be entitled to recover his expenses on the hearing in a civil action.

SECTION 9. 144.56 (introductory paragraph) and (1) of the statutes are amended to read:

144.56 (introductory paragraph) Any owner or other person in interest may secure a review of the necessity for and reasonableness of any * * * order of the committee on water pollution in the following manner: (1) They shall first file with the committee a verified petition setting forth specifically the modification or change desired in such order. *Such petition must be filed within 60 days of the issuance of the orders sought to be reviewed.* Upon receipt of such a petition the committee shall order a public hearing thereon and make such further investigations as it shall deem advisable. * * * *Pending such review and hearing, the committee may suspend such orders under terms and conditions to be fixed by the committee on application of any such petitioner.* The committee shall affirm, repeal or change the order in question *within 60 days after the close of the hearing on the petition.*

SECTION 10. 144.57 of the statutes is amended to read:

144.57 Any person who shall violate any of the provisions of sections 144.51 to 144.57, or who shall fail, neglect or refuse to obey any general or special order of the committee on water pollution lawfully issued pursuant to section 144.53, or any joint order of the state board of health and committee on water pollution issued pursuant to section 144.565, shall forfeit and pay into the state treasury a sum of not less than \$10 nor more than \$100, *except that in the case of a wilful violation the maximum shall be \$250,* for each violation, failure or refusal. Each day of continued violation shall be deemed a separate offense. *While said order shall be suspended or stayed or enjoined, such penalty shall not accrue.*

Approved August 3, 1949.
