

ASSEMBLY, No. 2191

STATE OF NEW JERSEY

INTRODUCED JUNE 20, 1996

By Assemblywoman FARRAGHER and
Assemblyman ROONEY

1 AN ACT prohibiting the connection of certain devices to sanitary
2 sewer systems and amending P.L.1977, c.74.

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4 BE IT ENACTED by the Senate and General Assembly of the State
5 of New Jersey:

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7 1. Section 6 of P.L.1977, c.74 (C.58:10A-6) is amended to read as
8 follows:

9 a. It shall be unlawful for any person to discharge any pollutant,
10 except as provided pursuant to subsections d. and p. of this section, or
11 when the discharge conforms with a valid New Jersey Pollutant
12 Discharge Elimination System permit that has been issued by the
13 commissioner pursuant to P.L.1977, c.74 (C.58:10A-1 et seq.) or a
14 valid National Pollutant Discharge Elimination System permit issued
15 by the administrator pursuant to the Federal Act, as the case may be.

16 b. It shall be unlawful for any person to build, install, modify or
17 operate any facility for the collection, treatment or discharge of any
18 pollutant, except after approval by the department pursuant to
19 regulations adopted by the commissioner.

20 c. The commissioner is hereby authorized to grant, deny, modify,
21 suspend, revoke, and reissue NJPDES permits in accordance with
22 P.L.1977, c.74, and with regulations to be adopted by him. The
23 commissioner may reissue, with or without modifications, an NPDES
24 permit duly issued by the federal government as the NJPDES permit
25 required by P.L.1977, c.74 .

26 d. The commissioner may, by regulation, exempt the following
27 categories of discharge, in whole or in part, from the requirement of
28 obtaining a permit under P.L.1977, c.74; provided, however, that an
29 exemption afforded under this section shall not limit the civil or
30 criminal liability of any discharger nor exempt any discharger from
31 approval or permit requirements under any other provision of law:

32 (1) Additions of sewage, industrial wastes or other materials into
33 a publicly owned sewage treatment works which is regulated by

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 pretreatment standards;

2 (2) Discharges of any pollutant from a marine vessel or other
3 discharges incidental to the normal operation of marine vessels;

4 (3) Discharges from septic tanks, or other individual waste disposal
5 systems, sanitary landfills, and other means of land disposal of wastes;

6 (4) Discharges of dredged or fill materials into waters for which
7 the State could not be authorized to administer the section 404
8 program under section 404(g) of the "Federal Water Pollution Control
9 Act Amendments of 1972," as amended by the "Clean Water Act of
10 1977" (33 U.S.C. §1344) and implementing regulations;

11 (5) Nonpoint source discharges;

12 (6) Uncontrolled nonpoint source discharges composed entirely of
13 storm water runoff when these discharges are uncontaminated by any
14 industrial or commercial activity unless these particular storm water
15 runoff discharges have been identified by the administrator or the
16 department as a significant contributor of pollution;

17 (7) Discharges conforming to a national contingency plan for
18 removal of oil and hazardous substances, published pursuant to section
19 311(c)(2) of the Federal Act.

20 e. The commissioner shall not issue any permit for:

21 (1) The discharge of any radiological, chemical or biological
22 warfare agent or high-level radioactive waste into the waters of this
23 State;

24 (2) Any discharge which the United States Secretary of the Army,
25 acting through the Chief of Engineers, finds would substantially impair
26 anchorage or navigation;

27 (3) Any discharge to which the administrator has objected in
28 writing pursuant to the Federal Act;

29 (4) Any discharge which conflicts with an areawide plan adopted
30 pursuant to law.

31 f. A permit issued by the department or a delegated local agency
32 pursuant to P.L.1977, c.74 shall require the permittee:

33 (1) To achieve effluent limitations based upon guidelines or
34 standards established pursuant to the Federal Act or to P.L.1977, c.74,
35 together with such further discharge restrictions and safeguards
36 against unauthorized discharge as may be necessary to meet water
37 quality standards, areawide plans adopted pursuant to law, or other
38 legally applicable requirements;

39 (2) Where appropriate, to meet schedules for compliance with the
40 terms of the permit and interim deadlines for progress or reports of
41 progress towards compliance;

42 (3) To insure that all discharges are consistent at all times with the
43 terms and conditions of the permit and that no pollutant will be
44 discharged more frequently than authorized or at a level in excess of
45 that which is authorized by the permit;

46 (4) To submit application for a new permit in the event of any

1 contemplated facility expansion or process modification that would
2 result in new or increased discharges or, if these would not violate
3 effluent limitations or other restrictions specified in the permit, to
4 notify the commissioner, or delegated local agency, of such new or
5 increased discharges;

6 (5) To install, use and maintain such monitoring equipment and
7 methods, to sample in accordance with such methods, to maintain and
8 retain such records of information from monitoring activities, and to
9 submit to the commissioner, or to the delegated local agency, reports
10 of monitoring results for surface waters, as may be stipulated in the
11 permit, or required by the commissioner or delegated local agency
12 pursuant to paragraph (9) of this subsection, or as the commissioner
13 or the delegated local agency may prescribe for ground water.
14 Significant indirect users, major industrial dischargers, and local
15 agencies, other than those discharging only stormwater or noncontact
16 cooling water, shall, however, report their monitoring results for
17 discharges to surface waters monthly to the commissioner, or the
18 delegated local agency. Discharge monitoring reports for discharges
19 to surface waters shall be signed by the highest ranking official having
20 day-to-day managerial and operational responsibilities for the
21 discharging facility, who may, in his absence, authorize another
22 responsible high ranking official to sign a monthly monitoring report
23 if a report is required to be filed during that period of time. The
24 highest ranking official shall, however, be liable in all instances for the
25 accuracy of all the information provided in the monitoring report;
26 provided, however, that the highest ranking official may file, within
27 seven days of his return, amendments to the monitoring report to
28 which he was not a signatory. The highest ranking official having
29 day-to-day managerial and operational responsibilities for the
30 discharging facility of a local agency shall be the highest ranking
31 licensed operator of the municipal treatment works in those instances
32 where a licensed operator is required by law to operate the facility. In
33 those instances where a local agency has contracted with another
34 entity to operate a municipal treatment works, the highest ranking
35 official who signs the discharge monitoring report shall be an
36 employee of the contract operator and not of the local agency.
37 Notwithstanding that an employee of a contract operator is the official
38 who signs the discharge monitoring report, the local agency, as the
39 permittee, shall remain liable for compliance with all permit conditions.
40 In those instances where the highest ranking official having day-to-day
41 managerial and operational responsibilities for a discharging facility of
42 a local agency does not have the responsibility to authorize capital
43 expenditures and hire personnel, a person having that responsibility,
44 or a person designated by that person, shall submit to the department,
45 along with the discharge monitoring report, a certification that that
46 person has received and reviewed the discharge monitoring report. The

1 person submitting the certification to the department shall not be liable
2 for the accuracy of the information on the discharge monitoring report
3 due to the submittal of the certification. Whenever a local agency has
4 contracted with another entity to operate the municipal treatment
5 works, the person submitting the certification shall be an employee of
6 the permittee and not of the contract operator. The filing of
7 amendments to a monitoring report in accordance with this paragraph
8 shall not be considered a late filing of a report for purposes of
9 subsection d. of section 6 of P.L.1990, c.28 (C.58:10A-10.1), or for
10 purposes of determining a significant noncomplier;

11 (6) At all times, to maintain in good working order and operate as
12 effectively as possible, any facilities or systems of control installed to
13 achieve compliance with the terms and conditions of the permit;

14 (7) To limit concentrations of heavy metal, pesticides, organic
15 chemicals and other contaminants in the sludge in conformance with
16 the land-based sludge management criteria established by the
17 department in the Statewide Sludge Management Plan adopted
18 pursuant to the "Solid Waste Management Act," P.L.1970, c.39
19 (C.13:1E-1 et seq.) or established pursuant to the Federal Water
20 Pollution Control Act Amendments of 1972 (33 U.S.C. §1251 et seq.),
21 or any regulations adopted pursuant thereto;

22 (8) To report to the department or delegated local agency, as
23 appropriate, any exceedance of an effluent limitation that causes injury
24 to persons, or damage to the environment, or poses a threat to human
25 health or the environment, within two hours of its occurrence, or of
26 the permittee becoming aware of the occurrence. Within 24 hours
27 thereof, or of an exceedance, or of becoming aware of an exceedance,
28 of an effluent limitation for a toxic pollutant, a permittee shall provide
29 the department or delegated local agency with such additional
30 information on the discharge as may be required by the department or
31 delegated local agency, including an estimate of the danger posed by
32 the discharge to the environment, whether the discharge is continuing,
33 and the measures taken, or being taken, to remediate the problem and
34 any damage to the environment, and to avoid a repetition of the
35 problem;

36 (9) Notwithstanding the reporting requirements stipulated in a
37 permit for discharges to surface waters, a permittee shall be required
38 to file monthly reports with the commissioner or delegated local
39 agency if the permittee:

40 (a) in any month commits a serious violation or fails to submit a
41 completed discharge monitoring report and does not contest, or
42 unsuccessfully contests, the assessment of a civil administrative
43 penalty therefor; or

44 (b) exceeds an effluent limitation for the same pollutant at the same
45 discharge point source by any amount for four out of six consecutive
46 months.

1 The commissioner or delegated local agency may restore the
2 reporting requirements stipulated in the permit if the permittee has not
3 committed any of the violations identified in this paragraph for six
4 consecutive months;

5 (10) To report to the department or delegated local agency, as
6 appropriate, any serious violation within 30 days of the violation,
7 together with a statement indicating that the permittee understands the
8 civil administrative penalties required to be assessed for serious
9 violations, and explaining the nature of the serious violation and the
10 measures taken to remedy the cause or prevent a recurrence of the
11 serious violation.

12 g. The commissioner and a local agency shall have a right of entry
13 to all premises in which a discharge source is or might be located or
14 in which monitoring equipment or records required by a permit are
15 kept, for purposes of inspection, sampling, copying or photographing.

16 h. In addition, any permit issued for a discharge from a municipal
17 treatment works shall require the permittee:

18 (1) To notify the commissioner or local agency in advance of the
19 quality and quantity of all new introductions of pollutants into a
20 facility and of any substantial change in the pollutants introduced into
21 a facility by an existing user of the facility, except for such
22 introductions of nonindustrial pollutants as the commissioner or local
23 agency may exempt from this notification requirement when ample
24 capacity remains in the facility to accommodate new inflows. The
25 notification shall estimate the effects of the changes on the effluents to
26 be discharged into the facility.

27 (2) To establish an effective regulatory program, alone or in
28 conjunction with the operators of sewage collection systems, that will
29 assure compliance and monitor progress toward compliance by
30 industrial users of the facilities with user charge and cost recovery
31 requirements of the Federal Act or State law and toxicity standards
32 adopted pursuant to P.L.1977, c.74 and pretreatment standards.

33 (3) As actual flows to the facility approach design flow or design
34 loading limits, to submit to the commissioner or local agency for
35 approval, a program which the permittee and the persons responsible
36 for building and maintaining the contributory collection system shall
37 pursue in order to prevent overload of the facilities.

38 i. (1) All local agencies shall prescribe terms and conditions,
39 consistent with applicable State and federal law, or requirements
40 adopted pursuant thereto by the department, upon which pollutants
41 may be introduced into treatment works, and shall have the authority
42 to exercise the same right of entry, inspection, sampling, and copying,
43 and to impose the same remedies, fines and penalties, and to recover
44 costs and compensatory damages as authorized pursuant to subsection
45 a. of section 10 of P.L.1977, c.74 (C.58:10A-10) and section 6 of
46 P.L.1990, c.28 (C.58:10A-10.1), with respect to users of such works,

1 as are vested in the commissioner by P.L.1977, c.74, or by any other
2 provision of State law, except that a local agency, except as provided
3 in P.L.1991, c.8 (C.58:10A-10.4 et seq.), may not impose civil
4 administrative penalties, and shall petition the county prosecutor or the
5 Attorney General for a criminal prosecution under that section. Terms
6 and conditions shall include limits for heavy metals, pesticides, organic
7 chemicals and other contaminants in industrial wastewater discharges
8 based upon the attainment of land-based sludge management criteria
9 established by the department in the Statewide Sludge Management
10 Plan adopted pursuant to the "Solid Waste Management Act,"
11 P.L.1970, c.39 (C.13:1E-1 et seq.) or established pursuant to the
12 Federal Water Pollution Control Act Amendments of 1972 (33
13 U.S.C. §1251 et seq.), or any regulations adopted thereto.

14 (2) Of the amount of any penalty assessed and collected pursuant
15 to an action brought by a local agency in accordance with section 10
16 of P.L.1977, c.74 or section 6 of P.L.1990, c.28 (C.58:10A-10.1),
17 10% shall be deposited in the "Wastewater Treatment Operators'
18 Training Account," established in accordance with section 13 of
19 P.L.1990, c.28 (C.58:10A-14.5), and used to finance the cost of
20 training operators of municipal treatment works. The remainder shall
21 be used by the local agency solely for enforcement purposes, and for
22 upgrading municipal treatment works.

23 (3) Any local agency, public utility, and other person who owns a
24 treatment works shall adopt a rule, regulation, ordinance, resolution,
25 or other appropriate instrument prohibiting the connection of sump
26 pumps, cellar drains, roof leaders, or area drains to its sanitary sewer
27 system. The local agency, public utility, and any other person who
28 owns a treatment works shall have the right of entry, during normal
29 business hours and upon presentment of proper credentials, to all
30 premises that have a connection to the treatment works in order to
31 enforce the provisions of this paragraph. A person who has been
32 found to have a connection to a sanitary sewer system in violation of
33 this paragraph, and who does not disconnect that connection within
34 a reasonable time when ordered to do so by the local agency, public
35 utility, or treatment works owner, as appropriate, shall be subject to
36 a civil penalty of not more than \$500. The penalty may be imposed by
37 the local agency, public utility, or treatment works owner by the
38 issuance of a summons. The summons shall be enforceable, in
39 accordance with the "penalty enforcement law," N.J.S.2A:58-1 et seq.,
40 in the municipal court of the territorial jurisdiction in which the
41 violation occurred. Proceedings before, and appeals from a decision
42 of, a municipal court shall be in accordance with the Rules Governing
43 the Courts of the State of New Jersey. The provisions of this
44 paragraph shall not be construed to limit the regulation or enforcement
45 powers of any entity concerning the discharge of pollutants into the
46 waters of the State. The provisions of this paragraph shall be in

1 addition to any other power afforded by law to a local agency, public
2 utility, or treatment works owner.

3 j. In reviewing permits submitted in compliance with P.L.1977,
4 c.74 and in determining conditions under which such permits may be
5 approved, the commissioner shall encourage the development of
6 comprehensive regional sewerage planning or facilities, which serve
7 the needs of the regional community, conform to the adopted
8 area-wide water quality management plan for that region, and protect
9 the needs of the regional community for water quality, aquifer storage,
10 aquifer recharge, and dry weather based stream flows.

11 k. No permit may be issued, renewed, or modified by the
12 department or a delegated local agency so as to relax any water quality
13 standard or effluent limitation until the applicant, or permit holder, as
14 the case may be, has paid all fees, penalties or fines due and owing
15 pursuant to P.L.1977, c.74, or has entered into an agreement with the
16 department establishing a payment schedule therefor; except that if a
17 penalty or fine is contested, the applicant or permit holder shall satisfy
18 the provisions of this section by posting financial security as required
19 pursuant to paragraph (5) of subsection d. of section 10 of P.L.1977,
20 c.74 (C.58:10A-10). The provisions of this subsection with respect to
21 penalties or fines shall not apply to a local agency contesting a penalty
22 or fine.

23 1. Each permitted facility or municipal treatment works, other than
24 one discharging only stormwater or non-contact cooling water, shall
25 be inspected by the department at least once a year; except that each
26 permitted facility discharging into the municipal treatment works of a
27 delegated local agency, other than a facility discharging only
28 stormwater or non-contact cooling water, shall be inspected by the
29 delegated local agency at least once a year. Except as hereinafter
30 provided, an inspection required under this subsection shall be
31 conducted within six months following a permittee's submission of an
32 application for a permit, permit renewal, or, in the case of a new
33 facility or municipal treatment works, issuance of a permit therefor,
34 except that if for any reason, a scheduled inspection cannot be made
35 the inspection shall be rescheduled to be performed within 30 days of
36 the originally scheduled inspection or, in the case of a temporary
37 shutdown, of resumed operation. Exemption of stormwater facilities
38 from the provisions of this subsection shall not apply to any permitted
39 facility or municipal treatment works discharging or receiving
40 stormwater runoff having come into contact with a hazardous
41 discharge site on the federal National Priorities List adopted by the
42 United States Environmental Protection Agency pursuant to the
43 "Comprehensive Environmental Response, Compensation, and
44 Liability Act of 1980," Pub.L.96-510 (42 [U.S.C.A.] U.S.C. §9601 et
45 seq.), or any other hazardous discharge site included by the
46 department on the master list for hazardous discharge site cleanups

1 adopted pursuant to section 2 of P.L.1982, c.202 (C.58:10-23.16).

2 Inspections shall include:

3 (1) A representative sampling of the effluent for each permitted
4 facility or municipal treatment works, except that in the case of
5 facilities or works that are not major facilities or significant indirect
6 users, sampling pursuant to this paragraph shall be conducted at least
7 once every three years;

8 (2) An analysis of all collected samples by a State owned and
9 operated laboratory, or a certified laboratory other than one that has
10 been or is being used by the permittee, or that is directly or indirectly
11 owned, operated or managed by the permittee;

12 (3) An evaluation of the maintenance record of the permittee's
13 treatment equipment;

14 (4) An evaluation of the permittee's sampling techniques;

15 (5) A random check of written summaries of test results, prepared
16 by the certified laboratory providing the test results, for the
17 immediately preceding 12-month period, signed by a responsible
18 official of the certified laboratory, certifying the accuracy of the test
19 results; and

20 (6) An inspection of the permittee's sample storage facilities and
21 techniques if the sampling is normally performed by the permittee.

22 The department may inspect a facility required to be inspected by
23 a delegated local agency pursuant to this subsection. Nothing in this
24 subsection shall require the department to conduct more than one
25 inspection per year.

26 m. The facility or municipal treatment works of a permittee
27 identified as a significant noncomplier shall be subject to an inspection
28 by the department, or the delegated local agency, as the case may be,
29 which inspection shall be in addition to the requirements of subsection
30 l. of this section. The inspection shall be conducted within 60 days of
31 receipt of the discharge monitoring report that initially results in the
32 permittee being identified as a significant noncomplier. The inspection
33 shall include a random check of written summaries of test results,
34 prepared by the certified laboratory providing the test results, for the
35 immediately preceding 12-month period, signed by a responsible
36 official of the certified laboratory, certifying the accuracy of the test
37 results. A copy of each summary shall be maintained by the permittee.

38 The inspection shall be for the purpose of determining compliance.
39 The department or delegated local agency is required to conduct only
40 one inspection per year pursuant to this subsection, and is not required
41 to make an inspection hereunder if an inspection has been made
42 pursuant to subsection l. of this section within six months of the period
43 within which an inspection is required to be conducted under this
44 subsection.

45 n. To assist the commissioner in assessing a municipal treatment
46 works' NJPDES permit in accordance with paragraph (3) of subsection

1 b. of section 7 of P.L.1977, c.74 (C.58:10A-7), a delegated local
2 agency shall perform a complete analysis that includes a complete
3 priority pollutant analysis of the discharge from, and inflow to, the
4 municipal treatment works. The analysis shall be performed by a
5 delegated local agency as often as the priority pollutant scan is
6 required under the permit, but not less than once a year, and shall be
7 based upon data acquired in the priority pollutant scan and from
8 applicable sludge quality analysis reports. The results of the analysis
9 shall be included in a report to be attached to the annual report
10 required to be submitted to the commissioner by the delegated local
11 agency.

12 o. Except as otherwise provided in section 3 of P.L.1963, c.73
13 (C.47:1A-3), any records, reports or other information obtained by the
14 commissioner or a local agency pursuant to this section or section 5
15 of P.L.1972, c.42 (C.58:11-53), including any correspondence relating
16 thereto, shall be available to the public; however, upon a showing
17 satisfactory to the commissioner by any person that the making public
18 of any record, report or information, or a part thereof, other than
19 effluent data, would divulge methods or processes entitled to
20 protection as trade secrets, the commissioner or local agency shall
21 consider such record, report, or information, or part thereof, to be
22 confidential, and access thereto shall be limited to authorized officers
23 or employees of the department, the local agency, and the federal
24 government.

25 p. The provisions of this section shall not apply to a discharge of
26 petroleum to the surface waters of the State that occurs as a result of
27 the process of recovering, containing, cleaning up or removing a
28 discharge of petroleum in the surface waters of the State and that is
29 undertaken in compliance with the instructions of a federal on-scene
30 coordinator or of the commissioner or the commissioner's designee.
31 (cf: P.L.1995,c.16,s.3)

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33 2. This act shall take effect immediately.

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STATEMENT

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This bill would prohibit a person from connecting a sump pump, cellar drain, roof leader, or area drain to a sanitary sewer system. Each entity owning a sanitary sewer system would be required to adopt measures prohibiting such connections and would be empowered to enter upon property to find a violation and to issue a summons for up to \$500.00 to a violator of the prohibition. A monetary penalty would only be imposed, however, if a person has been ordered to disconnect an illegal device but failed to do so in a reasonable time. The regulatory and enforcement powers granted in

1 this bill are in addition to any other powers a system owner currently
2 has.

3 This bill is necessary because thousands of illegal sump pump and
4 similar connections exist. These connections are made as a means to
5 discharge basement water, often the result of a high water table. The
6 proper discharge method for this water should be to a stormwater
7 system or to the outside of a building. Vast amounts of water can be
8 discharged into a sanitary sewer system due to these connections.
9 These connections can result in, not only the unnecessary treatment of
10 clean water, but the possible upset or overload of a system which
11 could cause raw and inadequately treated sewage being discharged
12 into the State's waters.

13 An average sump pump discharges approximately 10 gallons per
14 minute, or 14,400 gallons per day. If an average home discharges 300
15 gallons per day, one sump pump can equal the flow of 48 homes.
16 Therefore, each sump pump connected to a sanitary sewer system
17 takes away the capacity that could otherwise be provided to 48 homes.
18 A typical 8" sewer line can serve approximately 500 homes.
19 Therefore, it would take only 10 homes out of the 500 in a
20 development to double the capacity needed in a sewer line. A few
21 sump pumps can thus easily overwhelm a sanitary sewer system.

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26 Prohibits sump pumps and similar devices from being connected to
27 sanitary sewer systems.