

ARTICLE V.

POTABLE WATERS.

SECTION 70. Rules and regulations of state board.

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§ 70. Rules and regulations of state board.— The state board of health may make rules and regulations for the protection from contamination of any or all public supplies of potable waters and their sources within the state. If any such rule or regulation relates to a temporary source or act of contamination, any person violating such rule or regulation shall be liable to prosecution for misdemeanor for every such violation, and on conviction shall be punished by a fine not exceeding two hundred dollars, or imprisonment not exceeding one year, or both. If any such rule or regulation relates to a permanent source or act of contamination, said board may impose penalties for the violation thereof or the non-compliance therewith, not exceeding two hundred dollars for every such violation or non-compliance. Every such rule or regulation shall be published at least once in each week for six consecutive weeks, in at least one newspaper of the county where the waters to which it relates are located. The cost of such publication shall be paid by the corporation or municipality benefited by the protection of the water supply,

to which the rule or regulation published relates. The affidavit of the printer, publisher or proprietor of the newspaper in which such rule or regulation is published may be filed, with the rule or regulation published, in the county clerk's office of said county, and such affidavit and rule and regulation shall be conclusive evidence of such publication, and of all the facts therein stated in all courts and places.

Revised from L. 1885, ch. 543, §§ 1, 2, 8, and L. 1888, ch. 52. As amended by L. 1899, ch. 251, § 1.

§ 71. **Inspection of water supply.**—The officer or board having by law the management and control of the potable water supply of any municipality, or the corporation furnishing such supply, may make such inspection of the sources of such water supply, as such officer, board or corporation deems it advisable, and to ascertain whether the rules or regulations of the state board are complied with. If any such inspection discloses a violation of any such rule or regulation relating to a permanent source or act of contamination, such officer, board or corporation shall cause a copy of the rule or regulation violated to be served upon the person violating the same, with a notice of such violation. If the person served does not immediately comply with the rule or regulation violated, such officer, board or corporation shall notify the state board of the violation, which shall immediately examine into such violation; and if such person is found by the state board to have actually violated such rule or regulation, the secretary

of the state board shall order the local board of health of such municipality to convene and enforce obedience to such rule or regulation. If the local board fails to enforce such order within ten days after its receipt, the corporation furnishing such water supply, or the municipality deriving its water supply from the waters to which such rule or regulation relates, may maintain an action in a court of record, which shall be tried in the county where the cause of action arose against such person, for the recovery of the penalties incurred by such violation, and for an injunction restraining him from the continued violation of such rule or regulation.

Revised from L. 1885, ch. 543, §§ 3-5. As amended by L. 1899, ch. 251, § 2.

§ 72. **Sewerage.**—When the state board of health shall, for the protection of a water supply from contamination, make orders or regulations the execution of which will require or make necessary the construction and maintenance of any system of sewerage, or a change thereof, in or for any village or hamlet, whether incorporated or unincorporated, or the execution of which will require the providing of some public means of removal or purification of sewage, the municipality or corporation owning the water-works benefited thereby shall, at its own expense, construct and maintain such system of sewerage, or change thereof, and provide such means of removal and purification of sewage and such works or means of sewage disposal as shall be approved by the state board of health. When the execution of

any such regulations of the state board of health will occasion or require the removal of any building or buildings, the municipality or corporation owning the water-works benefited thereby shall, at its own expense, remove such buildings and pay to the owner thereof all damages occasioned by such removal. When the execution of any such regulation will injuriously affect any manufacturing or industrial enterprise which is not a public nuisance, such municipality or corporation shall pay all damages occasioned by the enforcement thereof. Until such construction or change of such system or systems of sewerage, and the providing of such means of removal or purification of sewage, and such works or means of sewage disposal and the removal of any building, are so made by the municipality or corporation owning the water-works to be benefited thereby at its own expense, there shall be no action or proceeding taken by such municipality or corporation against any person or corporation for the violation of any regulation of the state board of health under this article, and no person or corporation shall be considered to have violated or refused to obey any such rule or regulation. The owner of any building the removal of which is occasioned or required, or which has been removed by any rule or regulation of the state board of health made under the provisions of this article, and all persons whose rights of property are injuriously affected by the enforcement of any such rule or regulation, shall have a cause of action against the municipality or corporation

owning the water-works benefited by the enforcement of such rule or regulation, for all damages occasioned or sustained by such removal or enforcement, and an action therefor may be brought against such municipality or corporation in any court of record in the county in which the premises or property affected is situated and shall be tried therein; or such damages may be determined by a special proceeding in the supreme court or the county court of the county in which the property is situated. Such special proceedings shall be commenced by petition and notice to be served by such owner upon the municipality or corporation in the same manner as for the commencement of condemnation proceedings. Such municipality or corporation may make and serve an answer to such petition as in condemnation proceedings. The petition and answer shall set forth the claims of the respective parties, and the provisions of the condemnation law shall be applicable to the subsequent proceedings upon the petition and answer, if any. Either party may, before the service of the petition or answer respectively, offer to take or pay a certain sum, and no costs shall be awarded against either party unless the judgment is more unfavorable to him than his offer.

Revised from L. 1885, ch. 543, § 7, and L. 1890, ch. 468.

§ 73. Discharge of sewage into Wallkill creek prohibited.

— No person or corporation shall permit the discharge or escape of any sewage, or other matter deleterious to public health, or destructive to fish, or throw or cast any

dead animal, carrion or offal, or other putrid or offensive matter into the waters of the Wallkill creek, in the counties of Ulster and Orange. Any person violating any provision of this section shall forfeit to the county where the violation occurred the sum of fifty dollars for every such violation.

Revised from L. 1885, ch. 382.

§ 74. Discharge of sewage into the Susquehanna near Binghamton, prohibited.— No person or corporation shall cause to fall, flow or discharge into the Susquehanna river or any of its tributaries, between the Rock Bottom dam in such river at the city of Binghamton, and a point one mile east of the bridge that crosses such river at Conklin, any sewage matter, or other foul, noxious or deleterious, solid or liquid matter, or any matter that may be declared such by the board of health of any municipality adjacent to such river within such limit. The board of health of any such municipality shall examine into any alleged offense against this section and cause the same to be abated, if found to exist. Every person violating any provision of this section shall forfeit to the municipality having a local board of health where the violation occurs the sum of twenty-five dollars for the first day when the violation takes place, and the sum of ten dollars for every subsequent day that such violation is repeated or continued.

Revised from L. 1885, ch. 399.