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Environmental Legislation in New York State During 1971*

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Legislation

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Summary

The New York State Legislature passed eighteen pieces of legislation concerning environmental protection during the 1971 session. Approximately 50% of all bills dealt with water pollution problems. The Governor in his opening message indicated that the main emphasis of his administration would be on the strict enforcement of all outstanding pollution orders and the setting of timetables by the administration to stop environmental polluters. The Governor promised that in 1973 the phasing out of all open dumps and open incinerators would start. Two proposals of the Governor which were not passed were that each automobile owner must before registering a new car show proof of where his old automobile was disposed of. The other proposal that was not enacted was to eliminate all billboards on all State highways outside of cities.

In general the environmental legislation considered by the Legislature extended or modified existing laws.

General Planning

The Department of Environmental Conservation was given one additional year to submit a General Plan for the environment. The plan is now to be submitted to the Governor by September of 1972 and to the Legislature by January of 1973.

The Executive Law was amended to create the Office of Planning Services within the Executive Department. The purpose of the office would be to protect and develop human, natural and man-made resources by obtaining cooperation and collaboration among all agencies and members of government and also between private and public sectors. This office will act as the official State Planning Agency and as an intermediary between Federal agencies and planning functions within the State. The office will advise and assist municipalities in planning and development.

Water Pollution

The Conservation Law was amended to give the Commissioner strong powers over illegal excavations or fills in the waters of the State. The Commissioner is empowered to investigate illegal filling operations with respect to their effect on health and welfare of the people and their effects on natural resources of the State. If after a hearing the Commissioner finds that a violation did occur, he may order the person or local public corporation who has made such an illegal fill to remove

the fill and correct the excavation, or may impose a fine of Five Hundred Dollars (\$500.00) for each offense. Each day of continuance or failure to comply with the order is deemed a separate offense. The Commissioner has the power to have his representatives go on the land and make the repairs and to have the cost and expense of the repairs added by the County to the tax bills of those responsible for causing the problem.

The Conservation Law which prohibits the dumping of fill without a permit was amended (Section 429b 1) to define fill for the first time.

The Conservation Law was amended (Section 180) to include oil in those substances not allowed to enter the waters of the State in quantities injurious to fish life and protected wildlife.

The Town Law was amended to give the Towns power to establish aquatic plant growth control districts which would be established in the same fashion as any other type of district, i.e., sidewalk district. This would mean that individual homes could be assessed for the cost of eliminating aquatic growth in the general area such as along bay or lake shores.

The Navigation Law was amended to prevent any person from dumping or depositing logs, lumber, timber, or any wood products into the Genesee River. Another law which affects the Monroe County area is that the Irondequoit Bay Commission was given increased powers not to just improve the Bay but also to plan its expansion and development. H. Forest has reported that no appropriation has been made to make this a meaningful piece of legislation. The County Legislature of the County of Monroe was given the power to buy real property for easements and the expansion and development of Irondequoit Bay.

The Conservation Law was amended to require that septic tank cleaners and industrial waste scavengers must be registered with the Commissioner of Environmental Conservation according to rules and regulations set forth by the Commissioner.

#### Air Pollution

The Tax Law was amended to provide for tax deductions for those building industrial waste treatment facilities. All expenditures for the construction of treatment plants may be deducted for the year in which the facilities are improved.

The Public Health Law was amended (Section 1271) giving the Air Pollution Control Board power to set standards for the use of fuel additives (as in motor vehicles) within the limitations permitted by Federal Standards. Public Health Law was amended (Section 1286, 1286a) to increase the dollar penalties for violations of the air pollution code promulgated by the Air Pollution Control Board. The original violation would be from Two Hundred Fifty Dollars (\$250.00) to Twenty-Five Hundred Dollars (\$2500.00) and additional penalties not to exceed Five Hundred Dollars (\$500.00) for each and every day during which the violation continues. For any person who willfully violates any of the provisions of the Article the violator would be held guilty of a misdemeanor which might bring a fine of up to Two Hundred Fifty Dollars (\$250.00) and imprisonment of up to one (1) year in jail.

The Environmental Conservation Law was amended to permit the Department to limit the consumption of fuels and the use of vehicles in any air pollution emergency.

The Vehicle and Traffic Law was amended (Section 375) to require every car manufactured after June 30, 1963 to be equipped with a crankcase ventilating system of a type approved by the State Commissioner of Environmental Conservation.

The General Municipal Law was amended to enable the Industrial Development Agency of New York State to acquire, construct, re-construct, lease and improve industrial pollution control facilities. These facilities are described as any air pollution control facility, noise abatement facility, water management facility, waste water treatment works, sewage treatment works system, sewage treatment system or foul waste disposal system. The Agency has as its general purpose to promote business construction in the State.

#### Noise Pollution

The Vehicle Traffic Law (Section 375) is amended to require that all automobiles have a proper working exhaust system so as to prevent excessive noise. The Public Health Law was amended to include noise as an air contaminant, which means it can be controlled under the Air Pollution Control Act.

Several new sections of the law were passed concerning snowmobiles. It is now unlawful for any person to drive a snowmobile out on to a street except during emergencies or when the streets are unplowed so that they can be used for recreation. The governing body of the Town, City or Village shall designate a street or other public lands to be used for snowmobiles. It is thus illegal to use snowmobiles on any public lands or roadways that are not specified for this use.

#### Control of Detergents and Household Cleaning Products

The Environmental Conservation Law was amended to provide for the protection of health and environment against the chemical agents in household cleaning products. The requirements of labeling soaps and detergents as to phosphate contents with analysis calculated as tri-sodium phosphate was eliminated. Section 17 of the Environmental Conservation Law was added; it requires complete labeling of ingredients. The wrapper or container of every household cleaning product must list the amount of each ingredient which the Commissioner determines to adversely affect human health or the environment, including but not limited to phosphorus. The form and order of the listings shall be prescribed by the Commissioner (for example, the percentages of total weight of each product and grams per recommended use, in descending order of weight).

After December 31, 1972 no household cleaning product shall be distributed or sold if it contains more than 8.7% weight of phosphorus. After June 1, 1973 no cleaning product shall contain any phosphorus compound other than traces or incidental concentrations, as authorized by the Commissioner by regulation.

The Environmental Conservation Law requires industry to report on investigations and research into the effects of household products on human health and the environment. It also authorizes the Commissioner to set further restrictions on ingredients in household detergent products based on the effect those products may have on human health and the environment. The Law provides a penalty of not more than Twenty-Five Hundred (\$2500.00) dollars for any violation.

Environmental Management Powers for Local Governments

The local Boards of Health have been given (Public Health Law Section 309) the power to enforce the New York State Public Health Law and the Public Sanitary Code as well as local Sanitary Codes promulgated by the County and its subdivisions. The Local Board of Health is now given the power to request temporary restraining orders for violations without having to go to the Attorney General.

The General Municipal Law (Section 239 Y) was amended to permit any local administrative body to designate a conservation advisory council as a conservation board. The board shall compile and submit an inventory and map of open spaces in the town. If the inventory and map are accepted by the local legislative body, the conservation board can make recommendations as to the use or development of open spaces. The Conservation Board must be consulted by the zoning board or planning board whenever any attempt is being made to use the open spaces. This provision for open area planning is meant to assure the preservation of natural and scenic resources on the local level.