

**58:11-64. Short title**

This act shall be known and may be cited as the "Water Supply and Wastewater Operators' Licensing Act."

L.1983, c. 230, s. 1, eff. June 29, 1983.

**58:11-65. Definitions**

As used in this act:

- a. "Commissioner" means the Commissioner of the Department of Environmental Protection or his designated representative;
- b. "Department" means the Department of Environmental Protection;
- c. "Licensed operator" means a licensee approved by the department holding any local title, designation, or job description who is on the premises of a system a significant amount of time, although not necessarily full-time, and who is actively involved in and responsible for the operation, maintenance, and effectiveness of the system and who holds a valid license equal or superior to that required for the system;
- d. "Licensee" means a person who possesses a valid license issued by the department pursuant to this act;
- e. "Industrial wastewater treatment system" means any treatment works regulated by the department pursuant to the "Water Pollution Control Act," P.L.1977, c. 74 (C. 58:10A-1 et seq.);
- f. "Operating requirements" means any and all provisions of permits or approvals, administrative orders, directives, or rules and regulations which the department may issue or adopt to insure the safe and efficient operations of systems, consistent with its statutory authority;
- g. "Public wastewater collection system" means any collection system regulated by the department pursuant to the "Water Pollution Control Act," P.L. 1977, c. 74 (C. 58:10A-1 et seq.), and which system consists of structures which, operating alone or with other structures, result in the collection and conveyance or transmission of wastewater from private, commercial, institutional or industrial sources, to public wastewater treatment systems for subsequent treatment;
- h. "Public wastewater treatment system" means any structure or structures by means of which domestic, or combined domestic and industrial liquid wastes or sewage are subjected to any process in order to remove or so alter constituents as to render the wastes less offensive or dangerous to the public health, safety, welfare, comfort, property or environment of any of the inhabitants of the State before the discharge of the resulting effluent either directly or indirectly into any of the waters of the State, and which is regulated by the department pursuant to the "Water Pollution Control Act," P.L. 1977, c. 74 (C. 58:10A-1 et seq.);
- i. "Public water supply system" means a system comprising structures which operating alone or with other structures results in the derivation, conveyance or transmission or distribution of potable water for human consumption and domestic purposes;
- j. "Public water treatment system" means any structure or structures by means of which prior to discharge into a public water supply system is subjected to the addition or abstraction of a substance or substances in order to enhance the safety, palatability, public health or aesthetic qualities, or reduce the corrosive or hazardous properties of the water used for potable or domestic purposes;
- k. "System" means any industrial wastewater treatment system, public wastewater collection system, public wastewater treatment system, public water supply system or public water treatment system defined in this act; and

1. "Waters of the State" means the ocean and its estuaries, all springs, groundwater, streams or bodies of surface waters, whether natural or artificial, within the boundaries of this State or subject to its jurisdiction.

L.1983, c. 230, s. 2, eff. June 29, 1983.

**58:11-66. Systems; licensed operator; classifications and reclassifications**

a. Every system shall be operated and maintained by at least one licensed operator. Any person employed in the capacity of a licensed operator not holding the license required for a system may continue in such capacity, at the discretion of the department, if he meets the other requirements of this act and the rules and regulations adopted thereto.

b. The commissioner shall, pursuant to the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.), adopt, and may amend or repeal rules and regulations to classify and reclassify licenses and systems.

c. The department shall upgrade or downgrade the classification of a system whenever the system changes sufficiently to place it in a different classification from the one in which it is classified.

d. If licenses are reclassified by the department, subject to new classification requirements, the licensee at the time of the reclassification shall be reissued, at the time of the next license renewal, the highest license corresponding to the new classification.

L.1983, c. 230, s. 3, eff. June 29, 1983.

**58:11-67. Examinations; issuance of license; board of examiners; advisory bodies**

a. The department shall conduct examinations for licenses to operate systems to be held at least twice annually, by the persons and at the times and places it may appoint. The department shall determine the subject matter to be included in the examinations and the manner in which the examinations shall be conducted. Every applicant who has been admitted to an examination, and who has successfully passed the examination shall receive the license of the classification for which the examination was held.

b. The commissioner shall establish a board of examiners composed of licensed operators, and employees of the department, and any additional advisory bodies deemed necessary, to assist the department in administering the licensing program established pursuant to this act. The board of examiners shall annually review the programs and regulations adopted pursuant to this act and make recommendations to the department for their improvement.

c. The commissioner shall adopt, and may amend, or repeal rules and regulations establishing the board of examiners, and other advisory bodies, their composition and duties, and the qualifications for issuance of licenses, examination methods and procedures, and all other matters including fees necessary to implement and administer an adequate licensing program.

L.1983, c. 230, s. 4, eff. June 29, 1983.

**58:11-68. Fees; schedule; disposition; duration and renewal of licenses**

a. The commissioner is authorized to adopt a fee schedule which shall reasonably cover the cost of examinations, licensing procedures, and the administration and enforcement of this act. All fees collected pursuant to the provisions of this act shall be deposited into the "Environmental Services Fund" created by P.L. 1975, c. 232 (C. 13:1D-29 et seq.). There shall be annually appropriated an amount equivalent to the amount anticipated to be collected as fees by the department for the administration of the licensing program.

b. The department shall issue or renew a license upon payment of the appropriate license fee to any applicant who in the opinion of the department has satisfactorily met all the appropriate requirements of

this act and rules and regulations adopted pursuant to this act.

c. The department shall renew licenses annually and shall establish in its regulations the date on which licenses shall be renewed. Initial licenses shall be valid from issue date to the next effective date for license renewal. All other licenses shall be valid from the renewal date of the license to the next annual renewal date. The department may change the renewal date for all licenses. The department may charge a delinquent fee to any licensee who fails to renew his license prior to the renewal date. A licensee who fails to renew his license within 1 year following the renewal date of his license may not receive a new license until he successfully completes another qualifying examination.

L.1983, c. 230, s. 5, eff. June 29, 1983.

**58:11-69. Issuance of license without examination**

The department may issue licenses, without examination, for the operation of systems to such persons who, in the judgment of the department, meet all the requirements of this act and the rules and regulations adopted pursuant to this act and who hold valid current licenses to operate a system with at least the equivalent classification in a state, country or territory other than the State of New Jersey, which state, country or territory also recognizes the validity of New Jersey licenses, and which has requirements for the issuance of licenses to operate systems at least as stringent as the requirements of the State of New Jersey.

L.1983, c. 230, s. 6, eff. June 29, 1983.

**58:11-70. Revocation or suspension**

a. The department may revoke or suspend the license of a licensee if the department determines that the application for the license included false information or that the licensee is managing or operating the system in an incompetent manner, or is managing or operating the system in violation of this act or any operating requirements of the department, or has falsified records.

b. The order of revocation or suspension shall become a final order unless the licensee submits a written request for a hearing within 20 calendar days after receipt of the order. If a hearing is granted, the commissioner shall make the final decision for the department.

c. Any person whose license has been revoked for the first time shall be ineligible for admission to any examination authorized by this act for a period of not less than 1 year from the effective date of the revocation.

d. Any person whose license has been revoked for committing or omitting acts which the department determines with the concurrence of the board of examiners has caused substantial harm to the public, or whose license has been revoked more than once shall be ineligible for admission to any examination authorized by this act.

L.1983, c. 230, s. 7, eff. June 29, 1983.

**58:11-71. Violations; penalties**

8. a. If any person violates any of the provisions of this act, or any operating requirements, the department may institute a civil action in a court of competent jurisdiction for injunctive relief to enforce said provisions and to prohibit and prevent that violation and the court may proceed in the action in a summary manner.

b. Any person who violates or causes the violation of any of the provisions of this act or any operating requirements shall be liable to a civil administrative penalty of not more than \$5,000.00 for each offense to be imposed by the department pursuant to standards adopted in regulations, or a civil penalty of not more than \$5,000.00 for each offense. If the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate and distinct offense.

c. The department may recover in any civil action the State's reasonable costs of preparing and litigating

the civil action pursuant to this act.

d. Any and all penalties prescribed by any provisions of this act may be recovered in a civil action by a summary proceeding under "the penalty enforcement law" (N.J.S.2A:58-1 et seq.). The Superior Court shall have jurisdiction to enforce the penalty enforcement law.

e. The department is authorized and empowered to compromise and settle any penalty imposed under this section in such amount in the discretion of the department as may appear appropriate and equitable under all of the circumstances.

f. All penalties received pursuant to the provisions of this act shall be paid into the "Environmental Services Fund" created by P.L.1975, c.232 (C.13:1D-29 et seq.), and expended for the functions authorized herein.

L.1983,c.230,s.8; amended 1991,c.91,s.530.

**58:11-72. Inapplicability of act to prior or pending orders, proceedings or actions**

a. Nothing herein contained shall be held to abate or render invalid any administrative order or proceeding, or suit at law or in equity, which may have been served, begun or instituted by the department, prior to the date hereof, in accordance with the powers and duties heretofore conferred upon it, but the same shall continue in full force and effect, and be further advanced and prosecuted in the name of the department; nor shall anything in this act be construed to anywise affect the protection afforded any person by section 3 of this act.

b. Any regulations concerning the licensing of operators promulgated by the department pursuant to P.L. 1938, c. 206 (C. 58:11-18.1 et seq.) shall remain in effect up to 1 year subsequent to the effective date of this act unless repealed by the department at an earlier date.

L.1983, c. 230, s. 9, eff. June 29, 1983.

**58:11-73. Liberal construction of act; severability**

The object and design of this act being the protection and preservation of the environment, and the protection and preservation of public health, safety, and welfare, this act shall be liberally construed and the powers granted and the duties imposed shall be construed to be independent and severable. If any one or more sections, clauses, sentences, or parts of this act shall for any reason be questioned in any court, and shall be adjudged unconstitutional or invalid, the judgment shall not affect, impair, or invalidate the remaining provisions thereof, but shall be confined in its operation to the specific provisions so held unconstitutional or invalid.

L.1983, c. 230, s. 10, eff. June 29, 1983.