

LAW No. 997 of 31 MAY 1976

Provisions on control of environmental pollution

The Governor of the State of São Paulo.

Making known that, as stipulated in Paragraphs 1 and 3 of Article 24 of the Constitution of the State (Amendment 2 (*), of 30 October 1969), I, hereby, promulgate the following Law:

Art. 1. The Environmental Pollution Prevention and Control System is instituted, in the manner provided in this Law.

Art. 2. Environmental pollution shall mean the presence in, or discharge or release into water, air or soil, of any and every form of matter or energy, in such intensity, quantity, concentration or having characteristics contrary to those established pursuant to this Law, or which causes or may cause water, air or soil to become:

I -- unclean, harmful or offensive to health;

II -- bothersome to public welfare;

III -- damaging to materials, fauna and flora;

IV -- prejudicial to the safety, use or enjoyment of property and the normal activities of the community.

Art. 3. Discharge and release of pollutants into water, air or soil is prohibited.

Sole paragraph. Pollutant shall mean any and every form of matter or energy which, directly or indirectly, causes environmental pollution as specified in the previous article.

Art. 4. Supervisory and control activity, as specified in this Law, shall be exercised by the state environmental pollution control agency, with respect to discharges into any and every body or course of water located within the borders of the territory of the State, even though it does not pertain to it nor is under its jurisdiction.

Sole paragraph. For the purpose of the fulfillment of the provisions of this Article, the state agency shall represent the competent federal agency in cases of pollution originating outside of the territory of the State and resulting in consequences felt within its borders.

Art. 5. The installation, construction or expansion, as well as the functioning or operation of sources of pollution listed in the Regulation of this Law, are subject to prior authorization of the state environmental pollution control agency, by means of installation and operating licenses.

Sole paragraph. Source of pollution shall mean any activity, system, process, operation, machinery, equipment or device, whether mobile or stationary, provided in the Regulation of this Law, which causes or may cause emission of pollutants.

Art. 6. The agencies of the Administration, whether Direct or Indirect, State and Municipal, shall require the presentation of the licenses specified in the previous article prior to approving expansion, installation or construction projects for sources of pollution listed in the Regulation of this Law, or for the authorization of the operation or the functioning of these sources, under pain of revocation of their acts.

Art. 7. The penalties of this Law, the Regulation thereof and other standards arising therefrom, shall be classified as minor, serious and very serious, according to the criteria of the competent authority, taking into account:

I -- maximum or minimum degrees of severity;

II -- mitigating and aggravating circumstances;

III -- prior history of the violator.

Sole paragraph. Any person who, in any manner, commits or cooperates in the act or who benefits therefrom shall be held accountable for the violation.

Art. 8. The violations specified in the previous article shall be punished by the following penalties;

I -- Warning;

II -- Fine of 10 (ten) to 1,000 (one thousand) times the nominal value of ORTN on the date of the violation;

III -- Temporary or permanent prohibition;

IV -- Seizure and demolition.

Paragraph 1. Penalty fines shall be applied in observance of the following limits:

1 -- From 10 (ten) to 100 (one hundred) times the nominal value of ORTN for minor violations;

2 -- From 101 (one hundred and one) to 500 (five hundred) times the same value, for serious violations;

3 -- From 501 (five hundred and one) to 1,000 (one thousand) times the same value, for very serious violations.

Paragraph 2. A daily fine may be imposed, on the basis of the criteria of the competent authority, for the same limits and values established in the previous paragraph, and which shall be owing until such time as the violator corrects the irregularity.

Paragraph 3. The prohibition penalty, whether permanent or temporary, shall always be applied in cases of imminent peril to public health and, on the basis of the criteria of the competent authority, in cases of continued violation, result, when appropriate, in revocation or suspension of the installation and operating licenses.

Paragraph 4. The seizure and demolition penalty shall be applied in the case of works and construction executed without the necessary license or not in compliance with the license issued, when their existence or maintenance is contrary to the provisions of this Law, the Regulation thereof and the standards arising therefrom.

Paragraph 5. The penalties provided in subparts III and IV of this article may be applied without prejudice to those indicated in subparts I and II.

Art. 9. In cases of reoccurrence, the fine shall correspond to double the value of the fine previously imposed, the penalty being able to consist of the prohibition, either temporary or permanent, as of the third reoccurrence.

Sole paragraph. Reoccurrence shall be characterized by the commission of new violations of the same nature by the violator.

Art. 10. Appeal may be made, for application of the penalties provided in this Law, to the immediately superior authority, within 20 (twenty) days of the date of the violation order, being heard by the authority of appeal, which may reconsider the decision.

Sole paragraph. In cases in which a fine is imposed, the appeal shall only be processed if resolution, by means of the collection of the value of the fine applied, by the competent collection agency, of the value of the fine applied, is guaranteed.

Art. 11. The yield from the collection of the fines arising from the violations provided in this Law shall be receipts of the Department of Water and Electrical Energy.

Art. 12. If the debt corresponding to the fine applied pursuant to Article 7, is not collected within the term established, it shall be subject to:

I -- Monetary correction of the value thereof, as of the second month subsequent to the issuance of the order of violation and the imposition of the fine;

II -- Increase of 1.5% (one and one half percent) per month or fraction thereof, as of the month subsequent to that of the expiration of the term established for collection of the fine;

III -- Increase of 20% (twenty percent), when marked for executive collecting.

Paragraph 1. The monetary correction specified in subpart I shall be determined on the basis of the updating coefficients adopted by the Secretary of Finance for fiscal debts of any nature, effective in the month in which payment of the debt is to be made.

Paragraph 2. The increases referred to in subparts II and III of this article decrease the value of the revised monetary debt, as stipulated in subpart I.

Art. 13. The Executive Power is authorized to determine emergency measures for the purpose of avoiding critical episodes of environmental pollution or impeding their continuance, in cases of serious or imminent risk to human life or economic resources.

Sole paragraph. For the purpose of implementing the emergency measures stipulated in this article, any activity in areas affected by the occurrence may, during the critical period, be restricted or stopped.

Art. 14. In order to guarantee the execution of the Environmental Pollution Prevention and Control System provided in this Law, in the Regulation thereof and in the standards arising therefrom, accredited agents of the competent agency shall be guaranteed entrance, on any day, at any time, and for as long as necessary, into public or private establishments.

Art. 15. The following shall also constitute aims of the Regulation of this Law:

I -- Indication of the competent agency of the Administration, Direct or Indirect, for application of this Law, and the establishment of its attributes;

II -- Definition of standards for the utilization and preservation of water, air, and soil, as well as for the overall ecological environment;

III -- Enumeration of the sources of pollution mentioned in Articles 4 and 5 and in the Transitory Provision of this Law and the amount to be collected by the competent agency for issuance of the licenses and certificates provided therein;

IV -- Administrative procedure to be adopted for the application of the penalties provided in this Law;

V -- "Environmental Quality Standards", understanding as such the intensity, concentration, quantity and characteristics of any and every form of matter or energy, whose presence, in water, air or soil, may be considered to be normal;

VI -- "Emission Standards", understanding as such, the maximum intensity, concentration and quantity of any and every form of matter or energy, whose discharge, or release into water, air or soil, is permitted;

VII -- "Project Condition Standards", understanding as such the characteristics and conditions of discharge or release, of any and every form of matter or energy, into water, air and soil, as well as the characteristics and conditions of location and utilization of sources of pollution.

Art. 16. Financing may only be granted, with resources deriving from the State Treasury, in the form of special funds or capital, or any other form, with the rates and terms preferred by the financial control institutions of the Governor of the State, to companies that present the certificate stipulated in this Law, issued by the state pollution control agencies.

Art. 17. (Repealed).

Transitory Provision

Sole article. The sources of pollution which were listed in the Regulation, existing on the effective date of this Law are required to register in the state environmental pollution control agencies and to obtain operating licenses, pursuant to the terms fixed therein.

Signed by the Governor of the State