

HOUSE No. 4207

By Mr. Brownell of Quincy, petition of Thomas F. Brownell for legislation to grant tax incentives to industries seeking to reduce air pollution. Taxation.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Seventy-Two.

AN ACT RELATIVE TO TAX INCENTIVES FOR INDUSTRIAL AIR POLLUTION CONTROL.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 5 of chapter 59 of the General Laws is
2 hereby amended by striking out clause Thirty-ninth.

1 SECTION 2. Said section 5 of said chapter 59 is hereby
2 further amended by striking out clause Forty-fourth, inserted
3 by section 2 of chapter 700 of the acts of 1966, and inserting
4 in place thereof the following clause: —

5 *Forty-fourth.* Any structure, building, device, appliance,
6 machinery, equipment or other property, whether consisting of
7 real or tangible personal property, or a combination of both,
8 which is constructed, installed or placed in operation, in whole
9 or in part, for the purpose of eliminating industrial waste or
10 reducing such waste to a level of toxicity that is not injurious
11 to fish, fowl, animal life or aquatic vegetation and thereby
12 abating or preventing the pollution of the waters of the com-
13 monwealth for the purpose of abating, preventing or elimi-
14 nating industrial pollution of the atmosphere of the common-
15 wealth. This exemption shall apply to facilities for the
16 treatment, neutralization or stabilization of industrial waste or
17 industrial air pollution from a point immediately preceding the
18 point of such treatment, neutralization or stabilization to the

19 point of disposal, including the necessary pumping and trans-
20 mitting facilities, but excluding such facilities installed for the
21 primary purpose of salvaging materials which are usable in the
22 manufacturing process or are marketable. The term "industrial
23 waste" and the term "industrial air pollution", as used in this
24 section, shall mean any liquid, gaseous, solid or waste sub-
25 stance, or a combination thereof, resulting from any process of
26 industry, manufacture, trade or business or from the develop-
27 ment or recovery of any natural resources, which may cause or
28 might reasonably be expected to cause pollution of the waters
29 or the atmosphere of the commonwealth.

30 If any such structure, building, device, appliance, machinery,
31 equipment or other property is used solely and in its entirety
32 for the elimination or control of water or air pollution, the
33 exemption granted hereunder shall be total; if, however, only a
34 portion of such structure, building, device, appliance,
35 machinery, equipment or other property is used for the elimi-
36 nation or control of water or air pollution, the exemption shall
37 be prorated as follows for structures and buildings, the ratio
38 which the area or volume, as applicable, thereof used solely for
39 pollution control bears to the entire area or volume; for
40 devices, appliances, machinery, equipment or other property,
41 the ratio which the operating time devoted solely to pollution
42 control bears to the total operating time.

43 No exemption shall be granted under this clause unless the
44 director of the division of water pollution control in the
45 department of natural resources or the director of the air
46 pollution control agency in the commonwealth, as the case
47 may be, certifies to the assessors of the city or town involved
48 that such structure, building, device, appliance, machinery,
49 equipment or other property is effective in eliminating or
50 reducing pollution to an acceptable level.

1 SECTION 3. Chapter 63 of the General Laws is hereby
2 amended by striking out section 38D, as amended by chapter
3 659 of the acts of 1967, and inserting in place thereof the
4 following section: —

5 *Section 38D. (a)* In determining the net income subject to
6 tax under this chapter a domestic or foreign business cor-
7 poration, at its election, may deduct the expenditures paid or
8 incurred during the taxable year for the construction, recon-
9 struction, erection or improvement of industrial waste treat-
10 ment facilities or industrial air pollution control facilities. The
11 term "industrial waste treatment facilities" and the term "in-
12 dustrial air pollution control facilities" shall mean facilities for
13 the treatment, neutralization or stabilization of industrial waste
14 or industrial air pollution from a point immediately preceding
15 the point of such treatment, neutralization or stabilization to
16 the point of disposal, including the necessary pumping and
17 transmitting facilities, but excluding such facilities installed for
18 the primary purpose of salvaging materials which are usable in
19 the manufacturing process or are marketable. The term "in-
20 dustrial waste" and the term "industrial air pollution" shall
21 mean any liquid, gaseous, solid or waste substance, or a com-
22 bination thereof, resulting from any process of industry, manu-
23 facture, trade or business or from the development or recovery
24 of any natural resources, which may cause or might reasonably
25 be expected to cause pollution of the waters or the atmosphere
26 of the commonwealth.

27 **(b)** Such deduction shall be allowed only —

28 (1) with respect to tangible property which is de-
29 preciable, pursuant to section one hundred and sixty-seven of
30 the Federal Internal Revenue Code, having a situs in the com-
31 monwealth and used in the corporation's trade or business, the
32 construction, reconstruction, erection, or improvement of
33 which with respect to industrial waste treatment facilities was
34 initiated on or after January first, nineteen hundred and sixty-
35 six, and only for expenditures paid or incurred prior to
36 January first, nineteen hundred and seventy-four, and with
37 respect to industrial air pollution control facilities was initiated
38 on or after January first, nineteen hundred and sixty-nine, and
39 only for expenditures paid or incurred prior to January first,
40 nineteen hundred and seventy-seven, and

41 (2) on condition that such facilities with respect to
42 industrial waste treatment facilities have been certified by the

43 director of the division of water pollution control in the
44 department of natural resources as complying with applicable
45 provisions of the water pollution control law and regulations,
46 permits or orders issued by him pursuant to law, and with
47 respect to industrial air pollution control facilities have been
48 certified by the director of the air pollution control agency in
49 the commonwealth as complying with applicable provisions of
50 the air pollution control law and regulations, permits or orders
51 issued by him pursuant to law, and

52 (3) on condition that the net income for the taxable
53 year and all succeeding taxable years be computed without any
54 deduction for such expenditures or for depreciation of the
55 property other than the deductions allowed by this section,
56 except to the extent that the cost or other basis of the
57 property may be attributable to factors other than such ex-
58 penditures, or in the case a deduction is allowable pursuant to
59 this section for only a part of such expenditures, on condition
60 that any deduction allowed under the Federal Internal Revenue
61 Code for such expenditures or for depreciation of the same
62 property be proportionately reduced in computing net income
63 for the taxable year and all succeeding taxable years.

64 (c) If expenditures with respect to an industrial waste treat-
65 ment facility or an industrial air pollution treatment facility
66 have been deducted as provided herein and if within ten years
67 from the end of the taxable year in which such deduction was
68 allowed such property or any part thereof is used for the
69 primary purpose of salvaging materials which are usable in the
70 manufacturing process or are marketable, the corporation shall
71 report such change of use in its return for the first taxable year
72 during which it occurs, and the commissioner may recompute
73 the tax for the year or years for which such deduction was
74 allowed and may assess any additional tax resulting from such
75 recomputation within the period of assessment applicable to
76 such return.

77 If a deduction is allowed as herein provided for expenditures
78 paid or incurred during any taxable year on the basis of a
79 temporary certificate of compliance and if the corporation fails

80 to obtain a permanent certificate of compliance upon com-
81 pletion of the facilities with respect to which such temporary
82 certificate was issued, the corporation shall report such failure in
83 its return for the taxable year during which such facilities are
84 completed, and the commissioner may recompute the tax for
85 the year or years for which such deduction was allowed and
86 may assess any additional tax resulting from such re-
87 computation within the period of assessment applicable to such
88 return.

89 (d) In any taxable year when property is sold or otherwise
90 disposed of, with respect to which a deduction has been
91 allowed pursuant to this section, such deduction shall be dis-
92 regarded in computing gain or loss, and the gain or loss on the
93 sale or other disposition of such property shall be the gain or
94 loss resulting if the deduction provided by this section had not
95 been elected and the cost or other basis of the property had
96 been reduced by straight-line depreciation based on the useful
97 life of the property; provided, however, that if such sale or
98 other disposition of such property occurs within three years of
99 the date such property is placed in service the basis shall be
100 zero.

101 (e) An industrial waste treatment facility or an industrial air
102 pollution treatment facility which qualifies for the deduction
103 provided for by this section shall not be subject to taxation
104 under the tangible property measure of the excise imposed by
105 clause (1) (i) of subsection (a) of section thirty-two or clause
106 (1) (i) of subsection (a) of section thirty-nine.

1 SECTION 4. Sections one and two of this act shall apply to
2 taxes levied for the year nineteen hundred and seventy and
3 subsequent years.

The following is a list of the names of the members of the American Medical Association who have been elected to the office of President for the year 1917. The names are listed in alphabetical order of their last names.

Dr. J. C. Brantley, of the University of North Carolina, has been elected President of the American Medical Association for the year 1917. Dr. Brantley is a prominent physician and a member of the American Medical Association since 1898. He has served in various capacities, including President of the North Carolina Medical Society and President of the American Medical Association in 1913.

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HOUSE

Resolved, That the Committee on the Judiciary be authorized to inquire into the conduct of the late President Andrew Jackson, and to report thereon to the next session of the House.

REPORT OF THE COMMITTEE ON THE JUDICIARY

IN RESPONSE TO A RESOLUTION PASSED BY THE HOUSE OF REPRESENTATIVES, MARCH 10, 1845.

ALBANY: PUBLISHED BY VAN NORDEN, 1845.

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