

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1865

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AND BUSH, NOVEMBER 12, 1985

REFERRED TO COMMITTEE ON CONSERVATION, NOVEMBER 12, 1985

AN ACT

1 Providing for recycling; providing further duties of the
2 Department of Environmental Resources and the Department of
3 Revenue; establishing the Recycling Fund and the Clean
4 Communities Fund; imposing a certain tax; providing for
5 grants and other assistance to counties and municipalities
6 for the recycling of waste material and for litter control;
7 making appropriations; and making repeals.

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28 The General Assembly of the Commonwealth of Pennsylvania
29 hereby enacts as follows:

30 CHAPTER 1

PRELIMINARY PROVISIONS

Section 101. Short title.

This act shall be known and may be cited as the Recycling Act.

Section 102. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Department." The Department of Environmental Resources of the Commonwealth.

"Litter." Any discarded, used or unconsumed substance or waste material, whether made of aluminum, glass, plastic, rubber, paper or other natural or synthetic material, or any combination thereof, including, but not limited to, any bottle, jar or can, or any top, cap or detachable tab of any bottle, jar or can, any unlighted cigarette, cigar, match or any flaming or glowing material or any garbage, trash, refuse, debris, rubbish, grass clippings or other lawn or garden waste, newspaper, magazines, glass, metal, plastic or paper containers or other packaging or construction material. The term does not include the waste of the primary processes of mining or other extraction processes, logging, sawmilling, farming or manufacturing.

"Litter-generating products." Goods which are produced, distributed or purchased in disposable containers, packages or wrappings. The term includes items which are not usually sold in packages, containers or wrappings but which are commonly discarded in public places, or any other goods of an unsightly or unsanitary nature commonly thrown, dropped, discarded, placed or deposited by a person on public property, or on private property not owned by him, including, but not limited to, the

1 following:

2 (1) Beer and other malt beverages.

3 (2) Cigarettes and tobacco products.

4 (3) Cleaning agents and toiletries.

5 (4) Distilled spirits.

6 (5) Food for human or pet consumption.

7 (6) Glass containers.

8 (7) Groceries.

9 (8) Metal containers.

10 (9) Motor vehicle parts.

11 (10) Newsprint and magazine paper stock.

12 (11) Nondrug drugstore sundry products.

13 (12) Paper products and household paper.

14 (13) Plastic or fiber containers made of synthetic
15 material.

16 (14) Soft drinks and carbonated waters.

17 (15) Wine.

18 "Municipality." A city, borough, incorporated town or
19 township.

20 "Recycling." Any process by which materials which would
21 otherwise become solid waste are collected, separated or
22 processed and returned to the economic mainstream in the form of
23 raw materials or products.

24 "Retailer." Includes a restaurant one of whose principal
25 activities consists of selling, for consumption off the
26 premises, a meal or food prepared and ready to be eaten.

27 "Sold within this Commonwealth" or "sales within this
28 Commonwealth." All sales or retailers engaged in business within
29 this Commonwealth and, in the case of manufacturers, wholesalers
30 and distributors, all sales of products for use and consumption

1 within this Commonwealth. It shall be presumed that all sales of
2 manufacturers, wholesalers and distributors within this
3 Commonwealth are for use and consumption within this
4 Commonwealth unless the taxpayer shows that the products are
5 shipped out of State for out-of-State use.

6 "Taxpayer." The manufacturer, wholesaler, distributor or
7 retailer of litter-generating products subject to the tax
8 provisions of this act.

9 CHAPTER 3

10 RECYCLING FUND

11 SUBCHAPTER A

12 ESTABLISHMENT OF FUND

13 Section 301. Establishment.

14 There is hereby established a separate account in the State
15 Treasury to be known as the Recycling Fund. This fund shall be
16 administered by the department and shall be credited with one-
17 half of the tax revenues collected under Chapter 7.

18 Section 302. Appropriation.

19 All moneys in the fund are hereby appropriated to the
20 department on a continuing basis to carry out this chapter.

21 SUBCHAPTER B

22 GRANTS TO MUNICIPALITIES

23 Section 321. Recycling grants.

24 (a) General rule.--Not less than 45% of the estimated annual
25 balance of the Recycling Fund shall be used for the annual
26 expenses of a five-year program for recycling grants to
27 municipalities. The amount of these grants shall be calculated,
28 for the purposes of the first grant to a particular
29 municipality, on the basis of the total number of tons of
30 materials annually recycled from residential and commercial

1 sources within that municipality. Thereafter, subsequent grants
2 to a municipality shall be calculated on the basis of the
3 increase in the total number of tons of such materials from the
4 total in the preceding year, except that no such grant shall
5 exceed \$25 per ton of materials recycled. For the purpose of
6 calculating subsequent annual grants to municipalities pursuant
7 to this section, not less than 15% of the estimated annual
8 balance of the fund shall be allocated on the basis of the total
9 number of tons of wastepaper recycled in the preceding year, not
10 less than 15% of the estimated annual balance of the fund shall
11 be allocated on the basis of the total number of tons of glass
12 recycled in the preceding year, and not less than 15% of the
13 estimated annual balance of the fund shall be allocated on the
14 basis of the total number of tons of other materials recycled in
15 the preceding year.

16 (b) Recycled materials not to be diverted from commercial
17 recycling program.--To be eligible for a grant pursuant to this
18 section, a municipality shall demonstrate that the materials
19 recycled by the municipal recycling program were not diverted
20 from a commercial recycling program already in existence on the
21 effective date of the ordinance establishing the municipal
22 recycling program.

23 (c) Subsequent grants.--To be eligible for a subsequent
24 annual grant pursuant to this section, a municipality shall
25 demonstrate that at least two types of materials are currently
26 recycled or will be recycled in the succeeding grant year by the
27 municipal recycling program. No recycling grant to any
28 municipality shall be used for constructing or operating any
29 facility for the baling of wastepaper or for the shearing,
30 baling or shredding of ferrous or nonferrous materials.

1 Section 322. Loans.

2 Not less than 20% of the estimated annual balance of the fund
3 shall be used to provide low-interest loans and to establish a
4 sufficient reserve for a loan guarantee program for recycling
5 businesses and industries.

6 Section 323. State recycling program.

7 Not more than 10% of the estimated annual balance of the fund
8 shall be used for State recycling program planning and program
9 funding, including the administrative expenses thereof.

10 Section 324. County and municipal recycling programs.

11 Not more than 10% of the estimated annual balance of the fund
12 shall be used for county and municipal recycling program.
13 planning and program funding, including the administrative
14 expenses thereof.

15 Section 325. Public information.

16 Not less than 15% of the estimated annual balance of the fund
17 shall be used for a public information and education program
18 concerning recycling activities.

19 CHAPTER 5

20 CLEAN COMMUNITIES FUND

21 SUBCHAPTER A

22 ESTABLISHMENT OF FUND

23 Section 501. Establishment.

24 There is hereby established a separate account in the State
25 Treasury to be known as the Clean Communities Fund. This fund
26 shall be administered by the department and shall be credited
27 with one-half of the tax revenues collected under Chapter 7,
28 plus any sums received as voluntary contributions from private
29 sources.

30 Section 502. Appropriation.

1 All moneys in the fund are hereby appropriated to the
2 department on a continuing basis to carry out this chapter.

3 SUBCHAPTER B

4 ALLOCATION OF FUND MONEYS

5 Section 521. Municipal litter removal.

6 (a) General rule.--Eighty percent of the estimated annual
7 balance of the fund shall be used for the annual expenses of
8 providing grants to municipalities for litter pickup and removal
9 programs which employ youth, among others.

10 (b) Eligibility for grants.--To be eligible for a grant
11 under this section, a municipality shall demonstrate that it has
12 adopted an ordinance in conformity with the purposes of this act
13 and is actively engaged in a litter pickup and removal program
14 approved by the department. Approval shall not be granted
15 unless:

16 (1) The plan provides new employment.

17 (2) The plan demonstrates it is in addition to or
18 supplements existing litter pickup and removal activities in
19 the municipality.

20 (c) Amount of grant.--The amount of these grants shall be
21 calculated by dividing the population of the qualifying
22 municipality by the total population of the State, except that
23 no eligible municipality shall receive less than 0.1% of the
24 amount apportioned for this purpose. Population shall be
25 determined from the most recent Federal decennial census for
26 this Commonwealth and its municipalities.

27 Section 522. County litter removal.

28 (a) General rule.--Ten percent of the estimated annual
29 balance of the account shall be used for the annual expenses of
30 providing grants to counties for litter pickup and removal

1 programs which employ youth, among others.

2 (b) Eligibility for grants.--To be eligible for a grant
3 pursuant to this section, a county shall demonstrate that it has
4 adopted an ordinance in conformity with the purposes of this act
5 and is actively engaged in a litter pickup and removal program
6 approved by the department. Approval shall not be granted
7 unless:

8 (1) The plan provides new employment.

9 (2) The plan demonstrates it is in addition to or
10 supplements existing litter pickup and removal activities in
11 the county.

12 (c) Amount of grant.--The amount of these grants shall be
13 calculated by dividing the population of the qualifying counties
14 by the total population of the State, except that no eligible
15 county shall receive less than 0.1% of the amount apportioned
16 for this purpose. Population shall be determined from the most
17 recent Federal decennial census for this Commonwealth and its
18 counties.

19 Section 523. State litter control program.

20 Five percent of the estimated annual balance of the account
21 shall be used for a State litter control program, including the
22 administrative expenses thereof, and for a public information
23 and education program concerning anti-littering activities.

24 Section 524. Litter patrol program.

25 Five percent of the estimated annual balance of the account
26 shall be used for a litter patrol program to employ youth to
27 pick up and remove litter from Commonwealth-owned property and
28 areas that are accessible to the public.

29 CHAPTER 7

30 TAX ON LITTER-GENERATING PRODUCTS

1 Section 701. Imposition of tax.

2 There is hereby imposed upon each person engaged in business
3 within this Commonwealth as a manufacturer, wholesaler or
4 distributor of litter-generating products a tax of 0.03% on
5 sales within this Commonwealth, and upon each person engaged in
6 business within this Commonwealth as a retailer of litter-
7 generating products a tax of 0.0225% on sales within this
8 Commonwealth, except that the first \$100,000 in annual retail
9 sales of litter-generating products is exempt from this tax. A
10 sale by a wholesaler or distributor to another wholesaler or
11 distributor or a sale by a company to another company owned
12 wholly by the same individuals or companies is not subject to
13 tax under this act.

14 Section 702. Returns.

15 Every person subject to this tax shall, on or before March 15
16 of each year, prepare and file a return, under oath, for the
17 preceding calendar year with the Department of Revenue on forms
18 and containing any information as the department shall
19 prescribe. The return shall indicate the dollar value of the
20 sales within this Commonwealth of litter-generating products,
21 and at the same time the person shall pay the full amount of tax
22 due.

23 Section 703. Determination by Department of Revenue.

24 If a return required by this act is not filed, or if a return
25 when filed is incorrect or insufficient in the opinion of the
26 Department of Revenue, the amount of tax due shall be determined
27 by the department from whatever information may be available.
28 Notice of the determination shall be given to the taxpayer
29 liable for the payment of the tax. The determination shall
30 finally and irrevocably fix the tax unless the person against

1 whom it is assessed, within 30 days after receiving notice of
2 the determination, applies to the department for a hearing, or
3 unless the department on its own motion redetermines the same.
4 After the hearing, the department shall give notice of its
5 determination to the person against whom the tax is assessed.

6 Section 704. Interest.

7 Any taxpayer who shall fail to file his return when due or to
8 pay any tax when the tax becomes due, as provided in this act,
9 shall be subject to such interest as provided in section 806 of
10 the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal
11 Code. If the Department of Revenue determines that the failure
12 to comply with any provision of this section was excusable under
13 the circumstances, it may remit any part of the interest as
14 shall be appropriate under the circumstances.

15 Section 705. Penalty.

16 (a) Offense defined.--Any person failing to file a return,
17 failing to pay the tax, or filing or causing to be filed, or
18 making or causing to be made or giving or causing to be given,
19 any return, certificate, affidavit, representation, information,
20 testimony or statement required or authorized by this act, or
21 rules or regulations adopted hereunder, which is willfully
22 false, or failing to keep any records required by this act, or
23 rules and regulations adopted hereunder, commits a summary
24 offense punishable by a fine of not less than \$1,000 or
25 imprisonment for not more than 30 days, or both. Each day of
26 violation shall constitute a separate offense.

27 (b) Evidence.--The certificate of the Department of Revenue
28 to the effect that a tax has not been paid, that a return has
29 not been filed, that information has not been supplied or that
30 inaccurate information has been supplied pursuant to this act or

1 rules or regulations adopted hereunder shall be prima facia
2 evidence of a violation hereof.

3 CHAPTER 9

4 ADMINISTRATIVE MATTERS

5 Section 901. Duties of department.

6 In addition to the other duties prescribed by this act, the
7 department shall:

8 (1) Serve as the coordinating agency between the various
9 industry and business organizations seeking to aid in the
10 anti-litter effort.

11 (2) Recommend to local governing bodies that they adopt
12 resolutions or ordinances, as appropriate, in conformity with
13 the purposes of this act and assist those bodies in the
14 preparation of ordinances.

15 (3) Encourage and cooperate with all local voluntary and
16 government anti-litter campaigns attempting to focus public
17 attention on the State litter pickup and removal program.

18 (4) Investigate the availability of, and apply for,
19 funds available from any private or public source to be used
20 in the litter pickup and removal program provided for in this
21 act.

22 (5) Investigate the successful methods of other litter
23 pickup and removal programs and encourage the use of litter
24 receptacles and evaluate their possible incorporation into
25 the State litter pickup and removal program.

26 (6) Conduct a litter survey within six months of the
27 effective date of this act and annually thereafter.

28 Section 902. Contracts.

29 The department may enter into contracts with other State
30 agencies, with local governments and agencies and with any for-

1 profit or not-for-profit corporation, to carry out this act.

2 Section 903. Certain containers and devices prohibited.

3 No beverage shall be sold within this Commonwealth in a metal
4 container designed and constructed so that the container is
5 opened by detaching a metal ring or tab, except if the tab is
6 made of tape foil or other soft material, or in metal beverage
7 containers connected to each other by a separate device made of
8 plastic which does not decompose by photodegradation, chemical
9 degradation or biodegradation.

10 Section 904. Rules and regulations.

11 (a) General rule.--The Department of Environmental Resources
12 shall, in the manner provided by law, promulgate the rules and
13 regulations necessary to carry out this act, with the exception
14 of Chapter 7.

15 (b) Chapter 7.--The Department of Revenue, shall in the
16 manner provided by law, promulgate the rules and regulations
17 necessary to carry out Chapter 7.

18 Section 905. Report to General Assembly.

19 The department shall report to the General Assembly on its
20 proposed plan of litter pickup and removal not later than six
21 months after the effective date of this act, and annually
22 thereafter shall report upon the success of the plan in reducing
23 litter in this Commonwealth together with any recommendations.

24 CHAPTER 99

25 MISCELLANEOUS PROVISIONS

26 Section 9901. Application of Chapter 7.

27 The tax imposed by Chapter 7 shall be due initially on March
28 15 of the year following the first year of operation of this
29 act.

30 Section 9902. Appropriations.

1 (a) Amounts.--The sum of \$1,000,000 is hereby appropriated
2 to the Recycling Fund from the General Fund. The sum of
3 \$1,000,000 is hereby appropriated to the Clean Communities Fund
4 from the General Fund.

5 (b) Purpose.--These appropriations are made to supply these
6 funds with moneys for the first year of operation of this act.
7 The General Fund shall be reimbursed for the amounts of these
8 appropriations from the respective funds within four years of
9 the effective date of this act.

10 Section 9903. Effective date.

11 This act shall take effect January 1 next following the date
12 of final enactment.