
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1106

Session of
1979

INTRODUCED BY MESSRS. VROON, YOHN, F. TAYLOR, E. H. SMITH,
HALVERSON, CORNELL, PYLES AND MACKOWSKI, APRIL 30, 1979

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, MAY 13, 1980

AN ACT

1 Providing for certain authorized agencies to receive from
2 insurance companies information relating to fire losses;
3 providing for insurance companies to notify authorized
4 agencies of suspicious fire losses, providing for immunity
5 for insurance companies that provide information under this
6 act; providing for the exchange and confidentiality of
7 information and providing penalties.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. Short title.

11 This act shall be known and may be cited as the "Arson
12 Reporting Immunity Act."

13 Section 2. Definitions.

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

17 "Action." Includes nonaction or the failure to take action.

18 "Authorized agencies."

19 (1) For the purposes of this act shall include:

20 (i) the State Police Commissioner and other police

1 officers charged with the investigation of fires at the
2 place where the fire actually took place;

3 (ii) the fire commissioner or fire chief of all
4 first, second, second class A and third class cities;

5 (iii) the Attorney General;

6 (iv) the prosecuting attorney responsible for
7 prosecutions in the county where the fire occurred;

8 (v) the Federal Bureau of Investigation;

9 (vi) the Federal Bureau of Alcohol, Tobacco and
10 Firearms;

11 (vii) the United States Attorney when authorized or
12 charged with investigation or prosecution of the fire in
13 question;

14 (viii) Department of Environmental Resources Bureau
15 of Forestry;

16 (2) Solely for the purposes of section 3(b), an
17 appropriate authorized agency is:

18 (i) the State Police Commissioner or his authorized
19 representative; or

20 (ii) the fire commissioner or fire chief of all
21 first, second, second class A and third class cities and
22 the fire chief of any other municipality with a paid fire
23 department when that municipality is not serviced by the
24 State Police Commissioner or his authorized
25 representative for the purpose of investigating fires.

26 "Insurance company." Any insurance company authorized to
27 transact the business of insurance in this Commonwealth and
28 empowered to issue policies of insurance against loss by the
29 perils of fire or explosion, including the Pennsylvania Fair
30 Plan created pursuant to the act of July 31, 1968 (P.L.738,

1 No.233), known as "The Pennsylvania Fair Plan Act."

2 "Fire loss." Shall include loss by explosion.

3 "Relevant." Any information having a tendency to make the
4 existence of any fact that is of consequence to the
5 investigation or determination of the issue more or less
6 probable than it would be without the information.

7 Section 3. Disclosure of information.

8 (a) Fire loss information.--Any authorized agency may, in
9 writing, require any insurance company at interest to release to
10 the requesting authorized agency any or all relevant information
11 or evidence deemed important to the authorized agency which the
12 insurance company may have in its possession relating to a fire
13 loss under investigation by the authorized agency. Relevant
14 information may include, without limitation herein:

15 (1) pertinent policy information relevant to a fire loss
16 under investigation, including any application for such a
17 policy;

18 (2) underwriting information or risk inspection reports;

19 (3) policy premium payment records which are available;

20 (4) history of previous claims made by the insured; and

21 (5) material relating to the investigation of the loss,
22 including statements of any person, proof of loss, and any
23 other information relevant to the investigation by the
24 authorized agency.

25 (b) Notification for investigation.--

26 (1) ~~When an insurance company has reason to believe that~~ <—
27 ~~a fire loss in which it has an interest may be of other than~~
28 ~~a fortuitous nature,~~ WHENEVER THE INVESTIGATION OF A FIRE <—
29 LOSS BY AN INSURANCE COMPANY INSURING THE LOSS INDICATES THAT
30 THE PROBABLE CAUSE OF THE FIRE LOSS WAS ARSON, THEN the

1 company shall notify, in writing, the appropriate authorized
2 agency and upon the request of any authorized agency, shall
3 provide the requesting authorized agency with such fire loss
4 information developed from the company's inquiry into the
5 fire loss as may be requested by the authorized agency AND
6 THE INSURANCE COMPANY MAY PROVIDE TO ANY AUTHORIZED AGENCY
7 ANY INFORMATION IT MAY HAVE RELATING TO A FIRE LOSS;

<—

8 (2) Nothing in this subsection shall abrogate or impair
9 any rights or duties created under subsection (a).

10 (c) Notification to policyholder.--When information is
11 requested of any insurance company by an authorized agency
12 pursuant to subsection (a) or (b):

13 (1) The insurance company shall send written notice to
14 the policyholder or policyholders about whom the information
15 pertains, except if the insurance company receives notice
16 that the authorized agency finds, based on specific facts,
17 that there is reason to believe that such information will
18 result in:

19 (i) Endangerment to the life or physical safety of
20 any person.

21 (ii) Flight from prosecution.

22 (iii) Destruction of or tampering with evidence.

23 (iv) Intimidation of any potential witness or
24 witnesses.

25 (v) Obstruction of or seriously jeopardizing an
26 investigation.

27 (2) The insurance company shall send written notice not
28 sooner than 45 nor more than 60 days from the time the
29 information is furnished to an authorized agency except when
30 the authorized agency specifies that a notice should not be

1 sent in accordance with the exceptions enumerated under
2 paragraph (1) in which event the insurance company shall send
3 written notice to the policyholder not sooner than 180 days
4 nor more than 190 days following the date such information is
5 furnished to an authorized agency.

6 (3) Every insurance company or authorized agency and any
7 person acting on behalf of an insurance company or authorized
8 agency complying with or attempting in good faith to comply
9 with paragraphs (1) and (2) shall be absolutely immune from
10 any civil liability arising out of any acts or omissions in
11 so doing.

12 (4) Nothing in this subsection shall be construed to
13 create any rights to privacy or causes of action on behalf of
14 policyholders which are not in existence as of the effective
15 date of this act.

16 (d) Release of information.--An authorized agency that is
17 provided with information pursuant to subsection (a) or (b) may,
18 at its discretion, in good faith, release or provide orally or
19 in writing such information that it may possess in whole or in
20 part to any other authorized agency or insurance company in
21 furtherance of the authorized agency's own investigative
22 purposes.

23 Section 4. Immunity.

24 Any insurance company, or person designated to act in its
25 behalf; or any authorized agency or person authorized to act on
26 its behalf, who shall release information, whether oral or
27 written, pursuant to section 3(a), (b) or (d) shall be immune
28 from liability arising out of a civil action and from criminal
29 prosecution with respect to the release of such information,
30 unless there be actual malice.

1 Section 5. Evidence.

2 Except as provided in section 3(d), any authorized agency or
3 insurance company defined in section 2 who receives any
4 information furnished pursuant to this act, shall hold the
5 information in strict confidence until such time as its release
6 is required pursuant to a criminal or civil proceeding.

7 Section 6. Penalty.

8 (a) Disclosure of information.--Any person who shall fail or
9 refuse to release any information required to be released under
10 this act or who discloses information required to be held in
11 confidence, or who otherwise violates any provision of this act
12 (except section 3(c)(1) and (2)) shall, upon conviction thereof,
13 be guilty of a misdemeanor of the third degree.

14 (b) Immunity from liability.--Any person who shall release
15 or disclose information required to be held in confidence
16 pursuant to section 5 (other than as provided under section
17 3(a), (b) or (d)) shall not be afforded the protection of
18 immunity from liability arising out of a civil action or
19 criminal prosecution as provided in section 4.

20 Section 7. Construction of act.

21 (a) Municipal ordinances.--The provisions of this act shall
22 not be construed to affect or repeal any ordinances of any
23 municipality relating to fire prevention or the control of
24 arson.

25 (b) Impairment of rights not intended.--With the exception
26 of section 4, all other provisions of this act shall not be
27 construed to impair any existing statutory or common law rights,
28 powers or duties.

29 Section 8. Regulations.

30 (a) State Police Commissioner.--The State Police

1 Commissioner may adopt such rules and publish regulations
2 concerning the implementation of section 3(d), as he may deem
3 necessary.

4 (b) Insurance Commissioner.--The Insurance Commissioner may
5 adopt such rules and publish regulations concerning the
6 implementation of this act except for section 3(d).

7 Section 9. Report to General Assembly.

8 Not later than 18 months after the effective date of this
9 act, the State Police Commissioner shall report to the General
10 Assembly on the legality, feasibility, advisability, and the
11 manner, if any, of providing investigatory material to insurance
12 companies. Such report shall be submitted only after
13 consultation with the Department of Justice, representatives of
14 the insurance industry, other authorized agencies and any other
15 organizations or individuals at interest as determined by the
16 commissioner.

17 Section 10. Effective date.

18 This act shall take effect in 120 days.