
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, MACKOWSKI AND REED, APRIL 30, 1979

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, MAY 19, 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:

1 (i) the State Police Commissioner and other police
2 officers charged with the investigation of fires at the
3 place where the fire actually took place;

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

6 (iii) the Attorney General;

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

9 (v) the Federal Bureau of Investigation;

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

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

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

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

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

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

27 "Insurance company." Any insurance company authorized to
28 transact the business of insurance in this Commonwealth and
29 empowered to issue policies of insurance against loss by the
30 perils of fire or explosion, including the Pennsylvania Fair

1 Plan created pursuant to the act of July 31, 1968 (P.L.738,
2 No.233), known as "The Pennsylvania Fair Plan Act."

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

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

8 Section 3. Disclosure of information.

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

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

19 (2) underwriting information or risk inspection reports;

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

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

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

26 (b) Notification for investigation.--

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

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

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

11 (c) Notification to policyholder.--When information is
12 ~~requested of~~ GIVEN BY any insurance company ~~by~~ TO an authorized <—
13 agency pursuant to subsection (a) or (b):

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

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

22 (ii) Flight from prosecution.

23 (iii) Destruction of or tampering with evidence.

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

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

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

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

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

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

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

24 Section 4. Immunity.

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

1 unless there be actual malice.

2 Section 5. Evidence.

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

8 Section 6. Penalty.

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

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

21 Section 7. Construction of act.

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

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

30 Section 8. Regulations.

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

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

8 Section 9. Report to General Assembly.

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

18 Section 10. Effective date.

19 This act shall take effect in 120 days.