

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 92

Session of  
1987

INTRODUCED BY GEORGE, JAROLIN, HASAY, IRVIS, MANDERINO,  
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FREEMAN, WOZNIAK, STEIGHNER, VEON, KUKOVICH, HALUSKA, TIGUE,  
CAWLEY, FOX, STABACK, CARLSON, LLOYD, PRESTON, PETRONE,  
DUFFY, BELFANTI, BALDWIN, STUBAN, COY, KOSINSKI, PUNT,  
PISTELLA, GRUPPO, LaGROTTA, SERAFINI AND TELEK, FEBRUARY 3,  
1987

REFERRED TO COMMITTEE ON CONSERVATION, FEBRUARY 3, 1987

AN ACT

1 Amending the act of July 7, 1980 (P.L.380, No.97), entitled "An  
2 act providing for the planning and regulation of solid waste  
3 storage, collection, transportation, processing, treatment,  
4 and disposal; requiring municipalities to submit plans for  
5 municipal waste management systems in their jurisdictions;  
6 authorizing grants to municipalities; providing regulation of  
7 the management of municipal, residual and hazardous waste;  
8 requiring permits for operating hazardous waste and solid  
9 waste storage, processing, treatment, and disposal  
10 facilities; and licenses for transportation of hazardous  
11 waste; imposing duties on persons and municipalities;  
12 granting powers to municipalities; authorizing the  
13 Environmental Quality Board and the Department of  
14 Environmental Resources to adopt rules, regulations,  
15 standards and procedures; granting powers to and imposing  
16 duties upon county health departments; providing remedies;  
17 prescribing penalties; and establishing a fund," further  
18 providing for the approval of permits and licenses and for  
19 the power and duties of municipalities; requiring a fee for  
20 emergency groundwater contamination plans; and further  
21 providing for search warrants.

22 The General Assembly of the Commonwealth of Pennsylvania  
23 hereby enacts as follows:

24 Section 1. The act of July 7, 1980 (P.L.380, No.97), known  
25 as the Solid Waste Management Act, is amended by adding a

1 section to read:

2 Section 106.1. Powers and duties of host municipalities and  
3 counties.

4 (a) Whenever the department intends to make an inspection or  
5 conduct tests on any property, building, premises or place where  
6 solid waste is generated, stored, processed, treated or disposed  
7 of it may, prior thereto, notify the chief executive officer or  
8 governing body of the host municipality and the county  
9 commissioners of the county wherein the host municipality is  
10 located for the purpose of inviting persons designated by such  
11 municipality or county as its representatives to accompany the  
12 employees or agents of the department onto the site to observe  
13 such inspections or tests. Copies of the results of all  
14 inspections and tests made by the department or by others at the  
15 direction or order of the department shall be forwarded  
16 immediately upon receipt of such results by the department to  
17 the chief executive officer or governing body of the host  
18 municipality and the county commissioners of the county wherein  
19 the host municipality is located.

20 (b) The host municipality or the county wherein the host  
21 municipality is located shall have the power to make inspections  
22 or investigations of any property, building, premises or place  
23 where solid waste is generated, stored, processed, treated or  
24 disposed of and shall be entitled to access to, and require the  
25 production of, books and papers, documents and physical evidence  
26 pertinent to any matter relative to such solid waste.

27 (c) Whenever the chief executive officer or governing body  
28 of a host municipality or the county commissioners of the county  
29 wherein the host municipality is located presents information to  
30 the department which should give the department reason to

1 believe that any person is in violation of any requirement of  
2 this act, any regulation promulgation hereunder or any permit or  
3 license issued hereunder, the department, through its regional  
4 director in charge of the area in question, shall meet with  
5 representatives of such municipality or county within five days  
6 of receipt of such information. If the concerns of the  
7 municipality or county have not been dealt with in a  
8 satisfactory manner at the end of 60 days following such a  
9 meeting, the information shall be delivered directly to the  
10 secretary along with the report of the regional director. Within  
11 five days of receipt of the information by the secretary, a  
12 meeting shall be held between the secretary and representatives  
13 of the municipality or county. The secretary shall make a final  
14 report to the municipality or county within 60 days following  
15 such meeting. This right or remedy shall be in addition to and  
16 not a prior condition to the exercise of any other existing or  
17 future right or remedy of the municipality or county.

18       Section 2.   Section 502(b) of the act is amended to read:  
19   Section 502.   Permit and license application requirements.

20       \* \* \*

21       (b)   The application for a permit to operate a hazardous  
22   waste storage, treatment or disposal facility shall also be  
23   accompanied by a form, prepared and furnished by the department,  
24   containing the written consent of the landowner to entry upon  
25   any land to be affected by the proposed facility by the  
26   Commonwealth, the host municipality or the county wherein the  
27   host municipality is located and by any of its authorized agents  
28   prior to and during operation of the facility and for 20 years  
29   after closure of the facility, for the purpose of inspection and  
30   for the purpose of any such pollution abatement or pollution

1 prevention activities as the department deems necessary. Such  
2 forms shall be deemed to be recordable documents and prior to  
3 the initiation of operations under the permit, such forms shall  
4 be recorded and entered into the deed book (d.b.v.) indexing  
5 system at the office of the recorder of deeds in the counties in  
6 which the area to be affected under the permit is situated.

7 \* \* \*

8 Section 3. Section 503 of the act is amended by adding a  
9 subsection to read:

10 Section 503. Granting, denying, renewing, modifying, revoking  
11 and suspending permits and licenses.

12 \* \* \*

13 (f) Every permit or license and any modification or renewal  
14 thereof shall be issued and the continued use of any existing  
15 permit or license shall be upon the condition that the permittee  
16 or licensee complies with the provisions of section 608 of this  
17 act. Failure to comply with such provisions shall subject the  
18 permit or license to revocation or suspension.

19 Section 4. Section 504 of the act is amended to read:

20 Section 504. Approval by governing body.

21 (a) Applications for a permit shall be reviewed by the  
22 appropriate county, county planning agency or county health  
23 department where they exist and the host municipality, and they  
24 may recommend to the department conditions upon, revisions to,  
25 or disapproval of the permit only if specific cause is  
26 identified. In such case the department shall be required to  
27 publish in the Pennsylvania Bulletin its justification for  
28 overriding the county's recommendations. If the department does  
29 not receive comments within 60 days, the county shall be deemed  
30 to have waived its right to review.

1     (b) The host municipality, in which a proposed storage,  
2 treatment or disposal site of hazardous waste is to be located,  
3 shall have the authority to approve or disapprove a permit or  
4 license for the storage, treatment or disposal of hazardous  
5 waste. The governing body of such a municipality shall arrive at  
6 its decision, within 90 days, in an open public meeting and  
7 after holding at least one public hearing on the subject. Upon  
8 disapproval by the governing body, the applicant shall have the  
9 right to appeal to the court of common pleas.

10     Section 5. The act is amended by adding a section to read:  
11 Section 509. Imposition and use of fee.

12     (a) Persons engaged in this Commonwealth in the business of  
13 operating a solid waste disposal site shall pay a fee to cover  
14 the cost of establishing emergency plans and funds to deal with  
15 the possibility of problems occurring from that site, namely  
16 groundwater contamination.

17     (b) The fee shall be used by the department for:

18         (1) Establishment and maintenance of emergency plans  
19 prepared by the department, other Commonwealth agencies,  
20 school districts or municipalities.

21         (2) Purchase of protective and emergency supplies and  
22 equipment to deal with groundwater contamination.

23         (3) Financial assistance to municipalities, school  
24 districts and State agencies to carry out any remedial action  
25 for groundwater contamination.

26     (c) Within 30 days after the beginning of each fiscal year  
27 of the Commonwealth, each person who possessed a permit or  
28 operating license issued by the department for a solid waste  
29 disposal site during any portion of the previous fiscal year  
30 shall pay to the department an annual fee to be determined by

1 the department. The fee shall be placed into the Solid Waste  
2 Abatement Fund for use by the department under the requirements  
3 of this section.

4 Section 6. Sections 608 and 609 of the act are amended to  
5 read:

6 Section 608. Production of materials; recordkeeping  
7 requirements; rights of entry.

8 (a) The department and its agents and employees shall:

9 (1) Have access to, and require the production of, books  
10 and papers, documents, and physical evidence pertinent to any  
11 matter under investigation.

12 (2) Require any person or municipality engaged in the  
13 storage, transportation, processing, treatment or disposal of  
14 any solid waste to establish and maintain such records and  
15 make such reports and furnish such information as the  
16 department may prescribe.

17 (3) Enter any building, property, premises or place  
18 where solid waste is generated, stored, processed, treated or  
19 disposed of for the purposes of making such investigation or  
20 inspection as may be necessary to ascertain the compliance or  
21 noncompliance by any person or municipality with the  
22 provisions of this act and the rules or regulations  
23 promulgated hereunder. In connection with such inspection or  
24 investigation, samples may be taken of any solid, semisolid,  
25 liquid or contained gaseous material for analysis. If any  
26 analysis is made of such samples, a copy of the results of  
27 the analysis shall be furnished within five business days to  
28 the person having apparent authority over the building,  
29 property, premises or place.

30 (b) The powers granted to the department in subsection

1 (a)(1) and (3) are hereby granted to the host municipality, the  
2 county wherein the host municipality is located and the  
3 designated agents and employees of such municipality or county.

4 Section 609. Search warrants.

5 An agent or employee of the department or a designated agent  
6 or employee of the host municipality or county may apply for a  
7 search warrant to any Commonwealth official authorized to issue  
8 a search warrant for the purposes of inspecting or examining any  
9 property, building, premise, place, book, record or other  
10 physical evidence, of conducting tests, or of taking samples of  
11 any solid waste. Such warrant shall be issued upon probable  
12 cause. It shall be sufficient probable cause to show any of the  
13 following:

14 (1) that the inspection, examination, test, or sampling  
15 is pursuant to a general administrative plan to determine  
16 compliance with this act;

17 (2) that the agent or employee has reason to believe  
18 that a violation of this act has occurred or may occur; or

19 (3) that the agent or employee has been refused access  
20 to the property, building, premise, place, book, record or  
21 physical evidence, or has been prevented from conducting  
22 tests or taking samples.

23 Section 7. This act shall take effect in 60 days.