

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2199 Session of
1998

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ALLEN, COWELL, RAMOS, SEYFERT, HALUSKA, WAUGH, GORDNER, CLARK
AND BENNINGHOFF, FEBRUARY 9, 1998

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,
FEBRUARY 9, 1998

AN ACT

1 Amending the act of July 28, 1988 (P.L.556, No.101), entitled
2 "An act providing for planning for the processing and
3 disposal of municipal waste; requiring counties to submit
4 plans for municipal waste management systems within their
5 boundaries; authorizing grants to counties and municipalities
6 for planning, resource recovery and recycling; imposing and
7 collecting fees; establishing certain rights for host
8 municipalities; requiring municipalities to implement
9 recycling programs; requiring Commonwealth agencies to
10 procure recycled materials; imposing duties; granting powers
11 to counties and municipalities; authorizing the Environmental
12 Quality Board to adopt regulations; authorizing the
13 Department of Environmental Resources to implement this act;
14 providing remedies; prescribing penalties; establishing a
15 fund; and making repeals," enlarging the scope of the act;
16 providing for agricultural loss mitigation; making editorial
17 changes; and making an appropriation.

18 The General Assembly of the Commonwealth of Pennsylvania
19 hereby enacts as follows:

20 Section 1. The title of the act of July 28, 1988 (P.L.556,
21 No.101), known as the Municipal Waste Planning, Recycling and
22 Waste Reduction Act, is amended to read:

AN ACT

Providing for planning for the processing and disposal of municipal waste; requiring counties to submit plans for municipal waste management systems within their boundaries; authorizing grants to counties and municipalities for planning, resource recovery and recycling; imposing and collecting fees; establishing certain rights for host municipalities; requiring municipalities to implement recycling programs; requiring Commonwealth agencies to procure recycled materials; imposing duties; granting powers to counties and municipalities; authorizing the Environmental Quality Board to adopt regulations; authorizing the Department of Environmental [Resources] Protection and the Department of Agriculture to implement this act; providing remedies; prescribing penalties; establishing [a fund] funds; providing for agricultural loss mitigation; and making repeals.

Section 2. The definition of "department" in section 103 of the act is amended and the section is amended by adding a definition to read

Section 103. 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] Protection of the Commonwealth and its authorized representatives.

* * *

"Farm land." Land which is being used for agricultural

production. The term includes farm structures, buildings,
facilities and farm family residences situated on the land.

* * *

Section 3. Section 706 of the act is amended to read:

Section 706. Recycling Fund.

(a) Establishment.--All fees received by the department pursuant to section 701 shall be paid into the State Treasury into a special fund to be known as the Recycling Fund, which is hereby established.

(b) Appropriation.--All moneys placed in the Recycling Fund are hereby appropriated to the department for the purposes set forth in this section. The department shall annually submit to the Governor for his approval estimates of amounts to be expended under this act.

(c) Allocations.--The department shall, to the extent practicable, allocate the moneys received by the Recycling Fund, including all interest generated thereon, in the following manner over the life of the fund:

(1) At least 70% shall be expended by the department for grants to municipalities for the development and implementation of recycling programs as set forth in section 902, recycling coordinators as provided in section 903, for grants for municipal recycling programs as set forth in section 904, and market development and waste reduction studies as set forth in section 508; for implementation of the recommendations in the studies required by section 508; and for research conducted or funded by the Department of Transportation pursuant to section 1506.

(2) Up to [10%] 5% may be expended by the department for grants for feasibility studies for municipal waste processing

1 and disposal facilities, except for facilities for the
2 combustion of municipal waste that are not proposed to be
3 operated for the recovery of energy as set forth in section
4 901.

5 (2.1) Up to 5% shall be deposited into the Livestock,
6 Crop and Equipment Mitigation Fund established in section
7 1803.

8 (3) Up to 30% may be expended by the department for
9 [public] all of the following:

10 (i) Public information, public education and
11 technical assistance programs concerning litter control,
12 recycling and waste reduction, including technical
13 assistance programs for counties and other
14 municipalities[, for research].

15 (ii) Research and demonstration projects[, for
16 planning].

17 (iii) Planning grants as set forth in section 901,
18 for the host inspector training program as set forth in
19 section 1102[, and for other].

20 (iv) Removal of illegally discarded beverage
21 containers from farmland sponsored by a municipality or
22 by a nonprofit organization approved by the Department of
23 Agriculture. Expenditures under this subparagraph shall
24 be made by individual grants as follows:

25 (A) By November 30, an applicant must submit an
26 application to the department for a grant.

27 (B) The application must contain all of the
28 following and such other information as the
29 department shall require:

30 (I) Name of organization.

1 (II) Description of activities.

2 (III) Approval by Department of Agriculture.

3 (IV) General location within the county
4 where cleanup will take place.

5 (V) Program implementation schedule.

6 (VI) Materials to be collected.

7 (VII) Methods of disposal of items cleaned
8 up.

9 (C) By January 31 of the year following
10 submission of the application, the department must
11 transmit to the applicant in writing one of the
12 following decisions:

13 (I) To award the grant in the amount of not
14 more than \$1,000.

15 (II) To deny the grant.

16 (D) If a decision is not transmitted by the date
17 specified in clause (C), the grant shall be deemed
18 awarded.

19 (E) Clause (C) is subject to 2 Pa.C.S. Ch. 5
20 Subch. A (relating to practice and procedure of
21 Commonwealth agencies). A denial under clause (C)(II)
22 is subject to 2 Pa.C.S. Ch 7 Subch. A (relating to
23 judicial review of Commonwealth agency action).

24 (F) By March 1 of the year following submission
25 of the application, the department shall award all
26 grants under this subparagraph.

27 (v) Other purposes consistent with this act.

28 (4) No more than 3% may be expended for the collection
29 and administration of moneys in the fund.

30 (d) Transfer.--On the first day of the 16th year after the

1 fee imposed by section 701 becomes effective, all moneys in the
2 Recycling Fund that are not obligated shall be transferred to
3 the Solid Waste Abatement Fund and expended in the same manner
4 as other moneys in the Solid Waste Abatement Fund. On the first
5 day of the 19th year after the fee imposed by section 701
6 becomes effective, all moneys in the Recycling Fund that are not
7 expended shall be transferred to the Solid Waste Abatement Fund
8 and expended in the same manner as other moneys in the Solid
9 Waste Abatement Fund.

10 (e) Advisory committee.--The secretary shall establish a
11 Recycling Fund Advisory Committee composed of representatives of
12 counties, other municipalities, municipal authorities, the
13 municipal waste management industry, the municipal waste
14 recycling industry, the municipal waste generating industry and
15 the general public. The committee shall also include members of
16 the General Assembly, one appointed by each of the following:
17 the Speaker of the House of Representatives, the Minority Leader
18 of the House of Representatives, the President pro tempore of
19 the Senate and the Minority Leader of the Senate. The committee
20 shall meet at least annually to review the Commonwealth's
21 progress in meeting the goals under section 102(c), to recommend
22 priorities on expenditures from the fund, and to advise the
23 secretary on associated activities concerning the administration
24 of the fund. The department shall reimburse members of the
25 committee for reasonable travel, hotel and other necessary
26 expenses incurred in performance of their duties under this
27 section.

28 (f) Annual reports.--The department shall submit an annual
29 report to the General Assembly on receipts to and disbursements
30 from the Recycling Fund in the previous fiscal year, projections

1 for revenues and expenditures in the coming fiscal year, and the
2 Commonwealth's progress in achieving the goals set forth in
3 section 102(c). The annual report due two years before the
4 expiration of the recycling fee under section 701(d) shall
5 contain a recommendation whether the fee should continue to be
6 imposed after the expiration date and, if so, the proposed
7 amount of the fee.

8 Section 4. The act is amended by adding a chapter to read:

9 CHAPTER 18

10 AGRICULTURAL LOSS MITIGATION

11 Section 1801. Definitions.

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

15 "Agricultural equipment or machinery." Equipment or
16 machinery designed and used for agricultural production. The
17 term includes farm tractors, tires, choppers, balers, reapers,
18 mowers, pickers, threshers, combines, plows, harrows, planters
19 and any other vehicle or machine used as an implement of
20 husbandry or multipurpose agricultural vehicle.

21 "Agricultural production." The production for commercial
22 purposes of crops, livestock and livestock products. The term
23 includes the processing or retail marketing of such crops,
24 livestock or livestock products if more than 50% of the
25 processed or merchandised products are produced by the farmer.

26 "Beverage container." The individual, separate bottle, can,
27 jar or carton, composed of glass, metal, paper, plastic, or any
28 combination of those materials which is produced for the purpose
29 of containing a beverage.

30 "Cooperative extension." The Cooperative Extension Service

1 of The Pennsylvania State University.

2 "Crops." The term includes all of the following:

3 (1) Field crops.

4 (2) Fruits.

5 (3) Vegetables.

6 (4) Horticultural specialties, including nursery stock
7 ornamental shrubs, ornamental trees and flowers.

8 "Farmer." A person who is engaged in agricultural production
9 for commercial purposes.

10 "Fund." The Livestock, Crop and Equipment Mitigation Fund
11 established in section 1803.

12 "Livestock or livestock products." The term includes cattle,
13 sheep, hogs, goats, horses, poultry, furbearing animals, milk,
14 eggs and furs.

15 "Loss." Damage to agricultural equipment or machinery, to
16 crops or to livestock or livestock products which:

17 (1) is caused by ingestion of or exposure to illegally
18 disposed beverage containers; and

19 (2) is not covered by insurance.

20 Section 1802. Department of Agriculture.

21 The Department of Agriculture has the following powers and
22 duties:

23 (1) To administer the fund under sections 1803(d) and
24 1804.

25 (2) To promulgate regulations to implement this chapter.

26 Section 1803. Fund.

27 (a) Establishment.--The Livestock, Crop and Equipment
28 Mitigation Fund is established as a separate fund in the State
29 Treasury. The money in the fund shall constitute a continuing,
30 nonlapsing appropriation for the purposes set forth in

1 subsection (b).

2 (b) Use.--The fund shall be used for the following purposes:

3 (1) To award loss mitigation payments under section
4 1804.

5 (2) By August 1, to return to the Recycling Fund any
6 money in the fund in excess, as of the end of the prior
7 fiscal year, of \$5,000,000.

8 (c) Source.--The following are the sources of the fund:

9 (1) Allocations under section 706(c)(2.1).

10 (2) Appropriations.

11 (d) Administration.--The Department of Agriculture shall
12 administer the fund to carry out the purposes of subsection (b).
13 Section 1804. Loss mitigation payments.

14 (a) Eligibility.--A farmer is eligible for a mitigation
15 payment if all of the following apply:

16 (1) The farmer suffers a loss.

17 (2) The loss is attested to by:

18 (i) a veterinarian;

19 (ii) an agent of the cooperative extension; or

20 (iii) a food or animal inspector of the Department
21 of Agriculture.

22 (b) Application.--

23 (1) By January 31, an applicant must submit an
24 application to the Department of Agriculture for losses
25 incurred during the preceding calendar year.

26 (2) The application must contain all of the following:

27 (i) Name of farmer.

28 (ii) Address of farm.

29 (iii) Description of loss. This subparagraph
30 includes date, nature and amount of loss.

1 (iv) Attestation under subsection (a)(2).

2 (c) Decision.--

3 (1) By April 30, for each application, the Department of
4 Agriculture must transmit to the applicant in writing one of
5 the following decisions:

6 (i) To award the loss mitigation payment in the
7 amount of the lesser of:

8 (A) 2/3 of the amount of the loss; or

9 (B) \$2,000.

10 (ii) To deny the loss mitigation payment.

11 (2) If a decision is not transmitted by the date
12 specified in paragraph (1), the loss mitigation payment shall
13 be deemed awarded.

14 (3) Paragraph (1) is subject to 2 Pa.C.S. Ch. 5 Subch. A
15 (relating to practice and procedure of Commonwealth
16 agencies). A denial under paragraph (1)(ii) is subject to 2
17 Pa.C.S. Ch 7 Subch. A (relating to judicial review of
18 Commonwealth agency action).

19 (d) Award.--By June 15, the Department of Agriculture shall
20 do all of the following:

21 (1) Determine the total amount of loss mitigation
22 payments awarded under subsection (c)(1)(i) or (2).

23 (2) If there is sufficient money in the fund, make all
24 of the loss mitigation payments awarded under paragraph (1).

25 (3) If there is insufficient money in the fund, make the
26 loss mitigation payments awarded under paragraph (1) on a
27 proportionate basis.

28 Section 5. The sum of \$5,000,000 is hereby appropriated to
29 the Livestock, Crop and Equipment Mitigation Fund to carry out
30 the provisions of this act.

1 Section 6. This act shall take effect as follows:

2 (1) This section shall take effect immediately.

3 (2) The addition of section 1804 of the act shall take
4 effect January 1, 1999.

5 (3) The remainder of this act shall take effect in 60
6 days.