

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1728 Session of
1999

INTRODUCED BY BROWNE, SEMMEL, ADOLPH, ARGALL, BARD, BELFANTI,
CORRIGAN, FREEMAN, GRUCELA, HENNESSEY, MANN, ROONEY,
SCRIMENTI, SNYDER, E. Z. TAYLOR, WILLIAMS AND YOUNGBLOOD,
JUNE 21, 1999

REFERRED TO COMMITTEE ON VETERANS AFFAIRS AND EMERGENCY
PREPAREDNESS, JUNE 21, 1999

AN ACT

1 Amending the act of December 7, 1990 (P.L.639, No.165), entitled
2 "An act establishing a Statewide hazardous material safety
3 program; creating the Hazardous Material Response Fund;
4 providing for the creation of Hazardous Material Emergency
5 Response Accounts in each county; further providing for the
6 powers and duties of the Pennsylvania Emergency Management
7 Agency, of the Pennsylvania Emergency Management Council and
8 of the counties and local governments; imposing obligations
9 on certain handlers of hazardous materials; and imposing
10 penalties," further providing for purposes, for definitions,
11 for program components, for reporting requirements, for
12 penalties and for use of the Hazardous Material Response
13 Fund; and establishing chemical industry advisory and
14 mentoring councils.

15 The General Assembly of the Commonwealth of Pennsylvania
16 hereby enacts as follows:

17 Section 1. Section 103 of the act of December 7, 1990
18 (P.L.639, No.165), known as the Hazardous Material Emergency
19 Planning and Response Act, is amended by adding a definition to
20 read:

21 Section 103. Definitions.

22 The following words and phrases when used in this act shall

1 have the meanings given to them in this section unless the
2 context clearly indicates otherwise:

3 * * *

4 "Hazardous substance exposure parameter." An area which
5 poses danger to a community, as determined on a case-by-case
6 basis by a local emergency planning committee, in relation to
7 type and quantity of hazardous substances.

8 * * *

9 Section 2. Section 204(a) of the act is amended by adding a
10 paragraph to read:

11 Section 204. Hazardous material safety program.

12 (a) Program components.--In conjunction with the Departments
13 of Environmental Resources, Health, Transportation, Agriculture,
14 Labor and Industry and Commerce, Pennsylvania Public Utility
15 Commission, Fish Commission, Pennsylvania Turnpike Commission
16 and the Pennsylvania State Police, or any other Commonwealth
17 agencies as determined by the council, PEMA shall develop a
18 hazardous material safety program for incorporation into the
19 Pennsylvania Emergency Management Plan developed by PEMA under
20 35 Pa.C.S. Pt. V (relating to emergency management services).

21 The hazardous material safety program shall include an
22 assessment of the potential dangers and risks that hazardous
23 material releases occurring at facilities and from
24 transportation-related accidents pose to the general public and
25 the environment. The Pennsylvania State Fire Academy shall be
26 utilized as a primary training facility pursuant to its duties
27 under 35 Pa.C.S. § 7316(c) (relating to Pennsylvania State Fire
28 Academy). The council may also utilize other institutions that
29 have in place appropriate training resources, such as the Center
30 for Hazardous Materials Research at the University of

Pittsburgh's Applied Research Center, to fulfill its training responsibilities. The program shall also consider the impacts, consequences and necessary protective measures required to respond to and mitigate the effects of such releases and accidents. The program shall include, but not be limited to:

* * *

(12) Establishment of procedures for informing businesses and residences, which are within the hazardous substance exposure parameter, about the potential risks involved regarding the hazardous materials which are stored, manufactured, used or transferred close to their proximity.

Section 3. Sections 205 and 207(a) of the act are amended to read:

Section 205. Emergency reporting requirements.

(a) Requirements.--The owner or operator of a facility in this Commonwealth shall comply with the following requirements:

(1) The owner or operator of a facility in this Commonwealth covered under section 302 of SARA, Title III, shall comply with the emergency planning and notification requirements under sections 302 and 303 of SARA, Title III.

(2) The owner or operator of a facility in this Commonwealth covered under section 311 of SARA, Title III, shall comply with the reporting requirements under sections 311 and 312 of SARA, Title III.

(3) The owner or operator of a facility in this Commonwealth subject to section 313 of SARA, Title III, shall comply with the toxic chemical release form requirements under section 313 of SARA, Title III.

(4) The owner of a facility in this Commonwealth subject to the requirements of paragraphs (2) and (3) shall [comply

1 with the procedures for providing information under section
2 323 of SARA, Title III.] report the presence of hazardous
3 materials to State and local authorities at the same time in
4 which they inform employees working at the facility, as
5 required by OSHA.

6 (5) The owner or operator of a facility in this
7 Commonwealth covered under section 304 of SARA, Title III,
8 shall comply with the notification requirements of section
9 304 of SARA, Title III, and section 206 of this act.

10 (b) Document repository.--For the purposes of complying with
11 the reporting requirements set forth in sections 311, 312 and
12 313 of SARA, Title III, the owner or operator of any facility
13 shall submit its material safety data sheets or chemical lists,
14 emergency and hazardous chemical inventory forms and toxic
15 chemical release forms to the Department of Labor and Industry,
16 which is the council's repository for those documents at the
17 State level. The owner or operator shall also submit material
18 safety data sheets (MSDS) to the local emergency planning
19 committees, local fire departments and the governing local
20 municipality, prior to obtaining permits or certificates of
21 occupancy.

22 (c) Rolling stock.--The owner or operator of a property that
23 has one or more rolling stock, whether owned or leased, located
24 within its property boundaries for any period of time in excess
25 of 30 continuous days and containing an extremely hazardous
26 substance in excess of the threshold planning quantity shall
27 notify the council and the appropriate local committee of that
28 fact and shall prepare an emergency response plan, which
29 contains those provisions that either the council or the
30 appropriate local committee directs, in order to deal with any

1 potential release of an extremely hazardous substance from that
2 rolling stock.

3 Section 207. Establishment of funds.

4 (a) Hazardous Material Response Fund.--

5 (1) There is hereby created in the State Treasury a
6 nonlapsing restricted account to be known as the Hazardous
7 Material Response Fund. The fund shall consist of the fees
8 collected under subsections (c), (d) and (e), civil penalties
9 and fines and funds appropriated by the General Assembly.
10 Moneys in the fund and the interest it accrues shall be
11 appropriated annually to PEMA to be disbursed by the council
12 through PEMA and shall be used to carry out the purposes,
13 goals and objectives of SARA, Title III, and the
14 Commonwealth's hazardous material safety program.

15 (2) The council, through PEMA, shall administer and
16 allocate moneys in the fund, including all interest generated
17 therein, in the following manner:

18 (i) Up to 10% shall be expended on training programs
19 for hazardous material response teams.

20 (ii) Up to 10% shall be expended for public and
21 facility owner education, information and participation
22 programs.

23 (iii) No more than 10% shall be used for the general
24 administrative and operational expenses of this act,
25 excluding the expenses of the Hazardous Material
26 Emergency Planning and Response Advisory Committee.

27 (iv) Up to 10% shall be expended to facilitate the
28 development of the chemical industry advisory and
29 mentoring committee.

30 [(iv)](v) The remaining revenue in the fund shall be

1 used as grants to support the activities of counties
2 under this act, as described in section 208.

3 * * *

4 Section 4. Section 302 of this act is amended by adding a
5 subsection to read:

6 Section 302. Penalties and fines.

7 * * *

8 (d) Voluntary disclosure waiver.--Fines and penalties under
9 this section may be waived at the discretion of PEMA, provided
10 that the owner or operator of the facility voluntarily seeks
11 compliance without prior enforcement contract by PEMA, and, the
12 owner or operator of the facility agrees to come into compliance
13 with all reporting, notification and fee requirements under this
14 act. Failure to fulfill the requirements of this voluntary
15 disclosure provision will result in the full reinstatement of
16 all fines and penalties which were previously waived by PEMA.

17 Section 5. The act is amended by adding a section to read.
18 Section 303.1. Chemical industry advisory and mentoring
19 councils.

20 (a) Establishment.--There is hereby established a chemical
21 industry advisory and mentoring council in each local emergency
22 planning district. Each council shall consist of 5 members
23 appointed by the Governor. The terms of the members shall be for
24 two years. The members shall serve without compensation but may
25 be reimbursed for their actual and necessary expenses.

26 (b) Purpose of council.--The purpose of the council shall be
27 to establish a strong working relationship between business and
28 industry and the Commonwealth and its municipalities in order to
29 protect, to safeguard the citizens of this Commonwealth from the
30 health hazards resulting from the use, storage, distribution and

1 transportation of hazardous materials and to encourage Federal
2 action to improve hazardous substance emergency management and
3 response.

4 Section 6. This act shall take effect in 60 days.