
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 399 Session of
1989

INTRODUCED BY REBER, MORRIS, VEON, LETTERMAN, SCHEETZ, CLYMER,
KUKOVICH, LASHINGER, BUNT, ANGSTADT, E. Z. TAYLOR, LEH,
HAGARTY AND SERAFINI, FEBRUARY 13, 1989

REFERRED TO COMMITTEE ON CONSERVATION, FEBRUARY 13, 1989

AN ACT

1 Requiring a ban on the distribution, sale and use of halogenated
2 hydrocarbon chemicals and aromatic hydrocarbon chemicals as
3 sewage system cleaners; requiring the disclosure of contents
4 of sewage system cleaners; requiring the Department of
5 Environmental Resources to administer and enforce certain
6 provisions; and establishing penalties.

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4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Short title.

7 This act shall be known and may be cited as the Sewage System
8 Cleaner Control Act.

9 Section 2. Legislative findings; declaration of purpose.

10 (a) Findings.--It is hereby determined and declared as a
11 matter of legislative finding that halogenated hydrocarbon
12 chemicals and aromatic hydrocarbon chemicals used as sewage
13 system cleaners and additives are a significant and unnecessary
14 source of water pollution and groundwater contamination and
15 economic loss.

16 (b) Purpose.--It is the purpose of this act to:

17 (1) Eliminate the introduction of these toxic chemicals
18 into the surface water and groundwater of this Commonwealth.

19 (2) Prohibit the sale, distribution and use of sewage
20 system cleaners and additives that contain these toxic
21 chemicals.

22 (3) Require the disclosure of the contents of sewage
23 system cleaners or additives that are sold or distributed or
24 used in this Commonwealth.

25 Section 3. Definitions.

26 The following words and phrases when used in this act shall
27 have the meanings given to them in this section unless the
28 context clearly indicates otherwise:

29 "Board." The Environmental Quality Board.

30 "Community sewage system." Any system, whether publicly or

1 privately owned, for the collection of sewage or industrial
2 wastes of a liquid nature from two or more lots and the
3 treatment or disposal of the sewage or industrial waste on one
4 or more of the lots or at any other site.

5 "Department." The Department of Environmental Resources of
6 the Commonwealth and its authorized representatives.

7 "Individual sewage system." A wastewater system or any part
8 of a wastewater system consisting of piping, tanks or other
9 facilities serving a single lot and collecting and disposing of
10 sewage in whole or in part into the soil or into any waters of
11 this Commonwealth or by means of conveyance to another site for
12 final disposal; an alternate individual sewage system shall mean
13 any individual sewage system not heretofore recognized by rules,
14 regulations and standards of the department.

15 "Person." Any individual, partnership, corporation,
16 association, institution, cooperative enterprise, municipal
17 authority, the Federal Government and its agencies, State
18 institutions and agencies (including, but not limited to, the
19 Department of General Services and the State Public School
20 Building Authority), municipalities or other legal entity
21 whatsoever which is recognized by law as the subject of rights
22 and duties. In any clause prescribing a fine or imprisonment or
23 penalty, or any combination of the foregoing, the term "person"
24 shall include the officers and directors of any corporation or
25 other legal entity having officers and directors.

26 "Restricted chemical material." A chemical material
27 containing concentrations in excess of one part per hundred, by
28 weight of any of the following:

29 (1) Any halogenated hydrocarbon chemical, aliphatic or
30 aromatic, including, but not limited to, trichloroethane,

1 trichloroethylene, tetrachloroethylene, methylene chloride,
2 halogenated benzenes and carbon tetrachloride.

3 (2) An aromatic hydrocarbon chemical, including, but not
4 limited to, benzene, toluene and naphthalene.

5 (3) A phenol derivative in which a hydroxy group and two
6 or more halogen atoms are bonded directly to a six-carbon
7 aromatic ring, including, but not limited to, trichlorophenol
8 or pentachlorophenol.

9 (4) Acrolein, acrylonitrile or benzidine.

10 The term does not include perfumes, coloring agents or any
11 chemical material which is biodegradable and not a significant
12 source of contamination of the groundwaters of this
13 Commonwealth.

14 "Sewage system." Any part of any community sewage system or
15 individual sewage system, including, but not limited to, all
16 toilets, piping, drains, sewers, septic tanks, distribution
17 boxes, absorption fields, seepage pits, cesspools and dry wells.

18 "Sewage system cleaner or additive." Any solid or liquid
19 material intended or used primarily for the purpose of cleaning,
20 treating or unclogging any part of a sewer system, but excluding
21 those products intended to scour, clean, treat, disinfect or
22 deodorize the surface of common fixtures, including, but not
23 limited to, sinks, tubs, showers and toilets.

24 Section 4. Powers and duties of department.

25 The department shall have the following powers and duties:

26 (1) To administer the sewage system cleaner control
27 program pursuant to the provisions of this act.

28 (2) To cooperate with appropriate Federal, State and
29 interstate agencies, local units of government and
30 appropriate private organizations in carrying out its duties

1 under this act.

2 (3) To report to the General Assembly from time to time
3 on further assistance that will be needed to administer the
4 sewage system cleaner control program.

5 (4) To initiate, conduct and support research,
6 demonstration projects, investigations and to coordinate all
7 State agency research programs pertaining to this act.

8 (5) To regulate the distribution, sale, use and
9 consumption of restricted chemicals as provided in this act.

10 (6) To enter into any premises, place, establishment or
11 building for the purpose of conducting inspections to
12 determine compliance with this act or rules, regulations and
13 standards issued pursuant to this act.

14 (7) To conduct any investigations necessary to determine
15 compliance with this act or rules, regulations and standards
16 issued pursuant to this act.

17 Section 5. Powers and duties of Environmental Quality Board.

18 (a) Rules and regulations.--The board shall have the power
19 and duty to adopt rules and regulations to accomplish the
20 purposes of this act.

21 (b) Standards.--The board may promulgate regulations
22 establishing analytical standards for sewage system cleaners and
23 additives.

24 (c) Effects of product on health and environment.--The board
25 may promulgate regulations requiring manufacturers of sewage
26 system cleaners or additives distributed, sold or offered for
27 sale in this Commonwealth to furnish to the department, in a
28 form the department may prescribe, existing information
29 regarding those products, including a certified list of chemical
30 components of products updated on an annual basis, and the

1 effects of the products on the groundwaters or surface waters of
2 this Commonwealth.

3 (d) Prohibition or restriction of product.--When the board
4 finds, after investigation by the department and any public
5 hearings which the board deems necessary, that any ingredient,
6 in addition to a restricted chemical material, in a sewage
7 system cleaner or additive distributed, sold, offered or exposed
8 for sale in this Commonwealth will have an adverse affect on
9 human health or environment, it shall by regulation prohibit or
10 restrict the sale, distribution, offer or exposure for sale or
11 use by any person of sewage system cleaners or additives
12 containing the ingredient.

13 (e) Authorization after investigation or hearing.--Whenever
14 the board finds, after investigation by the department and any
15 public hearings which the board deems necessary, that any
16 restricted chemical material will not have any adverse affect on
17 human health or the environment when used as a sewage system
18 cleaner or additive, it may authorize the use of the chemical
19 material in the products, notwithstanding any provisions of this
20 act.

21 (f) Confidential information.--The board and the department
22 shall hold confidential any information obtained pursuant to
23 subsection (c) when shown by any manufacturer that such
24 information, if made public, would divulge competitive business
25 information, methods or processes entitled to protection as
26 trade secrets of the manufacturer.

27 Section 6. Prohibited acts.

28 (a) Distribution.--No person shall distribute, sell, offer
29 or expose for sale any sewage system cleaner or additive
30 containing any restricted chemical material.

1 (b) Use.--No person shall use, introduce or apply or cause
2 any other person to use, introduce or apply in any sewage
3 system, surface water or groundwaters, any sewage cleaner or
4 additive containing any restricted chemical material.

5 (c) Sales restricted.--No person shall distribute, sell,
6 manufacture, or offer or expose for sale any sewage system
7 cleaner or additive covered by this act, unless a list of the
8 components of the covered product has been provided to the
9 department. These lists must be updated annually at a time
10 designated by the board.

11 Section 7. Enforcement orders.

12 The department may issue such orders to persons,
13 distributors, manufacturers, dealers, retailers and consumers as
14 are necessary to aid in the enforcement of the provisions of
15 this act. The orders may include orders requiring cessation of
16 the use, sale, manufacture or distribution of any substance or
17 chemical or product which is in violation of any provision of
18 this act. An order issued under this act shall take effect upon
19 notice unless the order specifies otherwise. The right of the
20 department to issue an order under this act is in addition to
21 any penalty which may be imposed pursuant to this act.

22 Section 8. Public nuisance.

23 Any violation of this act, rules and regulations promulgated
24 pursuant to this act, or order of the department shall
25 constitute a public nuisance.

26 Section 9. Procedure and enforcement.

27 Any activity or condition declared by this act to be a
28 nuisance shall be abatable in the manner provided by law or
29 equity for the abatement of public nuisances. In addition, suits
30 to abate such nuisances or suits to restrain or prevent any

1 violation of this act may be instituted in equity or at law in
2 the name of the Commonwealth upon relation of the Attorney
3 General, upon relation of any district attorney of any county or
4 upon relation of the solicitor of any municipality affected,
5 after notice has first been served upon the Attorney General of
6 the intention of the district attorney or solicitor to so
7 proceed. The court may provide for payment of a civil penalty as
8 specified in section 10.

9 Section 10. Civil penalties.

10 Any person violating this act or orders, rules, regulations
11 or standards issued or promulgated under this act may be
12 assessed a civil penalty of not more than \$25,000 per day for
13 each violation. The penalty may be assessed whether or not the
14 violation was willful. In determining the amount of the civil
15 penalty, the department shall consider the willfulness of the
16 violation, damage or injury to the Commonwealth or its citizens,
17 cost of restoration and other relevant factors. Violations on
18 separate days shall be considered separate and distinct offenses
19 under this section. The person charged with the penalty shall
20 have 30 days to pay the proposed penalty in full or, if the
21 person wishes to contest either the amount of the penalty or the
22 fact of the violation, the person shall within such 30-day
23 period file an appeal of such action with the Environmental
24 Hearing Board. Failure to appeal within 30 days shall result in
25 a waiver of all legal rights to contest the violation or the
26 amount of the penalty.

27 Section 11. Criminal penalties.

28 (a) Summary offense.--Any person violating this act or
29 orders, rules, regulations or standards issued or promulgated
30 under this act commits a summary offense and shall, upon

1 conviction, be sentenced to pay a fine of not less than \$100 nor
2 more than \$1,000 and costs and, in default of payment of the
3 fine and costs, shall undergo imprisonment for not more than 30
4 days.

5 (b) Misdemeanor.--Any person who willfully violates any
6 provision of this act, any rule or regulation of the department
7 or any order of the department commits a misdemeanor of the
8 third degree and shall, upon conviction, be sentenced to pay a
9 fine of not less than \$1,000 nor more than \$25,000 per day for
10 each violation or to imprisonment for a period of not more than
11 one year, or both.

12 (c) Subsequent offense.--Any person who, within two years
13 after a conviction of a misdemeanor for any violation of this
14 act, violates any provision of this act, any rule or regulation
15 of the department or any order of the department commits a
16 misdemeanor of the second degree and shall, upon conviction, be
17 sentenced to pay a fine of not less than \$2,500 nor more than
18 \$50,000 for each violation or to imprisonment for a period of
19 not more than two years, or both.

20 (d) Separate offenses.--Violations on separate days shall be
21 considered separate and distinct offenses under subsections (a),
22 (b) and (c).

23 Section 12. Fines and penalties collected.

24 All fines and penalties collected under the provisions of
25 this act shall be paid into the Clean Water Fund provided for in
26 the act of June 22, 1937 (P.L.1987, No.394), known as The Clean
27 Streams Law.

28 Section 13. Savings provision.

29 Nothing in this act shall be construed as estopping the
30 Commonwealth or any district attorney from proceeding in courts

1 of law or equity to abate pollutions forbidden under the laws of
2 the Commonwealth or abate nuisances under existing law. Nothing
3 contained in this act shall in any way abridge or alter rights
4 of action or remedies now or hereafter existing in equity, or
5 under the common law or statutory law, criminal or civil. No
6 provisions of this act shall be construed as estopping the
7 Commonwealth, persons or municipalities, in the exercise of
8 their rights under the common law or decisional law or in
9 equity, from proceeding in courts of law or equity to suppress
10 nuisances, to abate any pollution now or hereafter existing or
11 to enforce common law or statutory rights.

12 Section 14. Severability.

13 If any provision of this act or the application thereof to
14 any person or circumstances is held invalid, such invalidity
15 shall not affect other provisions or applications of the act
16 which can be given effect without the invalid provision or
17 application, and to this end the provisions of this act are
18 declared to be severable.

19 Section 15. Effective date.

20 This act shall take effect in 180 days.