

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1948 Session of
1991

INTRODUCED BY GEORGE, THOMAS, STUBAN, VEON, STABACK,
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STURLA, OLASZ, TRELLO AND FREEMAN, AUGUST 2, 1991

REFERRED TO COMMITTEE ON CONSERVATION, AUGUST 2, 1991

AN ACT

1 Providing for the cleanup of hazardous substances and wastes;
2 providing for further duties of the Department of
3 Environmental Resources, the Environmental Quality Board and
4 the Environmental Hearing Board and for the inspections and
5 approval of cleanup plans and cleanup operations by the
6 Department of Environmental Resources; providing for
7 enforcement and civil penalties; and making repeals.

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12 The General Assembly of the Commonwealth of Pennsylvania

13 hereby enacts as follows:

14 CHAPTER 1

15 PRELIMINARY PROVISIONS

16 Section 101. Short title.

17 This act shall be known and may be cited as the Environmental

18 Cleanup Responsibility Act.

19 Section 102. Legislative findings and purpose.

20 The General Assembly finds and declares that the generation,

21 handling, storage, treatment and disposal of hazardous

22 substances and wastes pose an inherent danger of exposing the

23 citizens, property and natural resources of this Commonwealth to

24 substantial risk of harm and degradation, and that operation of,

25 or termination of operations or transfers of control of, real

26 property used for generation, handling, storage, treatment and

27 disposal of hazardous wastes and substances should be conducted

28 in a rational and orderly way to mitigate potential risks. It is

29 the purpose of this act to:

30 (1) Establish a comprehensive program to insure the

cleanup and restoration of land and water.

(2) Protect public health, safety and welfare, and the environment from the short- and long-term dangers of hazardous substances and wastes and other environmental pollution or disturbances.

(3) Restore the land of the Commonwealth to its original, safe and natural condition.

(4) Require notification to the department of any transfer of control of any such operations.

(5) Require each responsible person to conduct site investigations to determine the presence of hazardous substances and wastes.

(6) Require each responsible person to submit a site investigation report in conjunction with a negative declaration or a cleanup plan.

(7) Require each person to clean up and restore property.

(8) Provide a flexible and effective means to implement and enforce the provisions of this act.

(9) Implement Section 27 of Article I of the Constitution of Pennsylvania.

It is the intention of the General Assembly that remedial activities undertaken pursuant to and in compliance with consent decrees issued pursuant to this act shall satisfy the requirements of this act.

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:

"Affected person." Any person experiencing pollution or

1 diminution of a water supply as a result of activities of an
2 industrial establishment.

3 "Certification of continued use." A certification submitted
4 pursuant to section 307.

5 "Change in ownership."

6 (1) The term includes the following:

7 (i) Transfer, by any means, of shares of a
8 corporation to one person or two or more persons acting
9 in concert which results in a change in the controlling
10 interest in an industrial establishment. It shall be
11 presumed as a rebuttable presumption of law that a 20%
12 interest is a controlling interest.

13 (ii) Transfer not in the ordinary course of
14 business, by any means, of a majority of the assets of an
15 industrial establishment.

16 (iii) Transfer, by any means, of the real property
17 where an industrial establishment is located, including,
18 but not limited to, sale of a freehold interest or
19 execution of or rescission of a leasehold or other
20 tenancy to an industrial establishment.

21 (iv) Dissolution of a corporation which owns or
22 operates an industrial establishment.

23 (v) Transfer of assets to a trustee, receiver or
24 estate, except in cases where the transfer is by death or
25 where the grantor and beneficiary of the trust or estate
26 are identical or are siblings, spouses, parents,
27 grandparents, children or grandchildren to one another.

28 (vi) Transfer of an industrial establishment or the
29 majority of its assets pursuant to a foreclosure or
30 dissolution, liquidation, insolvency or any other debt

1 collection proceedings under State law.

2 (vii) Any substantially similar transaction.

3 (2) The term does not include the following:

4 (i) Transactions such as corporate reorganizations,
5 transfers from an individual to a general partnership, or
6 vice versa, and dissolutions resulting in pro rata
7 distributions to the shareholders, provided that the
8 transactions do not substantially affect the underlying
9 ownership of the owner or operator of the industrial
10 establishment.

11 (ii) Granting of a mortgage, security interest or
12 other lien by the owner or operator of an industrial
13 establishment.

14 (iii) Transfer by death.

15 (iv) Transfer to a beneficiary under the provisions
16 of a trust.

17 (v) Transfer where the transferor and transferee are
18 members of the same family.

19 "Cleanup plan." The plan for the cleanup by the responsible
20 person of industrial establishments, submitted pursuant to
21 section 304(b)(3).

22 "Closing, terminating or transferring operations." Any of
23 the following:

24 (1) The cessation of all or substantially all of an
25 entire industrial establishment's operations which directly
26 involve the generation, manufacture, refining,
27 transportation, treatment, storage, handling or disposal of
28 hazardous substances and hazardous wastes.

29 (2) A temporary cessation of all or substantially all of
30 an entire industrial establishment's operations which

1 directly involve the generation, manufacture, refining,
2 transportation, treatment, storage, handling or disposal of
3 hazardous substances and hazardous wastes for a period of
4 more than two years.

5 (3) A transaction, proceeding, incident or event, or
6 series of transactions, proceedings, incidents or events,
7 which have resulted in the whole industrial establishment or
8 any portion of it becoming nonoperational for health or
9 safety reasons, and which in the judgment of the department
10 has caused significant discharges or releases of hazardous
11 substances or hazardous wastes.

12 (4) Change in ownership.

13 "Department." The Department of Environmental Resources of
14 the Commonwealth.

15 "Environmental law." Includes:

16 (1) The act of June 22, 1937 (P.L.1987, No.394), known
17 as The Clean Streams Law.

18 (2) The act of January 8, 1960 (1959 P.L.2119, No.787),
19 known as the Air Pollution Control Act.

20 (3) The act of October 4, 1978 (P.L.851, No.166), known
21 as the Flood Plain Management Act.

22 (4) The act of October 4, 1978 (P.L.864, No.167), known
23 as the Storm Water Management Act.

24 (5) The act of November 26, 1978 (P.L.1375, No.325),
25 known as the Dam Safety and Encroachments Act.

26 (6) The act of July 7, 1980 (P.L.380, No.97), known as
27 the Solid Waste Management Act.

28 (7) The act of July 10, 1984 (P.L.688, No.147), known as
29 the Radiation Protection Act.

30 (8) The act of February 10, 1988 (P.L.31, No.12), known

1 as the Low-Level Radioactive Waste Disposal Act.

2 (9) Any other Federal or State statute relating to
3 environmental protection or the protection of the public
4 health, safety and welfare, and any rule or regulation of the
5 department, and any order, permit or license issued by the
6 department.

7 "Financial reorganization." The formation of a new business
8 entity by the proprietors, partners, shareholders or creditors
9 of the former business entity; the transfer of the corporation,
10 partnership or individual controlling percentage of personal
11 property or other assets to a new business entity occurring in
12 connection with foreclosures of corporate mortgages secured by
13 the property or assets of the business entity as part of a plan
14 of reorganization; judicial or execution sale(s) of the
15 corporate property at a foreclosure sale; or the organization,
16 primarily by or on behalf of the stockholders, of a new
17 corporation, without any forced sale, to take over the property
18 or assets of the existing corporation. Financial reorganization
19 may result in the creation of a new corporation, with
20 substantially all of the same officers and stockholders as the
21 original company, exchanging its stock for the stock of the new
22 corporation, acquiring the former corporation's franchises and
23 assets and continuing to do business at the same place.

24 "Hazardous substance." As defined under section 101(14) of
25 the Comprehensive Environmental Response, Compensation, and
26 Liability Act (Public Law 96-510, 94 Stat. 2767). The term
27 includes petroleum and petroleum products, including crude oil
28 and any fraction thereof, and any other substance which the
29 Environmental Quality Board shall by regulation establish as a
30 hazardous substance.

1 "Hazardous waste." Any garbage, refuse, sludge from an
2 industrial or other wastewater treatment plant, sludge from a
3 water supply treatment plant or air pollution control facility,
4 and other discarded material, including solid, liquid, semisolid
5 or contained gaseous material resulting from municipal,
6 commercial, industrial, institutional, mining or agricultural
7 operations and from community activities, or any combination of
8 the foregoing which, because of its quantity, concentration, or
9 physical, chemical, or infectious characteristics, may:

10 (1) cause or significantly contribute to an increase in
11 mortality or an increase in morbidity in either an individual
12 or the total population; or

13 (2) pose a substantial present or potential hazard to
14 human health or the environment when improperly treated,
15 stored, transported, disposed of or otherwise managed.

16 "Industrial establishment." Any place of business, including
17 all contiguous real estate used in or auxiliary to the business
18 conducted at the place of business, at which hazardous
19 substances or hazardous wastes have been generated,
20 manufactured, refined, transported, treated, stored, handled or
21 disposed.

22 "Negative declaration." The written declaration submitted to
23 the department pursuant to section 304(b)(3) stating that the
24 industrial establishment is free of hazardous substances and
25 wastes, or has been cleaned.

26 "Notification." A written notice submitted by the
27 responsible person pursuant to section 304(b)(1).

28 "Person." Any individual, partnership, corporation,
29 association, public or private institution, public utility,
30 cooperative enterprise, trust, estate, group, municipal

1 authority, Federal Government or agency, State institution or
2 agency other than the department, or any other legal entity
3 whatsoever which is recognized by law as the subject of rights
4 and duties. In any provisions of this act prescribing a penalty
5 or damages, or any combination of the foregoing, the term
6 includes the officers and directors of any corporation or other
7 legal entity having officers and directors.

8 "Responsible person." A person who owns or operates an
9 industrial establishment, or who owns any land on which an
10 industrial establishment exists.

11 CHAPTER 3

12 ENVIRONMENTAL CLEANUP

13 Section 301. Department of Environmental Resources.

14 The department shall have the power and its duty shall be to:

15 (1) Administer an environmental cleanup responsibility
16 program pursuant to this act.

17 (2) Adopt policies, standards and procedures consistent
18 with this act and the rules and regulations of the
19 Environmental Quality Board, necessary for the effective
20 cleanup of land, water and air, for the protection of public
21 health and safety, for the prevention and elimination of
22 public nuisances and for carrying out the provisions of this
23 act.

24 (3) Void, rescind, nullify, vacate and withdraw any
25 action by a responsible person which results in the closing,
26 terminating or transferring of operations of an industrial
27 establishment.

28 (4) Enter upon, examine and inspect each and every
29 industrial establishment, including all land and buildings
30 connected with the establishment, and inspect all books and

1 records, as often as necessary to determine compliance with
2 this act and the environmental laws.

3 (5) Establish policies setting minimum standards for
4 soil, groundwater and surfacewater quality necessary for the
5 detoxification of the site of an industrial establishment,
6 including buildings and equipment, to ensure that the
7 potential for harm to public health and safety is minimized
8 to the maximum extent practicable, taking into consideration
9 the location of the site and surrounding ambient conditions;
10 establish criteria necessary for the evaluation and approval
11 of cleanup plans; establish a fee schedule, as necessary,
12 reflecting the actual costs associated with the review of
13 negative declarations and cleanup plans; and establish any
14 other provisions or procedures necessary to implement this
15 act.

16 (6) Do any and all other acts and things not
17 inconsistent with any provision of this act which it may deem
18 necessary or proper for the effective enforcement of this act
19 and the rules or regulations which may be promulgated
20 hereunder.

21 Section 302. Environmental Quality Board.

22 The Environmental Quality Board shall have the power and its
23 duty shall be to adopt rules and regulations to implement this
24 act.

25 Section 303. Environmental Hearing Board.

26 The Environmental Hearing Board shall have the power and its
27 duty shall be to hear appeals by a responsible person, an
28 affected person or a transferee from an action by the department
29 under section 305, 306 or 307.

30 Section 304. Closing, terminating or transferring operations.

1 (a) Approval of department.--It shall be unlawful to close,
2 terminate or transfer operations of an industrial establishment
3 without the approval of the department. The department shall not
4 approve any closing, termination or transferral of the
5 operations of an industrial establishment unless:

6 (1) the responsible person and the industrial
7 establishment are in compliance with this act and the
8 regulations of the department, and the department has
9 approved the certification of continued use, the negative
10 declaration or the cleanup plan, and financial security; or

11 (2) an administrative consent order has been executed.

12 (b) Duty of responsible person.--The responsible person of
13 an industrial establishment planning to close, terminate or
14 transfer operations shall:

15 (1) (i) Submit a fee and a notification to the
16 department, within five days after execution of an
17 agreement to close, terminate or transfer operations or
18 five days after the actual closing or terminating of
19 operations, whichever occurs first. The notification
20 shall be in writing on a form prepared by the department
21 and shall contain the following:

22 (A) A statement that the industrial
23 establishment is seeking department approval to
24 close, terminate or transfer its operation and
25 indicating the type of transfer, other parties
26 involved and the expected date.

27 (B) A written consent of the responsible person
28 or persons authorizing the Commonwealth and any of
29 its authorized agents to enter the industrial
30 establishment at any time for the purpose of

1 inspection and for the purpose of any pollution
2 abatement that the department deems necessary.

3 The forms shall be deemed to be recordable documents, and
4 prior to closing, terminating or transferring operations,
5 they shall be recorded and entered into the deed book
6 indexing system at the office of the recorder of deeds in
7 the county in which the industrial establishment is
8 situated.

9 (ii) Submit the notification, without the right-of-
10 entry form, to all persons owning or leasing real
11 property within one kilometer of the perimeter of the
12 industrial establishment. This notification shall state
13 that department approval of closing, terminating or
14 transferring operations may be given only upon department
15 approval of a negative declaration, a cleanup plan or a
16 certification of continued use. It shall also provide the
17 name and address of the department office from which
18 interested persons can obtain information and to which
19 they may submit comments.

20 (2) Conduct a site evaluation, including, but not
21 limited to, sampling of the groundwater and surfacewater, and
22 soil, investigation of past and present operations, review of
23 records, and review of ways in which contamination of soil
24 and water may have occurred. The department may require
25 subsurface exploration and sampling in number and location
26 adequate to reasonably screen for and detect the presence of
27 hazardous substances and hazardous wastes in the soil and in
28 groundwater and surfacewater, and may require copies of
29 boring logs and other data developed during the course of the
30 investigation, as well as a summary which accurately

1 characterizes the condition of the land. The responsible
2 person shall prepare a site evaluation report which documents
3 the findings of the site evaluation and provides a complete
4 history of the industrial establishment site for the period
5 after 1939. The site evaluation report shall include, without
6 limitation, a scaled site map identifying all areas where
7 hazardous substances or wastes are located, a detailed
8 description of the current operations, descriptions and
9 locations of surface impoundments, secured landfills
10 containing hazardous substances or wastes, descriptions of
11 the types and locations of hazardous waste storage
12 facilities, a complete inventory of types and quantities of
13 hazardous substances and wastes, a detailed sampling plan, a
14 decontamination plan, and any other information deemed
15 necessary by the department in order to evaluate the
16 environmental conditions of the site. Each report shall
17 contain the verified statement of the registered professional
18 engineer certifying the report as a full and accurate
19 depiction of the condition of the land. The report shall be
20 submitted to the department when the responsible person
21 submits the negative declaration or cleanup plan. Nothing in
22 this act shall be construed to release the owner or operator
23 of the industrial establishment from liability under this act
24 for cleanup of discharges which occurred prior to January 1,
25 1940.

26 (3) (i) Ninety-five days before closing, terminating or
27 transferring operations, submit a negative declaration or
28 a cleanup plan to the department for approval, and attach
29 a copy of the agreement to close, terminate or transfer
30 operations.

1 (ii) The negative declaration shall state that there
2 has been no discharge of hazardous substances or wastes
3 on the site, or that any such discharge has been cleaned
4 up in accordance with procedures approved by the
5 department, and there remain no hazardous substances or
6 wastes at the site.

7 (iii) The cleanup plan shall include, without
8 limitation, recommendations regarding methods of cleanup,
9 a cost estimate of the cleanup plan and a schedule for
10 implementation of the cleanup plan.

11 (4) Obtain, upon approval of the cleanup plan by the
12 department, a surety bond or other financial security
13 approved by the department guaranteeing performance of the
14 cleanup plan in an amount equal to the cost estimate for the
15 cleanup plan.

16 (c) Compliance by two parties.--Where there are two
17 responsible persons who are parties to the lease of an
18 industrial establishment, both parties shall be jointly and
19 severally liable for compliance with the provisions of this act.
20 The department, while retaining the right to compel any
21 responsible party to comply with this act, shall require
22 submittal of notice according to the following order of
23 priority:

24 (1) Where the landlord has triggered the requirement of
25 submitting a notification, the landlord shall be responsible
26 for the notice submission to the department. The tenant shall
27 be responsible in any event for providing all information
28 requested by the landlord or the department for the purposes
29 of satisfying the notice requirements.

30 (2) Where the tenant has triggered the requirement of

submitting a notification, the tenant shall be primarily responsible for the notice submission to the department. The landlord shall be responsible in any event for providing all information requested by the tenant or the department for the purposes of satisfying the notice requirements.

Section 305. Negative declaration and cleanup plan.

(a) Action by department.--The department shall, within 45 days of submission of the negative declaration or cleanup plan, inspect the premises to determine conformance with the minimum standards for soil, groundwater and surfacewater quality and, within 45 days of completion of the inspection, approve or disapprove the negative declaration or cleanup plan. If the department disapproves the negative declaration, it shall inform the industrial establishment that a cleanup plan shall be submitted.

(b) Standards.--Until the minimum standards are established by regulations, the department shall utilize and publish those standards promulgated by the Federal Environmental Protection Agency and review and approve or disapprove negative declarations and cleanup plans on a case-by-case basis, in accordance with rules and regulations under Federal and State law.

(c) Site evaluation report.--The department shall not approve a negative declaration unless the responsible person demonstrates, with clear and convincing evidence, that there has been no discharge of hazardous substances or wastes on the site or that any such discharge has been cleaned up in accordance with procedures approved by the department, and that no hazardous substances or wastes remain at the site. The department shall not approve a cleanup plan unless the

1 responsible person demonstrates, with clear and convincing
2 evidence, that the contents of the site evaluation report are
3 true and that the cost estimate of the cleanup plan is
4 sufficient to clean up the site.

5 Section 306. Cleanup.

6 (a) Schedule.--The cleanup plan and detoxification of the
7 site shall be implemented by the responsible person according to
8 the schedule established by the plan.

9 (b) Inspection and approval.--The department shall, in
10 accordance with the schedule contained in an approved cleanup
11 plan, inspect the premises to determine conformance with the
12 minimum standards for soil, groundwater and surfacewater
13 quality. The department shall not certify that the cleanup plan
14 has been executed and that the site has been detoxified unless
15 the responsible person demonstrates with clear and convincing
16 evidence that the approved cleanup plan has been fully
17 implemented, that there are no hazardous substances or wastes at
18 the site, that the site poses no threat to the health and safety
19 of the public or to the environment, and that there are no
20 violations of any environmental law.

21 Section 307. Deferral of a cleanup plan.

22 (a) Same use.--If the premises of the industrial
23 establishment would be subject to substantially the same use by
24 the purchaser, transferee, mortgagee or other party to the
25 transfer, and upon written certification thereto and approval by
26 the department thereof, the implementation of a cleanup plan may
27 be deferred until the use changes or until the purchaser,
28 transferee, mortgagee or other party to the transfer closes,
29 terminates or transfers operations.

30 (b) Bond.--The responsible person submitting the

1 certification of continued use or the purchaser, transferee,
2 mortgagee or other party to the transfer shall post a bond with
3 the department in an amount equal to the estimated amount of the
4 cleanup as stated in the cleanup plan. No certification shall be
5 approved unless a sufficient bond is posted. The responsible
6 person shall forfeit the bond if the succeeding industrial
7 establishment closes, terminates or transfers operations, unless
8 the department has approved another certification of continued
9 use submitted by the succeeding industrial establishment.

10 (c) Approval by department.--Within ten days of receiving
11 the certification that the industrial establishment would be
12 subject to substantially the same use, or within five days of
13 approving the cleanup plan, whichever is later, the department
14 may approve, conditionally approve or deny the certification.
15 The department shall not approve a certification of continued
16 use unless it has approved the cleanup plan and unless the
17 responsible person demonstrates with clear and convincing
18 evidence that the industrial establishment will be subject to
19 substantially the same use, that the bond posted is in an amount
20 sufficient to implement the cleanup plan and that the purchaser,
21 transferee, mortgagee or other party to the transfer is
22 financially solvent.

23 (d) Approval of certification.--Upon approval of the
24 certification of continued use, the implementation of a cleanup
25 plan shall be deferred.

26 (e) Denial of certification.--Upon denial of the
27 certification, the cleanup plan shall be implemented pursuant to
28 the provisions of this act.

29 (f) Construction.--The authority to defer implementation of
30 the cleanup plan set forth in subsection (a) shall not be

1 construed to limit, restrict or prohibit the department from
2 directing site cleanup under any other statute, rule or
3 regulation, but shall be solely applicable to the obligations of
4 the responsible person, pursuant to the provisions of this act,
5 nor shall any other provisions of this act be construed to
6 limit, restrict or prohibit the department from directing site
7 cleanup under any other statute, rule or regulation.

8 Section 308. Continuing obligations.

9 Neither compliance with this act nor the approval by the
10 department of a negative declaration, a cleanup plan, a
11 certification of deferral or a certification of cleanup and
12 detoxification shall relieve the responsible person of liability
13 or obligations under any Federal or State laws relating to
14 environmental protection or to the protection of the public
15 health, safety and welfare, or any rule, regulation, order,
16 permit or license issued thereunder.

17 Section 309. Power to void.

18 (a) General rule.--Failure of the responsible person to
19 comply with any of the provisions of this act or the regulations
20 of the department is grounds for the transferee, the department
21 or any affected person to void the sale or void, rescind,
22 nullify, vacate or withdraw any action which results in the
23 closing, terminating or transferring of operations of an
24 industrial establishment or any real property utilized in
25 connection therewith, and entitles the department, the
26 transferee or any affected person to recover damages from the
27 transferor and renders the responsible person or any other
28 person of the industrial establishment who is responsible
29 strictly liable, without regard to fault, for all cleanup and
30 removal costs and for all direct and indirect damages resulting

1 from the failure to implement the cleanup plan. For actions
2 brought under this section by a person other than the
3 Commonwealth, the right of trial by jury shall be preserved. The
4 court, in issuing any final order under this section, may award
5 costs of litigation, including reasonable attorney fees and
6 expert witness fees, to any party whenever the court determines
7 such award is appropriate.

8 (b) Limitation of action.--No action may be brought under
9 this section more than five years after the discovery of a
10 concealed condition which violates the intent of this act.

11 Section 310. Presumption of law.

12 It shall be presumed as a rebuttable presumption of law that
13 an industrial establishment shall be liable and responsible,
14 without proof of fault, negligence or causation, for all
15 damages, contamination or pollution within one kilometer of the
16 perimeter of the industrial establishment. The presumption may
17 be overcome by clear and convincing evidence that the industrial
18 establishment did not contribute to the damage, contamination or
19 pollution.

20 CHAPTER 5

21 ENFORCEMENT

22 Section 501. Unlawful conduct.

23 Any misrepresentation, negligent or intentional, contained in
24 a notification, a site evaluation report, a certification of
25 continued use, a negative declaration, a cleanup plan or a
26 certification of cleanup shall be a violation of this act.

27 Section 502. Civil penalty.

28 Any person who gives, causes to be given or allows to be
29 given any false information, or who directs, authorizes or
30 allows any violation of this act or any rule, regulation, order

1 or approved plan issued pursuant to this act, shall be liable to
2 the department for a civil penalty of not more than \$25,000 for
3 each offense. If the violation is of a continuing nature, each
4 day shall constitute an additional and separate offense.

5 CHAPTER 21

6 MISCELLANEOUS PROVISIONS

7 Section 2101. Construction.

8 The terms and provisions of this act are to be liberally
9 construed so as to achieve and effectuate the goals and purposes
10 thereof. Nothing in this act shall be construed as estopping the
11 Commonwealth or any person from proceeding in courts of law or
12 equity to abate pollution or nuisances under existing law. It is
13 hereby declared to be the purpose of this act to provide
14 additional and cumulative remedies to clean the environment and
15 protect public health and safety, and nothing contained in this
16 act shall in any way abridge or alter rights of action or
17 remedies now or hereafter existing in equity or under the common
18 law or statutory law, criminal or civil, nor shall any provision
19 in this act, or any act done by virtue of this act, be construed
20 as estopping the Commonwealth persons, or municipalities, in the
21 exercise of their rights under the common law or decisional law
22 or in equity, from proceeding in courts of law or equity to
23 suppress nuisances, or to abate any pollution now or hereafter
24 existing, or to enforce common law or statutory rights. No
25 courts of this Commonwealth having jurisdiction to abate public
26 or private nuisances shall be deprived of such jurisdiction in
27 any action to abate any private or public nuisance instituted by
28 any person for the reasons that such nuisance constitutes air or
29 water pollution.

30 Section 2102. Repeals.

1 All acts and parts of acts are repealed insofar as they are
2 inconsistent with this act.
3 Section 2103. Effective date.
4 This act shall take effect in one year.