

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 2321 Session of
1996

INTRODUCED BY WILLIAMS, BELARDI, TRELLO, ARGALL AND BELFANTI,
JANUARY 31, 1996

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,
JANUARY 31, 1996

AN ACT

1 Establishing a program to ensure nondiscriminatory compliance
2 with environmental, health and safety laws; and providing for
3 equal protection of the public health.

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 Environmental
8 Justice Act.

9 Section 2. Declaration of policy.

10 The General Assembly finds and declares as follows:

11 (1) Toxic chemicals are being released in significant
12 amounts into the environment. Over 3,500,000,000 pounds of
13 toxic releases were reported by approximately 19,600
14 industrial plants in 1990, under Title III of the Emergency
15 Planning and Community Right-To-Know Act of 1986 (Title III
16 of Public Law 99-449, 42 U.S.C. § 11001 et seq.).

17 (2) Notwithstanding the benefits of the Emergency
18 Planning and Community Right-To-Know Act of 1986, many toxic

1 chemicals posing substantial health threats as a result of
2 releases are not being reported. The Emergency Planning and
3 Community Right-To-Know Act of 1986 excludes hundreds of
4 chemicals listed as toxic under various environmental laws,
5 including the following:

6 (i) Sixteen hazardous air pollutants and five
7 extremely hazardous substances listed in the Clean Air
8 Act (Public Law 95-95, 42 U.S.C. § 7401 et seq.).

9 (ii) One hundred forty chemicals regulated as
10 hazardous waste under the Resource Conservation and
11 Recovery Act of 1976 (Public Law 94-580, 4242 U.S.C. §
12 6901 et seq.) because of acute or chronic toxicity.

13 (iii) Over 200 chemicals identified as known or
14 probable human carcinogens by the Environmental
15 Protection Agency and the National Toxicology Program.

16 (iv) Sixty-nine special review pesticides identified
17 under the Federal Insecticide, Fungicide and Rodenticide
18 Act (61 Stat. 163, 7 U.S.C. § 136 et seq.) and hundreds
19 of restricted use pesticides.

20 (v) Ninety reproductive toxins identified by the
21 California Department of Health.

22 (3) Although environmental and health data of toxic
23 chemical releases are not routinely collected and analyzed by
24 income and race, racial and ethnic minorities and lower
25 income Americans may be disproportionately exposed to toxic
26 chemicals in their residential and workplace environments.

27 (4) The purposes of this act are to:

28 (i) Establish and maintain information which
29 provides an objective basis for assessment of health
30 effects by income and race.

(ii) Identify those areas with the largest releases of toxic chemicals to the air, land, water and workplace.

(iii) Assess the health effects that may be caused by emissions in those areas of highest environmental impact.

(iv) Ensure that groups or individuals residing within environmental high-impact areas have the opportunity and the resources to participate in the technical process which will determine the possible existence of adverse health impacts.

(v) Identify those activities in high-impact environmental areas found to have significant adverse impacts on human health.

(vi) Incorporate environmental equity considerations into planning and implementation of all Federal environmental programs and statutes.

Section 3. 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:

"Clean Air Act." The Clean Air Act (Public Law 95-95, 42 U.S.C. § 7401 et seq.).

"Comprehensive Environmental Response, Compensation and Liability Act." The Comprehensive Environmental Response Compensation and Liability Act of 1980 (Public Law 96-510, 94 Stat. 2767).

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

"Emergency Planning and Community Right-To-Know Act." The Emergency Planning and Community Right-To-Know Act of 1986

1 (Title III of Public Law 99-449, 42 U.S.C. § 11001 et seq.).

2 "Environmental high-impact area." Any of the 100 counties or
3 appropriate geographic units with the highest total weight of
4 toxic chemicals released during the most recent five-year period
5 for which data is available, as calculated under section 4.

6 "EPA." The Environmental Protection Agency.

7 "Federal Insecticide, Fungicide and Rodenticide Act." The
8 Federal Insecticide, Fungicide and Rodenticide Act (61 Stat.
9 163, 7 U.S.C. § 136 et seq.).

10 "Federal Water Pollution Control Act." The Federal Water
11 Pollution Control Act (62 Stat. 1155, 33 U.S.C. § 1251 et seq.).

12 "Occupational Safety and Health Act." The Occupational
13 Safety and Health Act of 1970 (Public Law 91-596, 29 U.S.C. §
14 651 et seq.).

15 "Release." Shall have the same meaning as used in section
16 101(22) of the Comprehensive Environmental Response Compensation
17 and Liability Act of 1980 (Public Law 95-510, 94 Stat. 2767) as
18 amended by the Superfund Amendments and Reauthorization Act of
19 1986 (Public Law 99-499, 100 Stat. 1613) and shall also include
20 any release which results in exposure to persons within a
21 workplace.

22 "Resource Conservation and Recovery Act." The Resource
23 Conservation and Recovery Act of 1976 (Public Law 94-580, 42
24 U.S.C. § 6901 et seq.)

25 "Safe Drinking Water Act." The Safe Drinking Water Act
26 (Public Law 93-523, 21 U.S.C. § 349 and 42 U.S.C. §§ 201 and
27 300f et seq.).

28 "Secretary." The Secretary of Environmental Resources of the
29 Commonwealth.

30 "Solid Waste Disposal Act." The Solid Waste Disposal Act

1 (Public Law 89-272, 42 U.S.C. § 6901 et seq.).

2 "Superfund Amendments and Reauthorization Act." The
3 Superfund Amendments and Reauthorization Act of 1986 (Public Law
4 99-499, 100 Stat. 1613).

5 "Toxic chemical facility." The term includes any facility:

6 (1) Subject to reporting requirements under the
7 Emergency Planning and Community Right-To-Know Act of 1986
8 (Title III of Public Law 99-499, 42 U.S.C. § 11001 et seq.).

9 (2) That generates, treats, stores or disposes of a
10 hazardous waste as defined in section 3001 of the Solid Waste
11 Disposal Act (Public Law 89-272, 42 U.S.C. § 6901 et seq.).

12 (3) Subject to section 112 or 129 of the Clean Air Act
13 (Public Law 9595, 42 U.S.C. § 7401 et seq.).

14 (4) Subject to section 307 or 311 of the Federal Water
15 Pollution Control Act (62 Stat. 1155, 33 U.S.C. § 1251 et
16 seq.).

17 (5) Subject to the Federal Insecticide, Fungicide and
18 Rodenticide Act (61 Stat. 163, 7 U.S.C. § 136 et seq.).

19 (6) Subject to the requirements concerning material
20 safety data sheets for hazardous chemicals under the
21 Occupational Safety and Health Act of 1970 (Public Law 91-
22 596, 29 U.S.C. § 651 et seq.).

23 (7) A Federal facility that releases a toxic chemical.
24 "Toxic chemicals." The term includes the following:

25 (1) All hazardous substances as defined in section
26 101(14) of the Comprehensive Environmental Response,
27 Compensation, and Liability Act of 1980 (Public Law 96-510,
28 94 Stat. 2767).

29 (2) All materials registered pursuant to the Federal
30 Insecticide, Fungicide and Rodenticide Act (61 Stat. 163, 7

1 U.S.C. § 136 et seq.).

2 (3) All chemicals subject to section 313 of the
3 Emergency Planning and Community Right-To-Know Act of 1986
4 (Title III of Public Law 99-499, 42 U.S.C. § 11001 et seq.).

5 (4) All contaminants identified in the Safe Drinking
6 Water Act (Public Law 93-523, 21 U.S.C. § 349 and 42 U.S.C.
7 §§ 201 and 300f et seq.).

8 (5) All chemicals listed by the National Toxicology
9 Program as known or probable human carcinogens.

10 (6) All materials subject to the requirements concerning
11 material safety data sheets for hazardous chemicals under the
12 Occupational Safety and Health Act of 1970 (Public Law 91-
13 596, 29 U.S.C. § 651 et seq.).

14 Section 4. Identification of environmental high-impact areas.

15 (a) Determination of impacted areas.--Within six months
16 after the effective date of this act, the secretary in
17 consultation with the Agency for Toxic Substances and Disease
18 Registry, the National Institute for Environmental Health
19 Sciences, the National Center for Health Statistics and the
20 Bureau of the Census shall determine the most appropriate
21 designation of environmental high-impact areas, either counties
22 or other appropriate geographic unit.

23 (b) Publication of list.--Within 12 months after the
24 effective date of this act, the secretary shall publish a list,
25 in rank order, of the total weight of toxic chemicals released
26 in each county or other appropriate geographic unit in this
27 Commonwealth during the most recent five-year period for which
28 data are available. If less than five years of data are
29 available, the secretary shall use available data until further
30 information is reported.

1 Section 5. Compilation of list.

2 (a) General rule.--In compiling the list under section 4,
3 the secretary shall consider and utilize all appropriate and
4 available data compiled under any environmental regulatory
5 authority and other sources, including available data on the
6 presence of lead-based paint and toxic chemicals from mobile
7 vehicles.

8 (b) Database.--For each county or appropriate geographic
9 unit, the secretary shall calculate and compile in a database
10 the following:

11 (1) The total weight of toxic chemicals released into
12 the ambient environment.

13 (2) The total weight of toxic chemicals released in each
14 environmental medium of air, water, land or workplace.

15 (3) The total weight of each toxic chemical released
16 into the ambient environment and into each environmental
17 medium of air, water, land or workplace.

18 The secretary, whenever possible, shall adjust the estimates of
19 each of the items in paragraphs (1) through (3) to account for
20 the toxicity of the toxic chemicals.

21 (c) Review.--Within six months after the effective date of
22 this act, the secretary shall review the methodology used to
23 compile and summarize information collected under section 313 of
24 the Emergency Planning and Community Right-to-Know Act and
25 publish for public comment any proposed changes to the
26 methodology necessary to calculate and compile the information
27 required in subsection (a).

28 (d) Republication of list.--The secretary shall revise and
29 republish the list described in this section by the date that is
30 five years after the date of initial publication, and not less

1 frequently than every five years thereafter, using data compiled
2 during the preceding five-year period.

3 Section 6. Environmental high-impact areas.

4 (a) General rule.--Within 12 months after the effective date
5 of this act and every five years thereafter, the secretary shall
6 publish a list of the 100 counties or other appropriate
7 geographic unit with the highest total toxic chemical releases
8 based on the list published in section 4. Such counties or other
9 appropriate geographic units shall be designated as
10 environmental high-impact areas.

11 (b) Compliance inspections.--To ensure that facilities with
12 the highest potential for release of toxic chemicals are
13 operating in compliance with all applicable environmental health
14 and safety standards, the Secretary of Environmental Resources
15 and the Secretary of Labor and Industry shall conduct compliance
16 inspections of all toxic chemical facilities subject to their
17 jurisdictions in environmental high-impact areas within two
18 years after the effective date of this act and not less
19 frequently than every two years thereafter.

20 (c) Other inspections.--Notwithstanding the requirements in
21 subsection (b), the Secretary of Environmental Resources or the
22 Secretary of Labor and Industry may authorize any State or
23 Indian tribe which has been delegated authority to administer
24 any State law regulating a toxic chemical which authorizes the
25 inspection of toxic chemical facilities for compliance with
26 applicable State environmental laws to conduct such inspections
27 in lieu of the Secretary of Environmental Resources or the
28 Secretary of Labor and Industry.

29 (d) Impact on human health report.--Within 24 months after
30 the effective date of this act, the Secretary of Health, in

1 consultation with the Secretary of Environmental Resources, the
2 Secretary of Labor and Industry, the Bureau of Indian Affairs
3 and the Commissioners of the United States Commission on Civil
4 Rights, shall issue for public comment a report identifying the
5 nature and extent, if any, of acute and chronic impacts on human
6 health in environmental high-impact areas from exposure to toxic
7 chemicals. These impacts shall include incidence of cancer,
8 birth deformities, infant mortality rates and respiratory
9 diseases. The report shall include a comparison of the health
10 impact from exposure to toxic chemicals in environmental high-
11 impact areas with other counties in the United States. The
12 report shall be coordinated by the Administrator of the Agency
13 for Toxic Substances Disease Registry of the Department of
14 Health and Human Services, and in coordinating the report, the
15 Administrator of the Agency for Toxic Substances and Disease
16 Registry shall seek to:

17 (1) Isolate the impacts of environmental pollution.

18 (2) Segregate the effects of other factors such as
19 health care availability or substance abuse.

20 (3) Rank the relative risks posed by the toxic chemicals
21 present in environmental high-impact areas and by the varied
22 sources of toxic chemicals, both individually and
23 cumulatively.

24 (4) Take into account the need to remedy the impacts of
25 such toxic chemicals in high population density areas.

26 (5) Evaluate the levels below which release of toxic
27 chemicals, either individually or cumulatively, must be
28 reduced to avoid adverse impacts on human health.

29 (6) Determine the impacts of maintaining toxic chemical
30 releases at the current levels.

(e) Proposed changes.--If the report under subsection (d) identifies significant adverse impacts from exposure to toxic chemicals on human health in environmental high-impact areas as a group, the secretary shall submit to the General Assembly, within one year after publication of the report, proposed administrative and legislative changes to remedy and prevent such impacts, including:

(1) The addition of facilities or chemicals to be subject to reporting requirements of the Emergency Planning and Community Right-To-Know Act or a reduction in threshold quantities of chemicals that trigger reporting requirements under that act.

(2) The regulation of toxic chemicals not subject to Federal law based on a statutory or administrative exemption.

(3) The imposition of additional regulatory measures for toxic chemical facilities in an environmental high-impact area, such as emissions fees, source reduction requirements or restrictions on toxic chemical releases.

Section 7. Reduction of toxic chemicals.

If the report under section 6(d) identifies significant adverse impacts on human health from exposure to toxic chemicals in an environmental high-impact area, the secretary shall promulgate regulations applicable to any State permit for construction or modification of a toxic chemical facility in that area. The regulations shall require a net reduction in the release of any toxic chemical determined to cause such significant adverse impacts on human health in that area.

Section 8. Technical assistance grants.

(a) General rule.--Subject to appropriations and in accordance with rules promulgated by the Secretary of Health in

1 consultation with the Secretary of Environmental Resources, the
2 secretary may award a grant to any individual or group of
3 individuals who may be affected by a release or threatened
4 release of a toxic chemical from any toxic chemical facility in
5 an environmental high-impact area.

6 (b) Grant requirements.--A grant awarded under this section
7 shall be:

8 (1) Designed to facilitate access by representatives of
9 environmental high-impact areas to the activities that
10 involve public participation under this act and any other
11 related law.

12 (2) Used to obtain technical assistance relating to the
13 inspection and review authorities described in section 6(b)
14 and the study described in section 6(d).

15 (3) An amount of not more than \$50,000.

16 (c) Contribution requirement.--Each grant recipient shall be
17 required, as a condition of the grant, to pay a non-Federal
18 share equal to 20% of the grant amount. The secretary may waive
19 the 20% contribution requirement if the grant recipient
20 demonstrates financial need to the satisfaction of the
21 secretary. Not more than one grant may be made with respect to
22 each environmental high-impact area for the period of a grant,
23 as determined by the secretary. At the end of the period, a
24 grant may be renewed if the secretary determines that the
25 renewal is necessary to facilitate public participation.

26 (d) Grant provision.--Grants under subsection (b) shall be
27 considered to be grants under section 117(e) of the
28 Comprehensive Environmental Response, Compensation, and
29 Liability Act and shall be funded in the same manner.

30 Section 9. Effective date.

1 This act shall take effect in 60 days.