THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 375 Session of 2021

INTRODUCED BY A. DAVIS, ZABEL, FRANKEL, SANCHEZ, HILL-EVANS, FREEMAN, HOHENSTEIN, WEBSTER, SCHWEYER, SIMS AND LEE, FEBRUARY 3, 2021

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY, FEBRUARY 3, 2021

AN ACT

Amending the act of January 8, 1960 (1959 P.L.2119, No.787), entitled "An act to provide for the better protection of the health, general welfare and property of the people of the Commonwealth by the control, abatement, reduction and prevention of the pollution of the air by smokes, dusts, fumes, gases, odors, mists, vapors, pollens and similar matter, or any combination thereof; imposing certain powers and duties on the Department of Environmental Resources, the Environmental Quality Board and the Environmental Hearing Board; establishing procedures for the protection of health and public safety during emergency conditions; creating a stationary air contamination source permit system; providing additional remedies for abating air pollution; reserving powers to local political subdivisions, and defining the relationship between this act and the ordinances, resolutions and regulations of counties, cities, boroughs, towns and townships; imposing penalties for violation of this act; and providing for the power to enjoin violations of this act; and conferring upon persons aggrieved certain rights and remedies," further providing for powers and duties of the Department of Environmental Protection and for civil penalties.

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

Section 1. Section 4(9) of the act of January 8, 1960 (1959 P.L.2119, No.787), known as the Air Pollution Control Act, is amended by adding a subclause to read:
Section 4. Powers and Duties of the Department of Environmental Protection.--The department shall have power and its duty shall be to--

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(9) * * *

(iii) Require all major facilities, as defined in 25 Pa. Code § 121.1 (relating to definitions), to develop and maintain a municipal notification plan designed to give notice to the municipality where the major facility is situated and the municipalities directly adjacent to the major facility in the event of an industrial equipment breakdown or accident causing air pollution, as defined in 25 Pa. Code § 121.1, that creates a significant health risk to the municipality where the major facility is situated and the municipalities directly adjacent to the major facility. The municipal notification plan under this subclause shall, at minimum:

(A) Require notification to the municipality where the major facility is situated and the municipalities directly adjacent to the major facility as soon as possible but not later than twelve hours after the breakdown or accident, unless the risk is eliminated before notice is required.

(B) Establish the most expeditious way to deliver notice of the risk to the municipality where the major facility is situated and the municipalities directly adjacent to the major facility.

(C) Communicate measures for community members to undertake in order to mitigate the risks involved with the release of air pollution, as defined in 25 Pa. Code § 121.1.

(D) Require yearly updates to the plan to ensure that municipal contact procedures are up to date.
(E) In coordination with local air pollution control agency with jurisdiction over the facility, require revisions to a municipal notification plan of a major facility, as defined by 25 Pa. Code § 121.1.

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Section 2. Section 9.1(a) of the act is amended to read:

Section 9.1. Civil Penalties.--(a) In addition to proceeding under any other remedy available at law or in equity for a violation of a provision of this act or any rule or regulation promulgated under this act or any order, plan approval or permit issued pursuant to this act, the department may assess a civil penalty for the violation. The penalty may be assessed whether or not the violation was wilful. The civil penalty so assessed shall not exceed ten thousand dollars ($10,000.00) per day for each violation which occurs in the first three (3) years following enactment of this section, fifteen thousand dollars ($15,000.00) per day for each violation which occurs in the fourth year following enactment of this section and twenty-five thousand dollars ($25,000.00) per day for each violation which occurs in the fifth year and [all subsequent years following enactment of this section.] thirty-seven thousand five hundred dollars ($37,500.00) per day per violation thereafter. In determining the amount of the penalty, the department shall consider the wilfulness of the violation; damage to air, soil, water or other natural resources of the Commonwealth or their uses; financial benefit to the person in consequence of the violation; deterrence of future violations; cost to the department; the size of the source or facility; the compliance history of the source; the severity and duration of the violation; degree of cooperation in resolving the violation;
the speed with which compliance is ultimately achieved; whether
the violation was voluntarily reported; other factors unique to
the owners or operator of the source or facility; and other
relevant factors.

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Section 3. This act shall take effect in 60 days.