

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 547 Session of 2009

INTRODUCED BY RAFFERTY, GORDNER, FERLO, BROWNE, WASHINGTON,
MUSTO, O'PAKE, KITCHEN AND BOSCOLA, MARCH 2, 2009

REFERRED TO ENVIRONMENTAL RESOURCES AND ENERGY, MARCH 2, 2009

AN ACT

1 Amending the act of July 7, 1980 (P.L.380, No.97), entitled "An
2 act providing for the planning and regulation of solid waste
3 storage, collection, transportation, processing, treatment,
4 and disposal; requiring municipalities to submit plans for
5 municipal waste management systems in their jurisdictions;
6 authorizing grants to municipalities; providing regulation of
7 the management of municipal, residual and hazardous waste;
8 requiring permits for operating hazardous waste and solid
9 waste storage, processing, treatment, and disposal
10 facilities; and licenses for transportation of hazardous
11 waste; imposing duties on persons and municipalities;
12 granting powers to municipalities; authorizing the
13 Environmental Quality Board and the Department of
14 Environmental Resources to adopt rules, regulations,
15 standards and procedures; granting powers to and imposing
16 duties upon county health departments; providing remedies;
17 prescribing penalties; and establishing a fund," further
18 providing for permit and license application requirements and
19 for enforcement orders; and providing for repeat violations.

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

22 Section 1. Section 502 of the act of July 7, 1980 (P.L.380,
23 No.97), known as the Solid Waste Management Act, is amended by
24 adding a subsection to read:

25 Section 502. Permit and license application requirements.

26 * * *

1 (e.1) (1) The application for a new permit or a permit
2 modification that would result in an increased average or
3 maximum daily waste volume, increased disposal capacity or
4 expansion of the permit area shall certify that the applicant
5 does not have any outstanding violations of this act at the
6 facility that is the subject of the application and that have
7 not been corrected as of the date of filing of the
8 application. The permit application shall also certify that
9 the applicant has complied with any enforcement orders issued
10 by the department. The department shall not accept an
11 application for review until it verifies that the application
12 contains the certification required by this section. Failure
13 to so certify shall be grounds to return the application to
14 the applicant without action. Submission of a false
15 certification shall be cause for denial of the application
16 and may constitute cause for the revocation or modification
17 of any approval or permit issued by the department to the
18 applicant in reliance on the false certification.

19 (2) A violation is outstanding within the meaning of
20 this section if the department has issued an enforcement
21 order under section 602, the violation cited in the
22 enforcement order is not corrected as of the date of the
23 filing of the application and the enforcement order has not
24 been appealed to the Environmental Hearing Board.

25 (3) A violation is not outstanding within the meaning of
26 this section if the applicant has entered into an agreement
27 with the department addressing the violation and is in
28 compliance with the agreement as of the date of the filing of
29 the application.

30 * * *

Section 2. Section 602(b) of the act, amended July 11, 1989 (P.L.331, No.55), is amended to read:

Section 602. Enforcement orders.

* * *

(b) If the department finds that the storage, collection, transportation, processing, treatment, beneficial use or disposal of solid waste is causing pollution of the air, water, land or other natural resources of the Commonwealth or is creating a public nuisance, the department [may] shall either institute an action under section 604 or order the person or the municipality to alter its storage, collection, transportation, processing, treatment, beneficial use or disposal systems to provide such storage, collection, transportation, processing, treatment, beneficial use or disposal systems as will prevent pollution and public nuisances. Such order shall specify the length of time after receipt of the order within which the facility or area shall be repaired, altered, constructed or reconstructed.

* * *

Section 3. The act is amended by adding a section to read:
Section 607.1. Repeat violations.

(a) The department may impose an additional penalty of up to \$50,000 per violation upon any person or municipality that demonstrates a pattern of multiple violations of a single regulation occurring at a single facility. A pattern of multiple violations exists when three or more notices of violation are issued for the same regulation for a single facility within a period of 90 days.

(b) In determining the amount of a penalty to be assessed under this section, the department shall consider the severity

1 of the violations, the duration of the violations and the
2 culpability of the person or municipality.

3 (c) An assessment of a penalty under this section is final
4 and appealable.

5 (d) Penalties imposed by the department under this section
6 upon any person or municipality that demonstrates a pattern of
7 multiple violations of section 610 shall not be waived by the
8 department. Nothing in this section shall be construed to limit
9 or otherwise restrict the department in settling claims against
10 violators under this section or section 602.

11 (e) This section shall not preclude the department from
12 approving a community environmental project in lieu of all or
13 part of a penalty assessed under this section.

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