

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1239 Session of
1984

INTRODUCED BY FISHER, LINCOLN, WENGER, HELFRICK, STAPLETON,
O'CONNELL, REIBMAN, KELLEY, BRIGHTBILL AND ANDREZESKI,
FEBRUARY 6, 1984

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
MAY 9, 1984

AN ACT

1 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated
2 Statutes, defining hazardous material; providing for the
3 effect of amendments to Federal regulations; repealing the
4 penalty for violating Federal law when driving a vehicle;
5 providing for the transportation of hazardous materials;
6 FURTHER PROVIDING FOR REQUIRED FINANCIAL RESPONSIBILITY; and <—
7 making a repeal.

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

10 Section 1. Section 102 of Title 75 of the Pennsylvania
11 Consolidated Statutes is amended by adding a definition to read:

12 § 102. Definitions.

13 Subject to additional definitions contained in subsequent
14 provisions of this title which are applicable to specific
15 provisions of this title, the following words and phrases when
16 used in this title shall have, unless the context clearly
17 indicates otherwise, the meanings given to them in this section:

18 * * *

1 "Hazardous material." Any explosive, blasting agent,
2 flammable liquid, combustible liquid, flammable solid, flammable
3 or nonflammable compressed gas, corrosive material, poison,
4 poison gas, irritant, oxidizer, organic peroxide, radioactive
5 material, etiologic agent, cryogenic liquid, hazardous waste,
6 hazardous substance or other material which the department by
7 procedure prescribed in Chapter 79 (relating to hazardous
8 materials transportation) declares to be a hazardous material.

9 * * *

10 SECTION 2. SECTION 1781 OF TITLE 75, ADDED FEBRUARY 12, 1984 <—
11 (P.L.26, NO.11), IS AMENDED TO READ:

12 § 1781. [NOTICE OF SANCTION FOR NOT EVIDENCING FINANCIAL
13 RESPONSIBILITY.

14 AN APPLICANT FOR REGISTRATION OF A VEHICLE SHALL ACKNOWLEDGE
15 ON A FORM DEVELOPED BY THE DEPARTMENT OF TRANSPORTATION THAT THE
16 APPLICANT KNOWS HE MAY LOSE HIS OPERATING PRIVILEGE OR VEHICLE
17 REGISTRATIONS IF HE FAILS TO EVIDENCE FINANCIAL RESPONSIBILITY
18 FOR THE PURPOSES DESCRIBED IN SECTION 1772 (RELATING TO
19 SUSPENSION FOR NONPAYMENT OF JUDGMENTS), 1783 (RELATING TO PROOF
20 OF FINANCIAL RESPONSIBILITY BEFORE RESTORING OPERATING PRIVILEGE
21 OR REGISTRATION), 1784 (RELATING TO PROOF OF FINANCIAL
22 RESPONSIBILITY FOLLOWING VIOLATION) OR 1785 (RELATING TO PROOF
23 OF FINANCIAL RESPONSIBILITY FOLLOWING ACCIDENT).]
24 REQUIRED FINANCIAL RESPONSIBILITY.

25 (A) GENERAL RULE.--UPON REGISTERING A MOTOR VEHICLE OR
26 RENEWING A MOTOR VEHICLE REGISTRATION, THE OWNER OF THE MOTOR
27 VEHICLE SHALL BE DEEMED TO HAVE GIVEN CONSENT TO PRODUCE PROOF
28 TO THE DEPARTMENT OR A POLICE OFFICER THAT THE MOTOR VEHICLE HAS
29 THE FINANCIAL RESPONSIBILITY COVERAGE REQUIRED BY THIS CHAPTER.

30 (B) OBLIGATIONS UPON TERMINATION OF FINANCIAL

1 RESPONSIBILITY.--AN OWNER OF A MOTOR VEHICLE WHO CEASES TO
2 MAINTAIN FINANCIAL RESPONSIBILITY SHALL IMMEDIATELY SURRENDER
3 THE REGISTRATION CERTIFICATE AND LICENSE PLATES FOR THE VEHICLE
4 TO THE DEPARTMENT AND MAY NOT OPERATE OR PERMIT OPERATION OF THE
5 VEHICLE IN THIS COMMONWEALTH UNTIL PROOF OF FINANCIAL
6 RESPONSIBILITY HAS BEEN PROVIDED TO THE DEPARTMENT. A PERSON
7 OTHER THAN THE OWNER OF A VEHICLE WHO CEASES TO MAINTAIN SUCH
8 FINANCIAL RESPONSIBILITY SHALL IMMEDIATELY NOTIFY THE OWNER AND
9 THE DEPARTMENT, AND SUCH PERSON MAY NOT OPERATE OR PERMIT
10 OPERATION OF THE VEHICLE UNTIL PROOF OF FINANCIAL RESPONSIBILITY
11 HAS BEEN PROVIDED TO THE DEPARTMENT. AN INSURER WHO HAS ISSUED A
12 CONTRACT OF INSURANCE AND KNOWS OR HAS REASON TO BELIEVE THE
13 CONTRACT IS FOR THE PURPOSE OF PROVIDING FINANCIAL
14 RESPONSIBILITY SHALL IMMEDIATELY GIVE NOTICE TO THE DEPARTMENT
15 OF THE TERMINATION OF THE INSURANCE. THESE REQUIREMENTS MAY BE
16 MODIFIED OR WAIVED BY THE DEPARTMENT.

17 (C) OPERATION OF MOTOR VEHICLE WITHOUT REQUIRED FINANCIAL
18 RESPONSIBILITY COVERAGE.--ANY OWNER OF A MOTOR VEHICLE FOR WHICH
19 THE EXISTENCE OF FINANCIAL RESPONSIBILITY IS A REQUIREMENT FOR
20 ITS LEGAL OPERATION SHALL NOT OPERATE THE MOTOR VEHICLE OR
21 PERMIT IT TO BE OPERATED UPON A HIGHWAY OF THIS COMMONWEALTH
22 WITHOUT HAVING IN FULL FORCE AND EFFECT FINANCIAL RESPONSIBILITY
23 COMPLYING WITH THE PROVISIONS OF THIS CHAPTER. ANY PERSON
24 VIOLATING THIS SUBSECTION IS GUILTY OF A SUMMARY OFFENSE AND
25 SHALL, UPON CONVICTION, BE SENTENCED TO PAY A FINE OF \$200.

26 (D) OPERATOR RESPONSIBILITY.--ANY PERSON WHO OPERATES A
27 MOTOR VEHICLE IN THIS COMMONWEALTH SHALL PRODUCE PROOF THAT THE
28 REQUIRED FINANCIAL RESPONSIBILITY COVERAGE IS IN FULL FORCE AND
29 EFFECT. ANY PERSON VIOLATING THIS SUBSECTION IS GUILTY OF A
30 SUMMARY OFFENSE.

1 (E) OWNER RESPONSIBILITY.--ANY PERSON WHO REGISTERS A MOTOR
2 VEHICLE IN THIS COMMONWEALTH SHALL PRODUCE PROOF THAT THE
3 REQUIRED FINANCIAL RESPONSIBILITY COVERAGE IS IN FULL FORCE AND
4 EFFECT. ANY PERSON VIOLATING THIS SUBSECTION IS GUILTY OF A
5 SUMMARY OFFENSE.

6 (F) PRODUCTION TO AVOID PENALTY.--NO PERSON SHALL BE
7 CONVICTED OF VIOLATING THIS SECTION IF THE PERSON PRODUCES AT
8 THE OFFICE OF THE ISSUING AUTHORITY, WITHIN FIVE DAYS, PROOF OF
9 FINANCIAL RESPONSIBILITY VALID IN THIS COMMONWEALTH AT THE TIME
10 OF THE VIOLATION.

11 Section ~~2~~ 3. Section 4522 of Title 75 is amended to read: <—

12 § 4522. [Violation of Federal statute or regulation.]

13 Effect of amendments to Federal regulations.

14 [(a) General rule.--No person shall drive a vehicle on any
15 highway in violation of any provision of a Federal statute or
16 regulation relating to any type of equipment or documents used
17 in the vehicle while engaged in interstate commerce.

18 (b) Penalty.--Any person violating this section is guilty of
19 a summary offense and shall, upon conviction, be sentenced to
20 pay a fine of \$100.]

21 If any Federal regulations adopted by the department are
22 amended or modified by the Federal agency, the amendment or
23 modification may also be adopted by the department if the
24 secretary determines that the amendment or modification is in
25 the best interests of this Commonwealth and promulgates the
26 amendments or modifications as provided in the act of July 31,
27 1968 (P.L.769, No.240), referred to as the Commonwealth
28 Documents Law, and submits the amendments or modifications to
29 the Independent Regulatory Review Commission and the designated
30 standing committees of the General Assembly for review pursuant

1 to the act of June 25, 1982 (P.L.633, No.181), known as the
2 Regulatory Review Act.

3 Section 3 4. Title 75 is amended by adding a chapter to
4 read:

5 CHAPTER 79

6 HAZARDOUS MATERIALS TRANSPORTATION

7 Sec.

8 7901. Legislative findings.

9 7902. Powers and duties of department.

10 7903. Correspondence with Federal regulations.

11 7904. Right of entry.

12 7905. Injunctions and other remedies.

13 7906. Penalties.

14 7907. Hazardous Materials Transportation Advisory Committee.

15 7908. Report to the General Assembly.

16 § 7901. Legislative findings.

17 (a) Essential nature.--It is hereby found as a fact that
18 hazardous materials are essential for various industrial,
19 commercial and other purposes, that their transportation is a
20 necessary incident of their use and, therefore, that such
21 transportation is required for the employment and economic
22 prosperity of the people. It is also found as a fact that the
23 transportation of hazardous materials may involve risk of injury
24 to persons and damage to property and that the degree of the
25 risk can and should be kept at a minimum consistent with
26 technical feasibility and economic reasonableness.

27 (b) Balance of interests.--The purpose of this chapter and
28 the primary standard by which it shall be administered is to so
29 regulate the transportation of hazardous materials and assure
30 compliance with the regulations promulgated pursuant to this

chapter that there is established and maintained a reasonable balance between the interests of the people in the safety of themselves and their property, on the one hand, and the interests of the people and their employment and economic prosperity on the other.

§ 7902. Powers and duties of department.

The department shall have the following powers and duties:

(1) Administer the hazardous materials transportation program pursuant to this chapter.

(2) Classify hazardous materials according to the nature and degree of risk involved in their transportation and apply separate regulations to each class.

(3) Adopt regulations pertaining to methods of packing, loading and unloading hazardous materials; to the specifications, marking, inspection, condition and equipment of vehicles transporting such substances; to qualification of drivers and other matters relating to operation of such vehicles; to routing and parking of such vehicles, except that such regulations may not supersede ordinances of local authorities and all other factors which affect the nature or degree of risk involved in transportation of hazardous materials.

(4) Declare any material to be a hazardous material and thereby subject its transportation to this chapter.

(5) Issue permits and specify the terms and conditions thereof, exempting cargo tanks used solely for intrastate transportation and trucks used solely for the transportation of combustible liquids from Federal design specifications.

The permits shall be issued upon meeting testing requirements established by department regulation and shall be valid for a

1 period of two years.

2 (6) Inspect vehicles and investigate all other matters
3 relating to the safe transportation of hazardous materials on
4 any highway in this Commonwealth including the Pennsylvania
5 Turnpike.

6 (7) Delegate enforcement of all or parts of these
7 regulations to one or more of the several departments and
8 commissions represented on the Hazardous Materials
9 Transportation Advisory Committee ~~or to local police officers~~ <—
10 who meet training criteria specified by department
11 regulation. Delegation shall be accomplished through
12 cooperative agreements and become effective upon publication
13 in the Pennsylvania Bulletin.

14 (8) Enter into cooperative agreements with the Federal
15 Government relating to the regulation of the highway
16 transportation of hazardous materials.

17 § 7903. Correspondence with Federal regulations.

18 In the case of any person who is subject to Federal
19 regulations pertaining to the transportation of hazardous
20 materials, the department's regulations shall, and in any other
21 case may, as far as practicable, correspond with such Federal
22 regulations. It is the purpose of this section to avoid, as far
23 as practicable, the imposition of conflicting regulations upon
24 persons who operate vehicles subject to Federal regulations,
25 pertaining to the transportation of hazardous materials. It is
26 also the purpose of this section to empower, but not require,
27 the department to prescribe, for persons not subject to the
28 Federal regulations, regulations identical with or similar to
29 those Federal regulations pertaining to the transportation of
30 hazardous materials.

1 § 7904. Right of entry.

2 Every motor carrier shall allow any department field
3 investigator, member of the Pennsylvania State Police or other
4 person delegated enforcement authority in accordance with
5 section 7902(7) (relating to powers and duties of department) to
6 enter upon and inspect the business premises of the motor
7 carrier, including vehicles and other equipment located thereon,
8 at all reasonable times for the purpose of determining whether
9 the motor carrier is in compliance with this chapter and
10 pertinent regulations, and shall make available to such person
11 for inspection and copying all accounts, books, records,
12 memoranda, correspondence and other documents which may
13 reasonably relate to such determination.

14 § 7905. Injunctions and other remedies.

15 (a) Restraining orders.--The Attorney General, upon request
16 of the department or upon his own motion, may proceed in the
17 name of the Commonwealth, by injunction, mandamus, quo warranto
18 or other appropriate remedy at law or in equity, criminal or
19 civil, to restrain violations of the department's hazardous
20 materials regulations or orders or to enforce obedience thereto.

21 (b) Long arm provision.--Whenever the Attorney General shall
22 have reason to believe that a person has violated any regulation
23 or order of the department but is outside the jurisdiction of
24 this Commonwealth, the Attorney General may petition the court
25 for an order authorizing the seizure and confiscation of such
26 person's vehicles or hazardous materials wherever and whenever
27 they may be found in this Commonwealth.

28 § 7906. Penalties.

29 (a) Offenses defined.--Any person who violates any provision
30 of this chapter, any rule or regulation of the department, any

1 order of the department or any condition of any permit issued
2 pursuant to this chapter commits a summary offense and, upon
3 conviction, the person shall be subject to a fine of not less
4 than \$50 nor more than ~~\$5,000~~ \$1,000 for each separate offense, <—
5 and, in default of the payment of the fine, shall be imprisoned
6 for a period of 90 days.

7 (b) Willful violations.--Any person who willfully violates
8 any provision of this chapter, any rule or regulation of the
9 department, any order of the department or any condition of any
10 permit issued pursuant to this chapter commits a misdemeanor of
11 the third degree and, upon conviction, shall be subject to a
12 fine of not less than \$1,000 nor more than \$25,000 for each
13 separate offense or to imprisonment in the county jail for a
14 period of not more than one year, or both.

15 (c) Subsequent willful violations.--Any person who, after a
16 conviction of a misdemeanor for any violation within two years
17 as provided in this section, willfully violates any provision of
18 this chapter, any rule or regulation of the department, any
19 order of the department or any condition of any permit issued
20 pursuant to this chapter commits a misdemeanor of the second
21 degree and, upon conviction, shall be subject to a fine of not
22 less than \$2,500 nor more than \$50,000 for each separate offense
23 or to imprisonment for a period of not more than two years, or
24 both.

25 (d) Continuing violations.--Each day of continued violation
26 of any provision of this chapter, any rule or regulation of the
27 department, any condition of any permit or order of the
28 department issued pursuant to this chapter shall constitute a
29 separate offense.

30 (e) Jurisdiction.--All summary proceedings under the

1 provisions of this chapter may be brought before any district
2 justice of the county where the offense occurred or in the
3 county where the public is affected, and to that end
4 jurisdiction is hereby conferred upon the district justices,
5 subject to appeal by either party in the manner provided by law
6 for appeals from summary convictions. It shall be the duty of
7 the district attorney of the county to represent the interests
8 of the Commonwealth.

9 § 7907. Hazardous Materials Transportation Advisory Committee.

10 (a) Membership.--There shall be a Hazardous Materials
11 Transportation Advisory Committee appointed by the secretary.
12 The committee shall be composed of an authorized representative
13 from the Department of Transportation, who shall chair the
14 committee, the Office of Attorney General, the Department of
15 Health, the Department of Environmental Resources, the
16 Pennsylvania State Police, the Pennsylvania Emergency Management
17 Agency and the Pennsylvania Public Utility Commission and
18 representatives of the hazardous materials industry and the
19 public as follows:

20 (1) A manufacturer or shipper.

21 (2) A consignee or user.

22 (3) A common carrier.

23 (4) A private carrier.

24 (5) A representative of the fire services.

25 ~~(6) A representative of the local police.~~ <—

26 ~~(7)~~ (6) A representative of the emergency medical
27 services.

28 ~~(8)~~ (7) A representative with highway safety experience. <—

29 ~~(9)~~ (8) A member from the general public. <—

30 ~~(10)~~ (9) Others deemed appropriate by the secretary. <—

1 (b) Duties.--The committee may review all regulations and
2 advise the department on all matters concerning the highway
3 transportation of hazardous materials.

4 § 7908. Report to the General Assembly.

5 Within one year of the effective date of this chapter, the
6 secretary shall cause to be filed in the offices of the
7 Secretary of the Senate and the Chief Clerk of the House of
8 Representatives a report explaining the department's efforts to:

9 (1) Appoint all members of the Hazardous Materials
10 Transportation Advisory Committee representing private
11 interests and the public.

12 (2) Conduct terminal inspections and road checks in a
13 uniform manner across this Commonwealth.

14 (3) Utilize Federal funds to the fullest extent
15 practicable.

16 (4) Coordinate inspections with the United States Office
17 of Motor Carrier Safety.

18 ~~(5) Train and use local police to enforce hazardous~~ <—
19 ~~materials transportation regulations.~~

20 Section 4 5. All rules and regulations promulgated by the <—
21 Hazardous Substance Transportation Board heretofore shall remain
22 in full force and effect until amended or repealed by the
23 Secretary of Transportation.

24 Section 5 6. The act of November 9, 1965 (P.L.657, No.323), <—
25 known as the Hazardous Substances Transportation Act, is
26 repealed.

27 Section 6 7. This act shall take effect immediately. <—