

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

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# HOUSE BILL

## No. 1387

Session of  
1987

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INTRODUCED BY GEORGE, COHEN, GLADECK, WOZNIAK, YANDRISEVITS,  
JOSEPHS, TRELLO, HALUSKA, LASHINGER, MORRIS, GRUPPO,  
KOSINSKI, STABACK, BOYES AND STUBAN, MAY 12, 1987

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AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,  
FEBRUARY 24, 1988

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## AN ACT

1 Placing a moratorium on the issuance of permits for certain  
2 waste incinerators; AND RESTRICTING THE LOCATION OF WASTE <—  
3 TREATMENT AND DISPOSAL FACILITIES.

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

6 Section 1. Findings.

7 The General Assembly, conscious of the public health concerns  
8 relating to air pollution and other deleterious effects of  
9 various types of waste incinerators, finds that the public  
10 health, safety and welfare will be served by placing a  
11 moratorium on issuing permits for the construction and operation  
12 of facilities proposed to be used for the incineration of waste.  
13 Furthermore, the House Committee on Conservation is currently  
14 holding hearings to determine the safety and environmental  
15 impact of incinerators pursuant to House Resolution No. 28,  
16 adopted March 4, 1987.

17 Section 2. Moratorium.

1 (a) Prohibition.--On and after the effective date of this  
2 act, EXCEPT FOR FACILITIES LOCATED WITHIN MUNICIPALITIES WHICH <—  
3 HAVE ENDED THE MORATORIUM UNDER SUBSECTION (B), the Department  
4 of Environmental Resources shall not issue the required permits  
5 under the act of January 8, 1960 (1959 P.L.2119, No.787), known  
6 as the Air Pollution Control Act, or the act of July 7, 1980  
7 (P.L.380, No.97), known as the Solid Waste Management Act, for  
8 the construction or operation of any of the following types of  
9 facilities proposed to be used for the incineration of wastes:

10 (1) Mass burn incinerators.

11 (2) Infectious and pathological waste incinerators.

12 (3) Incinerators burning refuse-derived fuel.

13 ~~This act shall not affect the continued operation of existing~~ <—  
14 ~~incineration facilities or their successors in interest, nor~~  
15 ~~shall this act affect those municipalities or authorities which~~  
16 ~~have completed bond financing or which have entered into~~  
17 ~~contracts for the construction of such facilities.~~

18 (b) End of moratorium.--

19 (1) The prohibition contained herein shall remain in  
20 effect until one year from the effective date of this act;  
21 however, SUBJECT TO PARAGRAPH (2), the governing body of a <—  
22 municipality OTHER THAN A COUNTY may end the moratorium as it <—  
23 pertains to that municipality by resolution ~~adopted after~~ <—  
24 ~~finding all of the following~~ AFTER FINDING THAT, AS PROPOSED: <—

25 ~~(1)~~ (I) The facility shall be sited in accordance <—  
26 with Department of Environmental Resources standards and  
27 regulations and with municipal ordinances.

28 ~~(2)~~ (II) The facility shall be operated in <—  
29 accordance with department standards and regulations and  
30 with municipal ordinances.

1           ~~(3)~~ (III) The public health and safety of the           <—  
2           municipality and the environment shall not be endangered  
3           by the siting or operation of the facility.

4           (2) AFTER A MUNICIPALITY PASSES A RESOLUTION TO END THE           <—  
5           MORATORIUM AS PROVIDED IN PARAGRAPH (1), IF THE CAPACITY OF A  
6           PROPOSED FACILITY EXCEEDS THE MUNICIPALITY'S DISPOSAL NEEDS  
7           BY MORE THAN 150%, THE QUESTION OF THE MORATORIUM SHALL BE  
8           PLACED ON THE BALLOT IN THE FORM OF A REFERENDUM AT THE NEXT  
9           PRIMARY, MUNICIPAL OR GENERAL ELECTION IMMEDIATELY FOLLOWING  
10          THE PASSAGE OF THE RESOLUTION. THE MORATORIUM SHALL BE ENDED  
11          ONLY BY AN AFFIRMATIVE VOTE OF A MAJORITY OF THE  
12          MUNICIPALITY'S RESIDENTS VOTING ON THE REFERENDUM. THE  
13          REFERENDUM SHALL BE HELD IN ACCORDANCE WITH THE ACT OF JUNE  
14          3, 1937 (P.L.1333, NO.320), KNOWN AS THE PENNSYLVANIA  
15          ELECTION CODE.

16          (C) PERMITS.--NOTHING IN THIS SECTION SHALL BE CONSTRUED TO  
17          MEAN THAT AN ACTION BY A MUNICIPALITY WHICH ENDS THE MORATORIUM  
18          AS PROVIDED IN SUBSECTION (B) EXEMPTS ANY OWNER OR OPERATOR OF A  
19          FACILITY TO BE SITED IN THAT MUNICIPALITY FROM OBTAINING ALL  
20          PERMITS REQUIRED UNDER THE ACT OF JANUARY 8, 1960 (1959  
21          P.L.2119, NO.787), KNOWN AS THE AIR POLLUTION CONTROL ACT AND  
22          THE ACT OF JULY 7, 1980 (P.L.380, NO.97), KNOWN AS THE SOLID  
23          WASTE MANAGEMENT ACT, OR ANY OTHER ACT.

24          SECTION 3. LIMITATION ON LOCATION OF WASTE TREATMENT AND  
25                                  DISPOSAL FACILITIES.

26          THE DEPARTMENT OF ENVIRONMENTAL RESOURCES SHALL NOT ISSUE A  
27          PERMIT FOR, NOR ALLOW THE OPERATION OF, A NEW MUNICIPAL-WASTE  
28          LANDFILL, NEW RESIDUAL-WASTE TREATMENT OR NEW DISPOSAL FACILITY  
29          WITHIN 1,000 YARDS OF A BUILDING WHICH IS OWNED BY A PUBLIC  
30          SCHOOL DISTRICT. THIS SHALL NOT AFFECT ANY MODIFICATION,

1 EXTENSION, ADDITION OR RENEWALS OF EXISTING PERMITTED  
2 FACILITIES.

3 SECTION 4. EXCEPTIONS.

4 THIS ACT SHALL NOT APPLY TO:

5 (1) INCINERATION FACILITIES WHICH ON THE EFFECTIVE DATE  
6 OF THIS ACT HAVE RECEIVED SUCH PERMITS.

7 (2) INCINERATION FACILITIES FOR WHICH PERMIT  
8 APPLICATIONS HAVE BEEN FILED ON THE EFFECTIVE DATE OF THIS  
9 ACT AND WHICH HAVE BEEN DEEMED TO BE COMPLETE BY THE  
10 DEPARTMENT OF ENVIRONMENTAL RESOURCES.

11 (3) INCINERATION FACILITIES PROPOSED TO BE UTILIZED BY  
12 MUNICIPALITIES OR AUTHORITIES AND WHICH ON THE EFFECTIVE DATE  
13 OF THIS ACT HAVE ENTERED INTO CONTRACTS FOR THE CONSTRUCTION  
14 OF SUCH FACILITIES OR COMPLETED AN ESCROW OR PERMANENT BOND  
15 FINANCING.

16 (4) INCINERATION FACILITIES PROPOSED TO BE UTILIZED BY  
17 MORE THAN ONE MUNICIPALITY, WHICH MUNICIPALITIES HAVE  
18 EXECUTED INTER-MUNICIPAL PACTS AND HAVE EXPENDED PUBLIC FUNDS  
19 IN REGARD THERETO PRIOR TO THE EFFECTIVE DATE OF THIS ACT.

20 Section 3 5. Effective date.

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21 This act shall take effect immediately.