

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 951

Session of
1991

INTRODUCED BY D. R. WRIGHT, COHEN, FAIRCHILD, BELARDI, STABACK,
JOSEPHS, TRELLO, BILLOW, CALTAGIRONE, COLAIZZO, MAYERNIK,
FREEMAN, LUCYK, GRUITZA, LaGROTTA, PETRARCA, PETRONE, OLASZ,
PISTELLA, RUDY, KASUNIC, PESCI, STURLA, HANNA, KRUSZEWSKI,
CARONE, RICHARDSON, BUSH, FOX, CIVERA, CLYMER, D. W. SNYDER,
SERAFINI, STAIRS, PHILLIPS, HERSHEY, GIGLIOTTI AND KING,
APRIL 2, 1991

REFERRED TO COMMITTEE ON CONSERVATION, APRIL 2, 1991

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 the powers and duties of the Department of
19 Environmental Resources and the Environmental Quality Board
20 and for permit requirements.

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

23 Section 1. Section 104 of the act of July 7, 1980 (P.L.380,
24 No.97), known as the Solid Waste Management Act, amended

1 December 12, 1986 (P.L.1556, No.168) and July 11, 1989 (P.L.331,
2 No.55), is amended to read:

3 Section 104. Powers and duties of the department.

4 The department in consultation with the Department of Health
5 regarding matters of public health significance shall have the
6 power and its duty shall be to:

7 (1) administer the solid waste management program,
8 including resource recovery and utilization, pursuant to the
9 provisions of this act;

10 (2) cooperate with appropriate Federal, State,
11 interstate and local units of government and with appropriate
12 private organizations in carrying out its duties under this
13 act;

14 (3) develop a Statewide solid waste management plan in
15 cooperation with local governments, the Department of
16 Community Affairs, the Department of Commerce and the State
17 Planning Board; emphasis shall be given to area-wide
18 planning;

19 (4) provide technical assistance to municipalities
20 including the training of personnel;

21 (5) initiate, conduct, and support research,
22 demonstration projects, and investigations, and coordinate
23 all State agency research programs, pertaining to solid waste
24 management systems;

25 (6) regulate the storage, collection, transportation,
26 processing, treatment and disposal of solid waste;

27 (7) issue permits, licenses and orders, and specify the
28 terms and conditions thereof, and conduct inspections and
29 abate public nuisances to implement the purposes and
30 provisions of this act and the rules, regulations and

standards adopted pursuant to this act;

(8) require the payment of a fee according to a standard uniform schedule of permit and license fees for the processing of any permit or license application. Permit and license fees shall be in an amount sufficient to cover the aggregate cost of reviewing all applications, acting on all applications, processing all renewals, and administering all the terms and conditions of all permits and all provisions of this act relating thereto;

(9) serve as the agency of the Commonwealth for the receipt of moneys from the Federal Government or other public agencies or private agencies and expend such moneys for studies and research with respect to, and for the enforcement and administration of, the purposes and provisions of this act and the rules and regulations promulgated thereunder;

(10) institute in a court of competent jurisdiction, proceedings against any person or municipality to compel compliance with the provisions of this act, any rule or regulation issued thereunder, any order of the department, or the terms and conditions of any permit;

(11) institute prosecutions against any person or municipality under this act;

(12) appoint such advisory committees as the secretary deems necessary and proper to assist the department in carrying out the provisions of this act. The secretary is authorized to pay reasonable and necessary expenses incurred by the members of such advisory committees in carrying out their functions;

(13) do any and all other acts and things not inconsistent with any provision of this act, which it may

1 deem necessary or proper for the effective enforcement of
2 this act and the rules or regulations which may be
3 promulgated hereunder after consulting with the Department of
4 Health regarding matters of public health significance;

5 (14) develop, prepare and submit to the Environmental
6 Quality Board, within two years after the effective date of
7 this act, its proposed Pennsylvania Hazardous Waste
8 Facilities Plan;

9 (15) develop, prepare and publish in the Pennsylvania
10 Bulletin six months after the effective date of this act its
11 preliminary environmental, social and economic criteria and
12 standards for siting hazardous waste treatment and disposal
13 facilities;

14 (16) require the payment of such annual inspection fees
15 and perform such inspections of hazardous waste treatment and
16 disposal facilities as are provided for in the Environmental
17 Quality Board guidelines adopted pursuant to section 105(e).
18 This provision shall not be construed to limit or restrict
19 the department's inspection powers as elsewhere set forth in
20 this act;

21 (17) administer funds collected by the United States
22 Government and granted to Pennsylvania for the purpose of
23 closing, maintaining or monitoring abandoned or closed
24 hazardous waste storage, treatment or disposal sites and for
25 the purpose of action to abate or prevent pollution at such
26 sites. If Congress has not authorized the collection of such
27 funds within one year after the effective date of this act,
28 or if the department finds that the funding program
29 authorized is inadequate, the department shall transmit to
30 the General Assembly within 15 months after the effective

1 date of this act a proposal for the establishment of a fund
2 in Pennsylvania comprised of surcharges collected from users
3 of hazardous waste storage, treatment and disposal facilities
4 excluding captive facilities in the Commonwealth. Such fund
5 shall be proposed for the purpose of closing, maintaining or
6 monitoring hazardous waste storage, treatment or disposal
7 sites excluding captive facilities which have been abandoned
8 or which have been closed for at least 20 years, and for the
9 purpose of taking action to abate or prevent pollution at
10 such closed or abandoned sites; [and]

11 (18) encourage the beneficial use or processing of
12 municipal waste or residual waste when the department
13 determines that such use does not harm or present a threat of
14 harm to the health, safety or welfare of the people or
15 environment of this Commonwealth. The department shall
16 establish waste regulations to effectuate the beneficial use
17 of municipal and residual waste, including regulations for
18 the issuance of general permits for any category of
19 beneficial use or processing of municipal waste or residual
20 waste on a regional or Statewide basis in accordance with the
21 regulations adopted by the Environmental Quality Board. The
22 department may or may not require insurance under section
23 502(e) or bonds under section 505(a) for any general permit
24 or class of general permits promulgated under this paragraph.
25 Except with the written approval of the department, no waste
26 may be stored for longer than one year. Residual wastes being
27 stored shall be monitored for changes in physical and
28 chemical properties, including leachability, pursuant to
29 applicable regulations, by the person or municipality
30 beneficially using or processing such waste. The department

1 may require the submission of periodic analyses or other
2 information to insure that the quality of residual waste to
3 be beneficially used or processed does not change. A
4 municipality or person beneficially using or processing the
5 residual waste shall immediately notify the department, upon
6 forms provided by department, of any change in the physical
7 or chemical properties of the residual waste, including
8 leachability; and the department shall conduct an
9 investigation and order necessary corrective action. Upon
10 receipt of a signed, written complaint of any person whose
11 health, safety or welfare may be adversely affected by a
12 physical or chemical change in the properties of residual
13 waste to be beneficially used or processed, including
14 leachability, the department shall determine the validity of
15 the complaint and take appropriate action[.]; and
16 (19) strictly construe and enforce any and all provisions of
17 this act.

18 Section 2. Section 105(a) of the act, amended December 12,
19 1986 (P.L.1556, No.168), is amended to read:

20 Section 105. Powers and duties of the Environmental Quality
21 Board.

22 (a) The Environmental Quality Board shall have the power and
23 its duty shall be to adopt the rules, regulations, criteria and
24 standards of the department to accomplish the purposes and to
25 carry out the provisions of this act, including but not limited
26 to the establishment of rules and regulations relating to the
27 protection of safety, health, welfare and property of the public
28 and the air, water and other natural resources of the
29 Commonwealth. In adopting the rules and regulations the
30 Environmental Quality Board shall strictly construe the

1 provisions of this act.

2 * * *

3 Section 3. Section 502 of the act is amended by adding a
4 subsection to read:

5 Section 502. Permit and license application requirements.

6 * * *

7 (h) The application for a permit for the inground disposal
8 or incineration of hazardous or residual waste shall demonstrate
9 that the operator has considered alternative methods of disposal
10 that are less harmful to the environment than inground disposal
11 or incineration. The application shall fully document and
12 explain the operator's rationale for rejecting any alternative
13 method of disposal.

14 Section 4. Section 503(c) and (d) of the act are amended to
15 read:

16 Section 503. Granting, denying, renewing, modifying, revoking
17 and suspending permits and licenses.

18 * * *

19 (c) In carrying out the provisions of this act, the
20 department [may] shall deny, suspend, modify, or revoke any
21 permit or license if it finds that the applicant, permittee or
22 licensee has failed or continues to fail to comply with any
23 provision of this act, the act of June 22, 1937 (P.L.1987,
24 No.394), known as "The Clean Streams Law," the act of January 8,
25 1960 (1959 P.L.2119, No.787), known as the "Air Pollution
26 Control Act," and the act of November 26, 1978 (P.L.1375,
27 No.325), known as the "Dam Safety and Encroachments Act," or
28 any other state or Federal statute relating to environmental
29 protection or to the protection of the public health, safety and
30 welfare; or any rule or regulation of the department; or any

1 order of the department; or any condition of any permit or
2 license issued by the department; or if the department finds
3 that the applicant, permittee or licensee has shown a lack of
4 ability or intention to comply with any provision of this act or
5 any of the acts referred to in this subsection or any rule or
6 regulation of the department or order of the department, or any
7 condition of any permit or license issued by the department as
8 indicated by past or continuing violations. In the case of any
9 conduct causing contamination or pollution of any land, air or
10 water of this Commonwealth by hazardous waste, the department
11 shall deny, suspend, modify or revoke any permit or license
12 until the contamination or pollution has been abated and the
13 land, air or water restored to precontamination levels. In the
14 case of a corporate applicant, permittee or licensee, the
15 department may deny the issuance of a license or permit if it
16 finds that a principal of the corporation was a principal of
17 another corporation which committed past violations of this act.

18 (d) Any person or municipality which has engaged in unlawful
19 conduct as defined in this act, or whose partner, associate,
20 officer, parent corporation, subsidiary corporation, contractor,
21 subcontractor or agent has engaged in such unlawful conduct,
22 shall be denied any permit or license required by this act
23 unless the permit or license application demonstrates to the
24 satisfaction of the department that the unlawful conduct has
25 been corrected and any adverse affects to the environment have
26 been abated and restored to the condition prior to the unlawful
27 conduct. Independent contractors and agents who are to operate
28 under any permit shall be subject to the provisions of this act.
29 Such independent contractors, agents and the permittee shall be
30 jointly and severally liable, without regard to fault, for

1 violations of this act which occur during the contractor's or
2 agent's involvement in the course of operations.

3 * * *

4 Section 5. This act shall take effect in 60 days.