

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1940 Session of
1991

INTRODUCED BY SAURMAN, FAIRCHILD, HECKLER, E. Z. TAYLOR, TRELLO,
CLARK, NOYE, CIVERA AND HAGARTY, JULY 24, 1991

REFERRED TO COMMITTEE ON CONSERVATION, JULY 24, 1991

AN ACT

1 Authorizing local enforcement of environmental laws.

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

4 Section 1. Short title.

5 This act shall be known and may be cited as the Local
6 Environmental Enforcement Act.

7 Section 2. Definitions.

8 The following words and phrases when used in this act shall
9 have the meanings given to them in this section unless the
10 context clearly indicates otherwise:

11 "Department." The Department of Environmental Resources of
12 the Commonwealth.

13 Section 3. Notification to department.

14 Whenever a local municipality, by reason of receipt of a
15 complaint or otherwise, becomes aware of and, after
16 investigation, has reason to believe that there has been a
17 violation of any environmental law of the Commonwealth which

endangers or may cause a threat to public health and safety, the municipality may notify the regional office of the department.

Section 4. Content of notice.

The notice to the department under section 3 shall be in writing and signed by an authorized official of the municipality. The notice shall contain sufficient information which includes the type of environmental violation, the time or times the violation or violations occurred, the name of the alleged violator, the address of the violator and the location of the violation. The department will then respond to the notice as required by this act.

Section 5. Response by department.

Upon receipt of the notice of an alleged violation, the department shall investigate and respond within seven days of receipt of the notice of the violation. The response shall contain information advising the municipality of the action which the department will take in response to the notice of an alleged violation. If the department determines that a violation does not exist or determines that no action is necessary, the response shall advise the municipality of the reasons for that determination.

Section 6. Response by municipality.

If the department does not respond within seven days as required by section 5, the municipality may send a second notice to the department as provided in section 4. If the department does not respond within seven days of receipt of the second notice, the local municipality may take appropriate enforcement action as provided in section 7.

Section 7. Enforcement by municipality.

Unless the statute under which the action arises specifically

1 preempts local enforcement upon failure of the department to
2 respond to the notice as provided in section 3, any district
3 attorney of a county or any solicitor of a municipality may
4 proceed in courts of law or equity to abate violations of the
5 environmental laws of this Commonwealth and to abate nuisances
6 under other existing laws of this Commonwealth. Nothing in this
7 section shall be construed as preventing the Commonwealth from
8 proceeding with enforcement actions authorized under existing
9 environmental laws or other existing laws.

10 Section 8. Effective date.

11 This act shall take effect immediately.