

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 747 Session of
1999

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MUNDY, NAILOR, SAYLOR, SERAFINI, B. SMITH, STAIRS, TANGRETTI,
E. Z. TAYLOR, WALKO AND YOUNGBLOOD, MARCH 8, 1999

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,
MARCH 8, 1999

AN ACT

1 Providing for a three-year moratorium on the issuance of certain
2 permits for landfills and resource recovery facilities and
3 commercial residual waste disposal facilities; imposing a
4 Statewide capacity cap; requiring host municipality
5 agreements for certain municipal and residual waste permits;
6 establishing a fee and bonding for vehicles that collect and
7 transport municipal and residual waste to certain municipal
8 waste disposal and processing facilities; and developing a
9 manifest system for mixed waste.

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

9 Section 1. Short title.

10 This act shall be known and may be cited as the Municipal
11 Waste Facilities and Transportation Act.

12 Section 2. Legislative findings.

13 (a) Legislative findings.--The General Assembly finds and
14 declares as follows:

15 (1) Improper municipal waste practices create public
16 health hazards and environmental pollution and cause
17 irreparable harm to the public health, safety and welfare.

18 (2) All aspects of solid waste management, particularly
19 the disposition of solid waste, pose a critical threat to the
20 health, safety and welfare of the citizens of this
21 Commonwealth when solid waste is improperly managed.

22 (3) The Commonwealth is responsible for the protection
23 of the health, safety and welfare of its citizens concerning
24 solid waste management.

25 (4) The construction and expansion of municipal waste
26 landfills, construction/demolition waste landfills and
27 commercial residual waste disposal facilities usually consume
28 natural lands, thereby impinging upon wildlife habitat and
29 the public's use and enjoyment of the natural resources,
30 including air, water and natural scenic, historic and

1 aesthetic values of the environment.

2 (5) Use of already permitted areas for landfills,
3 combined with the capacity of existing resource recovery
4 facilities, will provide adequate capacity at the current
5 rate of disposal over the next ten years or more.

6 (6) As recycling and waste minimization rates increase
7 across the country, the amount of landfill and resource
8 recovery facility capacity needed to dispose and process
9 municipal waste decreases.

10 (7) Having an excess of capacity hinders recycling,
11 waste minimization, source reduction and pollution prevention
12 activities.

13 (8) Concentrated traffic in the vicinity of municipal
14 and residual waste facilities contributes to and causes
15 substantial harm to this Commonwealth's roadways and
16 environment and to the health and safety of the citizens of
17 this Commonwealth.

18 (9) Communities in the areas located near and along the
19 approach routes to municipal waste and commercial residual
20 waste disposal facilities experience traffic problems,
21 litter, odors, noise, dust and other nuisances emanating from
22 the operation of the facilities and from the transportation
23 of waste to the facilities.

24 (10) Joint inspections of vehicles by the Department of
25 Environmental Protection, the Pennsylvania State Police and
26 the Department of Transportation consistently indicate that
27 over 25% of the waste vehicles inspected have violations of
28 the act of July 7, 1980 (P.L.380, No.97), known as the Solid
29 Waste Management Act, and the act of July 28, 1988 (P.L.556,
30 No.101), known as the Municipal Waste Planning, Recycling and

1 Waste Reduction Act.

2 (11) Inspections of the Pennsylvania State Police and
3 the Department of Transportation consistently indicate
4 vehicle safety and weight control violations are pervasive in
5 the waste hauling industry.

6 (12) Disposal or processing of residual waste at a
7 municipal waste landfill or resource recovery facility can
8 endanger the public health, safety and welfare and can cause
9 or contribute to the creation of nuisances if the residual
10 waste is not physically and chemically approved for disposal
11 or processing at the landfill or facility.

12 (13) Municipal waste landfills, construction/demolition
13 waste landfills and commercial residual waste disposal
14 facilities tend to be located in rural and sparsely populated
15 areas. Resource recovery facilities and transfer stations are
16 located in both rural and urban areas.

17 (b) Purposes and goals.--The purposes and goals of this act
18 are to:

19 (1) Enhance the protection of the public health, safety
20 and welfare from the short-term and long-term dangers of
21 disposal, processing, storage and transportation of municipal
22 and residual waste.

23 (2) Implement section 27 of Article I of the
24 Constitution of Pennsylvania.

25 (3) Conserve the environment and the natural resources
26 of this Commonwealth.

27 (4) Encourage proper and responsible use and management
28 of capacity at municipal waste landfills,
29 construction/demolition waste landfills, resource recovery
30 facilities and commercial residual waste disposal facilities.

1 (5) Preserve existing capacity at municipal waste
2 landfills, construction/demolition waste landfills and
3 commercial residual waste disposal facilities.

4 (6) Encourage the recycling, source reduction and waste
5 minimization of municipal waste and residual waste.

6 (7) Limit the magnitude of environmental and
7 transportation problems in and around communities which host
8 municipal waste landfills, construction/demolition waste
9 landfills, transfer facilities, resource recovery facilities
10 or commercial residual waste disposal facilities.

11 (8) Require written authorization from the Department of
12 Environmental Protection for transporting municipal or
13 residual waste to certain municipal waste disposal and
14 processing facilities and commercial residual waste disposal
15 facilities in order to enhance the safe transportation of the
16 waste.

17 (9) Ensure that municipal waste landfills and resource
18 recovery facilities receive proper notification and chemical
19 analysis of residual waste when a load of municipal waste
20 delivered to the landfill or facility also contains residual
21 waste so that the operator may determine whether the landfill
22 or facility is approved to accept the waste.

23 (10) Prevent the unauthorized disposal and processing of
24 residual waste at municipal waste landfills and resource
25 recovery facilities.

26 (11) Protect residents of the communities affected by
27 municipal waste facilities and commercial residual waste
28 disposal facilities from unnecessary traffic problems,
29 litter, odors, noise, dust and other nuisances emanating from
30 the operation of the facilities and from the transportation

1 of waste to the facilities.

2 (12) Have at least 35% of all municipal waste and
3 source-separated recyclable materials generated in this
4 Commonwealth recycled by January 1, 2003.

5 Section 3. Definitions.

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

9 (a) General definitions.--

10 "Department." The Department of Environmental Protection of
11 the Commonwealth and its authorized representatives.

12 "Gross vehicle weight." The combined weight of a vehicle or
13 combination of vehicles and its load, excluding the driver's
14 weight.

15 "Host municipality." The city, borough, incorporated town,
16 township or home rule municipality within which a municipal
17 waste disposal, processing facility or commercial residual waste
18 facility is located or proposed to be located or has been
19 permitted but not constructed.

20 "Host municipality agreement." A written, legally binding
21 document or documents executed by duly authorized officials of a
22 host municipality and the owner or operator of an existing or
23 proposed municipal waste disposal or processing facility or
24 commercial residual waste disposal facility.

25 "Municipal Waste Planning, Recycling and Waste Reduction
26 Act." The act of July 28, 1988 (P.L.556, No.101), known as the
27 Municipal Waste Planning, Recycling and Waste Reduction Act.

28 "Secretary." The Secretary of Environmental Protection of
29 the Commonwealth.

30 "Semitrailer." A trailer so constructed that some part of

1 its weight rests upon or is carried by the towing vehicle.

2 "Solid Waste Management Act." The act of July 7, 1980
3 (P.L.380, No.97), known as the Solid Waste Management Act.

4 "Statewide capacity." The amount of unused permitted
5 capacity constructed or approved for construction as determined
6 by the Department of Environmental Protection.

7 "Transporter." The owner of a semitrailer used for the
8 transporting of municipal or residual waste.

9 (b) Other acts.--Except as provided in subsection (a), the
10 terms in this act have the same meaning as provided in the act
11 of July 7, 1980 (P.L.380, No.97), known as the Solid Waste
12 Management Act, the act of July 28, 1988 (P.L.556, No.101),
13 known as the Municipal Waste Planning, Recycling and Waste
14 Reduction Act, and the regulations of the Department of
15 Environmental Protection promulgated under those acts.

16 Section 4. Construction of act.

17 (a) Liberal construction.--This act shall be liberally
18 construed so as best to achieve and effectuate the goals and
19 purposes of this act.

20 (b) Pari materia.--This act shall be construed in pari
21 materia with the Solid Waste Management Act, the Municipal Waste
22 Planning, Recycling and Waste Reduction Act and sections 1935-A
23 and 1936-A of the act of April 9, 1929 (P.L.177, No.175), known
24 as The Administrative Code of 1929.

25 Section 5. Moratorium.

26 (a) Permits relating to construction, expansion or
27 operation.--For a period of three years following the effective
28 date of this act, the department shall not accept an application
29 for a permit or permit modification nor issue a permit or permit
30 modification under the Solid Waste Management Act for the

1 construction, expansion or operation of a municipal waste
2 landfill, construction/demolition waste landfill, resource
3 recovery facility or commercial residual waste disposal
4 facility.

5 (b) Permits modifications relating to daily volume.--For a
6 period of three years following the effective date of this act,
7 the department shall not accept for review nor issue a permit
8 modification that would result in an increase in average daily
9 volume or maximum daily volume at a municipal waste landfill,
10 construction/demolition waste landfill, resource recovery
11 facility or commercial residual waste disposal facility.

12 (c) Return of applications.---Immediately following the
13 effective date of this act, the department shall return the
14 following applications and shall conduct no further review
15 during the pendency of the moratorium established in subsections
16 (a) and (b).

17 (1) Applications for new municipal waste landfills,
18 construction/demolition waste landfills, resource recovery
19 facilities or commercial residual waste disposal facilities.

20 (2) Applications for expansions of municipal waste
21 landfills, construction/demolition waste landfills or
22 commercial residual waste disposal facilities.

23 (3) Applications for permit modifications to increase
24 average daily volume or maximum daily volume at municipal
25 waste landfills, construction/demolition waste landfills,
26 resource recovery facilities or commercial residual waste
27 disposal facilities.

28 (d) Monitoring of remaining capacity.--During the pendency
29 of the moratorium established in this section and at all times
30 thereafter, the department shall monitor the remaining capacity

1 at all municipal waste landfills, construction/demolition waste
2 landfills, resource recovery facilities and commercial residual
3 waste disposal facilities.

4 (e) Exceptions.--This section shall not prohibit the review
5 or issuance of:

6 (1) A permit renewal or reissuance.

7 (2) A permit modification to allow the receipt of a
8 residual waste not previously approved by the department in
9 the facility's waste acceptance plan.

10 (3) An operational modification that does not affect
11 capacity.

12 (f) Special circumstances.--

13 (1) Notwithstanding any other provision of law or this
14 act to the contrary, the department may modify any permit
15 listed in subsection (a), (b) or (c) to allow increased
16 maximum or average daily waste volumes if the department:

17 (i) Finds in writing that the modification is
18 necessary to prevent a public health or environmental
19 emergency.

20 (ii) Publishes notice of the finding in the
21 Pennsylvania Bulletin.

22 (2) Action under this subsection shall be taken in
23 accordance with section 503(e) of the Solid Waste Management
24 Act.

25 (g) Emergencies.--Nothing in this section shall supersede
26 any other authority of the Governor or the department to act in
27 the event of an emergency.

28 Section 6. Statewide capacity cap.

29 (a) General rule.--Immediately upon expiration of the
30 moratorium established in section 5, a Statewide cap on capacity

1 at municipal waste landfills, construction/demolition waste
2 landfills, resource recovery facilities and commercial residual
3 waste disposal facilities shall take effect. The capacity cap
4 imposed by this section shall limit Statewide capacity to no
5 more than eight years of capacity using the amount of unused
6 permitted Statewide capacity in 1997 and the amount of waste
7 received in 1997 at these facilities.

8 (b) Prerequisite for issuance of permits.--The department
9 shall not accept or review any permit application or issue any
10 permit for a facility subject to the Statewide capacity cap
11 until the amount of Statewide capacity is equal to or less than
12 six years of the Statewide capacity available on December 31,
13 1997, determined using the amount of:

14 (1) Unused permitted Statewide capacity in 1997.

15 (2) The amount of waste received in 1997 at these
16 facilities.

17 After the amount of Statewide capacity drops to six years, the
18 department may accept permit applications for review and issue
19 permits for facilities subject to the Statewide capacity cap
20 until there again is Statewide capacity for six years as
21 determined in subsection (a).

22 (c) Regulations.--The Environmental Quality Board shall
23 adopt regulations which establish procedures, priorities and
24 deadlines for processing permit applications which are submitted
25 under subsection (b).

26 Section 7. Host municipality agreements.

27 (a) General rule.--An application for a permit which is
28 submitted to the department for review under section 6 and an
29 application for a municipal waste transfer facility permit which
30 is submitted to the department for review, at any time, may be

1 accepted as administratively complete under section 512(a) of
2 the Municipal Waste Planning, Recycling and Waste Reduction Act
3 and the regulations promulgated thereunder, if it includes
4 written evidence that the applicant has provided the host
5 municipality with notice of its interest in developing a host
6 municipality agreement that meets the requirements of this
7 section.

8 (b) Publication of notice.--

9 (1) Prior to negotiating a host municipality agreement,
10 a host municipality shall publish a notice that describes the
11 public involvement process that it will use to develop the
12 agreement. The notice shall be published once a week for
13 three consecutive weeks in a newspaper of general circulation
14 in the area where the facility or proposed facility is
15 located. Additional notice shall be provided in a manner
16 which the municipality determines will best inform the
17 residents of the host community.

18 (2) The public involvement process shall contain the
19 following, which shall be in addition to the requirements of
20 law governing municipal procedures:

21 (i) A public notice that discussions with a
22 prospective permit applicant on the potential of
23 developing a host municipality agreement have begun. The
24 municipality shall provide notice within ten days after
25 opening discussions with the facility operator. The
26 notice shall request comments and suggestions concerning
27 the host municipality agreement.

28 (ii) A public meeting at which a draft agreement is
29 presented to the public. The host municipality shall
30 schedule the meeting to discuss the agreement with the

1 public. The meeting shall be scheduled with a minimum of
2 30 days' public notice prior to the meeting date. A
3 comment period of not less than 60 days shall be provided
4 to accept written comments on the draft host municipality
5 agreement.

6 (iii) A public notice that the host municipality has
7 made a final decision. The host municipality shall
8 publish the final decision on the adoption or rejection
9 of the final host municipality agreement within 30 days
10 of the final decision.

11 (c) Additional notice.--The public involvement process shall
12 contain additional notice in a manner determined by the host
13 municipality that will best inform its residents.

14 (d) Terms of agreement.--The host municipality agreement
15 shall be negotiated in good faith and shall address the
16 following:

17 (1) The nature of the proposed facility.

18 (2) The site of the proposed facility or the expansion
19 of the existing facility.

20 (3) The potential generators of the waste.

21 (4) The life expectancy of the proposed facility or the
22 expansion of the existing facility.

23 (5) An explanation of all measures agreed upon by the
24 parties to alleviate traffic problems, litter, odors, noise,
25 dust or other nuisances that might emanate from the operation
26 of the facility or increase in daily volume, including the
27 transportation of waste to the facility.

28 (e) Prerequisite for permit issuance.--The department shall
29 not issue a permit for a new municipal waste landfill,
30 construction/demolition waste landfill, resource recovery

1 facility, municipal waste transfer facility or commercial
2 residual waste disposal facility, or for the expansion of any
3 such landfill or facility existing on the effective date of this
4 act, unless a permit applicant executes a host municipality
5 agreement with the host municipality.

6 (f) Jurisdiction over disputes.--The courts of common pleas
7 are hereby given jurisdiction over disputes between the host
8 municipality and the facility operator or applicant regarding
9 the negotiation or implementation of a host municipality
10 agreement.

11 (g) Reimbursement of costs.--

12 (1) At the request of the host municipality, the
13 department may reimburse a host municipality for costs
14 incurred in negotiating a host municipality agreement under
15 this section. Reimbursable costs shall be limited to costs
16 incurred for professional fees for lawyers, mediators and
17 other professionals used in the efforts to reach the
18 agreement.

19 (2) The funds for reimbursement shall be provided by the
20 Recycling Fund, and this reimbursement shall not exceed
21 \$20,000 for each host municipality agreement.

22 Section 8. Transporter program.

23 (a) Written authorization required.--It shall be unlawful
24 for a transporter to transport municipal or residual waste to a
25 municipal waste to a municipal waste landfill,
26 construction/demolition waste landfill, resource recovery
27 facility or a commercial residual waste facility in this
28 Commonwealth on a combination of vehicles that exceeds 56,000
29 pounds gross vehicle weight unless the transporter has obtained
30 a written authorization from the department under this section.

1 A combination of vehicles shall include the tractor and
2 semitrailer.

3 (b) One-time application fee.--The initial application for a
4 written authorization submitted by the transporter shall be
5 accompanied by a one-time application fee of \$1,000.

6 (c) Vehicle and weight fee.--The initial application and
7 each annual submission to the department shall be accompanied by
8 a fee based on the number of vehicles and gross vehicle weight
9 of the vehicles owned by the transporter that are subject to
10 this section, as follows:

11 (1) Combination of vehicles licensed for 56,000-64,000
12 pounds gross vehicle weight - \$1,500 per vehicle.

13 (2) Combination of vehicles licensed for 64,001-73,280
14 pounds gross vehicle weight - \$2,500 per vehicle.

15 (3) Combination of vehicles licensed for more than
16 73,281 pounds gross vehicle weight - \$5,000 per vehicle.

17 (d) Semitrailer stickers.--The department shall provide the
18 transporter with two stickers for each semitrailer indicating
19 the transporter's authorization number and authorization
20 expiration date. One sticker shall be displayed prominently on
21 the left front bulkhead, and the other sticker shall be
22 similarly displayed on the back of the semitrailer used to
23 transport the waste. Each tractor used in combination with the
24 semitrailer shall carry a copy of the written authorization
25 issued by the department to the transporter.

26 (e) Term of written authorization.--The written
27 authorization shall be valid for a maximum of one year. The fees
28 established in subsection (c) shall be paid to the department by
29 July 1 of each year, at which point the department shall renew
30 the authorization in writing and shall issue updated stickers.

1 (f) Collateral bond required.--

2 (1) Prior to the issuance of a written authorization
3 under this section for the transportation of municipal or
4 residual waste, the applicant for the written authorization
5 shall file with the department a collateral bond on a form
6 prescribed and furnished by the department. The department
7 may waive the bonding requirement for municipalities that are
8 transporters upon written request from the municipality.

9 (2) The bond shall be payable to the Commonwealth and
10 conditioned upon compliance by the transporter with this act,
11 the Solid Waste Management Act, and every rule, regulation
12 and order of the department and the terms and conditions of
13 the written authorization.

14 (3) The amount of the bond shall be in an amount
15 determined by the secretary and shall be based upon the
16 number of semitrailers a transporter uses under subsection
17 (c), but shall be not less than \$10,000.

18 (4) The department may require additional bond amounts
19 if the department determines such additional amounts are
20 necessary to guarantee compliance.

21 (5) The transporter may elect to deposit cash or
22 automatically renewable irrevocable letters of credit which
23 are terminable only upon 90 days' written notice to the
24 operator and the department, or negotiable bonds of the
25 United States Government or the Commonwealth of Pennsylvania,
26 the Pennsylvania Turnpike Commission, the Department of
27 General Services, the State Public School Building Authority,
28 or any municipality within the Commonwealth. No corporate
29 surety bond may be used to satisfy this subsection. The cash
30 amount of such deposit, irrevocable letters of credit or

1 market value of such securities shall be equal at least to
2 the sum of the bond.

3 (6) The secretary shall, upon receipt of any such
4 deposit of cash or negotiable bonds, immediately place the
5 same with the State Treasurer, whose duty it shall be to
6 receive and hold the same in the name of the Commonwealth, in
7 trust, for the purposes for which the deposit is made. The
8 State Treasurer shall, at all times, be responsible for the
9 custody and safekeeping of such deposits.

10 (7) (i) The transporter making the deposit shall be
11 entitled from time to time to demand and receive from the
12 State Treasurer, on the written order of the secretary,
13 the whole or any portion of any collateral so deposited,
14 upon depositing with the State Treasury, in lieu thereof,
15 other collateral of the classes specified in this
16 subsection having a market value at least equal to the
17 sum of the bond, and also to demand, receive and recover
18 the interest and income from the negotiable bonds as they
19 become due and payable.

20 (ii) Where negotiable bonds are deposited, mature or
21 are called, the State Treasurer, at the request of the
22 transporter, shall convert the negotiable bonds into
23 other negotiable bonds of the classes specified in this
24 subsection as may be designated by the transporter.

25 (8) Where notice of intent to terminate a letter of
26 credit is given, the department shall, after 30 days' written
27 notice to the transporter and in the absence of a replacement
28 of the letter of credit within the 30-day period by the
29 transporter with other acceptable bond guarantees provided
30 under this subsection, draw upon and convert the letter of

1 credit into cash and hold it as a collateral bond guarantee.
2 Liability under the bond shall be for the duration of the
3 written authorization and for a period of one year after the
4 expiration of the written authorization.

5 (g) Transporter or agent noncompliance.--In carrying out
6 this section, the department may deny, suspend, modify or revoke
7 any written authorization if it finds that:

8 (1) The transporter or its agent has failed or continues
9 to fail to comply with any provision of:

10 (i) this act;

11 (ii) the Solid Waste Management Act;

12 (iii) the Municipal Waste Planning, Recycling and
13 Waste Reduction Act;

14 (iv) the act of June 22, 1937 (P.L.1987, No.394),
15 known as The Clean Streams Law;

16 (v) the act of January 8, 1960 (1959 P.L.2119,
17 No.787), known as the Air Pollution Control Act;

18 (vi) the act of November 26, 1978 (P.L.1375,
19 No.325), known as the Dam Safety and Encroachments Act;

20 (vii) any other Federal or State statute relating to
21 environmental protection or to the protection of the
22 public health, safety and welfare;

23 (viii) any rule or regulation of the department;

24 (ix) any order of the department; or

25 (x) any condition of any permit, license or other
26 written authorization issued by the department.

27 (2) The transporter has shown a lack of ability or
28 intention to comply with:

29 (i) any provision of this act;

30 (ii) any of the acts referred to in this subsection;

1 (iii) any rule or regulation of the department or
2 order of the department; or

3 (iv) any condition of any permit or license issued
4 by the department as indicated by past or continuing
5 violations.

6 In the case of a corporate transporter, the department may deny
7 the issuance of a written authorization if the department finds
8 that a principal of the corporation was a principal of another
9 corporation which committed past violations of this act.

10 (h) Transportation noncompliance.--A written authorization
11 issued under this section shall be revocable or subject to
12 modification or suspension at any time the department determines
13 that the solid waste transportation:

14 (1) Is being, or has been conducted in violation of this
15 act, the Solid Waste Management Act or the rules or
16 regulations adopted pursuant to this act or the Solid Waste
17 Management Act.

18 (2) Creates a public nuisance.

19 (3) Creates a potential hazard to the public health,
20 safety and welfare or the environment.

21 (4) Was conducted pursuant to an authorization that was
22 not granted in accordance with law.

23 (i) Correction of noncompliance.--

24 (1) Any person who or municipality that has engaged in
25 unlawful conduct as defined in this act, the Solid Waste
26 Management Act or the Municipal Waste Planning, Recycling and
27 Waste Reduction Act or whose partner, associate, officer,
28 parent corporation, subsidiary corporation, contractor,
29 subcontractor or agent has engaged in such unlawful conduct
30 shall be denied a written authorization under this section

1 unless the written authorization application demonstrates to
2 the satisfaction of the department that the unlawful conduct
3 has been corrected.

4 (2) Independent contractors and agents who operate under
5 the written authorization shall be subject to the provisions
6 of this section and shall be jointly and severally liable,
7 without regard to fault, for violations of this act which
8 occur during the independent contractor's or agent's
9 involvement in the course of operations.

10 (j) Penalty.--A person who violates subsection (a) or (b)
11 shall be guilty of a misdemeanor of the third degree and, upon
12 conviction for the first offense, shall pay a penalty of not
13 less than \$5,000 nor more than \$10,000. Upon the second or
14 subsequent conviction of subsection (a) or (b), a person shall
15 be guilty of a misdemeanor of the second degree and shall pay a
16 penalty of not less than \$10,000 nor more than \$25,000, and the
17 court may order the operating privilege of the vehicle operator
18 to be suspended for a period of up to one year or both.

19 (k) Deposit of fees, and penalties.--All written
20 authorization fees, fines and penalties collected under this
21 section shall be paid into the Solid Waste Abatement Fund
22 established under section 701 of the Solid Waste Management Act
23 and shall be used for the purposes enumerated in that act. The
24 fees may also be used to implement the written authorization
25 program and to support efforts to inspect vehicles used to
26 transport municipal and residual waste.

27 (l) Forfeiture of semitrailers.--A semitrailer used in
28 commission of an offense under this section shall be deemed
29 contraband and may be forfeited to the department. The
30 provisions of law relating to seizure, summary and judicial

1 forfeiture and condemnation of intoxicating liquor shall apply
2 to seizures and forfeitures under this section. Proceeds from
3 the sale of forfeited semitrailers shall be deposited in the
4 Solid Waste Abatement Fund.

5 Section 9. Manifest system.

6 (a) Generator manifest required.--It shall be unlawful for a
7 person or municipality to transport on vehicles that exceed
8 56,000 pounds gross vehicle weight mixed loads of municipal and
9 residual waste to a municipal waste landfill or resource
10 recovery facility in this Commonwealth without a manifest
11 prepared by this generator, on a form approved by the
12 department. The manifest shall state that the residual waste is
13 suitable for disposal at the facility. The mixed municipal waste
14 and residual waste must be transported to a facility permitted
15 by the department to receive the mixed load.

16 (b) Deposit of mixed load prohibited.--Any vehicle that
17 exceeds 56,000 pounds gross vehicle weight that transports mixed
18 loads of municipal and residual waste without the required
19 manifest or delivers the mixed load to a facility in violation
20 of the facility's waste acceptance plan shall be prohibited from
21 depositing the mixed load at the facility.

22 (c) Penalty.--A person or municipality who violates
23 subsection (a) or (b) shall be guilty of a misdemeanor of the
24 third degree and, upon conviction for the first offense, shall
25 pay a penalty of not less than \$5,000 nor more than \$10,000.
26 Upon the second or subsequent conviction of subsection (a) or
27 (b), a person shall be guilty of a misdemeanor of the second
28 degree and shall pay a penalty of not less than \$10,000 nor more
29 than \$25,000, and the court may order the operating privilege of
30 the vehicle operator to be suspended for a period of up to one

1 year or both.

2 (d) Forfeiture.--A vehicle or conveyance used in commission
3 of an offense under this section shall be deemed contraband and
4 may be forfeited to the department. The provisions of law
5 relating to seizure, summary and judicial forfeiture and
6 condemnation of intoxicating liquor shall apply to seizures and
7 forfeitures under this section. Proceeds from the sale of
8 forfeited vehicles or conveyances shall be deposited in the
9 Solid Waste Abatement Fund.

10 Section 10. Enforcement

11 (a) Enforcement orders.--The department may issue orders to
12 such persons and municipalities as it deems necessary to aid in
13 the enforcement of this act. The orders may include, but shall
14 not be limited to, orders modifying, suspending or revoking
15 written authorizations and orders requiring persons and
16 municipalities to cease unlawful activities or operations of a
17 solid waste facility or transportation vehicle which in the
18 course of its operation is in violation of any provision of this
19 act, any rule or regulation of the department or any terms and
20 conditions of a written authorization issued under this act or a
21 permit issued under the Solid Waste Management Act. An order
22 issued under this act shall take effect upon notice, unless the
23 order specifies otherwise. An appeal to the Environmental
24 Hearing Board shall not act as a supersedeas. The power of the
25 department to issue an order under this act is in addition to
26 any other remedy which may be afforded to the department
27 pursuant to this act or any other act.

28 (b) Duty to diligently comply with orders.--It shall be the
29 duty of any person and municipality to proceed diligently to
30 comply with any order issued pursuant to this section. If such

1 person or municipality fails to proceed diligently or fails to
2 comply with the order within such time, if any, as may be
3 specified, such person or municipality shall be guilty of
4 contempt and shall be punished by the court in an appropriate
5 manner and for this purpose, application may be made by the
6 department to the court.

7 Section 11. Civil penalties.

8 (a) General rule.--In addition to proceeding under any other
9 remedy available at law or in equity for a violation of any
10 provision of this act, any rule, regulation or order of the
11 department, or any term or condition of any written
12 authorization issued by the department, the department may
13 assess a civil penalty upon a person for such violation. Such a
14 penalty may be assessed whether or not the violation was willful
15 or negligent. In determining the amount of the penalty, the
16 department shall consider:

17 (1) The willfulness of the violation.

18 (2) The damage to air, water, land or other natural
19 resources of this Commonwealth or their uses.

20 (3) The cost of restoration and abatement.

21 (4) The savings resulting to the person in consequence
22 of such violation.

23 (5) Other relevant factors.

24 The maximum civil penalty which may be assessed under this
25 section shall be \$25,000 per offense. Each violation for each
26 separate day and each violation of any provision of this act,
27 rule, regulation or order of the department under this act, or
28 any term or condition of a permit or permits, shall constitute a
29 separate and distinct offense under this section.

30 (b) Procedure.--

1 (1) When the department proposes to assess a civil
2 penalty, it shall inform the person of the proposed amount of
3 the penalty. The person charged with the penalty shall then
4 have 30 days to pay the proposed penalty in full, or, if the
5 person wishes to contest the amount of the penalty or the
6 fact of the violation to the extent not already established,
7 the person shall forward the proposed amount of the penalty
8 to the Environmental Hearing Board within the 30-day period
9 for placement in an escrow account with the State Treasurer
10 or any Commonwealth bank or post an appeal bond to the
11 hearing board within 30 days in the amount of the proposed
12 penalty, provided that such bond is executed by a surety
13 licensed to do business in the Commonwealth and is
14 satisfactory to the department.

15 (2) If, through administrative or final judicial review
16 of the proposed penalty, it is determined that no violation
17 occurred or that the amount of the penalty shall be reduced,
18 the board shall, within 30 days, remit the appropriate amount
19 to the person with any interest accumulated by the escrow
20 deposit.

21 (3) Failure to forward the amount of the penalty or the
22 appeal bond at the time of the appeal shall result in a
23 waiver of all legal rights to contest the violation or the
24 amount of the penalty unless the appellant alleges financial
25 inability to prepay the penalty or to post the appeal bond.

26 (4) The board shall conduct a hearing to consider the
27 appellant's alleged inability to pay within 30 days of the
28 date of the appeal. The board may waive the requirement to
29 prepay the civil penalty or to post an appeal bond if the
30 appellant demonstrates and the board finds that the appellant

1 is financially unable to pay. The board shall issue an order
2 within 30 days of the date of the hearing to consider the
3 appellant's alleged inability to pay.

4 (5) The amount assessed after administrative hearing or
5 after waiver of administrative hearing shall be payable to
6 the Commonwealth and shall be collectible in any manner
7 provided by law for the collection of debts, including the
8 collection of interest at the legal rate, which shall run
9 from the date of assessment of the penalty.

10 (6) (i) If any person liable to pay the penalty
11 neglects or refuses to pay the same after demand, the
12 amount, together with interest and any costs that may
13 accrue, shall constitute a debt of such person, as may be
14 appropriate, to the Solid Waste Abatement Fund.

15 (ii) The debt shall constitute a lien on all
16 property owned by the person when a notice of lien
17 incorporating a description of the property of the person
18 subject to the action is duly filed with the prothonotary
19 of the court of common pleas where the property is
20 located.

21 (iii) The prothonotary shall promptly enter upon the
22 civil judgment or order docket, at no cost to the
23 department, the name and address of the person, as may be
24 appropriate, and the amount of the lien as set forth in
25 the notice of lien.

26 (iv) Upon entry by the prothonotary, the lien shall
27 attach to the revenues and all real and personal property
28 of the person, whether or not the person is solvent.

29 (v) The notice of lien, filed pursuant to this
30 paragraph, which affects the property of the person shall

1 create a lien with priority over all subsequent claims or
2 liens which are filed against the person, but it shall
3 not affect any valid lien, right or interest in the
4 property filed in accordance with established procedure
5 prior to the filing of a notice of lien under this
6 paragraph.

7 Section 12. Regulations.

8 The Environmental Quality Board shall have the power and its
9 duty shall be to adopt the regulations of the department to
10 accomplish the purposes and to carry out this act.

11 Section 13. Severability.

12 The provisions of this act are severable. If any provision of
13 this act or its application to any person or circumstance is
14 held invalid, the invalidity shall not affect other provisions
15 or applications of this act which can be given effect without
16 the invalid provision or application.

17 Section 14. Repeals.

18 All acts and parts of acts are repealed insofar as they are
19 inconsistent with this act.

20 Section 15. Effective date.

21 This act shall take effect immediately.