

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1438 Session of
2001

INTRODUCED BY S. H. SMITH, HERSHEY, SURRA, BARD, BASTIAN,
BELARDI, CALTAGIRONE, CAPPELLI, CAWLEY, DALLY, FAIRCHILD,
FRANKEL, GRUCELA, HENNESSEY, HERMAN, HESS, LAUGHLIN, LEH,
McILHATTAN, McNAUGHTON, PIPPY, PRESTON, ROHRER, ROSS, SATHER,
SAYLOR, SHANER, B. SMITH, SOLOBAY, STEELMAN, STEIL,
E. Z. TAYLOR, TRELLO AND YUDICHAK, APRIL 25, 2001

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,
APRIL 25, 2001

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," adding
18 definitions; establishing a Statewide waste capacity cap; and
19 making editorial changes.

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

22 Section 1. The title of the act of July 7, 1980 (P.L.380,
23 No.97), known as the Solid Waste Management Act, is amended to
24 read:

1

AN ACT

2 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] Protection to adopt rules,
15 regulations, standards and procedures; granting powers to and
16 imposing duties upon county health departments; providing
17 remedies; prescribing penalties; and establishing a fund.

18 Section 2. The definitions of "department" and "secretary"
19 in section 103 of the act are amended and the section is amended
20 by adding definitions to read:

21 Section 103. Definitions.

22 The following words and phrases when used in this act shall
23 have, unless the context clearly indicates otherwise, the
24 meanings given to them in this section:

25 * * *

26 "Department." The Department of Environmental [Resources]
27 Protection of the Commonwealth of Pennsylvania and its
28 authorized representatives.

29 * * *

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

4 * * *

5 "Secretary." The Secretary of the Department of
6 Environmental [Resources] Protection of the Commonwealth of
7 Pennsylvania.

8 * * *

9 "Statewide capacity." The amount of unused permitted
10 capacity constructed or approved for construction as determined
11 by the Department of Environmental Protection.

12 * * *

13 Section 3. Sections 105(c) and 106 of the act are amended to
14 read:

15 Section 105. Powers and duties of the Environmental Quality
16 Board.

17 * * *

18 (c) The Environmental Quality Board shall have the power and
19 its duty shall be to adopt rules and regulations and standards
20 to provide for the coordination of administration and
21 enforcement of this act between the Department of Environmental
22 [Resources] Protection and county health departments where they
23 exist.

24 * * *

25 Section 106. Powers and duties of county health departments;
26 limitation.

27 (a) The county health department where it exists of each of
28 the counties of the Commonwealth may elect to administer and
29 enforce any of the provisions of this act together with the
30 department in accordance with the established policies,

1 procedures, guidelines, standards and rules and regulations of
2 the department. Where this program activity exceeds the minimum
3 program requirements adopted by the Advisory Health Board under
4 the provisions of the act of August 24, 1951 (P.L.1304, No.315),
5 known as the "Local Health Administration Law," such activity
6 may be funded through contractual agreements with the
7 department. The department is authorized to provide funds to
8 county health departments from funds appropriated for this
9 purpose by the General Assembly.

10 (b) Notwithstanding the grant of powers in subsection (a),
11 in any case where administration and enforcement of this act by
12 a county health department shall conflict with administration
13 and enforcement by the Department of Environmental [Resources]
14 Protection, administration and enforcement by the Department of
15 Environmental [Resources] Protection shall take precedence over
16 administration and enforcement by a county health department.

17 Section 4. The act is amended by adding a section to read:
18 Section 109. Statewide waste capacity cap.

19 (a) Establishment.--A Statewide cap on capacity for waste at
20 facilities is hereby established. The cap shall limit Statewide
21 capacity to no more than eight years of capacity using the
22 amount of unused permitted Statewide capacity in 1997 and the
23 amount of waste received in 1997 at all facilities.

24 (b) Prerequisite for issuance of permits.--The department
25 shall not accept or review any permit application or issue any
26 permit for any facility until the amount of Statewide capacity
27 is equal to or less than six years of the Statewide capacity
28 available on December 31, 1997, determined using the amount of:

29 (1) Unused permitted Statewide capacity in 1997.

30 (2) The amount of waste received in 1997 at all

1 facilities.

2 After the amount of Statewide capacity drops to six years, the
3 department may accept permit applications for review and issue
4 permits for facilities until there again is Statewide capacity
5 for six years as determined in subsection (a).

6 (c) Regulations.--The Environmental Quality Board shall
7 adopt regulations which establish procedures, priorities and
8 deadlines for processing permit applications which are submitted
9 under subsection (b).

10 Section 5. Sections 402, 507(a) and 602(d) of the act are
11 amended to read:

12 Section 402. Listing of hazardous waste.

13 The Environmental Quality Board shall establish rules and
14 regulations identifying the characteristics of hazardous wastes
15 and listing particular hazardous wastes which shall be subject
16 to the provisions of this act. The list promulgated shall in no
17 event prevent the department from regulating other wastes,
18 which, although not listed, the department has determined to be
19 hazardous; the Department of Environmental [Resources]
20 Protection may regulate such hazardous wastes when the
21 department has determined such waste poses a substantial present
22 or potential hazard to the human health or the environment by
23 any means including, but not limited to, issuance of orders and
24 the imposition of terms and conditions of permits. The board
25 shall identify the characteristics of hazardous wastes and list
26 particular hazardous wastes within 30 days after the effective
27 date of this section, which initial list shall not be subject to
28 section 107 of this act but shall be promulgated in accordance
29 with section 204(3) (relating to omission of notice of proposed
30 rule making) of the act of July 31, 1968 (P.L.769, No.240),

1 referred to as the Commonwealth Documents Law.

2 Section 507. Siting of hazardous waste treatment and disposal
3 facilities.

4 (a) The Department of Environmental [Resources] Protection
5 shall have the power and authority to develop, prepare and
6 modify the Pennsylvania Hazardous Waste Facilities Plan. The
7 plan shall include:

8 (1) Criteria and standards for siting hazardous waste
9 treatment and disposal facilities.

10 (2) An inventory and evaluation of the sources of
11 hazardous waste concentration within the Commonwealth
12 including types and quantities of hazardous waste.

13 (3) An inventory and evaluation of current hazardous
14 waste practices within the Commonwealth including existing
15 hazardous waste treatment and disposal facilities.

16 (4) A determination of future hazardous waste facility
17 needs based on an evaluation of existing treatment and
18 disposal facilities including their location, capacities and
19 capabilities, and the existing and projected generation of
20 hazardous waste within the Commonwealth and including where
21 the department within its discretion finds such information
22 to be available, the projected generation outside the
23 Commonwealth of hazardous wastes expected to be transported
24 into the Commonwealth for storage, treatment or disposal.

25 (5) An analysis of methods, incentives or technologies
26 for source reduction, detoxification, reuse and recovery of
27 hazardous waste and a strategy for implementing such methods,
28 incentives and technologies.

29 (6) Identification of such hazardous waste treatment and
30 disposal facilities and their locations (in addition to

existing facilities) as are necessary to provide for the proper management of hazardous waste generated within this Commonwealth.

* * *

Section 602. Enforcement orders.

* * *

(d) The Department of Environmental [Resources] Protection shall have the power to order, orally or in writing, any person or municipality to immediately suspend or modify hazardous waste treatment or disposal activities when he determines that continued operation will jeopardize public health, safety or welfare. Said order shall be effective upon issuance and may only be superseded by further department action or, after an appeal has been perfected, by the Environmental Hearing Board after notice and hearing. Furthermore, said order may require remedial actions to be taken in order to prevent harm to public health, safety or welfare. Within two business days after the issuance of such oral order, the department shall issue a written order reciting and modifying, where appropriate, the terms and conditions contained in the oral order.

Section 6. This act shall take effect in 60 days.