

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL

No. 2112 Session of  
2007

INTRODUCED BY COSTA, GOODMAN, FRANKEL, KOTIK, PRESTON, READSHAW,  
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DeWEESE, DECEMBER 13, 2007

AS REPORTED FROM COMMITTEE ON VETERANS AFFAIRS AND EMERGENCY  
PREPAREDNESS, HOUSE OF REPRESENTATIVES, AS AMENDED,  
JUNE 25, 2008

## AN ACT

1 Amending Title 35 (Health and Safety) of the Pennsylvania  
2 Consolidated Statutes, providing for mutual aid.  
3 The General Assembly of the Commonwealth of Pennsylvania  
4 hereby enacts as follows:  
5 Section 1. Chapter 73 of Title 35 of the Pennsylvania  
6 Consolidated Statutes is amended by adding a subchapter to read:

SUBCHAPTER CINTRASTATE MUTUAL AID

9 Sec.

10 7331. Purpose of subchapter.

11 7332. Definitions.

12 7333. Intrastate Mutual Aid Committee.

13 7334. System.

14 7335. Assistance.

1 7336. License, certificate and permit portability.

2 7337. Insurance.

3 7338. Workers' compensation.

4 7339. Immunity.

5 7340. Effect on other agreements.

6 § 7331. Purpose of subchapter.

7 The purpose of this subchapter is to create a system of  
8 intrastate mutual aid between participating political  
9 subdivisions within this Commonwealth, whereby each  
10 participating political subdivision recognizes that emergencies  
11 transcend the boundaries of a political subdivision and that  
12 intergovernmental coordination is essential for the protection  
13 of lives and property and for the best use of available public  
14 and private assets. The system shall provide for mutual  
15 assistance among the participating political subdivisions in the  
16 prevention of, response to and recovery from threats to public  
17 health and safety that are beyond the capability of an affected  
18 community to respond. The system shall provide for mutual  
19 cooperation among the participating subdivisions in conducting  
20 exercises, testing or other training activities.

21 § 7332. Definitions.

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

25 "Agency." The Pennsylvania Emergency Management Agency.

26 "Dedicated emergency response organization." Any entity  
27 organized, chartered or incorporated in this Commonwealth or  
28 chartered by the Congress of the United States for the primary  
29 purpose of providing emergency services. The term shall include  
30 volunteer, career and combination organizations.

1 "Emergency responder." An individual in the public or  
2 private sector who has special skills, qualification, training,  
3 knowledge or experience, whether or not the person possesses a  
4 license, certificate, permit or other official recognition for  
5 the skills, qualification, training, knowledge or experience,  
6 that would benefit a participating political subdivision in  
7 responding to an authorized mutual aid request or participating  
8 in an authorized drill or exercise. The term shall include a law  
9 enforcement officer, a firefighter, an emergency medical  
10 services worker, a physician, nurse or other public health  
11 worker, an emergency management official, A CORONER OR MEDICAL <—  
12 EXAMINER, A STATE-CERTIFIED HAZARDOUS MATERIALS TEAM MEMBER, a  
13 public works worker, a building inspector, an architect, an  
14 engineer or other design professional or a person with  
15 specialized equipment operations skills or training or with any  
16 other skills needed to provide aid in a declared emergency.

17 "Committee." The Intrastate Mutual Aid Committee.

18 "Incident." Any event or condition which constitutes an  
19 actual or imminent threat to public health and safety, public or  
20 private property or the economic well-being of the community.

21 "Incident commander." The individual responsible for all  
22 incident-related activities, including the development of  
23 strategies and tactics and the ordering and releasing of  
24 resources as provided under the National Incident Management  
25 System.

26 "Mutual aid." Mutual assistance and sharing of resources  
27 among participating political subdivisions in the prevention of,  
28 response to and recovery from threats to public health and  
29 safety that are beyond the capability of an affected community  
30 to respond.

1 "National Incident Management System." The National Incident  
2 Management System established by the United States Department of  
3 Homeland Security.

4 "Participating political subdivision." A political  
5 subdivision that has not opted out of the intrastate mutual aid  
6 system.

7 "Political subdivision." Any county, city, borough,  
8 incorporated town or township. The term shall include any  
9 council of governments established among any of the above.

10 "Requesting political subdivision." A participating  
11 political subdivision that requests assistance under this  
12 subchapter.

13 "Responding political subdivision." A participating  
14 political subdivision that responds to a request for assistance  
15 under this subchapter.

16 "System." The intrastate mutual aid system.

17 § 7333. Intrastate Mutual Aid Committee.

18 (a) Establishment.--There is established the Intrastate  
19 Mutual Aid Committee.

20 (b) Membership.--The committee shall be comprised of the  
21 following members:

22 (1) The director of the agency or a designee, who shall  
23 serve as the chairman of the committee.

24 (2) THE STATE FIRE COMMISSIONER AND THE DIRECTOR OF THE <—  
25 BUREAU OF EMERGENCY MEDICAL SERVICES OF THE DEPARTMENT OF  
26 HEALTH.

27 ~~(2) Two~~ (3) THREE representatives each from the career <—  
28 fire services, the volunteer fire services and the emergency  
29 medical services.

30 ~~(3)~~ (4) Three county emergency management agency <—

directors, one from each agency area, who shall be  
recommended by the respective agency area directors.

~~(4)~~ (5) One representative each from the State Chiefs <—  
of Police Association, the State Fraternal Order of Police  
and the Pennsylvania State Police.

~~(5)~~ (6) One representative each from the Statewide <—  
county and municipal government associations' representative  
elected officials.

~~(6)~~ (7) Three representatives from county-based 911 <—  
programs.

(8) ONE REPRESENTATIVE FROM THE PENNSYLVANIA STATE <—  
CORONERS ASSOCIATION.

(c) Appointments.--Each member under subsection (b) shall be  
appointed by the director of the agency, and the appointment may <—  
SHALL be based on recommendations from the organizations and <—  
associations represented. The county-based 911 members shall be  
selected from recommendations made by the three agency area  
directors.

(d) Terms of office.--Members shall serve a term of two  
years, and may be appointed for subsequent terms.

(e) Duties of committee.--The committee shall do all of the  
following:

(1) Hold at least one meeting each year to review the  
progress and status of the intrastate mutual aid system.

(2) Provide participating political subdivisions with a  
method to track and evaluate the system.

(3) Examine issues facing participating political  
subdivisions AND EMERGENCY RESPONDERS regarding the <—  
implementation of this subchapter.

(4) Prepare an annual report on the condition and

1 effectiveness of mutual aid in this Commonwealth, which shall  
2 be submitted to the chairperson and minority chairperson of  
3 the Veterans Affairs and Emergency Preparedness Committee of  
4 the Senate and the chairperson and minority chairperson of  
5 the Veterans Affairs and Emergency Preparedness Committee of  
6 the House of Representatives. This report may contain  
7 recommendations for correcting any deficiencies within the  
8 system.

9 (5) Develop all of the following:

10 (i) Comprehensive guidelines and procedures that  
11 address all of the following:

12 (A) Projected or anticipated costs potentially  
13 incurred by a participating political subdivision.

14 (B) Recordkeeping for participating political  
15 subdivisions.

16 (C) Reimbursement procedures and other necessary  
17 implementation elements.

18 (D) Any other procedures that the committee  
19 deems necessary.

20 (ii) Checklists for requesting and providing  
21 assistance.

22 (iii) Forms for requests and other records to  
23 document the deployment and return of assets.

24 § 7334. System.

25 (a) Establishment.--An intrastate mutual aid system is  
26 established for the purpose of providing mutual aid within this  
27 Commonwealth.

28 (b) Participation.--

29 (1) All political subdivisions within this Commonwealth  
30 shall be a part of the system unless the political

subdivision elects not to participate by enacting a resolution declaring their desire not to participate and by submitting a copy of the resolution to the agency and to its county emergency management agency.

(2) ALL POLITICAL SUBDIVISIONS WITHIN THIS COMMONWEALTH SHALL CONSULT WITH FIRE AND EMERGENCY MEDICAL SERVICES PROVIDERS TO DISCUSS THE EMERGENCY SERVICES NEEDS OF THE POLITICAL SUBDIVISION.

~~(2)~~ (3) Any political subdivision that elects not to participate in the system, as provided under subsection (a), may at a later date elect to participate in the system by enacting a resolution declaring its desire to participate and by submitting a copy of the resolution to the agency and to its county emergency management agency.

(4) PARTICIPATION BY A POLITICAL SUBDIVISION IN THE SYSTEM OF INTRASTATE MUTUAL AID ESTABLISHED BY THIS SUBCHAPTER SHALL NOT BE SUBJECT TO THE REQUIREMENTS OF 53 PA.C.S. CH. 23 SUBCH. A (RELATING TO INTERGOVERNMENTAL COOPERATION).

(c) Responsibilities.--It shall be the responsibility of each participating political subdivision with jurisdiction over and responsibility for emergency management within that political subdivision to do all of the following:

(1) Identify potential hazards that could affect the participating political subdivision using an identification system as developed by the committee common to all participating political subdivisions.

(2) Conduct joint planning, intelligence sharing and threat assessment development with contiguous participating political subdivisions.

1       (3) Conduct joint training with contiguous participating  
2       political subdivisions at least biennially.

3       (4) Identify and inventory the current services,  
4       equipment, supplies, personnel and other resources related to  
5       planning, prevention, mitigation, response and recovery  
6       activities of the participating political subdivisions in  
7       accordance with the National Incident Management System  
8       Integration Center resource management guidance.

9       (5) Adopt and implement the standardized incident  
10       management system approved by the agency.

11       (6) Adopt and implement the National Incident Management  
12       System requirements established by the United States  
13       Department of Homeland Security.

14   § 7335. Assistance.

15       (a) Requests.--A participating political subdivision may  
16       request assistance of other participating political subdivisions  
17       or their designated emergency response organizations. All  
18       requests for assistance shall be initiated from the incident  
19       commander or authorized designee at an incident location, the  
20       county 911 center or the county emergency manager where the  
21       incident occurs. All intrastate mutual aid requests for  
22       assistance shall be made to the county 911 center or county  
23       emergency management coordinator or authorized designee in the  
24       responding county. Intrastate mutual aid requests for assistance  
25       may also be made through the agency. A written request shall be  
26       submitted after a verbal request is made as soon as practicable  
27       or within the number of days that the agency, in its discretion,  
28       may determine.

29       (b) Response to requests.--A participating political  
30       subdivision's obligation to provide assistance in the prevention



of, response to and recovery from an incident or in authorized drills or exercises shall be subject to all of the following conditions:

(1) A responding political subdivision may withhold resources to the extent necessary to provide reasonable protection and services for its own jurisdiction.

(2) Emergency response personnel of a responding political subdivision shall remain under the administrative and policy procedures and control of their respective jurisdiction, including medical protocols, standard operating procedures and other protocols, but shall be under the operational control of the appropriate officials within the incident management system of the requesting political subdivision.

(3) Assets and equipment of a responding political subdivision shall remain under the administrative and policy procedures and control of their respective jurisdiction but shall be under the control of the appropriate officials within the incident management system of the requesting political subdivision.

(4) The incident commander shall have overall authority and responsibility for conducting incident operations and shall be responsible for the management of all incident operations at the incident site.

(c) Reimbursement.--A requesting political subdivision shall reimburse the responding political subdivision in accordance with procedures established by the committee. A responding political subdivision may donate assets of any kind to a participating political subdivision. If a dispute arises regarding reimbursement, involved parties shall make every

effort to resolve the dispute within 30 days of written notice of the dispute by the party asserting noncompliance. In the event that the dispute is not resolved within 90 days of the notice of the claim, either party may request the dispute be resolved through arbitration. Any arbitration requested under this subsection shall be conducted under the commercial arbitration rules of the American Arbitration Association.

(d) Exceptions.--The provisions of this section shall not apply to specific mutual aid agreements which exist on the effective date of this section and which were made between political subdivisions and emergency response organizations to cover response to routine incidents.

§ 7336. License, certificate and permit portability.

If a person holds a license, certificate or other permit issued by a participating political subdivision or the Commonwealth evidencing qualification in a professional, mechanical or other skill and the assistance of that person or entity is requested by a participating political subdivision, the person shall be deemed to be licensed, certified or permitted in the political subdivision requesting assistance for the duration of the incident response or authorized drills or exercises and subject to any limitations and conditions the chief executive of the participating political subdivision receiving the assistance may prescribe by executive order or otherwise.

§ 7337. Insurance.

A responding political subdivision shall ensure that adequate insurance protection is in effect covering all vehicles and equipment used in response to an intrastate mutual aid request. Personnel of the responding political subdivision shall maintain

direct and overall control of all vehicles and equipment  
utilized in an intrastate mutual aid response and shall ensure  
that vehicles and equipment are used within intended design  
specifications.

§ 7338. Workers' compensation.

Notwithstanding any other provision of law, a responding  
political subdivision shall provide appropriate workers'  
compensation insurance protection for municipal employees and  
volunteers representing the responding political subdivision  
when responding to a request under this system. Personnel of a  
responding political subdivision who sustain injury or death in  
the course of and arising out of their employment shall be  
entitled to all applicable benefits normally available to  
personnel while performing their duties for their employer.  
Responders shall receive any additional Federal and State  
benefits that may be available to them for line-of-duty deaths.

§ 7339. Immunity.

All activities performed under the intrastate mutual aid  
system are deemed to be governmental functions. For the purposes  
of liability, all persons responding under the operational  
control of the requesting political subdivision shall be deemed  
to be employees of the requesting participating political  
subdivision. Except in cases of willful misconduct, gross  
negligence or bad faith, neither the participating political  
subdivisions nor their employees shall be liable for the death  
of or injury to persons or for damage to property when complying  
or attempting to comply with the system. This subchapter shall  
provide no immunity, rights or privileges for any individual  
responding to an incident where the response has not been  
requested by a participating political subdivision.

1   § 7340. Effect on other agreements.

2       Nothing in this subchapter shall preclude participating  
3   political subdivisions from entering into supplementary  
4   agreements with another political subdivision. Nothing in this  
5   subchapter shall affect any other agreement to which a political  
6   subdivision may, on the effective date of this section, be a  
7   party.

8       Section 2. This act shall take effect immediately.