

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1250 Session of
2010

INTRODUCED BY PILEGGI, M. WHITE, MUSTO, RAFFERTY, COSTA,
ERICKSON, EARLL, BROWNE, TARTAGLIONE, YAW, TOMLINSON,
WOZNIAK, FARNESE, BRUBAKER AND WARD, FEBRUARY 26, 2010

SENATOR CORMAN, APPROPRIATIONS, RE-REPORTED AS AMENDED, MAY 24,
2010

AN ACT

1 Amending the act of January 8, 1960 (1959 P.L.2119, No.787),
2 entitled, as amended, "An act to provide for the better
3 protection of the health, general welfare and property of the
4 people of the Commonwealth by the control, abatement,
5 reduction and prevention of the pollution of the air by
6 smokes, dusts, fumes, gases, odors, mists, vapors, pollens
7 and similar matter, or any combination thereof; imposing
8 certain powers and duties on the Department of Environmental
9 Resources, the Environmental Quality Board and the
10 Environmental Hearing Board; establishing procedures for the
11 protection of health and public safety during emergency
12 conditions; creating a stationary air contamination source
13 permit system; providing additional remedies for abating air
14 pollution; reserving powers to local political subdivisions,
15 and defining the relationship between this act and the
16 ordinances, resolutions and regulations of counties, cities,
17 boroughs, towns and townships; imposing penalties for
18 violation of this act; and providing for the power to enjoin
19 violations of this act; and conferring upon persons aggrieved
20 certain rights and remedies," further providing for
21 disposition of fees, fines and civil penalties.

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

24 Section 1. Section 9.2 of the act of January 8, 1960 (1959
25 P.L.2119, No.787), known as the Air Pollution Control Act,
26 amended July 9, 1992 (P.L.460, No.95), is amended to read:

Section 9.2. Disposition of Fees, Fines and Civil Penalties.--(a) [All] Except as provided under subsection (a.1), all fines, civil penalties and fees collected under this act shall be paid into the Treasury of the Commonwealth in a special fund known as the Clean Air Fund, hereby established, which, along with interest earned, shall be administered by the department for use in the elimination of air pollution. The department may establish such separate accounts as may be necessary or appropriate to implement the requirements of this act and the Clean Air Act. The board shall adopt rules and regulations for the management and use of the money in the fund.

~~(a.1) Notwithstanding subsection (a), when an incident results in the imposition of a fine or civil penalty, twenty five per centum (25%) of the fine or civil penalty collected shall be returned by the department to the municipality in which the violation occurred to be used solely for environmental projects. If the costs or damages exceed twenty five per centum (25%) of the fine or penalty, the department may award additional money from the fine or civil penalty to the municipality.~~

~~(a.2) When the department proposes to assess a civil penalty for a violation of this act, the department shall notify the municipality in which the violation occurred within forty eight (48) hours of the assessment.~~

(A.1) THE FOLLOWING SHALL APPLY:

(1) IF AN INCIDENT RESULTS IN THE IMPOSITION OF A FINE OR CIVIL PENALTY OF AT LEAST FIFTY THOUSAND DOLLARS (\$50,000), TWENTY-FIVE PER CENTUM (25%) OF THE FINE OR CIVIL PENALTY COLLECTED SHALL BE RETURNED BY THE DEPARTMENT TO THE MUNICIPALITY IN WHICH THE VIOLATION OCCURRED TO BE USED FOR

1 PROJECTS THAT ELIMINATE OR REDUCE AIR POLLUTION OR FOR PARKS,
2 RECREATION PROJECTS, TRAILS OR OPEN SPACE.

3 (2) THE DEPARTMENT SHALL NOTIFY THE MUNICIPALITY IN WHICH
4 THE VIOLATION OCCURRED OF THE IMPOSITION OF THE FINE OR CIVIL
5 PENALTY UNDER SUBSECTION (A) WITHIN FIVE (5) BUSINESS DAYS AFTER
6 THE EXPIRATION OF THE RIGHT TO FILE AN APPEAL OF THE FINE OR
7 CIVIL PENALTY OR AFTER ALL APPEALS OF THE FINE OR CIVIL PENALTY
8 HAVE BEEN EXHAUSTED.

9 (3) WITHIN ONE HUNDRED AND EIGHTY (180) DAYS OF THE
10 DEPARTMENT'S NOTIFICATION OF THE MUNICIPALITY UNDER CLAUSE (2),
11 THE MUNICIPALITY SHALL SUBMIT A PROJECT PROPOSAL TO THE
12 DEPARTMENT FOR REVIEW AND APPROVAL.

13 (4) UPON APPROVAL OF THE PROJECT, THE DEPARTMENT SHALL
14 RELEASE TWENTY-FIVE PER CENTUM (25%) OF THE FINE OR CIVIL
15 PENALTY COLLECTED TO THE MUNICIPALITY. IF THE COST OF THE
16 PROJECT EXCEEDS TWENTY-FIVE PER CENTUM (25%) OF THE FINE OR
17 CIVIL PENALTY, THE DEPARTMENT MAY AWARD ADDITIONAL MONEY FROM
18 THE FINE OR CIVIL PENALTY TO THE MUNICIPALITY.

19 (5) IF ALL FINES AND CIVIL PENALTIES DEPOSITED INTO THE
20 CLEAN AIR FUND ARE LESS THAN ONE MILLION, EIGHT HUNDRED FIFTY
21 THOUSAND DOLLARS (\$1,850,000) FOR THE PREVIOUS FISCAL YEAR,
22 CLAUSE (1) SHALL NOT APPLY FOR THE CURRENT FISCAL YEAR.

23 (6) IF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY AND
24 THE DEPARTMENT JOINTLY PROSECUTE A VIOLATION OF THE CLEAN AIR
25 ACT, THIS ACT OR REGULATION ADOPTED UNDER THIS ACT, THE FINES
26 AND PENALTIES COLLECTED SHALL NOT BE SUBJECT TO THIS SUBSECTION
27 AND SUBSECTION (A.2).

28 (A.2) WITHIN FIVE (5) BUSINESS DAYS OF IMPOSITION OF A FINE
29 OR CIVIL PENALTY UNDER THIS ACT, THE DEPARTMENT SHALL NOTIFY THE
30 MUNICIPALITY IN WHICH THE VIOLATION OCCURRED OF THE VIOLATION.

1 (b) The Clean Air Fund may be supplemented by appropriations
2 from the General Assembly, the Federal, State or local
3 government or any private source.

4 (c) The Clean Air Fund shall not be subject to 42 Pa.C.S.
5 Ch. 37 Subch. C (relating to judicial computer system).

6 Section 2. This act shall take effect in 60 days.