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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1752 Session of  
2019

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INTRODUCED BY A. DAVIS, D. MILLER, FREEMAN, McNEILL, RAVENSTAHL,  
BULLOCK, LEE, KENYATTA, KINSEY, ULLMAN, KIRKLAND, DAWKINS,  
CIRESI, McCLINTON AND ZABEL, AUGUST 16, 2019

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REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,  
AUGUST 16, 2019

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AN ACT

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

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

25 Section 1. Section 4(9) of the act of January 8, 1960 (1959  
26 P.L.2119, No.787), known as the Air Pollution Control Act, is  
27 amended by adding a subclause to read:

1 Section 4. Powers and Duties of the Department of  
2 Environmental Protection.--The department shall have power and  
3 its duty shall be to--

4 \* \* \*

5 (9) \* \* \*

6 (iii) Require all major facilities, as defined in 25 Pa.  
7 Code § 121.1 (relating to definitions), to develop and maintain  
8 a municipal notification plan designed to give notice to the  
9 municipality where the major facility is situated and the  
10 municipalities directly adjacent to the major facility in the  
11 event of an industrial equipment breakdown or accident causing  
12 air pollution, as defined in 25 Pa. Code § 121.1, that creates a  
13 significant health risk to the municipality where the major  
14 facility is situated and the municipalities directly adjacent to  
15 the major facility. The municipal notification plan under this  
16 subclause shall, at minimum:

17 (A) Require notification to the municipality where the major  
18 facility is situated and the municipalities directly adjacent to  
19 the major facility as soon as possible but not later than 12  
20 hours after the breakdown or accident, unless the risk is  
21 eliminated before notice is required.

22 (B) Establish the most expeditious way to deliver notice of  
23 the risk to the municipality where the major facility is  
24 situated and the municipalities directly adjacent to the major  
25 facility.

26 (C) Communicate measures for community members to undertake  
27 in order to mitigate the risks involved with the release of air  
28 pollution, as defined in 25 Pa. Code § 121.1.

29 (D) Require yearly updates to the plan to ensure that  
30 municipal contact procedures are up to date.

1 (E) In coordination with local air pollution control agency  
2 with jurisdiction over the facility, require revisions to a  
3 municipal notification plan of a major facility, as defined by  
4 25 Pa. Code § 121.1.

5 \* \* \*

6 Section 2. Section 9.1(a) of the act is amended to read:

7 Section 9.1. Civil Penalties.--(a) In addition to  
8 proceeding under any other remedy available at law or in equity  
9 for a violation of a provision of this act or any rule or  
10 regulation promulgated under this act or any order, plan  
11 approval or permit issued pursuant to this act, the department  
12 may assess a civil penalty for the violation. The penalty may be  
13 assessed whether or not the violation was wilful. The civil  
14 penalty so assessed shall not exceed ten thousand dollars  
15 (\$10,000.00) per day for each violation which occurs in the  
16 first three (3) years following enactment of this section,  
17 fifteen thousand dollars (\$15,000.00) per day for each violation  
18 which occurs in the fourth year following enactment of this  
19 section [and], twenty-five thousand dollars (\$25,000.00) per day  
20 for each violation which occurs in the fifth year and [all  
21 subsequent years following enactment of this section.] thirty-  
22 seven thousand five hundred dollars (\$37,500.00) per day per  
23 violation thereafter. In determining the amount of the penalty,  
24 the department shall consider the wilfulness of the violation;  
25 damage to air, soil, water or other natural resources of the  
26 Commonwealth or their uses; financial benefit to the person in  
27 consequence of the violation; deterrence of future violations;  
28 cost to the department; the size of the source or facility; the  
29 compliance history of the source; the severity and duration of  
30 the violation; degree of cooperation in resolving the violation;

1 the speed with which compliance is ultimately achieved; whether  
2 the violation was voluntarily reported; other factors unique to  
3 the owners or operator of the source or facility; and other  
4 relevant factors.

5 \* \* \*

6 Section 3. This act shall take effect in 60 days.