

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2025 Session of 2019

INTRODUCED BY STRUZZI, OBERLANDER, SNYDER, PYLE, DUSH, PETRARCA, TURZAI, SAYLOR, BENNINGHOFF, MASSER, REESE, METCALFE, BARRAR, MILLARD, TOBASH, MARSHALL, NELSON, RIGBY, ROTHMAN, GLEIM, GREINER, BERNSTINE, FRITZ, GOODMAN, SANKEY, ORTITAY, SCHMITT, GREGORY, COOK, MUSTELLO, KAIL, DUNBAR, OWLETT, HEFFLEY, GROVE, KEEFER, GABLER, KORTZ, SAINATO, MOUL, LONGIETTI, WARNER, ROAE, JONES, KNOWLES, HERSHEY, KAUFFMAN, WALSH, EVERETT, JAMES, DIAMOND, BURNS, DOWLING, TOPPER, PICKETT, GAYDOS, O'NEAL, DELOZIER, BOROWICZ, BROOKS, ROWE, CAUSER, MACKENZIE AND RAPP, NOVEMBER 20, 2019

AS REPORTED FROM COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 9, 2020

AN ACT

1 Authorizing the Department of Environmental Protection to
2 conduct a public comment process on and submit to the General
3 Assembly a measure or action intended to abate, control or
4 limit carbon dioxide emissions by imposing a revenue-
5 generating tax or fee on carbon dioxide emissions.

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

8 Section 1. Short title.

9 This act shall be known and may be cited as the Pennsylvania
10 Carbon Dioxide Cap and Trade Authorization Act.

11 Section 2. Declaration of policy.

12 The General Assembly finds and declares as follows:

13 (1) As a matter of Pennsylvania law, no statutory or
14 constitutional authority currently exists that authorizes a
15 State agency to regulate or impose a tax on carbon dioxide

1 emissions. Therefore, it is the responsibility of the General
2 Assembly, working together with the Department of
3 Environmental Protection, the Environmental Quality Board,
4 the Pennsylvania Public Utility Commission and other
5 important stakeholders, to determine whether and how to
6 regulate or impose a tax on carbon dioxide emissions.

7 (2) The General Assembly recognizes that no statute,
8 including the act of January 8, 1960 (1959 P.L.2119, No.787),
9 known as the Air Pollution Control Act, the act of February
10 17, 1972 (P.L.64, No.20), known as the Uniform Interstate Air
11 Pollution Agreements Act, the act of July 9, 2008 (P.L.935,
12 No.70), known as the Pennsylvania Climate Change Act or the
13 Pennsylvania Constitution, authorizes the Governor, the
14 Environmental Quality Board, the Department of Environmental
15 Protection or any other agency or official to adopt
16 regulations, implement a policy or take any other action to
17 authorize the Commonwealth to join or participate in a State
18 or regional greenhouse gas cap-and-trade program or establish
19 a greenhouse gas cap-and-trade program.

20 (3) Affordable, reliable and resilient sources of
21 electric power generated in Pennsylvania are vital to the
22 health, safety and welfare of this Commonwealth's residents
23 and to the prosperity of its economy.

24 (4) The premature deactivation or retirement of coal-
25 fired and coal refuse electric generation units in
26 Pennsylvania as a direct result of State action will result
27 in significant direct economic hardship to the communities in
28 which they operate and will adversely affect this
29 Commonwealth's economy, environment and electric reliability
30 and the general health, safety and welfare of its residents,

1 businesses and industries.

2 (5) Given that Pennsylvania is one of the top net
3 exporters of electricity and the third largest coal-producing
4 state in the nation, abating, controlling or limiting carbon
5 dioxide emissions will have a significant, profound and long-
6 lasting impact on this Commonwealth's economy and require its
7 consumers to import electricity generated by out-of-State
8 fossil fuel plants, canceling out any emission reductions.

9 (6) In addition to the impact on coal-fired and coal
10 refuse electric generating facilities, as well as natural
11 gas-fired electric generation facilities that would have to
12 absorb a carbon tax, abating, controlling or limiting carbon
13 dioxide emissions in Pennsylvania will have a significant
14 negative economic impact on this Commonwealth's industrial,
15 manufacturing and transportation sectors.

16 Section 3. Definitions.

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

20 "Department." The Department of Environmental Protection of
21 the Commonwealth.

22 "RGGI." The Regional Greenhouse Gas Initiative, which is a
23 multistate compact that establishes or calls for the compacting
24 states to establish a regional, multistate cap on the amount of
25 greenhouse gases released by electric generation plants.

26 "Standing committee." The Environmental Resources and Energy
27 Committee of the Senate and the Environmental Resources and
28 Energy Committee of the House of Representatives.

29 Section 4. Regulation of greenhouse gas emissions.

30 (a) Prohibition.--Except for a measure that is required by

1 Federal law, the department may not adopt a measure or take any
2 other action that is designed to abate, control or limit carbon
3 dioxide emissions, including an action to join or participate in
4 a State or regional greenhouse gas cap-and-trade program,
5 including the RGGI, nor may the department establish a
6 greenhouse gas cap-and-trade program, unless the General
7 Assembly specifically authorizes such a measure or action by
8 statute that is enacted on or after the effective date of this
9 section.

10 (b) Submission to General Assembly.--If the department
11 proposes a measure of action under subsection (a), the
12 department shall submit the proposed measure or other proposed
13 action to the General Assembly as provided under section 5.
14 Section 5. Process for submission to General Assembly.

15 (A) DUTIES OF DEPARTMENT.--Prior to submitting a proposed <--
16 measure or other proposed action to the General Assembly under
17 section 4(b), the department shall do the following:

18 (1) Submit to the Legislative Reference Bureau for
19 publication in the Pennsylvania Bulletin the proposed measure
20 or other proposed action that is in the form of DRAFT <--
21 legislation. The publication shall set a public comment
22 period of no less than 180 days.

23 (2) During the public comment period, the department
24 shall conduct a minimum of four public hearings, CONDUCTED IN <--
25 ACCORDANCE WITH 65 PA.C.S. CH. 7 (RELATING TO OPEN MEETINGS),
26 on the proposed measure or other proposed action and shall
27 conduct the hearings in geographically dispersed locations in
28 this Commonwealth, including locations in which regulated
29 sources of carbon dioxide emissions would be directly
30 economically affected by the proposal.

1 (3) Following the public comment period, the department
2 shall compile a report that will be submitted to both
3 standing committees. The report shall include the following
4 information:

5 (i) A list of all individual facilities, by county,
6 that would be subject to the proposed measure or other
7 proposed action, along with:

8 (A) the amount of carbon dioxide emitted by each
9 of the facilities;

10 (B) the estimated cost that each of the
11 facilities would incur to comply with the proposed
12 measure or other proposed action;

13 (C) the effect that the proposed measure or
14 other proposed action would have on the price of
15 electricity (\$/MWh net) that each of the facilities
16 generates;

17 (D) a list of the facilities that, under the
18 proposed measure or other proposed action, would be
19 unlikely to continue to operate;

20 (E) for the other electric generation
21 facilities, an assessment of the extent to which they
22 would be likely to operate after the proposed measure
23 or other proposed action had been fully implemented;

24 (F) an assessment of the decrease of electricity
25 that would be exported from Pennsylvania after the
26 proposed measure or other proposed action had been
27 fully implemented; and

28 (G) an assessment of the contribution to
29 resilience and diversity in the Pennsylvania electric
30 generation fleet from each of the affected facilities

1 and the impacts upon the resilience and diversity in
2 the event that any or all of the facilities are
3 forced to close.

4 (ii) A summary of the impacts on all industries
5 whose public testimony or comments were received by the
6 department during the public comment period.

7 (iii) An estimate of the net carbon dioxide emission
8 reductions that the proposed measure or other proposed
9 action would engender within the PJM Interconnection
10 region, taking into account the electricity generation in
11 neighboring states where there is not a regulation or tax
12 on carbon dioxide emissions.

13 (iv) A summary and justification of any provisions
14 in the proposed measure or other proposed action that
15 would address leakage.

16 (v) A description of the economic and fiscal impacts
17 that would result from the proposed measure or other
18 proposed action, including the following impacts:

19 (A) Direct and indirect costs to the
20 Commonwealth and its political subdivisions and the
21 private sector.

22 (B) The impact of any action or measure upon the
23 wholesale and retail price of electricity, both
24 directly and indirectly, broken down by classes of
25 electricity consumers, including, but not limited to,
26 residential, commercial, industrial and
27 transportation.

28 (C) Adverse effects on prices of goods and
29 services, productivity or competition.

30 (D) The nature of the reports, forms or other

1 paperwork that would be required for implementation
2 and administration of the action or measure and the
3 estimated cost for individuals, businesses and
4 organizations in the public and private sectors to
5 prepare them.

6 (E) The nature and estimated cost of legal,
7 consulting or accounting services that the public or
8 private sector would be required or likely to incur
9 for implementation and administration of the action
10 or measure.

11 (F) The impact that it would have on the public
12 interest to exempt individuals, employers or
13 facilities from compliance or require the
14 individuals, employers or facilities to comply with
15 less stringent standards when it would be lawful,
16 desirable and feasible.

17 (vi) Whether a less costly or less intrusive
18 alternative method of achieving the goal of the proposed
19 measure or other proposed action has been considered for
20 an employer or facility that would otherwise be subject
21 to the proposed measure or proposed action.

22 (B) LEGISLATION.--ONCE THE PUBLIC COMMENT PERIOD HAS <--
23 CONCLUDED AND THE DEPARTMENT HAS SUBMITTED THE REPORT TO THE
24 STANDING COMMITTEES, THE DEPARTMENT SHALL SUBMIT THE MEASURE IN
25 LEGISLATIVE FORM TO THE STANDING COMMITTEES AND REQUEST THAT A
26 MEMBER OF THE STANDING COMMITTEES INTRODUCE THE LEGISLATION.
27 THIS ACTION SHALL CONSTITUTE SUBMITTING THE MEASURE OR ACTION TO
28 THE GENERAL ASSEMBLY. IF THE LEGISLATION IS INTRODUCED, THE
29 LEGISLATION SHALL FOLLOW THE STANDARD LEGISLATIVE PROCESS AND
30 MAY BE CONSIDERED BY A STANDING COMMITTEE IF THE LEGISLATION IS

1 REFERRED TO THE STANDING COMMITTEE.

2 Section 6. Effective date.

3 This act shall take effect immediately.