

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 375 Session of 2021

INTRODUCED BY A. DAVIS, ZABEL, FRANKEL, SANCHEZ, HILL-EVANS,
FREEMAN, HOHENSTEIN, WEBSTER, SCHWEYER, SIMS AND LEE,
FEBRUARY 3, 2021

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,
FEBRUARY 3, 2021

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 twelve
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.