

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 195 Session of
2023

INTRODUCED BY STRUZZI, KEPHART, CAUSER, D'ORSIE, DAVANZO, ECKER,
EMRICK, FLOOD, GLEIM, HAMM, IRVIN, JOZWIAK, KAUFFMAN,
LEADBETER, M. MACKENZIE, R. MACKENZIE, MARCELL, MARSHALL,
MOUL, OBERLANDER, PICKETT, ROWE, SCIALABBA, SMITH, STAMBAUGH,
STEHR, WARNER AND ZIMMERMAN, MARCH 8, 2023

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,
MARCH 8, 2023

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; and
6 abrogating regulations.

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

9 Section 1. Short title.

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

12 Section 2. Declaration of policy.

13 The General Assembly finds and declares as follows:

14 (1) As a matter of Pennsylvania law, no statutory or
15 constitutional authority currently exists that authorizes a
16 State agency to regulate or impose a tax on carbon dioxide
17 emissions. Therefore, it is the responsibility of the General
18 Assembly, working together with the Department of

1 Environmental Protection, the Environmental Quality Board,
2 the Pennsylvania Public Utility Commission and other
3 important stakeholders, to determine whether and how to
4 regulate or impose a tax on carbon dioxide emissions.

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

18 Section 3. Definitions.

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

22 "Department." The Department of Environmental Protection of
23 the Commonwealth.

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

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

Section 4. Regulation of greenhouse gas emissions.

(a) Prohibition.--Except for a measure that is required by Federal law, the department may not adopt a measure or take any other action that is designed to abate, control or limit carbon dioxide emissions, including an action to join or participate in a State or regional greenhouse gas cap-and-trade program, including the RGGI, nor may the department establish a greenhouse gas cap-and-trade program, unless the General Assembly specifically authorizes such a measure or action by statute that is enacted on or after the effective date of this section.

(b) Submission to General Assembly.--If the department proposes a measure of action under subsection (a), the department shall submit the proposed measure or other proposed action to the General Assembly as provided under section 5.

Section 5. Process for submission to General Assembly.

(a) Duties of department.--Prior to submitting a proposed measure or other proposed action to the General Assembly under section 4(b), the department shall do the following:

(1) Submit to the Legislative Reference Bureau for publication in the next available issue of the Pennsylvania Bulletin the proposed measure or other proposed action that is in the form of draft legislation. The publication shall set a public comment period of no less than 180 days.

(2) During the public comment period, the department shall conduct a minimum of four public hearings, conducted in accordance with 65 Pa.C.S. Ch. 7 (relating to open meetings), on the proposed measure or other proposed action and shall conduct the hearings in geographically dispersed locations in this Commonwealth, including locations in which regulated

1 sources of carbon dioxide emissions would be directly
2 economically affected by the proposal.

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

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

10 (A) the amount of carbon dioxide emitted by each
11 of the facilities;

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

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

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

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

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

30 (G) an assessment of the contribution to

1 resilience and diversity in the Pennsylvania electric
2 generation fleet from each of the affected facilities
3 and the impacts upon the resilience and diversity in
4 the event that any or all of the facilities are
5 forced to close.

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

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

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

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

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

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

30 (C) Adverse effects on prices of goods and

1 services, productivity or competition.

2 (D) The nature of the reports, forms or other
3 paperwork that would be required for implementation
4 and administration of the action or measure and the
5 estimated cost for individuals, businesses and
6 organizations in the public and private sectors to
7 prepare them.

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

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

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

24 (b) Legislation.--Once the public comment period has
25 concluded and the department has submitted the report to the
26 standing committees, the department shall submit the measure in
27 legislative form to the standing committees and request that a
28 member of the standing committees introduce the legislation.
29 This action shall constitute submitting the measure or action to
30 the General Assembly. If the legislation is introduced, the

1 legislation shall follow the standard legislative process and
2 may be considered by a standing committee if the legislation is
3 referred to the standing committee.

4 Section 6. Abrogation of regulations.

5 The provisions of 25 Pa. Code Ch. 145 Subch. E are abrogated.

6 Section 7. Effective date.

7 This act shall take effect immediately.