

WEATHER MODIFICATION - REGULATING RAIN MAKING
Act of Jan. 19, (1968) 1967, P.L. 1024, No. 449 **Cl. 03**
AN ACT

Providing temporarily for the regulation and licensing of rain-making activities; creating a Weather Modification Board within the Department of Agriculture and defining its powers and duties; imposing powers and duties on the Department of Agriculture and certain other State agencies; and providing penalties.

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

Section 1. Declaration of Policy.--The public interest, health, safety, welfare and necessity require that scientific experimentation in the field of artificial nucleation, and that scientific efforts to develop and increase natural precipitation of rain, snow, moisture, or water in any form contained in the atmosphere, within the State, be encouraged in order to develop, conserve, and protect the natural water resources of the State and to safeguard life and property.

Section 2. Definitions.--As used in this act--

- (1) "Board" means the Weather Modification Board.
- (2) "Department" means the Department of Agriculture.
- (3) "Operation" means the performance of weather modification and control activities pursuant to a single contract entered into for the purpose of producing, or attempting to produce, a certain modifying effect within one geographical area over one continuing time interval not exceeding one year, or, if the performance of weather modification and control activities is to be undertaken individually or jointly by a person or persons to be benefited and not undertaken pursuant to a contract, "operation" means the performance of weather modification and control activities entered into for the purpose of producing or attempting to produce a certain modifying effect within one geographical area over one continuing time interval not exceeding one year.
- (4) "Person" means any individual, firm, association, organization, partnership, company, corporation, private or public, political subdivision, or other public agency.
- (5) "Research and development" means theoretical analysis, exploration and experimentation and the extension of investigative findings and theories of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices, equipment, materials and processes.

(6) "Weather modification and control" means changing or controlling, or attempting to change or control, by artificial methods the natural development of any or all atmospheric cloud forms and precipitation forms which occur in the troposphere.

Section 3. Weather Modification Board.--(a) There is hereby created within the department a Weather Modification Board. Such advisory board shall be composed of seven members who shall be:

- (1) The Secretary of Agriculture.
- (2) The Secretary of Commerce.
- (3) The Secretary of Health.
- (4) The Dean of the College of Earth Sciences at the Pennsylvania State University.
- (5) Three members to be appointed by the Governor with the advice and consent of the Senate.

(b) Terms of all appointed members shall be for four years. Appointed members shall receive the sum of thirty dollars (\$30) per day for each day or part thereof devoted to the committee's activities.

Section 4. Administration by Department.--The department shall administer this act and in so doing shall ask for and consider the recommendations of the board herein created which shall advise on all the matters regulated by this act.

Section 5. When License, Registration Required.--(a) No person, without first securing a license from the department, shall cause or attempt to cause condensation or precipitation of rain, snow, moisture, or water in any form contained in the atmosphere.

(b) No person without registering with the board shall have in his possession any cloud seeding equipment unless he is an employe of or under contract with a person conducting a weather modification and control operation who has been granted a license by the board.

Section 6. Application for License.--(a) Any person desiring to do any of the acts specified in section 5 may file with the board an application in writing for a license. Each application shall be accompanied by a filing fee fixed by the board but not to exceed one hundred dollars (\$100), and shall be on a form to be supplied for such purpose by the board.

(b) Every application shall set forth all of the following:

(1) The name and post-office address of the applicant.

(2) The previous education, experience, and qualifications of the applicant, or, if the applicant is other than an individual, the previous education, experience, and qualifications of the persons who will be in control of and charged with the operations of the applicant. Previous experience includes sub-contracting or counseling services.

(3) A general description of the operations which the applicant intends to conduct and the method and type of equipment including all nucleating agents, that the applicant proposes to use. Aircraft must be listed by numbers and pilots' names.

(4) A statement listing all employes, who are residents of Pennsylvania, and/or who will be directly employed in the intended operation.

(5) A bond or insurance covering any damage the licensee may cause through his operations in an amount of fifty thousand dollars (\$50,000) or other evidence of financial responsibility shall be furnished and executed at the time of the grant of the license.

(6) Every applicant shall have a resident agent within the Commonwealth.

(c) Upon the filing of the application upon a form supplied by the board and containing the information prescribed by this act and accompanied by the required filing fee and bond or insurance, the board may issue a license to the applicant entitling the applicant to conduct the operations described in the application for the calendar year for which the license is issued, unless the license is sooner revoked or suspended or modified.

(d) A license may be renewed annually upon application to the board, accompanied by a renewal fee fixed by the board but not to exceed one hundred dollars (\$100), on or before the last day of January of the calendar year for which the license is renewed.

Section 7. Registration of Equipment.--Every person not desiring a license who owns or possesses cloud seeding equipment

shall promptly register the same with the board on a form furnished by it.

Section 8. Publication.--(a) Prior to undertaking any operation authorized by the license, the licensee shall file with the department and cause to be published a notice of intention. The licensee shall then confine his activities for that operation substantially within the time and area limits set forth in the notice of intention.

(b) The notice of intention shall set forth all of the following:

(1) The name and address of the licensee.

(2) The nature and object of the intended operation and the person or persons on whose behalf it is to be conducted.

(3) The area in which and the approximate time during which the operation will be conducted.

(4) The area which will be affected by the operation as near as the same may be determined in advance.

(c) The licensee shall cause the notice of intention to be published once a week for three successive weeks in a newspaper having a general circulation and published within any county wherein the operation is to be conducted and in which the affected area is located, or, if the operation is to be conducted in more than one county or if the affected area is located in more than one county or is located in a county other than the one in which the operation is to be conducted, then such notice shall be published in like manner in a newspaper having a general circulation and published within each of such counties. In case there is no newspaper published within the appropriate county, publication shall be made in a newspaper having a general circulation within the county.

(d) Proof of publication shall be filed by the licensee with the department within fifteen days from the date of the last publication of the notice. Proof of publication shall be by copy of the notice as published attached to and made a part of the affidavit of the publisher or foreman of the newspaper publishing the notice.

Section 9. Emergencies; Publication.--(a) Notwithstanding any provision of this act to the contrary, the board may grant a licensee permission to undertake an emergency nucleation project, without prior compliance by the licensee with the provisions of section 8 (a), if the same appears to the department to be necessary or desirable in aid of extinguishment of fires.

(b) Notwithstanding any provision of this act to the contrary, upon request of the county commissioners of a county or of the governing body of a city, borough, town or township, and upon the submission of such supporting evidence as the board may require, the board may grant a licensee permission to undertake a nucleation project for the purpose of alleviating a drought emergency, without prior compliance by the licensee with the provisions of section 8 (a) requiring publication of notice of intention, if such project appears to the department to be necessary or desirable.

(c) Nothing contained in this section shall be construed as to relieve the licensee in the cases set forth in subsection (a) or (b) or this section from compliance with the provisions of section 8 requiring publication of notice of intention and filing of proof of such publication, as soon after the granting of permission by the board as is practicable. In lieu thereof the licensee may furnish equivalent transmission of notice of intention by radio or television, and proof thereof, as soon after the granting of permission by the board as is practicable.

Section 10. Records.--(a) Every licensee shall keep and maintain a record of all operations conducted by him pursuant to his license showing the method employed, the type of equipment used, the times and places of operation of the equipment, the name and post office address of each person participating or assisting in the operation other than the licensee, and such other information as may be required by the board, and shall report the same to the board immediately upon the completion of each operation.

(b) Each licensee shall further prepare and maintain an evaluation statement for each operation which shall include a report as to estimated precipitation, defining the gain or loss occurring from nucleation activities, together with supporting data therefor. This statement, together with such other pertinent information as the board may require, shall be sent to the board upon completion and be available to inspection by the board at all times on the licensee's premises.

(c) The board shall require written reports concerning each operation conducted by a licensee under this act.

(d) All information on an operation shall be submitted to the board before any information on such operation may be released to the public.

(e) The reports and records in the custody of the board shall be open for public examination as public documents.

Section 11. Research Projects; Safety.--(a) Research work within the province of this statute shall be permitted only when authorized by the board.

(b) Government and armed forces projects within the province of this statute must meet all the requirements of this act.

(c) No nucleating agent may be used in concentrations dangerous to man or causes environmental pollution as determined by the State Department of Health.

Section 12. Enforcement.--In order to enforce the provisions of this act, the Pennsylvania State Police shall, on request of the board, assign at least one trooper and one investigator to an area where unlawful cloud seeding is suspected. If such police request the same, the Pennsylvania Aeronautics Commission shall assign an airplane and pilot. Air samples shall be taken by the Pennsylvania Air Pollution Commission if requested by the State Police of the board. For such enforcement purposes, the State Department of Health shall furnish such technical services as the board may request.

Section 13. License Suspensions, Revocations.--Any license may be revoked, suspended or modified if the board finds, after due notice to the licensee and a hearing thereon, that the licensee has failed or refused to comply with any of the provisions of this act. The proceedings herein referred to shall be conducted in accordance with the provisions of the act of June 4, 1945 (P.L.1388), known as the "Administration Agency Law," and the board shall have all the powers granted therein.

Section 14. Damage Compensation.--Any licensee who causes a drought as determined by the board shall compensate farmers for damages. Any licensee who by causing heavy downpours or storms which cause damage to lands as determined by the board shall compensate farmers and property owners for such damages.

Section 15. Acts Not Authorized.--(a) Nothing contained in this act shall authorize any person to carry out a cloud seeding operation from Pennsylvania to seed in another state where such cloud seeding is prohibited.

(b) Nothing contained in this act shall be construed to authorize the suppression of lightning.

Section 16. Penalties.--(a) Any airplane pilot who flies an airplane with numbers invisible to escape identification under this act shall be guilty of a misdemeanor and upon conviction thereof, have his license revoked for a period of five years.

(b) Any airport owner or operator who boards cloud seeding planes to seed clouds or who operates as a cloud seeder without license shall be guilty of a misdemeanor, and upon conviction thereof have his airport permit revoked for one year and be sentenced to pay a fine of ten thousand dollars (\$10,000) and for a second or subsequent offense, he shall be sentenced to pay a fine of fifty thousand dollars (\$50,000).

(c) Any person knowingly having in his possession without registering the same with the department any cloud seeding equipment shall, on conviction thereof, be sentenced to pay a fine of ten thousand dollars (\$10,000).

(d) Any person who makes any false statement to secure a license under this act shall, on conviction thereof, have his license revoked permanently.

(e) Any person who violates any other provision of this act is guilty of a misdemeanor and shall, upon conviction thereof, be sentenced to pay a fine not exceeding one thousand dollars (\$1,000) or undergo imprisonment for not exceeding one year, or both.

Section 17. Repeal.--The act of November 9, 1965 (P.L.677), entitled "An act prohibiting certain weather modification activities whenever the county commissioners shall adopt a resolution stating that such action is detrimental to the welfare of the county, and providing penalties," is repealed.

Section 18. Effective Date.--This act shall take effect immediately.