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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 2112 Session of  
2007

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INTRODUCED BY COSTA, GOODMAN, FRANKEL, KOTIK, PRESTON, READSHAW,  
K. SMITH, BRENNAN, CALTAGIRONE, CAPPELLI, CARROLL, CREIGHTON,  
GEIST, GEORGE, GRUCELA, HALUSKA, HARKINS, HENNESSEY,  
HUTCHINSON, W. KELLER, KULA, MAHONEY, MARSHALL, McILHATTAN,  
MOYER, MURT, PAYNE, SANTONI, SAYLOR, SIPTROTH, SOLOBAY,  
THOMAS, J. WHITE, YOUNGBLOOD, YUDICHAK, McILVAINE SMITH AND  
DeWEESE, DECEMBER 13, 2007

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AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES,  
JUNE 29, 2008

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AN ACT

1 Amending Title 35 (Health and Safety) of the Pennsylvania  
2 Consolidated Statutes, providing for mutual aid.

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

5 Section 1. Chapter 73 of Title 35 of the Pennsylvania  
6 Consolidated Statutes is amended by adding a subchapter to read:

7 SUBCHAPTER C

8 INTRASTATE MUTUAL AID

9 Sec.

10 7331. Purpose of subchapter.

11 7332. Definitions.

12 7333. Intrastate Mutual Aid Committee.

13 7334. System.

14 7335. Assistance.

15 7336. License, certificate and permit portability.

1 7337. Insurance.

2 7338. Workers' compensation.

3 7339. Immunity.

4 7340. Effect on other agreements.

5 § 7331. Purpose of subchapter.

6 The purpose of this subchapter is to create a system of  
7 intrastate mutual aid between participating political  
8 subdivisions within this Commonwealth, whereby each  
9 participating political subdivision recognizes that emergencies  
10 transcend the boundaries of a political subdivision and that  
11 intergovernmental coordination is essential for the protection  
12 of lives and property and for the best use of available public  
13 and private assets. The system shall provide for mutual  
14 assistance among the participating political subdivisions in the  
15 prevention of, response to and recovery from threats to public  
16 health and safety that are beyond the capability of an affected  
17 community to respond. The system shall provide for mutual  
18 cooperation among the participating subdivisions in conducting  
19 exercises, testing or other training activities.

20 § 7332. Definitions.

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

24 "Agency." The Pennsylvania Emergency Management Agency.

25 "Dedicated emergency response organization." Any entity  
26 organized, chartered or incorporated in this Commonwealth or  
27 chartered by the Congress of the United States for the primary  
28 purpose of providing emergency services. The term shall include  
29 volunteer, career and combination organizations.

30 "Emergency responder." An individual in the public or

1 private sector who has special skills, qualification, training,  
2 knowledge or experience, whether or not the person possesses a  
3 license, certificate, permit or other official recognition for  
4 the skills, qualification, training, knowledge or experience,  
5 that would benefit a participating political subdivision in  
6 responding to an authorized mutual aid request or participating  
7 in an authorized drill or exercise. The term shall include a law  
8 enforcement officer, a firefighter, an emergency medical  
9 services worker, a physician, nurse or other public health  
10 worker, an emergency management official, a coroner or medical  
11 examiner, a State-certified hazardous materials team member, a  
12 public works worker, a building inspector, an architect, an  
13 engineer or other design professional or a person with  
14 specialized equipment operations skills or training or with any  
15 other skills needed to provide aid in a declared emergency.

16 "Committee." The Intrastate Mutual Aid Committee.

17 "Incident." Any event or condition which constitutes an  
18 actual or imminent threat to public health and safety, public or  
19 private property or the economic well-being of the community.

20 "Incident commander." The individual responsible for all  
21 incident-related activities, including the development of  
22 strategies and tactics and the ordering and releasing of  
23 resources as provided under the National Incident Management  
24 System.

25 "Mutual aid." Mutual assistance and sharing of resources  
26 among participating political subdivisions in the prevention of,  
27 response to and recovery from threats to public health and  
28 safety that are beyond the capability of an affected community  
29 to respond.

30 "National Incident Management System." The National Incident

1 Management System established by the United States Department of  
2 Homeland Security.

3 "Participating political subdivision." A political  
4 subdivision that has not opted out of the intrastate mutual aid  
5 system.

6 "Political subdivision." Any county, city, borough,  
7 incorporated town or township. The term shall include any  
8 council of governments established among any of the above.

9 "Requesting political subdivision." A participating  
10 political subdivision that requests assistance under this  
11 subchapter.

12 "Responding political subdivision." A participating  
13 political subdivision that responds to a request for assistance  
14 under this subchapter.

15 "System." The intrastate mutual aid system.

16 § 7333. Intrastate Mutual Aid Committee.

17 (a) Establishment.--There is established the Intrastate  
18 Mutual Aid Committee.

19 (b) Membership.--The committee shall be comprised of the  
20 following members:

21 (1) The director of the agency or a designee, who shall  
22 serve as the chairman of the committee.

23 (2) The State Fire Commissioner and the Director of the  
24 Bureau of Emergency Medical Services of the Department of  
25 Health OR ANY SUCCESSOR BUREAU OR ADMINISTRATIVE UNIT HAVING ←  
26 SIMILAR RESPONSIBILITIES.

27 (3) Three representatives each from the career fire  
28 services, the volunteer fire services and the emergency  
29 medical services.

30 (4) Three county emergency management agency directors,

1 one from each agency area, who shall be recommended by the  
2 respective agency area directors.

3 (5) One representative each from the State Chiefs of  
4 Police Association, the State Fraternal Order of Police and  
5 the Pennsylvania State Police.

6 (6) One representative each from the Statewide county  
7 and municipal government associations' representative elected  
8 officials.

9 (7) Three representatives from county-based 911  
10 programs.

11 (8) One representative from the Pennsylvania State  
12 Coroners Association.

13 (c) Appointments.--Each member under subsection (b) shall be  
14 appointed by the director of the agency, and the appointment  
15 shall be based on recommendations from the organizations and  
16 associations represented. The county-based 911 members shall be  
17 selected from recommendations made by the three agency area  
18 directors.

19 (d) Terms of office.--Members shall serve a term of two  
20 years, and may be appointed for subsequent terms.

21 (e) Duties of committee.--The committee shall do all of the  
22 following:

23 (1) Hold at least one meeting each year to review the  
24 progress and status of the intrastate mutual aid system.

25 (2) Provide participating political subdivisions with a  
26 method to track and evaluate the system.

27 (3) Examine issues facing participating political  
28 subdivisions and emergency responders regarding the  
29 implementation of this subchapter.

30 (4) Prepare an annual report on the condition and

1 effectiveness of mutual aid in this Commonwealth, which shall  
2 be submitted to the chairperson and minority chairperson of  
3 the Veterans Affairs and Emergency Preparedness Committee of  
4 the Senate and the chairperson and minority chairperson of  
5 the Veterans Affairs and Emergency Preparedness Committee of  
6 the House of Representatives. This report may contain  
7 recommendations for correcting any deficiencies within the  
8 system.

9 (5) Develop all of the following:

10 (i) Comprehensive guidelines and procedures that  
11 address all of the following:

12 (A) Projected or anticipated costs potentially  
13 incurred by a participating political subdivision.

14 (B) Recordkeeping for participating political  
15 subdivisions.

16 (C) Reimbursement procedures and other necessary  
17 implementation elements.

18 (D) Any other procedures that the committee  
19 deems necessary.

20 (ii) Checklists for requesting and providing  
21 assistance.

22 (iii) Forms for requests and other records to  
23 document the deployment and return of assets.

24 § 7334. System.

25 (a) Establishment.--An intrastate mutual aid system is  
26 established for the purpose of providing mutual aid within this  
27 Commonwealth.

28 (b) Participation.--

29 (1) All political subdivisions within this Commonwealth  
30 shall be a part of the system unless the political

1 subdivision elects not to participate by enacting a  
2 resolution declaring their desire not to participate and by  
3 submitting a copy of the resolution to the agency and to its  
4 county emergency management agency.

5 (2) All political subdivisions within this Commonwealth  
6 shall consult with fire and emergency medical services  
7 providers to discuss the emergency services needs of the  
8 political subdivision.

9 (3) Any political subdivision that elects not to  
10 participate in the system, as provided under subsection (a),  
11 may at a later date elect to participate in the system by  
12 enacting a resolution declaring its desire to participate and  
13 by submitting a copy of the resolution to the agency and to  
14 its county emergency management agency.

15 (4) Participation by a political subdivision in the  
16 system of intrastate mutual aid established by this  
17 subchapter shall not be subject to the requirements of 53  
18 Pa.C.S. Ch. 23 Subch. A (relating to intergovernmental  
19 cooperation).

20 (c) Responsibilities.--It shall be the responsibility of  
21 each participating political subdivision with jurisdiction over  
22 and responsibility for emergency management within that  
23 political subdivision to do all of the following:

24 (1) Identify potential hazards that could affect the  
25 participating political subdivision using an identification  
26 system as developed by the committee common to all  
27 participating political subdivisions.

28 (2) Conduct joint planning, intelligence sharing and  
29 threat assessment development with contiguous participating  
30 political subdivisions.

1           (3) Conduct joint training with contiguous participating  
2 political subdivisions at least biennially.

3           (4) Identify and inventory the current services,  
4 equipment, supplies, personnel and other resources related to  
5 planning, prevention, mitigation, response and recovery  
6 activities of the participating political subdivisions in  
7 accordance with the National Incident Management System  
8 Integration Center resource management guidance.

9           (5) Adopt and implement the standardized incident  
10 management system approved by the agency.

11           (6) Adopt and implement the National Incident Management  
12 System requirements established by the United States  
13 Department of Homeland Security.

14 § 7335. Assistance.

15           (a) Requests.--A participating political subdivision may  
16 request assistance of other participating political subdivisions  
17 or their designated emergency response organizations. All  
18 requests for assistance shall be initiated from the incident  
19 commander or authorized designee at an incident location, the  
20 county 911 center or the county emergency manager where the  
21 incident occurs. All intrastate mutual aid requests for  
22 assistance shall be made to the county 911 center or county  
23 emergency management coordinator or authorized designee in the  
24 responding county. Intrastate mutual aid requests for assistance  
25 may also be made through the agency. A written request shall be  
26 submitted after a verbal request is made as soon as practicable  
27 or within the number of days that the agency, in its discretion,  
28 may determine.

29           (b) Response to requests.--A participating political  
30 subdivision's obligation to provide assistance in the prevention

1 of, response to and recovery from an incident or in authorized  
2 drills or exercises shall be subject to all of the following  
3 conditions:

4 (1) A responding political subdivision may withhold  
5 resources to the extent necessary to provide reasonable  
6 protection and services for its own jurisdiction.

7 (2) Emergency response personnel of a responding  
8 political subdivision shall remain under the administrative  
9 and policy procedures and control of their respective  
10 jurisdiction, including medical protocols, standard operating  
11 procedures and other protocols, but shall be under the  
12 operational control of the appropriate officials within the  
13 incident management system of the requesting political  
14 subdivision.

15 (3) Assets and equipment of a responding political  
16 subdivision shall remain under the administrative and policy  
17 procedures and control of their respective jurisdiction but  
18 shall be under the control of the appropriate officials  
19 within the incident management system of the requesting  
20 political subdivision.

21 (4) The incident commander shall have overall authority  
22 and responsibility for conducting incident operations and  
23 shall be responsible for the management of all incident  
24 operations at the incident site.

25 (c) Reimbursement.--A requesting political subdivision shall  
26 reimburse the responding political subdivision in accordance  
27 with procedures established by the committee. A responding  
28 political subdivision may donate assets of any kind to a  
29 participating political subdivision. If a dispute arises  
30 regarding reimbursement, involved parties shall make every

1 effort to resolve the dispute within 30 days of written notice  
2 of the dispute by the party asserting noncompliance. In the  
3 event that the dispute is not resolved within 90 days of the  
4 notice of the claim, either party may request the dispute be  
5 resolved through arbitration. Any arbitration requested under  
6 this subsection shall be conducted under the commercial  
7 arbitration rules of the American Arbitration Association.

8 (d) Exceptions.--The provisions of this section shall not  
9 apply to specific mutual aid agreements which exist on the  
10 effective date of this section and which were made between  
11 political subdivisions and emergency response organizations to  
12 cover response to routine incidents.

13 § 7336. License, certificate and permit portability.

14 If a person holds a license, certificate or other permit  
15 issued by a participating political subdivision or the  
16 Commonwealth evidencing qualification in a professional,  
17 mechanical or other skill and the assistance of that person or  
18 entity is requested by a participating political subdivision,  
19 the person shall be deemed to be licensed, certified or  
20 permitted in the political subdivision requesting assistance for  
21 the duration of the incident response or authorized drills or  
22 exercises and subject to any limitations and conditions the  
23 chief executive of the participating political subdivision  
24 receiving the assistance may prescribe by executive order or  
25 otherwise.

26 § 7337. Insurance.

27 A responding political subdivision shall ensure that adequate  
28 insurance protection is in effect covering all vehicles and  
29 equipment used in response to an intrastate mutual aid request.  
30 Personnel of the responding political subdivision shall maintain

1 direct and overall control of all vehicles and equipment  
2 utilized in an intrastate mutual aid response and shall ensure  
3 that vehicles and equipment are used within intended design  
4 specifications.

5 § 7338. Workers' compensation.

6 Notwithstanding any other provision of law, a responding  
7 political subdivision shall provide appropriate workers'  
8 compensation insurance protection for municipal employees and  
9 volunteers representing the responding political subdivision  
10 when responding to a request under this system. Personnel of a  
11 responding political subdivision who sustain injury or death in  
12 the course of and arising out of their employment shall be  
13 entitled to all applicable benefits normally available to  
14 personnel while performing their duties for their employer.  
15 Responders shall receive any additional Federal and State  
16 benefits that may be available to them for line-of-duty deaths.

17 § 7339. Immunity.

18 All activities performed under the intrastate mutual aid  
19 system are deemed to be governmental functions. For the purposes  
20 of liability, all persons responding under the operational  
21 control of the requesting political subdivision shall be deemed  
22 to be employees of the requesting participating political  
23 subdivision. Except in cases of willful misconduct, gross  
24 negligence or bad faith, neither the participating political  
25 subdivisions nor their employees shall be liable for the death  
26 of or injury to persons or for damage to property when complying  
27 or attempting to comply with the system. This subchapter shall  
28 provide no immunity, rights or privileges for any individual  
29 responding to an incident where the response has not been  
30 requested by a participating political subdivision.

1 § 7340. Effect on other agreements.

2 Nothing in this subchapter shall preclude participating  
3 political subdivisions from entering into supplementary  
4 agreements with another political subdivision. Nothing in this  
5 subchapter shall affect any other agreement to which a political  
6 subdivision may, on the effective date of this section, be a  
7 party.

8 Section 2. This act shall take effect immediately.