

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1239 Session of  
1984

INTRODUCED BY FISHER, LINCOLN, WENGER, HELFRICK, STAPLETON,  
O'CONNELL, REIBMAN, KELLEY AND BRIGHTBILL, FEBRUARY 6, 1984

REFERRED TO ENVIRONMENTAL RESOURCES AND ENERGY,  
FEBRUARY 6, 1984

AN ACT

1 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated  
2 Statutes, defining hazardous material; providing for the  
3 effect of amendments to Federal regulations; repealing the  
4 penalty for violating Federal law when driving a vehicle;  
5 providing for the transportation of hazardous materials; and  
6 making a repeal.

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

9 Section 1. Section 102 of Title 75 of the Pennsylvania  
10 Consolidated Statutes is amended by adding a definition to read:  
11 § 102. Definitions.

12 Subject to additional definitions contained in subsequent  
13 provisions of this title which are applicable to specific  
14 provisions of this title, the following words and phrases when  
15 used in this title shall have, unless the context clearly  
16 indicates otherwise, the meanings given to them in this section:

17 \* \* \*

18 "Hazardous material." Any explosive, blasting agent,  
19 flammable liquid, combustible liquid, flammable solid, flammable

1 or nonflammable compressed gas, corrosive material, poison,  
2 poison gas, irritant, oxidizer, organic peroxide, radioactive  
3 material, etiologic agent, refrigerated liquid, hazardous waste,  
4 hazardous substance or other material which the department by  
5 procedure prescribed in Chapter 79 (relating to hazardous  
6 materials transportation) declares to be a hazardous material.

7 \* \* \*

8 Section 2. Section 4522 of Title 75 is amended to read:

9 § 4522. [Violation of Federal statute or regulation.]

10 Effect of amendments to Federal regulations.

11 [(a) General rule.--No person shall drive a vehicle on any  
12 highway in violation of any provision of a Federal statute or  
13 regulation relating to any type of equipment or documents used  
14 in the vehicle while engaged in interstate commerce.

15 (b) Penalty.--Any person violating this section is guilty of  
16 a summary offense and shall, upon conviction, be sentenced to  
17 pay a fine of \$100.]

18 If any Federal regulations adopted by the department are  
19 amended or modified, the amendment or modification shall also be  
20 deemed to be adopted by the department if the department  
21 determines that the amendment or modification is in the best  
22 interests of this Commonwealth, but within 60 days the  
23 department shall submit all the amendments or modifications to  
24 the Independent Regulatory Review Commission and the designated  
25 standing committees of the General Assembly as required by the  
26 act of June 25, 1982 (P.L.633, No.181), known as the Regulatory  
27 Review Act.

28 Section 3. Title 75 is amended by adding a chapter to read:

29 CHAPTER 79

30 HAZARDOUS MATERIALS TRANSPORTATION

- 1 Sec.
- 2 7901. Legislative findings.
- 3 7902. Powers and duties of department.
- 4 7903. Correspondence with Federal regulations.
- 5 7904. Right of entry.
- 6 7905. Injunctions and other remedies.
- 7 7906. Penalties.
- 8 7907. Hazardous Materials Transportation Advisory Committee.
- 9 7908. Report to the General Assembly.

10 § 7901. Legislative findings.

11 (a) Essential nature.--It is hereby found as a fact that  
12 hazardous materials are essential for various industrial,  
13 commercial and other purposes, that their transportation is a  
14 necessary incident of their use and, therefore, that such  
15 transportation is required for the employment and economic  
16 prosperity of the people. It is also found as a fact that the  
17 transportation of hazardous materials may involve risk of injury  
18 to persons and damage to property and that the degree of the  
19 risk can and should be kept at a minimum consistent with  
20 technical feasibility and economic reasonableness.

21 (b) Balance of interests.--The purpose of this chapter and  
22 the primary standard by which it shall be administered is to so  
23 regulate the transportation of hazardous materials and assure  
24 compliance with the regulations promulgated pursuant to this  
25 chapter that there is established and maintained a reasonable  
26 balance between the interests of the people in the safety of  
27 themselves and their property, on the one hand, and the  
28 interests of the people and their employment and economic  
29 prosperity on the other.

30 § 7902. Powers and duties of department.

1 The department shall have the following powers and duties:

2 (1) Administer the hazardous materials transportation  
3 program pursuant to this chapter.

4 (2) Classify hazardous materials according to the nature  
5 and degree of risk involved in their transportation and apply  
6 separate regulations to each class.

7 (3) Adopt regulations pertaining to methods of packing,  
8 loading and unloading hazardous materials; to the  
9 specifications, marking, inspection, condition and equipment  
10 of vehicles transporting such substances; to qualification of  
11 drivers and other matters relating to operation of such  
12 vehicles; to routing and parking of such vehicles, except  
13 that such regulations may not supersede ordinances of local  
14 authorities and all other factors which affect the nature or  
15 degree of risk involved in transportation of hazardous  
16 materials.

17 (4) Declare any material to be a hazardous material and  
18 thereby subject its transportation to this chapter.

19 (5) Issue permits and specify the terms and conditions  
20 thereof, exempting cargo tanks used solely for intrastate  
21 transportation and trucks used solely for the transportation  
22 of combustible liquids from Federal design specifications.  
23 The permits shall be issued upon meeting testing requirements  
24 established by department regulation and shall be valid for a  
25 period of two years.

26 (6) Inspect vehicles and investigate all other matters  
27 relating to the safe transportation of hazardous materials on  
28 any highway in this Commonwealth including the Pennsylvania  
29 Turnpike.

30 (7) Delegate enforcement of all or parts of these

1 regulations to one or more of the several departments and  
2 commissions represented on the Hazardous Materials Advisory  
3 Committee or to local police officers who meet training  
4 criteria specified by department regulation. Delegation shall  
5 be accomplished through cooperative agreements and become  
6 effective upon publication in the Pennsylvania Bulletin.

7 (8) Enter into cooperative agreements with the Federal  
8 Government relating to the regulation of the highway  
9 transportation of hazardous materials.

10 § 7903. Correspondence with Federal regulations.

11 In the case of any person who is subject to Federal  
12 regulations pertaining to the transportation of hazardous  
13 materials, the department's regulations shall, and in any other  
14 case may, as far as practicable, correspond with such Federal  
15 regulations. It is the purpose of this section to avoid, as far  
16 as practicable, the imposition of conflicting regulations upon  
17 persons who operate vehicles subject to Federal regulations,  
18 pertaining to the transportation of hazardous materials. It is  
19 also the purpose of this section to empower, but not require,  
20 the department to prescribe, for persons not subject to the  
21 Federal regulations, regulations identical with or similar to  
22 those Federal regulations pertaining to the transportation of  
23 hazardous materials.

24 § 7904. Right of entry.

25 Every motor carrier shall allow any department field  
26 investigator, member of the Pennsylvania State Police or other  
27 person delegated enforcement authority in accordance with  
28 section 7902(7) (relating to powers and duties of department) to  
29 enter upon and inspect the business premises of the motor  
30 carrier, including vehicles and other equipment located thereon,

1 at all reasonable times for the purpose of determining whether  
2 the motor carrier is in compliance with this chapter and  
3 pertinent regulations, and shall make available to such person  
4 for inspection and copying all accounts, books, records,  
5 memoranda, correspondence and other documents which may  
6 reasonably relate to such determination.

7 § 7905. Injunctions and other remedies.

8 (a) Restraining orders.--The Attorney General, upon request  
9 of the department or upon his own motion, may proceed in the  
10 name of the Commonwealth, by injunction, mandamus, quo warranto  
11 or other appropriate remedy at law or in equity, criminal or  
12 civil, to restrain violations of the department's hazardous  
13 materials regulations or orders or to enforce obedience thereto.

14 (b) Long arm provision.--Whenever the Attorney General shall  
15 have reason to believe that a person has violated any regulation  
16 or order of the department but is outside the jurisdiction of  
17 this Commonwealth, the Attorney General may petition the court  
18 for an order authorizing the seizure and confiscation of such  
19 person's vehicles or hazardous materials wherever and whenever  
20 they may be found in this Commonwealth.

21 § 7906. Penalties.

22 (a) Offenses defined.--Any person who violates any provision  
23 of this chapter, any rule or regulation of the department, any  
24 order of the department or any condition of any permit issued  
25 pursuant to this chapter commits a summary offense and, upon  
26 conviction, the person shall be subject to a fine of not less  
27 than \$50 nor more than \$10,000 for each separate offense, and,  
28 in default of the payment of the fine, shall be imprisoned for a  
29 period of 90 days.

30 (b) Willful violations.--Any person who willfully violates

1 any provision of this chapter, any rule or regulation of the  
2 department, any order of the department or any condition of any  
3 permit issued pursuant to this chapter commits a misdemeanor of  
4 the third degree and, upon conviction, shall be subject to a  
5 fine of not less than \$1,000 nor more than \$25,000 for each  
6 separate offense or to imprisonment in the county jail for a  
7 period of not more than one year, or both.

8 (c) Subsequent willful violations.--Any person who, after a  
9 conviction of a misdemeanor for any violation within two years  
10 as provided in this section, willfully violates any provision of  
11 this chapter, any rule or regulation of the department, any  
12 order of the department or any condition of any permit issued  
13 pursuant to this chapter commits a misdemeanor of the second  
14 degree and, upon conviction, shall be subject to a fine of not  
15 less than \$2,500 nor more than \$50,000 for each separate offense  
16 or to imprisonment for a period of not more than two years, or  
17 both.

18 (d) Continuing violations.--Each day of continued violation  
19 of any provision of this chapter, any rule or regulation of the  
20 department, any condition of any permit or order of the  
21 department issued pursuant to this chapter shall constitute a  
22 separate offense.

23 (e) Jurisdiction.--All summary proceedings under the  
24 provisions of this chapter may be brought before any district  
25 justice of the county where the offense occurred or in the  
26 county where the public is affected, and to that end  
27 jurisdiction is hereby conferred upon the district justices,  
28 subject to appeal by either party in the manner provided by law  
29 for appeals from summary convictions. It shall be the duty of  
30 the district attorney of the county to represent the interests

1 of the Commonwealth.

2 § 7907. Hazardous Materials Transportation Advisory Committee.

3 (a) Membership.--There shall be a Hazardous Materials  
4 Transportation Advisory Committee appointed by the secretary.  
5 The committee shall be composed of an authorized representative  
6 from the Department of Transportation, who shall chair the  
7 committee, the Office of Attorney General, the Department of  
8 Health, the Department of Environmental Resources, the  
9 Pennsylvania State Police, the Pennsylvania Emergency Management  
10 Agency and the Pennsylvania Public Utility Commission and  
11 representatives of the hazardous materials industry and the  
12 public as follows:

- 13 (1) A manufacturer or shipper.
- 14 (2) A consignee or user.
- 15 (3) A common carrier.
- 16 (4) A private carrier.
- 17 (5) A representative of the fire services.
- 18 (6) A representative of the local police.
- 19 (7) A representative of the emergency medical services.
- 20 (8) A representative with highway safety experience.
- 21 (9) A member from the general public.
- 22 (10) Others deemed appropriate by the secretary.

23 (b) Duties.--The committee may review all regulations and  
24 advise the department on all matters concerning the highway  
25 transportation of hazardous materials.

26 § 7908. Report to the General Assembly.

27 Within one year of the effective date of this chapter, the  
28 secretary shall cause to be filed in the offices of the  
29 Secretary of the Senate and the Chief Clerk of the House of  
30 Representatives a report explaining the department's efforts to:



1           (1) Appoint all members of the Hazardous Materials  
2       Transportation Advisory Committee representing private  
3       interests and the public.

4           (2) Conduct terminal inspections and road checks in a  
5       uniform manner across this Commonwealth.

6           (3) Utilize Federal funds to the fullest extent  
7       practicable.

8           (4) Coordinate inspections with the United States Office  
9       of Motor Carrier Safety.

10          (5) Train and use local police to enforce hazardous  
11       materials transportation regulations.

12       Section 3. The act of November 9, 1965 (P.L.657, No.323),  
13       known as the Hazardous Substance Transportation Act, is  
14       repealed.

15       Section 4. This act shall take effect immediately.