

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

---

# HOUSE BILL

## No. 139

Session of  
1989

---

INTRODUCED BY BURD, VAN HORNE, HASAY, B. D. CLARK, CESSAR, MORRIS, FARGO, TRELLO, MERRY, BATTISTO, VROON, DOMBROWSKI, DISTLER, GAMBLE, NOYE, BELARDI, HERSHEY, LETTERMAN, E. Z. TAYLOR, CAWLEY, McVERRY, OLASZ, SEMMEL, RITTER, CARLSON, VEON, LANGTRY, BOYES, FARMER, ROBBINS, GEIST, LASHINGER, GLADECK, SAURMAN, SCHEETZ, S. H. SMITH, DEMPSEY, DORR, MOEHLMANN, BUNT, BARLEY, JADLOWIEC, HERMAN, ARGALL, GODSHALL, CORNELL, JOHNSON, D. W. SNYDER, REBER, ALLEN, FLEAGLE, FOX, NAHILL, GRUPPO, BRANDT, WASS, STAIRS, KONDRICH, WILSON, STEIGHNER, BROUJOS AND J. H. CLARK, JANUARY 30, 1989

---

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,  
JUNE 26, 1989

---

### AN ACT

1 Amending the act of July 7, 1980 (P.L.380, No.97), entitled "An  
2 act providing for the planning and regulation of solid waste  
3 storage, collection, transportation, processing, treatment,  
4 and disposal; requiring municipalities to submit plans for  
5 municipal waste management systems in their jurisdictions;  
6 authorizing grants to municipalities; providing regulation of  
7 the management of municipal, residual and hazardous waste;  
8 requiring permits for operating hazardous waste and solid  
9 waste storage, processing, treatment, and disposal  
10 facilities; and licenses for transportation of hazardous  
11 waste; imposing duties on persons and municipalities;  
12 granting powers to municipalities; authorizing the  
13 Environmental Quality Board and the Department of  
14 Environmental Resources to adopt rules, regulations,  
15 standards and procedures; granting powers to and imposing  
16 duties upon county health departments; providing remedies;  
17 prescribing penalties; and establishing a fund," further  
18 providing for powers and duties of the department; and  
19 providing for the beneficial use or reclamation of municipal  
20 and residual waste.

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

1       Section 1.   ~~The definition of "processing" in section~~ SECTION <—  
2   103 of the act of July 7, 1980 (P.L.380, No.97), known as the  
3   Solid Waste Management Act, is amended ~~and the section is~~ <—  
4   ~~amended~~ by adding definitions A DEFINITION to read: <—  
5   Section 103.   Definitions.

6       The following words and phrases when used in this act shall  
7   have, unless the context clearly indicates otherwise, the  
8   meanings given to them in this section:

9       \* \* \*

10      ~~"Beneficial use." The use of any nonhazardous waste for~~ <—  
11   ~~other than its original purpose or the process that generated~~  
12   ~~it, and where such use does not harm or present a threat of harm~~  
13   ~~to the health and welfare of the people and environment of the~~  
14   ~~Commonwealth.~~

15      \* \* \*

16      ~~"Processing." Any technology used for the purpose of~~  
17   ~~reducing the volume or bulk of municipal or residual waste or~~  
18   ~~any technology used to convert part or all of such waste~~  
19   ~~materials for [off site reuse] beneficial use or reclamation.~~  
20   ~~Processing facilities include but are not limited to transfer~~  
21   ~~facilities, composting facilities, and resource recovery~~  
22   ~~facilities.~~

23      ~~"Reclamation." The recycling or processing of a nonhazardous~~  
24   ~~waste to return it to a form suitable for use in its original~~  
25   ~~purpose or reuse in the process that generated it.~~

26      "BENEFICIAL USE." USE OR REUSE OF RESIDUAL WASTE OR RESIDUAL <—  
27   MATERIAL DERIVED FROM RESIDUAL WASTE FOR COMMERCIAL, INDUSTRIAL  
28   OR GOVERNMENTAL PURPOSES, WHERE THE USE DOES NOT HARM OR  
29   THREATEN PUBLIC HEALTH, SAFETY, WELFARE OR THE ENVIRONMENT, OR  
30   THE USE OR REUSE OF PROCESSED MUNICIPAL WASTE FOR ANY PURPOSE,

1 WHERE THE USE DOES NOT HARM OR THREATEN PUBLIC HEALTH, SAFETY,  
2 WELFARE OR THE ENVIRONMENT.

3 \* \* \*

4 Section 2. Section 104(16) and (17) of the act are amended  
5 and the section is amended by adding a paragraph to read:

6 Section 104. Powers and duties of the department.

7 The department in consultation with the Department of Health  
8 regarding matters of public health significance shall have the  
9 power and its duty shall be to:

10 \* \* \*

11 (16) require the payment of such annual inspection fees  
12 and perform such inspections of hazardous waste treatment and  
13 disposal facilities as are provided for in the Environmental  
14 Quality Board guidelines adopted pursuant to section 105(e).  
15 This provision shall not be construed to limit or restrict  
16 the department's inspection powers as elsewhere set forth in  
17 this act; [and]

18 (17) administer funds collected by the United States  
19 Government and granted to Pennsylvania for the purpose of  
20 closing, maintaining or monitoring abandoned or closed  
21 hazardous waste storage, treatment or disposal sites and for  
22 the purpose of action to abate or prevent pollution at such  
23 sites. If Congress has not authorized the collection of such  
24 funds within one year after the effective date of this act,  
25 or if the department finds that the funding program  
26 authorized is inadequate, the department shall transmit to  
27 the General Assembly within 15 months after the effective  
28 date of this act a proposal for the establishment of a fund  
29 in Pennsylvania comprised of surcharges collected from users  
30 of hazardous waste storage, treatment and disposal facilities

1 excluding captive facilities in the Commonwealth. Such fund  
2 shall be proposed for the purpose of closing, maintaining or  
3 monitoring hazardous waste storage, treatment or disposal  
4 sites excluding captive facilities which have been abandoned  
5 or which have been closed for at least 20 years, and for the  
6 purpose of taking action to abate or prevent pollution at  
7 such closed or abandoned sites[.]; and

8 ~~(18) encourage the beneficial use or reclamation of~~ <—  
9 ~~municipal and residual waste, when such materials and~~  
10 ~~compounds are determined by the department to be nonhazardous~~  
11 ~~in nature, and such use does not harm or present a threat of~~  
12 ~~harm to the health and welfare of the people and environment~~  
13 ~~of the Commonwealth. The department shall establish rules and~~  
14 ~~regulations to effectuate the beneficial use or reclamation~~  
15 ~~of such municipal and residual wastes, including the issuance~~  
16 ~~of general permits for any category of beneficial use or~~  
17 ~~reclamation of municipal or residual waste, on a regional or~~  
18 ~~Statewide basis, in accordance with rules adopted by the~~  
19 ~~Environmental Quality Board.~~

20 Section 3. ~~Section 201(a) of the act is amended and the~~  
21 ~~section is amended by adding a subsection to read:~~

22 ~~Section 201. Submission of plans; permits.~~

23 ~~(a) No person or municipality shall store, collect,~~  
24 ~~transport, process, beneficially use or reclaim, or dispose of~~  
25 ~~municipal waste within this Commonwealth unless such storage,~~  
26 ~~collection, transportation, processing, beneficial use or~~  
27 ~~reclamation or disposal is authorized by the rules and~~  
28 ~~regulations of the department and no person or municipality~~  
29 ~~shall own or operate a municipal waste processing or disposal~~  
30 ~~facility unless such person or municipality has first obtained a~~

1 ~~permit for such facility from the department.~~

2 ~~(a.1) (1) Beneficial use or reclamation of municipal waste~~  
3 ~~shall include, but not be limited to, the following:~~

4 ~~(i) The uses which are the subject of Federal~~  
5 ~~Procurement Guidelines issued by the Environmental~~  
6 ~~Protection Agency under section 6002 of the Solid Waste~~  
7 ~~Disposal Act (Public Law 89 272, 42 U.S.C. § 6962).~~

8 ~~(ii) The extraction or recovery and application of~~  
9 ~~materials and compounds contained within municipal waste,~~  
10 ~~when such materials and compounds are determined by the~~  
11 ~~department to be nonhazardous in nature, prior to such~~  
12 ~~use.~~

13 ~~(2) The department may establish siting criteria,~~  
14 ~~design, operating and certification standards of wastes from~~  
15 ~~specific generators for the beneficial use or reclamation of~~  
16 ~~municipal waste. The department may require a person or~~  
17 ~~municipality that beneficially uses or reclaims municipal~~  
18 ~~waste to notify the department prior to such use. No waste~~  
19 ~~shall be stored for longer than one year, and the department~~  
20 ~~shall monitor the waste while being stored for changes in~~  
21 ~~physical and chemical properties, including leachability.~~  
22 ~~Generators of certified municipal waste shall notify the~~  
23 ~~department in the event changes occur with regard to the~~  
24 ~~origin of the municipal waste or physical and chemical~~  
25 ~~properties of the waste, including leachability.~~

26 ~~Recertification shall be required, in the event of any such~~  
27 ~~changes.~~

28 ~~\* \* \*~~

29 ~~Section 4. Section 302 of the act is amended to read:~~

30 ~~Section 302. Disposal, processing [and], storage and beneficial~~

1 ~~use or reclamation of residual waste.~~

2 ~~(a) It shall be unlawful for any person or municipality to~~  
3 ~~dispose, process, store, beneficially use or reclaim, or permit~~  
4 ~~the disposal, processing, beneficial use or reclamation or~~  
5 ~~storage of any residual waste in a manner which is contrary to~~  
6 ~~the rules and regulations of the department or to any permit or~~  
7 ~~to the terms or conditions of any permit or any order issued by~~  
8 ~~the department.~~

9 ~~(b) It shall be unlawful for any person or municipality who~~  
10 ~~stores, processes, beneficially uses or reclaims, or disposes of~~  
11 ~~residual waste to fail to:~~

12 ~~(1) Use such methods and facilities as are necessary to~~  
13 ~~control leachate, runoff, discharges and emissions from~~  
14 ~~residual waste in accordance with department regulations.~~

15 ~~(2) Use such methods and facilities as are necessary to~~  
16 ~~prevent the harmful or hazardous mixing of wastes.~~

17 ~~(3) Design, construct, operate and maintain facilities~~  
18 ~~and areas in a manner which shall not adversely effect or~~  
19 ~~endanger public health, safety and welfare or the environment~~  
20 ~~or cause a public nuisance.~~

21 ~~(c) (1) Beneficial use or reclamation of residual waste~~  
22 ~~shall include, but not be limited to the following:~~

23 ~~(i) The uses which are the subject of the Federal~~  
24 ~~Procurement Guidelines issued by the Environmental~~  
25 ~~Protection Agency under section 6002 of the Solid Waste~~  
26 ~~Disposal Act (Public Law 89 272, 42 U.S.C. § 6962).~~

27 ~~(ii) The extraction or recovery and application of~~  
28 ~~materials and compounds contained within residual waste,~~  
29 ~~when such materials and compounds are determined by the~~  
30 ~~department to be nonhazardous in nature, prior to such~~

1           ~~use.~~

2           ~~(2) The department may establish siting criteria,~~  
3           ~~design, operating and certification standards of wastes from~~  
4           ~~specific generators for the beneficial use or reclamation of~~  
5           ~~residual waste. The department may require a person or~~  
6           ~~municipality that beneficially uses or reclaims residual~~  
7           ~~waste to notify the department prior to such use. No waste~~  
8           ~~shall be stored for longer than one year, and the department~~  
9           ~~shall monitor the waste while being stored for changes in~~  
10           ~~physical and chemical properties, including leachability.~~  
11           ~~Generators of certified residual waste shall notify the~~  
12           ~~department in the event changes occur with regard to the~~  
13           ~~facility from which the residual waste is originating,~~  
14           ~~combustion and operating characteristics of the facility, or~~  
15           ~~physical and chemical properties of the residual waste,~~  
16           ~~including leachability. Recertification shall be required in~~  
17           ~~the event of such changes.~~

18           ~~Section 5. Section 502 of the act is amended by adding a~~  
19           ~~subsection to read:~~

20           ~~Section 502. Permit and license application requirements.~~

21           ~~\* \* \*~~

22           ~~(h) The department may or may not require bonds under~~  
23           ~~section 505(a) or insurance under subsection (c) for any general~~  
24           ~~permit or class of general permit promulgated under section~~  
25           ~~104(18).~~

26           ~~(18) ENCOURAGE THE BENEFICIAL USE OR PROCESSING OF~~ <—  
27           ~~MUNICIPAL WASTE OR RESIDUAL WASTE WHEN THE DEPARTMENT~~  
28           ~~DETERMINES THAT SUCH USE DOES NOT HARM OR PRESENT A THREAT OF~~  
29           ~~HARM TO THE HEALTH, SAFETY OR WELFARE OF THE PEOPLE OR~~  
30           ~~ENVIRONMENT OF THIS COMMONWEALTH. THE DEPARTMENT SHALL~~

1 ESTABLISH WASTE REGULATIONS TO EFFECTUATE THE BENEFICIAL USE  
2 OF MUNICIPAL AND RESIDUAL WASTE, INCLUDING REGULATIONS FOR  
3 THE ISSUANCE OF GENERAL PERMITS FOR ANY CATEGORY OF  
4 BENEFICIAL USE OR PROCESSING OF MUNICIPAL WASTE OR RESIDUAL  
5 WASTE ON A REGIONAL OR STATEWIDE BASIS IN ACCORDANCE WITH THE  
6 REGULATIONS ADOPTED BY THE ENVIRONMENTAL QUALITY BOARD. THE  
7 DEPARTMENT MAY OR MAY NOT REQUIRE INSURANCE UNDER SECTION  
8 502(E) OR BONDS UNDER SECTION 505(A) FOR ANY GENERAL PERMIT  
9 OR CLASS OF GENERAL PERMITS PROMULGATED UNDER THIS PARAGRAPH.  
10 EXCEPT WITH THE WRITTEN APPROVAL OF THE DEPARTMENT, NO WASTE  
11 MAY BE STORED FOR LONGER THAN ONE YEAR. RESIDUAL WASTES BEING  
12 STORED SHALL BE MONITORED FOR CHANGES IN PHYSICAL AND  
13 CHEMICAL PROPERTIES, INCLUDING LEACHABILITY, PURSUANT TO  
14 APPLICABLE REGULATIONS, BY THE PERSON OR MUNICIPALITY  
15 BENEFICIALLY USING OR PROCESSING SUCH WASTE. THE DEPARTMENT  
16 MAY REQUIRE THE SUBMISSION OF PERIODIC ANALYSES OR OTHER  
17 INFORMATION TO INSURE THAT THE QUALITY OF RESIDUAL WASTE TO  
18 BE BENEFICIALLY USED OR PROCESSED DOES NOT CHANGE. A  
19 MUNICIPALITY OR PERSON BENEFICIALLY USING OR PROCESSING THE  
20 RESIDUAL WASTE SHALL IMMEDIATELY NOTIFY THE DEPARTMENT, UPON  
21 FORMS PROVIDED BY DEPARTMENT, OF ANY CHANGE IN THE PHYSICAL  
22 OR CHEMICAL PROPERTIES OF THE RESIDUAL WASTE, INCLUDING  
23 LEACHABILITY; AND THE DEPARTMENT SHALL CONDUCT AN  
24 INVESTIGATION AND ORDER NECESSARY CORRECTIVE ACTION. UPON  
25 RECEIPT OF A SIGNED, WRITTEN COMPLAINT OF ANY PERSON WHOSE  
26 HEALTH, SAFETY OR WELFARE MAY BE ADVERSELY AFFECTED BY A  
27 PHYSICAL OR CHEMICAL CHANGE IN THE PROPERTIES OF RESIDUAL  
28 WASTE TO BE BENEFICIALLY USED OR PROCESSED, INCLUDING  
29 LEACHABILITY, THE DEPARTMENT SHALL DETERMINE THE VALIDITY OF  
30 THE COMPLAINT AND TAKE APPROPRIATE ACTION.



SECTION 3. SECTIONS 602(B) AND (C), 608(2) AND (3) AND  
610(4) OF THE ACT ARE AMENDED TO READ:

SECTION 602. ENFORCEMENT ORDERS.

\* \* \*

(B) IF THE DEPARTMENT FINDS THAT THE STORAGE, COLLECTION,  
TRANSPORTATION, PROCESSING, TREATMENT, BENEFICIAL USE OR  
DISPOSAL OF SOLID WASTE IS CAUSING POLLUTION OF THE AIR, WATER,  
LAND OR OTHER NATURAL RESOURCES OF THE COMMONWEALTH OR IS  
CREATING A PUBLIC NUISANCE, THE DEPARTMENT MAY ORDER THE PERSON  
OR THE MUNICIPALITY TO ALTER ITS STORAGE, COLLECTION,  
TRANSPORTATION, PROCESSING, TREATMENT, BENEFICIAL USE OR  
DISPOSAL SYSTEMS TO PROVIDE SUCH STORAGE, COLLECTION,  
TRANSPORTATION, PROCESSING, TREATMENT, BENEFICIAL USE OR  
DISPOSAL SYSTEMS AS WILL PREVENT POLLUTION AND PUBLIC NUISANCES.  
SUCH ORDER SHALL SPECIFY THE LENGTH OF TIME AFTER RECEIPT OF THE  
ORDER WITHIN WHICH THE FACILITY OR AREA SHALL BE REPAIRED,  
ALTERED, CONSTRUCTED OR RECONSTRUCTED.

(C) ANY PERSON OR MUNICIPALITY ORDERED BY THE DEPARTMENT TO  
REPAIR, ALTER, CONSTRUCT, OR RECONSTRUCT A SOLID WASTE FACILITY  
OR AREA SHALL TAKE SUCH STEPS FOR THE REPAIR, ALTERATION,  
CONSTRUCTION, OR RECONSTRUCTION OF THE FACILITY OR AREA AS MAY  
BE NECESSARY FOR THE STORAGE, PROCESSING, TREATMENT, BENEFICIAL  
USE AND DISPOSAL OF ITS SOLID WASTE IN COMPLIANCE WITH THIS ACT  
AND THE RULES AND REGULATIONS OF THE DEPARTMENT, AND STANDARDS  
AND ORDERS OF THE DEPARTMENT.

\* \* \*

SECTION 608. PRODUCTION OF MATERIALS; RECORDKEEPING  
REQUIREMENTS; RIGHTS OF ENTRY.

THE DEPARTMENT AND ITS AGENTS AND EMPLOYEES SHALL:

\* \* \*

1           (2) REQUIRE ANY PERSON OR MUNICIPALITY ENGAGED IN THE  
2 STORAGE, TRANSPORTATION, PROCESSING, TREATMENT, BENEFICIAL  
3 USE OR DISPOSAL OF ANY SOLID WASTE TO ESTABLISH AND MAINTAIN  
4 SUCH RECORDS AND MAKE SUCH REPORTS AND FURNISH SUCH  
5 INFORMATION AS THE DEPARTMENT MAY PRESCRIBE.

6           (3) ENTER ANY BUILDING, PROPERTY, PREMISES OR PLACE  
7 WHERE SOLID WASTE IS GENERATED, STORED, PROCESSED, TREATED,  
8 BENEFICIALLY USED OR DISPOSED OF FOR THE PURPOSES OF MAKING  
9 SUCH INVESTIGATION OR INSPECTION AS MAY BE NECESSARY TO  
10 ASCERTAIN THE COMPLIANCE OR NONCOMPLIANCE BY ANY PERSON OR  
11 MUNICIPALITY WITH THE PROVISIONS OF THIS ACT AND THE RULES OR  
12 REGULATIONS PROMULGATED HEREUNDER. IN CONNECTION WITH SUCH  
13 INSPECTION OR INVESTIGATION, SAMPLES MAY BE TAKEN OF ANY  
14 SOLID, SEMISOLID, LIQUID OR CONTAINED GASEOUS MATERIAL FOR  
15 ANALYSIS. IF ANY ANALYSIS IS MADE OF SUCH SAMPLES, A COPY OF  
16 THE RESULTS OF THE ANALYSIS SHALL BE FURNISHED WITHIN FIVE  
17 BUSINESS DAYS TO THE PERSON HAVING APPARENT AUTHORITY OVER  
18 THE BUILDING, PROPERTY, PREMISES OR PLACE.

19 SECTION 610. UNLAWFUL CONDUCT.

20 IT SHALL BE UNLAWFUL FOR ANY PERSON OR MUNICIPALITY TO:

21           \* \* \*

22           (4) STORE, COLLECT, TRANSPORT, PROCESS, TREAT,  
23 BENEFICIALLY USE, OR DISPOSE OF, OR ASSIST IN THE STORAGE,  
24 COLLECTION, TRANSPORTATION, PROCESSING, TREATMENT, BENEFICIAL  
25 USE, OR DISPOSAL OF, SOLID WASTE CONTRARY TO THE RULES OR  
26 REGULATIONS ADOPTED UNDER THIS ACT, OR ORDERS OF THE  
27 DEPARTMENT, OR ANY TERM OR ANY CONDITION OF ANY PERMIT, OR IN  
28 ANY MANNER AS TO CREATE A PUBLIC NUISANCE OR TO ADVERSELY  
29 AFFECT THE PUBLIC HEALTH, SAFETY AND WELFARE.

30           \* \* \*

1       Section ~~6~~ 4.   Nothing in this act shall be deemed to affect       <—  
2   section 508 of the act nor any other provision of the act in  
3   relation to coal ash.  
4       Section ~~7~~ 5.   This act shall take effect in 60 days.       <—