

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 557 Session of
1991

INTRODUCED BY STAIRS, BILLOW, BELARDI, FARGO, MELIO, TRELLO,
DALEY, HALUSKA, ARGALL, GRUPPO, MARKOSEK, FAIRCHILD,
WILLIAMS, OLASZ, BUSH, D. W. SNYDER, LANGTRY, HARPER, BUNT,
KING, CAWLEY, E. Z. TAYLOR, KASUNIC AND ADOLPH,
MARCH 12, 1991

REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, MARCH 12, 1991

AN ACT

1 Amending the act of April 9, 1929 (P.L.177, No.175), entitled
2 "An act providing for and reorganizing the conduct of the
3 executive and administrative work of the Commonwealth by the
4 Executive Department thereof and the administrative
5 departments, boards, commissions, and officers thereof,
6 including the boards of trustees of State Normal Schools, or
7 Teachers Colleges; abolishing, creating, reorganizing or
8 authorizing the reorganization of certain administrative
9 departments, boards, and commissions; defining the powers and
10 duties of the Governor and other executive and administrative
11 officers, and of the several administrative departments,
12 boards, commissions, and officers; fixing the salaries of the
13 Governor, Lieutenant Governor, and certain other executive
14 and administrative officers; providing for the appointment of
15 certain administrative officers, and of all deputies and
16 other assistants and employees in certain departments, boards,
17 and commissions; and prescribing the manner in which the
18 number and compensation of the deputies and all other
19 assistants and employees of certain departments, boards and
20 commissions shall be determined," further providing for
21 energy development authority and emergency powers; and
22 providing for the designation of an agency to coordinate the
23 monitoring of supplies of energy resources.

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

26 Section 1. Sections 2801-C and 2802-C of the act of April 9,
27 1929 (P.L.177, No.175), known as The Administrative Code of

1 1929, added December 14, 1982 (P.L.1213, No.280), are amended to
2 read:

3 Section 2801-C. Definitions.--The following words and
4 phrases when used in this article shall have the meanings given
5 to them in this section unless the context clearly indicates
6 otherwise:

7 "Authority" means the Energy Development Authority.

8 "Board" means the board of directors of the authority.

9 "Bond" or "Bonds" means notes, bonds, refunding or renewal
10 notes and bonds and other evidence of indebtedness or
11 obligations which the authority is authorized to issue.

12 "Cost" means the expense of construction and the expense of
13 acquisition of all structures, lands and other property rights
14 and interests in land necessary to a project. The term also
15 includes the expense of demolishing, removing or relocating any
16 buildings or structures on lands acquired or to be acquired,
17 including the expense of acquiring any lands to which such
18 buildings or structures may be moved or relocated; sewage
19 treatment, waste treatment and pollution control facilities;
20 railroad sidings, spurs or branch lines; all labor, materials,
21 machinery and equipment, fixtures; financing charges; interest
22 on all bonds prior to and during construction, and for a period
23 of one year thereafter; engineering, financial and legal
24 services; plans, specifications, studies, surveys necessary or
25 incidental to determining the feasibility or practicability of
26 constructing a project; administrative expenses; reserves for
27 interest and for extension, enlargements, additions and
28 improvements; and such other expenses as may be necessary or
29 incidental to the construction of the project and the placing of
30 the same in operation.

1 "Energy or fuel supply emergency" means a state of emergency,
2 declared by proclamation of the Governor within twenty-four
3 hours after the occurrence of an energy resource shortage or
4 supply or distribution problem resulting because of an absence
5 of availability or a critically reduced supply of any energy
6 source, which cannot be satisfactorily alleviated or resolved by
7 or under the authority of State regulatory authorities having
8 jurisdiction over such energy resources, thereby jeopardizing
9 the health, safety, welfare and economic well-being of the
10 inhabitants of this Commonwealth.

11 "Energy resource" means any force or material which yields or
12 has the potential to yield energy, including, but not limited
13 to, electrical, fossil and nuclear sources.

14 "Person" means a natural person, corporation, partnership,
15 association, and any municipality of this Commonwealth and any
16 public corporation, authority or body whatsoever.

17 "Petroleum product" includes motor gasoline, kerosene,
18 distillates (including Number 2 fuel oil) and diesel fuel.

19 "Project" means an activity, entirely or largely conducted in
20 Pennsylvania, which cannot be effectively funded using privately
21 available resources, relating to:

22 (1) basic and applied research concerning energy use,
23 renewable energy resources and energy extraction, transmission,
24 storage or conversion;

25 (2) limited scale demonstration of innovative or
26 commercially unproven technology to promote the production, use
27 or conservation of energy; or

28 (3) activities to promote or remove obstacles to the
29 utilization and transportation of Pennsylvania energy resources,
30 including but not limited to limited scale synthetic fuel

1 facilities and the conversion or technological improvement of
2 industrial, commercial or agricultural systems to utilize
3 Pennsylvania coal or renewable energy resources: Provided, That
4 no such facility unreasonably interferes with private waste
5 recycling industries.

6 "Renewable energy source" means any method, process or
7 substance whose supply is rejuvenated through natural processes
8 and, subject to those material processes, remains relatively
9 constant, including, but not limited to, biomass conversion,
10 geothermal energy, solar and wind energy and hydroelectric
11 power, and excluding those sources of energy used in the fission
12 and fusion processes.

13 Section 2802-C. [Emergency Petroleum Product Shortages.--(a)
14 The Governor may, by executive order, proclaim a state of
15 emergency based upon a finding that there impends or exists a
16 substantial shortage of petroleum products available for use in
17 Pennsylvania which poses a serious threat to health, safety or
18 welfare of the public.] Energy or Fuel Supply Emergency.--(a)
19 In the event that the threat or danger of an energy or fuel
20 supply emergency is imminent, the Governor may, after
21 consultation with the Lieutenant Governor, the Pennsylvania
22 Energy Office, the Pennsylvania Public Utility Commission and
23 the Department of Environmental Resources, declare a state of
24 energy or fuel supply emergency. A state of energy or fuel
25 supply emergency shall remain in effect for the maximum period
26 of ninety days [and may be extended], but may be terminated or
27 extended by the Governor unless the termination or extension is
28 disapproved by concurrent resolution adopted by both Houses of
29 the General Assembly. A state of emergency may be declared for
30 all or any portion of the Commonwealth.

1 [(b) Upon proclamation of a state of emergency, the Governor
2 shall designate a State agency to conduct emergency allocation
3 measures during the period of the declared emergency. Emergency
4 allocation measures may consist of:

5 (1) the administration of any emergency allocation powers
6 delegated to the State by the President or any Federal agency;

7 (2) the implementation of a set aside program, for not more
8 than one percent (1%) of the petroleum products available for
9 use in Pennsylvania, to alleviate hardship or meet emergency
10 needs. A set aside program shall be established in conformity
11 with any Federal law, regulations or executive orders governing
12 petroleum allocation, and shall apply only to petroleum products
13 found to be in a substantial shortage;

14 (3) measures to reduce the demand for or consumption of
15 gasoline; and

16 (4) other measures identified by the Governor in his
17 executive order proclaiming a state of emergency as necessary to
18 protect the public health, safety and welfare.

19 (c) The agency designated by the Governor to conduct
20 emergency measures may, during the period of the emergency,
21 adopt rules and regulations pursuant to section 204 of the act
22 of July 31, 1968 (P.L.769, No.240), referred to as the
23 Commonwealth Documents Law. Any regulation adopted during a
24 state of emergency shall be automatically rescinded upon the
25 expiration of the emergency.

26 (d) The Governor may designate a state agency to monitor
27 supplies of available for use in the Commonwealth to determine
28 whether there exists, or is likely to exist, an emergency
29 shortage.

30 (1) In order to monitor supplies of petroleum products, the

1 agency may require recordkeeping and periodic reports from
2 petroleum suppliers. These reporting and recordkeeping
3 requirements shall, to the maximum extent possible, employ
4 Federally mandated reports and records, avoid any unnecessary
5 duplicative reporting or recordkeeping, and minimize paperwork,
6 recordkeeping and reporting requirements.

7 (2) Reports filed and records maintained pursuant to this
8 subsection shall be deemed confidential.

9 (3) When a petroleum supplier or a company providing
10 information to a petroleum supplier claims that the information
11 requested by the agency is confidential, proprietary, market or
12 trade secret information, or when the information is deemed
13 confidential pursuant to this section, the agency shall not
14 disclose such information publicly or to any other governmental
15 agency unless the information is aggregated as part of a
16 statistical report in which the data and individual companies
17 supplying the data cannot be identified.

18 (4) No employe or appointee of the agency or other person
19 may release information from a petroleum product company that
20 would enable data provided by or relating to individual
21 customers of the company to be identified as relating to or
22 coming from the individual customer. Any person disclosing such
23 information in violation of this section shall be guilty of a
24 misdemeanor, shall be subject to disciplinary action, including
25 reprimand, suspension or termination, and may be ordered to make
26 restitution to any injured or aggrieved party for losses or
27 damages shown.

28 (5) In order to obtain information required pursuant to this
29 subsection, the agency designated by the Governor to monitor
30 supplies of may receive or share information from any other

Commonwealth, Federal or local agency: Provided, That the agency shall provide the same confidentiality to information recovered as is provided by the supplying agency.] (b) Upon proclamation of a state of emergency, the Governor shall have the power:

(1) To designate a State agency to conduct emergency petroleum allocation measures which may consist of any of the following:

(i) The administration of any emergency petroleum allocation powers delegated to the State by the President or any Federal agency.

(ii) The implementation of a set-aside program, for not more than one per centum (1%) of the petroleum products available for use in Pennsylvania, to alleviate hardship or meet emergency needs. A set-aside program shall be established in conformity with any Federal law, regulations or executive orders governing petroleum allocation, and shall apply only to petroleum products found to be in a substantial shortage.

(iii) Measures to reduce the demand for or consumption of petroleum products.

(iv) The adoption of rules and regulations in the manner provided by law. Any regulation adopted during a state of emergency shall be automatically rescinded upon the expiration of the emergency.

(v) Any other measures deemed necessary to protect the public health, safety and welfare.

(2) To encourage increased use of renewable energy sources.

(3) To suspend or modify existing state standards and requirements affecting or affected by the use of energy resources, including those related to air quality control.

(4) To order specific restrictions on the use and sale of

energy resources, including, but not limited to:

(i) Restrictions on the interior temperature of public, commercial, industrial and school buildings.

(ii) Restrictions on the hours and days during which public, commercial, industrial and school buildings may be open.

(iii) Restrictions on lighting levels in public, commercial, industrial and school buildings.

(iv) Restrictions on the use of display and decorative lighting.

(v) Restrictions on the use of privately owned vehicles or a reduction in speed limits.

(vi) Restrictions on the use of public transportation, including directions to close a public transportation facility.

(vii) Restrictions on the use of pupil transportation programs operated by public schools.

(viii) Reduction in the number of elevators operating in office buildings during nonpeak hours.

(ix) Curtailment of nighttime sports, entertainment and recreational activities.

(x) Closing of public museums, art galleries and historic buildings.

(xi) Requiring Sunday closings of retail establishments, except for services essential to the public.

(xii) Requiring closing of all retail establishments during specified hours of the day, except for services essential to the public.

(c) Any restrictions ordered by the Governor shall be automatically rescinded upon the expiration of the emergency.

(d) Any actions taken by the Governor pursuant to this section, insofar as they may apply to a regulated utility, shall

1 not conflict with or supersede regulations or orders of the
2 Pennsylvania Public Utility Commission or curtailment procedures
3 on file with the Pennsylvania Public Utility Commission, nor
4 shall any restrictions on the use of fuel for the generation of
5 energy or on the transportation of fuel for the generation of
6 energy be imposed prior to consultation with the Pennsylvania
7 Public Utility Commission.

8 (e) An executive order, proclamation or directive issued
9 under this section shall be disseminated promptly by means
10 calculated to bring its contents to the attention of the
11 citizens of this Commonwealth and published in accordance with
12 the law. The Governor shall notify the General Assembly promptly
13 of an executive order, proclamation or directive issued under
14 this act.

15 (f) Any person who knowingly violates any order,
16 proclamation or directive issued by the Governor under this
17 section commits a misdemeanor of the third degree and shall,
18 upon conviction, be sentenced to pay a fine or not more the
19 \$500. Each day of a continuing violation shall be a separate
20 offense.

21 (g) Nothing in this act shall limit the authority of the
22 Pennsylvania Public Utility Commission to regulate public
23 utility service as provided in Title 66 of the Pennsylvania
24 Consolidated Statutes (relating to public utilities).

25 Section 2. The act is amended by adding a section to read:

26 Section 2802.1-C. Coordination of Monitoring of Supplies of
27 Energy Resources.--(a) Within sixty (60) days of the effective
28 date of this section, the Governor shall designate a State
29 agency to coordinate the monitoring of supplies of energy
30 resources available for use in this Commonwealth to determine

1 whether there exists, or is likely to exist, an emergency
2 shortage.

3 (b) In order to coordinate the monitoring of energy
4 resources, the agency may require recordkeeping and periodic
5 reports from energy resource suppliers. These reporting and
6 recordkeeping requirements shall, to the maximum extent
7 possible, employ mandated reports and records of other
8 Commonwealth, Federal or local agencies, avoid any unnecessary
9 duplicative reporting or recordkeeping, and minimize paperwork,
10 recordkeeping and reporting requirements.

11 (c) Any agency that provides or receives reports or records
12 under this act, any other act, any rule or regulation or any
13 executive order or similar directive for the purpose of
14 monitoring or coordinating the monitoring of supplies of energy
15 resources shall keep such records or reports confidential.

16 (d) When an energy resource supplier or a company providing
17 information to an energy resource supplier claims that the
18 information requested by the agency is confidential,
19 proprietary, market or trade secret information, or when the
20 information is deemed confidential pursuant to this section, the
21 agency shall not disclose such information publicly or to any
22 other governmental agency unless the information is aggregated
23 as part of a statistical report in which the data and individual
24 companies supplying the data cannot be identified.

25 (e) No employe or appointee of the agency or other person
26 may release information from an energy resource company that
27 would enable data provided by or relating to individual
28 customers of the energy resource company to be identified as
29 relating to or coming from the individual customer. Any person
30 disclosing such information in violation of this section shall

1 be guilty of a misdemeanor of the third degree, shall be subject
2 to disciplinary action, including reprimand, suspension or
3 termination, and may be ordered to make restitution to any
4 injured or aggrieved party for losses or damages shown.

5 (f) In order to obtain information required pursuant to this
6 section, the agency designated by the Governor to coordinate the
7 monitoring of supplies of energy resources may receive or share
8 information from any other Commonwealth, Federal or local
9 agency: Provided, however, That the agency shall provide the
10 same confidentiality to information received as is provided by
11 the supplying agency.

12 Section 3. This act shall take effect immediately.