
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 873 Session of
1995

INTRODUCED BY HERSHEY, BARLEY, SANTONI, MILLER, STAIRS,
D. R. WRIGHT, PERZEL, BUNT, GEIST, HUTCHINSON, FLEAGLE,
STISH, GODSHALL, BROWN, TRUE, PESCI, CALTAGIRONE, MAITLAND,
READSHAW, HENNESSEY, ARGALL, STERN, TRELLO, LEH, ARMSTRONG,
FARGO, E. Z. TAYLOR, CARONE, CLYMER, GAMBLE, SEMMEL, SAYLOR,
PETRARCA, CHADWICK, LYNCH, DENT, TIGUE, DURHAM, GORDNER,
DRUCE, ROHRER, S. H. SMITH, HASAY, D. W. SNYDER, BAKER,
B. SMITH AND SCHULER, FEBRUARY 21, 1995

SENATOR MADIGAN, AGRICULTURE AND RURAL AFFAIRS, AS AMENDED,
JUNE 10, 1996

AN ACT

1 Amending the act of January 8, 1960 (1959 P.L.2119, No.787),
2 entitled, as amended, "An act to provide for the better
3 protection of the health, general welfare and property of the
4 people of the Commonwealth by the control, abatement,
5 reduction and prevention of the pollution of the air by
6 smokes, dusts, fumes, gases, odors, mists, vapors, pollens
7 and similar matter, or any combination thereof; imposing
8 certain powers and duties on the Department of Environmental
9 Resources, the Environmental Quality Board and the
10 Environmental Hearing Board; establishing procedures for the
11 protection of health and public safety during emergency
12 conditions; creating a stationary air contamination source
13 permit system; providing additional remedies for abating air
14 pollution; reserving powers to local political subdivisions,
15 and defining the relationship between this act and the
16 ordinances, resolutions and regulations of counties, cities,
17 boroughs, towns and townships; imposing penalties for
18 violation of this act; and providing for the power to enjoin
19 violations of this act; and conferring upon persons aggrieved
20 certain rights and remedies," further providing for the
21 prohibition against adoption of agricultural rules and
22 regulations AND FOR THE SMALL BUSINESS OMBUDSMAN. <—

23 The General Assembly of the Commonwealth of Pennsylvania

1 hereby enacts as follows:

2 Section 1. ~~Section 4.1~~ SECTIONS 4.1 AND 7.9(A) of the act of <—
3 January 8, 1960 (1959 P.L.2119, No.787), known as the Air
4 Pollution Control Act, amended OR ADDED July 9, 1992 (P.L.460, <—
5 No.95), ~~is~~ ARE amended to read: <—

6 Section 4.1. Agricultural Regulations Prohibited.--(a)
7 Except as may be required by the Clean Air Act or the
8 regulations promulgated under the Clean Air Act, this act shall
9 not apply to the production of agricultural commodities and the
10 Environmental Quality Board shall not have the power nor the
11 authority to adopt rules and regulations relating to air
12 contaminants and air pollution arising from the production of
13 agricultural commodities [in their unmanufactured state but this
14 prohibition shall not include the use of materials produced or
15 manufactured off the premises of the farm operation].

16 (b) As used in this section, the term "production of
17 agricultural commodities" shall include, but is not limited to:

18 (1) The commercial propagation, production, harvesting or
19 drying on the premises of the farm operation or the disposal of
20 residual materials resulting from the commercial propagation,
21 production, harvesting or drying on the premises of the farm
22 operation of the following:

23 (i) Field crops, including corn, wheat, oats, rye, barley,
24 hay, potatoes and dry beans.

25 (ii) Fruits, including apples, peaches, grapes, cherries and
26 berries.

27 (iii) Vegetables, including tomatoes, snap beans, cabbage,
28 carrots, beets, onions, mushrooms, sweet corn and green peas.

29 (iv) Horticultural specialties, including nursery stock,
30 ornamental shrubs, ornamental trees and flowers.

1 (v) Livestock and livestock products, including cattle,
2 sheep, hogs, goats, horses, poultry, furbearing animals, milk,
3 eggs and furs.

4 (vi) Timber, wood and other wood products derived from
5 trees.

6 (vii) Aquatic plants and animals and their byproducts.

7 (2) THE PROCESSING OF AGRICULTURAL COMMODITIES PROPAGATED, <—
8 PRODUCED, HARVESTED OR DRIED UNDER CLAUSE (1) OR THE DISPOSAL OF
9 RESIDUAL MATERIALS RESULTING FROM SUCH PROCESSING.

10 ~~(2)~~ (3) The commercial production, processing or storage of <—
11 compost, except for compost including, all or in part, biosolids
12 originating at a municipal sewage treatment facility, to be
13 predominantly used in the commercial propagation or production
14 of any agricultural commodity identified under clause (1),
15 regardless of whether the compost is being produced, processed
16 or stored on a different premises than the premises in which the
17 compost is being used.

18 ~~(3)~~ (4) The use of any material whose production, processing <—
19 or storage is exempt from this act under clause ~~(2)~~ (3) in the <—
20 commercial propagation or production of any agricultural
21 commodity identified under clause (1), or any odor or malodor or
22 fugitive air emission resulting from the production, processing
23 or storage of any material so exempted.

24 (C) THE EXEMPTIONS APPLIED UNDER SUBSECTION (B)(2) SHALL <—
25 ONLY APPLY TO AGRICULTURAL COMMODITIES PROPAGATED, PRODUCED,
26 HARVESTED OR DRIED ON THE PREMISES OF THE FARM OPERATION.

27 SECTION 7.9. SMALL BUSINESS OMBUDSMAN.--(A) THERE IS HEREBY
28 ESTABLISHED AN OFFICE OF SMALL BUSINESS OMBUDSMAN WITHIN THE
29 DEPARTMENT OF [COMMERCE] ENVIRONMENTAL PROTECTION FOR THE
30 PURPOSE OF SERVING AS THE PRIMARY POINT OF CONTACT FOR SMALL

1 BUSINESS ON ISSUES RELATING TO COMPLIANCE WITH THIS ACT AND THE
2 CLEAN AIR ACT.

3 * * *

4 Section 2. This act shall be retroactively applied to
5 January 1, 1991, in dismissing any pending legal or
6 administrative action by the Department of Environmental
7 Protection arising from any activity which, by enactment of this
8 amendatory act, is not subject to the provisions of the act.

9 Section 3. This act shall take effect immediately.