

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 632 Session of
1999

INTRODUCED BY RAMOS, BELARDI, MELIO, YOUNGBLOOD, M. COHEN,
LAUGHLIN, PESCI, MAHER, CARN, HARHAI, WASHINGTON AND
ROBINSON, FEBRUARY 22, 1999

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
APRIL 19, 1999

AN ACT

1 Amending ~~Titles~~ TITLE 18 (Crimes and Offenses) ~~and 75 (Vehicles)~~ <—
2 of the Pennsylvania Consolidated Statutes, further providing
3 for institutional vandalism; defining the offense of
4 vandalism; providing for graffiti removal and abatement, for
5 community service and for work release; ~~further providing for~~ <—
6 ~~the revocation or suspension of operating privilege;~~
7 PROVIDING FOR THE TRANSPORTATION OF WASTE; and providing <—
8 penalties.

9 The General Assembly of the Commonwealth of Pennsylvania
10 hereby enacts as follows:

11 Section 1. Section 3307 of Title 18 of the Pennsylvania
12 Consolidated Statutes is amended to read:

13 § 3307. Institutional vandalism.

14 (a) Offenses defined.--A person commits the offense of
15 institutional vandalism if he knowingly desecrates, as defined
16 in section 5509 (relating to desecration of venerated objects),
17 vandalizes, defaces or otherwise damages:

18 (1) any church, synagogue or other facility or place
19 used for religious worship or other religious purposes;

20 (2) any cemetery, mortuary or other facility used for

1 the purpose of burial or memorializing the dead;

2 (3) any school, educational facility, community center,
3 municipal building, courthouse facility, State or local
4 government building or vehicle or juvenile detention center;

5 (4) the grounds adjacent to and owned or occupied by any
6 facility set forth in paragraph (1), (2) or (3); or

7 (5) any personal property located in any facility set
8 forth in this subsection.

9 (a.1) Illegal possession.--A person commits the offense of
10 institutional vandalism if, with intent to violate subsection
11 (a), the person carries an aerosol spray-paint can, broad-tipped
12 indelible marker or similar marking device onto property
13 identified in subsection (a).

14 (b) Grading.--An offense under this section is a felony of
15 the third degree if the act is one of desecration as defined in
16 section 5509 or if the actor causes pecuniary loss in excess of
17 \$5,000. Pecuniary loss includes the cost of repair or
18 replacement of the property affected. Otherwise, institutional
19 vandalism is a misdemeanor of the second degree.

20 (c) Community service.--Upon conviction OR ADJUDICATION OF <—
21 DELINQUENCY of any person under this section, the court may in
22 addition to or in lieu of any other punishment imposed order the
23 defendant to participate in a graffiti abatement program or a
24 community service program as follows:

25 (1) For a first conviction OR ADJUDICATION OF <—
26 DELINQUENCY under this section, community service not to
27 exceed 100 hours over a period of not more than 90 days
28 during a time other than the defendant's hours of school
29 attendance or employment.

30 (2) For a second conviction OR ADJUDICATION OF <—

1 DELINQUENCY under this section, community service not to
2 exceed 200 hours over a period of 180 days during a time
3 other than the defendant's hours of school attendance or
4 employment.

5 (3) For a third or subsequent conviction OR ADJUDICATION <—
6 OF DELINQUENCY under this section, community service not to
7 exceed 300 hours over a period of not more than 240 days
8 during a time other than the defendant's hours of school
9 attendance or employment.

10 (d) Community service for certain defendants.--Any person
11 who has been twice convicted OR ADJUDICATED DELINQUENT under <—
12 this section, or twice convicted OR ADJUDICATED DELINQUENT under <—
13 section 3310 (relating to vandalism), or convicted OR <—
14 ADJUDICATED DELINQUENT under both sections and who has been
15 incarcerated for at least one of such convictions OR <—
16 ADJUDICATIONS OF DELINQUENCY, may be ordered by the court as a
17 condition of probation to perform community service not to
18 exceed 300 hours over a period of not more than 240 days during
19 a time other than the defendant's hours of school attendance or
20 employment.

21 (e) Counseling.--The court may order any person ordered to
22 perform community service or graffiti removal under this section
23 to undergo counseling.

24 Section 2. Title 18 is amended by adding sections to read:
25 § 3310. Vandalism.

26 (a) Offense defined.--A person commits the offense of
27 vandalism if the person maliciously defaces with graffiti or
28 other inscribed material or damages or destroys any real or
29 personal property not his own.

30 (b) Grading and penalties.--An offense under this section

1 is:

2 (1) A summary offense if the amount of defacement,
3 damage or destruction is \$1,000 or less, such offense being
4 punishable by a fine of not more than \$1,000 or imprisonment
5 of not more than six months, or both.

6 (2) A misdemeanor of the second degree if the
7 defacement, damage or destruction is more than \$1,000, but
8 not more than \$5,000.

9 (3) A misdemeanor of the first degree if the amount of
10 defacement, damage or destruction is more than \$5,000.

11 (c) Liability of parent.--If a minor is personally unable to
12 pay a fine levied for acts prohibited by this section, the
13 parent of that minor shall be liable for payment of the fine. A
14 court may waive payment of the fine or any part thereof by the
15 parent upon a finding of good cause.

16 (d) Counseling.--The court may order any person ordered to
17 perform community service or graffiti removal under this section
18 to undergo counseling.

19 (e) Definitions.--As used in this section, the following
20 words and phrases shall have the meanings given to them in this
21 subsection:

22 "Graffiti abatement program." A program adopted by a city,
23 county or city and county by resolution or ordinance that
24 provides for the administration and financing of graffiti
25 removal, community education on the prevention of graffiti and
26 enforcement of graffiti laws.

27 "Graffiti or other inscribed material." Any unauthorized
28 inscription, word, figure, mark or design that is written,
29 marked, etched, scratched, drawn or painted on real or personal
30 property.

1 § 3311. Graffiti and vandalism abatement programs.

2 (a) Funding.--A city, county or city and county may enact an
3 ordinance to provide for the use of city or county funds to
4 cover the costs of the removal of graffiti or other inscribed
5 material from publicly or privately owned real or personal
6 property located within the city or county that has been defaced
7 with graffiti or other inscribed material.

8 (b) Limitation.--The ordinance shall authorize only the
9 removal of graffiti or inscribed material itself or, if the
10 graffiti or other inscribed material cannot be removed cost
11 effectively, the repair or replacement of the portion of the
12 property that was defaced and not the painting, repair or
13 replacement of other parts of the property that were not
14 defaced.

15 (c) Consent of owner.--The removal, repair or replacement
16 may be performed in the case of publicly owned real or personal
17 property only after securing the consent of the public entity
18 having jurisdiction over the property and, in the case of
19 privately owned real or personal property, only after securing
20 the consent of the owner or possessor.

21 (d) Nuisance.--This section does not preclude the abatement
22 of graffiti or other inscribed material as a nuisance pursuant
23 to the laws of this Commonwealth or the enforcement of any
24 criminal law with respect to nuisance.

25 (e) Expenditure of funds.--A city or county by its ordinance
26 under subsection (a) may elect to cover:

27 (1) Court costs.

28 (2) Attorney fees.

29 (3) Costs of the removal of graffiti or other inscribed
30 material.

1 (4) Costs of repair and replacement of defaced property.

2 (5) Cost of administering and monitoring the
3 participation of a defendant in a community service or in a
4 graffiti abatement program.

5 (6) The law enforcement costs incurred by the city or
6 county in identifying and apprehending the person who
7 created, caused the graffiti or other inscribed material.

8 (7) Such other costs as deemed appropriate.

9 (f) Definition.--As used in this section, the term "graffiti
10 or other inscribed material" means any unauthorized inscription,
11 word, figure, mark or design that is written, marked, etched,
12 scratched, drawn or painted on any real or personal property.

13 § 3312. Work release for institutional vandalism and vandalism.

14 (a) General rule.--Notwithstanding any other law, the
15 governing body of any county may authorize the sheriff or other
16 official in charge of county correctional facilities to offer a
17 voluntary program under which any person committed to the
18 facility may participate in a work release program as described
19 in this section, in which one day of participation will be in
20 lieu of one day of confinement.

21 (b) Components of programs.--

22 (1) Performance of graffiti cleanup for local
23 governmental entities, including participation in graffiti
24 abatement as defined by this act, as approved by the sheriff
25 or other official in charge of the correctional facilities.

26 As a condition of assigning participants of a work release
27 program to perform manual labor in support of nonprofit
28 organizations pursuant to this section, the board of
29 commissioners or county council shall obtain workers'
30 compensation insurance which shall be adequate to cover work-

1 related injuries incurred by those participants.

2 (2) Any person who is not able to perform manual labor
3 as specified in this paragraph because of a medical
4 condition, physical disability or age may participate in a
5 work release program involving any other type of public
6 sector work that is designated and approved by the sheriff or
7 other official in charge of county facilities.

8 (3) The sheriff or other official may permit a prisoner
9 participating in a work release program to receive work
10 release credit for participation in education, vocational
11 training or substance programs in lieu of performing labor in
12 a work release program on an hour-for-hour basis. However,
13 credit for that participation may not exceed one-half of the
14 hours established for the work release program, and the
15 remaining hours shall consist of manual labor described in
16 paragraph (1).

17 (4) The work release program shall be under the
18 direction of a responsible person appointed by the sheriff or
19 other official in charge.

20 (c) Hours of labor.--The hours of labor to be performed
21 under this section shall be uniform for all persons committed to
22 a facility in a county and may be determined by the sheriff or
23 other official in charge of county correctional facilities. Each
24 day shall be a minimum of eight hours and a maximum of ten hours
25 in accordance with the normal working hours of county employees
26 assigned to supervise the programs. However, reasonable
27 accommodation may be made for participation in a program under
28 subsection (b)(3).

29 (d) Further conditions.--

30 (1) The board of county commissioners may prescribe

1 reasonable rules and regulations under which a work release
2 program is operated and may provide that participants wear
3 clothing of a distinctive character while performing the
4 work. As a condition of participating in a work release
5 program, a person shall promise to appear for work or
6 assigned activity by signing a notice to appear before the
7 sheriff or at the educational, vocational or substance abuse
8 program at a time and place specified in the notice and shall
9 sign an agreement that the sheriff may immediately retake the
10 person into custody to serve the balance of the sentence if
11 the person fails to appear for the program at the time and
12 place agreed to, does not perform the work or activity
13 assigned or for any other reason is no longer a fit subject
14 for release under this section. A copy of the notice shall be
15 delivered to the person and a copy shall be retained by the
16 sheriff.

17 (2) Any person who willfully violates a written promise
18 to appear at the time and place specified in the notice
19 commits a misdemeanor of the third degree.

20 (3) Whenever a peace officer has reasonable cause to
21 believe the person has failed to appear at the time and place
22 specified in the notice or fails to appear or work at the
23 time and place agreed to or has failed to perform the work
24 assigned, the peace officer may without a warrant retake the
25 person into custody, or the court may issue a warrant for the
26 retaking of the person into custody under this paragraph to
27 complete the remainder of the original sentence. A peace
28 officer may not retake a person into custody under this
29 paragraph without a warrant for arrest unless the officer has
30 a written order to do so, signed by the sheriff or other

1 person in charge of the program, which describes with
2 particularity the person to be retaken.

3 (e) Construction.--Nothing in this section shall be
4 construed to require the sheriff or other official in charge to
5 assign a person to a program pursuant to this section if it
6 appears from the record that the person has refused to perform
7 satisfactorily as assigned or has not satisfactorily complied
8 with the reasonable rules and regulations governing the
9 assignment or any other order of the court. A person shall be
10 eligible for work release under this section only if the sheriff
11 or other official in charge concludes that the person is a fit
12 subject for the program.

13 ~~Section 3. Section 1532(b)(3) of Title 75, amended December~~ <—
14 ~~21, 1998 (P.L. , No.151), is amended to read:~~

15 ~~§ 1532. Suspension of operating privilege.~~

16 ~~* * *~~

17 ~~(b) Suspension.~~

18 ~~* * *~~

19 ~~(3) The department shall suspend the operating privilege~~
20 ~~of any driver for 12 months upon receiving a certified record~~
21 ~~of the driver's conviction of section 3731 (relating to~~
22 ~~driving under influence of alcohol or controlled substance)~~
23 ~~[or], 3733 (relating to fleeing or attempting to elude police~~
24 ~~officer), 18 Pa.C.S. § 3310 (relating to vandalism), or~~
25 ~~substantially similar offenses reported to the department~~
26 ~~under Article III of section 1581 (relating to Driver's~~
27 ~~License Compact), or an adjudication of delinquency based on~~
28 ~~section 3731 [or], 3733 or 18 Pa.C.S. § 3310. The department~~
29 ~~shall suspend the operating privilege of any driver for six~~
30 ~~months upon receiving a certified record of a consent decree~~

~~granted under 42 Pa.C.S. Ch. 63 (relating to juvenile
matters) based on section 3731 [or], 3733 or 18 Pa.C.S. §
3310.~~

SECTION 3. CHAPTER 73 OF TITLE 18 IS AMENDED BY ADDING A
SUBCHAPTER TO READ:

SUBCHAPTER C

TRANSPORTATION OF WASTE

SEC.

7371. DEFINITIONS.

7372. TRANSPORTER PROGRAM.

7373. MANIFEST SYSTEM.

§ 7371. DEFINITIONS.

THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS SUBCHAPTER
SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
CONTEXT CLEARLY INDICATES OTHERWISE:

"DEPARTMENT." THE DEPARTMENT OF ENVIRONMENTAL PROTECTION OF
THE COMMONWEALTH.

"GROSS VEHICLE WEIGHT." THE COMBINED WEIGHT OF A VEHICLE OR
COMBINATION OF VEHICLES AND ITS LOAD, EXCLUDING THE DRIVER'S
WEIGHT.

"MUNICIPAL WASTE PLANNING, RECYCLING AND WASTE REDUCTION
ACT." THE ACT OF JULY 28, 1988 (P.L.556, NO.101), KNOWN AS THE
MUNICIPAL WASTE PLANNING, RECYCLING AND WASTE REDUCTION ACT.

"SECRETARY." THE SECRETARY OF ENVIRONMENTAL PROTECTION OF
THE COMMONWEALTH.

"SOLID WASTE MANAGEMENT ACT." THE ACT OF JULY 7, 1980
(P.L.380, NO.97), KNOWN AS THE SOLID WASTE MANAGEMENT ACT.

"TRANSPORTER." THE OWNER OF A SEMITRAILER USED FOR THE
TRANSPORTING OF MUNICIPAL OR RESIDUAL WASTE.

§ 7372. TRANSPORTER PROGRAM.

(A) WRITTEN AUTHORIZATION REQUIRED.--IT SHALL BE UNLAWFUL FOR A TRANSPORTER TO TRANSPORT MUNICIPAL OR RESIDUAL WASTE TO A MUNICIPAL WASTE LANDFILL, CONSTRUCTION/DEMOLITION WASTE LANDFILL, RESOURCE RECOVERY FACILITY OR A COMMERCIAL RESIDUAL WASTE FACILITY IN THIS COMMONWEALTH ON A COMBINATION OF VEHICLES THAT EXCEEDS 56,000 POUNDS GROSS VEHICLE WEIGHT UNLESS THE TRANSPORTER HAS OBTAINED A WRITTEN AUTHORIZATION FROM THE DEPARTMENT UNDER THIS SECTION. A COMBINATION OF VEHICLES SHALL INCLUDE THE TRACTOR AND SEMITRAILER.

(B) ONE-TIME APPLICATION FEE.--THE INITIAL APPLICATION FOR A WRITTEN AUTHORIZATION SUBMITTED BY THE TRANSPORTER SHALL BE ACCOMPANIED BY A ONE-TIME APPLICATION FEE OF \$1,000.

(C) VEHICLE AND WEIGHT FEE.--THE INITIAL APPLICATION AND EACH ANNUAL SUBMISSION TO THE DEPARTMENT SHALL BE ACCOMPANIED BY A FEE BASED ON THE NUMBER OF VEHICLES AND GROSS VEHICLE WEIGHT OF THE VEHICLES OWNED BY THE TRANSPORTER THAT ARE SUBJECT TO THIS SECTION, AS FOLLOWS:

(1) COMBINATION OF VEHICLES LICENSED FOR 56,000-64,000 POUNDS GROSS VEHICLE WEIGHT - \$1,500 PER VEHICLE.

(2) COMBINATION OF VEHICLES LICENSED FOR 64,001-73,280 POUNDS GROSS VEHICLE WEIGHT - \$2,500 PER VEHICLE.

(3) COMBINATION OF VEHICLES LICENSED FOR MORE THAN 73,281 POUNDS GROSS VEHICLE WEIGHT - \$5,000 PER VEHICLE.

(D) SEMITRAILER STICKERS.--THE DEPARTMENT SHALL PROVIDE THE TRANSPORTER WITH TWO STICKERS FOR EACH SEMITRAILER INDICATING THE TRANSPORTER'S AUTHORIZATION NUMBER AND AUTHORIZATION EXPIRATION DATE. ONE STICKER SHALL BE DISPLAYED PROMINENTLY ON THE LEFT FRONT BULKHEAD, AND THE OTHER STICKER SHALL BE SIMILARLY DISPLAYED ON THE BACK OF THE SEMITRAILER USED TO TRANSPORT THE WASTE. EACH TRACTOR USED IN COMBINATION WITH THE

1 SEMITRAILER SHALL CARRY A COPY OF THE WRITTEN AUTHORIZATION
2 ISSUED BY THE DEPARTMENT TO THE TRANSPORTER.

3 (E) TERM OF WRITTEN AUTHORIZATION.--THE WRITTEN
4 AUTHORIZATION SHALL BE VALID FOR A MAXIMUM OF ONE YEAR. THE FEES
5 ESTABLISHED IN SUBSECTION (C) SHALL BE PAID TO THE DEPARTMENT BY
6 JULY 1 OF EACH YEAR, AT WHICH POINT THE DEPARTMENT SHALL RENEW
7 THE AUTHORIZATION IN WRITING AND SHALL ISSUE UPDATED STICKERS.

8 (F) COLLATERAL BOND REQUIRED.--

9 (1) PRIOR TO THE ISSUANCE OF A WRITTEN AUTHORIZATION
10 UNDER THIS SECTION FOR THE TRANSPORTATION OF MUNICIPAL OR
11 RESIDUAL WASTE, THE APPLICANT FOR THE WRITTEN AUTHORIZATION
12 SHALL FILE WITH THE DEPARTMENT A COLLATERAL BOND ON A FORM
13 PRESCRIBED AND FURNISHED BY THE DEPARTMENT. THE DEPARTMENT
14 MAY WAIVE THE BONDING REQUIREMENT FOR MUNICIPALITIES THAT ARE
15 TRANSPORTERS UPON WRITTEN REQUEST FROM THE MUNICIPALITY.

16 (2) THE BOND SHALL BE PAYABLE TO THE COMMONWEALTH AND
17 CONDITIONED UPON COMPLIANCE BY THE TRANSPORTER WITH THIS
18 SUBCHAPTER, THE SOLID WASTE MANAGEMENT ACT, AND EVERY RULE,
19 REGULATION AND ORDER OF THE DEPARTMENT AND THE TERMS AND
20 CONDITIONS OF THE WRITTEN AUTHORIZATION.

21 (3) THE AMOUNT OF THE BOND SHALL BE IN AN AMOUNT
22 DETERMINED BY THE SECRETARY AND SHALL BE BASED UPON THE
23 NUMBER OF SEMITRAILERS A TRANSPORTER USES UNDER SUBSECTION
24 (C), BUT SHALL BE NOT LESS THAN \$10,000.

25 (4) THE DEPARTMENT MAY REQUIRE ADDITIONAL BOND AMOUNTS
26 IF THE DEPARTMENT DETERMINES SUCH ADDITIONAL AMOUNTS ARE
27 NECESSARY TO GUARANTEE COMPLIANCE.

28 (5) THE TRANSPORTER MAY ELECT TO DEPOSIT CASH OR
29 AUTOMATICALLY RENEWABLE IRREVOCABLE LETTERS OF CREDIT WHICH
30 ARE TERMINABLE ONLY UPON 90 DAYS' WRITTEN NOTICE TO THE

1 OPERATOR AND THE DEPARTMENT, OR NEGOTIABLE BONDS OF THE
2 UNITED STATES GOVERNMENT OR THE COMMONWEALTH OF PENNSYLVANIA,
3 THE PENNSYLVANIA TURNPIKE COMMISSION, THE DEPARTMENT OF
4 GENERAL SERVICES, THE STATE PUBLIC SCHOOL BUILDING AUTHORITY,
5 OR ANY MUNICIPALITY WITHIN THE COMMONWEALTH. NO CORPORATE
6 SURETY BOND MAY BE USED TO SATISFY THIS SUBSECTION. THE CASH
7 AMOUNT OF SUCH DEPOSIT, IRREVOCABLE LETTERS OF CREDIT OR
8 MARKET VALUE OF SUCH SECURITIES SHALL BE EQUAL AT LEAST TO
9 THE SUM OF THE BOND.

10 (6) THE SECRETARY SHALL, UPON RECEIPT OF ANY SUCH
11 DEPOSIT OF CASH OR NEGOTIABLE BONDS, IMMEDIATELY PLACE THE
12 SAME WITH THE STATE TREASURER, WHOSE DUTY IT SHALL BE TO
13 RECEIVE AND HOLD THE SAME IN THE NAME OF THE COMMONWEALTH, IN
14 TRUST, FOR THE PURPOSES FOR WHICH THE DEPOSIT IS MADE. THE
15 STATE TREASURER SHALL, AT ALL TIMES, BE RESPONSIBLE FOR THE
16 CUSTODY AND SAFEKEEPING OF SUCH DEPOSITS.

17 (7) (I) THE TRANSPORTER MAKING THE DEPOSIT SHALL BE
18 ENTITLED FROM TIME TO TIME TO DEMAND AND RECEIVE FROM THE
19 STATE TREASURER, ON THE WRITTEN ORDER OF THE SECRETARY,
20 THE WHOLE OR ANY PORTION OF ANY COLLATERAL SO DEPOSITED,
21 UPON DEPOSITING WITH THE STATE TREASURY, IN LIEU THEREOF,
22 OTHER COLLATERAL OF THE CLASSES SPECIFIED IN THIS
23 SUBSECTION HAVING A MARKET VALUE AT LEAST EQUAL TO THE
24 SUM OF THE BOND, AND ALSO TO DEMAND, RECEIVE AND RECOVER
25 THE INTEREST AND INCOME FROM THE NEGOTIABLE BONDS AS THEY
26 BECOME DUE AND PAYABLE.

27 (II) WHERE NEGOTIABLE BONDS ARE DEPOSITED, MATURE OR
28 ARE CALLED, THE STATE TREASURER, AT THE REQUEST OF THE
29 TRANSPORTER, SHALL CONVERT THE NEGOTIABLE BONDS INTO
30 OTHER NEGOTIABLE BONDS OF THE CLASSES SPECIFIED IN THIS

1 SUBSECTION AS MAY BE DESIGNATED BY THE TRANSPORTER.

2 (8) WHERE NOTICE OF INTENT TO TERMINATE A LETTER OF
3 CREDIT IS GIVEN, THE DEPARTMENT SHALL, AFTER 30 DAYS' WRITTEN
4 NOTICE TO THE TRANSPORTER AND IN THE ABSENCE OF A REPLACEMENT
5 OF THE LETTER OF CREDIT WITHIN THE 30-DAY PERIOD BY THE
6 TRANSPORTER WITH OTHER ACCEPTABLE BOND GUARANTEES PROVIDED
7 UNDER THIS SUBSECTION, DRAW UPON AND CONVERT THE LETTER OF
8 CREDIT INTO CASH AND HOLD IT AS A COLLATERAL BOND GUARANTEE.
9 LIABILITY UNDER THE BOND SHALL BE FOR THE DURATION OF THE
10 WRITTEN AUTHORIZATION AND FOR A PERIOD OF ONE YEAR AFTER THE
11 EXPIRATION OF THE WRITTEN AUTHORIZATION.

12 (G) TRANSPORTER OR AGENT NONCOMPLIANCE.--IN CARRYING OUT
13 THIS SECTION, THE DEPARTMENT MAY DENY, SUSPEND, MODIFY OR REVOKE
14 ANY WRITTEN AUTHORIZATION IF IT FINDS THAT:

15 (1) THE TRANSPORTER OR ITS AGENT HAS FAILED OR CONTINUES
16 TO FAIL TO COMPLY WITH ANY PROVISION OF:

17 (I) THIS SUBCHAPTER;

18 (II) THE SOLID WASTE MANAGEMENT ACT;

19 (III) THE MUNICIPAL WASTE PLANNING, RECYCLING AND
20 WASTE REDUCTION ACT;

21 (IV) THE ACT OF JUNE 22, 1937 (P.L.1987, NO.394),
22 KNOWN AS THE CLEAN STREAMS LAW;

23 (V) THE ACT OF JANUARY 8, 1960 (1959 P.L.2119,
24 NO.787), KNOWN AS THE AIR POLLUTION CONTROL ACT;

25 (VI) THE ACT OF NOVEMBER 26, 1978 (P.L.1375,
26 NO.325), KNOWN AS THE DAM SAFETY AND ENCROACHMENTS ACT;

27 (VII) ANY OTHER FEDERAL OR STATE STATUTE RELATING TO
28 ENVIRONMENTAL PROTECTION OR TO THE PROTECTION OF THE
29 PUBLIC HEALTH, SAFETY AND WELFARE;

30 (VIII) ANY RULE OR REGULATION OF THE DEPARTMENT OF

1 ENVIRONMENTAL PROTECTION OR THE DEPARTMENT OF
2 TRANSPORTATION;

3 (IX) ANY ORDER OF THE DEPARTMENT OF ENVIRONMENTAL
4 PROTECTION OR THE DEPARTMENT OF TRANSPORTATION; OR

5 (X) ANY CONDITION OF ANY PERMIT, LICENSE OR OTHER
6 WRITTEN AUTHORIZATION ISSUED BY THE DEPARTMENT OF
7 ENVIRONMENTAL PROTECTION OR THE DEPARTMENT OF
8 TRANSPORTATION.

9 (2) THE TRANSPORTER HAS SHOWN A LACK OF ABILITY OR
10 INTENTION TO COMPLY WITH:

11 (I) ANY PROVISION OF THIS SUBCHAPTER;

12 (II) ANY OF THE ACTS REFERRED TO IN THIS SUBSECTION;

13 (III) ANY RULE OR REGULATION OF THE DEPARTMENT OF
14 ENVIRONMENTAL PROTECTION OR THE DEPARTMENT OF
15 TRANSPORTATION OR ORDER OF THE DEPARTMENT; OR

16 (IV) ANY CONDITION OF ANY PERMIT OR LICENSE ISSUED
17 BY THE DEPARTMENT OF ENVIRONMENTAL PROTECTION OR THE
18 DEPARTMENT OF TRANSPORTATION AS INDICATED BY PAST OR
19 CONTINUING VIOLATIONS.

20 IN THE CASE OF A CORPORATE TRANSPORTER, THE DEPARTMENT MAY DENY
21 THE ISSUANCE OF A WRITTEN AUTHORIZATION IF THE DEPARTMENT FINDS
22 THAT A PRINCIPAL OF THE CORPORATION WAS A PRINCIPAL OF ANOTHER
23 CORPORATION WHICH COMMITTED PAST VIOLATIONS OF THIS SUBCHAPTER.

24 (H) TRANSPORTATION NONCOMPLIANCE.--A WRITTEN AUTHORIZATION
25 ISSUED UNDER THIS SECTION SHALL BE REVOCABLE OR SUBJECT TO
26 MODIFICATION OR SUSPENSION AT ANY TIME THE DEPARTMENT DETERMINES
27 THAT THE SOLID WASTE TRANSPORTATION:

28 (1) IS BEING, OR HAS BEEN CONDUCTED IN VIOLATION OF THIS
29 SUBCHAPTER, THE SOLID WASTE MANAGEMENT ACT OR THE RULES OR
30 REGULATIONS ADOPTED PURSUANT TO THIS SUBCHAPTER OR THE SOLID

WASTE MANAGEMENT ACT.

(2) CREATES A PUBLIC NUISANCE.

(3) CREATES A POTENTIAL HAZARD TO THE PUBLIC HEALTH,
SAFETY AND WELFARE OR THE ENVIRONMENT.

(4) WAS CONDUCTED PURSUANT TO AN AUTHORIZATION THAT WAS
NOT GRANTED IN ACCORDANCE WITH LAW.

(I) CORRECTION OF NONCOMPLIANCE.--

(1) ANY PERSON WHO OR MUNICIPALITY THAT HAS ENGAGED IN
UNLAWFUL CONDUCT AS DEFINED IN THIS SUBCHAPTER, THE SOLID
WASTE MANAGEMENT ACT OR THE MUNICIPAL WASTE PLANNING,
RECYCLING AND WASTE REDUCTION ACT OR WHOSE PARTNER,
ASSOCIATE, OFFICER, PARENT CORPORATION, SUBSIDIARY
CORPORATION, CONTRACTOR, SUBCONTRACTOR OR AGENT HAS ENGAGED
IN SUCH UNLAWFUL CONDUCT SHALL BE DENIED A WRITTEN
AUTHORIZATION UNDER THIS SECTION UNLESS THE WRITTEN
AUTHORIZATION APPLICATION DEMONSTRATES TO THE SATISFACTION OF
THE DEPARTMENT THAT THE UNLAWFUL CONDUCT HAS BEEN CORRECTED.

(2) INDEPENDENT CONTRACTORS AND AGENTS WHO OPERATE UNDER
THE WRITTEN AUTHORIZATION SHALL BE SUBJECT TO THE PROVISIONS
OF THIS SECTION AND SHALL BE JOINTLY AND SEVERALLY LIABLE,
WITHOUT REGARD TO FAULT, FOR VIOLATIONS OF THIS SUBCHAPTER
WHICH OCCUR DURING THE INDEPENDENT CONTRACTOR'S OR AGENT'S
INVOLVEMENT IN THE COURSE OF OPERATIONS.

(J) PENALTY.--A PERSON WHO VIOLATES SUBSECTION (A) OR (B)
SHALL BE GUILTY OF A MISDEMEANOR OF THE THIRD DEGREE AND, UPON
CONVICTION FOR THE FIRST OFFENSE, SHALL PAY A PENALTY OF NOT
LESS THAN \$5,000 NOR MORE THAN \$10,000. UPON THE SECOND OR
SUBSEQUENT CONVICTION OF SUBSECTION (A) OR (B), A PERSON SHALL
BE GUILTY OF A MISDEMEANOR OF THE SECOND DEGREE AND SHALL PAY A
PENALTY OF NOT LESS THAN \$10,000 NOR MORE THAN \$25,000, AND THE

1 COURT MAY ORDER THE OPERATING PRIVILEGE OF THE VEHICLE OPERATOR
2 TO BE SUSPENDED FOR A PERIOD OF UP TO ONE YEAR OR BOTH.

3 (K) DEPOSIT OF FEES, FINES AND PENALTIES.--ALL WRITTEN
4 AUTHORIZATION FEES, FINES AND PENALTIES COLLECTED UNDER THIS
5 SECTION SHALL BE PAID INTO THE SOLID WASTE ABATEMENT FUND
6 ESTABLISHED UNDER SECTION 701 OF THE SOLID WASTE MANAGEMENT ACT
7 AND SHALL BE USED FOR THE PURPOSES ENUMERATED IN THAT ACT. THE
8 FEES MAY ALSO BE USED TO IMPLEMENT THE WRITTEN AUTHORIZATION
9 PROGRAM AND TO SUPPORT EFFORTS TO INSPECT VEHICLES USED TO
10 TRANSPORT MUNICIPAL AND RESIDUAL WASTE.

11 (L) FORFEITURE OF SEMITRAILERS.--A SEMITRAILER USED IN
12 COMMISSION OF AN OFFENSE UNDER THIS SECTION SHALL BE DEEMED
13 CONTRABAND AND MAY BE FORFEITED TO THE DEPARTMENT. THE
14 PROVISIONS OF LAW RELATING TO SEIZURE, SUMMARY AND JUDICIAL
15 FORFEITURE AND CONDEMNATION OF INTOXICATING LIQUOR SHALL APPLY
16 TO SEIZURES AND FORFEITURES UNDER THIS SECTION. PROCEEDS FROM
17 THE SALE OF FORFEITED SEMITRAILERS SHALL BE DEPOSITED IN THE
18 SOLID WASTE ABATEMENT FUND.

19 § 7373. MANIFEST SYSTEM.

20 (A) GENERATOR MANIFEST REQUIRED.--IT SHALL BE UNLAWFUL FOR A
21 PERSON OR MUNICIPALITY TO TRANSPORT ON VEHICLES THAT EXCEED
22 56,000 POUNDS GROSS VEHICLE WEIGHT MIXED LOADS OF MUNICIPAL AND
23 RESIDUAL WASTE TO A MUNICIPAL WASTE LANDFILL OR RESOURCE
24 RECOVERY FACILITY IN THIS COMMONWEALTH WITHOUT A MANIFEST
25 PREPARED BY THIS GENERATOR, ON A FORM APPROVED BY THE
26 DEPARTMENT. THE MANIFEST SHALL STATE THAT THE RESIDUAL WASTE IS
27 SUITABLE FOR DISPOSAL AT THE FACILITY. THE MIXED MUNICIPAL WASTE
28 AND RESIDUAL WASTE MUST BE TRANSPORTED TO A FACILITY PERMITTED
29 BY THE DEPARTMENT TO RECEIVE THE MIXED LOAD.

30 (B) DEPOSIT OF MIXED LOAD PROHIBITED.--ANY VEHICLE THAT

1 EXCEEDS 56,000 POUNDS GROSS VEHICLE WEIGHT THAT TRANSPORTS MIXED
2 LOADS OF MUNICIPAL AND RESIDUAL WASTE WITHOUT THE REQUIRED
3 MANIFEST OR DELIVERS THE MIXED LOAD TO A FACILITY IN VIOLATION
4 OF THE FACILITY'S WASTE ACCEPTANCE PLAN SHALL BE PROHIBITED FROM
5 DEPOSITING THE MIXED LOAD AT THE FACILITY.

6 (C) PENALTY.--A PERSON OR MUNICIPALITY WHO VIOLATES
7 SUBSECTION (A) OR (B) SHALL BE GUILTY OF A MISDEMEANOR OF THE
8 THIRD DEGREE AND, UPON CONVICTION FOR THE FIRST OFFENSE, SHALL
9 PAY A PENALTY OF NOT LESS THAN \$5,000 NOR MORE THAN \$10,000.
10 UPON THE SECOND OR SUBSEQUENT CONVICTION OF SUBSECTION (A) OR
11 (B), A PERSON SHALL BE GUILTY OF A MISDEMEANOR OF THE SECOND
12 DEGREE AND SHALL PAY A PENALTY OF NOT LESS THAN \$10,000 NOR MORE
13 THAN \$25,000, AND THE COURT MAY ORDER THE OPERATING PRIVILEGE OF
14 THE VEHICLE OPERATOR TO BE SUSPENDED FOR A PERIOD OF UP TO ONE
15 YEAR OR BOTH.

16 (D) FORFEITURE.--A VEHICLE OR CONVEYANCE USED IN COMMISSION
17 OF AN OFFENSE UNDER THIS SECTION SHALL BE DEEMED CONTRABAND AND
18 MAY BE FORFEITED TO THE DEPARTMENT. THE PROVISIONS OF LAW
19 RELATING TO SEIZURE, SUMMARY AND JUDICIAL FORFEITURE AND
20 CONDEMNATION OF INTOXICATING LIQUOR SHALL APPLY TO SEIZURES AND
21 FORFEITURES UNDER THIS SECTION. PROCEEDS FROM THE SALE OF
22 FORFEITED VEHICLES OR CONVEYANCES SHALL BE DEPOSITED IN THE
23 SOLID WASTE ABATEMENT FUND.

24 Section 4. This act shall take effect immediately.