
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1436 Session of
2001

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TRELLO AND YUDICHAK, APRIL 25, 2001

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,
APRIL 25, 2001

AN ACT

1 Requiring host municipality agreements for certain municipal and
2 residual waste facilities; and establishing transportation
3 and safety requirements, including a fee and registration for
4 vehicles that collect and transport municipal and residual
5 waste to certain municipal and residual waste disposal and
6 processing facilities.

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3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Solid Waste
7 Host Municipality Agreement and Transportation Safety Act.

8 Section 2. Legislative findings and declaration of policy.

9 (a) Legislative findings.--The General Assembly hereby
10 determines, declares and finds that:

11 (1) Improper solid waste practices create public health
12 hazards, environmental pollution and nuisances and cause
13 irreparable harm to the public health, safety and welfare.

14 (2) All aspects of solid waste management, particularly
15 the disposition of solid waste, pose a critical threat to the
16 health, safety and welfare of the residents of this
17 Commonwealth when solid waste is improperly managed.

18 (3) The Commonwealth is responsible for the protection
19 of the health, safety and welfare of its residents concerning
20 solid waste management.

21 (4) The construction and expansion of commercial solid
22 waste landfills and resource recovery facilities usually
23 consumes natural lands, thereby impinging upon wildlife
24 habitat and the public's use and enjoyment of the natural
25 resources, including air, water and natural scenic, historic
26 and esthetic values of the environment.

27 (5) Concentrated traffic in the vicinity of commercial
28 solid waste landfills and resource recovery facilities can
29 contribute to and cause substantial harm to this
30 Commonwealth's roadways and environment and to the health and

1 safety of the residents of this Commonwealth when traffic is
2 improperly managed.

3 (6) Communities in the areas located near and along the
4 approach routes to commercial solid waste landfills and
5 resource recovery facilities experience traffic problems,
6 litter, odors, noise, dust and other nuisances resulting from
7 the operation of the facilities and from the transportation
8 of waste to the facilities.

9 (7) Commercial solid waste landfills tend to locate in
10 rural and sparsely populated areas.

11 (8) Commercial solid waste landfills located more than
12 15 driving miles from a four-lane, divided highway cause
13 significant traffic harms and present unique issues.

14 (9) Joint inspections of vehicles by the Department of
15 Environmental Protection, the Pennsylvania State Police and
16 the Department of Transportation consistently indicate that
17 over 25% of the waste vehicles inspected have violations of
18 the act of July 7, 1980 (P.L.380, No.97), known as the Solid
19 Waste Management Act, and the act of July 28, 1988 (P.L.556,
20 No.101), known as the Municipal Waste Planning, Recycling and
21 Waste Reduction Act.

22 (10) Inspections by the Pennsylvania State Police and
23 the Department of Transportation consistently indicate
24 vehicle safety and weight control violations are pervasive in
25 the waste hauling industry.

26 (b) Purposes and goals.--The purposes and goals of this act
27 are to:

28 (1) Enhance the protection of the public health, safety
29 and welfare from the short-term and long-term dangers of
30 transportation and disposal of solid waste.

1 (2) Implement section 27 of Article I of the
2 Constitution of Pennsylvania.

3 (3) Conserve the environment and the natural resources
4 of this Commonwealth.

5 (4) Limit the magnitude of environmental and
6 transportation problems in and around communities which host
7 commercial solid waste landfills or resource recovery
8 facilities.

9 (5) Provide for greater local input from affected
10 residents and communities in the planning of commercial solid
11 waste landfills and resource recovery facilities.

12 (6) Require written authorization from the Department of
13 Environmental Protection for transporting municipal or
14 residual waste to municipal waste processing and disposal
15 facilities in order to enhance the safe transportation of
16 waste.

17 (7) Protect residents of the communities affected by
18 commercial solid waste landfills and resource recovery
19 facilities from unnecessary traffic problems, litter, odors,
20 noise, dust and other nuisances which may result from the
21 operation of the facilities and from the transportation of
22 waste to the facilities.

23 Section 3. Definitions.

24 (a) General rule.--Unless specifically defined in this
25 section, the terms in this act have the same meaning as provided
26 in the act of July 7, 1980 (P.L.380, No.97), known as the Solid
27 Waste Management Act, or the act of July 28, 1988 (P.L.556,
28 No.101), known as the Municipal Waste Planning, Recycling and
29 Waste Reduction Act, or regulations of the Department of
30 Environmental Protection promulgated thereunder.

1 (b) Definitions.--As used in this section, the following
2 words and phrases shall have the meanings given to them in this
3 subsection:

4 "Commercial solid waste landfill." A landfill permitted or
5 proposed for permitting under the act of July 7, 1980 (P.L.380,
6 No.97), known as the Solid Waste Management Act, for the
7 disposal of municipal waste, residual waste or mixed municipal
8 and residual waste, including mixed municipal or residual waste
9 and construction and demolition debris. The term does not
10 include a landfill used for the exclusive disposal of
11 construction and demolition waste or debris or a captive
12 residual waste facility.

13 "Department." The Department of Environmental Protection of
14 the Commonwealth and its authorized representatives.

15 "Expansion modification." An application for permit
16 modification filed by an owner or operator of a commercial solid
17 waste landfill or resource recovery facility which requests an
18 expansion, either laterally or vertically, of a permit area.

19 "Gross vehicle weight." The combined weight of a vehicle or
20 combination of vehicles, including a towing vehicle, semitrailer
21 and the vehicle load, excluding the driver's weight.

22 "Host municipality." A municipality other than the county
23 within which a commercial solid waste landfill or resource
24 recovery facility or any portion of a permit area is located or
25 is proposed to be located.

26 "Host municipality agreement." A written, legally binding
27 document or documents executed by authorized officials of each
28 host municipality and an owner or operator of a commercial solid
29 waste landfill or resource recovery facility.

30 "Municipal Waste Planning, Recycling and Waste Reduction

1 Act." The act of July 28, 1988 (P.L.556, No.101), known as the
2 Municipal Waste Planning, Recycling and Waste Reduction Act.

3 "Pennsylvania Municipalities Planning Code." The act of July
4 31, 1968 (P.L.805, No.247), known as the Pennsylvania
5 Municipalities Planning Code.

6 "Permit." A permit issued pursuant to the act of July 7,
7 1980 (P.L.380, No.97), known as the Solid Waste Management Act.

8 "Secretary." The Secretary of Environmental Protection of
9 the Commonwealth.

10 "Semitrailer." A trailer so constructed that some part of
11 its weight rests upon or is carried by the towing vehicle.

12 "Solid Waste Management Act." The act of July 7, 1980
13 (P.L.380, No.97), known as the Solid Waste Management Act.

14 "Transporter." The owner or operator of a towing vehicle
15 used to transport municipal or residual waste.

16 "Volume modification." An application for permit
17 modification filed by an owner or operator of a commercial solid
18 waste landfill or resource recovery facility which requests an
19 increased in average or maximum daily waste volume.

20 Section 4. Construction of act.

21 (a) Liberal construction.--This act shall be liberally
22 construed so as best to achieve and effectuate the goals and
23 purposes of this act.

24 (b) Pari materia.--This act shall be construed in pari
25 materia with the Solid Waste Management Act, the Municipal Waste
26 Planning, Recycling and Waste Reduction Act and sections 1935-A
27 and 1936-A of the act of April 9, 1929 (P.L.177, No.175), known
28 as The Administrative Code of 1929.

29 Section 5. Host municipality agreements.

30 (a) Requirement for host municipality agreement.--

1 (1) A commercial solid waste landfill or resource
2 recovery facility shall develop a new or supplemental host
3 municipality agreement in accordance with this section as
4 follows:

5 (i) For a commercial solid waste landfill or
6 resource recovery facility for which a host municipality
7 agreement was executed prior to or on the effective date
8 of this act, except as provided in subparagraphs (ii),
9 (iii) and (iv), a new or supplemental host municipality
10 agreement shall be:

11 (A) executed by the owner or operator and the
12 host municipality or municipalities on the date the
13 existing host municipality agreement expires or five
14 years after the effective date of this act, whichever
15 occurs first; and

16 (B) submitted to the department for approval
17 within 30 days of execution.

18 (ii) For a commercial solid waste landfill or
19 resource recovery facility for which:

20 (A) no host municipality agreement has been
21 executed as of the effective date of this act; or

22 (B) a host municipality agreement was executed
23 on or before the effective date of this act but which
24 agreement expires within two years of the effective
25 date of this act,

26 a host municipality agreement shall be executed by the
27 owner or operator and the host municipality or
28 municipalities within two years of the effective date of
29 this act and submitted to the department for approval
30 within 30 days of execution. The owner or operator of

1 such a facility shall provide notice to the host
2 municipality or municipalities pursuant to subsection
3 (f)(1) within 60 calendar days of the effective date of
4 this act.

5 (iii) For any commercial solid waste landfill or
6 resource recovery facility for which a permit under the
7 Solid Waste Management Act, within 18 months prior to the
8 effective date of this act:

9 (A) has expired;

10 (B) has expired but has been extended beyond its
11 expiration date; or

12 (C) has expired but has been reinstated; and
13 for which a host municipality agreement was executed
14 prior to the effective date of this act, a new or
15 supplemental host municipality agreement shall be
16 executed by the owner or operator and the host
17 municipality or municipalities within two years of the
18 effective date of this act and submitted to the
19 department for approval within 30 days of execution. The
20 owner or operator of such a facility shall provide notice
21 to the host municipality or municipalities pursuant to
22 subsection (f)(1) within 60 calendar days of the
23 effective date of this act. Notwithstanding the
24 provisions of subsection (b)(3), for any such facility,
25 no permit or permit modification shall be issued by the
26 department until a new or supplemental agreement has been
27 executed in compliance with this section by the owner or
28 operator and each host municipality, whether the
29 application for such permit or permit modification was
30 submitted on, before or after the effective date of this

1 act.

2 (iv) For any commercial solid waste landfill or
3 resource recovery facility for which a host municipality
4 agreement was executed prior to or on the effective date
5 of this act but which has not begun to accept solid waste
6 as of the effective date of this act, a new or
7 supplemental host municipality agreement shall be
8 executed by the owner or operator and the host
9 municipality or municipalities within two years of the
10 effective date of this act and submitted to the
11 department for approval within 30 days of execution. The
12 owner or operator of such a facility shall provide notice
13 to the host municipality or municipalities pursuant to
14 subsection (f)(1) within 60 calendar days of the
15 effective date of this act.

16 (2) A new or supplemental host municipality agreement
17 for each host municipality shall be executed in accordance
18 with this section and submitted to the department for
19 approval for any expansion modification or volume
20 modification filed by an owner or operator of a commercial
21 solid waste landfill or resource recovery facility after the
22 effective date of this act unless the existing host
23 municipality agreement contemplates and addresses the subject
24 of the modification.

25 (3) A host municipality agreement shall be executed in
26 accordance with this section by an owner or operator and the
27 host municipality or municipalities and shall be submitted to
28 the department for approval for any new commercial solid
29 waste landfill or resource recovery facility.

30 (b) Relationship to permit applications.--

1 (1) An application for a permit, volume modification or
2 expansion modification for a commercial solid waste landfill
3 or resource recovery facility which is submitted to the
4 department for review after the effective date of this act
5 shall only be accepted as administratively complete under
6 section 512(a) of the Municipal Waste Planning, Recycling and
7 Waste Reduction Act and the regulations promulgated
8 thereunder if it includes written evidence that the applicant
9 is in compliance with the requirements of this section. Such
10 written evidence shall be contained as part of the
11 application and shall include evidence that a host
12 municipality agreement that complies with this section is in
13 effect or proof of written notice to the host municipality or
14 municipalities pursuant to subsection (f)(1).

15 (2) The department's processing and review of a permit
16 application shall proceed concurrently with the period of
17 negotiation, mediation and arbitration of the host
18 municipality agreement. Negotiation, mediation and
19 arbitration of a host municipality agreement also may proceed
20 prior to the submission of a permit or major permit
21 modification application to the department.

22 (3) An application for a permit, volume modification or
23 expansion modification for a commercial solid waste landfill
24 or resource recovery facility which is submitted to the
25 department for review after the effective date of this act
26 shall be issued by the department only if a host municipality
27 agreement that complies with this section has been executed
28 by the applicant and each host municipality. For any
29 application which was submitted to the department on or
30 before the effective date of this act, the department shall

1 not withhold issuance of the permit or permit modification
2 provided the applicant executed a host municipality agreement
3 prior to the effective date of this act or the applicant
4 provided notice to the host municipality or municipalities
5 pursuant to subsection (f)(1) and is proceeding with the
6 requirements of this section to execute a host municipality
7 agreement.

8 (c) Public notice and public involvement requirements.--

9 (1) Within 30 calendar days from the date of receipt of
10 a written notice of intent to develop a host municipality
11 agreement pursuant to subsection (f)(1), each host
12 municipality shall publish notice that discussions for
13 developing a host municipality agreement with the commercial
14 solid waste landfill or resource recovery facility have
15 begun. The notice also shall describe the public involvement
16 process that the host municipality will use to develop the
17 agreement. The notice shall be published once a week for
18 three consecutive weeks in a newspaper of general circulation
19 in the area where the facility or proposed facility is
20 located. The public involvement process shall include the
21 following:

22 (i) A special public hearing at which a draft
23 agreement is presented to the public and at which the
24 public is provided an opportunity to provide oral and
25 written testimony. The hearing shall be scheduled by the
26 host municipality with a minimum of 30 calendar days'
27 public notice prior to the hearing date. A public comment
28 period of no less than 30 calendar days shall be provided
29 after the public hearing to accept written comments on
30 the draft agreement.

1 (ii) A special public meeting at which revisions to
2 the draft agreement are presented to the public by the
3 municipality, including changes to the draft agreement
4 that were adopted after the public hearing and public
5 comment period. The public shall be provided a reasonable
6 opportunity to ask questions to the host municipality on
7 the host municipality agreement and to provide public
8 comment. The meeting shall be scheduled by the host
9 municipality with a minimum of 30 calendar days' public
10 notice prior to the meeting date.

11 (iii) The host municipality shall publish the
12 decision on adopting or rejecting the final agreement
13 within 30 calendar days of acting.

14 (2) The public involvement process may contain
15 additional public notice in a manner determined by the
16 municipality to best inform the residents of the host
17 municipality.

18 (d) Contents of agreement.--

19 (1) A host municipality agreement agreed to and executed
20 by the parties pursuant to the negotiation and mediation
21 process shall address the following:

22 (i) The nature of the proposed facility.

23 (ii) The site of the proposed facility or expansion
24 of the existing facility.

25 (iii) Measures to alleviate local issues, such as
26 haul routes, traffic problems, litter, odors, noise, dust
27 and any other nuisances that might result from the
28 operation of the facility. Such local issues shall be
29 identified by the host municipality during negotiation of
30 the host municipality agreement.

1 (iv) The host benefit fee to be paid by the owner or
2 operator of the facility to the host municipality, which
3 fee shall not be less than the statutory minimum fee
4 established under the Municipal Waste Planning, Recycling
5 and Waste Reduction Act and any other financial and in-
6 kind contributions.

7 (v) The maximum and daily average waste volume to be
8 received at the facility.

9 (vi) The days and hours of operation of the
10 facility.

11 (vii) The availability of capacity at the facility
12 for the disposal of solid waste generated within the host
13 municipality.

14 (viii) Activities to promote recycling, waste
15 reduction and the proper management and disposal of solid
16 waste generated within the host municipality.

17 (ix) The process for resolution in a cooperative and
18 nonbinding manner of complaints and other grievances
19 concerning the construction and operation of the
20 facility.

21 (x) Provision for access to the facility and its
22 records by the host municipality inspector.

23 (2) A host municipality agreement agreed to and executed
24 by the parties pursuant to the negotiation and mediation
25 process may address the following:

26 (i) The geographic origin of solid waste disposed at
27 the facility and the amount of solid waste accepted for
28 disposal based upon the geographic origin of the solid
29 waste.

30 (ii) Any applicable zoning or land development

1 requirements or approvals pursuant to the provisions of
2 the Municipalities Planning Code and implementing
3 ordinances.

4 (iii) Any other terms or conditions to which the
5 parties agree should be included in the agreement.

6 (3) The host municipality agreement may not address the
7 specifications or requirements for cover and revegetation,
8 storm water management, water quality protection and
9 monitoring, liners and leachate management or gas management.

10 (e) Department review of host municipality agreements.--

11 (1) For all host municipality agreements submitted to
12 the department for approval under this section, the
13 department shall review each executed host municipality
14 agreement to ensure that the agreement addresses the
15 requirements of subsection (d)(1) or that an agreement has
16 been executed as a result of binding arbitration pursuant to
17 subsection (f)(7), whichever is applicable, and also to
18 ensure that there has been compliance with the public notice
19 and public comment requirements of subsection (c).

20 (2) The department shall review the terms and conditions
21 of the host municipality agreement that address subsection
22 (d)(1)(iii), (v), (vi), (vii) and (viii) to ensure the terms
23 and conditions of the host municipality agreement are not in
24 conflict with the terms and conditions of the existing or
25 proposed permit and applicable regulations. Where the
26 department determines there is a conflict between the terms
27 and conditions of the host municipality agreement and the
28 terms and conditions of the regulations or existing or
29 proposed permit, the more stringent or restrictive
30 requirement or condition shall apply. The department shall

1 modify the permit to incorporate any such term or condition,
2 including any term or condition that is not addressed in the
3 proposed or existing permit.

4 (f) Process for negotiation and dispute resolution.--

5 (1) The owner or operator of a commercial solid waste
6 landfill or resource recovery facility shall provide written
7 notice to each host municipality of its intent to develop a
8 host municipality agreement pursuant to the requirements of
9 this section. For a maximum period of 180 calendar days from
10 the date of receipt of the written notice of intent to
11 develop a host municipality agreement, the owner or operator
12 of the commercial solid waste landfill or resource recovery
13 facility and the host municipality or municipalities shall
14 engage in good faith negotiations to arrive at a host
15 municipality agreement.

16 (2) (i) If the parties are unable to reach an agreement
17 on all of the required terms and provisions of a host
18 municipality agreement, the parties shall engage in good
19 faith mediation, with a neutral mediator to be mutually
20 agreed upon and selected by the parties, for a period of
21 no more than 90 calendar days from the end of the
22 negotiation period with regard to the terms and
23 provisions on which an agreement cannot be reached.

24 (ii) The mediator shall act as a facilitator and
25 shall not have the ability or authority to legally bind
26 either party.

27 (iii) The costs of the mediator shall be borne
28 equally by the parties. If the parties cannot agree upon
29 a mediator within 20 calendar days after the expiration
30 of the negotiation period, the mediation period shall

1 immediately terminate.

2 (3) If a host municipality agreement is not executed
3 within the combined negotiation period and mediation period,
4 then the parties shall set forth in writing to each other,
5 within 20 calendar days of the expiration or termination of
6 the mediation period, the issues, terms and provisions on
7 which agreement has been reached and the issues, terms and
8 provisions that remain in dispute, and the disputed issues
9 shall be submitted for binding arbitration.

10 (4) The arbitration shall be heard by an arbitration
11 board to consist of three persons: one appointed by the
12 municipality, one appointed by the owner or operator of the
13 facility and one to be agreed upon by the municipality and
14 the owner or operator of the facility. The arbitration board
15 members selected individually by the municipality and the
16 owner or operator shall be named within 30 calendar days from
17 the date of the parties' exchange of written statements of
18 issues in dispute. The remaining arbitrator shall be mutually
19 selected by the parties within 15 calendar days after the
20 appointment of the two arbitrators by the municipality and
21 the owner or operator.

22 (5) If the third arbitrator cannot be agreed upon by the
23 parties within the prescribed time period, then the selected
24 arbitrators shall request the American Arbitration
25 Association or any successor in function to furnish a list of
26 three members of said association who are residents of this
27 Commonwealth from which the third arbitrator shall be
28 selected by the selected arbitrators. The arbitrator
29 appointed by the owner or operator shall eliminate one of the
30 three suggested arbitrators within ten calendar days of

1 receipt of the recommendations and, thereafter, the
2 arbitrator appointed by the municipality shall eliminate one
3 of the three suggested arbitrators within ten calendar days
4 thereafter. The individual whose name remains on the list
5 shall be the third arbitrator and shall act as the chairman
6 of the board of arbitration.

7 (6) The board of arbitration shall commence arbitration
8 proceedings within 60 calendar days after the date of
9 appointment of the final board member and shall conclude the
10 arbitration proceedings within 120 calendar days after the
11 date the third arbitrator is selected. The board of
12 arbitrators shall render its determination on all issues
13 before it within 30 calendar days after the conclusion of the
14 arbitration proceedings.

15 (7) The determination of the board of arbitration shall
16 be final and binding on the parties and, together with the
17 issues, terms and provisions mutually agreed to by the
18 parties during the exchange of mutual statements, shall
19 constitute the host municipality agreement, and each party
20 shall execute the agreement.

21 (8) The final determination of the board of arbitration
22 may be appealed only in accordance with and subject to 42
23 Pa.C.S. §§ 7314 (relating to vacating award by court) and
24 7315 (relating to modification or correction of award by
25 court).

26 (9) Each party shall bear the costs of the arbitrator
27 selected by that party and the costs of presenting the
28 party's position to the board of arbitration. The parties
29 shall bear equally the costs of the third arbitrator and all
30 other costs of arbitration.

1 (10) In reaching its decision, the board of arbitration
2 shall consider the following factors:

3 (i) The effect of the commercial solid waste
4 landfill or resource recovery facility on surrounding
5 land uses and the community.

6 (ii) The effect of the commercial solid waste
7 landfill or resource recovery facility traffic on use and
8 safety of local roads and the existence of alternative
9 routes to the landfill.

10 (iii) Measures to be taken by the commercial solid
11 waste landfill or resource recovery facility to mitigate
12 its effects on surrounding uses and the community and, in
13 the case of existing facilities, any past mitigation
14 measures.

15 (iv) Needs of the host municipality for commercial
16 solid waste landfill or resource recovery facility
17 capacity, the cost to the landfill to reserve capacity,
18 the nature of local waste and limitations on the ability
19 of the landfill to accept that waste.

20 (v) The extent to which the issues raised by the
21 host municipality are addressed by existing regulations
22 or guidance of the department, other applicable law or
23 the conditions of a permit, if any.

24 (xi) The burden on the owner or operator to
25 administer any matter requested by the host municipality,
26 including the burden of undertaking activities to promote
27 recycling, waste reduction and waste management in the
28 host municipality.

29 (11) Only the following components of the host
30 municipality agreement shall be subject to determination by

1 the board of arbitration:

2 (i) Measures to alleviate local issues such as haul
3 routes, traffic problems, litter, odors, noise, dust and
4 any other nuisances that might result from the operation
5 of the facility.

6 (ii) The host benefit fee to be paid by the owner or
7 operator of the facility to the host municipality. The
8 fee determined by the board of arbitration shall not be
9 less than the statutory minimum fee established under the
10 Municipal Waste Planning, Recycling and Waste Reduction
11 Act and shall not exceed 125% of the average fee paid by
12 similar facilities within the same geographical region,
13 taking into consideration the size and nature of the
14 facility. For purposes of this subparagraph, the term
15 "same geographical region" means the area defined by a
16 circle drawn around the facility in question with a
17 radius of 75 miles.

18 (iii) The days and hours of operation of the
19 facility.

20 (iv) The availability of capacity at the facility
21 for the disposal of solid waste generated within the host
22 municipality.

23 (v) Activities to promote recycling, waste reduction
24 and the proper management and disposal of solid waste
25 within the host municipality.

26 (vi) The process for resolution in a cooperative and
27 nonbinding manner of complaints and other grievances
28 concerning the construction and operation of the
29 facility.

30 (12) The parties at any time during the negotiation or

1 mediation periods may by mutual written consent agree to
2 terminate negotiations and proceed directly to arbitration.

3 (g) Enforcement.--The terms of a host municipality agreement
4 shall be enforceable by the parties to the agreement. The courts
5 of common pleas are hereby given jurisdiction over disputes
6 between the host municipality and the facility owner or operator
7 regarding the implementation or enforcement of a host
8 municipality agreement.

9 (h) Reimbursement of host municipality costs.--At the
10 request of a host municipality, the department may reimburse the
11 host municipality for costs incurred in negotiating, mediating
12 and arbitrating a host municipality agreement under this
13 section. Costs covered shall be limited to costs incurred for
14 professional fees for lawyers, mediators, arbitrators, engineers
15 and other professionals used in the efforts to reach an
16 agreement. Any reimbursement shall be provided from funds in the
17 recycling fund established by section 706 of the Municipal Waste
18 Planning, Recycling and Waste Reduction Act or in the Solid
19 Waste Abatement Fund established under section 701 of the Solid
20 Waste Management Act, upon approval by the Governor.

21 Reimbursement shall not exceed \$50,000 for each host
22 municipality agreement. The combined total reimbursement from
23 the two funds shall not exceed \$750,000 annually or \$2,500,000
24 over a five-year period from the effective date of this act.

25 (i) Relationship to other laws.--

26 (1) The terms of a host municipality agreement shall
27 supersede and replace any existing ordinance adopted pursuant
28 to section 304(b) of the Municipal Waste Planning, Recycling
29 and Waste Reduction Act and concerning:

30 (i) the hours and days during which vehicles may

1 deliver waste to the commercial solid waste facility or
2 resource recovery facility; or

3 (ii) the routing of traffic to and from the
4 commercial solid waste landfill or resource recovery
5 facility,

6 to the extent the ordinance is inconsistent or in conflict
7 with the terms of the host municipality agreement.

8 (2) Host municipality agreements shall be executed by
9 the parties in the manner provided for in this act and shall
10 not be subject to competitive bidding or other competitive
11 procurement requirements.

12 (3) The provisions of section 1305 of the Municipal
13 Waste Planning, Recycling and Waste Reduction Act shall be
14 applicable to any host benefit fee set forth in any host
15 municipality agreement executed pursuant to this act.

16 Section 6. Transportation authorization and traffic safety.

17 (a) General rule.--It shall be unlawful for a transporter to
18 transport solid waste to a municipal waste processing or
19 disposal facility located in this Commonwealth in a towing
20 vehicle and semitrailer combination with a fifth wheel hookup
21 unless the transporter meets the requirements of this section.

22 (b) Registration fee.--

23 (1) A transporter shall submit an annual registration
24 application on a form prescribed by the department and shall
25 pay to the department an annual registration fee for each
26 semitrailer used in a towing vehicle and semitrailer
27 combination subject to this section.

28 (2) The annual registration fee shall be \$100 for each
29 semitrailer used in a towing vehicle and semitrailer
30 combination subject to this section.

1 (c) Authorization.--Within 30 calendar days of receipt of
2 the registration fee, the department shall issue a written
3 authorization for the semitrailer to be used to transport solid
4 waste.

5 (d) Stickers.--For each written authorization issued, the
6 department shall provide the transporter with two stickers for
7 each semitrailer indicating the authorization number and
8 authorization expiration date for the semitrailer. The stickers
9 shall be displayed prominently on the left front bulkhead and
10 back of the semitrailer used to transport solid waste.

11 (e) Duration.--Written authorization shall be effective for
12 one year after issuance.

13 (f) Regulations.--Subject to subsection (1)(3), the
14 department shall promulgate regulations implementing this
15 section no later than one year after the effective date of this
16 act.

17 (g) Failure to comply.--In carrying out the provisions of
18 this section, the department may deny, suspend, modify or revoke
19 any written authorization if it finds that any of the following
20 has occurred:

21 (1) The transporter or its agent has failed and
22 continues to fail to comply with:

23 (i) any provision of this act;

24 (ii) the Solid Waste Management Act;

25 (iii) the Municipal Waste Planning, Recycling and
26 Waste Reduction Act;

27 (iv) any other Federal or State statute relating to
28 environmental protection or to the protection of the
29 public health, safety and welfare;

30 (v) any rule, regulation or order of the department;

1 or

2 (vi) any condition of any permit, license or other
3 written authorization issued by the department.

4 (2) The transporter has shown a lack of ability or
5 intention to comply with:

6 (i) any provision of this act;

7 (ii) any of the acts referred to in paragraph (1);

8 (iii) any rule, regulation or order of the
9 department; or

10 (iv) any condition of any permit or license issued
11 by the department, as indicated by past or continuing
12 violations.

13 In the case of a corporate transporter, the department may
14 deny the issuance of a written authorization if the
15 department finds that a principal of the corporation was a
16 principal of another corporation that committed past
17 violations of this act.

18 (h) Penalty.--

19 (1) A person who violates subsection (a) commits a
20 misdemeanor of the third degree and shall, upon conviction
21 for the first offense, be sentenced to pay a fine of not less
22 than \$5,000 nor more than \$10,000.

23 (2) Upon a second or subsequent violation of subsection
24 (a), a person commits a misdemeanor of the second degree and
25 shall be sentenced to pay a fine of not less than \$10,000 nor
26 more than \$25,000, and the court may order the operating
27 privilege of the transporter to be suspended for a period of
28 up to one year, or both.

29 (i) Fees, fines and penalties to be paid into the Solid
30 Waste Abatement Fund.--All written authorization fees, fines and

1 penalties collected under this section shall be paid into a
2 restricted account within the Solid Waste Abatement Fund
3 established under section 701 of the Solid Waste Management Act.
4 The fees, fines and penalties also may be used to implement the
5 written authorization program and to support efforts to inspect
6 vehicles used to transport solid waste.

7 (j) Forfeiture.--A towing vehicle and semitrailer used in
8 commission of an offense under this section shall be deemed
9 contraband and may be forfeited to the department. The
10 provisions of law relating to seizure, summary and judicial
11 forfeiture and condemnation of intoxicating liquor shall apply
12 to seizures and forfeitures under this section. Proceeds from
13 the sale of forfeited semitrailers shall be deposited in a
14 restricted account within the Solid Waste Abatement Fund
15 established under section 701 of the Solid Waste Management Act.
16 The funds shall be used to implement the written authorization
17 program and to support efforts to inspect vehicles used to
18 transport solid waste.

19 (k) Traffic impact studies for certain facilities.--

20 (1) If the entrance to a commercial solid waste
21 landfill, resource recovery facility or a commercial solid
22 waste landfill or resource recovery facility for which a
23 permit, permit reissuance or major permit modification is
24 sought, is not within 15 driving miles from a four-lane,
25 divided highway as measured by the approved approach routes
26 to the facility, then the Department of Transportation shall
27 prepare a traffic impact study and submit the results of such
28 study to the department within 240 calendar days of the
29 effective date of this act.

30 (2) In the department's review of such study, the impact

1 of traffic and transportation to the existing or proposed
2 facility shall be deemed a significant harm subject to
3 heightened scrutiny by the department and which harm may only
4 be overcome if the permittee, in the case of an existing
5 facility, or applicant, in the case of a pending application,
6 can demonstrate that the benefits of the project to the
7 public clearly outweigh all of the known and potential harms.

8 (1) Transporter compliance study and report.--

9 (1) Within 24 months from the effective date of this
10 act, the department shall complete a study of transporter
11 compliance. The study shall include one motor vehicle
12 compliance inspection at or in close proximity to the site of
13 each commercial solid waste landfill and each resource
14 recovery facility in the Commonwealth during each of the two
15 calendar years following the effective date of this act. As a
16 part of each inspection, the department shall determine
17 compliance with the requirements of the Solid Waste
18 Management Act, the Municipal Waste Planning, Recycling and
19 Waste Reduction Act, vehicle safety requirements and weight
20 requirements by each vehicle delivering solid waste to a
21 commercial solid waste landfill or resource recovery facility
22 during the working day.

23 (2) Within 30 months from the effective date of this
24 act, the department shall report the results of the
25 transporter compliance study to the General Assembly. The
26 report shall provide numerical and statistical information
27 for each inspection in sufficient detail to identify and
28 quantify the violations found. For safety-related violations,
29 the report shall provide numerical and statistical
30 information identifying and quantifying the class of vehicle,

1 the driver violations and identifying and quantifying the
2 specific mechanical systems involved in vehicle violations.
3 The report also shall detail the annual registration fees
4 collected and fines and penalties imposed and collected, and
5 the direct and indirect costs to implement the annual
6 registration program and inspection program.

7 (3) Upon the completion of study and submission of the
8 report to the General Assembly, the department shall have the
9 power and duty to promulgate regulations to require the
10 payment of an annual registration fee for each semitrailer
11 used in a towing vehicle and semitrailer combination subject
12 to this section. The amount of the annual registration fee
13 shall be sufficient to cover the actual costs of the
14 department in implementing and enforcing this section.

15 Section 7. Enforcement.

16 (a) Orders.--

17 (1) The department may issue orders to persons and
18 municipalities as it deems necessary to aid in the
19 enforcement of this act. These orders may include, but shall
20 not be limited to, orders to enforce the terms of a host
21 municipality agreement, orders modifying, suspending or
22 revoking written authorizations and orders requiring persons
23 and municipalities to cease unlawful activities or operations
24 of a commercial solid waste landfill or resource recovery
25 facility or transportation vehicle which in the course of its
26 operation is in violation of any provision of this act, any
27 rule or regulation of the department or any terms and
28 conditions of a written authorization issued under this act,
29 a host municipality agreement or a permit. An order issued
30 under this act shall take effect upon notice unless the order

1 specifies otherwise.

2 (2) An appeal to the Environmental Hearing Board shall
3 not act as a supersedeas.

4 (3) The power of the department to issue an order under
5 this act is in addition to any other remedy which may be
6 afforded to the department pursuant to this act or any other
7 act.

8 (b) Duty to comply with orders of department.--It shall be
9 the duty of any person and municipality to proceed diligently to
10 comply with any order issued pursuant to this section. If the
11 person or municipality fails to proceed diligently or fails to
12 comply with the order within the time, if any, as may be
13 specified, the person or municipality shall be guilty of
14 contempt and shall be punished by the court in an appropriate
15 manner and, for this purpose, application may be made by the
16 department to the court.

17 Section 8. Civil penalties.

18 (a) Authority.--

19 (1) In addition to proceeding under any other remedy
20 available at law or in equity for a violation of any
21 provision of this act, any provision of a host municipality
22 agreement, any rule or regulation of the department or order
23 of the department or any term or condition of any written
24 authorization issued by the department, the department may
25 assess a civil penalty upon a person for the violation. The
26 penalty may be assessed whether or not the violation was
27 willful or negligent.

28 (2) In determining the amount of the penalty, the
29 department shall consider the willfulness of the violation,
30 damage to air, water, land or other natural resources of this

1 Commonwealth or their uses, cost or restoration and
2 abatement, savings resulting to the person in consequence of
3 the violation and other relevant factors.

4 (3) The maximum civil penalty that may be assessed
5 pursuant to this section is \$25,000 per offense. Each
6 violation for each separate day and each violation of any
7 provision of this act, any rule or regulation under this act,
8 any order of the department or any term or condition of a
9 permit or permits shall constitute a separate and distinct
10 offense under this section.

11 (b) Procedure.--

12 (1) When the department proposes to assess a civil
13 penalty, it shall inform the person of the proposed amount of
14 the penalty. The person charged with the penalty shall then
15 have 30 calendar days to pay the proposed penalty in full or,
16 if the person wishes to contest the amount of the penalty or
17 the fact of the violation to the extent not already
18 established, the person shall forward the proposed amount of
19 the penalty to the Environmental Hearing Board within the 30-
20 calendar day period for placement in an escrow account with
21 the State Treasurer or any Commonwealth bank or post an
22 appeal bond to the hearing board within 30 calendar days in
23 the amount of the proposed penalty if the bond is executed by
24 a surety licensed to do business in this Commonwealth and is
25 satisfactory to the department.

26 (2) If through administrative or final judicial review
27 of the proposed penalty it is determined that no violation
28 occurred or that the amount of the penalty shall be reduced,
29 the hearing board shall within 30 calendar days remit the
30 appropriate amount to the person with any interest

1 accumulated by the escrow deposit.

2 (3) Failure to forward the money or the appeal bond at
3 the time of the appeal shall result in a waiver of all legal
4 rights to contest the violation or the amount of the civil
5 penalty unless the appellant alleges financial inability to
6 prepay the penalty or to post the appeal bond. The hearing
7 board shall conduct a hearing to consider the appellant's
8 alleged inability to pay within 30 calendar days of the date
9 of the appeal.

10 (4) The hearing board may waive the requirement to
11 prepay the civil penalty or to post an appeal bond if the
12 appellant demonstrates and the hearing board finds that the
13 appellant is financially unable to pay. The hearing board
14 shall issue an order within 30 calendar days of the date of
15 the hearing to consider the appellant's alleged inability to
16 pay.

17 (5) The amount assessed after administrative hearing or
18 after waiver of administrative hearing shall be payable to
19 the Commonwealth and shall be collectible in any manner
20 provided by law for the collection of debts, including the
21 collection of interest at the legal rate, which shall run
22 from the date of assessment of the penalty.

23 (6) If any person liable to pay a penalty neglects or
24 refuses to pay the same after demand, the amount, together
25 with interest and any costs that may accrue, shall constitute
26 a debt of the person, as may be appropriate, to the Solid
27 Waste Abatement Fund. The debt shall constitute a lien on all
28 property owned by the person when a notice of lien
29 incorporating a description of the property of the person
30 subject to the action is filed with the prothonotary of the

1 court of common pleas where the property is located.

2 (7) The prothonotary shall promptly enter upon the civil
3 judgment or order docket, at no cost to the department, the
4 name and address of the person, as may be appropriate, and
5 the amount of the lien as set forth in the notice of lien.
6 Upon entry by the prothonotary, the lien shall attach to the
7 revenues and all real and personal property of the person,
8 whether or not the person is solvent.

9 (8) The notice of lien, filed pursuant to this
10 subsection, which affects the property of the person shall
11 create a lien with priority over all subsequent claims or
12 liens which are filed against the person, but it shall not
13 affect any valid lien, right or interest in the property
14 filed in accordance with established procedure prior to the
15 filing of a notice of lien under this subsection.

16 Section 9. Regulations.

17 The Environmental Quality Board shall have the power and its
18 duty shall be to adopt the regulations of the department to
19 accomplish the purposes and to carry out the provisions of this
20 act.

21 Section 10. Severability.

22 The provisions of this act are severable. If any provision of
23 this act or its application to any person or circumstance is
24 held invalid, the invalidity shall not affect other provisions
25 or applications of this act which can be given effect without
26 the invalid provision or application.

27 Section 11. Repeals.

28 All acts and parts of acts are repealed insofar as they are
29 inconsistent with this act.

30 Section 12. Effective date.

1 This act shall take effect as follows:

2 (1) Section 6(a) shall take effect upon the adoption of
3 final regulations by the department pursuant to section 6(f).

4 (2) The remainder of this act shall take effect
5 immediately.