

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1439 Session of
2001

INTRODUCED BY S. H. SMITH, FEESE, SURRA, BASTIAN, BELARDI,
CALTAGIRONE, CAPPELLI, CAWLEY, DALLY, BARD, FAIRCHILD,
FRANKEL, GRUCELA, HENNESSEY, HERMAN, HERSHEY, HESS, LAUGHLIN,
LEH, McILHATTAN, McNAUGHTON, PIPPY, PRESTON, ROHRER, ROSS,
RUBLEY, SATHER, SAYLOR, SHANER, B. SMITH, SOLOBAY, STEIL,
E. Z. TAYLOR, THOMAS, TRELLO AND YUDICHAK, APRIL 25, 2001

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
NOVEMBER 19, 2001

AN ACT

1 Establishing a waste transportation safety program and the Waste
2 Transportation Safety Account; ~~and~~ imposing penalties; AND <—
3 PROVIDING FOR LIABILITY OF OPERATOR OF COMMERCIAL SOLID WASTE
4 LANDFILL AND FOR A MORATORIUM.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Short title.

8 This act shall be known and may be cited as the Waste
9 Transportation Safety Act.

10 Section 2. Definitions.

11 The following words and phrases when used in this act shall
12 have the meanings given to them in this section unless the
13 context clearly indicates otherwise:

14 "Combination." Two or more vehicles physically
15 interconnected in tandem.

16 "COMMERCIAL SOLID WASTE LANDFILL." A LANDFILL PERMITTED OR <—

1 PROPOSED FOR PERMITTING UNDER THE ACT OF JULY 7, 1980 (P.L.380,
2 NO.97), KNOWN AS THE SOLID WASTE MANAGEMENT ACT, FOR THE
3 DISPOSAL OF MUNICIPAL WASTE, RESIDUAL WASTE, CONSTRUCTION AND
4 DEMOLITION WASTE OR MIXED MUNICIPAL AND RESIDUAL WASTE,
5 INCLUDING MIXED MUNICIPAL OR RESIDUAL WASTE AND CONSTRUCTION AND
6 DEMOLITION DEBRIS. THE TERM DOES NOT INCLUDE A CAPTIVE RESIDUAL
7 WASTE FACILITY.

8 "Department." The Department of Environmental Protection of
9 the Commonwealth and its authorized representatives.

10 "Gross vehicle weight." The combined weight of a vehicle or
11 combination of vehicles and its load, excluding the driver's
12 weight.

13 "Law enforcement officer." A Pennsylvania State Police
14 officer or a police officer certified pursuant to 35 Pa.C.S. Ch.
15 21 Subch. D (relating to municipal police education and
16 training).

17 "Motor carrier vehicle." As defined in 75 Pa.C.S. § 102
18 (relating to definitions). For purposes of this act, the terms
19 "truck", "truck tractor" and "combination" refer to vehicles
20 used to transport municipal or residual waste.

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

24 "Owner." A person other than a lienholder, having the
25 property right in or title to a vehicle.

26 "Qualified Commonwealth employee." Any of the following who
27 have completed training in the inspection or weighing of
28 vehicles as required by 75 Pa.C.S. Chs. 47 (relating to
29 inspection of vehicles) and 49 (relating to size, weight and
30 load):

1 (1) A Department of Environmental Protection employee.

2 (2) A law enforcement officer.

3 (3) A qualified Department of Transportation employee.

4 "Secretary." The Secretary of Environmental Protection of
5 the Commonwealth.

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

8 "Transportation." The offsite removal of municipal and
9 residual waste any time after generation.

10 "Transporter." The owner or operator of a public or private
11 waste transportation vehicle used for commercial purposes to
12 transport municipal or residual waste to a municipal or residual
13 waste processing or disposal facility in this Commonwealth. An
14 individual driving a waste transportation vehicle who is not the
15 owner or operator is not a "transporter" for purposes of this
16 act.

17 "Waste trailer." A vehicle in excess of 10,001 pounds used
18 to carry waste and designed to be towed by a motor vehicle.

19 "Waste transportation vehicle." Public and private motor
20 carrier vehicles and waste trailers, as defined in this act,
21 routinely used in transporting municipal or residual waste to a
22 processing or disposal facility in this Commonwealth, as
23 determined by the Department of Environmental Protection. The
24 term does not include vehicles currently registered by the
25 department pursuant to 25 Pa.Code § 285.225 (relating to
26 transportation of residential septage).

27 Section 3. Establishment of program.

28 (a) Establishment.--A Waste Transportation Safety Program is
29 established to protect the public health, safety and welfare and
30 the environment.

(b) Duties.--The Waste Transportation Safety Program shall:

(1) Ensure the responsible and safe transportation of municipal or residual waste to processing and disposal facilities by requiring written authorization from the department.

(2) Prohibit a waste processing or disposal facility from accepting municipal or residual waste from a waste transportation vehicle engaged in commerce without a valid authorization.

(3) Provide the department with the authority to deny or revoke written authorization where the agency finds violations of applicable laws and regulations.

(4) Establish a transportation authorization fee for the administration of this act.

Section 4. Waste Transportation Safety Program.

(a) Interim written application.--A transporter shall submit an application for interim written authorization on a form prescribed by the department accompanied by a fee of \$100 per truck, \$50 per truck tractor and \$50 per waste trailer. Each application shall be accompanied by a copy of the official base State registration provided for in 75 Pa.C.S. § 6144 (relating to vehicle registration and licensing), evidence of the current official certificate of inspection and a current certificate of insurance.

(b) Written authorization required.--It shall be unlawful for a transporter to operate a waste transportation vehicle without obtaining written authorization from the department under this section. ~~Nothing in this section shall preclude the operation of a municipal waste transportation authorization or license program by municipalities or counties, including~~

<—

1 ~~amendments to the Waste Transportation Safety Program.~~

2 (c) Interim written authorization.--Upon receipt of the fee
3 and complete documentation substantiating conformance with
4 subsection (a), the department shall issue and provide the
5 transporter with an interim written authorization and stickers
6 for each truck, truck tractor and waste trailer. The stickers
7 shall indicate the transporter's interim written authorization
8 number and interim written authorization expiration date. A
9 sticker shall be displayed prominently on the left front side of
10 the truck or truck tractor, and a sticker shall be displayed
11 prominently on the back of the truck or waste trailer. Each
12 waste transportation vehicle shall carry a copy of the interim
13 written authorization issued to the transporter by the
14 department and, upon request, present the interim written
15 authorization to the department, a law enforcement officer or a
16 qualified Commonwealth employee.

17 (d) Term of interim written authorization.--The interim
18 written authorization shall be valid until the applicant
19 receives full authorization or for one year after issuance,
20 whichever is less, unless suspended or revoked by the
21 department.

22 (e) Compliance history.--Upon notification from the
23 department, the applicant shall submit on a form provided by the
24 department documentation of compliance history that conforms
25 with section 5.

26 (f) Full written authorization.--Upon evaluation of the
27 applicant's compliance history under section 6, the department
28 shall make a final determination on the issuance of a full
29 written authorization.

30 (g) Term of full written authorization.--The full written

1 authorization shall be valid for one year unless suspended or
2 revoked by the department.

3 (h) Full written authorization application renewal.--Ninety
4 days prior to expiration of full written authorization, a
5 transporter shall submit an application for full written
6 authorization on a form prescribed by the department accompanied
7 by a fee of \$100 per truck, \$50 per truck tractor and \$50 per
8 waste trailer. Each application shall be accompanied by a copy
9 of the official base State registration, the current official
10 certificate of inspection and a current certificate of
11 insurance, pursuant to 75 Pa.C.S. (relating to vehicles), for
12 each truck, truck tractor and waste trailer. After publishing a
13 notice in the Pennsylvania Bulletin, no later than July 1 and
14 effective no earlier than January 1 of the following year, the
15 department shall evaluate and may modify the written
16 authorization renewal fee in an amount sufficient to cover the
17 actual costs of the department in implementing and enforcing
18 this act, including the costs of the Pennsylvania State Police
19 and the Department of Transportation. The renewal fee paid to
20 the department by a transporter shall not exceed \$200.

21 (i) Nontransferability until regulations published.--Written
22 authorizations shall not be transferable until the department
23 promulgates regulations or until two years after the effective
24 date of this act, whichever occurs first.

25 (j) Powers and duties of Environmental Quality Board.--The
26 Environmental Quality Board shall have the power and duty to
27 adopt the regulations of the department to accomplish the
28 purposes and to carry out the provisions of this act.

29 (k) Restricted account.--All fees received by the department
30 pursuant to this section shall be paid into a separate

1 restricted account known as the Waste Transportation Safety
2 Account, which is hereby established. Funds in this account
3 shall be available to the department, including reimbursing the
4 Pennsylvania State Police and the Department of Transportation
5 for their costs in administering this act.

6 (L) PROHIBITION.--THIS SECTION SHALL PRECLUDE THE OPERATION <—
7 OF A MUNICIPAL WASTE TRANSPORTATION AUTHORIZATION OR LICENSE
8 PROGRAM AND THE CHARGING OF A FEE BY MUNICIPALITIES OR COUNTIES.

9 Section 5. Compliance history review.

10 (a) Transporter noncompliance.--In carrying out this
11 section, the department may deny, suspend, modify or revoke any
12 written authorization if it finds or receives findings from the
13 Pennsylvania State Police or the Department of Transportation
14 that:

15 (1) The transporter has failed or continues to fail to
16 comply with any provision of:

17 (i) this act;

18 (ii) the Solid Waste Management Act;

19 (iii) the Municipal Waste Planning, Recycling and
20 Waste Reduction Act;

21 (iv) any other Federal or State statute relating to
22 environmental protection, motor vehicle safety or to the
23 protection of the public health, safety and welfare;

24 (v) any rule or regulation of the department;

25 (vi) any order of the department; or

26 (vii) any condition of any permit, license or other
27 written authorization issued by the department.

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

30 (i) any provision of this act;

1 (ii) any of the acts referred to in this subsection;
2 (iii) any rule or regulation of the department or
3 order of the department; or
4 (iv) any condition of any permit or license issued
5 by the department as indicated by past or continuing
6 violations.

7 (b) Correction of noncompliance.--

8 (1) The department may deny, suspend, modify or revoke
9 the issuance of a written authorization if the department
10 finds that any transporter has engaged in unlawful conduct as
11 defined in this act, the Solid Waste Management Act or the
12 Municipal Waste Planning, Recycling and Waste Reduction Act
13 or whose partner, associate, officer, parent corporation,
14 subsidiary corporation, contractor, subcontractor or agent
15 has engaged in such unlawful conduct.

16 (2) Independent contractors and agents who operate under
17 a written authorization shall be subject to the provisions of
18 this section and shall be jointly and severally liable,
19 without regard to fault, for violations of this act which
20 occur during the independent contractor's or agent's
21 involvement in the course of operations.

22 (c) Related corporations.--In the case of a corporate
23 transporter the department may deny, suspend, modify or revoke a
24 written authorization if the department finds that a corporation
25 is related to another past or present corporation which
26 committed violations of the acts referred to in this section. A
27 corporation is related to another corporation if they have
28 common principals or have parent or subsidiary corporation
29 relationships.

30 Section 6. Responsibilities of municipal or residual waste

1 processing or disposal facilities.

2 (a) General rule.--No municipal or residual waste processing
3 or disposal facility shall accept municipal or residual waste
4 from a waste transportation vehicle without a valid written
5 authorization issued by the department. Failure to comply with
6 this provision shall result in a penalty assessment of \$2,000
7 against the operator of the processing or disposal facility.

8 (b) Disposition.--All penalty assessments collected under
9 this section shall be paid into the Waste Transportation Safety
10 Account and shall be used for the purposes enumerated in this
11 act.

12 SECTION 7. INSPECTION OF WASTE TRANSPORTATION VEHICLES OR WASTE <—
13 TRAILERS.

14 IN THE EVENT A COMBINATION USED TO TRANSPORT SOLID WASTE TO A
15 MUNICIPAL WASTE PROCESSING OR DISPOSAL FACILITY, IN THE
16 REASONABLE JUDGMENT OF A QUALIFIED COMMONWEALTH EMPLOYEE, IS IN
17 SUCH CONDITION THAT FURTHER OPERATION WOULD BE HAZARDOUS, THE
18 DEPARTMENT OF TRANSPORTATION SHALL MAKE A DETERMINATION IF THE
19 CERTIFICATE OF INSPECTION FOR THE WASTE TRANSPORTATION VEHICLE
20 AND/OR WASTE TRAILER WAS ISSUED BY AN OFFICIAL INSPECTION
21 STATION APPOINTED PURSUANT TO THE PROVISIONS OF 75 PA.C.S. §
22 4723 (RELATING TO CERTIFICATE OF APPOINTMENT FOR INSPECTING
23 FLEET VEHICLES). AFTER MAKING SUCH DETERMINATION, THE DEPARTMENT
24 OF TRANSPORTATION MAY SUSPEND THE CERTIFICATE OF APPOINTMENT FOR
25 INSPECTING FLEET VEHICLES PURSUANT TO THE PROVISIONS OF 75
26 PA.C.S. § 4724 (RELATING TO SUSPENSION OF CERTIFICATES OF
27 APPOINTMENT) IF AN ITEM OF A COMBINATION'S EQUIPMENT DID NOT
28 MEET STANDARDS ESTABLISHED IN DEPARTMENT OF TRANSPORTATION
29 REGULATIONS. WHEN INSPECTIONS PERFORMED PURSUANT TO THE
30 PROVISIONS OF 75 PA.C.S. § 4704 (RELATING TO INSPECTION BY

1 POLICE OR COMMONWEALTH PERSONNEL) RESULT IN EQUIPMENT VIOLATIONS
2 IN COMBINATIONS USED TO TRANSPORT SOLID WASTE TO A MUNICIPAL
3 PROCESSING OR DISPOSAL FACILITY THAT HAS PREVIOUSLY BEEN CITED
4 BUT HAS NOT BEEN SATISFACTORILY REPAIRED, THE DEPARTMENT OF
5 TRANSPORTATION SHALL MAKE A DETERMINATION IF THE CERTIFICATE OF
6 INSPECTION FOR THE WASTE TRANSPORTATION VEHICLE AND/OR WASTE
7 TRAILER WAS ISSUED BY AN OFFICIAL INSPECTION STATION APPOINTED
8 PURSUANT TO THE PROVISIONS OF 75 PA.C.S. § 4723. AFTER MAKING
9 SUCH DETERMINATION, THE DEPARTMENT OF TRANSPORTATION SHALL
10 SUSPEND THE CERTIFICATE OF APPOINTMENT FOR INSPECTING FLEET
11 VEHICLES PURSUANT TO THE PROVISIONS OF 75 PA.C.S. § 4724 IF AN
12 ITEM OF A COMBINATION'S EQUIPMENT DID NOT MEET STANDARDS
13 ESTABLISHED IN DEPARTMENT OF TRANSPORTATION REGULATIONS.

14 Section 7 8. Enforcement.

<—

15 (a) Authority of law enforcement officers and qualified
16 Commonwealth employees.--A law enforcement officer or qualified
17 Commonwealth employee shall be authorized to assist the
18 department in enforcing provisions of this act. The authority
19 granted under this section shall be exercised only when the
20 employee is in uniform and is conducting an inspection of a
21 vehicle, as described in 75 Pa.C.S. Chs. 47 (relating to
22 inspection of vehicles) and 49 (relating to size, weight and
23 load).

24 (b) Training of law enforcement officers and qualified
25 Commonwealth employees.--The Department of Transportation may
26 train and qualify law enforcement officers and qualified
27 Commonwealth employees to inspect waste transportation vehicles
28 as authorized under this section and as provided for in 75
29 Pa.C.S. Chs. 47 and 49. The Department of Transportation shall
30 have the power to adopt regulations to implement this

1 subsection, as necessary.

2 (c) Disposition.--All fines and penalties collected as a
3 result of violations of this act shall be paid into the Waste
4 Transportation Safety Account and shall be used for the purposes
5 enumerated in this act. The fees may also be used to support
6 additional efforts to inspect waste transportation vehicles used
7 to transport municipal and residual waste.

8 Section 9. Penalties.

<—

9 (a) Criminal penalties.--A person who violates the
10 provisions of this act commits a misdemeanor of the third degree
11 and, upon conviction for the first offense, shall pay a penalty
12 of not less than \$5,000 nor more than \$10,000. Upon the second
13 or subsequent conviction of an offense under this act, a person
14 commits a misdemeanor of the second degree and shall pay a
15 penalty of not less than \$10,000 nor more than \$25,000, and the
16 court may order the operating privilege of the vehicle operator
17 to be suspended for a period of up to one year, or both.

18 (b) Civil penalties.--

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, the regulations promulgated hereunder,
22 any order of the department issued under this act or any term
23 or condition of a written authorization, the department may
24 assess a civil penalty upon a person. Such penalty may be
25 assessed whether or not the violation was willful or
26 negligent. In determining the amount of the penalty, the
27 department shall consider the willfulness of the violation,
28 the effect on waste transportation safety, damage to the
29 natural resources of this Commonwealth or their uses, cost of
30 restoration and abatement, savings resulting to the violator

1 in consequence of such violation, deterrence of future
2 violations and other relevant factors. If the violation leads
3 to the issuance of a cessation order, a civil penalty shall
4 be assessed.

5 (2) When the department assesses a civil penalty, it
6 shall inform the person of the amount of the penalty. The
7 person shall then have 30 days to pay the penalty in full or,
8 if the person wishes to contest either the amount of the
9 penalty or the fact of the violation, the person shall
10 forward the proposed amount of the penalty to the department
11 for placement in an escrow account with the State Treasurer
12 or with a bank in this Commonwealth, or post an appeal bond
13 in the amount of the penalty. The bond must be executed by a
14 surety licensed to do business in this Commonwealth and must
15 be satisfactory to the department. If, through administrative
16 or judicial review of the proposed penalty, it is determined
17 that no violation occurred or that the amount of the penalty
18 shall be reduced, the department shall, within 30 days, remit
19 the appropriate amount to the person, with an interest
20 accumulated by the escrow deposit. Failure to forward the
21 money or the appeal bond to the department within 30 days
22 shall result in a waiver of all legal rights to contest the
23 violation or the amount of the penalty.

24 (3) The maximum civil penalty which may be assessed
25 pursuant to this act is \$10,000 per violation. Each violation
26 for each separate day and each violation of any provision of
27 this act, any regulation promulgated hereunder, any order
28 issued under this act or the terms or conditions of any
29 written authorization shall constitute a separate offense
30 under this act.

1 (4) Notwithstanding any other provisions of law to the
2 contrary, there shall be a statute of limitations of five
3 years upon actions brought by the Commonwealth under this
4 act.

5 (c) Enforcement orders.--

6 (1) The department may issue orders to such persons,
7 counties and municipalities as it deems necessary to aid in
8 the enforcement of this act. Such orders may include, but
9 shall not be limited to, orders modifying, suspending or
10 revoking written authorizations and orders requiring persons,
11 counties and municipalities to cease unlawful activities or
12 operations of a waste transportation vehicle which in the
13 course of operation is in violation of this act, any rule or
14 regulation of the department or any terms and conditions of a
15 written authorization issued under this act. An order issued
16 under this act shall take effect upon notice unless the order
17 specifies otherwise. An appeal to the Environmental Hearing
18 Board shall not act as a supersedeas. The power of the
19 department to issue an order under this act is in addition to
20 any other remedy which may be afforded to the department
21 pursuant to this act or any other act.

22 (2) It shall be the duty of any person to proceed
23 diligently to comply with any order issued pursuant to this
24 section. If such person fails to proceed diligently or fails
25 to comply with the order within such time, if any, as may be
26 specified, such person commits contempt and shall be punished
27 by the court in an appropriate manner, and, for this purpose,
28 application may be made to the Commonwealth Court, which is
29 hereby granted jurisdiction.

30 (d) Injunctions.--

1 (1) In addition to any other remedies provided in this
2 act, the department may institute a suit in equity in the
3 name of the Commonwealth where unlawful conduct exists for an
4 injunction to restrain a violation of this act, the
5 regulations promulgated under this act, any order issued
6 pursuant hereto or the terms or conditions of any written
7 authorization. In any such proceeding, the court shall, upon
8 the motion of the Commonwealth, issue a prohibitory or
9 mandatory preliminary injunction if it finds that the
10 defendant is engaging in unlawful conduct as defined by this
11 act or is engaged in conduct which is causing immediate or
12 irreparable harm to the public. The Commonwealth shall not be
13 required to furnish bond or other security in connection with
14 such proceedings. In addition to an injunction, the court in
15 such equity proceedings may levy civil penalties as specified
16 in this act.

17 (2) In addition to any other remedies provided for in
18 this act, an action in equity may be brought in a court of
19 competent jurisdiction for an injunction to restrain any and
20 all violations of this act or the regulations promulgated
21 under this act.

22 (3) Actions instituted under this section may be filed
23 in the appropriate court of common pleas or in the
24 Commonwealth Court, which courts are hereby granted
25 jurisdiction to hear such actions.

26 (e) Concurrent remedies.--The penalties and remedies
27 provided in this act shall be deemed concurrent and cumulative
28 with all other existing provisions of law or equity. The
29 existence or exercise of any remedy shall not prevent the
30 department from exercising any other remedy under this act, at

1 any law or in equity.

2 (f) Forfeiture of waste transportation vehicle.--

3 (1) A waste transportation vehicle used in the
4 commission of an offense under section 5 shall be deemed
5 contraband and forfeited to the department. The provisions of
6 law relating to seizure, summary and judicial forfeiture and
7 condemnation of intoxicating liquor shall apply to seizures
8 and forfeitures under this act. Proceeds from the sale of
9 forfeited waste transportation vehicles shall be deposited in
10 the Waste Transportation Safety Account.

11 (2) The owner of any vehicle or conveyance forfeited
12 under this act shall be responsible for any costs incurred in
13 properly disposing of waste in the vehicle or conveyance.

14 (g) Deposit of fines and penalties.--All fines and penalties
15 collected under this section shall be paid into the Waste
16 Transportation Safety Account and shall be used for the purposes
17 enumerated in this act. The fees may also be used to support
18 additional efforts to inspect waste transportation vehicles used
19 to transport municipal and residual waste.

20 SECTION 10. REBUTTABLE PRESUMPTION AND DEFENSES.

<—

21 (A) LIABILITY OF OPERATOR OF COMMERCIAL SOLID WASTE
22 LANDFILL.--IT SHALL BE REBUTTABLY PRESUMED, AS A MATTER OF LAW,
23 THAT AN OPERATOR OF A COMMERCIAL SOLID WASTE LANDFILL IS LIABLE
24 WITHOUT PROOF OF FAULT, NEGLIGENCE OR CAUSATION FOR ALL
25 POLLUTION OR DIMINUTION OF PUBLIC OR PRIVATE WATER SUPPLIES
26 WITHIN 2,500 LINEAR FEET OF THE BOUNDARIES OF THE COMMERCIAL
27 SOLID WASTE LANDFILL.

28 (B) DEFENSES LIMITED.--THERE SHALL ONLY BE FIVE DEFENSES TO
29 THE REBUTTABLE PRESUMPTION OF LIABILITY PROVIDED FOR IN
30 SUBSECTION (A). THE OPERATOR MUST AFFIRMATIVELY PROVE BY A

PREPONDERANCE OF EVIDENCE THAT ONE OF THE FOLLOWING CONDITIONS
EXISTS:

(1) THE LANDOWNER IS NOT WITHIN 2,500 LINEAR FEET OF THE
BOUNDARY OF THE COMMERCIAL SOLID WASTE LANDFILL.

(2) THE LANDOWNER OR WATER SUPPLY COMPANY REFUSED TO
ALLOW THE OPERATOR ACCESS TO CONDUCT A SURVEY PRIOR TO
COMMENCING OPERATIONS.

(3) THE POLLUTION OR DIMINUTION EXISTED PRIOR TO
OPERATION OF THE COMMERCIAL SOLID WASTE LANDFILL AS
DETERMINED BY A SURVEY CONDUCTED PRIOR TO COMMENCING
OPERATIONS.

(4) THE POLLUTION OR DIMINUTION OCCURRED AS A RESULT OF
SOME CAUSE OTHER THAN THE OPERATION OF THE COMMERCIAL SOLID
WASTE LANDFILL.

(5) THE LANDOWNER, WATER SUPPLY USER OR WATER COMPANY
REFUSED TO ALLOW THE OPERATOR ACCESS TO DETERMINE THE CAUSE
OF POLLUTION OR DIMINUTION OR TO REPLACE OR RESTORE THE WATER
SUPPLY.

SECTION 11. MORATORIUM.

(A) GENERAL RULE.--FOR A PERIOD OF THREE YEARS FROM THE
EFFECTIVE DATE OF THIS SECTION, AND SUBJECT TO CONTINUATION OF
SUCH PERIOD UNDER SUBSECTION (B):

(1) THE DEPARTMENT MAY NOT ACCEPT AN APPLICATION FOR A
PERMIT MODIFICATION NOR ISSUE A PERMIT OR PERMIT MODIFICATION
UNDER THE SOLID WASTE MANAGEMENT ACT FOR THE CONSTRUCTION,
EXPANSION OR OPERATION OF A FACILITY.

(2) THE DEPARTMENT MAY NOT ACCEPT FOR REVIEW NOR ISSUE A
PERMIT MODIFICATION THAT WOULD RESULT IN AN INCREASE IN
AVERAGE DAILY VOLUME OR MAXIMUM DAILY VOLUME AT A FACILITY.

(B) ANNUAL REVIEW OF STATEWIDE LANDFILL CAPACITY AND

1 USAGE.--NINETY DAYS BEFORE THE FIRST AND THE SECOND ANNIVERSARY
2 OF THE IMPOSITION OF THE MORATORIUM PERIOD SET FORTH IN
3 SUBSECTION (A), THE SECRETARY SHALL REVIEW STATEWIDE LANDFILL
4 CAPACITY AND USAGE. IF THE SECRETARY DETERMINES THAT UNUSED
5 STATEWIDE LANDFILL CAPACITY CONTINUES TO BE EQUAL OR MORE THAN
6 SIX YEARS OF UNUSED LANDFILL CAPACITY REMAINS, THEN THE
7 MORATORIUM SHALL CONTINUE TO THE ORIGINAL ENDING DATE OF THE
8 MORATORIUM AND THE SECRETARY SHALL PUBLISH NOTICE OF SUCH
9 CONTINUATION AS A NOTICE IN THE PENNSYLVANIA BULLETIN.

10 (C) CONSTRUCTION.--UNLESS SPECIFICALLY DEFINED IN THIS ACT,
11 THE TERMS IN THIS SECTION HAVE THE SAME MEANING AS PROVIDED IN
12 THE SOLID WASTE MANAGEMENT ACT OR THE MUNICIPAL WASTE PLANNING,
13 RECYCLING AND WASTE REDUCTION ACT OR REGULATIONS OF THE
14 DEPARTMENT PROMULGATED THEREUNDER.

15 Section 9 12. Effective date.

<—

16 This act shall take effect in 60 days.