
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2998 Session of
2002

INTRODUCED BY HERMAN, NOVEMBER 21, 2002

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,
NOVEMBER 21, 2002

AN ACT

1 Authorizing municipal regulation of the land application of
2 biosolids and sewage sludge; providing for the powers and
3 duties of municipalities; and imposing civil penalties and
4 remedies.

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 Biosolids
9 Sewage Sludge Regulation Act.

10 Section 2. Legislative policy.

11 It is hereby declared to be the policy of the Commonwealth
12 through this act:

13 (1) To protect the public health, safety and welfare of
14 its citizens from the short-term and long-term dangers of
15 transportation, processing, treatment, storage and disposal
16 of biosolids and sewage sludge through the development and
17 implementation of State and local regulations for sanitary
18 disposal.

1 (2) To promote intermunicipal cooperation in the
2 implementation and administration of such plans by local
3 government.

4 (3) To prevent and eliminate pollution of waters of this
5 Commonwealth by coordinating planning for the sanitary
6 disposal of biosolids and sewage sludge between the
7 Commonwealth and local government.

8 (4) To provide for inspection, issuance of permits,
9 charging of applicable administrative fees and any other
10 necessary regulation by local government in accordance with
11 the laws of this Commonwealth and to encourage intermunicipal
12 cooperation to this end.

13 (5) To encourage the use of the best available
14 technology for the land application of biosolids and sewage
15 sludge.

16 Section 3. Definitions.

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

20 "Biosolids." Processed waste.

21 "Department." The Department of Environmental Protection of
22 the Commonwealth.

23 "Disposal." The incineration, deposition, injection,
24 dumping, spilling, leaking or placing of biosolids or sewage
25 sludge into or on the land or water in a manner that enters the
26 environment, is emitted into the air or is discharged into the
27 waters of this Commonwealth.

28 "Municipality." A county, city, borough, incorporated town,
29 township or general purpose unit of government.

30 "Sewage sludge." A substance, whether solid, liquid,

1 semisolid or gaseous form of processed sewage, that:

2 (1) contains any of the waste products or excrement or
3 other discharge from the bodies of human beings or animals
4 and any noxious or deleterious substances being harmful or
5 inimical to the public health, animal or aquatic life or the
6 use of water for domestic water supply or for recreation; or

7 (2) constitutes pollution under the act of June 22, 1937
8 (P.L.1987, No.394), known as The Clean Streams Law.

9 Section 4. Powers and duties of municipalities.

10 (a) Inspection.--

11 (1) A duly authorized agent of a municipality may enter
12 a property at reasonable times to conduct such investigations
13 and to take such actions as are necessary to enforce the
14 provisions of this act or any order, rule or regulation
15 issued under this act.

16 (2) A person owning or operating an operation regulated
17 by this act shall grant access to any duly authorized agent
18 of the municipality and may not hinder, obstruct, prevent or
19 interfere with such agent in the performance of the agent's
20 duties.

21 (3) A duly authorized agent of the municipality shall
22 perform such reasonable measures and actions as directed by
23 the owner or operator of an operation as will reasonably and
24 substantially prevent the spread or outbreak of disease or
25 contamination.

26 (b) Permitting.--

27 (1) No person may store, collect, transport, process or
28 dispose of biosolids or sewage sludge within this
29 Commonwealth unless such storage, collection, transportation,
30 processing or disposal is authorized by the rules and

1 regulations of the department.

2 (2) No person may own or operate a waste processing or
3 disposal facility unless the person has first obtained a
4 permit for such facility from the department and the
5 applicable municipality as required.

6 (c) Administrative fees.--A municipality may impose and
7 collect a surcharge on a person or operation regulated under
8 this act as necessary and reasonable to offset the costs of
9 administration and enforcement of this act.

10 (d) Regulation.--A municipality may enact such ordinances,
11 resolutions, rules and regulations as necessary in furtherance
12 of the purposes of this act.

13 Section 5. Civil penalties and remedies.

14 (a) General rule.--In addition to proceeding under any other
15 remedy available at law or in equity for a violation of any
16 provision of this act, any ordinance, resolution, rule or
17 regulation of a municipality or any term or condition of any
18 permit issued by a municipality, the municipality may assess a
19 civil penalty upon a person for such violation. The penalty may
20 be assessed whether or not the violation was willful or
21 negligent. In determining the amount of the penalty, the
22 department shall consider:

23 (1) The willfulness of the violation.

24 (2) Damage to air, water, land or other natural
25 resources of the municipality and this Commonwealth or their
26 uses.

27 (3) Cost of restoration and abatement.

28 (4) Savings resulting to the person in consequence of
29 such violation.

30 (5) Other relevant factors.

1 If the violation leads to the issuance of a cessation order or
2 occurs after the release of security for performance, a civil
3 penalty shall be assessed.

4 (b) Procedure.--

5 (1) When the municipality proposes to assess a civil
6 penalty under this section, it shall inform the person of the
7 proposed amount of the penalty.

8 (2) The person charged with the penalty shall have 30
9 days to pay the proposed penalty in full, or, if the person
10 wishes to contest either the amount of the penalty or the
11 fact of the violation, the person shall within the 30-day
12 period file an appeal of such action with the applicable
13 court of common pleas. Failure to appeal within 30 days shall
14 result in a waiver of all legal rights to contest the
15 violation or the amount of the penalty.

16 (c) Amount of civil penalty.--The maximum civil penalty
17 which may be assessed pursuant to this section is \$100 per
18 offense. Each violation for each separate day and each violation
19 of any provision of this act, any rule or regulation under this
20 act, any order of a municipality or any term or condition of a
21 permit shall constitute a separate and distinct offense under
22 this section.

23 Section 6. Appeals.

24 A person aggrieved by an order or other administrative action
25 pursuant to this act shall have the right, within 30 days from
26 actual or constructive notice of the action, to appeal the
27 action to the applicable court of common pleas.

28 Section 7. Construction.

29 (a) Existing rights and remedies preserved.--Nothing in this
30 act shall be construed to prevent a municipality from adopting

1 and enforcing ordinances, resolutions, rules or regulations
2 which are consistent with the requirements of this act and the
3 regulations promulgated under this act.

4 (b) Cumulative remedies authorized.--This act shall be
5 construed to provide additional and cumulative remedies to
6 control the collection, storage, transportation, processing,
7 treatment and disposal of biosolids and sewage sludge within
8 this Commonwealth, and nothing contained in this act shall in
9 any way be construed to abridge or alter rights of action or
10 remedies now or hereafter existing in equity or under the common
11 law or statutory law, criminal or civil, nor shall any provision
12 in this act or the granting of any permit under this act or any
13 act done by virtue of this act be construed as estopping the
14 Commonwealth, persons or municipalities in the exercise of their
15 rights under the common law or decisional law or in equity, from
16 proceeding in courts of law or equity to suppress nuisances or
17 to abate any pollution now or hereafter existing or to enforce
18 common law or statutory rights.

19 Section 8. Severability.

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

25 Section 9. Repeals.

26 All acts and parts of acts are repealed insofar as they are
27 inconsistent with this act.

28 Section 10. Effective date.

29 This act shall take effect immediately.