

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1225 Session of 2007

INTRODUCED BY PIPPY, BAKER, MELLOW, ORIE, McILHINNEY, COSTA, WOZNIAK, RAFFERTY, O'PAKE, ERICKSON, PILEGGI, FONTANA, WAUGH, STACK, FUMO, D. WHITE, RHOADES, BOSCOLA, KITCHEN, FERLO, A. WILLIAMS, VANCE, C. WILLIAMS, KASUNIC AND DINNIMAN, DECEMBER 27, 2007

SENATOR BAKER, VETERANS AFFAIRS AND EMERGENCY PREPAREDNESS, AS AMENDED, FEBRUARY 5, 2008

AN ACT

1 Amending Title 35 (Health and Safety) of the Pennsylvania  
2 Consolidated Statutes, providing for mutual aid.

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

5 Section 1. Chapter 73 of Title 35 of the Pennsylvania  
6 Consolidated Statutes is amended by adding a subchapter to read:

SUBCHAPTER C

INTRASTATE MUTUAL AID

9 Sec.

10 7331. Purpose of subchapter.

11 7332. Definitions.

12 7333. Intrastate Mutual Aid Committee.

13 7334. System.

14 7335. Assistance.

15 7336. License, certificate and permit portability.

16 7337. Insurance.

1 7338. Workers' compensation.

2 7339. Immunity.

3 7340. Effect on other agreements.

4 § 7331. Purpose of subchapter.

5 The purpose of this subchapter is to create a system of  
6 intrastate mutual aid between participating political  
7 subdivisions within this Commonwealth, whereby each  
8 participating political subdivision recognizes that emergencies  
9 transcend the boundaries of a political subdivision and that  
10 intergovernmental coordination is essential for the protection  
11 of lives and property and for the best use of available public  
12 and private assets. The system shall provide for mutual  
13 assistance among the participating political subdivisions in the  
14 prevention of, response to and recovery from threats to public  
15 health and safety that are beyond the capability of an affected  
16 community to respond. The system shall provide for mutual  
17 cooperation among the participating subdivisions in conducting  
18 exercises, testing or other training activities.

19 § 7332. Definitions.

20 The following words and phrases when used in this subchapter  
21 shall have the meanings given to them in this section unless the  
22 context clearly indicates otherwise:

23 "Agency." The Pennsylvania Emergency Management Agency.

24 "Dedicated emergency response organization." Any entity  
25 organized, chartered or incorporated in this Commonwealth or  
26 chartered by the Congress of the United States for the primary  
27 purpose of providing emergency services. The term shall include  
28 volunteer, career and combination organizations.

29 "Emergency responder." An individual in the public or  
30 private sector who has special skills, qualification, training,

1 knowledge or experience, whether or not the person possesses a  
2 license, certificate, permit or other official recognition for  
3 the skills, qualification, training, knowledge or experience,  
4 that would benefit a participating political subdivision in  
5 responding to an authorized mutual aid request or participating  
6 in an authorized drill or exercise. The term shall include a law  
7 enforcement officer, a firefighter, an emergency medical  
8 services worker, a physician, nurse or other public health  
9 worker, an emergency management official, a public works worker,  
10 a building inspector, an architect, an engineer or other design  
11 professional or a person with specialized equipment operations  
12 skills or training or with any other skills needed to provide  
13 aid in a declared emergency.

14 "Committee." The Intrastate Mutual Aid Committee.

15 "Incident." Any event or condition which constitutes an  
16 actual or imminent threat to public health and safety, public or  
17 private property or the economic well-being of the community.

18 "Incident commander." The individual responsible for all  
19 incident-related activities, including the development of  
20 strategies and tactics and the ordering and releasing of  
21 resources as provided under the National Incident Management  
22 System.

23 "Mutual aid." Mutual assistance and sharing of resources  
24 among participating political subdivisions in the prevention of,  
25 response to and recovery from threats to public health and  
26 safety that are beyond the capability of an affected community  
27 to respond.

28 "National Incident Management System." The National Incident  
29 Management System established by the United States Department of  
30 Homeland Security.

1 "Participating political subdivision." A political  
2 subdivision that has not opted out of the intrastate mutual aid  
3 system.

4 "Political subdivision." Any county, city, borough,  
5 incorporated town or township. The term shall include any  
6 council of governments established among any of the above.

7 "Requesting political subdivision." A participating  
8 political subdivision that requests assistance under this  
9 subchapter.

10 "Responding political subdivision." A participating  
11 political subdivision that responds to a request for assistance  
12 under this subchapter.

13 "System." The intrastate mutual aid system.

14 § 7333. Intrastate Mutual Aid Committee.

15 (a) Establishment.--There is established the Intrastate  
16 Mutual Aid Committee.

17 (b) Membership.--The committee shall be comprised of the  
18 following members:

19 (1) The director of the agency or a designee, who shall  
20 serve as the chairman of the committee.

21 (2) THE STATE FIRE COMMISSIONER AND THE DIRECTOR OF THE <—  
22 BUREAU OF EMERGENCY MEDICAL SERVICES OF THE DEPARTMENT OF  
23 HEALTH.

24 ~~(2)~~ (3) THREE representatives each from the career <—  
25 fire services, the volunteer fire services and the emergency  
26 medical services.

27 ~~(3)~~ (4) Three county emergency management agency <—  
28 directors, one from each agency area, who shall be  
29 recommended by the respective agency area directors.

30 ~~(4)~~ (5) One representative each from the State Chiefs of <—

1 Police Association, the State Fraternal Order of Police and  
2 the Pennsylvania State Police.

3 ~~(5)~~ (6) One representative each from the Statewide <—  
4 county and municipal government associations' representative  
5 elected officials.

6 ~~(6)~~ (7) Three representatives from county-based 911 <—  
7 programs.

8 (c) Appointments.--Each member under subsection (b) shall be  
9 appointed by the director of the agency, and the appointment may  
10 be based on recommendations from the organizations and  
11 associations represented. The county-based 911 members shall be  
12 selected from recommendations made by the three agency area  
13 directors.

14 (d) Terms of office.--Members shall serve a term of two  
15 years, and may be appointed for subsequent terms.

16 (e) Duties of committee.--The committee shall do all of the  
17 following:

18 (1) Hold at least one meeting each year to review the  
19 progress and status of the intrastate mutual aid system.

20 (2) Provide participating political subdivisions with a  
21 method to track and evaluate the system.

22 (3) Examine issues facing participating political  
23 subdivisions AND EMERGENCY RESPONDERS regarding the <—  
24 implementation of this subchapter.

25 (4) Prepare an annual report on the condition and  
26 effectiveness of mutual aid in this Commonwealth, which shall  
27 be submitted to the chairperson and minority chairperson of  
28 the Veterans Affairs and Emergency Preparedness Committee of  
29 the Senate and the chairperson and minority chairperson of  
30 the Veterans Affairs and Emergency Preparedness Committee of

1 the House of Representatives. This report may contain  
2 recommendations for correcting any deficiencies within the  
3 system.

4 (5) Develop all of the following:

5 (i) Comprehensive guidelines and procedures that  
6 address all of the following:

7 (A) Projected or anticipated costs potentially  
8 incurred by a participating political subdivision.

9 (B) Recordkeeping for participating political  
10 subdivisions.

11 (C) Reimbursement procedures and other necessary  
12 implementation elements.

13 (D) Any other procedures that the committee  
14 deems necessary.

15 (ii) Checklists for requesting and providing  
16 assistance.

17 (iii) Forms for requests and other records to  
18 document the deployment and return of assets.

19 § 7334. System.

20 (a) Establishment.--An intrastate mutual aid system is  
21 established for the purpose of providing mutual aid within this  
22 Commonwealth.

23 (b) Participation.--

24 (1) All political subdivisions within this Commonwealth  
25 shall be a part of the system unless the political  
26 subdivision elects not to participate by enacting a  
27 resolution declaring their desire not to participate and by  
28 submitting a copy of the resolution to the agency and to its  
29 county emergency management agency.

30 (2) ALL POLITICAL SUBDIVISIONS WITHIN THIS COMMONWEALTH

<—

1 SHALL CONSULT WITH FIRE AND EMERGENCY MEDICAL SERVICES  
2 PROVIDERS TO DISCUSS THE EMERGENCY SERVICES NEEDS OF THE  
3 POLITICAL SUBDIVISION.

4 ~~(2)~~ (3) Any political subdivision that elects not to ←  
5 participate in the system, as provided under subsection (a),  
6 may at a later date elect to participate in the system by  
7 enacting a resolution declaring its desire to participate and  
8 by submitting a copy of the resolution to the agency and to  
9 its county emergency management agency.

10 (4) PARTICIPATION BY A POLITICAL SUBDIVISION IN THE ←  
11 SYSTEM OF INTRASTATE MUTUAL AID ESTABLISHED BY THIS  
12 SUBCHAPTER SHALL NOT BE SUBJECT TO THE REQUIREMENTS OF 53  
13 PA.C.S. CH. 23 SUBCH. A (RELATING TO INTERGOVERNMENTAL  
14 COOPERATION).

15 (c) Responsibilities.--It shall be the responsibility of  
16 each participating political subdivision with jurisdiction over  
17 and responsibility for emergency management within that  
18 political subdivision to do all of the following:

19 (1) Identify potential hazards that could affect the  
20 participating political subdivision using an identification  
21 system as developed by the committee common to all  
22 participating political subdivisions.

23 (2) Conduct joint planning, intelligence sharing and  
24 threat assessment development with contiguous participating  
25 political subdivisions.

26 (3) Conduct joint training with contiguous participating  
27 political subdivisions at least biennially.

28 (4) Identify and inventory the current services,  
29 equipment, supplies, personnel and other resources related to  
30 planning, prevention, mitigation, response and recovery

1 activities of the participating political subdivisions in  
2 accordance with the National Incident Management System  
3 Integration Center resource management guidance.

4 (5) Adopt and implement the standardized incident  
5 management system approved by the agency.

6 (6) Adopt and implement the National Incident Management  
7 System requirements established by the United States  
8 Department of Homeland Security.

9 § 7335. Assistance.

10 (a) Requests.--A participating political subdivision may  
11 request assistance of other participating political subdivisions  
12 or their designated emergency response organizations. All  
13 requests for assistance shall be initiated from the incident  
14 commander or authorized designee at an incident location, the  
15 county 911 center or the county emergency manager where the  
16 incident occurs. All intrastate mutual aid requests for  
17 assistance shall be made to the county 911 center or county  
18 emergency management coordinator or authorized designee in the  
19 responding county. Intrastate mutual aid requests for assistance  
20 may also be made through the agency. A written request shall be  
21 submitted after a verbal request is made as soon as practicable  
22 or within the number of days that the agency, in its discretion,  
23 may determine.

24 (b) Response to requests.--A participating political  
25 subdivision's obligation to provide assistance in the prevention  
26 of, response to and recovery from an incident or in authorized  
27 drills or exercises shall be subject to all of the following  
28 conditions:

29 (1) A responding political subdivision may withhold  
30 resources to the extent necessary to provide reasonable



1 protection and services for its own jurisdiction.

2 (2) Emergency response personnel of a responding  
3 political subdivision shall remain under the administrative  
4 and policy procedures and control of their respective  
5 jurisdiction, including medical protocols, standard operating  
6 procedures and other protocols, but shall be under the  
7 operational control of the appropriate officials within the  
8 incident management system of the requesting political  
9 subdivision.

10 (3) Assets and equipment of a responding political  
11 subdivision shall remain under the administrative and policy  
12 procedures and control of their respective jurisdiction but  
13 shall be under the control of the appropriate officials  
14 within the incident management system of the requesting  
15 political subdivision.

16 (4) The incident commander shall have overall authority  
17 and responsibility for conducting incident operations and  
18 shall be responsible for the management of all incident  
19 operations at the incident site.

20 (c) Reimbursement.--A requesting political subdivision shall  
21 reimburse the responding political subdivision in accordance  
22 with procedures established by the committee. A responding  
23 political subdivision may donate assets of any kind to a  
24 participating political subdivision. If a dispute arises  
25 regarding reimbursement, involved parties shall make every  
26 effort to resolve the dispute within 30 days of written notice  
27 of the dispute by the party asserting noncompliance. In the  
28 event that the dispute is not resolved within 90 days of the  
29 notice of the claim, either party may request the dispute be  
30 resolved through arbitration. Any arbitration requested under

1 this subsection shall be conducted under the commercial  
2 arbitration rules of the American Arbitration Association.

3 (d) Exceptions.--The provisions of this section shall not  
4 apply to specific mutual aid agreements which exist on the  
5 effective date of this section and which were made between  
6 political subdivisions and emergency response organizations to  
7 cover response to routine incidents.

8 § 7336. License, certificate and permit portability.

9 If a person holds a license, certificate or other permit  
10 issued by a participating political subdivision or the  
11 Commonwealth evidencing qualification in a professional,  
12 mechanical or other skill and the assistance of that person or  
13 entity is requested by a participating political subdivision,  
14 the person shall be deemed to be licensed, certified or  
15 permitted in the political subdivision requesting assistance for  
16 the duration of the incident response or authorized drills or  
17 exercises and subject to any limitations and conditions the  
18 chief executive of the participating political subdivision  
19 receiving the assistance may prescribe by executive order or  
20 otherwise.

21 § 7337. Insurance.

22 A responding political subdivision shall ensure that adequate  
23 insurance protection is in effect covering all vehicles and  
24 equipment used in response to an intrastate mutual aid request.  
25 Personnel of the responding political subdivision shall maintain  
26 direct and overall control of all vehicles and equipment  
27 utilized in an intrastate mutual aid response and shall ensure  
28 that vehicles and equipment are used within intended design  
29 specifications.

30 § 7338. Workers' compensation.

1 Notwithstanding any other provision of law, a responding  
2 political subdivision shall provide appropriate workers'  
3 compensation insurance protection for municipal employees and  
4 volunteers representing the responding political subdivision  
5 when responding to a request under this system. Personnel of a  
6 responding political subdivision who sustain injury or death in  
7 the course of and arising out of their employment shall be  
8 entitled to all applicable benefits normally available to  
9 personnel while performing their duties for their employer.  
10 Responders shall receive any additional Federal and State  
11 benefits that may be available to them for line-of-duty deaths.

12 § 7339. Immunity.

13 All activities performed under the intrastate mutual aid  
14 system are deemed to be governmental functions. For the purposes  
15 of liability, all persons responding under the operational  
16 control of the requesting political subdivision shall be deemed  
17 to be employees of the requesting participating political  
18 subdivision. Except in cases of willful misconduct, gross  
19 negligence or bad faith, neither the participating political  
20 subdivisions nor their employees shall be liable for the death  
21 of or injury to persons or for damage to property when complying  
22 or attempting to comply with the system. This subchapter shall  
23 provide no immunity, rights or privileges for any individual  
24 responding to an incident where the response has not been  
25 requested by a participating political subdivision.

26 § 7340. Effect on other agreements.

27 Nothing in this subchapter shall preclude participating  
28 political subdivisions from entering into supplementary  
29 agreements with another political subdivision. Nothing in this  
30 subchapter shall affect any other agreement to which a political

1 subdivision may, on the effective date of this section, be a  
2 party.

3 Section 2. This act shall take effect immediately.