

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1431 Session of  
2012

INTRODUCED BY PILEGGI, ERICKSON, RAFFERTY, YUDICHAK, TOMLINSON,  
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FEBRUARY 27, 2012

REFERRED TO ENVIRONMENTAL RESOURCES AND ENERGY, FEBRUARY 27,  
2012

AN ACT

1 Requiring environmental remediation in industrial closures;  
2 imposing functions on the Department of Community and  
3 Economic Development and the Department of Environmental  
4 Protection; and imposing penalties.

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 Industrial  
9 Closure Environmental Remediation 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 "Closed industrial entity." A person that is determined  
15 under section 3(a) to meet the condition in either of the  
16 following paragraphs:

17 (1) Conducts an industrial activity employing more than  
18 300 individuals and:

1           (i) reduces its work force by at least 65%;  
2           (ii) idles or removes at least 65% of the equipment  
3 or machinery on the site; or  
4           (iii) reduces the amount of square footage of  
5 enclosed space being utilized in the industrial activity  
6 by at least 65%.

7           (2) Ceases to conduct an industrial activity and does  
8 not, within six months, sell or transfer all of the real  
9 property, equipment, buildings, docks and adjacent facilities  
10 related to the industrial activity.

11 The term does not include a business entity regulated by the  
12 Federal Energy Regulatory Commission.

13 "Contamination." The presence of a hazardous substance or  
14 contaminant regulated under any of the following:

15           (1) The act of June 22, 1937 (P.L.1987, No.394), known  
16 as The Clean Streams Law.

17           (2) The act of January 8, 1960 (1959 P.L.2119, No.787),  
18 known as the Air Pollution Control Act.

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

21           (4) The act of July 13, 1988 (P.L.525, No.93), referred  
22 to as the Infectious and Chemotherapeutic Waste Law.

23           (5) The act of October 18, 1988 (P.L.756, No.108), known  
24 as the Hazardous Sites Cleanup Act.

25           (6) The act of July 6, 1989 (P.L.169, No.32), known as  
26 the Storage Tank and Spill Prevention Act.

27 "Department." The Department of Environmental Protection of  
28 the Commonwealth.

29 "Industrial activity." Commercial, manufacturing, refinery,  
30 mining or any other activity to further the development,

1 manufacturing, refining or distribution of commodities or  
2 services. The term includes:

- 3 (1) intermediate and final products and solid waste  
4 created during these activities;
- 5 (2) administration of business activities;
- 6 (3) research and development;
- 7 (4) containment, warehousing, chipping, transport,  
8 remanufacturing and stockpiling of raw or refined material;  
9 and
- 10 (5) storage, repair and maintenance of commercial  
11 machinery or products, equipment or solid waste.

12 "Remediation." Cleaning, mitigating, correcting, eliminating  
13 controlling or preventing a release of contamination into the  
14 environment.

15 "Site." The extent of contamination originating within the  
16 property boundaries and all areas in close proximity to the  
17 contamination necessary for the implementation of remediation.

#### 18 Section 3. Determination and notice.

19 (a) Determination.--The Department of Community and Economic  
20 Development shall determine whether a person is a closed  
21 industrial entity.

22 (b) Notice.--Within 30 days of a determination under  
23 subsection (a), the Department of Community and Economic  
24 Development shall notify the department of the determination.

#### 25 Section 4. Department.

26 (a) Report.-- Within 120 days of receiving notice under  
27 section 3, the department shall complete a survey of all  
28 violations of law and all contamination at the site of the  
29 closed industrial entity and prepare a written report itemizing  
30 all of the following:

1           (1)   Extent of the presence of contamination at the site.

2           (2)   List of statutory and regulatory violations by the  
3   closed industrial entity.

4           (3)   List of activities to be undertaken by the closed  
5   industrial entity necessary to conduct remediation to bring  
6   the closed industrial entity into compliance with statutory  
7   and regulatory provisions under paragraph (2).

8           (b)   Transmission.--Within 15 days of completion of the  
9   report under subsection (a), the department shall transmit the  
10   report to the closed industrial entity.

11   Section 5.   Duties of closed industrial entity.

12           Within one year of receipt of the report under section 4(b),  
13   the closed industrial entity shall complete remediation required  
14   under section 4(a)(3).

15   Section 6.   Compliance.

16           (a)   Monitoring.--The department shall monitor the activities  
17   of the closed industrial entity required under section 4(a)(3).

18           (b)   Determination.--One year following the receipt of the  
19   report under section 4(b), the department shall conduct a review  
20   and issue an order setting forth all of the following:

21               (1)   Whether the closed industrial entity has completed  
22   remediation required under section 4(a)(3).

23               (2)   Whether there are remaining activities necessary to  
24   achieve remediation required under section 4(a)(3).

25               (3)   A determination of a penalty under section 7.

26   Section 7.   Administrative penalties.

27           (a)   Authority.--The department may impose the following  
28   penalties:

29               (1)   Except as set forth in paragraph (2), a maximum of  
30   \$10,000 per day for failure to comply with section 4(a)(3).

1           (2) If the department determines that the failure is  
2       because the closed industrial activity has not acted in good  
3       faith, up to \$20,000 a day for failure to comply with the  
4       provision of this act.

5       (b) Administrative Agency Law.--A penalty under subsection  
6       (a) is subject to 2 Pa.C.S. Ch. 5 Subch. A (relating to practice  
7       and procedure of Commonwealth agencies) and Ch. 7 Subch. A  
8       (relating to judicial review of Commonwealth agency action).  
9       Section 30. Effective date.

10       This act shall take effect in 60 days.