

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**HOUSE BILL****No. 1103** Session of  
2015

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INTRODUCED BY ZIMMERMAN, HICKERNELL, LONGIETTI, KAUFFMAN,  
CAUSER, CUTLER, GODSHALL, BLOOM, MILLARD, GRELL, GABLER,  
PICKETT, GIBBONS, MENTZER, MARSHALL, RADER, RAPP AND  
M. K. KELLER, MAY 4, 2015

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SENATOR YAW, ENVIRONMENTAL RESOURCES AND ENERGY, IN SENATE, AS  
AMENDED, SEPTEMBER 27, 2016

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## AN ACT

1 Amending the act of October 4, 1978 (P.L.864, No.167), entitled  
2 "An act providing for the regulation of land and water use  
3 for flood control and storm water management purposes,  
4 imposing duties and conferring powers on the Department of  
5 Environmental Resources, municipalities and counties,  
6 providing for enforcement, and making appropriations,"  
7 further providing for definitions and for effect of watershed  
8 storm water plans.

9 The General Assembly of the Commonwealth of Pennsylvania  
10 hereby enacts as follows:

11 Section 1. Section 4 of the act of October 4, 1978 (P.L.864,  
12 No.167), known as the Storm Water Management Act, is amended by  
13 adding a definition to read:

14 Section 4. Definitions.

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

18 \* \* \*

19 "High tunnel." A structure which meets the following:

1       (1) Is used for the production, processing, keeping,  
2 storing, sale or shelter of an agricultural commodity as  
3 defined in section 2 of the act of December 19, 1974  
4 (P.L.973, No.319), known as the Pennsylvania Farmland and  
5 Forest Land Assessment Act of 1974, or for the storage of  
6 agricultural equipment or supplies.

7       (2) Is constructed consistent with all of the following:

8           (i) Has a metal, wood or plastic frame.

9           (ii) When covered, has a plastic, woven textile or  
10 other flexible covering.

11           (iii) Has a floor made of soil, crushed stone,  
12 matting, pavers or a floating concrete slab.

13       \* \* \*

14       Section 2. Section 11 of the act is amended by adding a  
15 subsection to read:

16 Section 11. Effect of watershed storm water plans.

17       \* \* \*

18       ~~(c) Exemption. High tunnels shall be exempted from the~~ <--  
19 ~~provisions of this act. A municipality that has adopted a~~  
20 ~~watershed storm water plan or enacted a local ordinance or~~  
21 ~~regulation under this section that regulates high tunnels prior~~  
22 ~~to the effective date of this subsection shall amend the plan,~~  
23 ~~ordinance or regulation in order to comply with this subsection.~~

24       (C) EXEMPTION.--THE FOLLOWING SHALL APPLY: <--

25           (1) A HIGH TUNNEL SHALL BE EXEMPTED FROM THE PROVISIONS  
26 OF THIS ACT IF:

27           (I) THE HIGH TUNNEL OR ITS FLOORING DOES NOT RESULT  
28 IN AN IMPERVIOUS AREA EXCEEDING 25% OF ALL STRUCTURES  
29 LOCATED ON THE OWNER'S TOTAL CONTIGUOUS LAND AREA;

30           (II) THE HIGH TUNNEL, OR THE FLOORING FOR THE HIGH

1 TUNNEL IF OTHER THAN SOIL, DOES NOT REMAIN AT THE SAME  
2 LOCATION FOR A PERIOD LONGER THAN TWO YEARS; AND

3 (III) THE HIGH TUNNEL MEETS ONE OF THE FOLLOWING:

4 (A) THE HIGH TUNNEL IS LOCATED AT LEAST 100 FEET  
5 FROM ANY PERENNIAL STREAM OR WATERCOURSE, PUBLIC ROAD  
6 OR NEIGHBORING PROPERTY LINE.

7 (B) THE HIGH TUNNEL IS LOCATED AT LEAST 35 FEET  
8 FROM ANY PERENNIAL STREAM OR WATERCOURSE, PUBLIC ROAD  
9 OR NEIGHBORING PROPERTY LINE AND LOCATED ON LAND WITH  
10 A SLOPE NOT GREATER THAN 7%.

11 (C) THE HIGH TUNNEL IS SUPPORTED WITH A BUFFER  
12 OR DIVERSION SYSTEM TO MANAGE STORM WATER RUNOFF IN A  
13 MANNER CONSISTENT WITH REQUIREMENTS OF THIS ACT.

14 (2) A MUNICIPALITY THAT HAS ADOPTED A LOCAL ORDINANCE OR  
15 REGULATION THAT REGULATES HIGH TUNNELS PURSUANT TO A  
16 WATERSHED STORM WATER PLAN UNDER THIS SECTION PRIOR TO THE  
17 EFFECTIVE DATE OF THIS SUBSECTION SHALL AMEND THE ORDINANCE  
18 OR REGULATION TO COMPLY WITH THIS SUBSECTION.

19 (3) NOTHING IN THIS SUBSECTION SHALL BE CONSTRUED TO  
20 EXEMPT HIGH TUNNELS FROM OTHER REQUIREMENTS APPLICABLE UNDER  
21 FEDERAL, STATE OR MUNICIPAL LAWS.

22 Section 3. This act shall take effect in 60 days.