
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1398 Session of
2017

INTRODUCED BY WATSON, O'NEILL, STEPHENS, MURT, PETRI, MILLARD,
DRISCOLL, DEAN, V. BROWN, FRANKEL AND WARREN, MAY 18, 2017

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,
MAY 18, 2017

AN ACT

1 Amending the act of October 18, 1988 (P.L.756, No.108), entitled
2 "An act providing for the cleanup of hazardous waste sites;
3 providing further powers and duties of the Department of
4 Environmental Resources and the Environmental Quality Board;
5 providing for response and investigations for liability and
6 cost recovery; establishing the Hazardous Sites Cleanup Fund;
7 providing for certain fees and for enforcement, remedies and
8 penalties; and repealing certain provisions relating to the
9 rate of the capital stock franchise tax," in preliminary
10 provisions, further providing for definitions; in powers and
11 duties, further providing for powers and duties of
12 department; and, in liability and settlement procedures,
13 further providing for responsible person.

14 The General Assembly of the Commonwealth of Pennsylvania
15 hereby enacts as follows:

16 Section 1. The definition of "hazardous substance" in
17 section 103 of the act of October 18, 1988 (P.L.756, No.108),
18 known as the Hazardous Sites Cleanup Act, is amended to read:

19 Section 103. Definitions.

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

23 * * *

1 "Hazardous substance."

2 (1) Any element, compound or material which is:

3 (i) Designated as a hazardous waste under the act of
4 July 7, 1980 (P.L.380, No.97), known as the Solid Waste
5 Management Act, and the regulations promulgated thereto.

6 (ii) Defined or designated as a hazardous substance
7 pursuant to the Federal Superfund Act.

8 (iii) Contaminated with a hazardous substance to the
9 degree that its release or threatened release poses a
10 substantial threat to the public health and safety or the
11 environment as determined by the department.

12 (iv) Determined to be substantially harmful to
13 public health and safety or the environment based on a
14 standardized and uniformly applied department testing
15 procedure and listed in regulations proposed by the
16 department and promulgated by the Environmental Quality
17 Board.

18 (v) A polyfluoroalkyl substance or perfluorinated
19 chemical, including, but not limited to, perfluorooctane
20 sulfonate (PFOS) and perfluorooctanoic acid (PFOA).

21 (1.1) A chemical substance or chemical compound not
22 included under paragraph (1) that:

23 (i) the department determines to be the equivalent
24 of a compound under paragraph (1) in accordance with
25 section 301(16.1); or

26 (ii) is designated by executive order of the
27 Governor as a chemical substance or chemical compound
28 that poses a threat to public health and safety or the
29 environment.

30 (2) The term does not include petroleum or petroleum

1 products, including crude oil or any fraction thereof, which
2 are not otherwise specifically listed or designated as a
3 hazardous substance under paragraph (1); natural gas, natural
4 gas liquids, liquified natural gas or synthetic gas usable
5 for fuel or mixtures of natural gas and synthetic gas usable
6 for fuel; or an element, substance, compound or mixture from
7 a coal mining operation under the jurisdiction of the
8 department or from a site eligible for funding under Title IV
9 of the Surface Mining Control and Reclamation Act of 1977
10 (Public Law 95-87, 30 U.S.C. § 1201 et seq.). The term shall
11 also not include the following wastes generated primarily
12 from the combustion of coal or other fossil fuels for the
13 production of electricity: slag waste; flue gas emission
14 control waste; and fly ash waste and bottom ash waste which
15 is disposed of or beneficially used in accordance with the
16 Solid Waste Management Act and the regulations promulgated
17 thereto or which has been disposed of under a valid permit
18 issued pursuant to any other environmental statute.

19 * * *

20 Section 2. Sections 301 and 701(b) of the act are amended by
21 adding paragraphs to read:

22 Section 301. Powers and duties of department.

23 The department has the following powers and duties:

24 * * *

25 (16.1) Within 12 months of the establishment of a
26 maximum contaminant level, health advisory level or
27 provisional health advisory level under the act of May 1,
28 1984 (P.L.206, No.43), known as the Pennsylvania Safe
29 Drinking Water Act, or a similar Federal law for any chemical
30 substance or chemical compound not included in the definition

1 of "hazardous substance," determine whether the chemical
2 compound or chemical substance should be designated by
3 regulation as a hazardous substance.

4 * * *

5 Section 701. Responsible person.

6 * * *

7 (b) Exceptions.--

8 * * *

9 (6) No municipality, municipal authority or other public
10 water supplier shall be a responsible person under this act
11 due to the presence of a polyfluoroalkyl substance or
12 perfluorinated chemical in wastewater treatment plant sludge,
13 water supply treatment residuals, spent filter media or
14 similar facility operational wastes, where the presence of
15 the polyfluoroalkyl substance or perfluorinated chemical is
16 due to chemical characteristics of the entity's water supply
17 source or discharges into the wastewater treatment facility.

18 * * *

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