
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2292 Session of
2020

INTRODUCED BY HOHENSTEIN, BROWN, DRISCOLL, CEPHAS, CIRESI,
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NEILSON, RAVENSTAHL, SANCHEZ, ULLMAN, VITALI, YOUNGBLOOD,
HOWARD AND ROEBUCK, FEBRUARY 18, 2020

REFERRED TO COMMITTEE ON HEALTH, FEBRUARY 18, 2020

AN ACT

1 Establishing generator requirements for long-term care nursing
2 facilities, assisted living residences, nursing homes,
3 personal care homes and hospices; providing for powers and
4 duties of the Department of Health and other State agencies;
5 and imposing penalties.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. Definitions.

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

12 "Appropriate agency." An agency authorized to license or
13 otherwise regulate a facility in this Commonwealth, including,
14 but not limited to, the Department of Human Services.

15 "Comfortable and safe temperature level." The ambient
16 temperature in a range that minimizes residents' susceptibility
17 to loss of body heat or susceptibility to high indoor
18 temperatures.

1 "Department." The Department of Health of the Commonwealth.

2 "Facility." The term includes:

3 (1) A hospice and a long-term care nursing facility as
4 those terms are defined in section 802.1 of the act of July
5 19, 1979 (P.L.130, No.48), known as the Health Care
6 Facilities Act.

7 (2) An assisted living residence, a nursing home and a
8 personal care home as those terms are defined in section 1001
9 of the act of June 13, 1967 (P.L.31, No.21), known as the
10 Human Services Code.

11 "Power outage." A short-term or long-term electric power
12 loss in a given area or section of the electric transmission
13 grid that could affect a single home, building or larger
14 geographic region.

15 Section 2. Generator acquisition plan required.

16 (a) General rule.--Notwithstanding any other provision of
17 law or regulation, within 90 days of the effective date of this
18 section, each facility shall provide to the department or the
19 appropriate agency, in writing, a detailed plan. The plan must:

20 (1) Demonstrate the acquisition of:

21 (i) A generator or sufficient generators to ensure
22 that the ambient temperature in all areas of the facility
23 accessible to residents, employees and visitors is
24 maintained at a comfortable and safe temperature level of
25 not less than 71 degrees Fahrenheit nor more than 80
26 degrees Fahrenheit in the event of a power outage.

27 (ii) A sufficient fuel supply to ensure that in the
28 event of a power outage, adequate fuel will be available
29 for the continual operation of the generator or
30 generators.

1 (iii) The services necessary to install, maintain
2 and periodically service or test the generator or
3 generators and any other associated equipment to ensure
4 safe and efficient operation of the generator or
5 generators and the maintenance and storage of the fuel
6 supply.

7 (2) Provide the time-frame for acquisition and
8 installation of a generator or sufficient generators in
9 accordance with paragraph (1).

10 (3) Outline the policies and procedures that will be
11 instituted to ensure the health, safety and comfort of
12 residents of the facility in the event of a power outage.

13 (4) Identify the employee or employees designated by the
14 facility to notify the facility administrator, physician or
15 any other official or employee of the facility of a power
16 outage at the onset of the power outage or other emergency.
17 Notification under this paragraph shall be made within 30
18 minutes of the onset of a power outage or emergency.

19 (5) Identify available sites within or outside the
20 facility where residents may be relocated if a comfortable
21 and safe temperature level in the facility cannot be
22 maintained and the situation presents a threat to the health
23 and safety of the residents.

24 (6) Outline any existing agreement or plan for emergency
25 situations, including, but not limited to, an agreement or
26 plan for the provision of emergency services and repairs in
27 the event of a power outage or an electrical, heating,
28 ventilation or air conditioning failure or malfunction.

29 (7) Detail policies and procedures ensuring the
30 effective and immediate activation and operation of the

1 generator or generators and the maintenance of an adequate
2 fuel supply required for their efficient and continual
3 operation during a power outage or other failure.

4 (8) Include any other information required by the
5 department.

6 (b) Implementation of plan.--Each facility's plan shall
7 become effective and implemented within 60 days of receipt of
8 approval of the plan from the department or other appropriate
9 agency.

10 Section 3. Duties of the department or appropriate agency.

11 (a) Approval.--The department or other appropriate agency
12 shall approve each facility's plan within 90 days of receipt of
13 the plan unless the department determines that additional time
14 is necessary for a facility to implement its plan. Additional
15 time under this subsection may not exceed 30 days.

16 (b) Inspections.--The department or appropriate agency
17 shall conduct periodic inspections of each facility to ensure
18 compliance with this act. The inspections may be conducted
19 during any existing inspection requirement provided under law,
20 during an annual license renewal process or during the initial
21 application for licensure as determined appropriate by the
22 department or appropriate agency.

23 (c) Regulations.--The department and appropriate agencies
24 shall collaborate to promulgate uniform regulations to carry out
25 and enforce the provisions of this act.

26 Section 4. Penalty for noncompliance.

27 (a) Suspension of license.--The department or appropriate
28 agency may suspend a facility's license for failure to comply
29 with the requirements of this act.

30 (b) Civil penalty.--The following apply:

1 (1) In addition to proceeding under any other remedy
2 available at law or in equity for a violation of a provision
3 of this act or a rule or regulation adopted, order issued or
4 plan approved by the department or other appropriate agency
5 under this act, the department or appropriate agency may
6 assess a civil penalty of not more than \$1,000 for the first
7 day of each offense and \$500 for each additional day of
8 continuing violation. The factors for consideration in
9 determining the amount of the penalty are as follows:

10 (i) The gravity of the violation.

11 (ii) The potential harm to the residents of the
12 facility and the residents' families.

13 (iii) The financial impact and potential effect on
14 first responders and other emergency services providers.

15 (iv) The willfulness of the violation.

16 (v) Previous violations related to the health and
17 safety of facility residents.

18 (vi) The economic benefit to the facility for
19 failure to comply.

20 (2) If the department or other appropriate agency finds
21 that a violation did not cause harm to the health and safety
22 or an adverse financial impact on first responders or other
23 emergency services providers, the department may issue a
24 warning in lieu of assessing a penalty if the owner or
25 operator of the facility, upon notice, takes immediate action
26 to resolve the violation and comply with the requirements of
27 this act.

28 (c) Collection.--If a facility is unable to pay the civil
29 penalty or if a person fails to pay all or a portion of the
30 penalty, the department or appropriate agency may refer the

1 matter to the Office of General Counsel or the Office of
2 Attorney General which shall institute an action in the
3 appropriate court to recover the civil penalty. Any penalty
4 assessed shall act as a lien on the property of the person
5 against whom the penalty has been assessed.

6 (d) Limitation of liability.--If a person is fully and
7 properly implementing a plan under section 2, as approved by the
8 department or appropriate agency, the implementation shall be
9 given appropriate consideration as a mitigating factor in any
10 civil action for penalties under this section.

11 Section 5. Effective date.

12 This act shall take effect in 60 days.