

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 679 Session of 2019

INTRODUCED BY YAW, ARGALL, GORDNER, LAUGHLIN, K. WARD, FOLMER, BAKER, HUTCHINSON, J. WARD, BARTOLOTTA, STEFANO, SCARNATI, YUDICHAK, BREWSTER, MENSCH AND IOVINO, MAY 31, 2019

SENATOR YAW, ENVIRONMENTAL RESOURCES AND ENERGY, AS AMENDED, NOVEMBER 19, 2019

AN ACT

1 Amending the act of November 26, 1978 (P.L.1375, No.325),
2 entitled "An act providing for the regulation and safety of
3 dams and reservoirs, water obstructions and encroachments;
4 consolidating and clarifying the programs of the Department
5 of Environmental Resources and Navigation Commission for the
6 Delaware River; establishing penalties and repealing certain
7 acts," further providing for definitions; and providing for
8 programs for ~~removal of~~ REMOVING obstructions and flood-
9 related hazards on streams. <--

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

12 Section 1. Section 3 of the act of November 26, 1978
13 (P.L.1375, No.325), known as the Dam Safety and Encroachments
14 Act, is amended to read:

15 Section 3. Definitions.

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

19 "Appurtenant works." Include, but are not limited to, such
20 structures as spillways, either in the dam or separate

1 therefrom; low level outlet works; and conduits such as tunnels,
2 pipelines or penstocks through the dam or its abutments.

3 "Body of water." Any natural or artificial lake, pond,
4 reservoir, swamp, marsh or wetland.

5 "Construct." To erect, build, place or deposit, including
6 preliminary preparation of a site for construction.

7 "Dam." Any artificial barrier, together with its appurtenant
8 works, constructed for the purpose of impounding or storing
9 water or any other fluid or semifluid; or any refuse bank fill
10 or structure for highway, railroad or other purposes which does
11 or may impound water or any other fluid or semifluid.

12 "Department." The Department of Environmental [Resources]
13 Protection of the Commonwealth [of Pennsylvania].

14 "Drainage area." That area, measured by a horizontal plane,
15 enclosed by a topographical divide from which direct surface
16 runoff from precipitation normally drains by gravity into a
17 stream above a specified point.

18 "Encroachment." Any structure or activity which in any
19 manner changes, expands or diminishes the course, current or
20 cross-section of any watercourse, floodway or body of water.

21 "Hearing board." The Environmental Hearing Board.

22 "High hazard dam." Any dam so located as to endanger
23 populated areas downstream by its failure.

24 "Navigation Commission." The Navigation Commission for the
25 Delaware River or its navigable tributaries.

26 "Operation." Elements of the use, control and functioning of
27 a facility which may affect primarily the storage, release or
28 flow of water, the structural safety of a facility or
29 navigation, with due consideration of the other purposes of this
30 act.

1 "Owner." Any person who owns, controls, operates, maintains,
2 or manages a dam or reservoir, water obstruction or
3 encroachment.

4 "Person." Includes any natural person, partnership,
5 association, corporation, municipality, municipal authority,
6 receiver or trustee and any department, board, commission or
7 authority of the Commonwealth. Whenever used in a section
8 prescribing and imposing a penalty or sanction, the term
9 "person" shall include the members of an association and the
10 officers of a corporation, municipality or municipal authority.

11 "Regional curve." A regression of the relations among
12 drainage areas, selected cross-sectional parameters and
13 streamflows.

14 "Reservoir." Any basin which contains or will contain the
15 water or other fluid or semifluid impounded by a dam.

16 "Safety." Security from the risk or threat of significant
17 loss or injury to life, health, property and the environment.

18 "Streamflow." The rate at which water passes a given point
19 in a stream or river, usually expressed in cubic feet per
20 second.

21 "Water obstruction." Includes any dike, bridge, culvert,
22 wall, wing wall, fill, pier, wharf, embankment, abutment or
23 other structure located in, along, across or projecting into any
24 watercourse, floodway or body of water.

25 "Watercourse" or "stream." Any channel of conveyance of
26 surface water having a defined bed and banks, whether natural or
27 artificial, with perennial or intermittent flow.

28 Section 2. The act is amended by adding a section to read:

29 Section 17.1. Programs for removing obstructions and flood-
30 related hazards on streams.

1 (a) Each county shall develop a program consisting of two
2 regional curves for the watershed, which regional curves cover
3 the entire county. The first regional curve shall be for rural
4 areas and the second regional curve shall be for portions of
5 streams located in municipalities.

6 (b) Each county shall submit a permit application to the
7 department that describes the program. The application shall
8 specify the utilization and oversight of the regional curves for
9 the purpose of stream maintenance in accordance with the
10 regulations promulgated under subsection (e). The county may not
11 implement the program unless the department approves the permit
12 application and issues the permit.

13 (c) After issuing a permit to a county under this section,
14 the department shall conduct at least one annual follow-up
15 review of the county's program. The purpose of the review shall
16 be to determine the overall effectiveness of the program and the
17 county's compliance with the terms of the permit.

18 (d) The department shall develop a training program for
19 counties for conducting channel maintenance under the permit
20 approved under this section. The training program shall include:

21 (1) An overview of stream processes.

22 (2) An explanation of regional curves and their use in
23 the processes.

24 (3) A field exercise in laying out a project.

25 (4) A field exercise in the completion of the project.

26 (e) The Environmental Quality Board shall, in consultation
27 with the department, promulgate regulations for the removal of
28 obstructions and ~~floor-related~~ FLOOD-RELATED hazards on streams <--
29 by counties. In developing the regulations, the Environmental
30 Quality Board may consider existing county programs for the same

1 or similar purpose.

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