

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 615 Session of 2021

INTRODUCED BY HUTCHINSON, YAW, STEFANO, MENSCH, PITTMAN, MASTRIANO, BARTOLOTTA, BROOKS, FONTANA, J. WARD AND GORDNER, MAY 3, 2021

SENATOR LANGERHOLC, TRANSPORTATION, AS AMENDED, MAY 25, 2021

AN ACT

1 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated
2 Statutes, in powers of department and local authorities,
3 further providing for specific powers of department and local
4 authorities.

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

7 Section 1. Section 6109(a)(3) of Title 75 of the <--
8 Pennsylvania Consolidated Statutes is amended and the section is
9 amended by adding a subsection to read:

10 § 6109. Specific powers of department and local authorities.

11 (a) Enumeration of police powers. The provisions of this
12 title shall not be deemed to prevent the department on State
13 designated highways and local authorities on streets or highways
14 within their physical boundaries from the reasonable exercise of
15 their police powers. The following are presumed to be reasonable
16 exercises of police power:

17 * * *

18 (3) [Regulating] Subject to subsection (j), regulating

1 ~~or prohibiting processions, special activities or assemblages~~
2 ~~on highways.~~

3 * * *

4 ~~(j) Permits for processions, special activities and~~
5 ~~assemblages on State designated highways. The department may~~
6 ~~not require, as a condition for the approval of a permit for a~~
7 ~~procession, special activity or assemblage on a State designated~~
8 ~~highway, a local authority to submit a statement that the local~~
9 ~~authority will agree to fully indemnify, save harmless and~~
10 ~~defend the Commonwealth, Commonwealth departments and their~~
11 ~~officers, agents and employees from and against claims, suits or~~
12 ~~actions for injury, death or property damage arising from or~~
13 ~~because of the acts or omissions of its officers, agents or~~
14 ~~employees or of the sponsor of the procession, special activity~~
15 ~~or assemblage, unless all of the following conditions are met:~~

16 ~~(1) The sponsor of the procession, special activity or~~
17 ~~assemblage is not the local authority.~~

18 ~~(2) The sponsor will fully indemnify, save harmless and,~~
19 ~~if requested, defend the Commonwealth, Commonwealth~~
20 ~~departments, and their officers, agents and employees from~~
21 ~~and against claims, suits or actions for injury, death or~~
22 ~~property damage arising from or because of the acts or~~
23 ~~omissions of the sponsor, its officers, agents or employees.~~

24 ~~(3) The sponsor names the department as an additional~~
25 ~~insured on its liability policies and the liability insurance~~
26 ~~policies are occurrence based and the insurance certificate~~
27 ~~indicates that the insurance is occurrence based.~~

28 ~~(4) The sponsor agrees to reimburse the Commonwealth for~~
29 ~~all costs for police escort and traffic control services.~~

30 ~~(5) The local authority approves of the sponsor~~

1 ~~conducting the procession, special activity or assemblage.~~

2 ~~(6) The local authority agrees to provide adequate~~
3 ~~detour signing or police controls for the rerouting of~~
4 ~~traffic along an alternate route, if requested by the~~
5 ~~department.~~

6 Section 2. ~~This act shall take effect in 60 days.~~

7 SECTION 1. SECTION 6109(A)(3) OF TITLE 75 OF THE <--
8 PENNSYLVANIA CONSOLIDATED STATUTES IS AMENDED AND THE SECTION IS
9 AMENDED BY ADDING SUBSECTIONS TO READ:

10 § 6109. SPECIFIC POWERS OF DEPARTMENT AND LOCAL AUTHORITIES.

11 (A) ENUMERATION OF POLICE POWERS.--THE PROVISIONS OF THIS
12 TITLE SHALL NOT BE DEEMED TO PREVENT THE DEPARTMENT ON STATE-
13 DESIGNATED HIGHWAYS AND LOCAL AUTHORITIES ON STREETS OR HIGHWAYS
14 WITHIN THEIR PHYSICAL BOUNDARIES FROM THE REASONABLE EXERCISE OF
15 THEIR POLICE POWERS. THE FOLLOWING ARE PRESUMED TO BE REASONABLE
16 EXERCISES OF POLICE POWER:

17 * * *

18 (3) [REGULATING] SUBJECT TO SUBSECTIONS (J) AND (J.1),
19 REGULATING OR PROHIBITING PROCESSIONS, SPECIAL ACTIVITIES OR
20 ASSEMBLAGES ON HIGHWAYS.

21 * * *

22 (J) PERMITS FOR PROCESSIONS, SPECIAL ACTIVITIES AND
23 ASSEMBLAGES ON STATE-DESIGNATED HIGHWAYS.--THE DEPARTMENT MAY
24 NOT REQUIRE, AS A CONDITION FOR THE APPROVAL OF A PERMIT FOR A
25 PROCESSION, SPECIAL ACTIVITY OR ASSEMBLAGE ON A STATE-DESIGNATED
26 HIGHWAY, A LOCAL AUTHORITY TO SUBMIT A STATEMENT THAT THE LOCAL
27 AUTHORITY WILL AGREE TO FULLY INDEMNIFY, SAVE HARMLESS AND
28 DEFEND THE COMMONWEALTH, COMMONWEALTH DEPARTMENTS AND THEIR
29 OFFICERS, AGENTS AND EMPLOYEES FROM AND AGAINST CLAIMS, SUITS OR
30 ACTIONS FOR INJURY, DEATH OR PROPERTY DAMAGE ARISING FROM OR

1 BECAUSE OF THE ACTS OR OMISSIONS OF ITS OFFICERS, AGENTS OR
2 EMPLOYEES OR OF THE SPONSOR OF THE PROCESSION, SPECIAL ACTIVITY
3 OR ASSEMBLAGE, IF ALL OF THE FOLLOWING CONDITIONS ARE MET:

4 (1) THE SPONSOR OF THE PROCESSION, SPECIAL ACTIVITY OR
5 ASSEMBLAGE IS NOT THE LOCAL AUTHORITY.

6 (2) THE SPONSOR WILL FULLY INDEMNIFY, SAVE HARMLESS AND,
7 IF REQUESTED, DEFEND THE COMMONWEALTH, COMMONWEALTH
8 DEPARTMENTS, AND THEIR OFFICERS, AGENTS AND EMPLOYEES FROM
9 AND AGAINST CLAIMS, SUITS OR ACTIONS FOR INJURY, DEATH OR
10 PROPERTY DAMAGE ARISING FROM OR BECAUSE OF THE ACTS OR
11 OMISSIONS OF THE SPONSOR, ITS OFFICERS, AGENTS OR EMPLOYEES.

12 (3) THE SPONSOR NAMES THE DEPARTMENT AS AN ADDITIONAL
13 INSURED ON ITS LIABILITY POLICIES AND THE LIABILITY INSURANCE
14 POLICIES ARE OCCURRENCE BASED AND THE INSURANCE CERTIFICATE
15 INDICATES THAT THE INSURANCE IS OCCURRENCE BASED.

16 (4) THE SPONSOR AGREES TO REIMBURSE THE COMMONWEALTH FOR
17 ALL COSTS FOR POLICE ESCORT AND TRAFFIC-CONTROL SERVICES.

18 (5) THE LOCAL AUTHORITY APPROVES OF THE SPONSOR
19 CONDUCTING THE PROCESSION, SPECIAL ACTIVITY OR ASSEMBLAGE.

20 (6) THE LOCAL AUTHORITY AGREES TO PROVIDE ADEQUATE
21 DETOUR SIGNING OR POLICE CONTROLS FOR THE REROUTING OF
22 TRAFFIC ALONG AN ALTERNATE ROUTE, IF REQUESTED BY THE
23 DEPARTMENT.

24 (J.1) SOVEREIGN IMMUNITY.--

25 (1) NOTHING IN SUBSECTION (J) SHALL BE CONSTRUED TO
26 REQUIRE THE DEPARTMENT TO ISSUE A PERMIT FOR A PROCESSION,
27 ASSEMBLAGE OR SPECIAL ACTIVITY THAT WILL OCCUR ON A STREET,
28 HIGHWAY OR REAL ESTATE DEEMED BY THE DEPARTMENT TO BE UNSAFE
29 FOR USE BY PARTICIPANTS. THE DEPARTMENT, ITS SERVANTS AND
30 AGENTS, EMPLOYEES AND REPRESENTATIVES ACTING ON ITS BEHALF

1 SHALL BE IMMUNE FROM SUIT BY PARTICIPANTS FOR PERSONAL
2 INJURIES OR PROPERTY DAMAGES ARISING DURING A PROCESSION,
3 ASSEMBLAGE OR SPECIAL ACTIVITY PERMITTED BY THE DEPARTMENT
4 UNDER 42 PA.C.S. §§ 8521 (RELATING TO SOVEREIGN IMMUNITY
5 GENERALLY) AND 8522 (RELATING TO EXCEPTIONS TO SOVEREIGN
6 IMMUNITY).

7 (2) THE TERM "PARTICIPANTS" SHALL INCLUDE SPECTATORS,
8 EVENT SPONSORS, MUNICIPAL OFFICIALS, POLICE, FIRE POLICE,
9 MEDIA AND OTHERS PRESENT DURING THE PROCESSION, ASSEMBLAGE OR
10 SPECIAL ACTIVITY PERMITTED BY THE DEPARTMENT.

11 SECTION 2. THIS ACT SHALL TAKE EFFECT IMMEDIATELY.