

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 423 Session of 2023

INTRODUCED BY HAMM, ROWE, KEEFER, ZIMMERMAN, GLEIM, LEADBETER,
PICKETT, WARNER, SMITH AND JAMES, MARCH 15, 2023

REFERRED TO COMMITTEE ON GAME AND FISHERIES, MARCH 15, 2023

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 permit issuance and conditions
8 and for enforcement orders.

9 The General Assembly of the Commonwealth of Pennsylvania

10 hereby enacts as follows:

11 Section 1. Section 9 of the act of November 26, 1978
12 (P.L.1375, No.325), known as the Dam Safety and Encroachments
13 Act, is amended to read:

14 Section 9. Permit issuance and conditions.

15 (a) The department shall have the power to grant a permit if
16 it determines that the proposed project complies with the
17 provisions of this act and the regulations adopted hereunder,
18 and complies with all other applicable laws administered by the
19 department[, the Pennsylvania Fish Commission] and any river
20 basin commission created by interstate compact.

21 (b) The department may impose such permit terms and

1 conditions regarding construction, operation, maintenance,
2 inspection and monitoring of the project as are necessary to
3 assure compliance with this act and other laws administered by
4 the department[, the Pennsylvania Fish Commission] and any river
5 basin commission created by interstate compact.

6 (c) Notwithstanding any other provision of law:

7 (1) The Pennsylvania Fish and Boat Commission shall have
8 no authority or jurisdiction related to stream maintenance or
9 clearing activities within this Commonwealth.

10 (2) No approval or authorization from the Pennsylvania
11 Fish and Boat Commission shall be required for any stream
12 maintenance or clearing activities conducted within this
13 Commonwealth.

14 (3) The department may not delegate its authority
15 related to stream maintenance or clearing activities to the
16 Pennsylvania Fish and Boat Commission.

17 (4) Nothing in this act shall be construed to prevent
18 the Pennsylvania Fish and Boat Commission from being involved
19 in an advisory capacity with permits and plans regarding the
20 construction or installation of new bridges or culverts.

21 Section 2. Section 20 of the act is amended by adding a
22 subsection to read:

23 Section 20. Enforcement orders.

24 * * *

25 (e) The Pennsylvania Fish and Boat Commission may enforce
26 stream maintenance or clearing activities in this Commonwealth
27 only when there is a potential violation under 30 Pa.C.S.
28 (relating to fish) due to a person not having a valid permit or
29 conducting an activity that was not authorized by the permit.
30 The Pennsylvania Fish and Boat Commission shall not find that a

1 stream maintenance or clearing activity violates 30 Pa.C.S. if
2 the stream maintenance or clearing activity is general
3 maintenance of a bridge or culvert. The Pennsylvania Fish and
4 Boat Commission shall not enforce a penalty for a violation
5 under 30 Pa.C.S. until the Pennsylvania Fish and Boat Commission
6 contacts the department and the relevant county conservation
7 district to ensure that the stream maintenance or clearing
8 activity was not authorized by a valid permit.

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