
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2734 Session of
1998

INTRODUCED BY A. H. WILLIAMS, BEBKO-JONES, BELFANTI, CURRY,
GEIST, JAMES, RAMOS, THOMAS, WASHINGTON, C. WILLIAMS AND
YOUNGBLOOD, JUNE 15, 1998

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,
JUNE 15, 1998

AN ACT

1 Establishing a program to ensure nondiscriminatory compliance
2 with environmental, health and safety laws; and providing for
3 equal protection of the public health.

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

6 Section 1. Short title.

7 This act shall be known and may be cited as the Environmental
8 Justice Act.

9 Section 2. Declaration of policy.

10 The General Assembly finds and declares as follows:

11 (1) Toxic chemicals are being released in significant
12 amounts into the environment. Over 3,500,000,000 pounds of
13 toxic releases were reported by approximately 19,600
14 industrial plants in 1990, under Title III of the Emergency
15 Planning and Community Right-To-Know Act of 1986 (Title III
16 of Public Law 99-449, 42 U.S.C. § 11001 et seq.).

17 (2) Notwithstanding the benefits of the Emergency

1 Planning and Community Right-To-Know Act of 1986, many toxic
2 chemicals posing substantial health threats as a result of
3 releases are not being reported. The Emergency Planning and
4 Community Right-To-Know Act of 1986 excludes hundreds of
5 chemicals listed as toxic under various environmental laws,
6 including the following:

7 (i) Sixteen hazardous air pollutants and five
8 extremely hazardous substances listed in the Clean Air
9 Act (Public Law 95-95, 42 U.S.C. § 7401 et seq.).

10 (ii) One hundred forty chemicals regulated as
11 hazardous waste under the Resource Conservation and
12 Recovery Act of 1976 (Public Law 94-580, 4242 U.S.C. §
13 6901 et seq.) because of acute or chronic toxicity.

14 (iii) Over 200 chemicals identified as known or
15 probable human carcinogens by the Environmental
16 Protection Agency and the National Toxicology Program.

17 (iv) Sixty-nine special review pesticides identified
18 under the Federal Insecticide, Fungicide and Rodenticide
19 Act (61 Stat. 163, 7 U.S.C. § 136 et seq.) and hundreds
20 of restricted use pesticides.

21 (v) Ninety reproductive toxins identified by the
22 California Department of Health.

23 (3) Although environmental and health data of toxic
24 chemical releases are not routinely collected and analyzed by
25 income and race, racial and ethnic minorities and lower
26 income Americans may be disproportionately exposed to toxic
27 chemicals in their residential and workplace environments.

28 (4) The purposes of this act are to:

29 (i) Establish and maintain information which
30 provides an objective basis for assessment of health

1 effects by income and race.

2 (ii) Identify those areas with the largest releases
3 of toxic chemicals to the air, land, water and workplace.

4 (iii) Assess the health effects that may be caused
5 by emissions in those areas of highest environmental
6 impact.

7 (iv) Ensure that groups or individuals residing
8 within environmental high-impact areas have the
9 opportunity and the resources to participate in the
10 technical process which will determine the possible
11 existence of adverse health impacts.

12 (v) Identify those activities in high-impact
13 environmental areas found to have significant adverse
14 impacts on human health.

15 (vi) Incorporate environmental equity considerations
16 into planning and implementation of all Federal
17 environmental programs and statutes.

18 Section 3. Definitions.

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

22 "Clean Air Act." The Clean Air Act (Public Law 95-95, 42
23 U.S.C. § 7401 et seq.).

24 "Comprehensive Environmental Response, Compensation and
25 Liability Act." The Comprehensive Environmental Response
26 Compensation and Liability Act of 1980 (Public Law 96-510, 94
27 Stat. 2767).

28 "Department." The Department of Environmental Protection of
29 the Commonwealth.

30 "Emergency Planning and Community Right-To-Know Act." The

1 Emergency Planning and Community Right-To-Know Act of 1986
2 (Title III of Public Law 99-449, 42 U.S.C. § 11001 et seq.).

3 "Environmental high-impact area." Any of the 100 counties or
4 appropriate geographic units with the highest total weight of
5 toxic chemicals released during the most recent five-year period
6 for which data is available, as calculated under section 4.

7 "EPA." The Environmental Protection Agency.

8 "Federal Insecticide, Fungicide and Rodenticide Act." The
9 Federal Insecticide, Fungicide and Rodenticide Act (61 Stat.
10 163, 7 U.S.C. § 136 et seq.).

11 "Federal Water Pollution Control Act." The Federal Water
12 Pollution Control Act (62 Stat. 1155, 33 U.S.C. § 1251 et seq.).

13 "Occupational Safety and Health Act." The Occupational
14 Safety and Health Act of 1970 (Public Law 91-596, 29 U.S.C. §
15 651 et seq.).

16 "Release." Shall have the same meaning as used in section
17 101(22) of the Comprehensive Environmental Response Compensation
18 and Liability Act of 1980 (Public Law 95-510, 94 Stat. 2767) as
19 amended by the Superfund Amendments and Reauthorization Act of
20 1986 (Public Law 99-499, 100 Stat. 1613) and shall also include
21 any release which results in exposure to persons within a
22 workplace.

23 "Resource Conservation and Recovery Act." The Resource
24 Conservation and Recovery Act of 1976 (Public Law 94-580, 42
25 U.S.C. § 6901 et seq.)

26 "Safe Drinking Water Act." The Safe Drinking Water Act
27 (Public Law 93-523, 21 U.S.C. § 349 and 42 U.S.C. §§ 201 and
28 300f et seq.).

29 "Secretary." The Secretary of Environmental Protection of
30 the Commonwealth.

1 "Solid Waste Disposal Act." The Solid Waste Disposal Act
2 (Public Law 89-272, 42 U.S.C. § 6901 et seq.).

3 "Superfund Amendments and Reauthorization Act." The
4 Superfund Amendments and Reauthorization Act of 1986 (Public Law
5 99-499, 100 Stat. 1613).

6 "Toxic chemical facility." The term includes any facility:

7 (1) Subject to reporting requirements under the
8 Emergency Planning and Community Right-To-Know Act of 1986
9 (Title III of Public Law 99-499, 42 U.S.C. § 11001 et seq.).

10 (2) That generates, treats, stores or disposes of a
11 hazardous waste as defined in section 3001 of the Solid Waste
12 Disposal Act (Public Law 89-272, 42 U.S.C. § 6901 et seq.).

13 (3) Subject to section 112 or 129 of the Clean Air Act
14 (Public Law 9595, 42 U.S.C. § 7401 et seq.).

15 (4) Subject to section 307 or 311 of the Federal Water
16 Pollution Control Act (62 Stat. 1155, 33 U.S.C. § 1251 et
17 seq.).

18 (5) Subject to the Federal Insecticide, Fungicide and
19 Rodenticide Act (61 Stat. 163, 7 U.S.C. § 136 et seq.).

20 (6) Subject to the requirements concerning material
21 safety data sheets for hazardous chemicals under the
22 Occupational Safety and Health Act of 1970 (Public Law 91-
23 596, 29 U.S.C. § 651 et seq.).

24 (7) A Federal facility that releases a toxic chemical.

25 "Toxic chemicals." The term includes the following:

26 (1) All hazardous substances as defined in section
27 101(14) of the Comprehensive Environmental Response,
28 Compensation, and Liability Act of 1980 (Public Law 96-510,
29 94 Stat. 2767).

30 (2) All materials registered pursuant to the Federal

1 Insecticide, Fungicide and Rodenticide Act (61 Stat. 163, 7
2 U.S.C. § 136 et seq.).

3 (3) All chemicals subject to section 313 of the
4 Emergency Planning and Community Right-To-Know Act of 1986
5 (Title III of Public Law 99-499, 42 U.S.C. § 11001 et seq.).

6 (4) All contaminants identified in the Safe Drinking
7 Water Act (Public Law 93-523, 21 U.S.C. § 349 and 42 U.S.C.
8 §§ 201 and 300f et seq.).

9 (5) All chemicals listed by the National Toxicology
10 Program as known or probable human carcinogens.

11 (6) All materials subject to the requirements concerning
12 material safety data sheets for hazardous chemicals under the
13 Occupational Safety and Health Act of 1970 (Public Law 91-
14 596, 29 U.S.C. § 651 et seq.).

15 Section 4. Identification of environmental high-impact areas.

16 (a) Determination of impacted areas.--Within six months
17 after the effective date of this act, the secretary in
18 consultation with the Agency for Toxic Substances and Disease
19 Registry, the National Institute for Environmental Health
20 Sciences, the National Center for Health Statistics and the
21 Bureau of the Census shall determine the most appropriate
22 designation of environmental high-impact areas, either counties
23 or other appropriate geographic unit.

24 (b) Publication of list.--Within 12 months after the
25 effective date of this act, the secretary shall publish a list,
26 in rank order, of the total weight of toxic chemicals released
27 in each county or other appropriate geographic unit in this
28 Commonwealth during the most recent five-year period for which
29 data are available. If less than five years of data are
30 available, the secretary shall use available data until further

1 information is reported.

2 Section 5. Compilation of list.

3 (a) General rule.--In compiling the list under section 4,
4 the secretary shall consider and utilize all appropriate and
5 available data compiled under any environmental regulatory
6 authority and other sources, including available data on the
7 presence of lead-based paint and toxic chemicals from mobile
8 vehicles.

9 (b) Database.--For each county or appropriate geographic
10 unit, the secretary shall calculate and compile in a database
11 the following:

12 (1) The total weight of toxic chemicals released into
13 the ambient environment.

14 (2) The total weight of toxic chemicals released in each
15 environmental medium of air, water, land or workplace.

16 (3) The total weight of each toxic chemical released
17 into the ambient environment and into each environmental
18 medium of air, water, land or workplace.

19 The secretary, whenever possible, shall adjust the estimates of
20 each of the items in paragraphs (1) through (3) to account for
21 the toxicity of the toxic chemicals.

22 (c) Review.--Within six months after the effective date of
23 this act, the secretary shall review the methodology used to
24 compile and summarize information collected under section 313 of
25 the Emergency Planning and Community Right-to-Know Act and
26 publish for public comment any proposed changes to the
27 methodology necessary to calculate and compile the information
28 required in subsection (a).

29 (d) Republication of list.--The secretary shall revise and
30 republish the list described in this section by the date that is

1 five years after the date of initial publication, and not less
2 frequently than every five years thereafter, using data compiled
3 during the preceding five-year period.

4 Section 6. Environmental high-impact areas.

5 (a) General rule.--Within 12 months after the effective date
6 of this act and every five years thereafter, the secretary shall
7 publish a list of the 100 counties or other appropriate
8 geographic unit with the highest total toxic chemical releases
9 based on the list published in section 4. Such counties or other
10 appropriate geographic units shall be designated as
11 environmental high-impact areas.

12 (b) Compliance inspections.--To ensure that facilities with
13 the highest potential for release of toxic chemicals are
14 operating in compliance with all applicable environmental health
15 and safety standards, the Secretary of Environmental Protection
16 and the Secretary of Labor and Industry shall conduct compliance
17 inspections of all toxic chemical facilities subject to their
18 jurisdictions in environmental high-impact areas within two
19 years after the effective date of this act and not less
20 frequently than every two years thereafter.

21 (c) Other inspections.--Notwithstanding the requirements in
22 subsection (b), the Secretary of Environmental Protection or the
23 Secretary of Labor and Industry may authorize any State or
24 Indian tribe which has been delegated authority to administer
25 any State law regulating a toxic chemical which authorizes the
26 inspection of toxic chemical facilities for compliance with
27 applicable State environmental laws to conduct such inspections
28 in lieu of the Secretary of Environmental Protection or the
29 Secretary of Labor and Industry.

30 (d) Impact on human health report.--Within 24 months after

1 the effective date of this act, the Secretary of Health, in
2 consultation with the Secretary of Environmental Protection, the
3 Secretary of Labor and Industry, the Bureau of Indian Affairs
4 and the Commissioners of the United States Commission on Civil
5 Rights, shall issue for public comment a report identifying the
6 nature and extent, if any, of acute and chronic impacts on human
7 health in environmental high-impact areas from exposure to toxic
8 chemicals. These impacts shall include incidence of cancer,
9 birth deformities, infant mortality rates and respiratory
10 diseases. The report shall include a comparison of the health
11 impact from exposure to toxic chemicals in environmental high-
12 impact areas with other counties in the United States. The
13 report shall be coordinated by the Administrator of the Agency
14 for Toxic Substances Disease Registry of the Department of
15 Health and Human Services, and in coordinating the report, the
16 Administrator of the Agency for Toxic Substances and Disease
17 Registry shall seek to:

18 (1) Isolate the impacts of environmental pollution.

19 (2) Segregate the effects of other factors such as
20 health care availability or substance abuse.

21 (3) Rank the relative risks posed by the toxic chemicals
22 present in environmental high-impact areas and by the varied
23 sources of toxic chemicals, both individually and
24 cumulatively.

25 (4) Take into account the need to remedy the impacts of
26 such toxic chemicals in high population density areas.

27 (5) Evaluate the levels below which release of toxic
28 chemicals, either individually or cumulatively, must be
29 reduced to avoid adverse impacts on human health.

30 (6) Determine the impacts of maintaining toxic chemical

1 releases at the current levels.

2 (e) Proposed changes.--If the report under subsection (d)
3 identifies significant adverse impacts from exposure to toxic
4 chemicals on human health in environmental high-impact areas as
5 a group, the secretary shall submit to the General Assembly,
6 within one year after publication of the report, proposed
7 administrative and legislative changes to remedy and prevent
8 such impacts, including:

9 (1) The addition of facilities or chemicals to be
10 subject to reporting requirements of the Emergency Planning
11 and Community Right-To-Know Act or a reduction in threshold
12 quantities of chemicals that trigger reporting requirements
13 under that act.

14 (2) The regulation of toxic chemicals not subject to
15 Federal law based on a statutory or administrative exemption.

16 (3) The imposition of additional regulatory measures for
17 toxic chemical facilities in an environmental high-impact
18 area, such as emissions fees, source reduction requirements
19 or restrictions on toxic chemical releases.

20 Section 7. Reduction of toxic chemicals.

21 If the report under section 6(d) identifies significant
22 adverse impacts on human health from exposure to toxic chemicals
23 in an environmental high-impact area, the secretary shall
24 promulgate regulations applicable to any State permit for
25 construction or modification of a toxic chemical facility in
26 that area. The regulations shall require a net reduction in the
27 release of any toxic chemical determined to cause such
28 significant adverse impacts on human health in that area.

29 Section 8. Technical assistance grants.

30 (a) General rule.--Subject to appropriations and in

1 accordance with rules promulgated by the Secretary of Health in
2 consultation with the Secretary of Environmental Protection, the
3 secretary may award a grant to any individual or group of
4 individuals who may be affected by a release or threatened
5 release of a toxic chemical from any toxic chemical facility in
6 an environmental high-impact area.

7 (b) Grant requirements.--A grant awarded under this section
8 shall be:

9 (1) Designed to facilitate access by representatives of
10 environmental high-impact areas to the activities that
11 involve public participation under this act and any other
12 related law.

13 (2) Used to obtain technical assistance relating to the
14 inspection and review authorities described in section 6(b)
15 and the study described in section 6(d).

16 (3) An amount of not more than \$50,000.

17 (c) Contribution requirement.--Each grant recipient shall be
18 required, as a condition of the grant, to pay a non-Federal
19 share equal to 20% of the grant amount. The secretary may waive
20 the 20% contribution requirement if the grant recipient
21 demonstrates financial need to the satisfaction of the
22 secretary. Not more than one grant may be made with respect to
23 each environmental high-impact area for the period of a grant,
24 as determined by the secretary. At the end of the period, a
25 grant may be renewed if the secretary determines that the
26 renewal is necessary to facilitate public participation.

27 (d) Grant provision.--Grants under subsection (b) shall be
28 considered to be grants under section 117(e) of the
29 Comprehensive Environmental Response, Compensation, and
30 Liability Act and shall be funded in the same manner.

1 Section 9. Effective date.

2 This act shall take effect in 60 days.