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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1825 Session of  
2015

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INTRODUCED BY SANKEY, CUTLER, GABLER, GREINER, MASSER, MCGINNIS,  
METZGAR, OBERLANDER, REESE, SANTORA, SAYLOR, SCHWEYER,  
THOMAS, TOPPER, WARD AND ZIMMERMAN, FEBRUARY 2, 2016

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REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,  
FEBRUARY 2, 2016

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AN ACT

1 Amending the act of May 19, 1995 (P.L.4, No.2), entitled "An act  
2 providing for the recycling of existing industrial and  
3 commercial sites; further defining the cleanup liability of  
4 new industries and tenants; establishing a framework for  
5 setting environmental remediation standards; establishing the  
6 Voluntary Cleanup Loan Fund, the Industrial Land Recycling  
7 Fund and the Industrial Sites Cleanup Fund to aid industrial  
8 site cleanups; assigning powers and duties to the  
9 Environmental Quality Board and the Department of  
10 Environmental Resources; and making repeals," in general  
11 provisions, further providing for definitions; adding  
12 provisions for beneficial use of abandoned mine drainage; and  
13 providing for certain immunity.

14 The General Assembly of the Commonwealth of Pennsylvania  
15 hereby enacts as follows:

16 Section 1. Section 103 of the act of May 19, 1995 (P.L.4,  
17 No.2), known as the Land Recycling and Environmental Remediation  
18 Standards Act, is amended by adding definitions to read:

19 Section 103. Definitions.

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

1 \* \* \*

2 "Beneficial use." Use of eligible land and water, as  
3 approved by the department, as part of a water pollution  
4 abatement project for use by an industrial or commercial  
5 facility operating in accordance with the laws of this  
6 Commonwealth.

7 \* \* \*

8 "Eligible land and water." Land and water adversely affected  
9 by mining for which no person has a continuing reclamation or  
10 water pollution abatement obligation, including land and water  
11 adversely affected by mining for which the department has  
12 forfeited and collected the operators bonds and there is no  
13 outstanding litigation concerning the bond forfeiture or for  
14 which a treatment trust fund naming the department as the  
15 beneficiary has been established.

16 \* \* \*

17 "Environmental laws." All statutes enacted by the  
18 Commonwealth relating to the protection of the environment or  
19 the protection of public health, safety and welfare that are  
20 administered and enforced by the department or by another  
21 Commonwealth agency, including an independent agency, and all  
22 Federal statutes relating to the protection of the environment.

23 \* \* \*

24 "Mine drainage" or "mine pool water." Water contained in a  
25 mine pool or a surface discharge of water caused by a mining  
26 activity.

27 \* \* \*

28 "Reclamation project operator." A person who undertakes or  
29 performs a reclamation project approved by the department.

30 \* \* \*

1 "Treated mine drainage." Water from an active or closed mine  
2 that is treated by a water pollution abatement project operator  
3 under a permit issued by the department. Treated mine drainage  
4 that meets the effluent limits for the National Pollutant  
5 Discharge Elimination System permit for the source mine is not a  
6 solid waste as defined in section 103 of the act of July 7, 1980  
7 (P.L.380, No.97), known as the Solid Waste Management Act, and  
8 the regulations promulgated under that act.

9 \* \* \*

10 "Water pollution abatement facilities." A facility that  
11 abates water pollution located on eligible lands and water  
12 through treatment methods, including, but not limited to, a  
13 structure, system, practice, technique or method constructed,  
14 installed or followed to reduce, treat or abate such water  
15 pollution and facilities to withdraw mine drainage or mine pool  
16 water for use in gas well development or another beneficial use.

17 "Water pollution abatement plan." A plan for a water  
18 pollution abatement project.

19 "Water pollution abatement project." A project to treat or  
20 abate water pollution located on eligible lands and water,  
21 including, but not limited to, the installation, operation and  
22 maintenance of facilities to reduce, treat or abate such water  
23 pollution or the installation, operation and maintenance of  
24 facilities to withdraw mine drainage or mine pool water located  
25 on eligible lands and water, provided that the use is  
26 beneficial.

27 "Water pollution abatement project operator." A person,  
28 including a conservation district, that undertakes or performs a  
29 water pollution abatement project approved by the department.

30 Section 2. The act is amended by adding a chapter to read:



1 contours that blend in and complement the drainage pattern of  
2 the surrounding terrain with no highwalls, spoil piles or  
3 depressions to accumulate water;

4 (2) will result in the appropriate revegetation of the  
5 site; and

6 (3) is not likely to result in pollution as defined in  
7 section 1 of the act of June 22, 1937 (P.L.1987, No.394),  
8 known as The Clean Streams Law.

9 Section 804. Approval.

10 Upon review, the department shall approve each proposed water  
11 pollution abatement project if it determines that the proposed  
12 project:

13 (1) Is likely to improve the water quality of mine  
14 drainage or mine pool water on eligible land and water or  
15 will likely have a beneficial impact on water resources in  
16 this Commonwealth.

17 (2) Is not likely to exacerbate the water pollution  
18 proposed to be abated.

19 Section 805. Immunity.

20 (a) General rule.--Except as otherwise provided in  
21 subsection (b), a landowner, person or water pollution abatement  
22 operator who provides equipment, funding, materials or services  
23 for a water pollution abatement project for a beneficial use  
24 under this chapter shall be immune from:

25 (1) Suits or enforcement actions, including actions for  
26 civil and criminal penalties, or other actions under the  
27 environmental laws.

28 (2) Private actions for damage, including actions for  
29 injury to persons, property or the environment based on  
30 negligence, trespass or nuisance, or other common law

1 remedies.

2 (b) Exception.--A landowner, person or water pollution  
3 abatement operator claiming immunity under this chapter shall  
4 not be immune from an action or enforcement order for an  
5 unlawful activity, act or omission that is reckless or  
6 constitutes gross negligence or willful misconduct.

7 Section 3. This act shall take effect immediately.