

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2594 Session of 2024

INTRODUCED BY FRIEL, GLEIM, HILL-EVANS, DONAHUE, SANCHEZ, DALEY, ECKER, SCHEMEL, MOUL AND GREEN, SEPTEMBER 27, 2024

AS REPORTED FROM COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY, HOUSE OF REPRESENTATIVES, AS AMENDED, OCTOBER 1, 2024

AN ACT

1 Establishing the hauler or broker of food processing ~~residual~~ <--
2 ~~waste~~ RESIDUALS certification program; providing for the <--
3 transportation of food processing ~~residual waste~~ RESIDUALS; <--
4 imposing duties on the Department of Agriculture and the
5 State Conservation Commission; and imposing penalties.

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

8 Section 1. Short title.

9 This act shall be known and may be cited as the Hauler or
10 Broker of Food Processing ~~Residual Waste~~ RESIDUALS Certification <--
11 Act.

12 Section 2. Definitions.

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

16 "Certified hauler or broker of food processing ~~residual waste~~ <--
17 RESIDUALS." A person that is certified under this act as a <--
18 hauler or broker of food processing ~~residual waste~~ RESIDUALS. <--

19 "Commission." The State Conservation Commission established

1 under the act of May 15, 1945 (P.L.547, No.217), known as the  
2 Conservation District Law.

3 "Department." The Department of Environmental Protection of  
4 the Commonwealth.

5 "Food processing ~~residual waste~~ RESIDUALS." The term shall <--  
6 ~~mean the same as~~ HAVE THE SAME MEANING AS THE TERM "FOOD <--  
7 PROCESSING WASTE" under section 103 of the Solid Waste  
8 Management Act.

9 "Food processing ~~residual waste~~ RESIDUALS data sheet." A <--  
10 written document developed in accordance with section 3(d).

11 "Hauler or broker of food processing ~~residual waste~~ <--  
12 RESIDUALS." A person who, for a fee or other remuneration, <--  
13 provides transport, application or coordination for transport or  
14 application of food processing ~~residual waste~~ RESIDUALS from a <--  
15 property owned or controlled by another or to a property owned  
16 or controlled by another.

17 "Land application system." The term shall mean the same as  
18 defined under section 103 of the Solid Waste Management Act.

19 "Secretary." The Secretary of Agriculture of the  
20 Commonwealth.

21 "Solid Waste Management Act." The act of July 7, 1980  
22 (P.L.380, No.97), known as the Solid Waste Management Act.

23 Section 3. Hauler or broker of food processing ~~residual waste~~ <--  
24 RESIDUALS certification program. <--

25 (a) Establishment.--The department shall establish, within  
26 18 months of the effective date of this subsection, in  
27 consultation with the commission and the Department of  
28 Agriculture, a hauler or broker of food processing ~~residual~~ <--  
29 ~~waste~~ RESIDUALS certification program for the purpose of <--  
30 certifying persons as certified haulers or brokers of food

1 processing ~~residual waste~~ RESIDUALS. The certification shall be <--  
2 in effect for three years and eligible for renewal if the  
3 certified hauler or broker of food processing ~~residual waste~~ <--  
4 RESIDUALS has completed six credits of continuing education as <--  
5 approved by the department. The department shall by regulation  
6 establish additional conditions and fees for certification as  
7 the department deems appropriate.

8 (b) Training.--For purposes of the certification program,  
9 the department shall develop, in consultation with the  
10 commission and the Department of Agriculture, training and  
11 educational requirements, testing and other criteria as it deems  
12 necessary for certification under this act. Training shall at a  
13 minimum address the following topics:

14 (1) The best management practices with respect to  
15 transport, storage and application of food processing  
16 ~~residual waste~~ RESIDUALS included in the manual established <--  
17 under section 509 of the Solid Waste Management Act.

18 (2) Information necessary for identifying, understanding  
19 and following a land application system with emphasis on best  
20 practices for proper application and timing for application  
21 of food processing ~~residual waste~~ RESIDUALS. <--

22 (3) Recordkeeping by certified haulers or brokers of  
23 food processing ~~residual waste~~ RESIDUALS necessary to meet <--  
24 all regulatory requirements of this act and the Solid Waste  
25 Management Act.

26 (4) Procedures necessary for the development,  
27 preparation and maintenance of accurate food processing  
28 ~~residual waste~~ RESIDUALS data sheets. <--

29 (c) Approval of training.--The department shall have the  
30 authority to approve, for the purposes of training and

1 education, programs developed by educational institutions or  
2 entities that meet the requirements of this section.

3 (d) Food processing ~~residual waste~~ RESIDUALS data sheet.-- <--  
4 The department shall, in consultation with the commission,  
5 develop a food processing ~~residual waste~~ RESIDUALS data sheet <--  
6 and the procedure for electronic filing of the food processing  
7 ~~residual waste~~ RESIDUALS data sheet. The food processing <--  
8 ~~residual waste~~ RESIDUALS data sheet shall include, at a minimum: <--

9 (1) The quantity, content, composition, origin, age,  
10 prior possessors and processing of the food processing  
11 ~~residual waste~~ RESIDUALS, including testing ~~requirements~~ AS <--  
12 REQUIRED BY THE LAND APPLICATION SYSTEM.

13 (2) The dates and parties to any prior transfers of  
14 possession of the food processing ~~residual waste~~ RESIDUALS. <--

15 (3) The intended site for land application or any other  
16 destination, within or outside of this Commonwealth, where  
17 the food processing ~~residual waste~~ RESIDUALS will be utilized <--  
18 or disposed.

19 (4) Any other required information necessary to  
20 identify, track and determine appropriate food processing  
21 ~~residual waste~~ RESIDUALS data sheet handling, storage and <--  
22 application rates.

23 Section 4. Requirements for hauler or broker of food processing  
24 ~~residual waste~~ RESIDUALS. <--

25 (a) Prohibition.--Subject to the establishment of the  
26 program under section 3(a), a hauler or broker of food  
27 processing ~~residual waste~~ RESIDUALS may not transport or land <--  
28 apply in this Commonwealth, regardless of where the food  
29 processing ~~residual waste~~ RESIDUALS is generated, unless the <--  
30 hauler or broker has:

1 (1) Successfully completed a hauler or broker of food  
2 processing ~~residual waste~~ RESIDUALS certification program <--  
3 approved by the department.

4 (2) Received the appropriate certification by the  
5 department.

6 (3) Maintained certification under the requirements of  
7 the certification program.

8 (4) Received a complete food processing ~~residual waste~~ <--  
9 RESIDUALS data sheet from the generator of the food <--  
10 processing ~~residual waste~~ RESIDUALS. <--

11 (b) Land applying of food processing ~~residual waste~~ <--  
12 RESIDUALS.--A hauler or broker of food processing ~~residual waste~~ <--  
13 RESIDUALS shall, when land applying food processing ~~residual~~ <--  
14 ~~waste~~ RESIDUALS, do so only in accordance with the land <--  
15 application system filed with the commission in accordance with  
16 section 509 of the Solid Waste Management Act.

17 (c) Food processing ~~residual waste~~ RESIDUALS data sheet.-- <--  
18 Prior to accepting food processing ~~residual waste~~ RESIDUALS for <--  
19 transport or application, a hauler or broker of food processing  
20 ~~residual waste~~ RESIDUALS shall ensure that a complete food <--  
21 processing ~~residual waste~~ RESIDUALS data sheet has been <--  
22 transmitted to the commission. Prior to transferring food  
23 processing ~~residual waste~~ RESIDUALS for application, storage or <--  
24 any other purpose, the hauler or broker of food processing  
25 ~~residual waste~~ RESIDUALS shall transmit a copy of the food <--  
26 processing ~~residual waste~~ RESIDUALS data sheet to the recipient <--  
27 of the food processing ~~residual waste~~ RESIDUALS. <--

28 (d) Transmittal of application.--Prior to transfer of food  
29 processing ~~residual waste~~ RESIDUALS, the recipient of the food <--  
30 processing ~~residual waste~~ RESIDUALS shall transmit to the hauler <--

1 or broker of the food processing ~~residual waste~~ RESIDUALS a copy <--  
2 of the land application system.

3 (e) Recordkeeping.--All records required under this section  
4 shall be maintained for three years and made available upon  
5 request to the department.

6 Section 5. Transport and transfer requirement.

7 Food processing ~~residual waste~~ RESIDUALS shall be hauled, <--  
8 brokered or transferred only by a certified hauler or broker of  
9 food processing ~~residual waste~~ RESIDUALS and: <--

10 (1) At each and every transfer of possession within this  
11 Commonwealth of food processing ~~residual waste~~ RESIDUALS, <--  
12 provide a food processing ~~residual waste~~ RESIDUALS data sheet <--  
13 to all transferees, including all persons receiving food  
14 processing ~~residual waste~~ RESIDUALS for land application or <--  
15 for further transfer to others for land application.

16 (2) Maintain the food processing ~~residual waste~~ <--  
17 RESIDUALS data sheet for a period of three years. <--

18 (3) Meet any additional requirements under the act of  
19 June 22, 1937 (P.L.1987, No.394), known as The Clean Streams  
20 Law, the Solid Waste Management Act and any other applicable  
21 law.

22 Section 6. Unlawful conduct.

23 It shall be unlawful to fail to comply with or to cause or  
24 assist in the violation of this act, a regulation promulgated  
25 under this act or an order issued under this act.

26 Section 7. Administrative penalties.

27 (a) Penalties.--

28 (1) In addition to proceeding under any other remedy  
29 available at law or in equity for a violation of this act,  
30 the department may assess an administrative penalty of not

1 more than \$5,000 for the first day of each violation and  
2 \$1,000 for each additional day of continuing violation. The  
3 factors for consideration in determining the amount of the  
4 penalty are:

- 5 (i) The seriousness of the violation.
- 6 (ii) The willfulness of the violation.
- 7 (iii) Previous violations.

8 (2) A person may appeal a penalty under this section ~~to~~ <--  
9 ~~the secretary~~ as follows:

10 (i) The appeal must be filed within 30 days of the  
11 date of the penalty assessment.

12 (ii) The ~~secretary~~ DEPARTMENT shall issue a decision <--  
13 on the appeal within 30 days of the filing of an appeal.

14 (3) This subsection is subject to 2 Pa.C.S. Chs. 5  
15 Subch. A (relating to practice and procedure of Commonwealth  
16 agencies) and 7 Subch. A (relating to judicial review of  
17 Commonwealth agency action).

18 (b) Collection.--In cases of inability to collect the  
19 administrative penalty or failure of a person to pay all or a  
20 portion of the penalty, the department may refer the matter to  
21 the Office of General Counsel, which shall institute an action  
22 in the appropriate court to recover the penalty. A penalty  
23 assessed shall operate as a lien on the property of the person  
24 against whom the penalty has been assessed.

25 Section 8. Civil remedies.

26 (a) Law.--The Office of General Counsel may institute an  
27 action at law in a court of competent jurisdiction to recover  
28 damages for a violation of this act, a regulation promulgated  
29 under this act or an order issued under this act.

30 (b) Equity.--The Office of General Counsel may institute an

1 action in equity in a court of competent jurisdiction to  
2 restrain a violation of this act, a regulation promulgated under  
3 this act or an order issued under this act. In a proceeding  
4 under this subsection:

5 (1) The Commonwealth shall not be required to furnish  
6 bond.

7 (2) The court shall issue a preliminary injunction if it  
8 finds that the defendant is engaging in unlawful conduct as  
9 proscribed by this act or is engaged in conduct which is  
10 causing immediate and irreparable harm to the public.

11 (3) Equitable relief may be issued in addition to  
12 damages under subsection (a).

13 (c) Abatement.--The court may fix a reasonable time during  
14 which the person responsible for a violation may make provision  
15 for the abatement of the violation.

16 (d) Injunction.--In cases where the circumstances require it  
17 or the public health is endangered, the court may issue a  
18 preliminary injunction, special injunction or temporary  
19 restraining order.

20 Section 9. Enforcement order and revocation or suspension of  
21 certification.

22 (a) General rule.--The department may:

23 (1) Issue orders necessary for the enforcement of this  
24 act. An order issued under this subsection shall take effect  
25 upon notice unless the order specifies otherwise.

26 (2) Suspend or revoke a certification granted under this  
27 act if the department finds that the hauler or broker of food  
28 processing ~~residual-waste~~ RESIDUALS has failed or continues <--  
29 to fail to comply with this act, the certification criteria,  
30 the regulations promulgated under this act or an order of the



1 department under this act.

2 (b) Procedure.--A person may appeal an action under this  
3 section to the secretary as follows:

4 (1) The appeal must be filed within 30 days of the date  
5 of the order, revocation or suspension.

6 (2) The secretary shall issue a decision on the appeal  
7 within 30 days of the filing of an appeal.

8 (3) This subsection is subject to 2 Pa.C.S. Chs. 5  
9 Subch. A (relating to practice and procedure of Commonwealth  
10 agencies) and 7 Subch. A (relating to judicial review of  
11 Commonwealth agency action).

12 Section 10. Powers reserved under existing laws.

13 Nothing in this act shall limit the powers conferred upon the  
14 department, the commission, the Department of Agriculture or a  
15 county conservation district under laws other than this  
16 act, including the act of June 22, 1937 (P.L.1987, No.394),  
17 known as The Clean Streams Law, the Solid Waste Management Act  
18 or the act of June 28, 2004 (P.L.454, No.49), known as the  
19 Commercial Manure Hauler and Broker Certification Act.

20 Section 11. Preemption of local ordinances.

21 This act is of Statewide concern and shall occupy the whole  
22 field of regulation regarding the certification and regulation  
23 of haulers or brokers of food processing ~~residual waste~~ <--  
24 RESIDUALS and the transportation of food processing ~~residual~~ <--  
25 ~~waste~~ RESIDUALS to the exclusion of all local regulations. <--

26 Except as otherwise specifically provided in this act, an  
27 ordinance or regulation of a political subdivision may not  
28 prohibit or attempt to regulate the certification or operations  
29 or transportation of haulers or brokers of food processing  
30 ~~residual waste~~ RESIDUALS. <--

1 Section 12. Limitation of liability.

2 If a person operating as a hauler or broker of food  
3 processing ~~residual waste~~ RESIDUALS is properly certified under <--  
4 this act and has complied with this act in the transportation,  
5 utilization, land application and activities related to the  
6 management of food processing ~~residual waste~~ RESIDUALS, <--  
7 certification and compliance shall be given appropriate  
8 consideration as a mitigating factor in an action arising from  
9 the management or utilization of food processing ~~residual waste~~ <--  
10 RESIDUALS transported or land applied by the hauler or broker. <--

11 Section 13. Effective date.

12 This act shall take effect in 60 days.