

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2594 Session of 2024

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

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, OCTOBER 9, 2024

AN ACT

1 Establishing the hauler or broker of food processing residuals
2 certification program; providing for the transportation of
3 food processing residuals; imposing duties on the Department
4 of Agriculture and the State Conservation Commission; and
5 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 Residuals Certification Act.

11 Section 2. Definitions.

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

15 "BROKER OF FOOD PROCESSING RESIDUALS." A PERSON WHO, FOR A <--
16 FEE OR OTHER REMUNERATION, PROVIDES COORDINATION FOR TRANSPORT
17 OR APPLICATION OF FOOD PROCESSING RESIDUALS FROM A PROPERTY
18 OWNED OR CONTROLLED BY ANOTHER OR TO A PROPERTY OWNED OR

1 CONTROLLED BY ANOTHER.

2 "Certified hauler or broker of food processing residuals." A
3 person that is certified under this act as a hauler or broker of
4 food processing residuals.

5 "Commission." The State Conservation Commission established
6 under the act of May 15, 1945 (P.L.547, No.217), known as the
7 Conservation District Law.

8 "Department." The Department of ~~Environmental Protection~~ <--
9 AGRICULTURE of the Commonwealth. <--

10 "Food processing residuals." The term shall have the same
11 meaning as the term "food processing waste" under section 103 of
12 the Solid Waste Management Act.

13 ~~"Food processing residuals data sheet." A written document~~ <--
14 ~~developed in accordance with section 3(d).~~

15 ~~"Hauler or broker of food processing residuals." A person~~
16 ~~who, for a fee or other remuneration, provides transport,~~
17 ~~application or coordination for transport or application of food~~
18 ~~processing residuals from a property owned or controlled by~~
19 ~~another or to a property owned or controlled by another.~~

20 "FOOD PROCESSING RESIDUALS DATA SHEET." A WRITTEN DOCUMENT <--
21 THAT MEETS THE REQUIREMENTS ESTABLISHED BY THE COMMISSION, IN
22 CONSULTATION WITH THE DEPARTMENT, AND SPECIFIES THE QUANTITY,
23 CONTENT, CHARACTERIZATION, ORIGIN, AGE, PRIOR POSSESSORS AND
24 PROCESSING OF FOOD PROCESSING RESIDUALS, DATES AND PARTIES TO
25 ANY PRIOR TRANSFERS OF POSSESSION, INTENDED SITE FOR STORAGE
26 PRIOR TO LAND APPLICATION, IF APPLICABLE, AND INTENDED SITE OF
27 LAND APPLICATION IN THE COURSE OF NORMAL FARMING OPERATION.

28 "HAULER OF FOOD PROCESSING RESIDUALS." A PERSON WHO, FOR A
29 FEE OR OTHER REMUNERATION, PROVIDES TRANSPORT OR APPLICATION FOR
30 TRANSPORT OR APPLICATION OF FOOD PROCESSING RESIDUALS FROM A

1 PROPERTY OWNED OR CONTROLLED BY ANOTHER OR TO A PROPERTY OWNED
2 OR CONTROLLED BY ANOTHER.

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

5 "Secretary." The Secretary of Agriculture of the
6 Commonwealth.

7 "Solid Waste Management Act." The act of July 7, 1980
8 (P.L.380, No.97), known as the Solid Waste Management Act.
9 Section 3. Hauler or broker of food processing residuals
10 certification program.

11 (a) Establishment.--The department shall establish, within
12 18 months of the effective date of this subsection, in
13 consultation with the commission ~~and the Department of~~ <--
14 ~~Agriculture~~, a hauler or broker of food processing residuals
15 certification program for the purpose of certifying persons as
16 certified haulers or brokers of food processing residuals. The
17 certification shall be in effect for three years and eligible
18 for renewal if the certified hauler or broker of food processing
19 residuals has completed six credits of continuing education as
20 approved by the department. The department shall by regulation
21 establish additional conditions and fees for certification as
22 the department deems appropriate.

23 (b) Training.--For purposes of the certification program,
24 the department shall develop, in consultation with the
25 commission ~~and the Department of Agriculture~~, training and <--
26 educational requirements, testing and other criteria as it deems
27 necessary for certification under this act. Training shall at a
28 minimum address the following topics:

29 (1) The best management practices with respect to
30 transport, storage and application of food processing

1 ~~residuals included in the manual established under section 509 of the Solid Waste Management Act.~~ <--

3 (2) Information necessary for identifying, understanding and following a land application system with emphasis on best practices for proper application and timing for application of food processing residuals.

7 (3) Recordkeeping by certified haulers or brokers of food processing residuals necessary to meet all regulatory requirements of this act and the Solid Waste Management Act.

10 (4) Procedures necessary for the development, preparation and maintenance of accurate food processing residuals data sheets.

13 (c) Approval of training.--The department shall have the authority to approve, for the purposes of training and education, programs developed by educational institutions or entities that meet the requirements of this section.

17 ~~(d) Food processing residuals data sheet. The department shall, in consultation with the commission, develop a food processing residuals data sheet and the procedure for electronic filing of the food processing residuals data sheet. The food processing residuals data sheet shall include, at a minimum:~~ <--

22 (D) FOOD PROCESSING RESIDUALS DATA SHEET.--THE COMMISSION, <--
23 IN COORDINATION WITH THE DEPARTMENT, SHALL DEVELOP A FOOD
24 PROCESSING RESIDUALS DATA SHEET. THE FOOD PROCESSING RESIDUALS
25 DATA SHEET SHALL INCLUDE, AT A MINIMUM:

26 (1) The quantity, content, ~~composition~~ CHARACTERIZATION, <--
27 origin, age, prior possessors and processing of the food
28 processing residuals, including testing as required by the
29 land application system.

30 (2) The dates and parties to any prior transfers of

1 possession of the food processing residuals.

2 (3) The intended site for land application or any other
3 destination, within or outside of this Commonwealth, where
4 the food processing residuals will be utilized or disposed.

5 (4) Any other required information necessary to
6 identify, track and determine appropriate food processing
7 residuals data sheet handling, storage and application rates.

8 Section 4. Requirements for hauler or broker of food processing
9 residuals.

10 (a) Prohibition.--Subject to the establishment of the
11 program under section 3(a), a hauler or broker of food
12 processing residuals may not transport or land apply in this
13 Commonwealth, regardless of where the food processing residuals
14 is generated, unless the hauler or broker has:

15 (1) Successfully completed a hauler or broker of food
16 processing residuals certification program approved by the
17 department.

18 (2) Received the appropriate certification by the
19 department.

20 (3) Maintained certification under the requirements of
21 the certification program.

22 ~~(4) Received a complete food processing residuals data~~ <--
23 ~~sheet from the generator of the food processing residuals.~~

24 (b) Land applying of food processing residuals.--A hauler or
25 broker of food processing residuals shall, when land applying
26 food processing residuals, do so only in accordance with the
27 land application system ~~filed with the commission in accordance~~ <--
28 ~~with section 509 of the Solid Waste Management Act.~~

29 (c) Food processing residuals data sheet.--Prior to
30 accepting food processing residuals for transport or

1 application, a hauler or broker of food processing residuals
2 shall ensure that a complete food processing residuals data
3 sheet has been transmitted to the commission. ~~Prior to~~ <--
4 ~~transferring food processing residuals for application, storage~~
5 ~~or any other purpose, the hauler or broker of food processing~~
6 ~~residuals shall transmit a copy of the food processing residuals~~
7 ~~data sheet to the recipient of the food processing residuals.~~

8 ~~(d) Transmittal of application. Prior to transfer of food~~
9 ~~processing residuals, the recipient of the food processing~~
10 ~~residuals shall transmit to the hauler or broker of the food~~
11 ~~processing residuals a copy of the land application system.~~

12 ~~(e) (D) Recordkeeping.--All records required under this~~ <--
13 section shall be maintained for three years and made available
14 upon request to the department.

15 Section 5. Transport and transfer requirement.

16 Food processing residuals shall be hauled, brokered or
17 transferred only by a certified hauler or broker of food
18 processing residuals and:

19 (1) At each and every transfer of possession within this
20 Commonwealth of food processing residuals, provide a food
21 processing residuals data sheet to all transferees, including
22 all persons receiving food processing residuals for land
23 application or for further transfer to others for land
24 application.

25 (2) Maintain the food processing residuals data sheet
26 for a period of three years.

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

1 Section 6. Unlawful conduct.

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

5 Section 7. Administrative penalties.

6 (a) Penalties.--

7 (1) In addition to proceeding under any other remedy
8 available at law or in equity for a violation of this act,
9 the department may assess an administrative penalty of not
10 more than ~~\$5,000~~ \$500 for the first day of each violation and <--
11 ~~\$1,000~~ \$100 for each additional day of continuing violation. <--
12 The factors for consideration in determining the amount of
13 the penalty are:

14 (i) The seriousness of the violation.

15 (ii) The willfulness of the violation.

16 (iii) Previous violations.

17 (2) A person may appeal a penalty under this section TO <--
18 THE SECRETARY as follows:

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

21 (ii) The ~~department~~ SECRETARY shall issue a decision <--
22 on the appeal within 30 days of the filing of an appeal.

23 (3) This subsection is subject to 2 Pa.C.S. Chs. 5
24 Subch. A (relating to practice and procedure of Commonwealth
25 agencies) and 7 Subch. A (relating to judicial review of
26 Commonwealth agency action).

27 (b) Collection.--In cases of inability to collect the
28 administrative penalty or failure of a person to pay all or a
29 portion of the penalty, the department may refer the matter to
30 the Office of General Counsel, which shall institute an action

1 in the appropriate court to recover the penalty. A penalty
2 assessed shall operate as a lien on the property of the person
3 against whom the penalty has been assessed.

4 Section 8. Civil remedies.

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

9 (b) Equity.--The Office of General Counsel may institute an
10 action in equity in a court of competent jurisdiction to
11 restrain a violation of this act, a regulation promulgated under
12 this act or an order issued under this act. In a proceeding
13 under this subsection:

14 (1) The Commonwealth shall not be required to furnish
15 bond.

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

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

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

25 (d) Injunction.--In cases where the circumstances require it
26 or the public health is endangered, the court may issue a
27 preliminary injunction, special injunction or temporary
28 restraining order.

29 Section 9. Enforcement order and revocation or suspension of
30 certification.

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

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

5 (2) Suspend or revoke a certification granted under this
6 act if the department finds that the hauler or broker of food
7 processing residuals has failed or continues to fail to
8 comply with this act, the certification criteria, the
9 regulations promulgated under this act or an order of the
10 department under this act.

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

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

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

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

21 Section 10. Powers reserved under existing laws.

22 Nothing in this act shall limit the powers conferred upon the
23 department, the commission, the Department of ~~Agriculture~~ <--
24 ENVIRONMENTAL PROTECTION or a county conservation district under <--
25 laws other than this act, including the act of June 22, 1937
26 (P.L.1987, No.394), known as The Clean Streams Law, the Solid
27 Waste Management Act or the act of June 28, 2004 (P.L.454,
28 No.49), known as the Commercial Manure Hauler and Broker
29 Certification Act.

30 Section 11. Preemption of local ordinances.

1 This act is of Statewide concern and shall occupy the whole
2 field of regulation regarding the certification and regulation
3 of haulers or brokers of food processing residuals and the
4 transportation of food processing residuals to the exclusion of
5 all local regulations. Except as otherwise specifically provided
6 in this act, an ordinance or regulation of a political
7 subdivision may not prohibit or attempt to regulate the
8 certification or operations or transportation of haulers or
9 brokers of food processing residuals.

10 Section 12. Limitation of liability.

11 If a person operating as a hauler or broker of food
12 processing residuals is properly certified under this act and
13 has complied with this act in the transportation, utilization,
14 land application and activities related to the management of
15 food processing residuals, certification and compliance shall be
16 given appropriate consideration as a mitigating factor in an
17 action arising from the management or utilization of food
18 processing residuals transported or land applied by the hauler
19 or broker.

20 Section 13. Effective date.

21 This act shall take effect in 60 days.