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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 612 Session of  
2021

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INTRODUCED BY COLLETT, SANTARSIERO, HUGHES, KEARNEY, COMMITTA,  
COSTA, KANE, MUTH AND HAYWOOD, APRIL 27, 2021

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REFERRED TO ENVIRONMENTAL RESOURCES AND ENERGY, APRIL 27, 2021

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AN ACT

1 Amending the act of October 18, 1988 (P.L.756, No.108), entitled  
2 "An act providing for the cleanup of hazardous waste sites;  
3 providing further powers and duties of the Department of  
4 Environmental Resources and the Environmental Quality Board;  
5 providing for response and investigations for liability and  
6 cost recovery; establishing the Hazardous Sites Cleanup Fund;  
7 providing for certain fees and for enforcement, remedies and  
8 penalties; and repealing certain provisions relating to the  
9 rate of the capital stock franchise tax," in preliminary  
10 provisions, further providing for definitions and providing  
11 for disaster emergency declaration and for testing  
12 requirement, duty to report and public access; in powers and  
13 duties, further providing for powers and duties of  
14 department; and, in liability and settlement procedures,  
15 further providing for responsible person.

16 The General Assembly of the Commonwealth of Pennsylvania  
17 hereby enacts as follows:

18 Section 1. The definition of "hazardous substance" in  
19 section 103 of the act of October 18, 1988 (P.L.756, No.108),  
20 known as the Hazardous Sites Cleanup Act, is amended and the  
21 section is amended by adding definitions to read:

22 Section 103. Definitions.

23 The following words and phrases when used in this act shall  
24 have the meanings given to them in this section unless the

1 context clearly indicates otherwise:

2 \* \* \*

3 "Hazardous substance."

4 (1) Any element, compound or material which is:

5 (i) Designated as a hazardous waste under the act of  
6 July 7, 1980 (P.L.380, No.97), known as the Solid Waste  
7 Management Act, and the regulations promulgated thereto.

8 (ii) Defined or designated as a hazardous substance  
9 pursuant to the Federal Superfund Act.

10 (iii) Contaminated with a hazardous substance to the  
11 degree that its release or threatened release poses a  
12 substantial threat to the public health and safety or the  
13 environment as determined by the department.

14 (iv) Determined to be substantially harmful to  
15 public health and safety or the environment based on a  
16 standardized and uniformly applied department testing  
17 procedure and listed in regulations proposed by the  
18 department and promulgated by the Environmental Quality  
19 Board.

20 (v) A polyfluoroalkyl or perfluorinated substance,  
21 including, but not limited to, perfluorooctane sulfonate,  
22 perfluorooctanoic acid, perfluorononanoic acid and  
23 perfluorohexane sulfonic acid.

24 (1.1) A chemical substance not included under paragraph  
25 (1) that:

26 (i) the department determines to be the equivalent  
27 of a compound under paragraph (1) in accordance with  
28 section 301(16.1); or

29 (ii) is designated by executive order of the  
30 Governor as a chemical substance or chemical compound

1 that poses a threat to public health and safety or the  
2 environment.

3 (2) The term does not include petroleum or petroleum  
4 products, including crude oil or any fraction thereof, which  
5 are not otherwise specifically listed or designated as a  
6 hazardous substance under paragraph (1); natural gas, natural  
7 gas liquids, liquified natural gas or synthetic gas usable  
8 for fuel or mixtures of natural gas and synthetic gas usable  
9 for fuel; or an element, substance, compound or mixture from  
10 a coal mining operation under the jurisdiction of the  
11 department or from a site eligible for funding under Title IV  
12 of the Surface Mining Control and Reclamation Act of 1977  
13 (Public Law 95-87, 30 U.S.C. § 1201 et seq.). The term shall  
14 also not include the following wastes generated primarily  
15 from the combustion of coal or other fossil fuels for the  
16 production of electricity: slag waste; flue gas emission  
17 control waste; and fly ash waste and bottom ash waste which  
18 is disposed of or beneficially used in accordance with the  
19 Solid Waste Management Act and the regulations promulgated  
20 thereto or which has been disposed of under a valid permit  
21 issued pursuant to any other environmental statute.

22 \* \* \*

23 "Public water supplier." The term shall have the meaning  
24 given to "supplier of water" in section 3 of the act of May 1,  
25 1984 (P.L.206, No.43), known as the Pennsylvania Safe Drinking  
26 Water Act.

27 \* \* \*

28 "Special drinking water resource-impacted community." A  
29 municipality whose surface or groundwater resources used for  
30 public drinking water supply purposes have been impaired by

1 emerging contaminants, methane or other gases or catastrophic  
2 releases of pollutants to the water resources for which  
3 treatment or alternative water supply development or procurement  
4 is required on an emergency basis to protect public health and  
5 safety.

6 \* \* \*

7 Section 2. The act is amended by adding sections to read:

8 Section 105. Disaster emergency declaration.

9 (a) General rule.--The Governor shall have the authority in  
10 accordance with 35 Pa.C.S. § 7301 (relating to general authority  
11 of Governor) to declare a municipality a special drinking water  
12 resource-impacted community based on the finding of one or more  
13 of the following:

14 (1) The discovery of a release or threatened release of  
15 hazardous substances.

16 (2) Polyfluoroalkyl or perfluorinated substances,  
17 including, but not limited to, perfluorooctane sulfonate,  
18 perfluorooctanoic acid, perfluorononanoic acid and  
19 perfluorohexane sulfonic acid, if one of them is present in  
20 groundwater or surface water individually measured across a  
21 12-month simple rolling average above 10 parts per trillion.

22 (3) Other pollutants in the municipality's public water  
23 supply system.

24 (b) Special drinking water resource-impacted communities.--  
25 The Governor may establish alternative or incident-specific  
26 drinking water standards and cleanup standards for impaired  
27 surface or groundwater resources in a special drinking water  
28 resource-impacted community. Standards established under this  
29 section shall take effect immediately upon establishment by the  
30 Governor and remain in effect:

1           (1) for 24 months;  
2           (2) until the Governor has rescinded or amended the  
3           standard;  
4           (3) until the emergency condition and public health  
5           threat has been abated; or  
6           (4) with respect to drinking water resources, until  
7           either a final rulemaking is published by the Environmental  
8           Quality Board establishing a maximum contaminant level for  
9           the substance under the act of May 1, 1984 (P.L.206, No.43),  
10           known as the Pennsylvania Safe Drinking Water Act, or a final  
11           rulemaking is published by the Environmental Protection  
12           Agency establishing a maximum contaminant level.

13           (c) Grants.--A special drinking water resource-impacted  
14           community shall be eligible to receive a PENNVEST grant under  
15           the act of March 1, 1988 (P.L.82, No.16), known as the  
16           Pennsylvania Infrastructure Investment Authority Act, of up to  
17           \$1,000,000 per impacted water supply source. The grants may be  
18           used to provide treatment to impacted public water supplies,  
19           extension of water lines, booster stations, pressure management  
20           equipment, interconnection of private water users to public  
21           water supply systems and analytical sampling and to procure  
22           alternative water supply resources.

23           Section 106. Testing requirement, duty to report and public  
24           access.

25           (a) Testing.--Notwithstanding any provision of law to the  
26           contrary, a municipality has the authority, by ordinance, to  
27           require a public water supplier to test for polyfluoroalkyl or  
28           perfluorinated substances within the municipal water supply.

29           (b) Duty to report.--A public water supplier that meets  
30           either of the following criteria shall report to the department

1 both monthly averages and 12-month simple rolling averages of  
2 each polyfluoroalkyl or perfluorinated substance found within  
3 their water supply:

4 (1) The public water supplier serves a municipality that  
5 has been declared a special drinking water resource-impacted  
6 community under section 105.

7 (2) The public water supplier is required by municipal  
8 ordinance to test for polyfluoroalkyl or perfluorinated  
9 substances within the municipal water supply.

10 (c) Public information.--The department shall make the  
11 information reported under subsection (b) available to the  
12 public and post the information on the department's publicly  
13 accessible Internet website.

14 Section 3. Sections 301 and 701(b) of the act are amended by  
15 adding paragraphs to read:

16 Section 301. Powers and duties of department.

17 The department has the following powers and duties:

18 \* \* \*

19 (16.1) Within 12 months of the establishment of a  
20 maximum contaminant level, health advisory level or  
21 provisional health advisory level under the act of May 1,  
22 1984 (P.L.206, No.43), known as the Pennsylvania Safe  
23 Drinking Water Act, or a similar Federal law for any chemical  
24 substance or chemical compound not included in the definition  
25 of "hazardous substance," determine whether the chemical  
26 compound or chemical substance should be designated by  
27 regulation as a hazardous substance.

28 \* \* \*

29 Section 701. Responsible person.

30 \* \* \*

1 (b) Exceptions.--

2 \* \* \*

3 (6) No municipality, municipal authority or other public  
4 water supplier shall be considered a responsible person under  
5 this act due to the presence of a polyfluoroalkyl substance  
6 or perfluorinated chemical in wastewater treatment plant  
7 sludge, water supply treatment residuals, spent filter media  
8 or similar facility operational wastes where the presence of  
9 the polyfluoroalkyl substance or perfluorinated chemical is  
10 due to chemical characteristics of the entity's water supply  
11 source or discharges into the wastewater treatment facility.

12 \* \* \*

13 Section 4. This act shall take effect in 60 days.