

Section 2. Clause (3) of section 1001 of the act is repealed.

Clause (3),  
Section 1001,  
act of April 29,  
1959, P. L. 58,  
repealed.

Section 3. The act is amended by adding, after section \*1040, a new section to read:

Act of April 29,  
1959, P. L. 58,  
amended by  
adding a new  
section 1041.

*Section \*\*1041. Speed Contests and Drag Races Prohibited.—It shall be unlawful for any person to operate a vehicle upon any highway in a speed contest, including those commonly known as drag races, whether from a standing start or otherwise, over a measured or unmeasured distance, the object of which is to better or defeat one or more contestants on the basis of elapsed time, superior performance or speed.*

*Penalty.—Any person violating any of the provisions of this section, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine of not less than one hundred dollars (\$100.00) and not more than five hundred dollars (\$500.00), or to undergo imprisonment for not more than three (3) years, or both.*

APPROVED—The 8th day of January, A. D. 1960.

DAVID L. LAWRENCE

No. 787

### AN ACT

To provide for the better protection of the health, general welfare and property of the people of the Commonwealth by the control, abatement, reduction and prevention of the pollution of the air by smokes, dusts, fumes, gases, odors, mists, vapors, pollens and similar matter, or any combination thereof; creating within the Department of Health an Air Pollution Commission and defining its powers; authorizing the Department of Health to enforce rules and regulations of the Commission as provided in this act; establishing Regional Air Pollution Control Associations and defining their powers; reserving powers to local political subdivisions, and defining the relationship between this act and the ordinances, resolutions and regulations of counties, cities, boroughs, towns and townships; imposing penalties for violation of this act; and providing for the power to enjoin violations of this act; and conferring upon persons aggrieved certain rights and remedies; and providing an appropriation therefor.

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

Air Pollution  
Control Act.

Section 1. Short Title.—This act shall be known and may be cited as the "Air Pollution Control Act."

Section 2. Declaration of Policy.—It is hereby determined and declared to be the policy of the Common-

\* "1039" in original.  
\*\* "1040" in original.

wealth of Pennsylvania to maintain such a reasonable degree of purity of the air resources of the Commonwealth as shall be technically feasible, economically reasonable, and necessary for the protection of the normal health, the general welfare and the property of the people of the Commonwealth. The measures for the accomplishment of this purpose shall not unreasonably obstruct the attraction, development and expansion of business, industry and commerce within the Commonwealth, but shall be technically feasible and economically reasonable. The program for the control of air pollution under this act shall be undertaken in a progressive manner, and each of its successive objectives shall be sought to be accomplished by a maximum of cooperation and conciliation among all the parties concerned. All powers herein conferred upon the Department of Health, the Air Pollution Commission, or any Regional Air Pollution Control Association, and all powers herein reserved to any political subdivision shall be exercised solely to effectuate the policy declared in this section.

Section 3. Definitions.—The following words and phrases, when used in this act, unless the context clearly indicates otherwise, shall have the meaning ascribed to them in this section:

(1) "Department." Department of Health of the Commonwealth of Pennsylvania.

(2) "Commission." The Air Pollution Commission.

(3) "Person." Any individual, public or private corporation for profit or not for profit, association, partnership, firm, trust, estate, department, board, bureau or agency of the Commonwealth, political \*subdivision, municipality, district, authority or any other legal entity whatsoever which is recognized by law as the subject of rights and duties.

(4) "Air contaminant." Smoke, dust, fume, gas, odor, mist, vapor, pollen, or any combination thereof.

(5) "Air pollution." The presence in the outdoor atmosphere of one or more air contaminants in sufficient quantity and of such characteristics and duration which is injurious to human, plant or animal life, or to property, or which unreasonably interferes with the comfortable enjoyment of life and property throughout the Commonwealth or throughout such areas of the Commonwealth as shall be affected thereby.

(6) "Air contamination." The presence in the outdoor atmosphere of an air contaminant which contributes to any condition of air pollution.

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\* "subdivisions" in original.

(7) "Air contamination source." Any source at, from or by reason of which there is emitted into the outdoor atmosphere any air contaminant, regardless of who the person may be who owns or operates the building, premises or other property in or on which such source is located or the facility, equipment or other property by which the emission is caused or from which the emission comes. Without limiting the generality of the foregoing, this term includes all types of business, commercial and industrial plants, works, shops and stores, and heating and power plants and stations, buildings and other structures of all types, including single and multiple family residences, apartments, houses, office buildings, public buildings, hotels, restaurants, schools, hospitals, churches and other institutional buildings, automobiles, trucks, tractors, buses and other motor vehicles, garages and vending and service locations and stations, railroad locomotives, ships, boats and other water-borne craft, portable fuel-burning equipment, incinerators of all types, indoor and outdoor, refuse dumps and piles, and all stack and other chimney outlets from any of the foregoing.

(8) "Association." Any Regional Air Pollution Control Association provided for in this act.

(9) "Region." Any geographical subdivision of the Commonwealth whose boundaries shall be determined by the commission.

(10) "Subregion." Any geographical subdivision whose boundaries shall be determined by the Commission.

Section 4. Powers of the Department of Health.—  
In accordance with the policies of the Commission, the department shall have the power and its duty shall be to—

(1) Enter any building, property, premises or place and inspect any air contamination source for the purpose of investigating an actual or a suspected source of air \*pollution or for the purpose of ascertaining the compliance or non-compliance with any rule or regulation which may have been adopted and promulgated by the Commission hereunder. Any information relating to secret processes or methods of manufacture or production obtained in the course of such inspection, investigation or determination shall be kept confidential and shall not be subject to subpoena by any court of the Commonwealth in any civil action or any other proceeding, except before the Commission as herein defined. If, in connection with such inspection or investigation, samples of air or air contaminants are taken for analysis, a duplicate of the analytical report shall be furnished promptly

\* "pollition" in original.

to the person who is suspected of causing such air pollution or air contamination.

(2) Have access to, and require the production of, books and papers pertinent to any matter under investigation.

(3) Receive and initiate complaints of air pollution in alleged violation of law or any rule or regulation promulgated under this act, and to submit such complaints to the Association of the air pollution control region in which such complaints arise: Provided, however, That where the source of air pollution is within one region and the effects thereof extend to another region or regions, as determined by appropriate surveys by the department, the said complaint shall be forwarded to the Commission.

(4) Investigate complaints, institute and conduct surveys and testing programs, conduct general atmospheric sampling programs, make observations of conditions which may or do cause air pollution, make tests or other determinations at air contamination sources, and assess the degree of abatement required.

(5) When directed by the Commission, institute or cause to be instituted in a court of competent jurisdiction proceedings to compel compliance with any order of the Commission from which there has been no appeal or which has been sustained on appeal.

(6) Act as the agent for the Commission in holding public hearings when so directed by the Commission.

(7) Enforce orders for compliance with rules and regulations of the Commission.

(8) Recommend the minimum job qualifications of personnel employed by county and municipal air pollution control agencies hereafter created.

(9) Accept, and at the request of the Commission require to be submitted to it, and consider for approval, plans and specifications of air pollution control equipment, devices or process changes, and inspect such installations or modifications to insure compliance with the plans which may have been so approved by it.

(10) Conduct or cause to be conducted studies and research with respect to air contaminants, their nature, causes and \*effects, and with respect to the control, prevention, abatement and reduction of air pollution and air contamination.

(11) Determine by means of field studies and sampling the degree of air pollution existing in any part of the Commonwealth.

(12) Prepare and develop a general comprehensive plan for the control and abatement of existing air pollu-

\* "affects" in original.

tion and air contamination and for the abatement, control and prevention of any new air pollution and air contamination, recognizing varying requirements for the different areas of the Commonwealth, and to submit a comprehensive plan to the Commission for its consideration and approval.

(13) Encourage the formulation and execution of plans in conjunction with air pollution control agencies or civil associations of counties, cities, boroughs, towns and townships of the Commonwealth wherein any sources of air pollution or air contamination may be located, and enlist the cooperation of those who may be in control of such sources for the control, prevention and abatement of such air pollution and air contamination.

(14) Encourage voluntary efforts and cooperation by all persons concerned in controlling, preventing, abating and reducing air pollution and air contamination.

(15) Conduct and supervise educational programs with respect to the control, prevention, abatement and reduction of air pollution and air contamination, including the preparation and distribution of information relating to the means of controlling and preventing such air pollution and air contamination.

(16) Develop and conduct in cooperation with local communities demonstration programs relating to air contaminants, air pollution and air contamination and the control, prevention, abatement and reduction of air pollution and air contamination.

(17) Provide advisory technical consultative services to local communities and to the Regional Air Pollution Control Associations for the control, prevention, abatement and reduction of air pollution and air contamination.

(18) Cooperate with the appropriate agencies of the United States or of other states or any interstate agencies with respect to the control, prevention, abatement and reduction of air pollution, and where appropriate formulate interstate air pollution control compacts or agreements for the submission thereof to the General Assembly.

(19) Serve as the agency of the Commonwealth for the receipt of \*moneys from the Federal government or other public or private agencies, and expend such \*moneys for studies and research with respect to air contaminants, air pollution and the control, prevention, abatement and reduction of air pollution.

(20) Do any and all other acts and things not inconsistent with any provision of this act, which it may deem necessary or proper for the effective enforcement

\* "monies" in original.

of this act and the rules or regulations which have been promulgated thereunder.

Section 5. The Air Pollution Commission.—(a) There is hereby created in the department an Air Pollution Commission which shall consist of five governmental members and six public members. The public members shall be appointed by the Governor, by and with the advice and consent of two-thirds of all the members of the Senate.

(b) The governmental members shall be the Secretaries of the Department of Health, Department of Commerce, Department of Labor and Industry, Department of Mines and Mineral Industries, Department of Agriculture, or persons designated by them.

(c) Of the six public members, one shall be a member of the general public. Of the remaining five members, one member shall be an industrial toxicologist experienced and competent in the toxicology of air contaminants; three members shall be representative of industry and as such shall be employed by a manufacturer or a public utility carrying on a manufacturing or public utility business within the Commonwealth and shall be experienced and competent in matters of air pollution control, of which three members at least one member shall be a licensed professional engineer trained and experienced in matters of air pollution control; and the remaining one member shall be an additional licensed professional engineer trained and experienced in matters of air pollution control. All the public members of the Commission shall be residents of the Commonwealth.

(d) The term of each public member shall be four (4) years or until a successor is duly appointed. The members of the Commission, other than the governmental members, shall receive twenty-five dollars (\$25.00) per diem while actually engaged in the work of the Commission and each of them shall be allowed the necessary and actual expense which he shall incur in the performance of his duties under this act.

(e) The Commission shall elect a chairman and vice chairman every two years: Provided, however, That the first chairman of the Commission shall be the Secretary of Health.

(f) The Commission shall have the power and its duty shall be to—

(1) Certify to the Governor as soon as is practicable the number and boundaries of regions and subregions as defined herein, and in the event that the number of regions or the boundaries thereof are subsequently changed, to certify such changes to the Governor, by resolution, at a subsequent meeting.

(2) Adopt rules and regulations for the control of air pollution in regions or parts thereof, after reviewing studies made by the department in those regions or parts thereof, and \*after such suggested rules and regulations have been reviewed by the Association of the region affected: Provided, however, That if such rules and regulations are designed to correct an air pollution condition which affects more than one region, it shall be necessary for the Commission to submit such rules and regulations to the Associations affected. To carry out the purpose and intent of this act, all rules and regulations shall be adopted by the Commission in accordance with the provisions of the act of June 4, 1945 (P. L. 1388), known as the "Administrative Agency Law," and its amendments. In exercising its authority to adopt rules and regulations, the Commission may, and to the extent deemed desirable by it shall, consult with a council of technical advisers, properly qualified by education or experience in air pollution matters, appointed by the Commission and to serve at the pleasure of the Commission, to consist of such number of advisers as the Commission may appoint, but such technical advisers shall receive no compensation for their services to the Commission.

(3) Adopt rules and regulations for the orderly conduct of business before it.

(4) Hold meetings or hearings at the call of the chairman, but in no event shall meetings be held less than six times per year.

(5) Hear and determine all complaints of alleged violations of the rules and regulations of the Commission, which complaints have been referred to it by any Association or by the department as provided by section 4 (3) of this act. Any and all action by the Commission taken with reference to any complaint shall be in the form of an adjudication, and all such action shall be subject to the provisions of the Administrative Agency Law, the act of June 4, 1945 (P. L. 1388), as amended, insofar as the rights of any person aggrieved are concerned.

(6)\*\* Prescribe and disseminate to Associations a form of complaint which such Associations shall make available to persons desiring to make a complaint.

(7) Require the necessary and proper steps to minimize the effect, hazard or nuisance from air pollution and issue appropriate orders for compliance with rules and regulations for the control, abatement, reduction and prevention of air pollution and stipulate in such orders a time by which compliance shall be made.

\* "after" not in original.

\*\* "To" in original.

(8) Establish and publish maximum quantities of air contaminants that may be permitted under various conditions at the point of use from any air contaminant source in various areas of the Commonwealth so as to control air pollution.

(g) Any party aggrieved as defined in the act of June 4, 1945 (P. L. 1388), known as the "Administrative Agency Law," and its amendments, by any order, decision or determination of the Commission made pursuant to the provisions of this act, shall have the right to appeal such order, decision or determination in the manner provided for by, and subject to all the provisions of, the act of June 4, 1945 (P. L. 1388), known as the "Administrative Agency Law," and its amendments.

Section 6. Regional Air Pollution Control Associations.—(a) In each of the regions designated by the Commission there shall be established an Association consisting of a representative of industry, and of labor, and a county commissioner of one of the counties comprising the region. In addition thereto, each Association shall be comprised of a resident of each of the counties of the region concerned. All members of such Association, including the chairman, shall be appointed by the Governor and shall serve at his pleasure.

(b) Each Association shall have the power and its duty shall be to—

(1) Review and comment upon all proposed regulations of the Commission peculiar to the region within a period of ninety <sup>\*</sup>(90) days. If the Commission shall not have received comments from the Association within ninety days of their submission to the Association, such suggested rules and regulations shall be adopted by the Commission.

(2) Suggest to the Commission such regulations as may seem suitable to the conditions of that region.

(3) Consider complaints regarding air pollution within their respective regions. In the consideration of such complaints, an Association shall attempt through the use of maximum of conference, conciliation and persuasion to abate, control, reduce or prevent air pollution within the region pursuant to the rules and regulations of the Commission. Within six months of the receipt of any complaint, an Association shall report to the Commission regarding the disposition of the complaint. In the event that the efforts of an Association are unavailing with respect to the air pollution problem <sup>\*\*</sup>or problems set forth in a complaint, an Association shall refer such complaint to the Commission for appropriate action. If within sixty (60) days after an Association has re-

\* "(90)" not in original.

\*\* "and" in original.



ported to the Commission a satisfactory disposition of a complaint, another complaint concerning the same problems or persons, whichever the case may be, is filed with an Association, this complaint shall be forthwith referred to the Commission for appropriate action.

(4) Cooperate with persons within the region to develop a program for the prevention, abatement, control and reduction of air pollution within the region.

(5) Avail itself of the services of the Department of Health for technical service or advice whenever it is necessary for a proper understanding of the problems within the region.

(6) Meet at the call of the chairman of the Association or of the chairman of the Commission, but in no event shall the Association meet less than four times a year.

(7) Submit to the Commission a copy of all complaints received by the Association and action taken thereon.

(8) Utilize such stenographic and clerical assistance of the department as is necessary for the conduct of the business of the Association.

(9) Enter into an agreement with the Department of Health for the reimbursement of all necessary expenses of the Association.

(10) Provide for convenient headquarters for the Association. In the absence of any cogent reason the headquarters of the Association shall be situated in the regional office of the Department of Health, and such office shall be supplied by the department to the Association at no charge.

(c) Each Association shall be considered an autonomous body insofar as the conduct of its business is concerned, notwithstanding the fact that it may utilize such services of the department as are herein provided, and notwithstanding the fact that it must comply with subsection (b) (3) of this section.

Section 7. Public Hearings.—(a) Public hearings shall be held by the Commission or by the department, acting on behalf and at the direction or request of the Commission, in any region of the Commonwealth affected before any rules or regulations with regard to the control, abatement, prevention or reduction of air pollution are adopted for that region or subregion. In the case where it \*becomes necessary to adopt rules and regulations for the control, abatement, prevention or reduction of air pollution for any area of the Commonwealth which encompasses more than one region or parts of more than one region, public hearings shall be held in the area con-

\* "become" in original.

cerned. Full stenographic transcripts shall be taken of all public hearings and shall be made available by the department to any party concerned with the subject matter of the hearing upon the payment of prevailing rates for such transcripts.

(b) In addition to the matters discussed at the public hearings, the Commission may, in its discretion, solicit the views, in writing, of persons who may be affected by, or interested in, proposed rules and regulations.

(c) Notice to the public of the time and place of any public hearing shall be given at least thirty (30) days prior to the scheduled date of the hearing by public advertisement in a newspaper or newspapers of general circulation in the region of the Commonwealth affected.

(d) The persons designated to conduct the hearing shall have the power to issue notices of hearings in the name of the Commission.

(e) Full opportunity to be heard with respect to the subject of the hearing shall be given to all persons in attendance, in addition to which persons, whether or not in attendance, may, within thirty (30) days, submit their views to the department, which the department shall transmit to the Commission with its report.

(f) No information relating to secret processes or methods of manufacture or production shall be disclosed at any public hearing or otherwise and all such information shall be kept confidential.

**Section 8. Unlawful Conduct.**—It shall be unlawful to refuse to comply with any rule or regulation or order of the Commission, or to assist in the violation of any of the provisions of this act or rules and regulations adopted hereunder, or to in any manner hinder, obstruct, delay, resist, prevent or in any way interfere or attempt to interfere with the department or its personnel in the performance of any duty hereunder, or refuse to permit such personnel to perform their duty by refusing them, after proper identification or presentation of a written order of the department, entrance at reasonable hours to any premises.

**Section 9. Penalties.**—(a) **Summary offense.** Any person as herein defined, except a department, board, bureau or agency of the Commonwealth, political subdivision, municipality, district or authority, engaging in unlawful conduct as set forth in section 8 of this act, shall, for each offense, upon conviction thereof in a summary proceeding before a magistrate, alderman or justice of the peace, be sentenced to pay the costs of prosecution and a fine of not less than thirty dollars (\$30.00) nor more than three hundred \*dollars (\$300.00),

\* "dollars" omitted in original.

and, in default thereof, to undergo imprisonment of not less than ten (10) days nor more than thirty (30) days.

(b) Misdemeanors. Any person as herein defined, except a department, board, bureau or agency of the Commonwealth, political subdivision, municipality, district or authority, convicted of a third or subsequent offense, shall be guilty of a misdemeanor and shall, upon conviction thereof, be sentenced to pay a fine of not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1,000.00), or to undergo imprisonment not exceeding one year, or both, in the discretion of the court.

(c) For the purpose of this section, violations on separate days shall be considered separate offenses.

Section 10. Application for Injunctive Relief.—(a) In addition to any other remedies provided for in this act, the Commission may request the Attorney General to petition the court of common pleas in the county in which the defendant resides or has his place of business for an injunction to restrain all violations of this act.

(b) The penalties and remedies prescribed by this act shall be deemed concurrent and the existence of or exercise of any remedy shall not prevent the Commission from exercising any other remedy hereunder, at law or in equity.

Section 11. Powers Reserved to the Department under Existing Laws.—Nothing in this act shall limit the powers conferred upon the department to control and abate nuisances detrimental to the public health as \*are provided in section 2101 \*\*of The Administrative Code of 1929, the act of April 9, 1929 (P. L. 177), as amended.

Section 12. Powers Reserved to Political Subdivisions.—Nothing in this act shall prevent counties, cities, towns, townships or boroughs from enacting ordinances with respect to air pollution which will not conflict with the provisions of this act or the rules and regulations promulgated pursuant to \*\*\*its provisions. This act shall not be construed to repeal existing ordinances, resolutions or regulations of the aforementioned political subdivisions existing at the time of the effective date of this act, except as they may conflict with the provisions of this act.

The provisions of this act shall not apply to any city or county which has an air pollution control agency, except in the case in which a source or suspected source of air pollution exists in such city or county the effects of

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\* "is" in original.  
 \*\* "and" in original.  
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## LAWS OF PENNSYLVANIA,

which extend beyond the boundaries of the city or county concerned. Notwithstanding any other provision of this act (including the provisions of section 2 of this act) nothing in this act shall limit the powers conferred under existing laws upon counties of the first and second class to enact and enforce through the county health department or otherwise, ordinances or rules and regulations controlling and regulating air pollution or the emission of smoke.

Section 13. Appropriation.—There is hereby appropriated to the Department of Health the sum of fifty thousand dollars (\$50,000.00), or as much thereof as is necessary, to carry out the provisions of this act. All moneys expended pursuant to the provisions of this act shall be expended consistent with the policies of the Commission.

Section 14. Severability.—The provisions of this act are severable and if any \*provision, sentence, clause, section or part thereof shall be held illegal, invalid, unconstitutional or inapplicable to any person or circumstances, such illegality, invalidity, unconstitutionality or inapplicability shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of the ordinance or their application to him or to other persons and circumstances. It is hereby declared to be the legislative intent that this act would have been adopted if such illegal, invalid or unconstitutional provision, sentence, clause, section or part had not been included therein, and if the person or circumstances to which the ordinance or any part thereof is inapplicable had not specifically been exempted therefrom.

Section 15. Effective Date.—This act shall take effect immediately: Provided, however, That the rules and regulations promulgated pursuant to the provisions of this act shall be of no effect until one (1) year after the passage of this act.

APPROVED—The 8th day of January, A. D. 1960.

DAVID L. LAWRENCE

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No. 788

AN ACT

Amending the act of April 9, 1929 (P. L. 177), entitled "An act providing for and reorganizing the conduct of the executive and administrative work of the Commonwealth by the Executive Department thereof and the administrative departments, boards,

\* "provisions" in original.