

(c) The following acts and parts of acts and all amendments thereto are repealed to the extent inconsistent with this act:

(1) Subsection (a) of section 703 and sections 2406, 2409 and 2410, act of April 9, 1929 (P. L. 177), known as "The Administrative Code of 1929."

(2) Section 6, act of July 5, 1957 (P. L. 485), entitled "An act for the protection of the public health and welfare, and the prevention of fraud and deception in the manufacture or sale of packaged non-alcoholic drinks; prohibiting the sale, offering or exposing for sale, exchange or giving away thereof unless registered; providing for licensing of places of manufacture; regulating the manufacture, compounding, labeling, sanitation and ingredients of non-alcoholic drinks, and the display of presses of fruit; prohibiting misbranding and adulteration of registered and non-registered non-alcoholic drinks; authorizing promulgation of rules, regulations and standards, and providing for penalties and for injunctions in certain cases, and the disposition of fees and fines."

(3) Section 10, act of July 25, 1961 (P. L. 825), known as the "Oil and Gas Conservation Law."

(4) Section 3, act of September 10, 1965 (P. L. 517), known as the "Pennsylvania Grape Herbicides Act."

(5) Section 8, act of December 1, 1965 (P. L. 988), known as the "Weights and Measures Act of 1965."

(6) Subsection (b) of section 306, act of January 28, 1966 (P. L. 1625), known as "The Atomic Energy Development and Radiation Control Act."

Section 610. General Repeal.—All other parts of those acts which are specified in section 609 and all other acts or parts of acts are repealed in so far as they are inconsistent with this act.

Section 611. Effective Date.—This act, except sections 201, 202, 404, 503, 608, 611 shall take effect July 1, 1969. Sections 608 and 611 shall take effect immediately. Sections 404 and 503 shall take effect one month after the date of publication of the first issue of the bulletin. Sections 201 and 202 shall take effect six months after the date of publication of the first issue of the bulletin.

APPROVED—The 31st day of July, A. D. 1968.

RAYMOND P. SHAFER.

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No. 241

AN ACT

SB 514

Providing for the planning and regulation of solid waste storage, collection, transportation, processing and disposal systems; requiring municipalities to submit plans for solid waste management systems in their jurisdiction;

authorizing grants to municipalities; requiring permits for operating processing or disposal systems; imposing duties on and granting powers to municipalities; authorizing the Department of Health to adopt rules, regulations, standards and procedures; creating an advisory committee; providing remedies, prescribing penalties, and making an appropriation.

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

**Section 1. Short Title.**—This act shall be known and may be cited as the “Pennsylvania Solid Waste Management Act.”

**Section 2. Legislative Finding; Declaration of Policy.**—It is hereby determined and declared as a matter of legislative finding that, since improper and inadequate solid waste practices create public health hazards, environmental pollution and economic loss, it is the purpose of this act to:

(1) Establish and maintain a cooperative state and local program of planning and technical and financial assistance for comprehensive solid waste management;

(2) Utilize, wherever feasible and desirable, the capabilities of private enterprise in accomplishing the desired objectives of an effective solid waste management program; and

(3) Require permits for the operation of processing and disposal systems.

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

(1) “Department” means the Department of Health of the Commonwealth of Pennsylvania and its authorized representatives.

(2) “Secretary” means the Secretary of Health of the Commonwealth of Pennsylvania.

(3) “Solid waste” means garbage, refuse and other discarded materials including, but not limited to, solid and liquid waste materials resulting from industrial, commercial, <sup>1</sup> agricultural and residential activities.

(4) “Solid waste management system” means the entire process of storage, collection, transportation, processing and disposal of solid wastes by any person engaging in such process as a business or any municipality, authority, county or any combination thereof.

(5) “Municipality” means a city, incorporated town, township and borough.

(6) “Person” means individual, partnership, corporation, association, institution, cooperative enterprise, or legal entity.

**Section 4. Advisory Committee.**—(a) An advisory committee consisting of twenty-two members shall be appointed by the Governor, membership of which shall include one representative of the Department of Agriculture, Department of Commerce, Department of Community Affairs, State Planning Board, Pennsylvania State Associa-

<sup>1</sup> “agriculture” in original.

tion of Township Supervisors, Pennsylvania State Association of Township Commissioners, Pennsylvania State Association of Boroughs, Pennsylvania League of Cities, Pennsylvania Association of County Commissioners, Pennsylvania Municipal Authorities Association, Pennsylvania State University, Drexel Institute of Technology, Pennsylvania State Grange, Pennsylvania Farmers' Association, Pennsylvania Home Builders' Association, Pennsylvania Cannery and Food Processors Association and Pennsylvania Society of Professional Engineers.

(b) The Advisory Committee may recommend to the secretary the adoption, amendment or repeal of such rules, regulations, standards and procedures as it deems necessary and advisable for the implementation of the act.

(c) The members of the committee shall not receive any compensation for their services but shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties.

Section 5. Submission of Plans.—(a) Each municipality with a population density of three hundred or more inhabitants per square mile shall submit to the department an officially adopted plan for a solid waste management system or systems serving areas within its jurisdiction, within two years of the effective date of this section, and shall, from time to time, submit such revisions of said plan as it deems necessary or as the department may require.

(b) When more than one municipality has authority over an existing or proposed solid waste management system or systems, or any part thereof, the required plan or any revision thereof may be submitted jointly by the municipalities concerned or by an authority or county or by one or more of the municipalities with the concurrence of the others.

(c) Every plan, and any revision thereof, shall delineate areas where solid waste management systems are in existence and areas where the solid waste management systems are planned to be available within a ten-year period.

(d) Every plan shall:

(1) Provide for the orderly extension of solid waste management systems in a manner consistent with the needs and plans of the whole area, and in a manner which will not create pollution of the waters or air of the Commonwealth, nor constitute a public nuisance and shall otherwise provide for the safe and sanitary disposal of solid waste;

(2) Take into consideration all aspects of planning, zoning, population estimates, engineering and economics so as to delineate with all practicable precision those portions of the area which may reasonably be expected to be served by a solid waste management system within the next ten years as well as those areas where it is not reasonably foreseeable that a solid waste management system will be needed after ten years;

(3) Take into consideration any existing State plan affecting the

development, use and protection of air, water or land resources;

(4) Set forth a time schedule and proposed methods of financing the development, construction and operation of the planned solid waste management systems, together with the estimated cost thereof;

(5) Include a provision for periodic revision of the plan;

(6) Include such other information as the department shall require.

(e) The plan shall be reviewed by appropriate official planning agencies within a municipality including a planning agency with area wide jurisdiction, if one exists, and the county planning commission, for consistency with programs of planning for the area, and all such reviews shall be transmitted to the department with the proposed plan.

(f) The department is hereby authorized to approve or disapprove plans for solid waste management systems submitted in accordance with this act. Any plan which has not been disapproved within one year of the date of its submission shall be deemed an approved plan. In case any plan is disapproved, a hearing shall be held thereon before the department within fifteen days after request therefor is made by the municipality, municipalities, county or authority whose plan is disapproved. Within seven days following the date of such hearing, the department shall notify all parties in writing of the determination of said hearing and the reasons therefor. Any party aggrieved by this determination shall have the right of appeal in accordance with the provisions of the act of June 4, 1945 (P. L. 1388), known as the "Administrative Agency Law."

(g) The department is authorized to provide technical assistance to counties, municipalities and authorities in coordinating plans for solid waste management systems required by this act, including revisions of such plans.

(h) The department may establish priorities for the time within which plans shall be submitted and may, in appropriate cases, recommend the submission of joint plans.

(i) The department may institute an action in mandamus in the court of common pleas of the county in which the municipality is located to compel municipalities to submit plans in accordance with this act and the rules, regulations and procedures of the department.

Section 6. Powers and Duties of the Department.—The department shall have the power and its duty shall be to:

(1) Administer the solid waste management program pursuant to the provisions of this act.

(2) Cooperate with appropriate Federal, State, interstate and local units of government and with appropriate private organizations in carrying out its duties under this act.

(3) Adopt such rules, regulations, standards and procedures as shall be necessary to conserve the air, water and land resources of the Commonwealth, protect the public health, prevent public nui-

sances, and enable it to carry out the <sup>1</sup> purposes and provisions of this act.

(4) Develop a Statewide solid waste management plan in cooperation with local governments, the Department of Community Affairs and the State Planning Board. When feasible, emphasis shall be given to area wide planning.

(5) Provide technical assistance to municipalities, counties and authorities including the training of personnel.

(6) Report to the Legislature from time to time on further assistance that will be needed to administer the solid waste management program.

(7) Initiate, conduct and support research, demonstration projects, and investigations and coordinate all State agency research programs pertaining to solid waste management systems.

(8) Establish policies for effective solid waste management systems.

(9) Issue such permits and orders and conduct such inspections as may be necessary to implement the provisions of this act and the rules, regulations and standards adopted pursuant to the act.

Section 7. Applications and Permits.—(a) It shall be unlawful for any person, municipality, county or authority to use or continue to use their land or the land of any other person, municipality, county or authority as a solid waste processing or disposal area of a solid waste management system without first obtaining a permit from the department: Provided, however, That this section shall not apply to farmers and they shall not be required to obtain a permit for normal farming operations: And, provided further, That this section shall not apply to the storage of by-products which are utilized in the processing or manufacturing of other products.

(b) Application for a permit shall be in writing and shall be made on a form prescribed, prepared and furnished by the department and shall set forth such information and be accompanied by such data as the department may require.

(c) Upon approval of the application, the department shall issue a permit for the operation of each solid waste processing or disposal facility or area set forth in the application.

(d) Plans, designs and relevant data for the construction or alteration of solid waste processing and disposal facilities and the location of solid waste processing and disposal areas shall be prepared by a registered professional engineer and shall be submitted to the department for approval prior to the construction, alteration or operation of such facility or area except when food process wastes are used for agricultural purposes in a manner which will not create a public health hazard or pollution of the air or water.

(e) Any permit granted by the department, as provided in this act, shall be revocable or subject to suspension at any time the department shall determine that the solid waste processing or disposal facility

<sup>1</sup> "puposes" in original.

or area is, or has been conducted in violation of this act or the rules, regulations, or standards adopted pursuant to the act, or is creating a public nuisance.

(f) In any case where a permit is required by this section for the disposal of solid wastes produced by a public utility or a municipally owned facility producing a public utility service, the department shall not refuse an application, or revoke or suspend a permit previously granted, unless it first obtains from Pennsylvania Public Utility Commission a certification that such refusal, revocation or suspension will not adversely affect utility service to the public.

(g) In case any permit is denied, suspended or revoked, a hearing shall be held thereon before the department within fifteen days after request therefor is made by the person, municipality, county or authority whose permit is denied, suspended or revoked. Within seven days following the date of such hearing the department shall notify all parties in writing of the determination of said hearing and the reasons therefor. Any party aggrieved by this determination shall have the right of appeal in accordance with the provisions of the act of June 4, 1945 (P. L. 1388), known as the "Administrative Agency Law."

Section 8. State Agencies.—All State institutions and agencies, including the General State Authority and the State Public School Building Authority, shall obtain a permit from the department under the provisions of section 7 of this act and shall also comply with all other provisions of this act.

Section 9. Prohibited Acts.—It shall be unlawful for any person, municipality, county, or authority to:

(1) Dump or deposit, or permit the dumping or depositing of any solid wastes onto the surface of the ground or into the waters of the Commonwealth without having obtained a permit as required by section 7: Provided, That this provision shall not prohibit the use of solid wastes in normal farming operations or in the processing or manufacturing of other products in a manner that will not create a public nuisance or adversely affect the public health: And, provided further, That this provision shall not prohibit individuals from dumping or depositing solid wastes resulting from their own residential activities onto the surface of ground owned or leased by them when such wastes do not thereby create a public nuisance or adversely affect the public health.

(2) Construct, alter or operate a solid waste processing or disposal facility or area of a solid waste management system without a permit or other approval from the department or in violation of the rules, regulations, standards, or orders of the department.

(3) Burn solid wastes except in a manner approved by the Air Pollution Commission or the department.

(4) Store, collect, transport, process or dispose of solid waste contrary to the rules, regulations, standards or orders of the department or in such a manner as to create a public nuisance.

(5) Refuse or hinder entry and inspection by an agent or employe of the department after such agent or employe identifies himself and gives notice of his purpose.

No person shall be held responsible under the provisions of this section for the dumping or depositing of any solid waste on ground owned or leased by him without his expressed or implied consent, permission or knowledge.

Section 10. Powers and Duties of Municipalities.—(a) Each municipality with a population density of three hundred or more inhabitants per square mile shall be responsible for the collection, transportation, processing and disposal of solid wastes within its boundaries.

(b) In carrying out its responsibilities, any such municipality may adopt ordinances, regulations and standards for the storage and collection of solid wastes which shall be in conformity with the rules, regulations, standards and procedures adopted by the department for the storage, collection, transportation, processing and disposal of solid waste.

(c) Municipalities may contract with any person, other municipality, county or authority to carry out their responsibilities for the collection, transportation, processing and disposal of solid wastes.

Section 11. Orders to Municipalities.—(a) If the department finds that the storage, collection, transportation, processing or disposal of solid waste from a municipality subject to the provisions of section 10 (a) is causing pollution of the land, air or waters of the Commonwealth or is creating a public nuisance, the department may order the municipality to alter its storage, collection or transportation systems or provide such storage, collection or transportation systems as will prevent pollution and public nuisances. Such order shall specify the length of time, after receipt of the order, within which the facility or area shall be repaired, altered, constructed or reconstructed. Any party aggrieved by an order under this section shall have the right of appeal in accordance with the provisions of the act of June 4, 1945 (P. L. 1388), known as the "Administrative Agency Law."

(b) Any municipality ordered by the department to repair, alter, construct or reconstruct a solid waste facility or area shall take such steps for the repair, alteration, construction or reconstruction of the facility or area as may be necessary for the processing and disposal of its solid waste in compliance with this act and the rules, regulations, standards, and orders of the department.

(c) The department may institute an action in mandamus in the court of common pleas of the county in which the municipality is located to compel compliance with an order issued under subsection (a) of this section.

Section 12. Grants Authorized; Appropriation.—(a) The department is authorized to assist counties, municipalities, and authorities by administering grants to pay up to fifty percent of the costs of preparing official plans for solid waste management systems in ac-

cordance with the requirements of this act and the rules, regulations and standards adopted pursuant to this act, and for carrying out related studies, surveys, investigations, inquiries, research and analyses.

(b) All grants shall be made from funds appropriated for this purpose by the General Assembly.

(c) Any municipality with a population density of less than three hundred inhabitants per square mile may elect to be governed by the provisions of this act or to establish within such municipality waste disposal districts subject to the provisions of this act, and such municipality shall thereby become eligible for grants under this section.

(d) The sum of fifty thousand dollars (\$50,000), or as much thereof as may be necessary, is hereby specifically appropriated to the department for the fiscal year July 1, 1968 to June 30, 1969.

Section 13. Restraining Violations.—In addition to any other remedies provided in this act, the secretary may institute a suit in equity in the name of the Commonwealth in the court of common pleas of the county where the violation or nuisance exists for an injunction to restrain a violation of this act or the rules, regulations or standards adopted thereunder and to restrain the maintenance of a public nuisance.

Section 14. Penalties.—(a) Any person violating this act or the rules, regulations or standards thereunder shall, upon conviction thereof in a summary proceeding, be sentenced to pay a fine of not more than three hundred dollars (\$300) and costs and, in default of the payment of such fine and costs, shall undergo imprisonment for not more than thirty days.

(b) Violations on separate days shall be considered separate and distinct offenses under subsection (a) of this section.

(c) All fines and penalties imposed under the provisions of this section shall be paid into the General Fund of the Commonwealth.

Section 15. Severability Clause.—The provisions of this act are severable and if any provision or part thereof shall be held invalid or unconstitutional or inapplicable to any person or circumstances, such invalidity, unconstitutionality or inapplicability shall not affect or impair the remaining provisions of the act.

Section 16. Saving Clause.—Nothing in this act shall be deemed to affect, modify, amend or repeal any provision of any act administered by the Department of Health, Sanitary Water Board, Air Pollution Commission, Department of Mines and Mineral Industries or any other department, board, commission or agency of the Commonwealth.

Section 17. Effective Date.—Section 4 shall take effect immediately. Section 5 and subsection (a) of section 12 shall take effect January 1, 1969. The remainder of the act shall take effect January 1, 1970.

APPROVED—The 31st day of July, A. D. 1968.

RAYMOND P. SHAFER.