

## No. 1978-43

## AN ACT

## HB 539

Amending the act of May 31, 1947 (P.L.368, No.168), entitled "An act to protect consumers in the purchase for fuel purposes of the hard coal known as anthracite; providing for and regulating the sale, offering for sale, resale, delivery and shipment of anthracite according to a standard provided for in this act; requiring producers and dealers and persons engaged in the sale and resale of anthracite, from storage yards or otherwise to consumers, to keep certain records; conferring powers on the Anthracite Committee and its agents; and providing penalties," changing and adding definitions, imposing administrative and enforcement powers on the Department of Environmental Resources and its mine inspectors in lieu of the Anthracite Committee and Commonwealth agents including record preservation, and abolishing the Anthracite Committee.

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

Section 1. The title, act of May 31, 1947 (P.L.368, No.168), known as the "Anthracite Standards Law," is amended to read:

## AN ACT

To protect consumers in the purchase for fuel purposes of the hard coal known as anthracite; providing for and regulating the sale, offering for sale, resale, delivery and shipment of anthracite according to a standard provided for in this act; requiring producers and dealers and persons engaged in the sale and resale of anthracite, from storage yards or otherwise to consumers, to keep certain records; conferring powers on the [Anthracite Committee and its agents] *Department of Environmental Resources and its mine inspectors*; and providing penalties.

Section 2. Clauses (b), (f) and (g) of section 2 of the act are amended and said section is also amended by adding clauses to read:

Section 2. Definitions.—The following words and phrases as used in this act shall be construed to mean:

\* \* \*

(b) ["Anthracite Committee" the Anthracite Committee of the Department of Commerce of the Commonwealth of Pennsylvania, constituted and organized in accordance with the provisions of the Commerce Law, approved May 10, 1939 (Pamphlet Laws 111), as amended, May 5, 1945 (Pamphlet Laws 432), to administer the Production Control Plan for the Anthracite Industry;] "*Department*" *the Department of Environmental Resources*;

\* \* \*

(f) "Sizes" include the sizes of anthracite commonly known as [broken,] egg, stove, nut, pea, buckwheat and rice, the sizings for which are

set forth in the definition of "Standard Anthracite." "Sizes" does not include, and this act shall not be construed to apply to, anthracite of smaller sizes than those herein enumerated;

(g) "Standard Anthracite" anthracite which does not exceed the following specifications as to undersize and ash or slate and bone content:

Size of Anthracite	Test Mesh Round		Under-size Maximum	Ash Content Maximum	Maximum Slate	Percentage Bone
	Through	Over				
<b>[Broken</b>	<b>4 3/8 in.</b>	<b>3 1/4 in.-3 in.</b>	<b>15%</b>	<b>11%</b>	<b>or 1 1/2%</b>	<b>2%</b>
Egg	3 1/4 in.[-3 in.]	2 7/16 in.	15%	11%	[or 1 1/2%	2%]
Stove	2 7/16 in.	1 5/8 in.	15%	11%	[or 2%	3%]
Nut	1 5/8 in.	13/16 in.	15%	11%	[or 3%	4%]
Pea	13/16 in.	9/16 in.	15%	12%	[or 4%	5%]
Buckwheat	9/16 in.	5/16 in.	15%	13%		
Rice	5/16 in.	3/16 in.	17%	13%		

As to the maximum percentage of undersize and the maximum percentage of ash content a tolerance of 1% shall be allowed. **[When slate content, in the sizes from broken to nut inclusive, is less than above standards, bone content may be increased by one and one-half times the decrease in the slate content under the allowable limits, but slate content, specified above, shall not be exceeded in any event.]** The maximum percentage of undersize shall be applicable only to anthracite as it is produced at the preparation plant. Anthracite which conforms to the sizing herein fixed, and conforms also to **[either]** the specification for ash content **[or the specification for slate and bone content]**, shall be deemed to be "Standard Anthracite";

\* \* \*

(p) "*Secretary*" the Secretary of Environmental Resources or his designated representative.

(q) "*Mine Inspector*" the Underground District Mine Inspector as defined in section 103 (18) of the act of November 10, 1965 (P.L.721, No.346), known as the "Pennsylvania Anthracite Coal Mine Act."

Section 3. Sections 6, 7 and 8 of the act, amended September 26, 1951 (P.L.1465, No.362), are amended to read:

Section 6. Preservation of Records.—It shall be the duty of every producer to keep a record of all sales, deliveries and shipments of anthracite, showing the name of the person to whom sold or delivered, the date thereof, the size and net weight, the point of delivery, the railroad car number, the model and registration of the vehicle in which the anthracite was transported, and whether the anthracite so sold, delivered or shipped was sold, delivered or shipped as standard anthracite or substandard anthracite.

It shall be the duty of every wholesale dealer, retail dealer, of every person engaged in hauling anthracite from a railroad car direct to a consumer, and municipal weighmaster, to keep and retain all statements issued to or retained by him, in accordance with the provisions of this act. It

shall also be the duty of every retail dealer and every person engaged in hauling anthracite from a railroad car direct to a consumer and every municipal weighmaster to keep a duplicate of the weighmaster's certificate, and of every wholesale dealer, of the invoice issued by him, in accordance with the provisions of section four of this act.

All such records shall be written and preserved for a period of two years and shall be open to inspection by **[duly accredited agents of the Commonwealth and of the Anthracite Committee]** *the department acting through its mine inspectors* during regular business hours.

Section 7. Powers of **[Agents of Anthracite Committee]**.—**Any duly accredited agent of the Commonwealth or of the Anthracite Committee]** *Department and Mine Inspectors.*—*The department acting through its mine inspectors* shall have full access to every preparation plant and premises of a producer, including railroad cars or railroad sidings, and the storage yard and premises of every retail dealer, and to any railroad car or motor vehicle transporting anthracite wherever the same may be, and shall have the legal right to take samples of anthracite thereat or therefrom for the purpose of testing the same upon paying, or tendering where demanded, the value of the sample so taken, and to examine the weighmaster's certificate or statement of quality accompanying the shipment, as required by this act. They shall have the right to inspect the books and records of every producer, retail dealer, wholesale dealer, municipal weighmaster, and other persons required to keep records by this act, relating to the sale, resale, reweighing, shipment and delivery of anthracite. Such **[agents]** *mine inspectors* shall make **[a report]** *reports* of all inspections and tests to the **[Anthracite Committee]** *secretary* which shall be open to public inspection. *The subject inspections, as described herein, shall be made only subsequent to and as a result of a public complaint submitted to the department.*

Section 8. Penalty.—Any producer, retail dealer, wholesale dealer, municipal weighmaster, or other person who shall fail, neglect or refuse to issue a statement when required to do so by section three or section four of this act, or who shall issue any written or printed statement attesting that anthracite sold, resold, shipped, delivered or marketed by him is standard anthracite, when in fact such anthracite is wholly or partly substandard anthracite, or who shall sell, resell, ship, deliver or market anthracite as grade A, or premium anthracite, or use any other similar designation leading or tending to lead the public to believe that the anthracite being sold, resold, shipped, delivered or marketed is standard anthracite, when in fact such anthracite is wholly or partly substandard anthracite, or who shall use any label, marking or design copyrighted or controlled by the **[Anthracite Committee or the Commonwealth]** *department*, indicating that anthracite being sold, resold, shipped, delivered or marketed conforms to the requirements of this act or is standard anthracite, without having first secured permission in writing from the **[Commonwealth or the Anthracite Committee]** *department*, or who shall refuse the **[duly**

**accredited agents of the Commonwealth or the Anthracite Committee] department** access to records which they are required by this act to keep on their premises, as permitted by this act, or who shall refuse to permit the **[duly accredited agents of the Commonwealth or the Anthracite Committee] department** to take samples of anthracite, as authorized by this act, or any operator of any motor vehicle transporting anthracite on the public highways who shall refuse to permit the **[duly accredited agents of the Commonwealth or the Anthracite Committee] department** to take a sample of the shipment being transported in the vehicle which they are operating, as permitted by this act, or who shall refuse to exhibit the weighmaster's certificate upon demand by the **[duly accredited agents of the Commonwealth or the Anthracite Committee] department**, or any producer, retail dealer, municipal weighmaster, operator of a motor vehicle, or other person who shall otherwise violate any of the provisions of this act, shall upon conviction thereof in a summary proceeding, **remove and replace the inferior coal with a standard grade of coal as defined in this act** and be sentenced for a first offense to pay a fine of \$300 and costs of prosecution, and in default of the payment of such fine and costs of prosecution shall be imprisoned for 30 days.

Any producer, retail dealer, wholesale dealer, municipal weighmaster, or operator of a motor vehicle, or other person committing a second or subsequent violation of this act shall be guilty of a misdemeanor and upon conviction thereof the producer, retail dealer, wholesale dealer, municipal weighmaster, or other person, or the member or members or officer or officers of any association, partnership or corporation responsible for such violation shall be sentenced to pay a fine of not more than \$1000 or suffer imprisonment for 6 months, or both, in the discretion of the court.

All fines imposed pursuant to the provisions of this section shall be payable to the Commonwealth and shall be paid into the General Fund in the State Treasury through the Department of Revenue.

Section 4. (a) The Anthracite Committee of the Department of Commerce is hereby abolished.

(b) All allocations, appropriations, equipment, files, records, contracts, agreements, obligations, and other material which are used, employed or expended in connection with the powers, duties or functions transferred by this act to the Department of Environmental Resources are hereby transferred to the Department of Environmental Resources with the same force and effect as if the appropriations had been made to and said items had been the property of the Department of Environmental Resources in the first instance and as if said contract, agreements and obligations had been incurred or entered into by said Department of Environmental Resources.

Section 5. This act shall take effect immediately.

APPROVED—The 28th day of April, A. D. 1978.

MILTON J. SHAPP