

No. 1978-80

## AN ACT

SB 704

Amending the act of November 9, 1965 (P.L.657, No.323), entitled "An act regulating the transportation of hazardous substances on highways and toll roads, including the Pennsylvania Turnpike; creating the Hazardous Substances Transportation Board, prescribing its powers, duties and procedures; providing for the imposition of duties upon the Department of Revenue, the State Police and other departments and commissions of the Commonwealth; prescribing penalties; repealing inconsistent acts and making an appropriation," further providing for Federal and State regulations, for powers and duties of the board, requiring the posting of certain information, making certain repeals, further providing for enforcement of the act and making editorial changes.

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

Section 1. Subsection (b) of section 3, and section 6, act of November 9, 1965 (P.L.657, No.323), known as the "Hazardous Substances Transportation Act," are amended to read:

Section 3. Findings of Fact; Standards of Administration.— \* \* \*

(b) The purpose of this act, and the primary standard by which it shall be administered, is to so regulate the transportation of hazardous substances, *and assure compliance with the regulations promulgated pursuant to this act*, that there is established and maintained a reasonable balance between the interests of the people in the safety of themselves and their property, on the one hand, and the interests of the people in their employment and economic prosperity, on the other.

Section 6. General Power and Duty of the Board.—The board shall have the general power and duty to prescribe regulations *and assure compliance thereto* for the transportation of hazardous substances, consistent with the purpose and primary standard declared in subsection (b) of section 3 hereof. In exercising such general power and duty the board may:

(1) Classify hazardous substances according to the nature and degree of risk involved in their transportation, and apply separate regulations to each class.

(2) Prescribe regulations pertaining to methods of packing, loading and unloading hazardous substances; to the specifications, marking, inspection, condition and equipment of vehicles transporting such substances; to qualification of drivers and other matters relating to operation of such vehicles; to routing and parking of such vehicles, except that such regulations may not supersede ordinances of local authorities; and all other factors which affect the nature or degree of risk involved in transportation of hazardous substances.

(3) Declare any substance, not defined in section 2 hereof, to be a hazardous substance and thereby subject its transportation to the provisions of this act.

(4) Employ personnel and purchase or lease equipment, office space and materials needed to carry out the provisions of this act.

(5) *Employ personnel to inspect vehicles and investigate all other matters relating to the safe transportation of hazardous substances.*

Section 2. The act is amended by adding a section to read:

*Section 6.1. Posting of Information.—Any vehicle transporting hazardous substances shall have posted thereon the nature of the hazardous substance being transported. The board shall prescribe the size and type of notice to be posted.*

Section 3. Section 7 of the act is amended to read:

Section 7. Correspondence with Federal Requirements.—In the case of any person who is subject to **[jurisdiction of the Interstate Commerce Commission]** *Federal regulations pertaining to the transportation of hazardous substances*, the board's regulations shall, **[and in any other case the board's regulations may,]** *and in any other case may*, as far as practicable, correspond with **[the regulations of such commission]** *such Federal regulations*. It is the purpose of this section to avoid, as far as practicable, the imposition of **[dual or]** conflicting regulations upon persons who operate vehicles subject to **[Interstate Commerce Commission jurisdiction in this Commonwealth]** *Federal regulations pertaining to the transportation of hazardous substances*. It is also the purpose of this section to empower, but not require, the board to prescribe, for persons not subject to **[Interstate Commerce Commission jurisdiction,]** *said Federal regulations*, regulations identical with or similar to those **[of the Interstate Commerce Commission and the Atomic Energy Commission]** *Federal regulations pertaining to the transportation of hazardous substances*.

Section 4. Sections 8 and 9 of the act are repealed.

Section 5. Section 10 of the act, amended May 6, 1970 (P.L.344, No.111), is amended to read:

Section 10. Enforcement of Regulations.—**[The board shall, with the approval of the Governor, assign among the several departments and commissions represented by its ex officio members the duty of enforcing its regulations and the several parts thereof.]** *The enforcement of regulations or any parts thereof may be assigned by the board to one or more of the several departments and commissions represented by its ex officio members as the board sees fit. Such delegation shall be accomplished by resolution duly adopted by a majority of the board present at the meeting.*

Section 6. Section 11 of the act is amended to read:

Section 11. Injunction and Other Remedies.—(a) The Attorney General, upon request of the board or upon his own motion, may proceed in the name of the Commonwealth, by injunction, mandamus, quo warranto, or other appropriate remedy at law or in equity, *criminal or civil*,

to restrain violations of the board's regulations or orders or to enforce obedience thereto. Such proceedings may be brought in **[the Court of Common Pleas of Dauphin County]** *the Commonwealth Court* or in the court of common pleas of the county in which the violation occurred or in which the violator may be found, or in any district court of the United States, as the Attorney General shall deem appropriate *and which court shall have jurisdiction.*

(b) Whenever the Attorney General shall have reason to believe that a person has violated any regulation or order of the board but is outside the jurisdiction of this Commonwealth, the Attorney General may petition **[the Court of Common Pleas of Dauphin County]** *the Commonwealth Court* for an order authorizing the seizure and confiscation of such person's vehicles or hazardous substances wherever and whenever they may be found in the Commonwealth. The court may thereupon require the Attorney General to send a copy of such petition to the person by registered mail or such other means as the court deems appropriate, together with a notice that unless such person answers the petition and submits himself to the jurisdiction of the Commonwealth for the purpose of prosecution under this act within twenty days after receipt of such notice, the petition will be granted. If the person answers the petition and submits himself to the jurisdiction of the Commonwealth as aforesaid, the court shall deny the petition; otherwise, the court shall issue the order as prayed for in the petition.

Section 7. Section 12 of the act, reenacted May 26, 1972 (P.L.307, No.82), is amended to read:

Section 12. Penalties.—(a) Any person who, as operator of a vehicle, shall **[knowingly or wilfully]** violate any regulation of the board pertaining to routing, parking or other act in the actual operation of a vehicle, shall be guilty of a misdemeanor, and, upon conviction thereof in the court of **[quarter sessions]** *common pleas* of the county in which the offense occurred, shall be sentenced to pay a fine of not less than **[twenty-five dollars (\$25)]** *one hundred dollars (\$100)* nor more than five hundred dollars (\$500), or to undergo imprisonment in the county jail for not more than thirty (30) days, or both. Any such person, having been convicted of a first offense under this subsection, who shall at a later time commit a second or subsequent offense and be convicted thereof, shall be sentenced to pay a fine as aforesaid, or to undergo imprisonment in the county jail for not less than sixty (60) days nor more than one (1) year, or both.

(b) Any person who, as shipper, carrier, consignee or user of a hazardous substance, shall **[knowingly or wilfully]** violate any regulation of the board, shall be guilty of a misdemeanor, and, upon conviction thereof in the court of **[quarter sessions]** *common pleas* of the county in which the offense occurred, shall be sentenced to pay a fine of not less than **[one hundred dollars (\$100)]** *five hundred dollars (\$500)* nor more than five thousand dollars (\$5000), or to undergo imprisonment in the county jail for

not more than sixty (60) days, or both. Any person, having been convicted of a first offense under this subsection, who shall at a later time commit a second or subsequent offense and be convicted thereof, shall be sentenced to pay a fine as aforesaid, or to undergo imprisonment in the county jail for not less than sixty (60) days nor more than one (1) year, or both. If such person be a firm, partnership, joint venture or association, then the member thereof responsible for the violation, or if such person be a corporation, then the officer, agent or employe thereof responsible for the violation, shall have the sentence of imprisonment, herein prescribed, imposed upon him.

Section 8. This act shall take effect in 60 days.

APPROVED—The 23rd day of June, A. D. 1978.

MILTON J. SHAPP