

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 119 Session of
2021

INTRODUCED BY PITTMAN, YAW, ARGALL, LANGERHOLC, STEFANO,
BARTOLOTTA, MARTIN, PHILLIPS-HILL, GORDNER, J. WARD,
SCAVELLO, MENSCH, HUTCHINSON, REGAN, BROOKS, K. WARD, DUSH
AND MASTRIANO, JANUARY 29, 2021

REFERRED TO ENVIRONMENTAL RESOURCES AND ENERGY, JANUARY 29, 2021

AN ACT

1 Authorizing the Department of Environmental Protection to
2 conduct a public comment process on and submit to the General
3 Assembly a measure or action intended to abate, control or
4 limit carbon dioxide emissions by imposing a revenue-
5 generating tax or fee on carbon dioxide emissions.

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

8 Section 1. Short title.

9 This act shall be known and may be cited as the Pennsylvania
10 Carbon Dioxide Cap and Trade Authorization Act.

11 Section 2. Declaration of policy.

12 The General Assembly finds and declares as follows:

13 (1) As a matter of Pennsylvania law, no statutory or
14 constitutional authority currently exists that authorizes a
15 State agency to regulate or impose a tax on carbon dioxide
16 emissions. Therefore, it is the responsibility of the General
17 Assembly, working together with the Department of
18 Environmental Protection, the Environmental Quality Board,

1 the Pennsylvania Public Utility Commission and other
2 important stakeholders, to determine whether and how to
3 regulate or impose a tax on carbon dioxide emissions.

4 (2) The General Assembly recognizes that no statute,
5 including the act of January 8, 1960 (1959 P.L.2119, No.787),
6 known as the Air Pollution Control Act, the act of February
7 17, 1972 (P.L.64, No.20), known as the Uniform Interstate Air
8 Pollution Agreements Act, the act of July 9, 2008 (P.L.935,
9 No.70), known as the Pennsylvania Climate Change Act or the
10 Pennsylvania Constitution, authorizes the Governor, the
11 Environmental Quality Board, the Department of Environmental
12 Protection or any other agency or official to adopt
13 regulations, implement a policy or take any other action to
14 authorize the Commonwealth to join or participate in a State
15 or regional greenhouse gas cap-and-trade program or establish
16 a greenhouse gas cap-and-trade program.

17 (3) Affordable, reliable and resilient sources of
18 electric power generated in Pennsylvania are vital to the
19 health, safety and welfare of this Commonwealth's residents
20 and to the prosperity of its economy.

21 (4) The premature deactivation or retirement of coal-
22 fired and coal refuse electric generation units in
23 Pennsylvania as a direct result of State action will result
24 in significant direct economic hardship to the communities in
25 which they operate and will adversely affect this
26 Commonwealth's economy, environment and electric reliability
27 and the general health, safety and welfare of its residents,
28 businesses and industries.

29 (5) Given that Pennsylvania is one of the top net
30 exporters of electricity and the third largest coal-producing

1 state in the nation, abating, controlling or limiting carbon
2 dioxide emissions will have a significant, profound and long-
3 lasting impact on this Commonwealth's economy and require its
4 consumers to import electricity generated by out-of-State
5 fossil fuel plants, canceling out any emission reductions.

6 (6) In addition to the impact on coal-fired and coal
7 refuse electric generating facilities, as well as natural
8 gas-fired electric generation facilities that would have to
9 absorb a carbon tax, abating, controlling or limiting carbon
10 dioxide emissions in Pennsylvania will have a significant
11 negative economic impact on this Commonwealth's industrial,
12 manufacturing and transportation sectors.

13 Section 3. Definitions.

14 The following words and phrases when used in this act shall
15 have the meanings given to them in this section unless the
16 context clearly indicates otherwise:

17 "Department." The Department of Environmental Protection of
18 the Commonwealth.

19 "RGGI." The Regional Greenhouse Gas Initiative, which is a
20 multistate compact that establishes or calls for the compacting
21 states to establish a regional, multistate cap on the amount of
22 greenhouse gases released by electric generation plants.

23 "Standing committee." The Environmental Resources and Energy
24 Committee of the Senate and the Environmental Resources and
25 Energy Committee of the House of Representatives.

26 Section 4. Regulation of greenhouse gas emissions.

27 (a) Prohibition.--Except for a measure that is required by
28 Federal law, the department may not adopt a measure or take any
29 other action that is designed to abate, control or limit carbon
30 dioxide emissions, including an action to join or participate in

1 a State or regional greenhouse gas cap-and-trade program,
2 including the RGGI, nor may the department establish a
3 greenhouse gas cap-and-trade program, unless the General
4 Assembly specifically authorizes such a measure or action by
5 statute that is enacted on or after the effective date of this
6 section.

7 (b) Submission to General Assembly.--If the department
8 proposes a measure of action under subsection (a), the
9 department shall submit the proposed measure or other proposed
10 action to the General Assembly as provided under section 5.
11 Section 5. Process for submission to General Assembly.

12 (a) Duties of department.--Prior to submitting a proposed
13 measure or other proposed action to the General Assembly under
14 section 4(b), the department shall do the following:

15 (1) Submit to the Legislative Reference Bureau for
16 publication in the Pennsylvania Bulletin the proposed measure
17 or other proposed action that is in the form of draft
18 legislation. The publication shall set a public comment
19 period of no less than 180 days.

20 (2) During the public comment period, the department
21 shall conduct a minimum of four public hearings, conducted in
22 accordance with 65 Pa.C.S. Ch. 7 (relating to open meetings),
23 on the proposed measure or other proposed action and shall
24 conduct the hearings in geographically dispersed locations in
25 this Commonwealth, including locations in which regulated
26 sources of carbon dioxide emissions would be directly
27 economically affected by the proposal.

28 (3) Following the public comment period, the department
29 shall compile a report that will be submitted to both
30 standing committees. The report shall include the following

1 information:

2 (i) A list of all individual facilities, by county,
3 that would be subject to the proposed measure or other
4 proposed action, along with:

5 (A) the amount of carbon dioxide emitted by each
6 of the facilities;

7 (B) the estimated cost that each of the
8 facilities would incur to comply with the proposed
9 measure or other proposed action;

10 (C) the effect that the proposed measure or
11 other proposed action would have on the price of
12 electricity (\$/MWh net) that each of the facilities
13 generates;

14 (D) a list of the facilities that, under the
15 proposed measure or other proposed action, would be
16 unlikely to continue to operate;

17 (E) for the other electric generation
18 facilities, an assessment of the extent to which they
19 would be likely to operate after the proposed measure
20 or other proposed action had been fully implemented;

21 (F) an assessment of the decrease of electricity
22 that would be exported from Pennsylvania after the
23 proposed measure or other proposed action had been
24 fully implemented; and

25 (G) an assessment of the contribution to
26 resilience and diversity in the Pennsylvania electric
27 generation fleet from each of the affected facilities
28 and the impacts upon the resilience and diversity in
29 the event that any or all of the facilities are
30 forced to close.

1 (ii) A summary of the impacts on all industries
2 whose public testimony or comments were received by the
3 department during the public comment period.

4 (iii) An estimate of the net carbon dioxide emission
5 reductions that the proposed measure or other proposed
6 action would engender within the PJM Interconnection
7 region, taking into account the electricity generation in
8 neighboring states where there is not a regulation or tax
9 on carbon dioxide emissions.

10 (iv) A summary and justification of any provisions
11 in the proposed measure or other proposed action that
12 would address leakage.

13 (v) A description of the economic and fiscal impacts
14 that would result from the proposed measure or other
15 proposed action, including the following impacts:

16 (A) Direct and indirect costs to the
17 Commonwealth and its political subdivisions and the
18 private sector.

19 (B) The impact of any action or measure upon the
20 wholesale and retail price of electricity, both
21 directly and indirectly, broken down by classes of
22 electricity consumers, including, but not limited to,
23 residential, commercial, industrial and
24 transportation.

25 (C) Adverse effects on prices of goods and
26 services, productivity or competition.

27 (D) The nature of the reports, forms or other
28 paperwork that would be required for implementation
29 and administration of the action or measure and the
30 estimated cost for individuals, businesses and

1 organizations in the public and private sectors to
2 prepare them.

3 (E) The nature and estimated cost of legal,
4 consulting or accounting services that the public or
5 private sector would be required or likely to incur
6 for implementation and administration of the action
7 or measure.

8 (F) The impact that it would have on the public
9 interest to exempt individuals, employers or
10 facilities from compliance or require the
11 individuals, employers or facilities to comply with
12 less stringent standards when it would be lawful,
13 desirable and feasible.

14 (vi) Whether a less costly or less intrusive
15 alternative method of achieving the goal of the proposed
16 measure or other proposed action has been considered for
17 an employer or facility that would otherwise be subject
18 to the proposed measure or proposed action.

19 (b) Legislation.--Once the public comment period has
20 concluded and the department has submitted the report to the
21 standing committees, the department shall submit the measure in
22 legislative form to the standing committees and request that a
23 member of the standing committees introduce the legislation.
24 This action shall constitute submitting the measure or action to
25 the General Assembly. If the legislation is introduced, the
26 legislation shall follow the standard legislative process and
27 may be considered by a standing committee if the legislation is
28 referred to the standing committee.

29 Section 6. Effective date.

30 This act shall take effect immediately.