

## No. 1994-134

## AN ACT

## HB 2505

Providing for the establishment and implementation of farm safety and occupational health programs; creating and providing for the powers and duties of the Farm Safety and Occupational Health Advisory Board; conferring powers and duties on the Department of Agriculture, the Pennsylvania Emergency Management Agency and the State Workmen's Insurance Fund; providing for statistical assessment of farm accidents and occupational injuries and diseases, for the collection and compilation of data, for farm safety demonstrations, for farm safety committees and for funding; making appropriations; and making a repeal.

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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 Farm Safety and Occupational Health Act.

Section 2. Definitions.

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

“Advisory board.” The Farm Safety and Occupational Health Advisory Board created in section 3.

“Agricultural chemical agent.” Any substance or mixture of substances used in agricultural production which presents a physical hazard or health

hazard to persons who use or are exposed to such substance or mixture, including, but not limited to, pesticides, fungicides, rodenticides, herbicides, solvents, fuels, anhydrous ammonia and welding gases.

“Agricultural equipment and machinery” or “equipment and machinery.” Machinery designed and used for agricultural operations, including farm tractors, choppers, balers, reapers, mowers, pickers, threshers, combines, plows, harrows, planters and any other vehicle or machine used as an implement of husbandry or multipurpose agricultural vehicle.

“Agricultural production.” The production for commercial purposes of crops, livestock and livestock products. The term includes the processing or retail marketing of such crops, livestock or livestock products if more than 50% of the processed or merchandised products are produced by the farmer.

“Agriculture and rural youth organization.” As used in this act, the term shall have the meaning given to it under the act of August 6, 1991 (P.L.326, No.33), known as the Agriculture and Rural Youth Development Act.

“Department.” The Department of Agriculture of the Commonwealth.

“Emergency service provider.” Any employee, agent, member or officer of a paid or volunteer fire company, ambulance service or rescue squad located in this Commonwealth which is regularly engaged in providing emergency medical care and transportation, fire protection services or rescue services.

“Farm.” Land in this Commonwealth which is being used for agricultural production, including all farm structures, buildings, facilities and farm family residences situated on such land.

“Farm safety and occupational health best management practices.” A group of practices, methods or processes determined by the Secretary of Agriculture to be reasonably necessary or appropriate to provide safe and healthful working conditions on farms.

“Farm safety committee.” A committee formed by a group of farmers or by a farmer for the purpose of detecting and reducing or eliminating the unsafe working conditions and occupational hazards which may exist on a farm or group of farms.

“Farmer.” A person who is engaged in agricultural production for commercial purposes.

“Occupational disease.” As used in this act, the term shall have the meaning given to it under the act of June 2, 1915 (P.L.736, No.338), known as the Workers’ Compensation Act.

“Occupational injury.” As used in this act, the term shall mean an injury as used in the act of June 2, 1915 (P.L.736, No.338), known as the Workers’ Compensation Act.

“PEMA.” The Pennsylvania Emergency Management Agency.

“Secretary.” The Secretary of Agriculture of the Commonwealth.

“SWIF.” The State Workmen’s Insurance Fund.

“Toxic gases.” Any manmade or naturally occurring gaseous compound which presents a health hazard or physical hazard to any person who uses or

is exposed to such compound on a farm, including, but not limited to, gaseous compounds created from the natural decomposition of organic matter in confined spaces or otherwise on a farm such as methane, nitrogen dioxide, carbon dioxide, ammonia and hydrogen sulfide.

**Section 3. Farm Safety and Occupational Health Advisory Board.**

(a) **Establishment.**—The secretary shall appoint the Farm Safety and Occupational Health Advisory Board to make recommendations for and monitor farm safety and occupational health programs. The secretary shall make such appointments within 60 days of the effective date of this act.

(b) **Composition of advisory board.**—The advisory board shall consist of 13 members who by reason of training, occupation, experience or education are qualified to carry out the duties of the advisory board. The advisory board shall consist of the following members:

(1) The Secretary of Agriculture or his designee, who shall serve as chairman.

(2) The Secretary of Health or his designee.

(3) Three active farmers, each of whom shall represent a different Statewide general farm organization.

(4) An agricultural equipment and machinery manufacturer or dealer.

(5) An insurer of farmers for workers' compensation, health or liability purposes.

(6) A leader of an agriculture or rural youth organization.

(7) An agricultural chemical agent manufacturer or dealer.

(8) A vocational agricultural instructor.

(9) An emergency service provider.

(10) The director of PEMA or his designee.

(11) The dean of the College of Agricultural Sciences of The Pennsylvania State University or his designee.

(c) **Quorum.**—A quorum shall consist of a majority of those members appointed and serving on the advisory board.

(d) **Terms of advisory board members.**—Except for the Secretary of Agriculture, the Secretary of Health, the director of PEMA and the dean of the College of Agricultural Sciences or their designees, members of the advisory board shall serve four-year terms, provided that at least one-half of the initial members shall be appointed to two-year terms.

(e) **Vacancies.**—A vacancy in membership on the advisory board shall be filled for the remainder of an unexpired term in the same manner as the original appointment.

(f) **Expenses.**—The members of the advisory board shall not be entitled to compensation for their services as advisory board members. Members appointed to the advisory board pursuant to subsection (b)(3), (4), (5), (6), (7), (8) and (9) shall be entitled to reimbursement in accordance with Commonwealth guidelines for reasonable traveling, lodging and other necessary expenses incurred in the performance of their duties.

(g) **Duties of advisory board.**—The advisory board shall:

(1) Advise and assist the secretary in the development and implementation of farm safety and occupational health programs and in the execution of the duties of the secretary as provided for in this act.

(2) Recommend to the secretary program priorities.

(3) Recommend to the secretary priorities for the expenditure of funds for the development and implementation of farm safety and occupational health programs.

(4) Submit to the secretary any recommendations for the revision, continuation or discontinuation of farm safety and occupational health programs or any independent reviews or assessments conducted by the advisory board of the efficacy of such programs.

(5) Work with farmers, local governments, community service agencies, health care and emergency service providers, agricultural equipment and machinery manufacturers and dealers, manufacturers and dealers of agricultural chemical agents, agriculture and rural youth organizations and schools in order to promote local cooperation in establishing farm safety and occupational health programs and the acceptance of such programs.

(6) Advise and assist the secretary in the development of public and private sector resources to promote farm safety and occupational health.

(h) Staff assistance.—The department shall provide the advisory board with any staff services which may be necessary for the advisory board to carry out its duties under this act.

#### Section 4. Farm Safety and Occupational Health Program.

(a) Establishment.—The secretary shall establish a farm safety and occupational health program, to be known as the Farm Safety and Occupational Health Program, to educate and train farmers, members of farm families, farm laborers, others involved in agricultural production and emergency service providers in the recognition, avoidance and prevention of and emergency response to farm accidents and occupational injuries and diseases.

(b) Program components.—The Farm Safety and Occupational Health Program may include:

(1) Development of age-appropriate materials for incorporation into rural school curricula.

(2) Community farm safety and health day camps and other demonstration projects for farm youth.

(3) Fire safety and electrical safety programs for farm youth.

(4) Agricultural equipment and machinery safety education programs for farm youth.

(5) An equipment and machinery safety and maintenance program for the training and voluntary certification of farm youth in the safe operation and maintenance of agricultural equipment and machinery.

(6) First aid programs for farm youth, which may include a cardiopulmonary resuscitation program sponsored by a human service

organization for the training and voluntary certification of farm youth in first aid.

(7) Age-appropriate farm safety education and training for adult farmers and farm workers, including instruction in:

(i) Safe operation and maintenance of agricultural equipment and machinery.

(ii) Proper application and storage of agricultural chemical agents.

(iii) Agricultural respiratory hazards.

(iv) Methods for reducing hazards and unhealthful conditions associated with farming.

(8) Methods for preventing or mitigating farm accidents and occupational injuries and diseases, including:

(i) Information on equipment and machinery accidents and other farm accidents, procedures for reducing or preventing farm accidents and procedures for responding to farm emergencies.

(ii) Methods for the proper application, use, storage and disposal of pesticides and other agricultural chemical agents and poisonous substances or mixtures.

(iii) Methods to detect and avoid toxic gases.

(iv) Fire and electrical safety.

(v) Procedures for entry into and rescue from storage facilities and other confined spaces.

(vi) Information on the impairment of audio, visual or respiratory functions; the impact of such impairment on farm safety; prevention of such impairments; and methods and techniques to correct, accommodate or mitigate for such impairments.

(vii) Vocational and rehabilitative services available to help farmers with disabilities continue in agricultural production.

(viii) Information on environmental stress factors and general occupational stress factors and the impact of such factors on safety.

(9) Training of emergency service providers in methods and procedures for responding to farm emergencies, including:

(i) First-on-the-scene programs for farm families.

(ii) Firefighting seminars for emergency service providers.

(iii) Fire safety practices and techniques for farmers.

(iv) Farm rescue and machinery extraction demonstrations.

(v) Instructions to reduce or eliminate the risk of exposure to toxic gases.

(10) An on-the-farm program for voluntary safety audits of agricultural equipment and machinery, facilities used to store agricultural chemical agents, silos and other farm structures and the provision of information or instruction on the proper use of safety devices and procedures to avoid or eliminate unsafe and unhealthful conditions on the farm.

(11) A safety device installation program for the retrofitting of agricultural equipment and machinery with safety devices by students in

vocational and technical education programs at secondary schools, manufacturers or dealers of equipment and machinery or any other person, group or organization concerned with farm safety.

(12) The provision of information on the availability of vocational, rehabilitation, counseling, assistive technology and other services to persons injured in farm accidents or who suffer from occupational injuries or diseases.

(13) The development and implementation of public service farm safety advertisement campaigns through the use of appropriate media outlets in farm communities.

(c) Program priorities.—The secretary, in consultation with the advisory board and upon consideration of the availability of funds, may include in the Farm Safety and Occupational Health Program any or all of the program components provided in subsection (b). The secretary may use the results of farm safety pilot projects or successful farm safety programs implemented in other states or by private or public sector agencies or institutions to determine program priorities.

(d) Utilization of existing programs or resources.—

(1) To the extent feasible, the secretary shall incorporate the farm safety and occupational health education programs developed by the College of Agricultural Sciences of The Pennsylvania State University into the Farm Safety and Occupational Health Program. The secretary may by grant or contract or memorandum of understanding utilize farm safety and occupational health programs of the College of Agricultural Sciences, State agencies, cooperative extension services, farm organizations, agriculture and rural youth organizations or other such organizations.

(2) The secretary may adopt curricula developed under existing programs for the training of emergency service providers in the proper response to farm accidents.

(3) The secretary, to the extent practical, may train and empower agents of the department who are authorized to perform specific inspection duties in connection with State-regulated agricultural production activities or employees, agents or officers of other public or private organizations concerned with agriculture to carry out voluntary farm safety audits pursuant to this act.

#### Section 5. Duties of secretary.

(a) Regulations.—The secretary shall administer the provisions of this act and shall adopt and promulgate any regulations which may be necessary to implement and administer this act.

(b) Duties.—The secretary shall:

(1) Develop or implement or provide for the development and implementation of educational programs which will enable farmers, members of farm families, farm laborers and others involved in agricultural production to acquire knowledge of, understand and comply with farm safety and occupational health best management practices.

(2) Collaborate with the College of Agricultural Sciences of The Pennsylvania State University and other departments or agencies concerned with health and safety to identify farm safety and occupational health best management practices for the protection of persons engaged in agricultural production.

(3) Collaborate with other departments, agencies, colleges and universities and other organizations or institutions concerned with farm safety and rural health in providing farm safety and occupational health education to persons involved in agricultural production; in studying the safety and health problems involved in agricultural production; and in establishing, developing and providing such programs, facilities and services as may be necessary to carry out the provisions of this act.

(4) Work with local governments, county cooperative extension services, emergency service providers, community service agencies, agribusinesses and other business enterprises, farm organizations, electric utilities and cooperatives and other organizations or groups serving farm communities to promote acceptance of farm safety and occupational health programs.

(5) Work with manufacturers and dealers of agricultural equipment and machinery, manufacturers and dealers of agricultural chemical agents and insurers to gain technical and financial support for programs designed to analyze the need for and subsequently provide for the installation of safety devices on agricultural equipment, machinery, structures or facilities.

(6) Collaborate with PEMA to develop and implement a farm emergency response training program.

(7) Collaborate with the Insurance Commissioner to develop guidelines for program certification and for insurance rate reductions for eligible participants who successfully complete farm safety and occupational health programs.

(8) Provide for voluntary safety audits of individual farms.

(9) Provide for a rating system to link voluntary farm safety audits with an appropriate recognition or reward, including reduced insurance rate premiums or reduced workers' compensation premiums, for individual farms which achieve a designated safety rating as established by the secretary.

(10) Enter into partnerships with the Federal Government, State agencies, nonprofit organizations and educational institutions to provide vocational and rehabilitative outreach services to farmers with disabilities who wish to continue to farm.

(11) Provide for the periodic assessment on a comprehensive Statewide basis of the number, location, condition and rehabilitative needs of farmers with disabilities.

(12) Promote or assist with the promotion of farm safety demonstrations and exhibitions at agricultural fairs.

(13) Provide or cause to be provided comprehensive technical assistance and grant assistance to facilitate the development, administration and implementation of farm safety and occupational health programs.

(14) Provide for the voluntary certification of farm and rural youth in the safe operation and maintenance of agricultural equipment and machinery and in first aid.

(15) Administer the expenditure of funds which may be made available by the Federal Government, by the General Assembly or by any other source for farm safety and occupational health programs.

(16) Develop or cause to be developed public service farm safety advertisement campaigns through the use of appropriate media outlets in farm communities.

(c) Annual report.—Beginning 12 months from the effective date of this act and every 12 months thereafter, the secretary shall submit to the chairman and minority chairman of the Agriculture and Rural Affairs Committee of the Senate and the chairman and minority chairman of the Agriculture and Rural Affairs Committee of the House of Representatives an annual report covering the administration and operation of this act. The report shall include a summary of program activities, statistics on farm accidents and occupational injuries and diseases, an assessment of the number of persons participating in the programs, recommendations to increase acceptance and utilization of the programs and any comments, recommendations or assessments which the advisory board submits for inclusion in the report.

#### Section 6. Financial assistance.

(a) Tuition assistance.—The secretary may establish a grant program to provide tuition assistance to rural emergency service providers, farmers, members of farm families, farm laborers and others involved in agricultural production to attend farm safety and occupational health training and emergency response programs.

(b) Loan assistance.—The secretary may establish a loan program to provide for loan assistance to farmers for the installation of safety devices on agricultural equipment, machinery, structures or facilities.

(c) Grant assistance.—The secretary may:

(1) Provide for the establishment of a grant program for the purpose of awarding grants to the Pennsylvania Fire Academy, public or private colleges and universities, community colleges and vocational and technical schools which provide technical courses of instruction in farm safety and occupational health to emergency service providers, farmers, members of farm families, farm laborers and others involved in agricultural production or which develop farm safety and occupational health training programs for implementation by the department. Individual grants under this paragraph shall not be more than \$30,000 in any one State fiscal year. In determining the amount of such grants, the secretary shall consider the scope and duration of the programs and the number of persons to be served.



(2) Provide for the establishment of a grant program for the purpose of awarding grants to Statewide farm organizations and volunteer fire companies, ambulance services and rescue squads for providing farm safety, occupational health and emergency response programs. Grants under this paragraph shall not be more than \$2,500 in any one State fiscal year to any such organization.

(d) Regulations.—The secretary shall adopt and promulgate regulations to govern the awarding of grants and loans under this section. Such regulations shall contain procedures for submission of grant and loan applications, documentation required to accompany such applications, eligibility criteria, criteria for determining grant and loan amounts and reporting requirements.

Section 7. Farm safety and occupational health statistical assessments.

(a) Assessments.—The secretary shall cause to be included in the department's annual statistical survey of agricultural production activities in this Commonwealth mechanisms to assess the nature and frequency of farm accidents and, if determined by the secretary to be feasible, the nature and frequency of occupational injuries and diseases of the type or category which is compensable under the act of June 2, 1915 (P.L.736, No.338), known as the Workers' Compensation Act. The secretary may seek the advice and assistance of the Secretary of Health to develop such mechanisms for the collection of farm safety and occupational health statistics and for the compilation and analysis of such statistics.

(b) Data compilation.—The secretary shall compile and analyze statistical data on all cases of farm accidents and occupational injuries and diseases collected in the department's annual survey pursuant to subsection (a) and shall make summaries of the data available to Federal and State agencies and to the public for purposes of public education and promotion of farm safety and occupational health. The secretary shall ensure that the data is compiled and disseminated in a manner which is anonymous and does not involuntarily identify or otherwise violate the right of privacy of any affected person.

Section 8. Agriculture and rural youth organizations.

The secretary shall, pursuant to his authority under the act of August 6, 1991 (P.L.326, No.33), known as the Agriculture and Rural Youth Development Act, encourage agriculture and rural youth organizations to apply for grant assistance under that act for the purpose of implementing farm safety and occupational health programs. The secretary may give priority for grant assistance under the Agriculture and Rural Youth Development Act to those applications which deal with farm safety and occupational health for farm youth.

Section 9. Farm safety demonstrations and agricultural fairs.

The secretary, pursuant to the authority granted to him under the act of July 8, 1986 (P.L.437, No.92), known as the Pennsylvania Agricultural Fair Act, and with the advice and assistance of the advisory committee created under that act, may make grants under that act to eligible county agricultural

societies, independent agricultural societies, Statewide agricultural organizations and agriculture and rural youth organizations which hold agricultural fairs or agricultural activity days. Such grants shall assist with the costs, in whole or in part, of conducting farm safety demonstrations or other farm safety projects at such agricultural fairs or activity days. The secretary, with the advice and assistance of the advisory committee created under the Pennsylvania Agricultural Fair Act, shall develop eligibility criteria to govern the awarding of agricultural fair grants for farm safety demonstrations and other farm safety projects conducted at agricultural fairs or agricultural activity days.

#### Section 10. State Workmen's Insurance Fund.

(a) Farm safety committees.—The Department of Labor and Industry shall provide for the development of eligibility criteria to certify a group of farmers or individual farmers who are insured on a group or individual basis by SWIF and who voluntarily establish a farm safety committee for the purpose of eliminating or reducing the accidents and occupational hazards associated with farming on such farms. To the maximum extent feasible, the Department of Labor and Industry shall utilize the eligibility criteria and procedures adopted for the certification of workplace safety committees pursuant to section 1002 of the act of June 2, 1915 (P.L.736, No.338), known as the Workers' Compensation Act. Farmers who have established a farm safety committee on an individual or group basis shall be deemed eligible for a one-time 5% reduction in workers' compensation premiums in accordance with section 1002 of the Workers' Compensation Act.

(b) Additional duties.—Subject to any approval by the Insurance Commissioner required by any other provision of law, the SWIF shall:

(1) Provide actuarially sound reductions in workers' compensation premiums for farmers who have accomplished at least one of the following:

- (i) Voluntarily adopted specified farm safety practices.
- (ii) Received designated safety ratings from farm safety audits.
- (iii) Installed specified safety devices on agricultural equipment, machinery, structures or facilities.

(2) Provide or contribute toward the cost of safety devices for installation on agricultural equipment, machinery, structures or facilities, if likely to be cost effective in reducing the risk of farm accidents or occupational injuries or diseases.

#### Section 11. Rescue equipment loans.

Notwithstanding section 4(a)(2) of the act of July 15, 1976 (P.L.1036, No.208), known as the Volunteer Fire Company, Ambulance Service and Rescue Squad Assistance Act, PEMA may make loans for the purchase of heavy-duty rescue equipment to any one volunteer fire, ambulance or rescue company in the maximum amount of \$150,000 for any such rescue vehicle or 50% of the total cost of the vehicle, whichever is less. PEMA may also make such loans for the purchase of a single heavy-duty rescue vehicle by

two or more volunteer fire, ambulance or rescue companies, provided that such companies have formed a regional or countywide farm rescue response team.

**Section 12. Immunity from liability.**

Notwithstanding any other provision of law to the contrary, any student or instructor of a vocational-technical school, any vocational-technical school or school district, agriculture and rural youth organization, emergency service provider, farm safety committee or other person, organization or group who provides farm safety and occupational health activities or services under this act shall not be liable on any cause of action or in any proceeding, civil or criminal, arising out of or based upon allegations and pleadings relating to the performance of such program activities or services under or in compliance with the requirements of this act. The immunity from liability provided under this section shall not, however, extend to any vocational-technical school student or instructor or such school or school district of such student or instructor or to any agriculture and rural youth organization, emergency service provider, farm safety committee or other person, group or organization who through gross negligence, recklessness or intentional misconduct or action causes bodily injury or death to a person or who had or should have had knowledge that such action was likely to result in bodily injury or death.

**Section 13. Guidelines and regulations.**

In order to facilitate the speedy implementation of this act, the secretary shall have the power and authority to promulgate, adopt and use guidelines to implement the provisions of this act. Such guidelines shall be published in the Pennsylvania Bulletin. The guidelines shall not be subject to review pursuant to section 205 of the act of July 31, 1968 (P.L.769, No.240), referred to as the Commonwealth Documents Law, sections 204(b) and 301(10) of the act of October 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys Act, or the act of June 25, 1982 (P.L.633, No.181), known as the Regulatory Review Act, and shall be effective for a period of not more than two years from the effective date of this act. After the expiration of the two-year period, the guidelines shall expire and shall be replaced by regulations which shall have been promulgated, adopted and published as provided by law.

**Section 14. Appropriations.**

(a) Specific appropriations.—

(1) The sum of \$318,000, or as much thereof as may be necessary, is hereby appropriated to the Department of Agriculture for the fiscal year July 1, 1994, to June 30, 1995, to carry out the provisions of this act. This appropriation shall be a continuing appropriation and shall not lapse at the end of the fiscal year.

(2) The sum of \$217,000, or as much thereof as may be necessary, is hereby appropriated to the Department of Agriculture for the fiscal year July 1, 1994, to June 30, 1995, for purposes of implementing and

administering the Dairy Management and Profitability Program. The appropriation shall be a continuing appropriation and shall not lapse at the end of the fiscal year.

(b) Continuing appropriation.—As the remaining amount of the appropriation in section 13 of the act of July 2, 1984 (P.L.537, No.108), known as the Agricultural Development Act, which is not repealed by section 15 of this act, is disencumbered from the purposes of the Agricultural Development Act, the amounts so disencumbered are hereby appropriated to the Department of Agriculture in the fiscal year of such disencumbrance on a continuing basis to carry out the provisions of this act.

Section 15. Repeal.

The appropriation in section 13 of the act of July 2, 1984 (P.L.537, No.108), known as the Agricultural Development Act, is repealed in the amount of \$535,000 and shall lapse into the General Fund for appropriation pursuant to section 14.

Section 16. Effective date. This act shall take effect in 60 days.

APPROVED—The 12th day of December, A.D. 1994, except as to the following:

Section 14. Appropriations.

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(b) Continuing appropriation.—As the remaining amount of the appropriation in section 13 of the act of July 2, 1984 (P.L.537, No.108), known as the Agricultural Development Act, which is not repealed by section 15 of this act, is disencumbered from the purposes of the Agricultural Development Act, the amounts so disencumbered are hereby appropriated to the Department of Agriculture in the fiscal year of such disencumbrance on a continuing basis to carry out the provisions of this act.

I withhold my approval from this entire item.

These funds originally came from the Pennsylvania Economic Revitalization Fund (PERF) and should return to that fund. The Farm Safety and Occupational Health Act is not an economic development program and therefore should not be funded from PERF.

House Bill 2505 provides a \$318,000 continuing appropriation from the General Fund for the start up of the Farm Safety and Occupational Health Program. Future year funding for this program should remain in the General Fund and be considered as part of the budget in whichever year additional funds are necessary for the continued operation of the program.

ROBERT P. CASEY