

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2209 Session of  
2024

INTRODUCED BY MIHALEK, KUTZ, M. MACKENZIE, MARCELL, MAJOR AND  
GILLEN, APRIL 15, 2024

REFERRED TO COMMITTEE ON GAME AND FISHERIES, APRIL 15, 2024

AN ACT

1 Amending Title 30 (Fish) of the Pennsylvania Consolidated  
2 Statutes, in dams, bar racks and migration devices, further  
3 providing for marking of dams.

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

6 Section 1. Section 3510(b), (c)(2) and (i) of Title 30 of  
7 the Pennsylvania Consolidated Statutes are amended and the  
8 section is amended by adding a subsection to read:

9 § 3510. Marking of dams.

10 \* \* \*

11 (b) Existing dams.--

12 [(1) The department shall compile and maintain a current  
13 list of existing dams on the waters of this Commonwealth that  
14 the department determines to be run-of-the-river type dams.  
15 Within three months of the effective date of this section,  
16 the department shall notify the permittees and owners of  
17 those run-of-the-river dams of the requirements of this  
18 section by certified letter. Within six months of receiving

1 notification of the requirements of this section from the  
2 department, the permittees and owners of run-of-the-river  
3 dams shall comply with the requirements of this section to  
4 mark the areas above and below their dams and on the banks  
5 immediately adjacent to their dams during the time periods of  
6 the year required by the commission with signs and buoys of a  
7 design and content determined by the commission to warn the  
8 swimming, fishing and boating public of the hazards posed by  
9 the dam.]

10 (1.1) The department shall compile and maintain a list  
11 of existing dams on the waters of this Commonwealth that are  
12 run-of-the-river dams. Within three months of the effective  
13 date of this paragraph, the department shall notify the  
14 permittees and owners of all run-of-the-river dams of the  
15 requirements of this section by certified letter. Within six  
16 months of receiving notification of the requirements of this  
17 section from the department, the permittees and owners of  
18 run-of-the-river dams shall comply with the requirements of  
19 this section to mark the areas above and below the dams and  
20 on the banks immediately adjacent to the dams during the time  
21 periods of the year required by the commission with signs and  
22 buoys of a design and content determined by the commission to  
23 warn the swimming, fishing and boating public of the hazards  
24 posed by the dam.

25 (2) If the permittee or owner of a run-of-the-river dam  
26 disagrees [with the determination of the department] that the  
27 dam meets the definition of "run-of-the-river dam" under  
28 subsection (i), the permittee or owner shall file written  
29 notice with the Environmental Hearing Board within 30 days of  
30 receiving [the determination] notification. The Environmental

1 Hearing Board shall reach a decision as soon as practicable.  
2 If the [decision of the board upholds the determination of  
3 the department,] Environmental Hearing Board decides that the  
4 dam meets the definition of "run-of-the-river dam," the  
5 permittee or owner filing [such] the notice shall have six  
6 months to comply with this section following the decision.

7 (b.1) Public information.--The following information shall  
8 be published on the department's publicly accessible Internet  
9 website:

10 (1) The list compiled and maintained by the department  
11 under subsection (b).

12 (2) A map of the Commonwealth, developed by the  
13 department, that shows the locations of all run-of-the-river  
14 dams within this Commonwealth.

15 (c) Maintenance of signs and buoys.--

16 \* \* \*

17 (2) When a permittee or owner learns that signs or buoys  
18 installed under this section have been removed or defaced by  
19 an act of God or the acts or omissions of third parties other  
20 than the permittee or owner or [his] the permittee's or  
21 owner's agent, [he] the permittee or owner shall repair or  
22 replace the signs or buoys within 30 days unless river  
23 conditions during that time make such repair or replacement  
24 dangerous to undertake or impracticable to effect, in which  
25 case the permittee or owner shall repair or replace the signs  
26 or buoys as soon as is reasonably practicable. If a permittee  
27 or owner or [his] the permittee's or owner's agent removes  
28 any signs or buoys, [he] the permittee or owner shall have  
29 five days thereafter to repair or replace the signs or buoys.

30 \* \* \*

1 (i) Definitions.--As used in this section, the following  
2 words and phrases shall have the meanings given to them in this  
3 subsection:

4 "Department." The Department of Environmental Protection of  
5 the Commonwealth.

6 "Owner." The person who owns a run-of-the-river dam  
7 regulated by the Department of Environmental Protection pursuant  
8 to the act of November 26, 1978 (P.L.1375, No.325), known as the  
9 Dam Safety and Encroachments Act.

10 "Permit." A permit issued by the Department of Environmental  
11 Protection pursuant to the act of November 26, 1978 (P.L.1375,  
12 No.325), known as the Dam Safety and Encroachments Act.

13 "Permittee." The person who has been issued a permit by the  
14 Department of Environmental Protection to maintain a run-of-the-  
15 river dam.

16 "Run-of-the-river dam." A manmade structure [which:

17 (1) is a dam regulated by the Department of  
18 Environmental Protection pursuant to the act of November 26,  
19 1978 (P.L.1375, No.325), known as the Dam Safety and  
20 Encroachments Act;

21 (2) is built across a watercourse and certain flows pass  
22 over the entire dam structure, excluding abutments, to a  
23 natural channel downstream; and

24 (3) the department determines to have] that has  
25 hydraulic characteristics such that at certain flows persons  
26 may be caught in the hydraulic roller or boil immediately  
27 below the dam.

28 Section 2. This act shall take effect in 60 days.