

ANTHRACITE STANDARDS LAW

Act of May. 31, 1947, P.L. 368, No. 168

Cl. 52

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 Department of Environmental Resources and its mine inspectors; and providing penalties. (Title amended Apr. 28, 1978, P.L.93, No.43)

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

Section 1. Legislative Purpose; Short Title.--This act is enacted by the General Assembly in the exercise of the police power of the Commonwealth for the protection of consumers and purchasers for resale, wherever located, in the purchase for fuel purposes of the hard coal known as anthracite. This act shall be known and may be cited as the Anthracite Standards Law.

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

(a) "Anthracite" the hard coal mined in the Commonwealth of Pennsylvania;

(b) "Department" the Department of Environmental Resources; ((b) amended Apr. 28, 1978, P.L.93, No.43)

(c) "Producer" a person, association, partnership or corporation or his or its legal representative engaged in operating a preparation plant and in the sale, delivery or shipment to market therefrom of anthracite for fuel purposes;

(d) "Retail Dealer," a person, association, partnership or corporation, or his or its legal representative, maintaining a place for the storage of anthracite, who purchases anthracite for resale to consumers, regardless of the quantity sold, or who sells to a retail dealer in lots not exceeding 20,000 pounds in any one transaction; ((d) amended Sept. 26, 1951, P.L.1465, No.362)

(e) "Preparation Plant" a breaker, washery or other plant where run-of-mine anthracite from mines and strippings, or anthracite from refuse banks is processed by crushing, washing, screening and the removal of impurities to make the same suitable as a fuel;

(f) "Sizes" include the sizes of anthracite commonly known as 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; ((f) amended Apr. 28, 1978, P.L.93, No.43)

(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	Undersize Maximum	Ash Content Maximum	Maximum Percentage Slate	Maximum Percentage Bone
	Through	Over			
Egg	3 1/4"	2 7/16"	15%	11%	
Stove	2 7/16"	1 5/8"	15%	11%	

Nut	1 5/8"	13/16"	15%	11%
Pea	13/16"	9/16"	15%	12%
Buckwheat	9/16"	5/16"	15%	13%
Rice	5/16"	3/16"	17%	13%

As to the maximum percentage of undersize and the maximum percentage of ash content a tolerance of 1% shall be allowed. 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 the specification for ash content, shall be deemed to be "Standard Anthracite";

((g) amended Apr. 28, 1978, P.L.93, No.43)

(h) "Ash Content" the percentage which the weight of the ash from anthracite, resulting from burning, bears to the weight of the anthracite before burning after the anthracite has been dried for one hour at 105 degrees centigrade;

(i) "Slate" any material which has less than 40% of fixed carbon;

(j) "Bone" any material which has 40% or more, but less than 75% of fixed carbon.

(k) "Substandard Anthracite" anthracite other than that defined in clause (g) hereof as standard anthracite. ((k) added May 18, 1949, P.L.1467, No.437)

(l) "Wholesale Dealer," a person, association, partnership or corporation or his or its legal representative, who purchases anthracite for resale to retail dealers in lots exceeding 20,000 pounds, or one not maintaining a storage place for anthracite, who sells anthracite to a consumer, regardless of the quantity sold; ((l) added Sept. 26, 1951, P.L.1465, No.362)

(m) "Municipal Weighmaster," a licensed weighmaster designated by a municipality to weigh solid fuels destined for sale or delivery within the municipality; ((m) added Sept. 26, 1951, P.L.1465, No.362)

(n) "Municipality," a city, borough, incorporated town, or township of the first class; ((n) added Sept. 26, 1951, P.L.1465, No.362)

(o) "Storage Place for Anthracite," an established place of business, including a permanent office, storage facilities for not less than 250 ton of anthracite, and its own weighing scales. ((o) added Sept. 26, 1951, P.L.1465, No.362)

(p) "Secretary" the Secretary of Environmental Resources or his designated representative. ((p) added Apr. 28, 1978, P.L.93, No.43)

(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." ((q) added Apr. 28, 1978, P.L.93, No.43)

Compiler's Note: The Department of Environmental Resources, referred to in subsec. (b), was abolished by Act 18 of 1995. Its functions were transferred to the Department of Conservation and Natural Resources and the Department of Environmental Protection.

Compiler's Note: The Secretary of Environmental Resources, referred to in this subsec. (p), was abolished by Act 18 of 1995. The functions of the secretary were transferred to the Secretary of Conservation and Natural Resources and the Secretary of Environmental Protection.

Section 3. Statements by Producers as to Quality of Anthracite.--Every producer shall issue with each sale and delivery at, or railroad car or motor vehicle shipment of anthracite from his preparation plant to the operator of the

motor vehicle, or to the retail dealer or wholesale dealer or person to whom delivery is made or to be made, a written or printed statement attesting that the anthracite so sold, delivered or shipped is "Standard Anthracite" or "Substandard Anthracite," as the case may be. In the case of shipments by motor vehicles, such statement shall be placed on the weighmaster's certificate issued in conformity with the act, approved the nineteenth day of July, one thousand nine hundred thirty-five (Pamphlet Laws 1356), entitled "An act to regulate the sale and delivery of solid fuel, as herein defined; providing for appointment of licensed weighmasters; prescribing their powers and duties; authorizing substitute licensed weighmasters; imposing certain duties on the Department of Internal Affairs; and providing penalties," and its amendments, and in all other cases shall be placed on the invoice to the purchaser or consignee.

In the case of anthracite hauled from a preparation plant directly to the consumer, it shall be the duty of the operator of the motor vehicle to deliver the producer's statement to the consumer simultaneously with the delivery of the anthracite which it attests. In all other cases, the producer's statement shall be delivered to the retail dealer or wholesale dealer or person to whom delivery or shipment of the anthracite is made.

It shall be unlawful for an operator of a motor vehicle to fail or neglect to deliver the producer's statement to the consumer, retail dealer, wholesale dealer, or person to whom delivery or shipment of the anthracite is made, or to deliver any substitute or forged statement: Provided, That where the original weighmaster's certificate is surrendered to municipal authorities in conformity with an ordinance relating to the sale of fuel within a municipality and a new weighmaster's certificate issued as provided in section 4 of this act containing the attestations required by this section, the operator of the motor vehicle may deliver the same in lieu of the original weighmaster's certificate.

(3 amended Sept. 26, 1951, P.L.1465, No.362)

Section 4. Statements by Dealers and Municipal Weighmasters As to Quality of Anthracite; Unlawful Acts.--Any retail dealer or person hauling anthracite direct from a railroad car to a consumer, or wholesale dealer, who has had issued to him a producer's statement as required by section three of this act shall in the resale of such anthracite deliver to the person to whom delivery is made or to be made, a written or printed statement attesting that the anthracite so sold is standard anthracite or substandard anthracite as the case may be. Any municipal weighmaster who lawfully demands the surrender of the original weighmaster's certificate pursuant to the requirements of local ordinances regulating the sale of fuel within the municipality shall, when a new weighmaster's certificate covering the shipment is issued, place thereon a written or printed statement attesting that such anthracite is standard anthracite or substandard anthracite, as the case may be.

It shall be unlawful for any retail dealer, or wholesale dealer, or any person hauling anthracite direct from a railroad car to a consumer, or any other person, by himself, agent or employee, to mix together standard anthracite and substandard anthracite, designated as such on the producer's or wholesale dealer's statement, for sale or resale purposes of the same or different size, or to issue any statement attesting that anthracite wholly or partly substandard anthracite is standard anthracite.

A retail dealer, or a person engaged in hauling anthracite from a railroad car direct to the consumer, or wholesale dealer, who has preserved his records as required by this act, and who has not been guilty of making mixtures prohibited by this act, or a municipal weighmaster, shall be entitled to rely upon the producer's or wholesale dealer's statement and shall not be subject to prosecution under this act for issuing a statement in reliance on the producer's or wholesale dealer's statement pertaining to the particular anthracite to which such statement relates.

(4 amended Sept. 26, 1951, P.L.1465, No.362)

Section 5. Contents of Statements.--Statements issued under the provisions of sections three and four of this act by producers, wholesale dealers, retail dealers, and persons hauling anthracite from a railroad car direct to the consumer, and municipal weighmasters, shall set forth in ink or indelible pencil the date of the sale, resale or shipment of the anthracite, to whom sold, delivered or shipped, the size and weight of the anthracite, the registration of the vehicle in which the anthracite is being transported, and, in the case of wholesale dealers and producers, the railroad car number and the model of the vehicle in which the anthracite is transported: Provided, That any information appearing on the weighmaster's certificate need not be duplicated in the statement. Each statement shall bear the name under which the producer, wholesale dealer, retail dealer, or other person does business, and the signature or facsimile of the producer, wholesale dealer, retail dealer, or other person, if an individual, or of an officer or partner, if a corporation, partnership or association, or the signature or facsimile signature of the municipal weighmaster, where a statement of quality is issued by such weighmaster under the provisions of this act.

(5 amended Sept. 26, 1951, P.L.1465, No.362)

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 the department acting through its mine inspectors during regular business hours.

(6 amended Apr. 28, 1978, P.L.93, No.43)

Section 7. Powers of 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 mine inspectors shall make reports of all inspections and tests to the 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.

(7 amended Apr. 28, 1978, P.L.93, No.43)

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 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 department, or who shall refuse the 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 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 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 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.

(8 amended Apr. 28, 1978, P.L.93, No.43)

Section 9. Injunctions.--In addition to any other remedy at law or in equity or under this act, the Attorney General may apply for relief by injunction to enforce compliance with or restrain violations of any provisions of this act or rule, regulation or order made pursuant thereto.

The remedy prescribed in this section shall be deemed concurrent or contemporaneous with any other remedy, and the existence or exercise of any one remedy shall not prevent the exercise of any other remedy.

(9 added Sept. 26, 1951, P.L.1465, No.362 and repealed in part Apr. 28, 1978, P.L.202, No.53)