

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1799 Session of
1975

INTRODUCED BY CAPUTO, GEISLER, M. M. MULLEN, ABRAHAM, GRIECO,
CIMINI, POLITE AND HOPKINS, OCTOBER 1, 1975

REFERRED TO COMMITTEE ON TRANSPORTATION, OCTOBER 1, 1975

AN ACT

1 Amending the act of May 21, 1931 (P.L.149, No.105), entitled, as
2 amended, "An act imposing a State tax, payable by those
3 herein defined as distributors, on liquid fuels used or sold
4 and delivered within the Commonwealth, which are practically,
5 and commercially suitable for use in internal combustion
6 engines for the generation of power; providing for the
7 collection and lien of the tax, and the distribution and use
8 of the proceeds thereof; requiring such distributors to
9 secure permits, to file corporate surety bonds and reports,
10 and to retain certain records; imposing duties on retail
11 dealers, common carriers, county commissioners, and such
12 distributors; providing for rewards; imposing certain costs
13 on counties; conferring powers and imposing duties on certain
14 State officers and departments; providing for refunds;
15 imposing penalties; and making an appropriation," further
16 providing for refunds.

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

19 Section 1. Section 17, act of May 21, 1931 (P.L.149,
20 No.105), known as "The Liquid Fuels Tax Act," amended March 12,
21 1957 (P.L.8, No.3), and July 15, 1969 (P.L.161, No.65), is
22 amended to read:

23 Section 17. Refunds.--The Board of Finance and Revenue may
24 refund to distributors taxes, penalties, and interest paid by
25 them on liquid fuels delivered to the United States government,

1 or paid as the result of an error of law or of fact or of both
2 law and fact. Claims for such refunds shall be made under the
3 procedure prescribed by The Fiscal Code.

4 Any person who shall use or buy liquid fuels on which the tax
5 imposed by this act shall have been paid and shall consume the
6 same in the operation of any nonlicensed farm tractor or
7 licensed farm tractor when used off the highways for
8 agricultural purposes or nonlicensed powered farm machinery for
9 purposes relating to the actual production of farm products
10 shall be reimbursed the full amount of such tax.

11 Any person, association or corporation who shall use or buy
12 liquid fuels on which the tax imposed by this act shall have
13 been paid and shall consume the same in the operation of any
14 motor vehicle of a capacity of five (5) or more persons
15 operating as a call and demand taxicab under a Certificate of
16 Public Convenience issued by the Pennsylvania Public Utility
17 Commission shall be reimbursed the full amount of such tax.

18 When the tax imposed by this act shall have been paid and the
19 fuel on which such tax has been imposed shall have been consumed
20 in the operation of motorboats or watercraft upon the waters of
21 the Commonwealth, including waterways bordering on the
22 Commonwealth, the full amount of such tax shall be refunded to
23 the Boating Fund of the Fish Commission on petition to the Board
24 of Finance and Revenue in accordance with prescribed procedures.

25 In accordance with such procedures, the Pennsylvania Fish
26 Commission shall biannually calculate the amount of liquid fuels
27 tax consumed by said motorcraft and furnish such information
28 relating to its calculations and data as may be prescribed or
29 required by the Board of Finance and Revenue. This board shall
30 review the petition and motorboat fuel consumption calculations

1 of the Pennsylvania Fish Commission and then determine the
2 amount of liquid fuels tax paid on liquid fuels consumed in the
3 propulsion of motorboats and other motorcraft on the waters of
4 the Commonwealth, including waterways bordering on the
5 Commonwealth, and shall certify to the State Treasurer to refund
6 annually to the Boating Fund of the Fish Commission the amount
7 so determined. The Department of Highways shall be accorded the
8 right to appear at such proceedings and make its views known.

9 Said moneys shall be used by the Pennsylvania Fish Commission
10 acting by itself or by agreement with other State and Federal
11 agencies including, but not limited to, the Navigation
12 Commission for the Delaware River, the Department of Forests and
13 Waters, the Department of Health, and the Federal Bureau of
14 Outdoor Recreation, only for the improvement of the waters of
15 Pennsylvania on which motorboats are permitted to operate and
16 may be used, including but not limited to the development and
17 construction of motorboat areas; the dredging and clearing of
18 water areas where motorboats can be used; the placement and
19 replacement of navigational aids; the purchase, development and
20 maintenance of public access sites and facilities to and on
21 waters where motorboating is permitted; the patrolling of
22 motorboating waters; the publishing of nautical charts in those
23 areas of Pennsylvania not covered by nautical charts published
24 by the United States Coast and Geodetic Survey or the United
25 States Army Engineers; and the administrative expenses arising
26 out of such activities.

27 Any person who shall use or buy any liquid fuel on which a
28 tax imposed by this act in excess of one and one-half cents a
29 gallon shall have been paid and shall use such liquid fuel in
30 propeller-driven aircraft or aircraft engines, or who shall use

1 or buy any liquid fuel on which a tax imposed by this act in
2 excess of one and one-half cents per gallon shall have been paid
3 and shall use such liquid fuel in jet or turbo-jet propelled
4 aircraft or aircraft engines, shall be reimbursed in the amount
5 of such excess.

6 All such claims for reimbursement shall be made upon a form
7 to be furnished by the Board of Finance and Revenue and shall
8 include, in addition to such other information as the board may
9 by regulation prescribe, the name and address of the claimant,
10 the period of time and the number of gallons of liquid fuels
11 used for which reimbursement is claimed, a description of the
12 farm machinery, taxicab, aircraft or aircraft engine in which
13 such liquid fuels have been used and the purposes for which such
14 machinery, taxicab, aircraft or aircraft engine has been used,
15 the size of the farm and part thereof in cultivation on which
16 such liquid fuels have been used. Each such claim shall contain
17 statements that the liquid fuels for which reimbursement is
18 claimed have been used only for purposes for which
19 reimbursements are permitted, that records of the amounts of
20 such fuels used in each piece of farm machinery, taxicab,
21 aircraft or aircraft engine have been kept, and that no part of
22 such claim has been paid except as stated. Each such claim shall
23 contain a declaration that it and accompanying receipts are true
24 and correct to the best of claimant's knowledge and shall be
25 signed by the claimant or the person claiming on his behalf.
26 Every claim shall be accompanied by receipts indicating that the
27 liquid fuels or excess liquid fuels tax was paid on the liquid
28 fuels for which reimbursement is claimed. All records of
29 purchases of liquid fuels and use in each tractor or powered
30 machinery, taxicab, aircraft or aircraft engine shall be kept

1 for a period of two years. Every such claim shall be made
2 annually for the preceding year ending on the thirtieth day of
3 June and shall be submitted to the Board of Finance and Revenue
4 not later than the thirtieth day of September of each year and
5 the board shall refuse to consider any claim received or post-
6 marked later than such date. The claimant shall satisfy the
7 board that he has paid the tax and that the liquid fuels have
8 been consumed by him for purposes for which reimbursements are
9 permitted under this section. The board may require any claimant
10 to furnish such further information, proof, or fuller
11 explanation as it shall deem necessary. The action of the Board
12 of Finance and Revenue in granting or refusing reimbursement
13 shall be final. The board shall deduct the sum of one dollar and
14 fifty cents (\$1.50), which shall be considered as a filing fee,
15 from every claim for reimbursement granted. Such filing fees are
16 hereby specifically appropriated to the Board of Finance and
17 Revenue and to the Department of Revenue for expenses of any
18 nature whatsoever incurred in the administration of the
19 reimbursement provisions of this act. The Board of Finance and
20 Revenue shall have the power to refer to the Department of
21 Revenue, for investigation, any claim for reimbursement filed
22 under the provisions of this act and it shall be the duty of the
23 Department of Revenue to investigate such application and report
24 to the Board of Finance and Revenue relative thereto. Any person
25 making any false or fraudulent statement for the purpose of
26 obtaining reimbursement shall be guilty of a misdemeanor, and,
27 upon conviction thereof, shall be sentenced to pay a fine of not
28 more than one thousand dollars (\$1000) or to undergo
29 imprisonment for not more than six (6) months, or both.

30 All refunds and reimbursements of moneys allowed hereunder

1 shall be paid from the Motor License Fund and the Liquid Fuels
2 Tax Fund in amounts equal to the original distribution and
3 payment of such moneys into said funds: Provided, That
4 reimbursement for taxes paid on liquid fuels consumed in the
5 operation of tractors and powered machinery for purposes
6 relating to the actual production of farm products and
7 reimbursement for taxes paid on liquid fuels used in aircraft or
8 aircraft engines shall be paid out of the Motor License Fund.

9 As much of the moneys, from time to time, in the Motor
10 License Fund and the Liquid Fuels Tax Fund, as may be necessary,
11 is hereby appropriated to the Board of Finance and Revenue for
12 the purpose of making refunds and reimbursements as herein
13 authorized. Estimates of the amounts to be expended from these
14 funds for refunds and reimbursements, from time to time, by the
15 board shall be submitted to the Governor for his approval or
16 disapproval as in the case of other appropriations to
17 administrative departments, boards and commissions; and it shall
18 be unlawful for the Auditor General to honor any requisition of
19 the Board of Finance and Revenue for the expenditure of moneys
20 hereunder in excess of the estimates approved by the Governor.

21 The provisions of this section relating to reimbursement of
22 taxes paid on liquid fuels consumed in the operation of tractors
23 and powered machines for purposes relating to the actual
24 production of farm products shall apply only to liquid fuels
25 purchased on and after the first day of July, one thousand nine
26 hundred fifty-five.

27 The Pennsylvania Aeronautics Commission is authorized to make
28 allocations of taxes collected under this act to airports in
29 proportion to the average of their allocations received from the
30 Pennsylvania Aeronautics Commission during the period for which

1 they have received such allocations not to exceed five years or,
2 in the case of airports having no such allocation experience, in
3 equal proportion with other airports based upon comparative
4 collections under this tax. In no case shall the amount
5 apportioned to the airport be less than the highest amount
6 apportioned in any one of the previous five years.