

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 375

Session of  
1981

INTRODUCED BY DININNI, FEBRUARY 3, 1981

REFERRED TO COMMITTEE ON TRANSPORTATION, FEBRUARY 3, 1981

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 the rate, collection and disposition of the tax  
17 on liquid fuels and fuels and making certain repeals.

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

20 Section 1. Section 2, act of May 21, 1931 (P.L.149, No.105),  
21 known as the "Liquid Fuels Tax Act," is amended by adding a  
22 definition to read:

23 Section 2. Definitions.--The following words, terms, and  
24 phrases, when used in this act, shall have the meanings ascribed  
25 to them in this section, except in those instances where the

1 context clearly indicates a different meaning.

2 \* \* \*

3 "Average retail price." The combined average retail price  
4 per gallon in Pennsylvania of diesel fuel and of regular and  
5 premium leaded and unleaded gasoline, weighted by the volume of  
6 each type of fuel consumed in Pennsylvania, as determined and  
7 computed semiannually by the Department of Revenue based upon  
8 retail prices in effect on a date specified by the department  
9 during April or May and October or November, respectively, of  
10 each year.

11 \* \* \*

12 Section 2. The first paragraph of section 4 of the act,  
13 amended December 19, 1975 (P.L.556, No.156), is amended and  
14 paragraphs are added immediately after the first paragraph to  
15 read:

16 Section 4. Imposition of Tax; Exemptions and Deductions.--A  
17 permanent State tax [of eight cents a gallon, or fractional part  
18 thereof] at the rate determined pursuant to the second and third  
19 paragraphs of this section, is hereby imposed and assessed upon  
20 all liquid fuels used or sold and delivered by distributors  
21 within this Commonwealth, excepting liquid fuels delivered to  
22 the United States Government on presentation of a duly  
23 authorized United States Government exemption certificate or  
24 other evidence satisfactory to the department, and such liquid  
25 fuels used or sold and delivered as are not within the taxing  
26 power of this Commonwealth under the Commerce Clause of the  
27 Constitution of the United States and excepting liquid fuels  
28 used as fuel in aircraft or aircraft engines and excepting  
29 liquid fuels delivered to the Commonwealth, every political  
30 subdivision, any volunteer fire company, any volunteer ambulance

1 service, any volunteer rescue squad, any second class county  
2 port authority and nonpublic schools not operated for profit on  
3 presentation of evidence satisfactory to the department. The tax  
4 herein imposed and assessed shall be collected by and paid to  
5 the Commonwealth but once in respect to any liquid fuels.

6 The tax imposed and assessed in the first paragraph shall be  
7 expressed in terms of cents per gallon and shall be at a rate  
8 determined by combining:

9 (i) a flat tax of five cents per gallon, or fractional part  
10 thereof; plus

11 (ii) a percentage tax of six per cent (6%) on the average  
12 retail price per gallon.

13 The percentage tax shall be computed by the Department of  
14 Revenue during June and December of each year based on average  
15 retail prices in effect on a date specified by the department  
16 during the immediately preceding months of April or May and  
17 October or November, respectively. The percentage tax so  
18 determined, combined with the flat rate tax, expressed in cents  
19 per gallon and rounded to the nearest tenth of a cent, shall be  
20 caused to be published in the Pennsylvania Bulletin by the  
21 department no later than June 15 and December 15 and shall take  
22 effect on July 1 and January 1, respectively. In no event shall  
23 the percentage tax increase by more than a total of two cents  
24 per gallon during any twelve-month period, except that for the  
25 twelve-month period beginning July 1, 1981 and ending June 30,  
26 1982, the total of the flat tax and the percentage tax shall not  
27 exceed the total rate of tax in effect on June 30, 1981 by more  
28 than three cents per gallon.

29 \* \* \*

30 Section 3. The act is amended by adding a section to read:

1     Section 4.1. Rate of Tax on Fuels.--(a) In lieu of the rate  
2 of tax on fuels provided in the first paragraph of section 4 of  
3 the act of January 14, 1952 (1951 P.L.1965, No.550), known as  
4 the "Fuel Use Tax Act," the rate of tax on fuels imposed and  
5 assessed by said provisions of the "Fuel Use Tax Act," shall be  
6 at the same rate and shall be readjusted semiannually in the  
7 same manner as the tax imposed on liquid fuels pursuant to the  
8 second and third paragraphs of section 4 of this act.

9     (b) Whenever any reference is made to the rate of tax  
10 imposed by the first paragraph of section 4 of the "Fuel Use Tax  
11 Act," it shall be deemed a reference to the rate of tax on fuels  
12 established pursuant to this section.

13     Section 4. The second paragraph of section 6 of the act,  
14 amended May 9, 1972 (P.L.277, No.67), is amended to read:

15     Section 6. Distributor's Report and Payment of Tax.--\* \* \*

16     Every distributor, at the time of making every report  
17 required by this section, shall compute and pay to the  
18 department the tax due to the Commonwealth on liquid fuels used  
19 or sold and delivered by him during the preceding month, less a  
20 discount, if the report is filed and the tax paid on time,  
21 computed as follows: two per centum, if such total tax shall  
22 amount to fifty thousand dollars (\$50,000) or less; one and one-  
23 half per centum, on total tax in excess of fifty thousand  
24 dollars (\$50,000) and not exceeding seventy-five thousand  
25 dollars (\$75,000); one per centum, on total tax in excess of  
26 seventy-five thousand dollars (\$75,000) and not exceeding one  
27 hundred thousand dollars (\$100,000); and one-half of one per  
28 centum, on tax in excess of one hundred thousand dollars  
29 (\$100,000): Provided, however, That the percentage discount  
30 shall be allowed and computed only on that portion of the total

1 tax proceeds attributable to the flat rate component of (five  
2 cents per gallon) of the total tax imposed. The amount of all  
3 taxes imposed under the provisions of this act for each month  
4 shall be due and payable on the next to the last business day of  
5 the next succeeding month, and shall bear interest at the rate  
6 of one per centum per month, or fractional part of a month, from  
7 the date they are due and payable until paid. The report or  
8 payment of tax as provided by this section, will be considered  
9 to have been duly and timely filed if such report or payment is  
10 deposited in the United States mail with postage prepaid in time  
11 to reach the department in the ordinary course of such mails on  
12 or before the next to the last business day of a given calendar  
13 month. In any case, the report or payment will be considered to  
14 have been duly and timely filed if such report or payment bears  
15 a postmark date at least two days prior to the next to the last  
16 business day of a given calendar month.

17 \* \* \*

18 Section 5. The act is amended by adding a section to read:

19 Section 6.1. Dealer-users Discount Allowed on Timely Payment  
20 of Fuels Use Tax to the Department.--In lieu of the discount  
21 allowed and provided in the former third paragraph of section 6  
22 of the act of January 14, 1952 (1951 P.L.1965, No.550), known as  
23 the "Fuel Use Tax Act," dealer-users as defined in said act  
24 shall be allowed a discount against the gross amount of the tax  
25 due under said act of two per centum of that portion of the  
26 total tax proceeds solely attributable to the flat rate  
27 component (five cents per gallon) of the total tax imposed. Any  
28 reference to the former provisions of the third paragraph of  
29 section 6 of the "Fuels Use Tax Act," shall be deemed a  
30 reference to this section.

1 Section 6. The second paragraph of subsection (a) and  
2 subsection (d) of section 10 of the act, amended December 1,  
3 1959 (P.L.1629, No.599) and July 30, 1975 (P.L.124, No.61), are  
4 amended and a subsection is added to read:

5 Section 10. Disposition and Use of Tax.--(a) \* \* \*

6 The moneys so paid into the Liquid Fuels Tax Fund, except  
7 those that are refunded as hereinafter provided, shall be paid  
8 to the respective counties of this Commonwealth, [less such  
9 amounts as represent the difference between the annual fees  
10 prescribed in sections 709 and 710 of "The Vehicle Code" and  
11 those fees charged pursuant to section 710.1 of "The Vehicle  
12 Code" for annual registration of each motor vehicle operated by  
13 mass transportation systems, on the first day of June and  
14 December of each year, in the ratio that average return made  
15 during the three (3) preceding years to each county bears to the  
16 average amount returned to all counties for the three preceding  
17 years: Provided, That the distribution of tax to the counties  
18 from the Liquid Fuels Tax Fund that is payable the first day of  
19 August, one thousand nine hundred and thirty-one, shall be made  
20 under the provisions of the acts of Assembly repealed by this  
21 act. Such amounts as represent the difference between the annual  
22 fees prescribed in sections 709 and 710 of "The Vehicle Code"  
23 and those fees charged pursuant to section 710.1 of "The Vehicle  
24 Code" shall be paid into the Motor License Fund.] less the  
25 amount of motor bus title and registration fees that would be  
26 payable under 75 Pa.C.S. § 1917, except for the exemption  
27 contained in 75 Pa.C.S. § 1901(b)(1), in the ratio that the  
28 average return made during the three preceding years to each  
29 county bears to the average amount returned to all counties for  
30 the three preceding years. Such amounts as represent the amount

1 of motor bus title and registration fees that would be payable  
2 under 75 Pa.C.S. § 1917, except for the exemption contained in  
3 75 Pa.C.S. § 1901(b)(1), shall be paid into the Motor License  
4 Fund.

5 \* \* \*

6 (d) The remaining [two and one-half cents per gallon of the  
7 permanent tax of three cents a gallon] four and one-half cents  
8 per gallon of the flat tax of five cents per gallon, all the  
9 percentage tax, all additional taxes collected under the  
10 provisions of this act, the permanent tax of one and one-half  
11 cents a gallon imposed and assessed on liquid fuels used or sold  
12 and delivered for use as a fuel in propeller-driven aircraft or  
13 aircraft engines and one and one-half cents a gallon on liquid  
14 fuels used or sold and delivered for use as a fuel in jet or  
15 turbo-jet propelled aircraft or aircraft engines in lieu of  
16 other taxes, all penalties and interests and all interest earned  
17 on deposits of the Liquid Fuels Tax Fund, shall be paid into the  
18 Motor License Fund and are hereby specifically appropriated for  
19 the same purposes for which moneys in the Motor License Fund are  
20 appropriated by law.

21 (e) (1) An amount equal to six-tenths of one cent per  
22 gallon or fraction thereof of the flat tax, and sixteen and two-  
23 thirds per cent of the percentage portion of the tax computed  
24 pursuant to the second and third paragraphs of section 4 of this  
25 act and imposed by the first paragraph of section 4 of this act  
26 and by section 4 of the act of January 14, 1952 (1951 P.L.1965,  
27 No.550), known as the "Fuel Use Tax Act," is hereby appropriated  
28 from the Motor License Fund to the cities, boroughs,  
29 incorporated towns and townships of the Commonwealth in the  
30 manner and for the uses set forth in this act and in the act of

1 June 1, 1956 (1955 P.L.1944, No.655), referred to as the Liquid  
2 Fuels Tax Municipal Allocation Law.

3 (2) The money hereby appropriated to municipalities shall be  
4 paid to the municipalities in accordance with the formula and  
5 subject to the provisions of sections 4, 5, 6, 7 and 10 of the  
6 Liquid Fuels Tax Municipal Allocation Law. However, in lieu of  
7 the procedure provided in former section 9 of the Liquid Fuels  
8 Tax Municipal Allocation Law, the amount of money to be paid to  
9 municipalities shall be determined by the amount estimated to be  
10 received by the Commonwealth during the current fiscal year. The  
11 payment made on the following April 1 shall be adjusted to  
12 reflect the amount actually received by the Commonwealth during  
13 such preceding fiscal year.

14 (3) Whenever any reference is made to the appropriation and  
15 distribution of moneys from the Motor License Fund to  
16 municipalities pursuant to former sections 3 and 9 of the Liquid  
17 Fuels Tax Municipal Allocation Law, it shall be deemed a  
18 reference to the appropriation and distribution provisions  
19 provided in this subsection.

20 Section 7. The following acts and parts of acts are repealed  
21 to the extent indicated:

22 The third paragraph of section 6, act of January 14, 1952  
23 (1951 P.L.1965, No.550), known as the "Fuel Use Tax Act,"  
24 absolutely, the first paragraph of section 4 insofar as it  
25 established a rate of tax and the remainder of the act, insofar  
26 as inconsistent.

27 Sections 3 and 9, act of June 1, 1956 (1955 P.L.1944,  
28 No.655), referred to as the Liquid Fuels Tax Municipal  
29 Allocation Law, absolutely, and the remainder of the act and its  
30 supplement, insofar as inconsistent.



1 Article XI-B, act of March 4, 1971 (P.L.6, No.2), known as  
2 the "Tax Reform Code of 1971," absolutely.

3 Act of July 12, 1974 (P.L.458, No.161), entitled "An act  
4 imposing an additional State tax on certain fuels; providing for  
5 collection, lien and administration of the tax; and making an  
6 appropriation," absolutely.

7 Section 8. This act shall take effect July 1, 1981. However,  
8 the Department of Revenue shall compute as soon as possible the  
9 rate of tax to take effect July 1, 1981 and shall cause notice  
10 of such rate to be published in the Pennsylvania Bulletin on or  
11 before June 15, 1981.