

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 375

Session of
1981

INTRODUCED BY DININNI, FEBRUARY 3, 1981

AS REPORTED FROM COMMITTEE ON TRANSPORTATION, HOUSE OF
REPRESENTATIVES, AS AMENDED, APRIL 29, 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

1 to them in this section, except in those instances where the
2 context clearly indicates a different meaning.

3 * * *

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

12 * * *

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

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

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

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

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

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

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

* * *

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

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

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

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

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

Every distributor, at the time of making every report required by this section, shall compute and pay to the department the tax due to the Commonwealth on liquid fuels used or sold and delivered by him during the preceding month, less a discount, if the report is filed and the tax paid on time, computed as follows: two per centum, if such ~~total~~ tax shall amount to fifty thousand dollars (\$50,000) or less; one and one-half per centum, on ~~total~~ tax in excess of fifty thousand dollars (\$50,000) and not exceeding seventy-five thousand dollars (\$75,000); one per centum, on ~~total~~ tax in excess of seventy-five thousand dollars (\$75,000) and not exceeding one hundred thousand dollars (\$100,000); and one-half of one per centum, on tax in excess of one hundred thousand dollars (\$100,000): Provided, however, That the percentage discount

<—

<—

<—

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

19 * * *

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

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

1 of the third paragraph of section 6 of the "Fuels Use Tax Act,"
2 shall be deemed a reference to this section.

3 Section 6. The second paragraph of subsection (a) and
4 subsection (d) of section 10 of the act, amended December 1,
5 1959 (P.L.1629, No.599) and July 30, 1975 (P.L.124, No.61), are
6 amended and a subsection is added to read:

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

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

1 county bears to the average amount returned to all counties for
2 the three preceding years. Such amounts as represent the amount
3 of motor bus title and registration fees that would be payable
4 under 75 Pa.C.S. § 1917, except for the exemption contained in
5 75 Pa.C.S. § 1901(b)(1), shall be paid into the Motor License
6 Fund.

7 * * *

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

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

incorporated towns and townships of the Commonwealth in the manner and for the uses set forth in this act and in the act of June 1, 1956 (1955 P.L.1944, No.655), referred to as the Liquid Fuels Tax Municipal Allocation Law.

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

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

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

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

Sections 3 and 9, act of June 1, 1956 (1955 P.L.1944, No.655), referred to as the Liquid Fuels Tax Municipal

1 Allocation Law, absolutely, and the remainder of the act and its
2 supplement, insofar as inconsistent.

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

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

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