
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 468 Session of
1991

INTRODUCED BY MARKOSEK, PETRARCA, CESSAR, OLASZ, TIGUE, GEIST,
MIHALICH, LAUGHLIN, HESS AND NAHILL, MARCH 11, 1991

REFERRED TO COMMITTEE ON TRANSPORTATION, MARCH 11, 1991

AN ACT

1 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated
2 Statutes, imposing a motorbus road tax; providing penalties;
3 and making a repeal.

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

6 Section 1. Title 75 of the Pennsylvania Consolidated
7 Statutes is amended by adding a chapter to read:

8 CHAPTER 98

9 MOTORBUS ROAD TAX

10 Sec.

11 9801. Short title of chapter.

12 9802. Definitions.

13 9803. Imposition of tax.

14 9804. Exemptions.

15 9805. Credit for motor fuel tax payment.

16 9806. Tax due date.

17 9807. Tax revenue to Motor License Fund.

18 9808. Calculation of amount of fuel used in Commonwealth.

1 9809. Report requirements.
2 9810. Identification markers required.
3 9811. Average consumption.
4 9812. Records.
5 9813. Penalty and interest for failure to report or pay tax.
6 9814. Time for payment of taxes, penalties and interest.
7 9815. Manner of payment and recovery of taxes, penalties and
8 interest.
9 9816. Determination, redetermination and review.
10 9817. Timely mailing treated as timely filing and payment.
11 9818. Availability of records of other agencies.
12 9819. False statements and penalties.
13 9820. Special investigators; powers.
14 9821. Regulations.

15 § 9801. Short title of chapter.

16 This chapter shall be known and may be cited as the Motorbus
17 Road Tax Act.

18 § 9802. Definitions.

19 The following words and phrases when used in this chapter
20 shall have the meanings given to them in this section unless the
21 context clearly indicates otherwise:

22 "Bus company." Every person who operates or causes to be
23 operated any motorbus on any highway in this Commonwealth.

24 "Department." The Department of Revenue of the Commonwealth.

25 "Highway." The Pennsylvania Turnpike and every way or place,
26 of whatever nature, open to the use of the public as a matter of
27 right for purposes of vehicular travel. The term does not
28 include a roadway or driveway upon grounds owned by private
29 persons, colleges, universities or other institutions.

30 "Motor fuel." Includes "fuels" as defined in the act of

1 January 14, 1952 (1951 P.L.1965, No.550), known as the Fuel Use
2 Tax Act, and "liquid fuels" as defined in the act of May 21,
3 1931 (P.L.149, No.105), known as The Liquid Fuels Tax Act.

4 "Motorbus." A bus with a seating capacity of 20 or more
5 passengers, excluding the driver, except a school bus.

6 "Operations." Operations of all motorbuses, whether loaded
7 or empty, whether for compensation or not for compensation, and
8 whether owned by or leased to the bus company which operates
9 them or causes them to be operated.

10 "Secretary." The Secretary of Revenue of the Commonwealth.
11 § 9803. Imposition of tax.

12 (a) General rule.--Every bus company shall pay a road tax,
13 calculated on the amount of motor fuel used in its operations on
14 highways within this Commonwealth, equivalent to the sum of:

15 (1) the rate per gallon of the Pennsylvania Liquid Fuels
16 Tax which is currently in effect; and

17 (2) the amount of tax, expressed on a cents-per-gallon
18 basis, imposed pursuant to Chapter 95.

19 (b) Other taxes unaffected.--The taxes imposed on bus
20 companies by this chapter are in addition to any taxes of
21 whatever character imposed on such companies by any other
22 statute.

23 § 9804. Exemptions.

24 The requirements of this chapter do not apply to the
25 following motorbuses:

26 (1) A motorbus operated by or on behalf of any
27 department, board or commission of the Commonwealth, or any
28 political subdivision thereof, or any quasi-governmental
29 authority of which this Commonwealth is a participating
30 member, or any agency of the Federal Government or the

1 District of Columbia, or of any state or any political
2 subdivision thereof which grants similar exemptions to
3 publicly owned vehicles registered in this Commonwealth.

4 (2) An unloaded or towed motorbus which enters this
5 Commonwealth solely for the purpose of securing repairs or
6 reconditioning. The repair facility shall furnish to the bus
7 company a certificate to be carried by the motorbus operator
8 while the vehicle is in this Commonwealth for the purposes of
9 this paragraph.

10 (3) A motorbus needing emergency repairs which secures
11 authorization from the Pennsylvania State Police to enter
12 this Commonwealth under this section.

13 § 9805. Credit for motor fuel tax payment.

14 (a) General rule.--Every bus company subject to the tax
15 imposed under this chapter shall be entitled to a credit on the
16 tax, for other fuel taxes paid on all motor fuel purchased by
17 the bus company within this Commonwealth for use in its
18 operation either within or without this Commonwealth. For
19 purposes of this section, other fuel taxes shall include the tax
20 imposed pursuant to the act of May 21, 1931 (P.L.149, No.105),
21 known as The Liquid Fuels Tax Act, the tax imposed pursuant to
22 the act of January 14, 1952 (1951 P.L.1965, No.550), known as
23 the Fuel Use Tax Act, the tax imposed pursuant to Chapter 95
24 (relating to taxes for highway maintenance and construction),
25 and all similar taxes now or hereafter imposed on motor fuel.
26 Evidence of the payment of the tax in such form as may be
27 required by, or is satisfactory to, the department, shall be
28 furnished by each bus company claiming the credit.

29 (b) Excess credit.--When the amount of the credit to which
30 any bus company is entitled for any reporting period exceeds the

1 amount of the tax for which the bus company is liable for the
2 same period, the department may apply all or part of the amount
3 of such excess credit against any liability in respect of the
4 tax imposed by this chapter on the bus company which incurred
5 the excess credit and upon request shall issue a refund in the
6 remaining amount of the credit to the bus company. For purposes
7 of payment of interest on refunds pursuant to section 806.1 of
8 the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal
9 Code, the amount of the refund shall be considered an
10 "overpayment" of tax made with the report on which credit is
11 claimed. Refunds shall be paid out of the Motor License Fund. As
12 much of the moneys received as payment of the tax, interest and
13 penalties under this chapter as shall be necessary for the
14 payment of the refunds provided for in this chapter is hereby
15 appropriated for the payment of such refunds. No tax, interest,
16 penalty or fee received or derived from any other tax imposed by
17 the laws of this Commonwealth shall be used to pay any refund
18 due and payable under the provisions of this chapter.

19 § 9806. Tax due date.

20 The tax imposed under this chapter shall be paid by each bus
21 company quarterly to the department on or before the last day of
22 April, July, October and January of each year and shall be
23 calculated upon the amount of motor fuel used in its operations
24 on highways within this Commonwealth during the quarter ending
25 with the last day of the preceding month.

26 § 9807. Tax revenue to Motor License Fund.

27 All taxes, fees, penalties and interest paid under this
28 chapter shall be credited to and are hereby appropriated to the
29 Motor License Fund as provided for by section 11 of Article VIII
30 of the Constitution of Pennsylvania.

1 § 9808. Calculation of amount of fuel used in Commonwealth.

2 The amount of motor fuel used in the operations of any bus
3 company on highways within this Commonwealth shall be such
4 proportion of the total amount of the motor fuel used in its
5 entire operations within and without this Commonwealth as the
6 total number of miles traveled on highways within this
7 Commonwealth bears to the total number of miles traveled within
8 and without this Commonwealth.

9 § 9809. Report requirements.

10 Every bus company subject to the tax imposed by this chapter
11 shall, on or before the last day of April, July, October and
12 January of every year, make to the department such reports of
13 its operations during the quarter ending the last day of the
14 preceding month as the department may require and such other
15 reports from time to time as the department may deem necessary.
16 The department may, by regulation, permit bus companies whose
17 estimated annual liability under this chapter is \$250 or less to
18 file its report on an annual basis.

19 § 9810. Identification markers required.

20 (a) General rule.--The secretary shall provide an
21 identification marker for every motorbus.

22 (1) All motorbuses required to display the
23 identification marker shall permanently affix and display the
24 identification marker in such manner as the department, by
25 regulation, may specify.

26 (2) The identification marker shall remain the property
27 of the Commonwealth and may be recalled for any violation of
28 the provisions of this chapter or the regulations promulgated
29 thereunder.

30 (b) Fee.--The fee for issuance of an identification marker

1 shall be \$5.

2 (c) Issuance of markers.--Identification markers shall be
3 issued on a 12-month basis, effective April 1 of each year, and
4 shall be valid through the next succeeding March 31; however,
5 enforcement of this section shall not become effective until
6 April 15 of each year as to motorbuses displaying the previous
7 year's identification marker.

8 (d) Operation without identification marker unlawful.--It
9 shall be unlawful to operate or to cause to be operated in this
10 Commonwealth any motorbus unless the vehicle bears the
11 identification marker required by this section.

12 (e) Exemption.--

13 (1) The secretary may, by regulation, exempt from the
14 requirement to display the identification marker motorbuses
15 which in his opinion are clearly identifiable such that
16 effective enforcement of this chapter will not suffer
17 thereby.

18 (2) For a period not exceeding five days, as to any one
19 bus company, the Secretary of Revenue, by letter or telegram,
20 may authorize the operation of a motorbus without the
21 identification marker required when the enforcement of this
22 section for that period would cause undue delay and hardship
23 in the operation of such motorbus.

24 (3) The fee for such permits shall be \$25 for each
25 motorbus.

26 (4) Conditions for the issuance of such permits shall be
27 set forth in regulations promulgated by the department.

28 § 9811. Average consumption.

29 In the absence of adequate records or other evidence
30 satisfactory to the department showing the number of miles

1 operated by a bus company's motorbuses per gallon of motor fuel,
2 any such motorbus shall be deemed to have consumed one gallon of
3 motor fuel for each four miles operated.

4 § 9812. Records.

5 Every bus company shall keep such records, in such form as
6 the department reasonably may prescribe, as will enable the bus
7 company to report and enable the department to determine the
8 total number of over-the-road miles traveled by its entire fleet
9 of motorbuses, the total number of over-the-road miles traveled
10 in this Commonwealth by the entire fleet, the total number of
11 gallons of motor fuel used by the entire fleet and the total
12 number of gallons of motor fuel purchased in this Commonwealth
13 for the entire fleet. All such records shall be safely preserved
14 for a period of five years in such manner as to insure their
15 security and availability for inspection by the secretary or any
16 authorized employee engaged in the administration of this
17 chapter. Upon application, in writing, stating the reasons
18 therefor, the department may in its discretion consent to the
19 destruction of any such records at any time within that period
20 if the records pertain to a period which has been audited by the
21 department. Every taxpayer shall retain records required by this
22 chapter at a place within this Commonwealth, but a taxpayer who
23 elects to retain records outside of this Commonwealth shall
24 assume reasonable out-of-State audit expenses.

25 § 9813. Penalty and interest for failure to report or pay tax.

26 When any bus company fails to file a report within the time
27 prescribed by this chapter, he shall pay as a penalty \$25 for
28 each failure to file on or before the prescribed date. In
29 addition to this penalty, any unpaid tax shall bear interest
30 pursuant to section 806 of the act of April 9, 1929 (P.L.343,

1 No.176), known as The Fiscal Code, until the tax is paid. The
2 penalties and interest charges imposed shall be paid to the
3 department in addition to the tax due.

4 § 9814. Time for payment of taxes, penalties and interest.

5 All taxes, penalties and interest assessed under this
6 chapter, unless earlier payment is provided in this chapter,
7 shall be paid within 15 days after notice and demand have been
8 mailed to the bus company by the department. If the taxes,
9 penalties and interest assessed pursuant to this section and
10 section 9813 (relating to penalty and interest for failure to
11 report or pay tax) are not paid within 15 days, there shall be
12 added to the amount of assessment, in addition to interest as
13 already provided and any other penalties provided by law, a sum
14 equivalent to 5% of the tax. Payment of any taxes, penalties and
15 interest assessed under this chapter shall not prejudice a bus
16 company's right to file a petition for redetermination, refund
17 or review with the department, the Board of Finance and Revenue
18 or the courts.

19 § 9815. Manner of payment and recovery of taxes, penalties and
20 interest.

21 (a) General rule.--All penalties and interest when imposed
22 under this chapter shall be payable to and recoverable by the
23 department in the same manner as if they were part of the tax
24 imposed.

25 (b) Imposition of lien.--The taxes, fees, interests and
26 penalties imposed under this chapter, from the time they are
27 due, shall be a debt of a bus company which does not maintain
28 premises for the transaction of business within this
29 Commonwealth, recoverable in an action of assumpsit in the name
30 of the Commonwealth. This debt, whether sued upon or not, shall

1 be a lien on all the property of the debtor, except as against
2 an innocent purchaser for value without notice thereof, and
3 shall have priority both in lien and distribution of the assets
4 of the bus company, whether in bankruptcy, insolvency or
5 otherwise. The proceeds of any judgment or order obtained under
6 this section shall be paid to the department.

7 (c) Recording of lien and execution.--Any tax determined to
8 be due from any person who maintains premises for the conduct of
9 business in this Commonwealth and remaining unpaid after demand
10 for the tax, and all penalties and interest thereon, shall be a
11 lien in favor of the Commonwealth upon the real and personal
12 property of the person, but only after the lien has been entered
13 and docketed of record by the prothonotary of the county where
14 the property is situated. The department may at any time
15 transmit to the prothonotaries of the respective counties
16 certified copies of all liens for such taxes, penalties and
17 interest, and it shall be the duty of each prothonotary
18 receiving the lien to enter and docket the lien of record in his
19 office, which lien shall be indexed as judgments are now
20 indexed. A writ of execution may directly issue upon the lien
21 without the issuance and prosecution to judgment of a writ of
22 scire facias. Not less than ten days before issuance of any
23 execution on the lien, notice of the filing and the effect of
24 the lien shall be sent by registered mail to the taxpayer at his
25 last known post office address.

26 (d) Priority of lien.--The lien imposed under this section
27 shall have priority from the date of its recording and shall be
28 fully paid and satisfied out of the proceeds of any judicial
29 sale of property subject thereto, before any other obligation,
30 judgment, claim, lien or estate to which the property may

1 subsequently become subject, except costs of the sale and of the
2 writ upon which the sale was made, and real estate taxes and
3 municipal claims against the property, but shall be subordinate
4 to mortgages and other liens existing and duly recorded or
5 entered of record prior to the recording of the tax lien. In the
6 case of a judicial sale of property subject to a lien imposed
7 under this section upon a lien or claim over which the lien
8 imposed under this section has priority, the sale shall
9 discharge the lien imposed under this section to the extent only
10 that the proceeds are applied to its payment, and the lien shall
11 continue in full force and effect as to the balance remaining
12 unpaid.

13 (e) Renewal of lien.--The lien imposed under this section
14 shall continue for five years from the date of its entry of
15 record and may be renewed and continued in the manner provided
16 for the renewal of judgments.

17 § 9816. Determination, redetermination and review.

18 (a) Determination of correct tax.--If any person fails to
19 pay any tax imposed by this chapter for which he is liable or if
20 any person overpays the tax for which he is liable, the
21 department may make a determination of the correct amount of tax
22 and interest due by the person based upon any information within
23 its possession or that shall come into its possession. All
24 determinations shall be made so that notice thereof shall reach
25 the parties against whom made within five years after the due
26 date of the tax. Any assessment of additional tax may be made at
27 any time during that period notwithstanding that the department
28 may have made one or more previous assessments against the
29 taxpayer for the year in question or for any part of that year.
30 In any case, no credit shall be given for any penalty previously

1 assessed or paid.

2 (b) Failure to file report.--Where no report is filed, the
3 amount of the tax due may be assessed and collected at any time
4 as to taxable transactions not reported.

5 (c) False or fraudulent report.--Where the taxpayer
6 willfully files a false or fraudulent report with intent to
7 evade the tax imposed by this chapter, the amount of tax due may
8 be assessed and collected at any time.

9 (d) Extension of period for assessment.--Notwithstanding any
10 of the other provisions of this chapter, where, before the
11 expiration of the period prescribed therein for the
12 determination of the correct amount of tax, a taxpayer has
13 consented in writing that the period be extended, the correct
14 amount of tax may be determined at any time within the extended
15 period. The period so extended may be extended further by
16 subsequent consent in writing made before the expiration of the
17 extended period.

18 (e) Petition for redetermination.--Promptly after the date
19 of the determination, the department shall send, by first class
20 mail, a copy thereof to the person against whom it was made.
21 Within 90 days after the date on which the copy of any such
22 determination was mailed, the person may file with the
23 department a petition for redetermination of the taxes. The
24 petition for redetermination shall state specifically the
25 reasons which the petitioner believes entitle him to the
26 redetermination, and it shall be supported by affirmation that
27 it is not made for the purpose of delay and that the facts set
28 forth therein are true. It shall be the duty of the department,
29 within six months after the date of any determination, to
30 dispose of any petition for redetermination. Notice of the

1 action taken upon any petition for redetermination shall be
2 given to the petitioner promptly after the date of
3 redetermination by the department.

4 (f) Review and appeal.--Any person shall have the right to
5 review by the Board of Finance and Revenue and appeal in the
6 same manner and within the same time as provided by law in the
7 case of capital stock and franchise taxes imposed upon
8 corporations.

9 § 9817. Timely mailing treated as timely filing and payment.

10 With respect to all reports, claims, statements and other
11 documents required to be filed and all payments required to be
12 made under this chapter, a report, claim, statement and other
13 document or payment of tax withheld shall be considered as
14 timely filed if the report, claim, statement or other document
15 or payment which has been received by the department is
16 postmarked by the United States Postal Service on or prior to
17 the final day on which payment is to be received. For the
18 purposes of this chapter, the presentation of a receipt
19 indicating that the report, claim, statement or other document
20 or payment was mailed by registered or certified mail on or
21 before the due date shall be prima facie evidence of timely
22 filing of the report, claim, statement or other document or
23 payment.

24 § 9818. Availability of records of other agencies.

25 The records of any other Commonwealth agency, to the extent
26 that they may be pertinent to the administration and enforcement
27 of this chapter and the determination of liability thereunder,
28 shall be available to the department.

29 § 9819. False statements and penalties.

30 (a) False statements.--Any person who willfully and

1 knowingly makes, publishes, delivers or utters a false statement
2 orally, or in writing, or in the form of a receipt for the sale
3 of motor fuel, for the purpose of obtaining or attempting to
4 obtain, or to assist any person to obtain or attempt to obtain,
5 a credit or refund or reduction of liability for taxes under
6 this chapter commits a summary offense and shall, upon
7 conviction, be sentenced to pay a fine of not less than \$100 nor
8 more than \$500. For each subsequent or additional offense, the
9 person shall be sentenced to pay a fine of not less than \$200
10 nor more than \$500 or to imprisonment for not more than 90 days,
11 or both.

12 (b) Other penalties.--Any person violating any provision of
13 this chapter not covered by any other penalty contained in this
14 chapter commits a summary offense and shall, upon conviction, be
15 sentenced to pay a fine of not less than \$100 nor more than
16 \$500. For each subsequent or additional offense, the person
17 shall be sentenced to pay a fine of not less than \$200 nor more
18 than \$500 or to imprisonment for not more than 90 days, or both.
19 If the person convicted is a corporation, any imprisonment
20 imposed shall be served by the responsible corporate employee.
21 § 9820. Special investigators; powers.

22 Employees of the department who are designated as special
23 investigators, and who carry identification indicating such
24 capacity, are hereby declared to be peace officers of the
25 Commonwealth, are hereby given police power and authority
26 throughout this Commonwealth to arrest on view without warrant
27 any driver of a motorbus engaged in any operations in violation
28 of any provision of this chapter and shall have the power and
29 authority upon probable cause that any such violation may have
30 occurred to search and seize without warrant or process any

1 motorbus so operated.

2 § 9821. Regulations.

3 The department shall, from time to time, promulgate such
4 regulations as may be necessary for the effective enforcement of
5 this chapter.

6 Section 2. The act of August 1, 1963 (P.L.476, No.249),
7 entitled "An act providing for the taxation of motor fuels
8 consumed by interstate buses upon a system uniform among
9 jurisdictions enacting the same provisions," is repealed.

10 Section 3. This act shall apply on the first day of the
11 first quarter beginning at least three months after its
12 effective date. The provisions of 75 Pa.C.S. § 9810(d) shall not
13 be enforced until the first day of the second quarter beginning
14 at least three months after the effective date of this act. If
15 this act takes effect on or after October 1, 1991, any
16 identification marker issued for any period prior to April 1,
17 1992, shall not expire until March 31, 1993.

18 Section 4. This act shall take effect immediately.