

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1086 Session of
1993

INTRODUCED BY STISH, DALEY, TIGUE, TRELLO AND KIRKLAND,
APRIL 19, 1993

REFERRED TO COMMITTEE ON TRANSPORTATION, APRIL 19, 1993

AN ACT

1 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated
2 Statutes, further providing for motor carrier vehicles and
3 for removal of vehicle by or at direction of police;
4 providing for forfeiture of certain motor carrier vehicles;
5 further providing for unlawful activities, for operation of
6 vehicles without certificate of inspection, for inspection by
7 police or Commonwealth personnel, for weighing and
8 measurement of vehicles, for impoundment of vehicles for
9 nonpayment of fines and disposition of impounded vehicles and
10 loads and for removal of vehicles and spilled cargo from
11 roadway; and providing for penalties.

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

14 Section 1. The definition of "motor carrier vehicle" in
15 section 102 of Title 75 of the Pennsylvania Consolidated
16 Statutes is amended to read:

17 § 102. Definitions.

18 Subject to additional definitions contained in subsequent
19 provisions of this title which are applicable to specific
20 provisions of this title, the following words and phrases when
21 used in this title shall have, unless the context clearly
22 indicates otherwise, the meanings given to them in this section:

1 * * *

2 "Motor carrier vehicle." A truck, truck tractor or
3 combination having a gross weight or registered gross weight in
4 excess of [17,000] 10,000 pounds.

5 * * *

6 Section 2. Section 3352(b) of Title 75 is amended to read:
7 § 3352. Removal of vehicle by or at direction of police.

8 * * *

9 (b) Unattended vehicle [obstructing traffic].--

10 (1) Any police officer may remove or cause to be removed
11 to a place of safety any unattended vehicle illegally left
12 standing upon any highway, bridge, causeway or in any tunnel,
13 in such position or under such circumstances as to interfere
14 unduly with the normal movement of traffic or constitute a
15 safety hazard.

16 (2) A member of the Pennsylvania State Police may remove
17 or cause to be removed to a place of safety any vehicle left
18 standing on a limited access highway for 12 hours.

19 * * *

20 Section 3. Title 75 is amended by adding a section to read:
21 § 3737. Forfeiture of motor carrier vehicle.

22 Whenever a pedestrian or an occupant of another vehicle
23 suffers a serious injury, as defined in section 1702 (relating
24 to definitions), in an accident caused by or involving a motor
25 carrier vehicle, the motor carrier vehicle shall be forfeited to
26 the Commonwealth if it had any of the critical vehicle defects
27 enumerated in section 4704(c.1) (relating to inspection by
28 police or Commonwealth personnel) or if the driver was in
29 violation of section 4704(c.2) and if the critical vehicle
30 defect or driver violation was a contributory factor in causing

1 the accident.

2 (1) If the investigating police officer has reason to
3 believe that there was a serious injury, the motor carrier
4 vehicle shall be impounded and inspected for critical
5 defects. If the inspection reveals one or more critical
6 defects, it shall remain impounded until a court determines
7 whether this section is applicable.

8 (2) The load shall be handled as provided in section
9 6310 (relating to disposition of impounded vehicles and
10 loads).

11 Section 4. Section 4107(b) and (d) of Title 75 are amended
12 to read:

13 § 4107. Unlawful activities.

14 * * *

15 (b) Other violations.--It is unlawful for any person to do
16 any of the following:

17 (1) Willfully or intentionally remove (other than for
18 purposes of repair and replacement) or render inoperative, in
19 whole or in part, any item of vehicle equipment which was
20 required to be installed at the time of manufacture or
21 thereafter upon any vehicle, by any law, rule, regulation or
22 requirement of any officer or agency of the United States or
23 of the Commonwealth, if it is intended that the vehicle be
24 operated upon the highways of this Commonwealth unless the
25 removal or alteration is specifically permitted by this title
26 or by regulations promulgated by the department.

27 (2) Operate, or cause or permit another person to
28 operate, on any highway in this Commonwealth any vehicle or
29 combination [which] in violation of department regulations
30 pertaining to drivers or if the vehicle is not equipped as

1 required under this part or under department regulations or
2 [which] is otherwise in an unsafe condition or in violation
3 of department regulations.

4 (3) Do any act forbidden by this part or fail to perform
5 any act required under this part.

6 * * *

7 (d) Penalty.--

8 (1) A person who operates a motor carrier vehicle or a
9 bus in violation of subsection (b)(2) commits a summary
10 offense and, upon conviction, shall be sentenced to pay a
11 fine of \$25 per violation, except that the fine for a
12 violation which causes the vehicle or driver to be placed out
13 of service under section 4704(c) (relating to inspection by
14 police or Commonwealth personnel) shall be \$50 per violation.
15 The maximum fine which may be levied on the basis of multiple
16 charges filed together shall be \$500.

17 (2) A person who causes or permits another person to
18 operate a motor carrier vehicle or a bus in violation of
19 subsection (b)(2) commits a summary offense and, upon
20 conviction, shall be sentenced to pay a fine of \$50 per
21 violation, except that the minimum fine for a violation which
22 causes the vehicle or driver to be placed out of service
23 under section 4704(c) shall be \$100 per violation. The
24 maximum fine which may be levied on the basis of multiple
25 charges filed together shall be \$1,000.

26 Section 5. Section 4703(a), (b), (c) and (h) of Title 75,
27 amended December 18, 1992 (P.L. , No.174), are amended to
28 read:

29 § 4703. Operation of vehicle without official certificate of
30 inspection.

1 (a) General rule.--

2 (1) Except as otherwise provided in this section, no
3 motor vehicle required to bear current registration plates
4 issued by this Commonwealth shall be driven and no trailer
5 required to bear current registration plates issued by this
6 Commonwealth shall be moved on a highway and no mass transit
7 vehicle shall be operated unless the vehicle displays a
8 currently valid certificate of inspection issued under this
9 chapter.

10 (2) A motor carrier vehicle which is not registered in
11 this Commonwealth and which transports or hauls "solid
12 waste," as that term is defined in section 103 of the act of
13 July 7, 1980 (P.L.380, No.97), known as the Solid Waste
14 Management Act, shall not be operated on a highway unless it
15 displays a currently valid certificate of inspection issued
16 by a state which has an inspection program which has been
17 determined by the Federal Government to be comparable to or
18 as effective as the periodic inspection requisites contained
19 in Federal regulations. Motor carrier vehicles coming from
20 outside of this Commonwealth and which, at the time of
21 entering this Commonwealth, do not bear a currently valid
22 certificate of inspection issued by the state with a program
23 qualifying under this subsection shall be required to be
24 inspected within six hours after entering this Commonwealth.

25 (b) Exceptions.--Subsection (a) does not apply to:

26 (1) Special mobile equipment.

27 (2) Implements of husbandry.

28 (3) Motor vehicles being towed.

29 (4) Motor vehicles being operated or trailers being
30 towed by an official inspection station owner or employee for

1 the purpose of inspection.

2 (5) Trailers having a registered gross weight of 3,000
3 pounds or less.

4 (6) Motorized pedalcycles.

5 (7) Vehicles being repossessed by a financier or
6 collector-repossessor through the use of miscellaneous motor
7 vehicle business registration plates.

8 (8) New vehicles while they are in the process of
9 manufacture, including testing, and not in transit from the
10 manufacturer to a purchaser or dealer.

11 (9) Any military vehicle used for training by a private,
12 nonprofit, tax exempt military educational institution when
13 such vehicle does not travel on public roads in excess of one
14 mile and the property on both sides of the public road is
15 owned by the institution.

16 (10) Antique vehicles.

17 (11) A motor vehicle being operated by the vehicle owner
18 while enroute to an inspection station where an appointment
19 for inspection has been scheduled, provided that such
20 operation occurs no later than ten days after the expiration
21 of a valid certificate of inspection issued under this
22 chapter.

23 (12) Commercial implements of husbandry.

24 (13) Any motor carrier vehicle not registered in this
25 Commonwealth which has passed and displays a valid
26 certificate of inspection indicating it has passed the
27 Commercial Vehicle Safety Alliance safety inspection.

28 (c) Inspection of vehicles reentering this Commonwealth.--

29 (1) Vehicles, other than motor carrier vehicles, subject
30 to registration and inspection in this Commonwealth which

1 have been outside this Commonwealth continuously for 30 days
2 or more and which, at the time of reentering this
3 Commonwealth, do not bear a currently valid certificate of
4 inspection shall not be required to be inspected until ten
5 days after reentering this Commonwealth.

6 (2) Motor carrier vehicles subject to registration and
7 inspection in this Commonwealth, which have been outside this
8 Commonwealth continuously for 30 days or more and which at
9 the time of reentering this Commonwealth do not bear a
10 currently valid certificate of inspection, shall be required
11 to be inspected within six hours after entering this
12 Commonwealth.

13 * * *

14 (h) Penalty.--[Any]

15 (1) Except as provided in paragraph (2), a person
16 violating this section is guilty of a summary offense and
17 shall, upon conviction, be sentenced to pay a fine of up to
18 \$25.

19 (2) A person violating any of the provisions of this
20 section with a motor carrier vehicle is guilty of a summary
21 offense and shall, upon conviction, be sentenced to pay a
22 fine of \$500.

23 Section 6. Section 4704 of Title 75 is amended by adding
24 subsections to read:

25 § 4704. Inspection by police or Commonwealth personnel.

26 * * *

27 (c.1) Critical vehicle defects.--It is unlawful for a person
28 to operate or cause or permit another person to operate on a
29 highway a motor carrier vehicle which has any of the following
30 critical vehicle defects:

1 (1) Inoperable or missing brake on any wheel required to
2 have a brake.

3 (2) No operable tail lamps on the vehicle, or on the
4 rear vehicle of a combination.

5 (3) No operable brake lights on the vehicle, or on the
6 rear vehicle of a combination.

7 (4) Unsecured load.

8 (5) Any tire is flat; or a tire on a steering axle has
9 less than two thirty-seconds of an inch tread or any other
10 tire has less than one thirty-seconds of an inch tread when
11 measured in any two adjacent major tread grooves at any
12 location on the tire.

13 (6) A braking system with 20% or more of the brakes
14 beyond the readjustment limits as defined in department
15 regulations.

16 (c.2) Hours of service limitations.--It is unlawful for a
17 person to operate a motor carrier vehicle on a highway in excess
18 of the hours of service limitations established in department
19 regulations.

20 * * *

21 (h) Penalties.--A person who operates or causes or permits
22 another person to operate a motor carrier vehicle or bus in
23 violation of subsection (c.1) or (c.2) commits a summary offense
24 and, upon conviction, shall be sentenced to pay:

25 (1) A fine of \$1,000 for each violation of subsection
26 (c.1)(1) through (5).

27 (2) A fine of \$300 for a violation of subsection
28 (c.1)(6).

29 (3) A fine of \$500 for a violation of subsection (c.2).

30 Section 7. Sections 4981, 6309, 6310 and 7310 of Title 75

1 are amended to read:

2 § 4981. Weighing and measurement of vehicles.

3 (a) Authority of police officers and qualified department
4 employees.--Any police officer or qualified department employee
5 is authorized to require the driver of any vehicle or
6 combination to stop and submit the vehicle or combination to be
7 measured and weighed. Weighing may be done by using either
8 portable or stationary scales, provided that when portable
9 scales more than one inch in height are used, sufficient ramp
10 blocks shall be made available to allow the vehicle or
11 combination to mount the scales safely. The weighing shall be
12 conducted by qualified personnel who have been trained in the
13 use of weighing equipment in a training program approved by the
14 Department of Agriculture. The personnel performing the weighing
15 on all highways and interstates in this Commonwealth shall
16 inform the drivers of the vehicle of the right to readjust or
17 rearrange the load under section 4982(c) (relating to reducing
18 or readjusting loads of vehicles). The driver or owner, if
19 present, of any vehicle or combination may, at the time of
20 weighing, witness in an orderly fashion the weighing procedure.
21 If the driver wishes to witness the procedure from outside the
22 cab of the vehicle, he shall be required to turn off the engine,
23 put the transmission in gear and set the emergency brake before
24 leaving the cab. A police officer or qualified department
25 employee may require that a vehicle or combination be driven to
26 the nearest available portable or stationary scales if the
27 scales are within two miles. For the purpose of enforcing this
28 chapter, qualified department employees shall be authorized to
29 institute criminal proceedings pursuant to the Pennsylvania
30 Rules of Criminal Procedure.

(b) Scales on freeways.--The Department of Transportation, in cooperation with the Pennsylvania State Police, shall operate on freeways at points which it deems necessary scales and other equipment for detecting violations of the size and weight limitations prescribed by this chapter. The department may also contract with persons or local authorities to use their scales.

(c) Tolerance when weighing axles.--A 3% tolerance per axle shall be permitted when a vehicle is weighed on stationary or portable scales. This tolerance shall not apply on any interstate highway to vehicles weighed on stationary scales.

(d) Reweighing at request of driver or owner.--Whenever scales operated by other than the department indicate that a vehicle, wheel, axle or pair of axles is overweight, the driver or owner may elect to have the vehicle reweighed on the nearest available scales which have been certified by the Department of Agriculture. The lower reading of the two scales shall determine whether charges shall be filed under this section.

(e) [Calibration] Certification and accuracy of portable scales.--Portable scales shall be [calibrated] checked every 30 days for the purpose of certification [and] of accuracy by the Department of [Agriculture.] General Services. A certificate from the Department of General Services showing that portable scales were checked and found to be accurate and the date the portable scales were certified shall be competent and prima facie evidence of those facts in every proceeding in which a violation of this chapter is charged. The weight of a vehicle or combination, determined by using portable scales so certified, shall not be contradicted except by clear and convincing evidence.

(f) Certification of qualified personnel.--The competency of

1 a witness to testify concerning the weighing of a vehicle may be
2 established by a certificate from an agency of the Commonwealth,
3 showing that the person was trained in the use of weighing
4 equipment in a training program approved by a Commonwealth
5 agency. This certification shall be admissible as competent and
6 prima facie evidence that the person is qualified and trained in
7 the use of weighing equipment in such a training program.

8 § 6309. Impoundment of vehicles for nonpayment of fines.

9 (a) General rule.--Upon [imposition of] issuance of a
10 citation to or arrest of a person for a violation punishable by
11 a fine in excess of \$250 [imposed] pursuant to section 1301
12 (relating to registration and certificate of title required),
13 1371 (relating to operation following suspension of
14 registration)[,] or 4107(b) (relating to unlawful activities) or
15 Chapter 49 (relating to size, weight and load), the [defendant
16 shall be allowed 24 hours to obtain the funds and pay the fine
17 and costs of prosecution, during which time the vehicle or
18 combination shall be rendered temporarily inoperative by such
19 police officer or constable as the issuing authority shall
20 designate. On default of payment within the 24-hour period, the
21 issuing authority] police officer or qualified department
22 employee may impound the vehicle or combination [and order a
23 police officer or constable to seize it.

24 (b) Storage.--Upon impoundment, the issuing authority shall
25 forthwith notify the sheriff of the county in which the
26 violation occurred, who shall store the impounded vehicle or
27 combination.] until the matter is disposed of or until a bond is
28 posted in the full amount of the fine and costs.

29 (c) Notice of impoundment.--The [sheriff] police, or the
30 department, as the case may be, shall give immediate notice by

1 the most expeditious means and by certified mail, return receipt
2 requested, of the impoundment and location of the vehicle or
3 combination to the owner of the vehicle or combination and the
4 owner of the load if the names and addresses of the owner are
5 known or can be ascertained [by the sheriff].

6 (d) Cost.--The [police officer's, constable's and sheriff's
7 costs] costs incurred by the police or the department,
8 reasonable storage costs and all other reasonable costs incident
9 to seizure and impounding under subsections (a) and (b) shall be
10 recoverable in addition to costs of prosecution.

11 (e) Applicability.--This section shall not apply in the case
12 of a vehicle duly registered in this Commonwealth.

13 § 6310. Disposition of impounded vehicles and loads.

14 (a) Rights of owner of load.--The title to the load on an
15 impounded vehicle or combination remains in the owner who may
16 repossess the load at any time upon presentation of proof of
17 ownership to the sheriff. If the load spoils or otherwise loses
18 its value during impoundment, the loss shall be on the owner
19 subject to any right of recovery of damages that the owner may
20 have against the owner of the vehicle or combination or against
21 any other party, and the costs of disposition of the load shall
22 be recoverable in addition to the costs of prosecution.

23 (b) Sale of unclaimed vehicle or load.--In case any
24 impounded vehicle or combination is unredeemed, or the load is
25 unclaimed, for a period of 60 days after notice of impoundment
26 is given, it shall be sold at a public sale by the sheriff upon
27 order of the issuing authority and after ten days' notice of
28 sale to the owners, lienholders or secured parties of the
29 vehicle or load except that[, if] loads which the sheriff
30 determines [it to be necessary to preserve their value, goods

1 which may spoil may be sold] have little or no value or will
2 spoil or otherwise require prompt action to preserve their value
3 may be disposed of in any commercially reasonable manner prior
4 to expiration of the 60-day period and, if impractical to do so,
5 without giving notice to the owners, lienholders or secured
6 parties.

7 (c) Disposition of proceeds of sale.--The proceeds of sale
8 shall first be applied to the payment of the [fine and] costs
9 [and], secondly, to the payment of the fine, and, thirdly, to
10 payment of any encumbrances. The balance shall be remitted to
11 the owner. If the costs exceed the proceeds of sale, the owner
12 of the vehicle and load shall be jointly liable for the costs.

13 (d) Other provisions of law not superseded.--This section is
14 not intended to supersede the requirements of Chapter 83
15 (relating to hazardous materials transportation) or the act of
16 July 7, 1980 (P.L.380, No.97), known as the Solid Waste
17 Management Act.

18 § 7310. Removal of vehicles and spilled cargo from roadway.

19 (a) General rule.--Police officers may remove or direct
20 removal of vehicles which have been placed out of service,
21 whether because of the condition of the vehicle or driver, and
22 abandoned or wrecked vehicles and spilled cargo from any
23 [roadway] highway to the nearest [point off the roadway] place
24 where the vehicle or spilled cargo will not interfere with or
25 obstruct traffic. Immediately following an accident, the wrecked
26 vehicle or spilled cargo shall be removed or directed to be
27 removed from the roadway by a police officer if the owner or
28 operator cannot remove the wrecked vehicle or refuses or fails
29 to have the vehicle removed within a reasonable time.

30 (b) Storage of cargo.--When, in the opinion of a police

1 officer, it is deemed necessary for the protection of the
2 contents or load of a vehicle which has been placed out of
3 service, a wrecked vehicle or spilled cargo from the elements,
4 spoilage or theft, the police officer may remove or direct to be
5 removed and have stored at the expense of the owner the contents
6 or load or spilled cargo at the nearest practical place of
7 storage.

8 (c) Liability for damage or loss.--In carrying out the
9 provisions of this section, no liability shall attach to the
10 police officer or, absent a showing of gross negligence, to any
11 person acting under the direction of the police officer for
12 damage to a vehicle or damage to or loss of any portion of the
13 contents or load or spilled cargo.

14 Section 8. The definition of "motor vehicle" in section 9602
15 of Title 75 is amended to read:

16 § 9602. Definitions.

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

20 * * *

21 "Motor vehicle." A motor carrier vehicle having a gross
22 weight or registered gross weight in excess of 17,000 pounds.

23 * * *

24 Section 9. This act shall take effect in 60 days.