

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL  
No. 1664 Session of  
1981

INTRODUCED BY WILSON, CORNELL, POTT, LUCYK AND McVERRY, JUNE 17,  
1981

SENATOR HOWARD, FINANCE, IN SENATE, AS AMENDED, MAY 25, 1982

AN ACT

1 Amending the act of June 19, 1964 (P.L.7, No.1), entitled "An  
2 act imposing a road tax upon certain motor carriers,  
3 providing for the collection and administration thereof,  
4 establishing penalties, and making an appropriation to the  
5 Motor License Fund," redefining "motor vehicle"; providing  
6 for the retention of records and the filing of a bond; ~~and~~ <—  
7 further providing for the failure to pay the tax and making  
8 determinations and redeterminations AND FURTHER PROVIDING FOR <—  
9 EXEMPTIONS.

10 The General Assembly of the Commonwealth of Pennsylvania  
11 hereby enacts as follows:

12 Section 1. Clause (3) of section 2, act of June 19, 1964  
13 (P.L.7, No.1), known as the "Motor Carriers Road Tax Act,"  
14 amended July 15, 1976 (P.L.1026, No.205), is amended to read:

15 Section 2. Definitions.--As used in this act:

16 \* \* \*

17 (3) "Motor vehicle" means a ["Commercial Motor Vehicle"]  
18 "Motor Carrier Vehicle" as defined in [the act of April 29, 1959  
19 (P.L.58, No.32), known as "The Vehicle Code," and having more  
20 than two axles; or a "Truck Tractor" as defined in "The Vehicle

1 Code," and having two or more axles; provided, that "motor  
2 vehicle" shall also mean a "Commercial Motor Vehicle" as defined  
3 in "The Vehicle Code" and having two axles if the motor carrier  
4 operating or causing the operation of such vehicle on any  
5 highway in this State, by written statement upon the report made  
6 pursuant to section 8 hereof, elects to have such vehicle deemed  
7 a "motor vehicle" under this act] 75 Pa.C.S. § 102 (relating to  
8 definitions).

9 \* \* \*

10 Section 2. Sections 10, 14 and 17 of the act are amended to  
11 read:

12 Section 10. Records.--Every motor carrier shall keep such  
13 records, in such form as the secretary reasonably may prescribe,  
14 as will enable the carrier to report and enable the department  
15 to determine the total number of over-the-road miles traveled by  
16 its entire fleet of motor vehicles, the total number of over-  
17 the-road miles traveled in Pennsylvania by said entire fleet,  
18 the total number of gallons of motor fuel used by said entire  
19 fleet and the total number of gallons of motor fuel purchased in  
20 Pennsylvania for said entire fleet. As used in this section and  
21 in section 7, "entire fleet" and "entire operations" shall mean  
22 those motor vehicles which use the highways of Pennsylvania at  
23 any time during the period covered by the quarterly report and  
24 the operations of such vehicles respectively. All such records  
25 shall be safely preserved for a period of [three] five years in  
26 such manner as to insure their security and availability for  
27 inspection by the secretary or any authorized employe engaged in  
28 the administration of this act. Upon application in writing,  
29 stating the reasons therefor, the secretary may, in his  
30 discretion, consent to the destruction of any such records at

1 any time within said period if such records pertain to a period  
2 which has been audited by the department. Every taxpayer shall  
3 retain records required by this act at a place within the  
4 Commonwealth, provided that a taxpayer who elects to retain  
5 records outside of the Commonwealth shall assume reasonable out-  
6 of-state audit expenses.

7 Section 14. Filing of Bond; Refund Provisions.--A motor  
8 carrier may give a surety company bond in [the] an amount [of  
9 ten thousand dollars (\$10,000)] deemed necessary by the  
10 secretary to protect the revenues of the Commonwealth payable to  
11 the Commonwealth of Pennsylvania, and conditioned that the  
12 carrier will pay all taxes due and to become due under this act  
13 from the date of the bond to the date when either the carrier or  
14 the bonding company notifies the department that the bond has  
15 been cancelled. The surety shall be a corporation authorized to  
16 write surety bonds in Pennsylvania. So long as the bond remains  
17 in force the board may order refunds to the motor carrier in the  
18 amounts appearing to be due on applications duly filed by the  
19 motor carrier under section 4, without first auditing the  
20 records of the carrier [including the penalties and interest  
21 provided in section 18,]. The bond shall cover taxes and  
22 interest due thereon even though the assessment is made after  
23 cancellation of the bond, but only for taxes due and payable  
24 while the bond was in force and penalties and interest on said  
25 taxes.

26 Section 17. Failure to Report or Pay Tax; Penalty;  
27 Interest.--When any motor carrier fails to file a report within  
28 the time prescribed by this act for the filing thereof, he shall  
29 pay as a penalty [for each day thereafter, Saturdays, Sundays,  
30 and other legal holidays excluded, until the report is filed,

1 the sum of five dollars (\$5)] twenty-five dollars (\$25) for each  
2 failure to file on or before the prescribed date. In addition to  
3 the penalty herein imposed, any unpaid tax shall bear interest  
4 at the rate of one per cent per month or fraction thereof until  
5 the same is paid. The penalties and interest charges herein  
6 imposed shall be paid to the department in addition to the tax  
7 due. [The secretary, if satisfied that the failure to file the  
8 report or pay the tax was excusable, may remit or waive the  
9 payment of the whole or part of any penalty and such portion of  
10 the interest charge as is in excess of six per cent per annum.]

11 Section 3. Section 20 of the act, repealed in part April 28,  
12 1978 (P.L.202, No.53), is amended to read:

13 Section 20. Failure to Pay Tax; Determination;  
14 Redetermination; Review.--(a) If any person shall fail to pay  
15 any tax imposed by this act for which he is liable, the  
16 department is hereby authorized and empowered to make a  
17 determination of additional tax and interest due by such person  
18 based upon any information within its possession or that shall  
19 come into its possession. All of such determinations shall be  
20 made so that notice thereof shall reach the parties against whom  
21 made within [three] five years after the due date of the tax.  
22 Any such assessment may be made at any time during such period  
23 notwithstanding that the department may have made one or more  
24 previous assessments against the taxpayer for the year in  
25 question, or for any part of such year. In any such case, no  
26 credit shall be given for any penalty previously assessed or  
27 paid.

28 (b) Where no report is filed, the amount of the tax due may  
29 be assessed and collected at any time as to taxable transactions  
30 not reported.

1     (c) Where the taxpayer willfully files a false or fraudulent  
2 report with intent to evade the tax imposed by this act, the  
3 amount of tax due may be assessed and collected at any time.

4     (d) Notwithstanding any of the foregoing provisions of this  
5 act, where, before the expiration of the period prescribed  
6 therein for the assessment of a tax, a taxpayer has consented,  
7 in writing, that such period be extended, the amount of tax due  
8 may be assessed at any time within such extended period. The  
9 period so extended may be extended further by subsequent  
10 consent, in writing, made before the expiration of the extended  
11 period.

12     ~~[(b)]~~ (e) Promptly after the date of such determination, the  
13 department shall send, by ~~[certified]~~ first class mail, a copy  
14 thereof to the person against whom it was made. Within ninety  
15 days after the date upon which the copy of any such  
16 determination was mailed, such person may file with the  
17 department a petition for redetermination of such taxes. Every  
18 petition for redetermination shall state specifically the  
19 reasons which the petitioner believes entitles him to such  
20 redetermination, and it shall be supported by affirmation that  
21 it is not made for the purpose of delay and that the facts set  
22 forth therein are true. It shall be the duty of the department  
23 within six months after the date of any determination to dispose  
24 of any petition for redetermination. Notice of the action taken  
25 upon any petition for redetermination shall be given to the  
26 petitioner promptly after the date of redetermination by the  
27 department.

28     ~~[(c)]~~ (f) Any person shall have the right to review by the  
29 Board of Finance and Revenue and appeal in the same manner and  
30 within the same time as provided by law in the case of capital

1 stock and franchise taxes imposed upon corporations.

2 SECTION 4. SECTION 24 OF THE ACT IS AMENDED TO READ: <—

3 SECTION 24. EXEMPT VEHICLES; CARRIERS.--NOTHING IN THIS ACT  
4 SHALL APPLY TO ANY VEHICLE OPERATED BY OR ON BEHALF OF ANY  
5 DEPARTMENT, BOARD, BUREAU OR COMMISSION OF THIS STATE, OR ANY  
6 POLITICAL SUBDIVISION THEREOF, OR ANY QUASI-GOVERNMENTAL  
7 AUTHORITY OF WHICH THIS STATE IS A PARTICIPATING MEMBER, OR ANY  
8 AGENCY OF THE FEDERAL GOVERNMENT OR THE DISTRICT OF COLUMBIA, OR  
9 OF ANY STATE OR ANY POLITICAL SUBDIVISION THEREOF WHICH GRANTS  
10 SIMILAR EXEMPTION TO PUBLICLY OWNED VEHICLES REGISTERED IN THIS  
11 STATE. NOR SHALL THE PROVISIONS OF THIS ACT APPLY TO ANY SCHOOL  
12 BUS OPERATED BY, FOR, OR ON BEHALF OF THIS STATE, ANY POLITICAL  
13 SUBDIVISION THEREOF, OR ANY PRIVATE OR PRIVATELY OPERATED  
14 SCHOOL. THE PROVISIONS OF THIS ACT SHALL NOT APPLY TO THOSE  
15 MOTOR BUSES OPERATING UNDER THE PROVISIONS OF THE ACT OF AUGUST  
16 1, 1963 (P.L.476, NO.249), ENTITLED "AN ACT PROVIDING FOR THE  
17 TAXATION OF MOTOR FUELS CONSUMED BY INTERSTATE BUSES UPON A  
18 SYSTEM UNIFORM AMONG JURISDICTIONS ENACTING THE SAME  
19 PROVISIONS." THE PROVISIONS OF THIS ACT SHALL NOT APPLY TO A  
20 TRUCK, TRUCK TRACTOR OR COMBINATION USED SOLELY FOR AGRICULTURAL  
21 OR FARMING PURPOSES OWNED AND OPERATED BY A NONRESIDENT IN FULL  
22 COMPLIANCE WITH THE REGISTRATION REQUIREMENTS OF THE PLACE OF  
23 RESIDENCE OF THE OWNER.

24 Section 4 5. This act shall take effect ~~in 60 days~~. JULY 1, <—  
25 1983.