
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 259

Session of
1987

INTRODUCED BY ITKIN, VAN HORNE, TIGUE, CALTAGIRONE AND PRESTON,
FEBRUARY 10, 1987

REFERRED TO COMMITTEE ON FINANCE, FEBRUARY 10, 1987

AN ACT

1 Imposing a highway-use tax on commercial vehicles; providing for
2 the disposition of revenue raised by the tax; imposing
3 penalties; and making a repeal.

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8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. Short title.

11 This act shall be known and may be cited as the Weight-
12 Distance Tax Act.

13 Section 2. Legislative intent.

14 Recognizing that the operation of heavy motor vehicles upon
15 the highways of this Commonwealth increases the wear and damage
16 to these highways, and that the effect of this operation is to
17 shorten highway life, create hazards to other traffic and
18 pedestrians and impose on the Commonwealth a greater financial
19 burden for highway construction and maintenance than does the
20 operation of lighter-weight motor vehicles, the General Assembly
21 declares its intent, in this act, to distribute more equitably
22 the cost of highway construction and repair and to compensate
23 the Commonwealth, in part, for highway-use privileges granted to
24 heavy motor vehicles.

25 Section 3. Definitions.

26 The following words and phrases when used in this act shall
27 have the meanings given to them in this section unless the
28 context clearly indicates otherwise:

29 "Carrier." A person having the lawful use or control, or the
30 right to the use or control, of any commercial car, commercial

1 tandem, commercial tractor, commercial tractor combination or
2 other motor vehicle.

3 "Commercial car." A motor vehicle used for transporting
4 property wholly on its own structure on a public highway.

5 "Commercial tandem." A commercial car and trailer or a
6 commercial tractor, semitrailer and trailer when fastened
7 together and used as one unit.

8 "Commercial tractor." A motor vehicle designed and used to
9 propel or draw a trailer or semitrailer or both on a public
10 highway without having any provision for carrying loads
11 independently of such trailer or semitrailer.

12 "Commercial tractor combination." A commercial tractor and
13 semitrailer when fastened together and used as one unit.

14 "Gross weight." The registered weight of the motor vehicle
15 or a combination of vehicles and its load and driver.

16 "Motor vehicle." An automobile, truck, tandem, tractor or
17 other self-propelled device having a registered gross weight,
18 alone or in combination with any other motor vehicle, in excess
19 of 60,000 pounds, and any trailer, semitrailer, dolly or other
20 device drawn thereby and having a registered gross weight, alone
21 or in combination with any other motor vehicle, in excess of
22 60,000 pounds, which is operated upon the public highways of
23 this Commonwealth. The term "motor vehicle" does not include an
24 omnibus, a road roller, tractor crane, truck crane, power
25 shovel, road building machine, snow plow, road sweeper, sand
26 spreader or well driller.

27 "Public highway." A highway, road or street dedicated to
28 public use, except a highway under the control and jurisdiction
29 of the Pennsylvania Turnpike Commission.

30 "Secretary." The Secretary of Revenue of the Commonwealth.

1 "Semitrailer." Everything on wheels which is not self-
2 propelled, except vehicles or machinery not designed for or
3 employed in general highway transportation and except vehicles
4 whose total weight, excluding load, is less than 3,000 pounds,
5 designed and used for carrying property on a public highway when
6 being propelled or drawn by a commercial tractor when part of
7 its own weight or the weight of its load, or both, rest upon and
8 is carried by a commercial tractor.

9 "Trailer." Everything on wheels which is not self-propelled,
10 except vehicles or machinery not designed for or employed in
11 general highway transportation and except vehicles whose total
12 weight, excluding load, is less than 3,000 pounds, used for
13 carrying property wholly on its own structure and for being
14 drawn by a motor vehicle on a public highway, including any
15 vehicle when formed by or operated as a combination of a
16 semitrailer and a vehicle of the dolly type such as that
17 commonly known as a trailer dolly, except a house trailer.

18 "Vehicular unit." A motor vehicle or any combination of
19 motor vehicles operated as a unit.

20 Section 4. Highway-use permit and identification device;
21 application; fee.

22 (a) Application.--Every person who is the owner of a
23 commercial car which is to be operated as part of a commercial
24 tandem or a commercial tractor which is, or is to be, operated
25 or driven upon a public highway of this Commonwealth shall cause
26 to be filed with the secretary a written application for a
27 highway-use permit on blank forms to be furnished by the
28 secretary for that purpose.

29 (b) Information.--Each application for a highway-use permit
30 for a commercial car or a commercial tractor shall be filed on

1 an annual basis and shall state the registered gross weight of
2 the motor vehicle subject to the tax and any other pertinent
3 information as the secretary may reasonably prescribe.

4 (c) Fee.--The application shall be accompanied by a fee of
5 \$2.

6 (d) Permit and devices.--Upon receipt of the application and
7 fee, the secretary shall issue to the person making the
8 application a highway-use permit and an identification device or
9 devices as the secretary deems necessary. The permit and the
10 identification device or devices shall be of the design and
11 contain the information the secretary deems necessary. The
12 identification device or devices shall be displayed on the
13 commercial car or commercial tractor for which it was issued at
14 all times in such manner as the secretary prescribes. The
15 highway-use permits and the identification device and devices
16 shall not be transferable. If a highway-use permit or
17 identification device is lost, the secretary shall issue a
18 duplicate upon payment of a fee of \$1.

19 (e) Term of permit.--The highway-use permit shall be valid
20 until suspended or surrendered. All moneys collected under this
21 section shall be deposited in the Motor License Fund.

22 Section 5. Unlawful operation; secretary to be notified.

23 (a) General rule.--It shall be unlawful for any person to
24 operate any vehicle subject to the provisions of this act on a
25 public highway in this Commonwealth without a valid highway-use
26 permit for the motor vehicle.

27 (b) Notification of secretary.--The district justice or
28 judge finding any person guilty of unlawfully operating a
29 vehicle under this act shall immediately notify the secretary of
30 the violation and shall transmit to the secretary the name and

1 the permanent address of the owner of the vehicle operated in
2 violation of this act, the registration number, the state of
3 registration and the certificate of title number of the vehicle.

4 Section 6. Highway-use tax; liability of owner and lessee.

5 (a) Imposition of tax.--In addition to any other tax or fee
6 imposed by law, there is hereby imposed a highway-use tax for
7 the privilege of operating any commercial car, commercial car as
8 part of a commercial tandem, or commercial tractor used as part
9 of a commercial tractor combination or commercial tandem, with a
10 registered weight in excess of 60,000, pounds upon the public
11 highways of this Commonwealth. The tax shall be based upon the
12 registered gross weight of each vehicular unit and the maximum
13 number of miles operated on the public highways of this
14 Commonwealth. The tax for each vehicular unit shall be computed
15 by multiplying the number of miles by the appropriate weight
16 group tax rate as it appears in the following table:

17	Gross Weight of Vehicle	Weight Group Tax
18		Rate (in cents)
19	60,001 to 64,000	1.5
20	64,001 to 68,000	2.0
21	68,001 to 73,280	2.5
22	73,281 to 76,000	3.0
23	76,001 to 78,500	3.25
24	78,501 to 80,000	3.5
25	80,001 and over (per 2,000 lbs.)	2.0

26 (b) Liability.--The owner of each commercial car and
27 commercial tractor shall be liable for the payment of the full
28 amount of the taxes levied under this act, and any person who
29 leases, rents or otherwise acquires a right to use or operate a
30 commercial car or commercial tractor shall be liable for the

1 payment of the taxes levied with respect to the miles traveled
2 in operations under the lease, rental or other agreement. The
3 liability of the person leasing, renting or otherwise acquiring
4 a right to use or operate a commercial car or commercial tractor
5 and the liability of the owner of the commercial car or
6 commercial tractor shall be joint and several with respect to
7 the miles traveled in operations under the lease, rental or
8 other agreement.

9 Section 7. Refund of taxes paid illegally or erroneously.

10 The State Treasurer shall refund the amount of taxes paid
11 illegally or erroneously, or paid on any illegal or erroneous
12 assessment. An application shall be filed with the secretary
13 within 90 days from the date it is ascertained that the payment
14 made or assessment paid was illegal or erroneous. In any event
15 an application for refund shall be filed with the secretary
16 within four years from the date of the illegal or erroneous
17 payment of the tax. On filing of the application, the secretary
18 shall determine the amount of refund due and certify the amount
19 to the Auditor General and State Treasurer. The secretary shall
20 order the amount so certified for refund to be paid from the
21 Motor License Fund. The form of the application for refund shall
22 be prescribed by the secretary and, when filed, shall be
23 accompanied by a sworn statement as to its truth. Application
24 for refund shall be filed by the person who made payment of the
25 tax for which the refund is claimed.

26 Section 8. Record of miles traveled.

27 Every person who is or becomes liable for the payment of the
28 tax shall keep a complete and accurate record, upon forms
29 prescribed by the secretary, showing the total miles traveled on
30 a public highway in this Commonwealth by each commercial car and

1 commercial tractor owned, leased, rented or otherwise operated
2 by the person, the weight classification of the vehicle while
3 traveling those miles, the highway-use permit number for each
4 commercial car and commercial tractor owned or operated and any
5 other information as the secretary may require. The records
6 shall be available at any time, during normal business hours,
7 for the inspection of the secretary or his duly authorized
8 agents and shall be preserved for a period of four years.

9 Section 9. Highway-use tax return; liability for payments.

10 Whoever is liable for the payment of the tax shall, on or
11 before January 20, April 20, July 20 and October 20 of each
12 year, file with the State Treasurer, on forms prescribed by the
13 secretary, a highway-use tax return and make payment of the full
14 amount of the tax due for the operation of each commercial car
15 and commercial tractor for the preceding three calendar months.
16 In the event two or more persons are jointly and severally
17 liable for the payment of the tax on a given number of miles
18 traveled, no person shall be required to pay the tax on the
19 given number of miles traveled if the tax has been paid, or is
20 currently being paid, by another. Nothing in this section shall
21 be construed to relieve any person liable for the payment of the
22 tax from the duty of filing returns showing the full amount of
23 tax accrued by reason of the operation of any commercial car or
24 commercial tractor owned, leased, rented or otherwise operated
25 by the person. Nothing in this section shall be construed to
26 limit the power of the secretary to make assessments against any
27 or all persons liable, in the event the tax is not actually paid
28 or any deficiencies are found to be due.

29 Section 10. Failure to file return; incomplete return;
30 incorrect return; notice of assessment.

1 (a) Assessment.--In the event any person required to file a
2 highway-use tax return fails to file the return within the time
3 prescribed, files an incomplete return, files an incorrect
4 return or fails to remit the full amount of the tax due for the
5 period covered by the return, the secretary may make an
6 assessment against the person, based upon any information in his
7 possession, for the period for which such tax was due. The
8 secretary shall give the person against whom the assessment is
9 made written notice of the assessment either by personal service
10 or by registered mail, return receipt requested.

11 (b) Penalty.--A penalty of 5% shall be added to the amount
12 of an assessment made under this section. The secretary may
13 adopt and promulgate rules and regulations providing for the
14 remission of penalties added to assessments.

15 (c) Status of assessment.--Unless the person to whom the
16 notice of assessment is directed, within 30 days after service
17 of the notice, either personally or by registered mail, return
18 receipt requested, files a petition in writing, verified under
19 oath by the person, or his duly authorized agent, having
20 knowledge of the facts, setting forth with definiteness and
21 particularity the items of the assessment objected to, together
22 with the reasons for the objections, and posts bond satisfactory
23 to the secretary conditioned upon payment of the tax finally
24 determined to be due, the assessment shall become and be deemed
25 conclusive, and the amount of the assessment shall be due and
26 payable, from the person so assessed, to the State Treasurer.

27 (d) Hearing.--In every case where a petition for
28 reassessment is filed, the secretary shall assign a time and
29 place for the hearing on the petition and shall give notice to
30 the petitioner by registered mail, return receipt requested, but

1 the secretary shall have the power to continue the hearing from
2 time to time as may be necessary. Upon satisfaction of the
3 assessment, the bond shall be canceled or returned.

4 (e) Payment of assessment.--Where any person has filed a
5 petition for reassessment as provided in this section, the
6 assessment as made by the secretary, together with any penalties
7 imposed, shall become due and payable within three days after
8 notice of the finding made at the hearing has been served,
9 either personally or by registered mail, return receipt
10 requested, upon the party assessed.

11 (f) Limitations.--No assessment shall be made by the
12 secretary, under the provisions of this section, more than four
13 years after the last day of the calendar year during which the
14 tax was due. This subsection shall not bar an assessment against
15 a person who failed to file a highway-use tax return as required
16 by this section.

17 Section 11. Suspension; reinstatement; penalty for failure to
18 file return.

19 (a) Filing of certified copy.--When the secretary files a
20 certified copy of an entry making an assessment, the secretary
21 shall suspend all highway-use permits issued to the person
22 against whom the assessment was made. No highway-use permit
23 shall be suspended while an appeal is pending, except in those
24 cases in which no return has been filed.

25 (b) Surrender of permit.--Upon suspension of a highway-use
26 permit, the owner of the commercial car or commercial tractor
27 for which the permit was issued shall surrender to the secretary
28 the permit and identification device.

29 (c) Payment; reinstatement.--Upon payment in full of the
30 assessments and penalties, the secretary shall immediately

1 reinstate all suspended highway-use permits issued to the person
2 against whom the assessment was made.

3 (d) Suspension of permit.--In the event no returns have been
4 filed within the time prescribed for the filing of returns, or
5 within such extension of time for filing as the secretary may
6 grant, the secretary may, after written notice of his intention
7 so to do, immediately suspend all highway-use permits held by
8 the person failing to file a return. The notice shall be sent by
9 certified mail, return receipt requested, to the last known
10 address of the person. No permit which has been suspended for
11 failure to file a return shall be reinstated until the person
12 has filed complete and correct returns for all periods in which
13 no return has been filed and paid the full amount of the tax due
14 thereon. The returns shall be accompanied with a penalty of 5%.
15 Section 12. Service on nonresident.

16 Any nonresident of this Commonwealth who operates a
17 commercial car or commercial tractor which is subject to the tax
18 levied by this act, or has the same operated within this
19 Commonwealth, and any resident of this Commonwealth who operates
20 a commercial car or commercial tractor which is subject to the
21 tax, or has the same operated within this Commonwealth and
22 subsequently becomes a nonresident or conceals his whereabouts,
23 makes the Secretary of the Commonwealth his agent for the
24 service of process or notice in any assessment, action or
25 proceeding instituted in this Commonwealth against him out of
26 the failure to pay the taxes imposed upon him.

27 Section 13. Exceptions.

28 The provisions of this act do not apply to motor vehicles,
29 commercial cars or commercial tractors owned and operated by the
30 United States, the Commonwealth or any political subdivisions

1 thereof.

2 Section 14. Powers of secretary.

3 In addition to any other powers conferred upon him by law,
4 the secretary shall have the following powers:

5 (1) To prescribe all forms required to be filed.

6 (2) To appoint and employ such personnel as may be
7 necessary to carry out the duties imposed by this act.

8 (3) To adopt and promulgate rules and regulations
9 pertaining to the levy and collection of the tax.

10 (4) To release any property from the lien of any fees,
11 taxes, penalties or interest imposed upon application, if
12 payment be made to the secretary for the full amount of all
13 taxes and penalties due.

14 (5) To extend, for cause shown, the time of filing any
15 return.

16 Section 15. Penalties.

17 (a) Summary offense.--Whoever violates any provisions of
18 this act or any rule or regulation promulgated by the secretary
19 under this act commits a summary offense.

20 (b) Misdemeanor.--Whoever files or causes to be filed a
21 false or fraudulent return or application for a first offense
22 commits a summary offense and for a second or subsequent offense
23 commits a misdemeanor of the third degree.

24 Section 16. Disposition of revenue.

25 All revenue raised from this act, except as provided in
26 section 4, shall be designated in a Critical Highway and Bridge
27 Maintenance and Construction Account which is hereby created
28 within the Motor License Fund. First priority for the
29 disposition of proceeds deposited in the Critical Highway and
30 Bridge Maintenance and Construction Account shall be to the

1 Treasury Department for deposit into the Capital Debt Fund for
2 the payment of debt service on general obligation bonds of the
3 Commonwealth which may be issued from time to time to fund any
4 project described in the act of December 8, 1982 (P.L.848,
5 No.235), known as the Highway-Railroad and Highway Bridge
6 Capital Budget Act for 1982-1983. Of the revenue raised, 25%
7 shall be appropriated by the General Assembly for municipal
8 highway projects, with first priority to be given to the funding
9 of the non-Federal share of bridge rehabilitation, replacement
10 and removal projects on county-owned or municipal-owned bridges
11 and bridges of undetermined ownership on county or municipal
12 highways. Excess funds shall be used for payment of the non-
13 Federal share of bridge rehabilitation, replacement and removal
14 projects on State-owned bridges and bridges of undetermined
15 ownership on State highways and, additionally, for highway and
16 bridge projects for which a specific authorization and
17 appropriation shall be provided by law.

18 Section 17. Repeals.

19 Chapter 99 of Title 75 of the Pennsylvania Consolidated
20 Statutes (relating to axle tax for highway bridge improvement)
21 is repealed.

22 Section 18. Effective date.

23 This act shall take effect in 60 days.