

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 562 Session of
1997

INTRODUCED BY CLARK, MASLAND, ITKIN, FEESE, PESCI, BUNT, WAUGH,
HENNESSEY, VANCE, FLICK, ARMSTRONG, SATHER, READSHAW,
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DIGIROLAMO, CORNELL, RAYMOND, ADOLPH, SCHRODER, KELLER,
TRAVAGLIO, SERAFINI, BOSCOLA, HALUSKA AND COLAFELLA,
FEBRUARY 12, 1997

REFERRED TO COMMITTEE ON TRANSPORTATION, FEBRUARY 12, 1997

AN ACT

1 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated
2 Statutes, further defining "emergency vehicle"; adding a
3 definition of "issuing agent"; further providing for
4 revocation or suspension of operating privilege, for
5 insurance premiums, for reports by issuing authorities and
6 for reports by courts; authorizing the Commonwealth to enter
7 into agreements with private firms for the development,
8 financing, design, construction and operation of new
9 transportation facilities and for the operation, improvement,
10 financing or rehabilitation of existing transportation
11 facilities; establishing the Pennsylvania Infrastructure Bank
12 and providing for its powers and duties; and making a repeal.

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

15 Section 1. The introductory paragraph of the definition of
16 "emergency vehicle" in section 102 of Title 75 of the
17 Pennsylvania Consolidated Statutes is amended and the section is
18 amended by adding a definition to read:

19 § 102. Definitions.

1 Subject to additional definitions contained in subsequent
2 provisions of this title which are applicable to specific
3 provisions of this title, the following words and phrases when
4 used in this title shall have, unless the context clearly
5 indicates otherwise, the meanings given to them in this section:

6 * * *

7 "Emergency vehicle." A fire department vehicle, police
8 vehicle, sheriff vehicle, ambulance, blood-delivery vehicle,
9 motor carrier enforcement vehicle, hazardous material response
10 vehicle, armed forces emergency vehicle, a United States,
11 Pennsylvania or county emergency management vehicle used for
12 answering emergency calls, one privately owned vehicle operated
13 by a coroner or chief county medical examiner and one privately
14 owned vehicle operated by a chief deputy coroner or deputy chief
15 county medical examiner used for answering emergency calls, or
16 any other vehicle designated by the State Police under section
17 6106 (relating to designation of emergency vehicles by
18 Pennsylvania State Police), or a privately owned vehicle used in
19 answering an emergency call when used by any of the following:

20 * * *

21 "Issuing agent." A full agent, card agent, dealer or
22 manufacturer, whom the Department of Transportation has
23 authorized to issue temporary registration cards and plates.

24 * * *

25 Section 2. Sections 1532(d), 1793(a), 6322 and 6323 of Title
26 75 are amended to read:

27 § 1532. Revocation or suspension of operating privilege.

28 * * *

29 (d) [Additional suspension.--] Violations of Title 18.--

30 (1) The department shall suspend the operating privilege

1 of any person upon receiving a certified record of the
2 [driver's] person's conviction, adjudication of delinquency
3 or admission into a preadjudication program for a violation
4 under 18 Pa.C.S. § 6307 (relating to misrepresentation of age
5 to secure liquor or malt or brewed beverages), 6308 (relating
6 to purchase, consumption, possession or transportation of
7 liquor or malt or brewed beverages) or 6310.3 (relating to
8 carrying a false identification card). The duration of the
9 suspension shall be as follows:

10 [(1) For a first offense, the department shall impose a
11 suspension for a period of 90 days.

12 (2) For a second offense, the department shall impose a
13 suspension for a period of one year.

14 (3) For a third and subsequent offense, the department
15 shall impose a suspension for a period of two years. Any
16 multiple suspensions imposed shall be served consecutively.

17 Courts may certify the conviction, adjudication of delinquency
18 or admission into the preadjudication program on the same form
19 used to submit the order of suspension required under the
20 provisions of 18 Pa.C.S. § 6310.4 (relating to restriction of
21 operating privileges). Wherever practicable, the suspension
22 imposed under this section shall be made concurrent with the
23 suspension imposed under the provisions of 18 Pa.C.S. § 6310.4.
24 All offenses committed on or after May 23, 1988, shall be
25 included in considering whether an offense is a first, second,
26 third or subsequent offense.]

27 (i) For a first offense, the department shall impose
28 a suspension for a period of 90 days. If, however, the
29 person successfully completes the preadjudication program
30 to which he has been admitted, the period of suspension

1 shall be reduced to 45 days.

2 (ii) For a second offense, the department shall
3 impose a suspension for a period of one year.

4 (iii) For a third and subsequent offense, the
5 department shall impose a suspension for a period of two
6 years. Any multiple suspensions imposed shall be served
7 consecutively.

8 (2) If the person is admitted to a preadjudication
9 program, the court shall notify the department within ten
10 days from the person's successful completion of the program.

11 (3) All offenses committed on or after May 23, 1988,
12 shall be included in considering whether an offense is a
13 first, second, third or subsequent offense.

14 § 1793. Special provisions relating to premiums.

15 (a) Limitation on premium increases.--

16 (1) An insurer shall not increase the premium rate of an
17 owner of a policy of insurance subject to this chapter solely
18 because one or more of the insureds under the policy made a
19 claim under the policy and was paid thereon unless it is
20 determined that the insured was at fault in contributing to
21 the accident giving rise to the claim.

22 (2) No insurer shall charge an insured who has been
23 convicted of a violation of an offense enumerated in section
24 1535 (relating to schedule of convictions and points) a
25 higher rate for a policy of insurance solely on account of
26 the conviction. An insurer may charge an insured a higher
27 rate for a policy of insurance if a claim is made under
28 paragraph (1).

29 (3) An insurer shall not increase premiums, impose any
30 surcharge or rate penalty, or make any driver record point

assignment for automobile insurance, nor shall an insurer
cancel or refuse to renew an automobile insurance policy on
account of a suspension under section 1532(d) (relating to
revocation or suspension of operating privilege).

* * *

§ 6322. Reports by issuing authorities.

(a) General rule.--Subject to any inconsistent procedures
and standards relating to reports and transmission of funds
prescribed pursuant to Title 42 (relating to judiciary and
judicial procedure):

(1) Following the fifteenth and last days of each month,
every issuing authority shall prepare a statement, upon forms
prescribed and furnished by the department, of all fines
collected, bail forfeited, sentence imposed and final
disposition for all cases on violations of any provisions of
this title or under 18 Pa.C.S. § 6307 (relating to
misrepresentation of age to secure liquor or malt or brewed
beverages), 6308 (relating to purchase, consumption,
possession or transportation of liquor or malt or brewed
beverages) or 6310.3 (relating to carrying a false
identification card), including an adjudication of
delinquency or admission into a preadjudication program,
decided by the issuing authority in the semimonthly reporting
period just concluded. The statement shall be certified by
the issuing authority to be true and correct and shall be
forwarded to the department within the following week, with a
copy sent to the police department which filed the charge.
Any fines and bail forfeited payable to the Commonwealth
under Subchapter E of Chapter 35 of Title 42 (relating to
fines, etc.) shall accompany the report to the department.

(2) The report shall include the identifying number of the citation, the name and residence address of the party charged, the driver's license number, the registration number of the vehicle involved, a description of the offense, the section and subsection of the statute or ordinance violated, the date of hearing, the plea, the judgment or whether bail was forfeited, clear and concise reasons supporting the adjudication, the sentence or amount of forfeiture and such other information as the department may require.

(b) Use of reports by department.--The department shall promptly enter the information contained in the reports in the records of the persons involved in order to effect swift execution of the provisions of Subchapter B of Chapter 15 (relating to a comprehensive system for driver education and control).

§ 6323. Reports by courts.

Subject to any inconsistent procedures and standards relating to reports and transmission of funds prescribed pursuant to Title 42 (relating to judiciary and judicial procedure):

(1) The clerk of any court of this Commonwealth, within ten days after final judgment of conviction or acquittal or other disposition of charges under any of the provisions of this title [or], under section 13 of the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, or under 18 Pa.C.S. § 6307 (relating to misrepresentation of age to secure liquor or malt or brewed beverages), 6308 (relating to purchase, consumption, possession or transportation of liquor or malt or brewed beverages) or 6310.3 (relating to carrying a false identification card), including an adjudication of

1 delinquency, admission into a preadjudication program or the
2 granting of a consent decree, shall send to the department a
3 record of the judgment of conviction, acquittal or other
4 disposition.

5 (2) A record of the judgment shall also be forwarded to
6 the department upon conviction or acquittal of a person of a
7 felony, a misdemeanor of the first degree or a misdemeanor of
8 the second degree in the commission of which the judge
9 determines that a motor vehicle was essentially involved.

10 (3) The fines and bail forfeited under any of the
11 provisions of this title payable to the Commonwealth under
12 Subchapter E of Chapter 35 of Title 42 (relating to fines,
13 etc.) shall accompany the record sent to the department.

14 (4) The record of judgment required to be sent to the
15 department by paragraphs (1) and (2) shall indicate if the
16 vehicle driven by the person was a commercial motor vehicle.

17 Section 3. Title 75 is amended by adding a chapter to read:

18 CHAPTER 84

19 PUBLIC-PRIVATE TRANSPORTATION PARTNERSHIP

20 Sec.

21 8401. Declaration of policy.

22 8402. Definitions.

23 8403. New transportation facilities.

24 8404. Existing transportation facilities.

25 8405. Construction.

26 8406. Contracting for law enforcement services.

27 8407. Pilot projects and expansion of program.

28 8408. Pennsylvania Infrastructure Bank.

29 § 8401. Declaration of policy.

30 The General Assembly finds and declares as follows:

1 (1) An efficient transportation system is essential for
2 this Commonwealth's economic well-being and for the
3 maintenance of a high quality of life for the people.

4 (2) Public sources of revenue to provide for an
5 efficient transportation system have not kept pace with this
6 Commonwealth's growing transportation needs, and alternative
7 funding sources should be developed to augment or supplement
8 available public sources of revenue.

9 (3) One important alternative is privately funded
10 transportation projects, whereby private firms obtain
11 exclusive agreements to develop all or a portion of a public
12 transportation facility or rehabilitate, improve or operate
13 an existing transportation facility.

14 (4) During the term of the development agreement the
15 private firm may own or lease the transportation facility
16 from the Commonwealth and charge tolls, user fees or annual
17 lease payments sufficient to retire the private investment in
18 the transportation project, including a reasonable return on
19 investment, operate and maintain the transportation facility,
20 retire any outstanding debt issued in support of the project
21 and make lease payments to the Commonwealth.

22 (5) Privately financed transportation projects allow for
23 joint ventures of private firms and public entities that do
24 all of the following:

25 (i) Take advantage of private sector efficiencies in
26 designing and building transportation projects.

27 (ii) Allow for the rapid formation of capital
28 necessary for funding transportation projects.

29 (iii) More quickly bring reductions in congestion in
30 new and existing transportation corridors.

(iv) Offer the traveling public alternatives to the public transportation facilities now available or which reasonably can be made available in light of limited public funds.

(6) The department should be permitted and encouraged to test the feasibility of privately built and operated transportation facilities.

§ 8402. Definitions.

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

"Department." The Department of Transportation of the Commonwealth.

"Private firm." An individual, partnership, corporation, unincorporated association or a consortium thereof who or which enters into an agreement with the department pursuant to any of the provisions of this act.

"Transportation facility." All or any portion of the Commonwealth's transportation system, including, but not limited to, highways, roads, bridges, rights-of-way, vehicles and equipment, ports and marine-related facilities, park and ride lots, commuter facilities, rail and other transit systems, rest areas, tourist information centers, tunnels, airports, transportation management systems, communication and information systems, toll collection systems, intermodal transfer center or any combination of the above.

§ 8403. New transportation facilities.

(a) Department powers and duties.--The department shall have the power to solicit proposals and enter into agreements with private firms or consortia of private firms for the

1 construction, ownership, lease or operation of transportation
2 facilities. The department may exercise any power possessed by
3 it, including, but not limited to, eminent domain, to facilitate
4 the development, construction, financing, operation and
5 maintenance of highway projects under this act.

6 (b) Selection of projects.--The department may develop the
7 concept for transportation facility projects on its own and it
8 may solicit or accept suggestions for transportation facility
9 projects from interested persons. In selecting the private firm
10 to construct, rehabilitate, improve or operate a transportation
11 facility, the department is not required to follow existing
12 statutes, regulations or policies governing bidding or
13 procurement; instead the department shall solicit proposals and
14 select from among them using a fair, open, competitive process
15 designed to fit the needs of the particular transportation
16 facility project.

17 (c) State and local approval.--Prior to commencing
18 construction, transportation facility projects developed under
19 this section shall be approved through the applicable Statewide
20 and local planning and programming process to the extent that
21 such projects would have been required to be approved if they
22 were solely public projects. The process shall give
23 consideration to the unique characteristics involved with
24 private financing and development.

25 (d) Rights-of-way, easements and permits.--For the purpose
26 of facilitating transportation facility projects, the agreements
27 may include provisions for the lease of facilities and rights-
28 of-way in and airspace over or under State property, for the
29 granting of necessary easements and for the issuance of permits
30 or other authorizations to enable the private firm to carry out

1 the projects. The agreement may also provide the private firm
2 the right of first refusal to undertake projects utilizing
3 airspace owned by the department.

4 (e) Leases.--A transportation facility constructed,
5 rehabilitated or improved by a private firm under this act shall
6 at all times be owned by the Commonwealth, unless the department
7 elects to provide for private ownership during all or part of
8 the term of the agreement. The agreement shall provide for the
9 ownership by or the lease of the transportation facility to the
10 private firm for up to 50 years. In consideration therefor, the
11 agreement shall provide for complete reversion of the privately
12 constructed, rehabilitated or improved transportation facility
13 to the Commonwealth at the natural expiration of the lease at no
14 charge to the Commonwealth.

15 (f) Maintenance service agreements.--The contract may
16 provide that the private firm shall be responsible for
17 maintenance and repair of the transportation facility. However,
18 the private firm may enter into agreements with the department
19 to provide maintenance or repairs. Agreements for maintenance or
20 repair services entered into under this chapter may provide for
21 full reimbursement to the Commonwealth for services rendered by
22 the department and reimbursement pay be in cash or in kind as
23 specified by the department.

24 (g) Return on private investment.--Agreements entered into
25 under this act may authorize the private firm to impose fees or
26 tolls for the use of a transportation facility constructed,
27 improved, rehabilitated or operated by it and shall require that
28 over the term of the lease the fees or the toll revenues be
29 applied to payment of the private firm's capital outlay costs
30 for the transportation facility project, the costs associated

1 with operations, toll collection and administration of the
2 project, reimbursement to the State for the costs of services
3 provided for the transportation facility and a reasonable return
4 on investment to the private firm. The agreement may require
5 that any excess revenue be applied to any indebtedness incurred
6 by the private firm with respect to the project or be paid into
7 the Motor License Fund. Subsequent to expiration of the lease of
8 a transportation facility to a private firm, the department may
9 continue to charge fees or tolls for use of the transportation
10 facility. The agreement shall determine a negotiated maximum
11 rate of return on investment based on project characteristics.
12 For the purposes of this subsection, capital outlay costs
13 include interest, expense, development costs, permitting costs,
14 design and construction costs, costs associated with the
15 department's review and oversight functions, and costs
16 associated with establishment of a fund to assure the adequacy
17 of maintenance and repair expenditures.

18 (h) Plans and specifications.--The plans and specifications
19 for each project constructed pursuant to this section shall
20 comply with the department's standards for transportation
21 facilities, except that innovative design and construction
22 methods may be used by the private entity when authorized by the
23 department.

24 (i) State highway system.--A highway constructed by and
25 leased to or from a private firm shall, during the term of the
26 lease, be deemed to be part of the State highway system for
27 purposes of highway identification and enforcement of traffic
28 and fee or toll evasion laws.

29 (j) Federal or State funds or other resources.--Nothing in
30 this section shall prohibit the use of available Federal or

1 State funds or other resources to supplement private funding of
2 a transportation facility project. Terms and conditions of the
3 Federal or State funding shall be included in the agreement
4 entered into by the department and the private firm.

5 (k) Environmental clearances.--The department shall not be
6 required to comply with the provisions of section 2002(b) of the
7 act of April 9, 1929 (P.L.177, No.175), known as The
8 Administrative Code of 1929, until after a contract for the
9 transportation facility project is awarded. The department may
10 require that the private firm which is awarded the contract
11 secure all necessary environmental clearances prior to
12 commencing any construction on the project.

13 (l) Additional terms.--Agreements under this act may include
14 any contractual provision that, in the department's sole
15 discretion, is appropriate to the particular project.
16 Notwithstanding any other provision of law, the agreement may
17 permit commercial enterprises or activities in any new or
18 existing transportation facility.

19 § 8404. Existing transportation facilities.

20 The department shall have the power to solicit proposals and
21 enter into contracts with private firms or consortia of private
22 firms to improve, rehabilitate, operate, use or make capital
23 improvements to existing State transportation facilities or
24 portions thereof. To the extent applicable, the provisions of
25 section 8403 (relating to new transportation facilities) shall
26 apply to transportation facility projects under this section.

27 § 8405. Construction.

28 A private firm entering into an agreement with the department
29 under this chapter shall be a public body for purposes of the
30 act of August 15, 1961 (P.L.987, No.442), known as the

1 Pennsylvania Prevailing Wage Act.

2 § 8406. Contracting for law enforcement services.

3 Agreements for law enforcement services for privately
4 operated transportation facilities under this chapter may be
5 entered into with any law enforcement agency and shall provide
6 for reimbursement for services rendered by that agency.

7 § 8407. Pilot projects and expansion of program.

8 The department is authorized to enter into agreements for a
9 sufficient number of pilot transportation facility projects to
10 determine the efficacy of public-private partnerships for
11 transportation facility projects. Within two years from the date
12 of enactment of this chapter, the department shall provide a
13 written report to the Transportation Committee of the Senate and
14 the Transportation Committee of the House of Representatives
15 summarizing activities undertaken pursuant to this chapter.
16 After submitting the written report, the department shall be
17 authorized to expand the pilot program on a permanent Statewide
18 basis.

19 § 8408. Pennsylvania Infrastructure Bank.

20 (a) Establishment.--There is hereby established a fund to be
21 known as the Pennsylvania Infrastructure Bank. The Secretary of
22 Transportation shall be the treasurer-custodian of the bank. The
23 bank is authorized to hold and to disburse in accordance with
24 this section all Federal and State funds made available for its
25 use.

26 (b) Authorization.--The bank is authorized to:

27 (1) Make loans to or enter into leases with qualified
28 borrowers to finance the costs of qualified projects and to
29 acquire, hold and sell borrower obligations evidencing the
30 loans.

1 (2) Enter into guaranties secured solely by or purchase
2 insurance or other credit enhancement through amounts on
3 deposit in the bank.

4 (3) Enter into contracts, arrangements and agreements to
5 provide assistance through amounts on deposit in the bank.
6 The department shall determine the form and content of any
7 borrower obligation, including the terms and rate of interest
8 on any loans or leases.

9 (4) Enter into contracts, arrangements and agreements
10 with other persons and execute and deliver all trust
11 agreements, loan agreements and other instruments necessary
12 or convenient to the exercise of the powers granted by this
13 section.

14 (5) Enter into grant cooperative, operating and other
15 agreements with the United States relating to the bank.

16 (6) Establish and collect fees, charges and interest.

17 (7) Establish fiscal controls and accounting procedures
18 for the bank.

19 (8) Adopt regulations, procedures or guidelines for the
20 bank and for accounting procedures by qualified borrowers for
21 financial assistance and projects.

22 (9) Establish accounts and subaccounts in the bank as
23 necessary and invest moneys held in the bank.

24 (c) Additional authorizations.--The bank and the secretary
25 are authorized to take any actions required by Federal law or
26 regulation in order to qualify as a State Infrastructure Bank
27 and to receive Federal funds made available to State
28 Infrastructure Banks.

29 (d) Limitations.--The department shall not be authorized to
30 be a bank, trust company, insurance company or dealer in

1 securities subject to any Federal or State banking or insurance
2 regulating agency, or any securities, securities exchange or
3 securities dealers' law.

4 Section 4. (a) The provisions of 18 Pa.C.S. § 6310.4 are
5 repealed.

6 (b) All other acts and parts of acts are repealed insofar as
7 they are inconsistent with 75 Pa.C.S. Ch. 84.

8 Section 5. This act shall take effect as follows:

9 (1) The amendment of 75 Pa.C.S. § 1532(d) shall take
10 effect in 120 days.

11 (2) The amendment or addition of the definitions of
12 "emergency vehicle" and "issuing agent" in 75 Pa.C.S. § 102
13 shall take effect in 60 days.

14 (3) Section 4(a) of this act shall take effect in 120
15 days.

16 (4) The remainder of this act shall take effect
17 immediately.