
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 2329 Session of
1978

INTRODUCED BY GOEBEL, APRIL 10, 1978

REFERRED TO COMMITTEE ON TRANSPORTATION, APRIL 10, 1978

AN ACT

1 Imposing a highway use permit fee and highway use tax; requiring
2 quarterly returns, imposing additional powers and duties on
3 the Department of Revenue and prescribing penalties.

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

6 Section 1. Short title.

7 This act shall be known and may be cited as the "Commercial
8 Highway Use Tax."

9 Section 2. Definitions.

10 The following words and phrases when used in this act shall
11 have, unless the context clearly indicates otherwise, the
12 meanings given to them in this section:

13 "Axle." Two or more load carrying wheels mounted in a single
14 transverse vertical plane.

15 "Combination." Two or more vehicles physically
16 interconnected in tandem.

17 "Department." The Pennsylvania Department of Revenue.

18 "Full trailer." A trailer so constructed that no part of its
19 weight rests upon the towing vehicle. A semitrailer attached to
20 a towing vehicle by means of an auxiliary front axle or dolly
21 shall be deemed to be a full trailer.

22 "Highway." The entire width between the boundary lines of
23 every way publicly maintained when any part thereof is open to
24 the use of the public for purposes of vehicular travel.

25 "Motor vehicle." A vehicle which is self-propelled except
26 one which is propelled solely by human power or by electric
27 power obtained from overhead trolley wires, but not operated
28 upon rails.

29 "Secretary." The Secretary of the Pennsylvania Department of
30 Revenue.

1 "Semitrailer." A trailer so constructed that some part of
2 its weight rests upon or is carried by the towing vehicle.

3 "Trailer." A vehicle designed to be towed by a motor
4 vehicle.

5 "Truck." A motor vehicle designed, used or maintained
6 primarily for the transportation of property.

7 "Truck tractor." A motor vehicle designed and used primarily
8 for drawing other vehicles and not so constructed as to carry a
9 load other than a part of the weight of the vehicle and load so
10 drawn.

11 Section 3. Highway use permit; identification device,
12 application; fees.

13 (a) Every person who is the owner of a truck with three or
14 more axles, a truck operated in combination or a truck tractor
15 which is, or is to be operated or driven upon a highway shall
16 file with the department a written application for a permanent
17 highway use permit on forms furnished by the department for that
18 purpose.

19 (b) Each application for a highway use permit for a truck or
20 truck tractor shall state the number of axles on such truck or
21 truck tractor and such other information as the department may
22 demand. The application shall be accompanied by a fee of \$2.

23 (c) Upon receipt of such application and fee, the department
24 shall issue to the applicant a highway use permit and such
25 identification device as it deems necessary for the proper
26 administration of this act. The permit and the identification
27 device shall be of such design and contain such information and
28 be displayed in the manner prescribed by the department.

29 (d) The highway use permit and identification device shall
30 be valid until surrendered or suspended and shall not be

1 transferrable. In the case of loss, the department upon receipt
2 of a fee of \$1 shall issue a duplicate highway use permit and
3 identification device.

4 (e) All moneys collected pursuant to this section shall be
5 deposited in the Motor License Fund.

6 Section 4. Operation without highway use permit to be unlawful.

7 (a) It shall be unlawful for any person to operate, on or
8 after July 1, 1978, a truck with three or more axles, a truck in
9 combination or a truck tractor on a highway without a valid
10 highway use permit and identification device for such truck or
11 truck tractor.

12 (b) In addition to the penalty prescribed by section 14(a),
13 the district magistrate shall require the person so convicted to
14 make immediate application to the department for a highway use
15 permit pursuant to section 3 and to file a bond with the
16 district magistrate in a sum of \$1,000 to be cancelled by the
17 district magistrate upon presentation of a valid highway use
18 permit within 60 days of the conviction.

19 Section 5. Imposition of highway use tax.

20 (a) There is hereby imposed upon each truck with three or
21 more axles, each truck operated in combination or each truck
22 tractor a highway use tax at the following rates:

23 (1) One-half cent for each mile traveled on a highway in
24 Pennsylvania by each truck with three axles.

25 (2) One cent for each mile traveled on a highway in
26 Pennsylvania by a truck combination with three axles or a
27 truck tractor combination with three axles.

28 (3) One and one-half cents for each mile traveled on a
29 highway in Pennsylvania by each truck tractor combination
30 with four axles.

1 (4) Two cents for each mile traveled on a highway in
2 Pennsylvania by each truck tractor combination with a total
3 of five or more axles.

4 (5) Two and one-half cents for each mile traveled on a
5 highway in Pennsylvania by each truck or truck tractor
6 combination with four or more axles.

7 (b) The owner of each truck, truck combination, truck
8 tractor or truck tractor combination subject to the provisions
9 of this act shall be liable for the payment of the full amount
10 of the taxes levied herein. Any person who leases, rents or
11 otherwise acquires a right to use or operate a truck, truck
12 combination, truck tractor or truck tractor combination subject
13 to the provisions of this act shall be liable for the payment of
14 the taxes levied herein with respect to the miles traveled in
15 operations under such lease, rental or other agreement. The
16 liability of such person leasing, renting or otherwise acquiring
17 a right to use or operate the vehicles covered by this act and
18 the liability of the owner of such vehicles shall be joint and
19 several with respect to the miles traveled in operation under
20 such lease, rental or other agreement.

21 Section 6. Refund of taxes paid erroneously or illegally.

22 (a) The owner of a truck, truck combination, truck tractor
23 or truck tractor combination subject to the provisions of this
24 act who, as a result of an error, an erroneous assessment or an
25 illegal assessment, pays taxes in excess of the amount of tax
26 actually due shall be entitled to a refund of such excess tax so
27 paid.

28 (b) Within 90 days after the end of each calendar year in
29 which an excess tax is paid, the owner of the subject vehicles
30 shall file with the department an application for a refund of

1 such excess tax. The application, in a form approved by the
2 department, shall state the amount of the tax paid and the basis
3 for computation and the amount of the tax actually due and the
4 basis for its computation.

5 (c) Upon approval of the application for a refund by the
6 department, the department shall certify the amount of such
7 refund to the Auditor General. The Auditor General shall draw a
8 warrant on the State Treasurer in the amount certified by the
9 department in favor of the person seeking the refund. All
10 refunds shall be paid within 60 days of the receipt of the
11 application.

12 Section 7. Record of miles traveled.

13 Every person who is or becomes liable for the payment of the
14 tax levied in section 5 shall keep a complete and accurate
15 record, upon forms prescribed by the department, showing the
16 total miles traveled on a highway in this Commonwealth by each
17 truck, truck combination, truck tractor or truck tractor
18 combination owned, leased, rented, or otherwise operated by such
19 person, the number of axles actually used while traveling said
20 miles, the highway use permit number for each vehicle owned or
21 operated and such other information as the department may
22 require. Such records shall be available at any time, during
23 normal business hours, for the inspection of the department or
24 its duly authorized agents and shall be preserved for a period
25 of four years.

26 Section 8. Highway use tax return.

27 (a) Whoever is liable for the payment of the tax levied by
28 section 5 shall, on or before the twentieth day of each April,
29 July, October and January, file with the department, on forms
30 prescribed by the department, a highway use tax return and make

1 payment of the full amount of the tax due for the operation of
2 each truck, truck combination, truck tractor or truck tractor
3 combination for the prior three calendar months. Provided that
4 in the event two or more persons are jointly and severally
5 liable for the payment of the tax on a given number of miles
6 traveled, no person shall be required to pay the tax on said
7 given number of miles traveled if said tax has been paid, or is
8 currently being paid, by another. Nothing in this section shall
9 be construed to relieve any person liable for the payment of the
10 tax from the duty of filing returns showing the full amount of
11 tax accrued by reason of the operation of any truck, truck
12 combination, truck tractor or truck tractor combination owned,
13 leased, rented or otherwise operated by him. Nothing in this
14 section shall be construed to limit the power of the department
15 to make assessments in accordance with section 9, against any or
16 all person or persons liable, in the event said tax is not
17 actually paid or any deficiencies are found to be due.

18 (b) Immediately upon the receipt of the highway use tax
19 return the department shall mark on such return the date it was
20 received and the amount of tax payment accompanying the return
21 and shall transmit such tax payment to the State Treasurer for
22 credit to the Motor License Fund.

23 Section 9. Failure to file returns; notice of assessment and
24 appeals.

25 (a) In the event any person required to file a highway use
26 tax return by the provisions of section 8, fails to file such
27 return within the time prescribed by such section, files an
28 incomplete return, files an incorrect return, or fails to remit
29 the full amount of the tax due for the period covered by the
30 return, the department may make an assessment against such

1 person, based upon any information in its possession, for the
2 period for which such tax was due. The department shall give the
3 person against whom such assessment is made written notice of
4 such assessment either by personal service or by registered
5 mail.

6 (b) A penalty of 15% shall be added to the amount of
7 assessment made pursuant to the provisions of this section. The
8 department shall have power to adopt and promulgate rules and
9 regulations providing for the remission of penalties added to
10 assessments made pursuant to the provisions of this section.

11 (c) Unless the person, to whom said notice of assessment is
12 directed, within 30 days after service thereof, either
13 personally or by registered mail, files a petition in writing,
14 verified under oath by said person, or his duly authorized
15 agent, having knowledge of the facts, setting forth with
16 definiteness and particularity the items of said assessment
17 objected to, together with the reasons for such objections, and
18 posts bond satisfactory to the department conditioned upon
19 payment of the tax finally determined to be due, said
20 assessments shall become and be deemed conclusive and the amount
21 thereof shall be due and payable, from the person so assessed,
22 to the department. In every case where a petition for
23 reassessment as above described, is filed, the department shall
24 assign a time and place for the hearing of same and shall notify
25 the petitioner thereof by registered mail, but the department
26 shall have the power to continue same from time to time as may
27 be necessary. Upon satisfaction of the assessment, the bond
28 shall be canceled or returned.

29 (d) Where any person has filed a petition for reassessment
30 as provided in this section, the assessment as made by the

1 department together with penalties thereon shall become due and
2 payable within three days after notice of the finding made at
3 the hearing has been served either personally or by registered
4 mail upon the party assessed.

5 (e) The person against whom such assessment has been made
6 may appeal from the assessment after it is due and payable to
7 the Board of Finance and Revenue as provided in the act of April
8 9, 1929 (P.L.343, No.176), known as "The Fiscal Code."

9 (f) After an assessment becomes conclusive, a certified copy
10 of the entry of the department making the assessment final shall
11 be filed in the office of the clerk of courts in the county in
12 which the person's place of business is located or the county in
13 which the person assessed resides, or, if the person maintains
14 no office in this State and is not a resident of this State, in
15 the Commonwealth Court.

16 (g) The clerk of courts, immediately upon the filing of such
17 entry, shall enter a judgment for the Commonwealth against the
18 person so assessed in the amount shown on the entry.

19 (h) From the date of the filing of the entry in the county
20 clerk of court's office, the assessment, which includes taxes
21 and penalty, shall bear interest at the rate of 6% per month and
22 shall have the same force and effect as other judgments.

23 Execution shall issue upon such judgment upon request of the
24 department and all provisions of law applicable to sales on
25 execution shall be applicable to sales under such judgment.

26 (i) All moneys collected by the department under this
27 section shall be paid into the State Treasury to the credit of
28 the Motor License Fund.

29 (j) No assessment shall be made by the department, as
30 authorized by the provisions of this section, more than four

1 years after the last day of the calendar year during which the
2 tax was due. The provisions of this subsection shall not bar an
3 assessment against a person who failed to file a highway use tax
4 return as required by this section.

5 Section 10. Suspension of highway use permit.

6 (a) When the department files a certified copy of an entry
7 making an assessment as provided in section 9 it shall suspend
8 all highway use permits issued to the person against whom such
9 assessment was made, provided that no highway use permit shall
10 be suspended while an appeal is pending, except in those cases
11 in which no return has been filed.

12 (b) Upon suspension of a highway use permit the owner of the
13 truck, truck combination, truck tractor or truck tractor
14 combination for which such permit was issued shall surrender to
15 the department such permit and identification device.

16 (c) Upon payment in full of such assessments and penalties
17 the department shall immediately reinstate all highway use
18 permits issued to the person against whom such assessment was
19 made which have been suspended.

20 (d) In the event no returns have been filed within the time
21 prescribed for the filing of returns, or within such extension
22 of time for filing as the department may grant, it may after
23 written notice of intention to do so immediately suspend all
24 highway use permits held by the person failing to file a return.
25 Such notice shall be sent by registered mail to the last known
26 address of such person. No permit which has been suspended for
27 failure to file a return shall be reinstated until such person
28 shall have filed complete and correct returns for all periods in
29 which no return has been filed and paid the full amount of the
30 tax due thereon. All such returns shall be accompanied with a

1 penalty of 5% which sum shall be considered as revenue arising
2 from the tax imposed by section 5.

3 Section 11. Service on nonresident.

4 (a) Any nonresident of this Commonwealth who accepts the
5 privilege extended by the laws of this Commonwealth to
6 nonresidents of operating a truck, truck combination, truck
7 tractor, or truck tractor combination, which is subject to the
8 tax levied in section 5, or of having the same operated within
9 this Commonwealth, and any resident of this Commonwealth who
10 operates a truck, truck combination, truck tractor, or truck
11 tractor combination, which is subject to the tax levied in
12 section 5, or has the same operated within this Commonwealth and
13 subsequently becomes a nonresident or conceals his whereabouts,
14 makes the Secretary of the Commonwealth of Pennsylvania his
15 agent for the service of process or notice in any assessment,
16 action or proceeding instituted in this Commonwealth against
17 such person out of the failure to pay the taxes imposed upon him
18 by the provisions of this act.

19 (b) Such process or notice shall be served, by the officer
20 to whom the same is directed or by the department, upon the
21 Secretary of the Commonwealth by leaving at the office of the
22 Secretary of the Commonwealth, at least 20 days before the
23 return day of such process or notice, a true and attested copy
24 thereof, and by sending to the defendant by registered or
25 certified mail, postage prepaid, a like and true attested copy,
26 with an endorsement thereon of the service upon said Secretary
27 of the Commonwealth, addressed to such defendant at his last
28 known address. The registered or certified mail return receipt
29 of such defendant shall be attached to and made a part of the
30 return of such service of process.

1 Section 12. Exceptions.

2 The provisions of this act shall not apply to any motor
3 vehicles owned or operated by the United States, the
4 Commonwealth or any political subdivisions or authorities
5 thereof.

6 Section 13. Powers and duties of the department.

7 In addition to any other powers conferred upon the department
8 by law it shall have the following powers:

9 (1) To prescribe all forms required to be filed pursuant
10 to this act.

11 (2) To appoint and employ such personnel as may be
12 necessary to carry out the duties imposed upon it.

13 (3) To adopt and promulgate such rules and regulations
14 pertaining to the levy and collection of the tax imposed by
15 section 6 as it may deem necessary.

16 (4) To release any property from the lien of any fees,
17 taxes, penalties or interest imposed by section 9 upon
18 application, provided payment be made to the department for
19 the full amount of all taxes and penalties due.

20 (5) To extend, for cause shown, the time of filing any
21 return required to be filed by the provisions of this act for
22 such period as it may deem reasonable.

23 Section 14. Penalties.

24 (a) Any person who violates the provisions of section 3
25 shall be guilty of a summary offense and sentenced to pay a fine
26 of \$300. A second or subsequent violation of section 3 shall
27 constitute a misdemeanor of the second degree and such person
28 shall be sentenced to pay a fine not in excess of \$5,000 and
29 undergo imprisonment not to exceed two years.

30 (b) Any person who violates the provisions of sections 5, 6,

1 7 and 8 shall be guilty of a misdemeanor of the third degree and
2 sentenced to pay a fine of not less than \$2,500. A second or
3 subsequent violation of sections 5, 6, 7 or 8 shall constitute a
4 misdemeanor of the first degree and such person shall be
5 sentenced to pay a fine not in excess of \$10,000 and undergo
6 imprisonment not to exceed five years.

7 Section 15. Effective date.

8 This act shall take effect in 60 days.