

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1114 Session of
1975

INTRODUCED BY MESSRS. DREIBELBIS, SHELHAMER, YAHNER, R. W. WILT,
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APRIL 28, 1975

AS RE-REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF
REPRESENTATIVES, AS AMENDED, JUNE 21, 1976

AN ACT

1 Amending the act of May 21, 1931 (P.L.149, No.105), entitled, as
2 amended, "An act imposing a State tax, payable by those
3 herein defined as distributors, on liquid fuels used or sold
4 and delivered within the Commonwealth, which are practically,
5 and commercially suitable for use in internal combustion
6 engines for the generation of power; providing for the
7 collection and lien of the tax, and the distribution and use
8 of the proceeds thereof; requiring such distributors to
9 secure permits, to file corporate surety bonds and reports,
10 and to retain certain records; imposing duties on retail
11 dealers, common carriers, county commissioners, and such
12 distributors; providing for rewards; imposing certain costs
13 on counties; conferring powers and imposing duties on certain
14 State officers and departments; providing for refunds;
15 imposing penalties; and making an appropriation," providing
16 for the Department of Agriculture to make distributions of
17 certain reimbursements and refunds.

18 The General Assembly of the Commonwealth of Pennsylvania
19 hereby enacts as follows:

20 Section 1. Section 17, act of May 21, 1931 (P.L.149,
21 No.105), known as "The Liquid Fuels Tax Act," amended March 12,
22 1957 (P.L.8, No.3) and July 15, 1969 (P.L.161, No.65), is
23 amended to read:

24 Section 17. Refunds.--The Board of Finance and Revenue may

1 refund to distributors taxes, penalties, and interest paid by
2 them on liquid fuels delivered to the United States government,
3 or paid as the result of an error of law or of fact or of both
4 law and fact. Claims for such refunds shall be made under the
5 procedure prescribed by The Fiscal Code.

6 Any person who shall use or buy liquid fuels on which the tax
7 imposed by this act shall have been paid and shall consume the
8 same in the operation of any nonlicensed farm tractor or
9 licensed farm tractor when used off the highways for
10 agricultural purposes or nonlicensed powered farm machinery for
11 purposes relating to the actual production of farm products
12 shall be reimbursed the full amount of such tax.

13 When the tax imposed by this act shall have been paid and the
14 fuel on which such tax has been imposed shall have been consumed
15 in the operation of motorboats or watercraft upon the waters of
16 the Commonwealth, including waterways bordering on the
17 Commonwealth, the full amount of such tax shall be refunded to
18 the Boating Fund of the Fish Commission on petition to the Board
19 of Finance and Revenue in accordance with prescribed procedures.

20 In accordance with such procedures, the Pennsylvania Fish
21 Commission shall biannually calculate the amount of liquid fuels
22 tax consumed by said motorcraft and furnish such information
23 relating to its calculations and data as may be prescribed or
24 required by the Board of Finance and Revenue. This board shall
25 review the petition and motorboat fuel consumption calculations
26 of the Pennsylvania Fish Commission and then determine the
27 amount of liquid fuels tax paid on liquid fuels consumed in the
28 propulsion of motorboats and other motorcraft on the waters of
29 the Commonwealth, including waterways bordering on the
30 Commonwealth, and shall certify to the State Treasurer to refund

1 annually to the Boating Fund of the Fish Commission the amount
2 so determined. The Department of [Highways] TRANSPORTATION shall <—
3 be accorded the right to appear at such proceedings and make its
4 views known.

5 Said moneys shall be used by the Pennsylvania Fish Commission
6 acting by itself or by agreement with other State and Federal
7 agencies including, but not limited to, the Navigation
8 Commission for the Delaware River, the Department of Forests and
9 Waters, the Department of Health, and the Federal Bureau of
10 Outdoor Recreation, only for the improvement of the waters of
11 Pennsylvania on which motorboats are permitted to operate and
12 may be used, including but not limited to the development and
13 construction of motorboat areas; the dredging and clearing of
14 water areas where motorboats can be used; the placement and
15 replacement of navigational aids; the purchase, development and
16 maintenance of public access sites and facilities to and on
17 waters where motorboating is permitted; the patrolling of
18 motorboating waters; the publishing of nautical charts in those
19 areas of Pennsylvania not covered by nautical charts published
20 by the United States Coast and Geodetic Survey or the United
21 States Army Engineers; and the administrative expenses arising
22 out of such activities.

23 Any person who shall use or buy any liquid fuel on which a
24 tax imposed by this act in excess of one and one-half cents a
25 gallon shall have been paid and shall use such liquid fuel in
26 propeller-driven aircraft, or aircraft engines, or who shall use
27 or buy any liquid fuel on which a tax imposed by this act in
28 excess of one and one-half cents per gallon shall have been paid
29 and shall use such liquid fuel in jet or turbo-jet propelled
30 aircraft or aircraft engines, shall be reimbursed in the amount

1 of such excess.

2 All such claims for reimbursement shall be made upon a form
3 to be furnished by the Board of Finance and Revenue OR THE <—
4 DEPARTMENT OF AGRICULTURE and shall include, in addition to such
5 other information as the board may by regulation prescribe, the
6 name and address of the claimant, the period of time and the
7 number of gallons of liquid fuels used for which reimbursement
8 is claimed, a description of the farm machinery, aircraft or
9 aircraft engine in which such liquid fuels have been used and
10 the purposes for which such machinery, aircraft or aircraft
11 engine has been used, the size of the farm and part thereof in
12 cultivation on which such liquid fuels have been used. Each such
13 claim shall contain statements that the liquid fuels for which
14 reimbursement is claimed have been used only for purposes for
15 which reimbursements are permitted, that records of the amounts
16 of such fuels used in each piece of farm machinery, aircraft or
17 aircraft engine have been kept, and that no part of such claim
18 has been paid except as stated. Each such claim shall contain a
19 declaration that it and accompanying receipts are true and
20 correct to the best of claimant's knowledge and shall be signed
21 by the claimant or the person claiming on his behalf. Every
22 claim shall be accompanied by receipts indicating that the
23 liquid fuels or excess liquid fuels tax was paid on the liquid
24 fuels for which reimbursement is claimed. All records of
25 purchases of liquid fuels and use in each tractor or powered
26 machinery, aircraft or aircraft engine shall be kept for a
27 period of two years. Every such claim shall be made annually for
28 the preceding year ending on the thirtieth day of June and shall
29 be submitted to the Board of Finance and Revenue OR THE <—
30 DEPARTMENT OF AGRICULTURE not later than the thirtieth day of

1 September of each year. [and the] ~~The board shall turn over any~~ <—
2 ALL claims relating to farm reimbursements or refunds to SHALL <—
3 BE ADMINISTERED BY the Department of Agriculture for processing
4 in accordance with the provisions of this act. The board or
5 Department of Agriculture shall refuse to consider any claim
6 received or post-marked later than such date: Provided, however,
7 That any claim relating to farm reimbursements or refunds which
8 is lost or misplaced, or fails to arrive, shall be considered by
9 the Department of Agriculture if the applicant signs an
10 affidavit stating that the claim was filed and mailed on or
11 before the thirtieth day of September and the applicant is able
12 to produce the records required by the Department of Agriculture
13 to support the claim for reimbursement or refund. The claimant
14 shall satisfy the board OR THE DEPARTMENT OF AGRICULTURE that he <—
15 has paid the tax and that the liquid fuels have been consumed by
16 him for purposes for which reimbursements are permitted under
17 this section. The board or the Department of Agriculture may
18 require any claimant to furnish such further information, proof,
19 or fuller explanation as it shall deem necessary. The action of
20 the Board of Finance and Revenue or the Department of
21 Agriculture in granting or refusing reimbursement shall be
22 final. The board OR THE DEPARTMENT OF AGRICULTURE shall deduct <—
23 the sum of one dollar and fifty cents (\$1.50) ~~except that this~~ <—
24 ~~sum shall not be deducted from any sum turned over to the~~
25 ~~Department of Agriculture,~~ which shall be considered as a filing
26 fee, from every claim for reimbursement granted. Such filing
27 fees are hereby specifically appropriated to the Board of
28 Finance and Revenue and to the Department of [Revenue] <—
29 AGRICULTURE for expenses of any nature whatsoever incurred in <—
30 the administration of the reimbursement provisions of this act.

1 The Board of Finance and Revenue ~~and the Department of~~ <—
2 ~~Agriculture~~ shall have the power to refer to the Department of
3 Revenue, for investigation, any claim for reimbursement filed
4 under the provisions of this act and it shall be the duty of the
5 Department of Revenue to investigate such application and report
6 to the Board of Finance and Revenue ~~or the Department of~~ <—
7 ~~Agriculture~~ relative thereto. ALL INVESTIGATIONS RELATIVE TO <—
8 FARM REIMBURSEMENTS SHALL BE CONDUCTED BY THE DEPARTMENT OF
9 AGRICULTURE. Any person making any false or fraudulent statement
10 for the purpose of obtaining reimbursement shall be guilty of a
11 misdemeanor, and, upon conviction thereof, shall be sentenced to
12 pay a fine of not more than one thousand dollars (\$1000) or to
13 undergo imprisonment for not more than six (6) months, or both.

14 All refunds and reimbursements of moneys allowed hereunder
15 shall be paid from the Motor License Fund and the Liquid Fuels
16 Tax Fund in amounts equal to the original distribution and
17 payment of such moneys into said funds: Provided, That
18 reimbursement for taxes paid on liquid fuels consumed in the
19 operation of tractors and powered machinery for purposes
20 relating to the actual production of farm products and
21 reimbursement for taxes paid on liquid fuels used in aircraft or
22 aircraft engines shall be paid out of the Motor License Fund.

23 As much of the moneys, from time to time, in the Motor
24 License Fund and the Liquid Fuels Tax Fund, as may be necessary,
25 is hereby appropriated to the Board of Finance and Revenue and
26 the Department of Agriculture for the purpose of making refunds
27 and reimbursements as herein authorized. Estimates of the
28 amounts to be expended from these funds for refunds and
29 reimbursements, from time to time, by the board and the
30 Department of Agriculture shall be submitted to the Governor for

1 his approval or disapproval as in the case of other
2 appropriations to administrative departments, boards and
3 commissions; and it shall be unlawful for the Auditor General to
4 honor any requisition of the Board of Finance and Revenue and
5 the Department of Agriculture for the expenditure of moneys
6 hereunder in excess of the estimates approved by the Governor.

7 The provisions of this section relating to reimbursement of
8 taxes paid on liquid fuels consumed in the operation of tractors
9 and powered machines for purposes relating to the actual
10 production of farm products. REIMBURSEMENT CLAIMS shall apply <—
11 only to liquid fuels purchased on and after the first day of
12 July, one thousand nine hundred fifty-five.

13 The Pennsylvania Aeronautics Commission is authorized to make
14 allocations of taxes collected under this act to airports in
15 proportion to the average of their allocations received from the
16 Pennsylvania Aeronautics Commission during the period for which
17 they have received such allocations not to exceed five years or,
18 in the case of airports having no such allocation experience, in
19 equal proportion with other airports based upon comparative
20 collections under this tax. In no case shall the amount
21 apportioned to the airport be less than the highest amount
22 apportioned in any one of the previous five years.

23 Section 2. This act shall take effect immediately.