

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1447 Session of
1983

INTRODUCED BY TRELLO, BUNT, STEIGHNER, NAHILL, KASUNIC,
KOSINSKI, E. Z. TAYLOR, HAGARTY, REBER, SAURMAN, GLADECK,
VROON AND GODSHALL, SEPTEMBER 20, 1983

REFERRED TO COMMITTEE ON TRANSPORTATION, SEPTEMBER 20, 1983

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," changing
16 the formula for distribution of part of the tax to the
17 counties; and authorizing and directing the Secretary of
18 Revenue to promulgate rules and regulations to ascertain the
19 amount of tax payable.

20 The General Assembly of the Commonwealth of Pennsylvania
21 hereby enacts as follows:

22 Section 1. Section 6 of the act of May 21, 1931 (P.L.149,
23 No.105), known as The Liquid Fuels Tax Act, amended May 9, 1972
24 (P.L.277, No.67), is amended to read:

25 Section 6. [Distributor's Report and] Payment of Tax.--For
26 the purpose of ascertaining the amount of tax payable under this

1 act, [it shall be the duty of every distributor, on or before
2 the next to the last business day of each month, to transmit to
3 the department, upon a form prescribed, prepared, and furnished
4 by the department, a report, under oath or affirmation, of the
5 liquid fuels used or delivered by him within this Commonwealth
6 during the preceding month. Such report shall show the number of
7 gallons of liquid fuels used or delivered within the
8 Commonwealth during the period for which it is made, and such
9 further information as the department shall prescribe. A
10 distributor having more than one place of business within this
11 Commonwealth shall combine, in each report, the use or delivery
12 of liquid fuels at all such separate places of business.] the
13 Secretary of Revenue is hereby authorized and directed to
14 promulgate such rules and regulations as may be necessary to
15 determine the total number of gallons of liquid fuels used or
16 delivered within the Commonwealth and within each of the
17 counties by distributors.

18 Every distributor, [at the time of making every report
19 required by this section,] in accordance with such rules and
20 regulations, shall compute and pay to the department the tax due
21 to the Commonwealth on liquid fuels used or sold and delivered
22 by him [during the preceding month,] less a discount, if the
23 [report is filed and the] tax is paid on time, computed as
24 follows: two per centum, if such tax shall amount to fifty
25 thousand dollars (\$50,000) or less; one and one-half per centum,
26 on tax in excess of fifty thousand dollars (\$50,000) and not
27 exceeding seventy-five thousand dollars (\$75,000); one per
28 centum, on tax in excess of seventy-five thousand dollars
29 (\$75,000) and not exceeding one hundred thousand dollars
30 (\$100,000); and one-half of one per centum, on tax in excess of

1 one hundred thousand dollars (\$100,000). The amount of all taxes
2 imposed under the provisions of this act [for each month] shall
3 be due and payable [on the next to the last business day of the
4 next succeeding month,] in accordance with the rules and
5 regulations promulgated by the secretary and shall bear interest
6 at the rate of one per centum per month, or fractional part of a
7 month, from the date they are due and payable until paid. The
8 report or payment of tax as provided by this section, will be
9 considered to have been duly and timely filed if such report or
10 payment is deposited in the United States mail with postage
11 prepaid in time to reach the department in the ordinary course
12 of such mails on or before the next to the last business day of
13 a given calendar month. In any case, the report or payment will
14 be considered to have been duly and timely filed if such report
15 or payment bears a postmark date at least two days prior to the
16 next to the last business day of a given calendar month.

17 If any distributor shall neglect or refuse to [make any
18 report and] comply with any of the rules or regulations or to
19 make payment as herein required, an additional ten per centum of
20 the amount of the tax shall be added by the department, and
21 collected as hereinafter provided, and, in addition thereto, the
22 liquid fuels permit of such distributor may be suspended or
23 revoked by the department.

24 Section 2. Section 10(a) of the act, amended July 30, 1975
25 (P.L.124, No.61), is amended to read:

26 Section 10. Disposition and Use of Tax.--(a) (1) One-half
27 cent per gallon of the permanent tax collected under the
28 provisions of this act shall be paid into the Liquid Fuels Tax
29 Fund of the State Treasury; and such moneys, paid into said
30 fund, are hereby specifically appropriated for the purposes

1 hereinafter set forth.

2 (2) The moneys so paid into the Liquid Fuels Tax Fund,
3 except those that are refunded as hereinafter provided, shall be
4 paid to the respective counties of this Commonwealth, [less such
5 amounts as represent the difference between the annual fees
6 prescribed in sections 709 and 710 of "The Vehicle Code" and
7 those fees charged pursuant to section 710.1 of "The Vehicle
8 Code" for annual registration of each motor vehicle operated by
9 mass transportation systems,] on the first day of June and
10 December of each year, in the ratio that [average return made
11 during the three (3) preceding years to each county bears to the
12 average amount returned to all counties for the three preceding
13 years: Provided, That the distribution of tax to the counties
14 from the Liquid Fuels Tax Fund that is payable the first day of
15 August, one thousand nine hundred and thirty-one, shall be made
16 under the provisions of the acts of Assembly repealed by this
17 act. Such amounts as represent the difference between the annual
18 fees prescribed in sections 709 and 710 of "The Vehicle Code"
19 and those fees charged pursuant to section 710.1 of "The Vehicle
20 Code" shall be paid into the Motor License Fund.] the number of
21 gallons used or delivered in each county during the preceding
22 six-month period, bears to the total number of gallons used or
23 delivered in all counties during such period.

24 (3) All moneys received by the counties hereunder shall be
25 deposited and maintained in a special fund designated as the
26 "County Liquid Fuels Tax Fund" into which no other moneys shall
27 be deposited and commingled, except in any county which does not
28 have sufficient money in such special fund to provide for
29 payments designated in the current annual budget for payment
30 from such special fund for the purposes of construction,

1 reconstruction, maintenance and repair of roads, highways and
2 bridges, property damages, compensation of viewers for services
3 in eminent domain proceedings involving roads, highways and
4 bridges, and for the construction, reconstruction, operation and
5 maintenance of publicly owned ferryboat operations, interest and
6 principal payments on road, bridge or publicly owned ferryboat
7 operation bonds, or sinking fund charges for such bonds becoming
8 due within the current calendar year and for the acquisition,
9 maintenance, repair and operation of traffic signs and traffic
10 signals, and for the erection and maintenance of stop and go
11 signal lights, blinkers or other like traffic control devices.
12 The county, for the purpose of such payments and such payments
13 only, may borrow and place in such special fund moneys, not in
14 excess of the liquid fuels tax funds to be received during the
15 current calendar year, and all such loans shall be repaid from
16 such special fund before the expiration of the current calendar
17 year and not thereafter. Moneys so received and deposited shall
18 be used only for the purpose of construction, reconstruction,
19 maintenance, and repair of roads, highways and bridges,
20 including the payment of property damage and compensation of
21 viewers for services in eminent domain proceedings involving
22 such roads, highways and bridges, now due or hereafter to become
23 due, occasioned by or the relocation or construction of highways
24 and bridges, and for the construction, reconstruction, operation
25 and maintenance of publicly owned ferryboat operations, and for
26 the payment of interest and sinking fund charges on bonds issued
27 or used for highways and bridge purposes and publicly owned
28 ferryboat operations, or on so much of any bonds as have been
29 used for such purposes and for the acquisition, maintenance,
30 repair and operation of traffic signs and traffic signals and

1 all payments made by any county, either directly or indirectly,
2 prior to the first day of January, one thousand nine hundred and
3 forty-six, for any or all such purposes are hereby validated:
4 Provided, That no expenditures from the county liquid fuels tax
5 fund shall be made by the county commissioners for new
6 construction on roads, bridges or publicly owned ferryboat
7 operations without first having obtained the approval of the
8 plans for such construction from the Department of
9 Transportation: And provided further, That the county
10 commissioners shall not allocate moneys from the county liquid
11 fuels tax fund to any political subdivision within the county,
12 until the application and the contracts or plans for the
13 proposed expenditures have been made on forms, prescribed,
14 prepared and furnished, and first approved by the Department of
15 Transportation. The county commissioners of each county shall
16 make to the Department of Transportation, on or before the
17 fifteenth day of January for the period ending December thirty-
18 first of each year, on forms prescribed, prepared, and furnished
19 by the Department of Transportation, a report showing the
20 receipts and expenditures of such moneys received by the county,
21 from the Commonwealth under the provisions of this section.
22 Copies of such report shall be transmitted to the department and
23 to the Department of the Auditor General for audit. Upon the
24 failure of the county commissioners to file such report, or to
25 make any payments, allocations or expenditures, in compliance
26 with the provisions of this section, the department shall
27 withhold further payments to the county out of the Liquid Fuels
28 Tax Fund until the delinquent report is filed, transmitted, or
29 said moneys allocated, or said expenditures for the prior twelve
30 months are approved by the Department of Transportation.

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2 Section 3. This act shall take effect in 60 days.