

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1450 Session of
1993

INTRODUCED BY GRUITZA, DeWEESE, KUKOVICH, GORDNER, HERMAN, KING,
TIGUE, MARKOSEK, CARONE, TRELLO, LINTON, COY, PRESTON, GEIST,
WOZNIAK, SEMMEL, FARGO, CAPPABIANCA, CURRY, JOSEPHS,
BATTISTO, STABACK, MELIO, PESCI, VEON, BELFANTI, FAJT,
STEELMAN, BROWN, LEVDANSKY, MIHALICH, COLAIZZO, RAYMOND,
ROONEY, MERRY, FEE, BAKER, DALEY AND MURPHY, APRIL 27, 1993

AS REPORTED FROM COMMITTEE ON TRANSPORTATION, HOUSE OF
REPRESENTATIVES, AS AMENDED, FEBRUARY 8, 1994

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," further
16 providing for the refund of liquid fuels tax money collected
17 from fuels used in off-highway recreational vehicles for
18 deposit into a restricted receipts account; and making
19 editorial changes.

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

22 Section 1. Section 17 of the act of May 21, 1931 (P.L.149,
23 No.105), known as The Liquid Fuels Tax Act, amended March 12,
24 1957 (P.L.8, No.3), July 15, 1969 (P.L.161, No.65) and December

1 19, 1975 (P.L.556, No.156), is amended to read:

2 Section 17. Refunds.--(a) The Board of Finance and Revenue
3 may refund to distributors taxes, penalties, and interest paid
4 by them on liquid fuels delivered to the United States
5 government, or paid as the result of an error of law or of fact
6 or of both law and fact. Claims for such refunds shall be made
7 under the procedure prescribed by The Fiscal Code.

8 (b) Any person who shall use or buy liquid fuels on which
9 the tax imposed by this act shall have been paid and shall
10 consume the same (i) in the operation of any nonlicensed farm
11 tractor or licensed farm tractor when used off the highways for
12 agricultural purposes or nonlicensed powered farm machinery for
13 purposes relating to the actual production of farm products or
14 (ii) in the operation of a vehicle of a volunteer fire company,
15 volunteer ambulance service or volunteer rescue squad shall be
16 reimbursed the full amount of such tax.

17 (c) (1) When the tax imposed by this act shall have been
18 paid and the fuel on which such tax has been imposed shall have
19 been consumed in the operation of motorboats or watercraft upon
20 the waters of the Commonwealth, including waterways bordering on
21 the Commonwealth, the full amount of such tax shall be refunded
22 to the [Boating Fund of the Fish Commission] Boat Fund of the
23 Pennsylvania Fish and Boat Commission on petition to the Board
24 of Finance and Revenue in accordance with prescribed procedures.

25 (2) In accordance with such procedures, the Pennsylvania
26 Fish and Boat Commission shall biannually calculate the amount
27 of liquid fuels tax consumed by said motorcraft and furnish such
28 information relating to its calculations and data as may be
29 prescribed or required by the Board of Finance and Revenue. This
30 board shall review the petition and motorboat fuel consumption

1 calculations of the Pennsylvania Fish and Boat Commission and
2 then determine the amount of liquid fuels tax paid on liquid
3 fuels consumed in the propulsion of motorboats and other
4 motorcraft on the waters of the Commonwealth, including
5 waterways bordering on the Commonwealth, and shall certify to
6 the State Treasurer to refund annually to the [Boating Fund of
7 the Fish Commission] Boat Fund of the Pennsylvania Fish and Boat
8 Commission the amount so determined. The Department of
9 [Highways] Transportation shall be accorded the right to appear
10 at such proceedings and make its views known.

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

29 (d) (1) When the tax imposed by this act shall have been
30 paid on nonhighway recreational fuel used in off-highway

1 vehicles and in back country camping within this Commonwealth,
2 the full amount of such tax shall be refunded to the Department
3 of Environmental Resources on petition to the Board of Finance
4 and Revenue in accordance with prescribed procedures.

5 (2) In accordance with such procedures, the Department of
6 Environmental Resources shall biannually calculate the amount of
7 liquid fuels tax consumed by said off-highway recreational
8 vehicles and furnish such information relating to its
9 calculations and data as may be prescribed or required by the
10 Board of Finance and Revenue. This board shall review the
11 petition and fuel consumption calculations of the Department of
12 Environmental Resources and then determine the amount of liquid
13 fuels tax paid on liquid fuels consumed in the propulsion of
14 off-highway recreational vehicles in this Commonwealth and shall
15 certify to the State Treasurer to refund annually to the
16 Department of Environmental Resources the amount so determined.
17 The Department of Transportation shall be accorded the right to
18 appear at such proceedings and make its views known.

19 (3) Said moneys shall be used for the benefit of motorized
20 and nonmotorized recreational trails by the Department of
21 Environmental Resources as provided in the Intermodal Surface
22 Transportation Efficiency Act of 1991 (Public Law 102-240, 105
23 Stat. 1914).

24 (4) THE PROVISIONS OF THIS SUBSECTION SHALL NOT BE
25 IMPLEMENTED BY THE DEPARTMENT OF ENVIRONMENTAL RESOURCES UNTIL
26 SUCH TIME AS MATCHING FEDERAL MONEYS ARE MADE AVAILABLE TO
27 IMPLEMENT THE INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT
28 OF 1991.

29 (e) (1) Any person who shall use or buy any liquid fuel on
30 which a tax imposed by this act in excess of one and one-half

1 cents a gallon shall have been paid and shall use such liquid
2 fuel in propeller-driven aircraft or aircraft engines, or who
3 shall use or buy any liquid fuel on which a tax imposed by this
4 act in excess of one and one-half cents per gallon shall have
5 been paid and shall use such liquid fuel in jet or turbo-jet
6 propelled aircraft or aircraft engines, shall be reimbursed in
7 the amount of such excess.

8 (2) All such claims for reimbursement shall be made upon a
9 form to be furnished by the Board of Finance and Revenue and
10 shall include, in addition to such other information as the
11 board may by regulation prescribe, the name and address of the
12 claimant, the period of time and the number of gallons of liquid
13 fuels used for which reimbursement is claimed, a description of
14 the farm machinery, aircraft or aircraft engine in which such
15 liquid fuels have been used and the purposes for which such
16 machinery, aircraft or aircraft engine has been used, the size
17 of the farm and part thereof in cultivation on which such liquid
18 fuels have been used. Each such claim shall contain statements
19 that the liquid fuels for which reimbursement is claimed have
20 been used only for purposes for which reimbursements are
21 permitted, that records of the amounts of such fuels used in
22 each piece of farm machinery, aircraft or aircraft engine have
23 been kept, and that no part of such claim has been paid except
24 as stated. Each such claim shall contain a declaration that it
25 and accompanying receipts are true and correct to the best of
26 claimant's knowledge and shall be signed by the claimant or the
27 person claiming on his behalf. Every claim shall be accompanied
28 by receipts indicating that the liquid fuels or excess liquid
29 fuels tax was paid on the liquid fuels for which reimbursement
30 is claimed. All records of purchases of liquid fuels and use in

1 each tractor or powered machinery, aircraft or aircraft engine
2 shall be kept for a period of two years. Every such claim shall
3 be made annually for the preceding year ending on the thirtieth
4 day of June and shall be submitted to the Board of Finance and
5 Revenue not later than the thirtieth day of September of each
6 year and the board shall refuse to consider any claim received
7 or postmarked later than such date. The claimant shall satisfy
8 the board that he has paid the tax and that the liquid fuels
9 have been consumed by him for purposes for which reimbursements
10 are permitted under this section. The board may require any
11 claimant to furnish such further information, proof, or fuller
12 explanation as it shall deem necessary. The action of the Board
13 of Finance and Revenue in granting or refusing reimbursement
14 shall be final. The board shall deduct the sum of one dollar and
15 fifty cents (\$1.50), which shall be considered as a filing fee,
16 from every claim for reimbursement granted. Such filing fees are
17 hereby specifically appropriated to the Board of Finance and
18 Revenue and to the Department of Revenue for expenses of any
19 nature whatsoever incurred in the administration of the
20 reimbursement provisions of this act. The Board of Finance and
21 Revenue shall have the power to refer to the Department of
22 Revenue, for investigation, any claim for reimbursement filed
23 under the provisions of this act and it shall be the duty of the
24 Department of Revenue to investigate such application and report
25 to the Board of Finance and Revenue relative thereto. Any person
26 making any false or fraudulent statement for the purpose of
27 obtaining reimbursement shall be guilty of a misdemeanor, and,
28 upon conviction thereof, shall be sentenced to pay a fine of not
29 more than one thousand dollars (\$1000) or to undergo
30 imprisonment for not more than six (6) months, or both.

1 (f) All refunds and reimbursements of moneys allowed
2 hereunder shall be paid from the Motor License Fund and the
3 Liquid Fuels Tax Fund in amounts equal to the original
4 distribution and payment of such moneys into said funds:
5 Provided, That reimbursement for taxes paid on liquid fuels
6 consumed in the operation of tractors and powered machinery for
7 purposes relating to the actual production of farm products and
8 reimbursement for taxes paid on liquid fuels used in aircraft or
9 aircraft engines shall be paid out of the Motor License Fund.

10 (g) As much of the moneys, from time to time, in the Motor
11 License Fund and the Liquid Fuels Tax Fund, as may be necessary,
12 is hereby appropriated to the Board of Finance and Revenue for
13 the purpose of making refunds and reimbursements as herein
14 authorized. Estimates of the amounts to be expended from these
15 funds for refunds and reimbursements, from time to time, by the
16 board shall be submitted to the Governor for his approval or
17 disapproval as in the case of other appropriations to
18 administrative departments, boards and commissions; and it shall
19 be unlawful for the Auditor General to honor any requisition of
20 the Board of Finance and Revenue for the expenditure of moneys
21 hereunder in excess of the estimates approved by the Governor.

22 (h) The provisions of this section relating to reimbursement
23 of taxes paid on liquid fuels consumed in the operation of
24 tractors and powered machines for purposes relating to the
25 actual production of farm products shall apply only to liquid
26 fuels purchased on and after the first day of July, one thousand
27 nine hundred fifty-five.

28 (i) The Pennsylvania Aeronautics Commission is authorized to
29 make allocations of taxes collected under this act to airports
30 in proportion to the average of their allocations received from

1 the Pennsylvania Aeronautics Commission during the period for
2 which they have received such allocations not to exceed five
3 years or, in the case of airports having no such allocation
4 experience, in equal proportion with other airports based upon
5 comparative collections under this tax. In no case shall the
6 amount apportioned to the airport be less than the highest
7 amount apportioned in any one of the previous five years.

8 Section 2. This act shall take effect ~~in 60 days~~ JULY 1,
9 1994.

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