

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 869 Session of 2019

INTRODUCED BY MACKENZIE, BERNSTINE, MILLARD, ZIMMERMAN, HEFFLEY AND EMRICK, MARCH 18, 2019

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, MAY 15, 2019

AN ACT

1 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated
2 Statutes, in liquid fuels and fuels tax, further providing
3 for refunds.

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

6 Section 1. Section 9017(a.1), (f) and (g) of Title 75 of the
7 Pennsylvania Consolidated Statutes are amended and the section
8 is amended by adding a subsection to read:

9 § 9017. Refunds.

10 * * *

11 (a.1) Board of Finance and Revenue.--The Board of Finance
12 and Revenue may make reimbursements and refunds of tax imposed
13 and collected upon liquid fuels or fuels as provided under
14 subsections (b), (c) [or], (e) or (e.3)(2). In addition, the
15 board may refund on an annual basis any tax imposed by this
16 chapter and collected by the department upon liquid fuels or
17 fuels delivered to any entity exempt from tax under section
18 9004(e) (relating to imposition of tax, exemptions and

1 deductions) which has not been claimed as exempt by the
2 distributor or otherwise refunded. The board may adopt
3 regulations relating to procedures for the administration of its
4 duties under this subsection.

5 * * *

6 (e.3) Ready mix concrete truck power takeoff.--

7 (1) A person shall be reimbursed up to 30% of the amount
8 of the tax imposed by this chapter if the person uses or buys
9 liquid fuels or fuels on which the tax imposed by this
10 chapter has been paid and consumes them to mix concrete from
11 a vehicle by means of a power takeoff. Except as set forth in
12 paragraph (2):

13 (I) REIMBURSEMENTS SHALL BE MADE UPON A FORM <--
14 FURNISHED AND PRESCRIBED BY THE DEPARTMENT.

15 ~~(i)~~ (II) Reimbursements shall be documented only as <--
16 provided in this paragraph, and no reimbursement shall be
17 based upon any form of alternative documentation.

18 (III) A CLAIM FOR REIMBURSEMENT MUST BE SUPPORTED BY <--
19 SALES RECEIPTS AND THE DATE OF PURCHASE, SELLER'S NAME
20 AND ADDRESS, NUMBER OF GALLONS PURCHASED, FUEL TYPE,
21 DESCRIPTION OF THE READY MIX CONCRETE MACHINERY, A
22 STATEMENT THAT THE LIQUID FUELS FOR REIMBURSEMENT HAVE
23 BEEN USED ONLY FOR THE PURPOSE FOR WHICH REIMBURSEMENTS
24 ARE PERMITTED, PRICE PER GALLON OR TOTAL AMOUNT OF SALE,
25 UNIT NUMBERS AND THE PURCHASER'S NAME. THE DEPARTMENT MAY
26 SPECIFY OTHER DOCUMENTATION THAT THE DEPARTMENT WILL
27 ACCEPT IN LIEU OF SALES RECEIPTS. FOR WITHDRAWALS FROM
28 CLAIMANT-OWNED TAX-PAID BULK STORAGE, THE CLAIM MUST BE
29 SUPPORTED BY DETAILED RECORDS OF THE DATE OF WITHDRAWAL,
30 NUMBER OF GALLONS, FUEL TYPE, UNIT NUMBER AND PURCHASE

1 AND INVENTORY RECORDS TO SUBSTANTIATE THAT THE TAX WAS
2 PAID ON ALL BULK PURCHASES.

3 ~~(ii)~~ (IV) Claims for reimbursement shall be filed <--
4 with the department on a quarterly basis and must be
5 filed within 60 days following the end of the quarter for
6 which reimbursement is being claimed.

7 ~~(iii)~~ The provisions of subsection (f), except for <--
8 the filing fee provision, shall apply to claims for
9 reimbursement under this paragraph to the extent they are
10 not inconsistent with this paragraph.

11 (2) A person may be reimbursed for more than the amount
12 under paragraph (1) if the person submits a claim, including
13 all required documentation, in accordance with subsection
14 (f), providing proof of the person's differentiated usages of
15 liquid fuels or fuels by means of a power takeoff for the
16 purpose of mixing ready mix concrete. The board has the sole
17 discretion to determine if the claimant has fulfilled the
18 burden of proof. No filing fee shall apply to a claim
19 submitted under this paragraph.

20 (3) No refund shall be authorized or paid under this
21 subsection on a single claim for tax on fewer than 100
22 gallons of liquid fuels or fuels.

23 (f) Claims, forms, contents, penalties.--A claim for
24 reimbursement or refund under subsection (b), (c) [or], (e) or
25 (e.3)(2) shall be made upon a form to be furnished by the board
26 and must include, in addition to such other information as the
27 board may by regulation prescribe, the name and address of the
28 claimant; the period of time and the number of gallons of liquid
29 fuels used for which reimbursement is claimed; a description of
30 the farm machinery, ready mix concrete machinery, aircraft or

1 aircraft engine in which liquid fuels have been used; the
2 purposes for which the machinery, aircraft or aircraft engine
3 has been used; and the size of the farm and part in cultivation
4 on which such liquid fuels have been used. A claim must contain
5 statements that the liquid fuels for which reimbursement is
6 claimed have been used only for purposes for which
7 reimbursements are permitted; that records of the amounts of
8 such fuels used in each piece of farm machinery, ready mix
9 concrete machinery, aircraft or aircraft engine have been kept;
10 and that no part of the claim has been paid except as stated. A
11 claim must contain a declaration that it and accompanying
12 receipts are true and correct to the best of the claimant's
13 knowledge and must be signed by the claimant or the person
14 claiming on the claimant's behalf. A claim must be accompanied
15 by receipts indicating that the liquid fuels tax was paid on the
16 liquid fuels or that the excess liquid fuels tax was paid on the
17 liquid fuels for which reimbursement is claimed. Records of
18 purchases of liquid fuels and use in each tractor or powered
19 machinery, aircraft or aircraft engine shall be kept for a
20 period of two years. A claim must be made annually for the
21 preceding year ending on June 30. A claim must be submitted to
22 the board by September 30. The board shall refuse to consider
23 any claim received or postmarked later than that date. The
24 claimant must satisfy the board that the tax has been paid and
25 that the liquid fuels have been consumed by the claimant for
26 purposes for which reimbursements are permitted under this
27 section. The action of the board in granting or refusing
28 reimbursement shall be final. The board shall deduct the sum of
29 \$1.50, which shall be considered a filing fee, from every claim
30 for reimbursement granted. Filing fees are specifically

1 appropriated to the board and to the department for expenses
2 incurred in the administration of the reimbursement provisions
3 of this chapter. The board has the power to refer to the
4 department for investigation any claim for reimbursement filed
5 under the provisions of this chapter. The department shall
6 investigate the application and report to the board. A person
7 making any false or fraudulent statement for the purpose of
8 obtaining reimbursement commits a misdemeanor of the third
9 degree.

10 (g) Fund sources.--Refunds and reimbursements of money
11 allowed under this section shall be paid from the Motor License
12 Fund and the Liquid Fuels Tax Fund in amounts equal to the
13 original distribution and payment of such money into those
14 funds. Reimbursement for taxes paid on liquid fuels consumed in
15 the operation of tractors and powered machinery for purposes
16 relating to the actual production of farm products or ready mix
17 concrete and reimbursement for taxes paid on liquid fuels used
18 in aircraft or aircraft engines shall be paid out of the Motor
19 License Fund.

20 * * *

21 Section 2. The addition of 75 Pa.C.S. § 9017(e.3) shall
22 apply to liquid fuels and fuels consumed on or after the first
23 day of the first full calendar quarter following the effective
24 date of this section.

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