

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2389 Session of
1984

INTRODUCED BY DUFFY, MISCEVICH AND MRKONIC, JUNE 29, 1984

REFERRED TO COMMITTEE ON FINANCE, JUNE 29, 1984

AN ACT

1 Amending the act of January 14, 1952 (1951 P.L.1965, No.550),
2 entitled, as amended, "An act imposing a permanent and a
3 temporary State tax on fuels used within the Commonwealth in
4 internal combustion engines for the generation of power to
5 propel motor vehicles using the public highways; imposing a
6 permanent tax on the fuels used in aircraft or aircraft
7 engines; providing for the collection and lien of the tax and
8 the distribution and use of the proceeds thereof; requiring
9 dealer-users to secure licenses and to file bonds as a
10 guarantee of payment of taxes, penalties, interest, fines,
11 uncollectible check fees and Attorney General's fees, to file
12 reports and to compile and retain certain records; requiring
13 registration of carriers for hire; imposing duties on such
14 persons; requiring persons selling or delivering fuels to
15 licensed dealer-users to furnish information; imposing
16 certain costs on counties; conferring powers and imposing
17 duties on State officers and departments; providing for
18 refunds of taxes, penalties and interest illegally or
19 erroneously collected from licensees; and providing
20 penalties," excluding certain senior citizen organizations
21 from the fuel use tax.

22 The General Assembly of the Commonwealth of Pennsylvania
23 hereby enacts as follows:

24 Section 1. Section 4 of the act of January 14, 1952 (1951
25 P.L.1965, No.550), known as the Fuel Use Tax Act, amended
26 December 19, 1975 (P.L.558, No.157), is amended to read:

27 Section 4. Imposition of Tax Exemptions.--A permanent excise

1 tax at the rate of eight cents (8¢) a gallon or fractional part
2 thereof is hereby imposed on all dealer-users upon the use of
3 fuel within this Commonwealth, except the use of fuel in
4 aircraft or aircraft engines, to be computed in the manner
5 hereinafter set forth. The tax herein imposed shall not apply on
6 fuels not within the taxing power of this Commonwealth under the
7 Commerce Clause of the Constitution of the United States. The
8 tax herein imposed and assessed shall be paid to the
9 Commonwealth but once in respect to any fuels used within the
10 Commonwealth. No tax is hereby imposed upon (1) any fuel that is
11 used by or sold and delivered to the United States government,
12 when such sales and deliveries are supported by documentary
13 evidence satisfactory to the department, or (2) upon any fuel
14 not in excess of fifty (50) gallons brought into this
15 Commonwealth in the fuel supply tanks or other fueling
16 receptacles or devices of a motor vehicle, or (3) upon any fuel
17 used by or sold or delivered for use in farm machinery or
18 equipment, engaged in the production or harvesting of farm or
19 agricultural products involving the use of the public highways
20 within a ten (10) mile radius of the domicile of the owner of
21 the machinery or equipment, when such sales and deliveries are
22 supported by documentary evidence satisfactory to the
23 department, or (4) upon any fuel used by or sold or delivered to
24 the Commonwealth of Pennsylvania, its political subdivisions,
25 any volunteer fire company, any volunteer ambulance service, any
26 volunteer rescue squad, any senior citizen organization approved
27 by the Department of Aging, any second class county port
28 authority and any nonpublic schools not operated for profit,
29 when such sales and deliveries are supported by documentary
30 evidence satisfactory to the department.

1 In lieu of the foregoing taxes, a permanent excise tax at the
2 rate of one and one-half cents a gallon, or fractional part
3 thereof, is hereby imposed on all dealer-users upon the use of
4 fuel in propeller-driven piston engine aircraft or aircraft
5 engines, and except as hereinafter provided, one and one-half
6 cents a gallon or fractional part thereof of fuel used in
7 turbine propeller jet, turbo-jet, or jet driven aircraft or
8 aircraft engines, to be computed in the manner hereinafter set
9 forth. Beginning January 1, 1960, and thereafter, a State tax of
10 one cent a gallon, or fractional part thereof, is hereby imposed
11 and assessed upon all liquid fuels used or sold and delivered by
12 distributors within this Commonwealth for use as fuel in turbine
13 propeller jet, turbo-jet, or jet driven aircraft and aircraft
14 engines. The tax herein imposed shall not apply on fuels not
15 within the taxing power of this Commonwealth under The Commerce
16 Clause of the Constitution of the United States. The tax herein
17 imposed and assessed shall be paid to the Commonwealth but once
18 in respect to any fuels. No tax is hereby imposed upon (1) any
19 fuel that is used by or sold and delivered to the United States
20 government when such sales and deliveries are supported by
21 documentary evidence satisfactory to the department, or (2) upon
22 any fuel brought into this Commonwealth in the fuel supply tanks
23 or other fueling receptacles or devices of an aircraft or
24 aircraft engine, or (3) upon any fuel used or sold or delivered
25 to the Commonwealth of Pennsylvania, its political subdivisions,
26 any volunteer fire company, any volunteer ambulance service, any
27 volunteer rescue squad, any second class county port authority
28 and nonpublic schools not operated for profit, for official use
29 when such sales and deliveries are supported by documentary
30 evidence satisfactory to the department.

1 The Pennsylvania Aeronautics Commission is authorized to make
2 allocations of taxes collected under this act to airports in
3 proportion to the average of their allocations received from the
4 Pennsylvania Aeronautics Commission during the period for which
5 they have received such allocations not to exceed five (5) years
6 or, in the case of airports having no such allocation
7 experience, in equal proportion with other airports based upon
8 comparative collections under this tax.

9 Section 2. Section 16 of the act, amended December 19, 1975
10 (P.L.558, No.157), is amended to read:

11 Section 16. Refunds.--(a) The Board of Finance and Revenue
12 may refund to dealer-users tax, penalties and interest provided
13 by this act and paid by them as a result of an error of law or
14 of fact, or of both law and fact. Claims for refund shall be
15 filed with the Board of Finance and Revenue within one year of
16 the date of overpayment and shall be made under the procedure
17 prescribed by The Fiscal Code.

18 (b) All refunds of moneys allowed hereunder shall be paid
19 from the Motor License Fund and the Liquid Fuels Tax Fund in the
20 amounts equal to the original distribution and the payment of
21 such moneys into said funds.

22 (c) Any person who shall use any fuel on which the tax
23 imposed by this act has been paid and shall consume the same in
24 a motor vehicle of a volunteer fire company, volunteer ambulance
25 service or volunteer rescue squad or approved senior citizen
26 organization shall be reimbursed the full amount of the tax.

27 (d) As much of the moneys from time to time in the Motor
28 License Fund and the Liquid Fuels Tax Fund as may be necessary
29 is hereby appropriated to the Board of Finance and Revenue for
30 the purpose of making refunds as herein authorized. Estimates of

1 the amounts to be expended from these funds from time to time by
2 the board shall be submitted to the Governor for his approval or
3 disapproval, as in the case of other appropriations to
4 administrative departments, boards and commissions, and it shall
5 be unlawful for the Auditor General to honor any requisitions of
6 the Board of Finance and Revenue for the expenditure of moneys
7 hereunder in excess of the estimates approved by the Governor.

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