

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 107

Session of
1977

INTRODUCED BY MESSRS. YAHNER, MORRIS, THOMAS, FRYER, ZELLER,
CASSIDY, KLINGAMAN, W. W. FOSTER, SHUMAN, MADIGAN, D. R.
WRIGHT, STAIRS, DeVERTER, WENGER, GRIECO, COLE AND WILT,
FEBRUARY 8, 1977

REFERRED TO COMMITTEE ON TRANSPORTATION, FEBRUARY 8, 1977

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), July 15, 1969 (P.L.161, No.65) and December
23 19, 1975 (P.L.556, No.156), is 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 (i) 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 or
12 (ii) in the operation of a vehicle of a volunteer fire company,
13 volunteer ambulance service or volunteer rescue squad shall be
14 reimbursed the full amount of such tax.

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

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

1 the Commonwealth, including waterways bordering on the
2 Commonwealth, and shall certify to the State Treasurer to refund
3 annually to the Boating Fund of the Fish Commission the amount
4 so determined. The Department of [Highways] Transportation shall
5 be accorded the right to appear at such proceedings and make its
6 views known.

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

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

1 and shall use such liquid fuel in jet or turbo-jet propelled
2 aircraft or aircraft engines, shall be reimbursed in the amount
3 of such excess.

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

1 be submitted to the Board of Finance and Revenue or the
2 Department of Agriculture not later than the thirtieth day of
3 September of each year. [and the] All claims relating to farm
4 reimbursements or refunds shall be administered by the
5 Department of Agriculture for processing in accordance with the
6 provisions of this act. The board or Department of Agriculture
7 shall refuse to consider any claim received or post-marked later
8 than such date: Provided, however, That any claim relating to
9 farm reimbursements or refunds which is lost or misplaced, or
10 fails to arrive, shall be considered by the Department of
11 Agriculture if the applicant signs an affidavit stating that the
12 claim was filed and mailed on or before the thirtieth day of
13 September and the applicant is able to produce the records
14 required by the Department of Agriculture to support the claim
15 for reimbursement or refund. The claimant shall satisfy the
16 board or the Department of Agriculture that he has paid the tax
17 and that the liquid fuels have been consumed by him for purposes
18 for which reimbursements are permitted under this section. The
19 board or the Department of Agriculture may require any claimant
20 to furnish such further information, proof, or fuller
21 explanation as it shall deem necessary. The action of the Board
22 of Finance and Revenue or the Department of Agriculture in
23 granting or refusing reimbursement shall be final. The board or
24 the Department of Agriculture shall deduct the sum of one dollar
25 and fifty cents (\$1.50), 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 shall have the power to refer
2 to the Department of Revenue, for investigation, any claim for
3 reimbursement filed under the provisions of this act and it
4 shall be the duty of the Department of Revenue to investigate
5 such application and report to the Board of Finance and Revenue
6 relative thereto. All investigations relative to farm
7 reimbursements shall be conducted by the Department of
8 Agriculture. Any person making any false or fraudulent statement
9 for the purpose of obtaining reimbursement shall be guilty of a
10 misdemeanor, and, upon conviction thereof, shall be sentenced to
11 pay a fine of not more than one thousand dollars (\$1000) or to
12 undergo imprisonment for not more than six (6) months, or both.

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

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

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

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

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

22 Section 2. This act shall take effect immediately.