

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 762

Session of  
1983

INTRODUCED BY HELFRICK, WENGER, BRIGHTBILL, ROSS, O'PAKE AND  
SHAFFER, MAY 25, 1983

REFERRED TO FINANCE, MAY 25, 1983

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 bulk feed vehicles from the fuel use  
21 tax.

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

24 Section 1. Sections 4 and 16 of the act of January 14, 1952  
25 (1951 P.L.1965, No.550), known as the Fuel Use Tax Act, amended  
26 December 19, 1975 (P.L.558, No.157), are 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 or in the operation of a motor  
22 vehicle designed and used to deliver animal feed in bulk when  
23 used off highways for actual production and dissemination of  
24 bulk feed products, when such sales and deliveries are supported  
25 by documentary evidence satisfactory to the department, or (4)  
26 upon any fuel used by or sold or delivered to the Commonwealth  
27 of Pennsylvania, its political subdivisions, any volunteer fire  
28 company, any volunteer ambulance service, any volunteer rescue  
29 squad, any second class county port authority and any nonpublic  
30 schools not operated for profit, when such sales and deliveries

1 are supported by documentary evidence satisfactory to the  
2 department.

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

1 when such sales and deliveries are supported by documentary  
2 evidence satisfactory to the department.

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

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

18 All refunds of moneys allowed hereunder shall be paid from  
19 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 Any person who shall use any fuel on which the tax imposed by  
23 this act has been paid and shall consume the same in a motor  
24 vehicle of a volunteer fire company, volunteer ambulance service  
25 or volunteer rescue squad or in the operation of a motor vehicle  
26 designed and used to deliver animal feed in bulk when used off  
27 highways for actual production and dissemination of bulk feed  
28 products shall be reimbursed the full amount of the tax.

29 As much of the moneys from time to time in the Motor License  
30 Fund and the Liquid Fuels Tax Fund as may be necessary is hereby

1 appropriated to the Board of Finance and Revenue for the purpose  
2 of making refunds as herein authorized. Estimates of the amounts  
3 to be expended from these funds from time to time by the board  
4 shall be submitted to the Governor for his approval or  
5 disapproval, as in the case of other appropriations to  
6 administrative departments, boards and commissions, and it shall  
7 be unlawful for the Auditor General to honor any requisitions of  
8 the Board of Finance and Revenue for the expenditure of moneys  
9 hereunder in excess of the estimates approved by the Governor.  
10 Section 2. This act shall take effect in 60 days.