
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1080 Session of
1993

INTRODUCED BY MARKOSEK, KUKOVICH, DURHAM, MERRY, FAJT, SCHEETZ,
TRELLO, NAILOR, CLARK, CORRIGAN, MIHALICH, PRESTON, GEIST,
VEON, STURLA, DERMODY AND CIVERA, MARCH 29, 1993

AMENDMENTS TO SENATE AMENDMENTS, HOUSE OF REPRESENTATIVES,
JUNE 20, 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 use of liquid fuels tax revenues and for
17 the calculation and utilization of liquid fuels tax money
18 collected from fuels used in off-highway recreational
19 vehicles; and making editorial changes.

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

22 Section 1. Section 10(a) of the act of May 21, 1931
23 (P.L.149, No.105), known as The Liquid Fuels Tax Act, amended
24 July 30, 1975 (P.L.124, No.61), is amended to read:

1 Section 10. Disposition and Use of Tax.--(a) One-half cent
2 per gallon of the permanent tax collected under the provisions
3 of this act shall be paid into the Liquid Fuels Tax Fund of the
4 State Treasury; and such moneys, paid into said fund, are hereby
5 specifically appropriated for the purposes hereinafter set
6 forth.

7 The moneys so paid into the Liquid Fuels Tax Fund, except
8 those that are refunded as hereinafter provided, shall be paid
9 to the respective counties of this Commonwealth, less such
10 amounts as represent the difference between the annual fees
11 prescribed in sections 709 and 710 of "The Vehicle Code" and
12 those fees charged pursuant to section 710.1 of "The Vehicle
13 Code" for annual registration of each motor vehicle operated by
14 mass transportation systems, on the first day of June and
15 December of each year, in the ratio that average return made
16 during the three (3) preceding years to each county bears to the
17 average amount returned to all counties for the three preceding
18 years: Provided, That the distribution of tax to the counties
19 from the Liquid Fuels Tax Fund that is payable the first day of
20 August, one thousand nine hundred and thirty-one, shall be made
21 under the provisions of the acts of Assembly repealed by this
22 act. Such amounts as represent the difference between the annual
23 fees prescribed in sections 709 and 710 of "The Vehicle Code"
24 and those fees charged pursuant to section 710.1 of "The Vehicle
25 Code" shall be paid into the Motor License Fund.

26 All moneys received by the counties hereunder shall be
27 deposited and maintained in a special fund designated as the
28 "County Liquid Fuels Tax Fund" into which no other moneys shall
29 be deposited and commingled, except in any county which does not
30 have sufficient money in such special fund to provide for

1 payments designated in the current annual budget for payment
2 from such special fund for the purposes of construction,
3 reconstruction, maintenance and repair of roads, highways [and],
4 bridges and curb ramps from a road or highway to provide for
5 access by individuals with disabilities consistent with Federal
6 and State law, property damages, compensation of viewers for
7 services in eminent domain proceedings involving roads, highways
8 and bridges, and for the construction, reconstruction, operation
9 and maintenance of publicly owned ferryboat operations, interest
10 and principal payments on road, bridge or publicly owned
11 ferryboat operation bonds, or sinking fund charges for such
12 bonds becoming due within the current calendar year and for the
13 acquisition, maintenance, repair and operation of traffic signs
14 and traffic signals, and for the erection and maintenance of
15 stop and go signal lights, blinkers or other like traffic
16 control devices[.]: Provided, That payments may be made from the
17 fund for purposes of indirect costs including benefit costs,
18 overhead and other administrative charges for those county
19 employes directly engaged in eligible projects and for purposes
20 of vehicle liability insurance for equipment purchased under the
21 fund: And provided further, That indirect costs shall not exceed
22 ten per centum of the yearly allocation to the county. The
23 county, for the purpose of such payments and such payments only,
24 may borrow and place in such special fund moneys, not in excess
25 of the liquid fuels tax funds to be received during the current
26 calendar year, and all such loans shall be repaid from such
27 special fund before the expiration of the current calendar year
28 and not thereafter. Moneys so received and deposited shall be
29 used only for the purpose of construction, reconstruction,
30 maintenance, and repair of roads, highways [and], bridges and

1 curb ramps from a road or highway to provide for access by
2 individuals with disabilities consistent with Federal and State
3 law, including the payment of property damage and compensation
4 of viewers for services in eminent domain proceedings involving
5 such roads, highways and bridges, now due or hereafter to become
6 due, occasioned by or the relocation or construction of highways
7 and bridges, and for the construction, reconstruction, operation
8 and maintenance of publicly owned ferryboat operations, and for
9 the payment of interest and sinking fund charges on bonds issued
10 or used for highways and bridge purposes and publicly owned
11 ferryboat operations, or on so much of any bonds as have been
12 used for such purposes and for the acquisition, maintenance,
13 repair and operation of traffic signs and traffic signals and
14 all payments made by any county, either directly or indirectly,
15 prior to the first day of January, one thousand nine hundred and
16 forty-six, for any or all such purposes are hereby validated:
17 Provided, That no expenditures from the county liquid fuels tax
18 fund shall be made by the county commissioners for new
19 construction on roads, bridges, curb ramps or publicly owned
20 ferryboat operations without first having obtained the approval
21 of the plans for such construction from the Department of
22 Transportation: And provided further, That the county
23 commissioners shall not allocate moneys from the county liquid
24 fuels tax fund to any political subdivision within the county,
25 until the application and the contracts or plans for the
26 proposed expenditures have been made on forms, prescribed,
27 prepared and furnished, and first approved by the Department of
28 Transportation. The county commissioners of each county shall
29 make to the Department of Transportation, on or before the
30 fifteenth day of January for the period ending December thirty-

1 first of each year, on forms prescribed, prepared, and furnished
2 by the Department of Transportation, a report showing the
3 receipts and expenditures of such moneys received by the county,
4 from the Commonwealth under the provisions of this section.
5 Copies of such report shall be transmitted to the department and
6 to the Department of the Auditor General for audit. Upon the
7 failure of the county commissioners to file such report, or to
8 make any payments, allocations or expenditures, in compliance
9 with the provisions of this section, the department shall
10 withhold further payments to the county out of the Liquid Fuels
11 Tax Fund until the delinquent report is filed, transmitted, or
12 said moneys allocated, or said expenditures for the prior twelve
13 months are approved by the Department of Transportation.

14 * * *

15 Section 2. Section 17 of the act, amended March 12, 1957
16 (P.L.8, No.3), July 15, 1969 (P.L.161, No.65) and December 19,
17 1975 (P.L.556, No.156), is amended to read:

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

24 (b) Any person who shall use or buy liquid fuels on which
25 the tax imposed by this act shall have been paid and shall
26 consume the same (i) in the operation of any nonlicensed farm
27 tractor or licensed farm tractor when used off the highways for
28 agricultural purposes or nonlicensed powered farm machinery for
29 purposes relating to the actual production of farm products or
30 (ii) in the operation of a vehicle of a volunteer fire company,

1 volunteer ambulance service or volunteer rescue squad shall be
2 reimbursed the full amount of such tax.

3 (c) (1) When the tax imposed by this act shall have been
4 paid and the fuel on which such tax has been imposed shall have
5 been consumed in the operation of motorboats or watercraft upon
6 the waters of the Commonwealth, including waterways bordering on
7 the Commonwealth, the full amount of such tax shall be refunded
8 to the [Boating Fund of the Fish Commission] Boat Fund of the
9 Pennsylvania Fish and Boat Commission on petition to the Board
10 of Finance and Revenue in accordance with prescribed procedures.

11 (2) In accordance with such procedures, the Pennsylvania
12 Fish and Boat Commission shall biannually calculate the amount
13 of liquid fuels tax consumed by said motorcraft and furnish such
14 information relating to its calculations and data as may be
15 prescribed or required by the Board of Finance and Revenue. This
16 board shall review the petition and motorboat fuel consumption
17 calculations of the Pennsylvania Fish and Boat Commission and
18 then determine the amount of liquid fuels tax paid on liquid
19 fuels consumed in the propulsion of motorboats and other
20 motorcraft on the waters of the Commonwealth, including
21 waterways bordering on the Commonwealth, and shall certify to
22 the State Treasurer to refund annually to the [Boating Fund of
23 the Fish Commission] Boat Fund of the Pennsylvania Fish and Boat
24 Commission the amount so determined. The Department of
25 [Highways] Transportation shall be accorded the right to appear
26 at such proceedings and make its views known.

27 (3) Said moneys shall be used by the Pennsylvania Fish and
28 Boat Commission acting by itself or by agreement with other
29 State and Federal agencies including, but not limited to, the
30 Navigation Commission for the Delaware River, the Department of

1 [Forests and Waters] Environmental Resources, the Department of
2 Health, and the Federal Bureau of Outdoor Recreation, only for
3 the improvement of the waters of Pennsylvania on which
4 motorboats are permitted to operate and may be used, including
5 but not limited to the development and construction of motorboat
6 areas; the dredging and clearing of water areas where motorboats
7 can be used; the placement and replacement of navigational aids;
8 the purchase, development and maintenance of public access sites
9 and facilities to and on waters where motorboating is permitted;
10 the patrolling of motorboating waters; the publishing of
11 nautical charts in those areas of Pennsylvania not covered by
12 nautical charts published by the United States Coast and
13 Geodetic Survey or the United States Army Engineers; and the
14 administrative expenses arising out of such activities.

15 (d) (1) When the tax imposed by this act shall have been
16 paid on fuel used in off-highway recreational vehicles within
17 the Commonwealth, an amount equal to the revenue generated by
18 the tax, but not derived therefrom, may be appropriated through
19 the General Fund to the Department of Environmental Resources.
20 It is the express intent of this act that all proceeds from the
21 tax paid on fuel used in off-highway recreational vehicles
22 within this Commonwealth be paid without diminution of the Motor
23 License Fund.

24 (2) The Department of Environmental Resources shall
25 biennially calculate the amount of liquid fuel consumed by off-
26 highway recreational vehicles and furnish such information
27 relating to its calculations and data as may be required by the
28 Appropriations Committee of the Senate and the Appropriations
29 Committee of the House of Representatives.

30 (3) The General Assembly shall review the fuel consumption

1 calculations of the Department of ~~Transportation~~ ENVIRONMENTAL
 2 RESOURCES to determine the amount of liquid fuels tax paid on
 3 liquid fuels consumed in the propulsion of off-highway
 4 recreational vehicles in the Commonwealth and may annually
 5 appropriate to the Department of Environmental Resources the
 6 amount so determined.

7 (4) Said moneys shall be used for the benefit of motorized
 8 and nonmotorized recreational trails by the Department of
 9 Environmental Resources as provided in the Intermodal Surface
 10 Transportation Efficiency Act of 1991 (Public Law 102-240, 105
 11 Stat. 1914).

12 (e) Any person who shall use or buy any liquid fuel on which
 13 a tax imposed by this act in excess of one and one-half cents a
 14 gallon shall have been paid and shall use such liquid fuel in
 15 propeller-driven aircraft or aircraft engines, or who shall use
 16 or buy any liquid fuel on which a tax imposed by this act in
 17 excess of one and one-half cents per gallon shall have been paid
 18 and shall use such liquid fuel in jet or turbo-jet propelled
 19 aircraft or aircraft engines, shall be reimbursed in the amount
 20 of such excess.

21 (f) All such claims for reimbursement shall be made upon a
 22 form to be furnished by the Board of Finance and Revenue and
 23 shall include, in addition to such other information as the
 24 board may by regulation prescribe, the name and address of the
 25 claimant, the period of time and the number of gallons of liquid
 26 fuels used for which reimbursement is claimed, a description of
 27 the farm machinery, aircraft or aircraft engine in which such
 28 liquid fuels have been used and the purposes for which such
 29 machinery, aircraft or aircraft engine has been used, the size
 30 of the farm and part thereof in cultivation on which such liquid

1 fuels have been used. Each such claim shall contain statements
2 that the liquid fuels for which reimbursement is claimed have
3 been used only for purposes for which reimbursements are
4 permitted, that records of the amounts of such fuels used in
5 each piece of farm machinery, aircraft or aircraft engine have
6 been kept, and that no part of such claim has been paid except
7 as stated. Each such claim shall contain a declaration that it
8 and accompanying receipts are true and correct to the best of
9 claimant's knowledge and shall be signed by the claimant or the
10 person claiming on his behalf. Every claim shall be accompanied
11 by receipts indicating that the liquid fuels or excess liquid
12 fuels tax was paid on the liquid fuels for which reimbursement
13 is claimed. All records of purchases of liquid fuels and use in
14 each tractor or powered machinery, aircraft or aircraft engine
15 shall be kept for a period of two years. Every such claim shall
16 be made annually for the preceding year ending on the thirtieth
17 day of June and shall be submitted to the Board of Finance and
18 Revenue not later than the thirtieth day of September of each
19 year and the board shall refuse to consider any claim received
20 or postmarked later than such date. The claimant shall satisfy
21 the board that he has paid the tax and that the liquid fuels
22 have been consumed by him for purposes for which reimbursements
23 are permitted under this section. The board may require any
24 claimant to furnish such further information, proof, or fuller
25 explanation as it shall deem necessary. The action of the Board
26 of Finance and Revenue in granting or refusing reimbursement
27 shall be final. The board shall deduct the sum of one dollar and
28 fifty cents (\$1.50), which shall be considered as a filing fee,
29 from every claim for reimbursement granted. Such filing fees are
30 hereby specifically appropriated to the Board of Finance and

1 Revenue and to the Department of Revenue for expenses of any
2 nature whatsoever incurred in the administration of the
3 reimbursement provisions of this act. The Board of Finance and
4 Revenue shall have the power to refer to the Department of
5 Revenue, for investigation, any claim for reimbursement filed
6 under the provisions of this act and it shall be the duty of the
7 Department of Revenue to investigate such application and report
8 to the Board of Finance and Revenue relative thereto. Any person
9 making any false or fraudulent statement for the purpose of
10 obtaining reimbursement shall be guilty of a misdemeanor, and,
11 upon conviction thereof, shall be sentenced to pay a fine of not
12 more than one thousand dollars (\$1000) or to undergo
13 imprisonment for not more than six (6) months, or both.

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

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

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

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

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

24 Section 3. This act shall take effect as follows:

25 (1) The amendment of section 17 of the act shall take
26 effect July 1, 1994.

27 (2) The remainder of this act shall take effect
28 immediately.