

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 970 Session of
1993

INTRODUCED BY MELLOW, LOEPER, STOUT, REIBMAN, AFFLERBACH,
SCANLON, STAPLETON, FISHER, CORMAN, LYNCH, LAVALLE, TILGHMAN,
WILLIAMS, PECORA, SHAFFER, SCHWARTZ, BORTNER, MADIGAN, MUSTO,
STEWART, SALVATORE, DAWIDA, JONES, HELFRICK, BELAN, LINCOLN
AND GREENLEAF, APRIL 21, 1993

SENATOR STOUT, TRANSPORTATION, AS AMENDED, MAY 11, 1993

AN ACT

1 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated
2 Statutes, further providing for suspension or revocation of
3 vehicle business registration plates AND FOR JUDICIAL REVIEW <—
4 OF DENIAL OR SUSPENSION OF REGISTRATION.

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

7 Section 1. Sections 1374 and 1377 of Title 75 of the
8 Pennsylvania Consolidated Statutes are amended to read:

9 § 1374. Suspension or revocation of vehicle business
10 registration plates.

11 (a) Suspension or revocation after opportunity for
12 hearing.--The department may IMPOSE A MONETARY PENALTY FOR <—
13 CERTAIN VIOLATIONS AND OFFENSES AS PRESCRIBED BY REGULATION OR
14 THIS SECTION OR suspend or revoke registration plates for
15 dealers, manufacturers or members of the "Miscellaneous Motor
16 Vehicle Business" class after providing AN opportunity for a <—
17 hearing ~~and the consideration of relevant mitigating facts and~~ <—

1 ~~circumstances~~ in any of the following cases when the department
2 finds upon sufficient evidence that:

3 (1) Except as provided in subsection (b)(1), the
4 registrant is no longer entitled to licensing as a dealer or
5 manufacturer or to registration in the "Miscellaneous Motor
6 Vehicle Business" class.

7 ‡(2) The registrant has made or permitted to be made any <—
8 unlawful use of the vehicle or registration plate or plates
9 or registration card or permitted the use by a person not
10 entitled thereto.

11 (3)‡~~(2)~~ The registrant has knowingly made a false <—
12 statement or knowingly concealed a material fact or otherwise
13 committed a fraud in any application.

14 ‡(4) The registrant has failed to give notice of <—
15 transfer of ownership or of the destruction or junking of any
16 vehicle when and as required by this title.

17 (5) The registrant has failed to deliver to a transferee
18 lawfully entitled thereto or to the department, when and as
19 required by this title, a properly assigned certificate of
20 title.

21 (6)‡~~(3)~~ The registrant has repeatedly violated any of <—
22 the provisions of this title‡~~., except for violations of~~ <—
23 ~~subsection (a.1), in which sanctions shall be imposed in~~
24 ~~accordance with the schedule set forth in subsection (a.2).~~

25 ‡(7) Any fee payable to the Commonwealth in connection
26 with the operation of the business of the registrant has not
27 been paid.‡ <—

28 ~~(a.1) Suspension or revocation for fraudulent conduct. A~~
29 ~~registrant's vehicle business registration plates and authority~~
30 ~~to issue temporary registration plates shall not be suspended or~~

~~revoked unless, after providing opportunity for a hearing and consideration of relevant mitigating facts and circumstances, the department finds sufficient evidence of fraudulent conduct by the registrant with regard to any of the following circumstances:~~

~~(1) The registrant has made or permitted to be made any unlawful use of the vehicle registration plate or plates or registration card or permitted the use by a person not entitled thereto.~~

~~(2) The registrant has failed to give notice of transfer of ownership or of the destruction or junking of any vehicle when and as required by this title.~~

~~(3) Any fee payable to the Commonwealth, except for fees relating to paragraph (4), in connection with the operation of the business of the registrant has not been paid.~~

~~(4) The registrant has failed to deliver to a transferee lawfully entitled thereto or to the department, when and as required by this title, a properly assigned certificate of title or application for certificate of title.~~

~~(a.2) Sanctions for nonfraudulent conduct. A registrant's vehicle business registration plates and authority to issue temporary registration plates shall not be suspended or revoked. If, after providing the opportunity for a hearing and consideration of relevant mitigating facts and circumstances, the department finds a violation but insufficient evidence of fraudulent conduct by the registrant, the department shall impose sanctions for violations of subsection (a.1) in accordance with the following schedule:~~

~~(1) First offense. If the department finds that the registrant has violated any paragraph of subsection (a.1) as~~

~~a first offense, the registrant shall be issued a written warning notice as a sanction.~~

~~(2) Second offense.~~

~~(i) If the department finds that the registrant has violated subsection (a.1)(1), (2) or (3) as a second offense, the registrant may be sanctioned with a monetary penalty of not more than \$100 per violation.~~

~~(ii) If the department finds that the registrant has violated subsection (a.1)(4) as a second offense, the registrant may be sanctioned with a monetary penalty which shall not be more than:~~

~~(A) \$25 per submission of an assigned certificate of title or application for certificate of title if the department finds that the assigned certificates of title or applications for certificates of title were submitted 20 days or less after the 20 day deadline established under section 1103.1 (relating to application for certificate of title); or~~

~~(B) \$50 per submission of an assigned certificate of title or application for certificate of title if the department finds that the assigned certificates of title or applications for certificates of title were submitted 21 days or more after the 20 day deadline established under section 1103.1.~~

~~(3) Third offense.~~

~~(i) If the department finds that the registrant has violated subsection (a.1)(1), (2) or (3) as a third offense, the registrant may be sanctioned with a monetary~~

~~penalty of not more than \$200 per violation.~~

~~(ii) If the department finds that the registrant has violated subsection (a.1)(4) as a third offense, the registrant may be sanctioned with a monetary penalty which shall not be more than:~~

~~(A) \$50 per submission of an assigned certificate of title or application for certificate of title if the department finds that the assigned certificates of title or applications for certificates of title were submitted 20 days or less after the 20 day deadline established under section 1103.1; or~~

~~(B) \$100 per submission of an assigned certificate of title or application for certificate of title if the department finds that the assigned certificates of title or applications for certificates of title were submitted 21 days or more after the 20 day deadline established under section 1103.1.~~

~~(4) Subsequent offenses.~~

~~(i) If the department finds that the registrant has violated subsection (a.1)(1) as a fourth or subsequent offense, the registrant may be sanctioned with a suspension of the registrant's vehicle business registration plates for a period of not more than 30 days.~~

~~(ii) If the department finds that the registrant has violated subsection (a.1)(2), (3) or (4) as a fourth or subsequent offense, the registrant may be sanctioned with a suspension of the registrant's authority to issue~~

~~temporary registration plates for a period of not more than 30 days.~~

~~(5) Revocation of vehicle business registration plates or authority to issue temporary registration plates.~~

~~(i) The department may revoke a registrant's vehicle business registration plates upon the fifth or subsequent violation of subsection (a.1)(1) if the department finds that revocation will be in the best interest of the citizens of this Commonwealth.~~

~~(ii) The department may revoke a registrant's authority to issue temporary registration plates upon the fifth or subsequent violation of subsection (a.1)(2), (3) or (4) if the department finds that revocation will be in the best interest of the citizens of this Commonwealth.~~

~~(a.3) Removal of violations. A sanction shall remain on the registrant's record for a period of 12 months from the date of the sanction, subject to the following:~~

~~(1) A sanction recorded against a registrant for each violation of any paragraph of subsection (a.1) shall be removed at the rate of one level of sanction for each 12 consecutive months from the date of the sanction in which the registrant has not committed a violation which results in a sanction being issued for a violation of the same paragraph of subsection (a.1).~~

~~(2) If the registrant does not commit a violation of the same paragraph of subsection (a.1) within that 12 month period from the date of the sanction, the department shall not consider the sanction as a prior violation on the registrant's record.~~

~~(a.4) Prior violations not to be considered. Sanctions~~

~~pending or imposed under the former subsection (a)(2), (4), (5) or (7), which are repealed by this act, prior to the effective date of subsection (a.2) shall not be deemed as prior violations in determining the level of offense or sanction to be imposed under subsection (a.2).~~

~~(a.5) Multiple violations. In the case of multiple violations of any paragraph of subsection (a.1) considered at one departmental hearing, the department may impose one sanction for all violations and may direct that all suspensions or revocations imposed for separate violations be served concurrently, subject to the following:~~

~~(1) Any notice of a violation shall identify the specific applications, documents, fees and taxes which the registrant failed to deliver, together with copies of all forms or other materials filed with respect to the application.~~

~~(2) A sanction shall not be imposed for an alleged violation which occurred prior to the time of the notice of a violation which the department knew or should have known existed and which could have been included in the notice as an additional subject of the departmental hearing.~~

~~(B) MITIGATING EVENTS.--THE OPPORTUNITY FOR A HEARING AS AUTHORIZED BY SUBSECTION (A) SHALL INCLUDE THE CONSIDERATION OF RELEVANT MITIGATING EVENTS AS PRESCRIBED BY REGULATION FOR VIOLATIONS AND OFFENSES OF SUBSECTION (A)(2), (5) AND (7).~~

~~(C) WRITTEN WARNING FOR FIRST OFFENSE.--IF THE REGISTRANT VIOLATES SUBSECTION (A)(2), (5) OR (7) AS A FIRST OFFENSE, THE DEPARTMENT SHALL SANCTION THE REGISTRANT WITH A WRITTEN WARNING WITHOUT PROVIDING THE OPPORTUNITY FOR A HEARING.~~

~~(D) SCHEDULE OF SANCTIONS.--THE DEPARTMENT SHALL IMPOSE THE~~

FOLLOWING SANCTIONS FOR VIOLATIONS:

(1) IF THE DEPARTMENT FINDS THAT THE REGISTRANT HAS VIOLATED SUBSECTION (A)(5) OR (7) AS A SECOND OFFENSE, THE REGISTRANT MAY BE SANCTIONED WITH A MONETARY PENALTY OF NOT LESS THAN \$50 AND NOT MORE THAN \$100 PER VIOLATION.

(2) IF THE DEPARTMENT FINDS THAT THE REGISTRANT HAS VIOLATED SUBSECTION (A)(5) OR (7) AS A THIRD OFFENSE, THE REGISTRANT MAY BE SANCTIONED WITH A MONETARY PENALTY OF NOT LESS THAN \$100 AND NOT MORE THAN \$200 PER VIOLATION.

(3) A MONETARY PENALTY IMPOSED FOR A VIOLATION OF SUBSECTION (A)(5) SHALL BE IN ADDITION TO THE REQUIREMENT THAT THE REGISTRANT DELIVER A PROPERLY ASSIGNED CERTIFICATE OF TITLE. IF THE REGISTRANT FAILS TO PAY THE MONETARY PENALTY OR TO DELIVER THE CERTIFICATE OF TITLE WITHIN 45 DAYS AFTER NOTICE WAS SENT BY THE DEPARTMENT, EXCEPT AS OTHERWISE PROVIDED BY SECTION 1377 (RELATING TO JUDICIAL REVIEW), THE DEPARTMENT SHALL SUSPEND THE REGISTRANT'S REGISTRATION PLATES UNTIL THE MONETARY PENALTY HAS BEEN PAID AND THE TITLE DELIVERED.

(4) A MONETARY PENALTY IMPOSED FOR A VIOLATION OF SUBSECTION (A)(7) SHALL BE IN ADDITION TO PAYMENT OF THE ORIGINAL AMOUNT DUE FOR TAXES AND FEES AND ANY OTHER PENALTY PROVIDED BY LAW FOR SUBMISSION OF AN UNCOLLECTIBLE OR DISHONORED CHECK. IF THE REGISTRANT FAILS TO PAY THE MONETARY PENALTY, THE ORIGINAL AMOUNT DUE OR ANY OTHER PENALTY WITHIN 45 DAYS AFTER NOTICE WAS SENT BY THE DEPARTMENT, EXCEPT AS OTHERWISE PROVIDED BY SECTION 1377, THE DEPARTMENT SHALL SUSPEND THE REGISTRANT'S REGISTRATION PLATES UNTIL ALL FEES, TAXES AND PENALTIES HAVE BEEN PAID.

(5) A VIOLATION OF SUBSECTION (A)(5) SHALL REMAIN ON THE

1 REGISTRANT'S RECORD FOR A PERIOD OF 18 MONTHS FROM THE DATE
2 THAT THE VIOLATION WAS SANCTIONED BY THE DEPARTMENT. IF THE
3 REGISTRANT DOES NOT COMMIT ANOTHER VIOLATION OF SUBSECTION
4 (A)(5) WITHIN THAT 18-MONTH PERIOD, THE DEPARTMENT SHALL
5 RESCIND FROM THE REGISTRANT'S RECORD THE PRIOR SANCTION THAT
6 WAS IMPOSED. AFTER RESCISSION OF THE PRIOR SANCTION, IF THE
7 REGISTRANT THEREAFTER COMMITS A SUBSEQUENT VIOLATION OF
8 SUBSECTION (A)(5), THAT VIOLATION SHALL BE CONSIDERED THE
9 SAME DEGREE OF OFFENSE AS WAS PREVIOUSLY IMPOSED, UNLESS MORE
10 THAN THREE YEARS HAVE ELAPSED SINCE THE LAST DATE THAT THE
11 REGISTRANT WAS SANCTIONED FOR A VIOLATION OF SUBSECTION
12 (A)(5), IN WHICH CASE SAID SUBSEQUENT VIOLATION SHALL BE
13 DEEMED A FIRST OFFENSE.

14 (6) IF THE DEPARTMENT HAS PREVIOUSLY GIVEN NOTICE OF,
15 AND CONSIDERED AT A DEPARTMENTAL HEARING, VIOLATIONS OF
16 SUBSECTION (A)(5), NO SANCTION SHALL BE IMPOSED FOR AN
17 ALLEGED VIOLATION OF SUBSECTION (A)(5), WHICH WAS NOT
18 INCLUDED WITHIN SAID NOTICE, IF SAID VIOLATION OCCURRED PRIOR
19 TO THE DATE OF THE NOTICE, THE DEPARTMENT'S RECORDS REFLECTED
20 THAT THE VIOLATION EXISTED AND THE VIOLATION COULD HAVE BEEN
21 INCLUDED IN THE NOTICE AS AN ADDITIONAL SUBJECT OF THE
22 DEPARTMENTAL HEARING.

23 (E) OPPORTUNITY FOR HEARING.--UNTIL SUCH REGULATIONS ARE
24 PRESCRIBED BY THE DEPARTMENT AS AUTHORIZED BY SUBSECTION (B),
25 THE OPPORTUNITY FOR A HEARING SHALL INCLUDE THE CONSIDERATION OF
26 RELEVANT MITIGATING EVENTS FOR A VIOLATION OF SUBSECTION (A)(5).

27 (F) INTERIM REGULATIONS.--UNTIL SUCH REGULATIONS ARE
28 PRESCRIBED BY THE DEPARTMENT AS AUTHORIZED BY SUBSECTIONS (A)
29 AND (B), THE APPLICABLE DEPARTMENTAL REGULATIONS AS CURRENTLY
30 PROMULGATED SHALL REMAIN IN FULL FORCE AND EFFECT, EXCEPT AS

1 SPECIFICALLY SUPERSEDED BY THE PROVISIONS OF SUBSECTIONS (C),
2 (D) AND (E).

3 [(b)] (G) Suspension without hearing.--The department may <—
4 suspend or revoke registration plates for dealers, manufacturers
5 or members of the "Miscellaneous Motor Vehicle Business" class
6 without providing the opportunity for a hearing in any of the
7 following cases:

8 (1) The registrant's license as a dealer or manufacturer
9 has been suspended or revoked by the State Board of Vehicle
10 Manufacturers, Dealers and Salespersons or the board has
11 determined that the registrant is not entitled to such a
12 license.

13 (2) If the Pennsylvania State Police shall certify that
14 the dealer, manufacturer or member of the "Miscellaneous
15 Motor Vehicle Business" class is no longer in business.

16 [(c)] (H) Recommended action by State licensing board.--The <—
17 department may also audit and investigate dealers and
18 manufacturers registered by the State Board of Vehicle
19 Manufacturers, Dealers and Salespersons to determine whether any
20 dealer or manufacturer has violated any provision of this title
21 pertaining to dealers or manufacturers or any regulation
22 promulgated by the department. The department may recommend that
23 the State Board of Vehicle Manufacturers, Dealers and
24 Salespersons suspend the license of any dealer or manufacturer
25 which it finds has committed a violation and the board shall
26 take prompt action on any such recommendations under the act of
27 December 22, 1983 (P.L.306, No.84), known as the Board of
28 Vehicles Act.

29 § 1377. Judicial review [of denial or suspension of <—
30 registration] OR AUTHORIZATION TO ISSUE TEMPORARY <—

1 REGISTRATION.

2 Any person WHO HAS BEEN SANCTIONED BY THE DEPARTMENT UNDER <—
3 THIS CHAPTER OR whose registration OR AUTHORITY TO ISSUE <—
4 REGISTRATION CARDS OR PLATES has been denied [or], suspended or
5 otherwise sanctioned by the department shall have the right to
6 appeal to the court vested with jurisdiction of such appeals by
7 or pursuant to Title 42 (relating to judiciary and judicial
8 procedure). The filing of the appeal shall act as a supersedeas, <—
9 EXCEPT FOR A WARNING OR A REVOCATION, and the suspension [of <—
10 registration] OR MONETARY PENALTY shall not be imposed until <—
11 determination of the matter as provided in this section. UPON <—
12 APPLICATION OF THE REGISTRANT AND PRIOR NOTICE TO THE
13 DEPARTMENT, THE COURT MAY GRANT A SUPERSEDEAS FROM A REVOCATION
14 OF REGISTRATION OR AUTHORITY TO ISSUE REGISTRATION. The court
15 shall [set the matter down] SCHEDULE THE APPEAL for hearing upon <—
16 30 [days] days' written notice to the department, and thereupon
17 take testimony and examine into the facts of the case and
18 determine whether the petitioner is entitled to registration
19 [or], subject to suspension of registration ~~or otherwise to be~~ <—
20 ~~sanctioned~~ OR OTHER SANCTION under the provisions of this title <—
21 OR DEPARTMENTAL REGULATIONS. <—

22 Section 2. This act shall take effect in 60 days.