

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

# HOUSE BILL

## No. 1470

 Session of 1999

INTRODUCED BY MARSICO, BATTISTO, CLARK, GEIST, LYNCH,  
McILHINNEY, McNAUGHTON, RAMOS, SNYDER, E. Z. TAYLOR, TULLI  
AND YOUNGBLOOD, MAY 6, 1999

AS RE-REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF  
REPRESENTATIVES, AS AMENDED, JUNE 14, 1999

## AN ACT

1 Amending ~~Title~~ TITLES 66 (PUBLIC UTILITIES) AND 75 (Vehicles) of <—  
2 the Pennsylvania Consolidated Statutes, FURTHER PROVIDING FOR <—  
3 MOTOR CARRIER AND BROKER VIOLATIONS; further providing for  
4 unlawful activities and for police and Commonwealth  
5 inspections relating to vehicle inspections; AND ESTABLISHING <—  
6 THE MOTOR CARRIER SAFETY ADVISORY COMMITTEE.

7 The General Assembly of the Commonwealth of Pennsylvania  
8 hereby enacts as follows:

9 ~~Section 1. Section 4107(d) of Title 75 of the Pennsylvania <—~~  
10 ~~Consolidated Statutes is amended and the section is amended by~~  
11 ~~adding a subsection to read:~~

12 SECTION 1. SECTION 3312 OF TITLE 66 OF THE PENNSYLVANIA <—  
13 CONSOLIDATED STATUTES IS AMENDED TO READ:

14 § 3312. EVASION OF MOTOR CARRIER AND BROKER LAWS AND  
15 REGULATIONS.

16 (A) PENALTY.--ANY PERSON, WHETHER CARRIER, SHIPPER,  
17 CONSIGNEE, OR BROKER, OR ANY OFFICER, EMPLOYEE, AGENT, OR  
18 REPRESENTATIVE THEREOF, WHO SHALL KNOWINGLY OFFER, GRANT, OR  
19 GIVE, OR SOLICIT, ACCEPT, OR RECEIVE ANY REBATE, CONCESSION, OR

1 DISCRIMINATION, IN VIOLATION OF ANY PROVISION OF THIS PART WITH  
2 RESPECT TO MOTOR CARRIERS, OR WHO, BY MEANS OF FALSE STATEMENTS  
3 OR REPRESENTATIONS OR BY USE OF FALSE OR FICTITIOUS BILL, BILL  
4 OF LADING, RECEIPT, VOUCHER, ROLL, ACCOUNT, CLAIM, CERTIFICATE,  
5 AFFIDAVIT, DEPOSITION, LEASE, OR BILL OF SALE, OR BY ANY OTHER  
6 MEANS OR DEVICE, SHALL KNOWINGLY AND WILLFULLY, ASSIST, SUFFER  
7 OR PERMIT ANY PERSON OR PERSONS, NATURAL OR ARTIFICIAL, TO  
8 OBTAIN TRANSPORTATION OF PROPERTY BY MOTOR CARRIER SUBJECT TO  
9 THIS PART, FOR LESS THAN THE APPLICABLE RATE, FARE OR CHARGE, OR  
10 WHO SHALL KNOWINGLY AND WILLFULLY, BY ANY SUCH MEANS, OR  
11 OTHERWISE SEEK TO EVADE OR DEFEAT REGULATION IN THIS PART  
12 PROVIDED FOR MOTOR CARRIERS OR BROKERS, OR REQUIREMENTS AS  
13 PROVIDED IN 75 PA.C.S. §§ 4107 (RELATING TO UNLAWFUL ACTIVITIES)  
14 AND 4704 (RELATING TO INSPECTION BY POLICE OR COMMONWEALTH  
15 PERSONNEL), SHALL BE GUILTY OF A SUMMARY OFFENSE FOR THE FIRST  
16 OFFENSE AND A MISDEMEANOR OF THE THIRD DEGREE FOR SUBSEQUENT  
17 OFFENSES.

18 (B) ADMINISTRATIVE COORDINATION.--THE COMMISSION SHALL  
19 COORDINATE WITH THE DEPARTMENT OF TRANSPORTATION IN THE  
20 ENFORCEMENT OF SUBSECTION (A) AND 75 PA.C.S. §§ 4107(B.1) AND  
21 (D).

22 SECTION 2. SECTION 4107(D) OF TITLE 75 IS AMENDED AND THE  
23 SECTION IS AMENDED BY ADDING A SUBSECTION TO READ:

24 § 4107. Unlawful activities.

25 \* \* \*

26 (b.1) Out-of-service criteria.--

27 (1) No person shall operate a motor carrier vehicle or  
28 cause, permit, require or otherwise allow any other person to  
29 operate a motor carrier vehicle in violation of the standards <—  
30 set forth in the North American Uniform Out of Service

1 ~~Criteria, as amended, and published by the Commercial Vehicle~~  
2 ~~Safety Alliance, which is hereby adopted as Commonwealth~~  
3 ~~standards.~~ REGULATIONS UNDER PARAGRAPH (2). THE DEPARTMENT <—  
4 SHALL COORDINATE WITH THE PENNSYLVANIA PUBLIC UTILITY  
5 COMMISSION IN THE ENFORCEMENT OF THIS SUBSECTION AND 66  
6 PA.C.S. § 3312(A) (RELATING TO EVASION OF MOTOR CARRIER AND  
7 BROKER LAWS AND REGULATIONS).

8 (2) The department shall promulgate REGULATIONS ADOPTING <—  
9 the provisions of the North American Uniform Out-of-Service  
10 ~~Criteria, as amended, as regulations.~~ (1994), PUBLISHED BY <—  
11 THE COMMERCIAL VEHICLE SAFETY ALLIANCE; AND THE DEPARTMENT  
12 MAY AMEND THE REGULATIONS FROM TIME TO TIME AS NECESSARY.  
13 Regulations under this paragraph shall not be subject to the  
14 act of June 25, 1982 (P.L.633, No.181), known as the  
15 Regulatory Review Act.

16 \* \* \*

17 (d) Penalty.--

18 (1) A person who operates a motor carrier vehicle or a  
19 bus in violation of subsection (b)(2) commits a summary  
20 offense and, upon conviction, shall be sentenced to pay a  
21 fine of \$25 per violation, except that the minimum fine for a  
22 violation not related to driver's hours of service which  
23 causes the driver or the vehicle to be placed out of service  
24 under section 4704(c) (relating to inspection by police or  
25 Commonwealth personnel) shall be \$50 per violation. The  
26 maximum fine which may be levied on the basis of multiple  
27 charges filed together shall be \$500.

28 (2) A person who causes [or], permits, requires or  
29 otherwise allows another person to operate a motor carrier  
30 vehicle or a bus in violation of subsection (b)(2) commits a

summary offense and, upon conviction, shall be sentenced to pay a fine of \$50 per violation, except that the minimum fine for a violation not related to driver's hours of service which causes the driver or the vehicle to be placed out of service under section 4704(c) shall be \$100 per violation. The maximum fine which may be levied on the basis of multiple charges filed together shall be \$1,000.

(3) Any person who violates subsection (b.1), as it relates to driver's hours of service, commits a summary offense and shall, upon conviction, be sentenced to pay a fine of \$500 per violation.

(4) THE DEPARTMENT SHALL COORDINATE WITH THE COMMISSION  
IN THE ENFORCEMENT OF THIS SUBSECTION AND 66 PA.C.S. §  
3312(A).

\* \* \*

Section ~~2~~ 3. Section 4704(c) of Title 75 is amended AND THE  
SECTION IS AMENDED BY ADDING A SUBSECTION to read:

§ 4704. Inspection by police or Commonwealth personnel.

\* \* \*

(c) Operation prohibited if hazardous.--

(1) In the event a vehicle or a mass transit vehicle, or its equipment, load or driver, in the reasonable judgment of the officer or qualified Commonwealth employee, is in such condition that further operation would be hazardous, the officer or qualified Commonwealth employee may require that the vehicle or the mass transit vehicle not be operated under its own power or that the driver discontinue driving, or both, and may so stipulate in the notice given under subsection (b). In the case of motor carrier vehicles or their drivers, all such determinations shall be based on out-

of-service criteria established in department regulations.

(2) In the event a motor carrier vehicle or mass transit vehicle is involved in an accident that causes the death of the vehicle operator or another person, the motor carrier vehicle or mass transit vehicle shall be inspected by a qualified Commonwealth employee, as designated by the department in accordance with the provisions of subsection (f), before the vehicle or driver will be allowed to continue operation.

\* \* \*

(H) ADMINISTRATIVE COORDINATION.--THE DEPARTMENT SHALL COORDINATE WITH THE PENNSYLVANIA PUBLIC UTILITY COMMISSION IN THE ENFORCEMENT OF THIS SECTION AND 66 PA.C.S. § 3312(A) (RELATING TO EVASION OF MOTOR CARRIER AND BROKER LAWS AND REGULATIONS).

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

SECTION 4. TITLE 75 IS AMENDED BY ADDING A CHAPTER TO READ:

#### CHAPTER 78

#### MOTOR CARRIER SAFETY

SEC.

7801. SHORT TITLE OF CHAPTER.

7802. FINDINGS AND DECLARATION OF POLICY.

7803. DEFINITIONS.

7804. MOTOR CARRIER SAFETY ADVISORY COMMITTEE.

§ 7801. SHORT TITLE OF CHAPTER.

THIS CHAPTER SHALL BE KNOWN AND MAY BE CITED AS THE MOTOR CARRIER SAFETY ADVISORY COMMITTEE ACT.

§ 7802. FINDINGS AND DECLARATION OF POLICY.

(A) FINDINGS.--IT IS HEREBY DETERMINED AND DECLARED AS A MATTER OF LEGISLATIVE FINDINGS THAT:

1           (1) THE OPERATION OF THE MOTOR CARRIER INDUSTRY IS A  
2 VITAL PART OF THE ECONOMIC HEALTH OF THIS COMMONWEALTH, BY  
3 PROVIDING NEEDED GOODS AND SERVICES AS WELL AS JOB  
4 OPPORTUNITIES FOR MANY PENNSYLVANIANS.

5           (2) AS MORE AND MORE MOTOR CARRIERS SHARE THE ROAD WITH  
6 OTHER VEHICLES, PUBLIC SAFETY CONCERNS CONTINUE TO RISE. THE  
7 LATEST STATISTICS FROM THE NATIONAL HIGHWAY TRAFFIC SAFETY  
8 ADMINISTRATION INDICATE THAT, ON A NATIONAL LEVEL, WHILE  
9 TRUCKS REPRESENT ONLY 3% OF VEHICLES ON THE ROAD, THEY WERE  
10 INVOLVED IN 13% OF HIGHWAY DEATHS IN 1997 ALONE AND, IN THE  
11 SAME YEAR, 444,000 LARGE TRUCKS WERE INVOLVED IN CRASHES,  
12 KILLING 5,355 PERSONS AND INJURING 133,000 MORE.

13           (3) IN ORDER TO PROMOTE THE SAFETY OF THIS  
14 COMMONWEALTH'S HIGHWAYS, AND TO BEST SAFEGUARD PENNSYLVANIA  
15 RESIDENTS AND THEIR PROPERTY, IT IS ESSENTIAL TO PROVIDE  
16 GUIDELINES TO ENSURE THAT MOTOR CARRIERS CONDUCT THEIR  
17 OPERATIONS IN A SAFE, RESPONSIBLE AND PROFESSIONAL MANNER.

18           (B) DECLARATION OF POLICY.--THE PURPOSE OF THIS CHAPTER IS  
19 TO PROMOTE THE SAFE, RESPONSIBLE AND PROFESSIONAL OPERATION OF  
20 MOTOR CARRIERS WITHIN THIS COMMONWEALTH.

21 § 7803. DEFINITIONS.

22 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER  
23 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE  
24 CONTEXT CLEARLY INDICATES OTHERWISE:

25 "COMMITTEE." THE MOTOR CARRIER SAFETY ADVISORY COMMITTEE  
26 CREATED BY THIS CHAPTER.

27 "DEPARTMENT." THE DEPARTMENT OF TRANSPORTATION OF THE  
28 COMMONWEALTH.

29 § 7804. MOTOR CARRIER SAFETY ADVISORY COMMITTEE.

30           (A) CREATION.--THERE IS HEREBY CREATED A MOTOR CARRIER

1 SAFETY ADVISORY COMMITTEE WHICH SHALL CONSIST OF THE FOLLOWING  
2 26 MEMBERS:

3 (1) THE SECRETARY OF TRANSPORTATION.

4 (2) THE CHAIRMAN OF THE PENNSYLVANIA PUBLIC UTILITY  
5 COMMISSION.

6 (3) THE CHAIRMAN OF THE PENNSYLVANIA TURNPIKE  
7 COMMISSION.

8 (4) THE COMMISSIONER OF THE PENNSYLVANIA STATE POLICE.

9 (5) THE CHAIRMAN AND MINORITY CHAIRMAN OF THE  
10 TRANSPORTATION COMMITTEE OF THE SENATE.

11 (6) THE CHAIRMAN AND MINORITY CHAIRMAN OF THE  
12 TRANSPORTATION COMMITTEE OF THE HOUSE OF REPRESENTATIVES.

13 (7) EIGHTEEN MEMBERS OF THE PUBLIC REPRESENTING THE  
14 AREAS OF CONCERN SPECIFIED WHO SHALL HAVE EXTENSIVE  
15 EXPERIENCE AND KNOWLEDGE OF MOTOR CARRIER TRANSPORTATION  
16 ACTIVITIES THROUGHOUT THIS COMMONWEALTH, TO BE APPOINTED BY  
17 THE GOVERNOR AS FOLLOWS:

18 (I) ONE REPRESENTATIVE FROM THE PENNSYLVANIA CHAMBER  
19 OF BUSINESS AND INDUSTRY.

20 (II) ONE REPRESENTATIVE FROM THE PENNSYLVANIA CHIEFS  
21 OF POLICE ASSOCIATION.

22 (III) ONE REPRESENTATIVE FROM THE SPECIAL COURT  
23 JUDGES ASSOCIATION OF PENNSYLVANIA.

24 (IV) TWO PERSONS REPRESENTING THE INTERESTS OF  
25 INDEPENDENT TRUCKERS.

26 (V) TWO REPRESENTATIVES FROM THE PENNSYLVANIA MOTOR  
27 TRUCK ASSOCIATION.

28 (VI) TWO REPRESENTATIVES FROM THE PENNSYLVANIA TRUCK  
29 TRANSPORTATION ALLIANCE.

30 (VII) ONE REPRESENTATIVE FROM THE PENNSYLVANIA AAA

1 FEDERATION.

2 (VIII) ONE REPRESENTATIVE FROM THE PENNSYLVANIA  
3 PUBLIC TRANSPORTATION ASSOCIATION.

4 (IX) ONE REPRESENTATIVE FROM THE PENNSYLVANIA BUS  
5 ASSOCIATION.

6 (X) ONE REPRESENTATIVE FROM THE PENNSYLVANIA SCHOOL  
7 BUS ASSOCIATION.

8 (XI) ONE REPRESENTATIVE FROM THE HARDWOOD LUMBER  
9 MANUFACTURERS ASSOCIATION OF PENNSYLVANIA.

10 (XII) ONE PERSON REPRESENTING THE INTERESTS OF MOTOR  
11 CARRIER DRIVERS.

12 (XIII) ONE PERSON REPRESENTING THE INTERESTS OF BULK  
13 HAULERS.

14 (XIV) ONE REPRESENTATIVE FROM THE MOVING AND STORAGE  
15 INDUSTRY IN PENNSYLVANIA.

16 (XV) ONE REPRESENTATIVE FROM THE PETROLEUM INDUSTRY  
17 IN PENNSYLVANIA.

18 (B) CHAIRPERSON.--THE GOVERNOR SHALL APPOINT ONE MEMBER OF  
19 THE COMMITTEE AS CHAIRPERSON. THE MEMBERS OF THE COMMITTEE SHALL  
20 ANNUALLY ELECT A VICE CHAIRPERSON, A SECRETARY AND A TREASURER  
21 FROM AMONG THE PUBLIC MEMBERS APPOINTED TO THE COMMITTEE.

22 (C) DESIGNEES.--EACH MEMBER MAY DESIGNATE A REPRESENTATIVE  
23 TO SERVE IN HIS OR HER STEAD. A MEMBER WHO DESIGNATES A  
24 REPRESENTATIVE SHALL NOTIFY THE CHAIRPERSON, IN WRITING, OF THE  
25 DESIGNATION.

26 (D) TERMS OF APPOINTEES.--THE TERMS OF ALL MEMBERS OF THE  
27 COMMITTEE APPOINTED BY THE GOVERNOR SHALL BE FOR THREE YEARS.  
28 ANY MEMBER OF THE COMMITTEE MAY BE REAPPOINTED FOR AN ADDITIONAL  
29 TERM OR TERMS. ANY PERSON APPOINTED TO FILL A VACANCY SHALL  
30 SERVE ONLY FOR THE UNEXPIRED TERM. EACH MEMBER SHALL SERVE UNTIL



1 THE APPOINTMENT OF A SUCCESSOR.

2 (E) MEETINGS AND EXPENSES.--

3 (1) THE COMMITTEE SHALL MEET AT LEAST FOUR TIMES EVERY  
4 12 MONTHS, BUT MAY HOLD SUCH ADDITIONAL MEETINGS AS ARE  
5 CALLED BY THE CHAIRPERSON OR BY PETITION OF AT LEAST SIX  
6 COMMITTEE MEMBERS. THE CHAIRPERSON SHALL PROVIDE NOTICE AT  
7 LEAST 14 DAYS IN ADVANCE FOR REGULAR MEETINGS AND SHALL  
8 PROVIDE A MINIMUM OF THREE DAYS' NOTICE FOR SPECIAL MEETINGS.  
9 A MAJORITY OF THE APPOINTED MEMBERS SHALL CONSTITUTE A QUORUM  
10 FOR THE CONDUCT OF BUSINESS. THE SECRETARY SHALL MAINTAIN A  
11 RECORD OF MEETING ATTENDANCE BY MEMBERS AND SHALL PROVIDE  
12 WRITTEN NOTICE TO MEMBERS WHO MISS TWO CONSECUTIVE MEETINGS.  
13 THREE CONSECUTIVE COMMITTEE MEETING ABSENCES BY A MEMBER  
14 SHALL BE GROUNDS FOR REMOVAL IF AFFIRMED BY A MAJORITY VOTE  
15 OF THE COMMITTEE.

16 (2) MINUTES OF MEETINGS SHALL BE PREPARED BY THE  
17 SECRETARY AND FILED WITH THE COMMITTEE AND DISTRIBUTED TO ALL  
18 MEMBERS. ALL RECORDS SHALL BE A MATTER OF PUBLIC RECORD.

19 (3) THE PUBLIC MEMBERS OF THE COMMITTEE SHALL BE ALLOWED  
20 REASONABLE PER DIEM EXPENSES TO BE SET BY THE COMMITTEE. THE  
21 DEPARTMENT SHALL PROVIDE APPROPRIATE STAFF SUPPORT TO ENABLE  
22 THE COMMITTEE TO PROPERLY CARRY OUT ITS FUNCTION.

23 (F) POWERS AND DUTIES.--THE COMMITTEE SHALL HAVE THE POWER  
24 AND DUTY TO ASSESS, EVALUATE AND RECOMMEND STANDARDS FOR THE  
25 SAFE OPERATION OF MOTOR CARRIERS IN THIS COMMONWEALTH,  
26 INCLUDING, BUT NOT LIMITED TO THE FOLLOWING OBJECTIVES:

27 (1) DEVELOP CONTINUING EDUCATION PROGRAMS FOR FIRST-YEAR  
28 AND SECOND-YEAR CDL DRIVERS AND CONSIDER INCENTIVE PROGRAMS  
29 FOR DRIVERS WHO UNDERGO INCREMENTAL SAFETY TRAINING AND  
30 TESTING THROUGHOUT THEIR DRIVING CAREERS.

1           (2)   EXAMINE WAYS IN WHICH TO INCREASE AND DOCUMENT MOTOR  
2   CARRIER USE OF THE PENNSYLVANIA TURNPIKE, INCLUDING THE  
3   POSSIBILITY OF A FUEL TAX REBATE OR OTHER INCENTIVES.

4           (3)   STUDY THE FEASIBILITY OF UTILIZING EXISTING AND  
5   DEVELOPING TECHNOLOGY RELATIVE TO THE ELECTRONIC CONTROL  
6   MECHANISMS OF MOTOR CARRIERS TO AID IN THE ENFORCEMENT OF  
7   SPEED LIMITS.

8           (4)   DEVELOP A POLICY TO ADDRESS THE DISSEMINATION OF  
9   INFORMATION AMONG EMPLOYERS OF CDL DRIVERS RELATIVE TO  
10   EMPLOYEE JOB PERFORMANCE AND CONDUCT, IN ORDER TO BEST  
11   PROTECT THE PUBLIC FROM UNSAFE DRIVERS.

12          (5)   ANALYZE THE FEASIBILITY OF INSTITUTING ENHANCED  
13   PENALTIES FOR MOTOR CARRIER MOVING VIOLATIONS AND OF  
14   UTILIZING THE AMOUNT OF THE INCREASE AS A DEDICATED SOURCE OF  
15   FUNDING FOR THE CONSTRUCTION OF SECURITY WALLS.

16          (6)   PROVIDE A FORUM FOR THE EXCHANGE OF INFORMATION ON  
17   THE PROBLEMS ASSOCIATED WITH TRAVEL AS PASSENGER VEHICLES,  
18   MOTORCYCLES AND MOTOR CARRIERS SHARE THE ROAD SYSTEMS AND  
19   CONSIDER EDUCATION INITIATIVES AIMED AT THE MOTORING PUBLIC  
20   AS WELL AS THE MOTOR CARRIER INDUSTRY.

21          (7)   CONSIDER ANY OTHER ISSUE RAISED IN RELATION TO MOTOR  
22   CARRIER OPERATION AND ROAD SAFETY THAT MAY ARISE FROM TIME TO  
23   TIME.

24          (G)   REPORTS.--THE COMMITTEE SHALL SUBMIT QUARTERLY REPORTS  
25   OF ITS DELIBERATIONS, CONCLUSIONS AND SUGGESTIONS TO THE  
26   GOVERNOR AND MEMBERS OF THE GENERAL ASSEMBLY.

27   SECTION 5.   THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

28          (1)   THE FOLLOWING PROVISIONS SHALL TAKE EFFECT  
29   IMMEDIATELY:

30          (I)   THE ADDITION OF 75 PA.C.S. CH. 78.

1                   (II)   THIS SECTION.

2                   (2)   THE REMAINDER OF THIS ACT SHALL TAKE EFFECT IN 60  
3           DAYS.