

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 869 Session of 2019

INTRODUCED BY MACKENZIE, BERNSTINE, MILLARD, ZIMMERMAN AND HEFFLEY, MARCH 18, 2019

AS REPORTED FROM COMMITTEE ON TRANSPORTATION, HOUSE OF REPRESENTATIVES, AS AMENDED, MAY 7, 2019

AN ACT

1 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated
2 Statutes, in liquid fuels and fuels tax, further providing
3 for refunds.

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

6 Section 1. Section 9017 of Title 75 of the Pennsylvania <--
7 Consolidated Statutes is amended by adding a subsection to read:
8 § 9017. Refunds.

9 * * *

10 (e.3) Ready mix concrete truck power takeoff. A person
11 shall be reimbursed the full amount of the tax imposed by this
12 chapter if the person uses or buys liquid fuels or fuels on
13 which the tax imposed by this chapter has been paid and consumes
14 them to mix concrete from a vehicle by means of a power takeoff,
15 provided the fuel usage is documented only by an electronic
16 monitoring device used in conjunction with an electronically
17 controlled engine. Reimbursements shall be documented only as
18 provided in this subsection, and no reimbursement shall be based

~~1 upon any form of alternative documentation. Claims for
2 reimbursement shall be filed with the department on a quarterly
3 basis and must be filed within 60 days following the end of the
4 quarter for which reimbursement is being claimed. The provisions
5 of subsection (f), except for the filing fee provision, shall
6 apply to claims for reimbursement under this subsection to the
7 extent they are not inconsistent with this subsection.~~

8 * * *

9 SECTION 1. SECTION 9017(A.1), (F) AND (G) OF TITLE 75 OF THE <--
10 PENNSYLVANIA CONSOLIDATED STATUTES ARE AMENDED AND THE SECTION
11 IS AMENDED BY ADDING A SUBSECTION TO READ:

12 § 9017. REFUNDS.

13 * * *

14 (A.1) BOARD OF FINANCE AND REVENUE.--THE BOARD OF FINANCE
15 AND REVENUE MAY MAKE REIMBURSEMENTS AND REFUNDS OF TAX IMPOSED
16 AND COLLECTED UPON LIQUID FUELS OR FUELS AS PROVIDED UNDER
17 SUBSECTIONS (B), (C) [OR], (E) OR (E.3)(2). IN ADDITION, THE
18 BOARD MAY REFUND ON AN ANNUAL BASIS ANY TAX IMPOSED BY THIS
19 CHAPTER AND COLLECTED BY THE DEPARTMENT UPON LIQUID FUELS OR
20 FUELS DELIVERED TO ANY ENTITY EXEMPT FROM TAX UNDER SECTION
21 9004(E) (RELATING TO IMPOSITION OF TAX, EXEMPTIONS AND
22 DEDUCTIONS) WHICH HAS NOT BEEN CLAIMED AS EXEMPT BY THE
23 DISTRIBUTOR OR OTHERWISE REFUNDED. THE BOARD MAY ADOPT
24 REGULATIONS RELATING TO PROCEDURES FOR THE ADMINISTRATION OF ITS
25 DUTIES UNDER THIS SUBSECTION.

26 * * *

27 (E.3) READY MIX CONCRETE TRUCK POWER TAKEOFF.--

28 (1) A PERSON SHALL BE REIMBURSED UP TO 30% OF THE AMOUNT
29 OF THE TAX IMPOSED BY THIS CHAPTER IF THE PERSON USES OR BUYS
30 LIQUID FUELS OR FUELS ON WHICH THE TAX IMPOSED BY THIS

1 CHAPTER HAS BEEN PAID AND CONSUMES THEM TO MIX CONCRETE FROM
2 A VEHICLE BY MEANS OF A POWER TAKEOFF. EXCEPT AS SET FORTH IN
3 PARAGRAPH (2):

4 (I) REIMBURSEMENTS SHALL BE DOCUMENTED ONLY AS
5 PROVIDED IN THIS PARAGRAPH, AND NO REIMBURSEMENT SHALL BE
6 BASED UPON ANY FORM OF ALTERNATIVE DOCUMENTATION.

7 (II) CLAIMS FOR REIMBURSEMENT SHALL BE FILED WITH
8 THE DEPARTMENT ON A QUARTERLY BASIS AND MUST BE FILED
9 WITHIN 60 DAYS FOLLOWING THE END OF THE QUARTER FOR WHICH
10 REIMBURSEMENT IS BEING CLAIMED.

11 (III) THE PROVISIONS OF SUBSECTION (F), EXCEPT FOR
12 THE FILING FEE PROVISION, SHALL APPLY TO CLAIMS FOR
13 REIMBURSEMENT UNDER THIS PARAGRAPH TO THE EXTENT THEY ARE
14 NOT INCONSISTENT WITH THIS PARAGRAPH.

15 (2) A PERSON MAY BE REIMBURSED FOR MORE THAN THE AMOUNT
16 UNDER PARAGRAPH (1) IF THE PERSON SUBMITS A CLAIM, INCLUDING
17 ALL REQUIRED DOCUMENTATION, IN ACCORDANCE WITH SUBSECTION
18 (F), PROVIDING PROOF OF THE PERSON'S DIFFERENTIATED USAGES OF
19 LIQUID FUELS OR FUELS BY MEANS OF A POWER TAKEOFF FOR THE
20 PURPOSE OF MIXING READY MIX CONCRETE. THE BOARD HAS THE SOLE
21 DISCRETION TO DETERMINE IF THE CLAIMANT HAS FULFILLED THE
22 BURDEN OF PROOF. NO FILING FEE SHALL APPLY TO A CLAIM
23 SUBMITTED UNDER THIS PARAGRAPH.

24 (3) NO REFUND SHALL BE AUTHORIZED OR PAID UNDER THIS
25 SUBSECTION ON A SINGLE CLAIM FOR TAX ON FEWER THAN 100
26 GALLONS OF LIQUID FUELS OR FUELS.

27 (F) CLAIMS, FORMS, CONTENTS, PENALTIES.--A CLAIM FOR
28 REIMBURSEMENT OR REFUND UNDER SUBSECTION (B), (C) [OR], (E) OR
29 (E.3) (2) SHALL BE MADE UPON A FORM TO BE FURNISHED BY THE BOARD
30 AND MUST INCLUDE, IN ADDITION TO SUCH OTHER INFORMATION AS THE

1 BOARD MAY BY REGULATION PRESCRIBE, THE NAME AND ADDRESS OF THE
2 CLAIMANT; THE PERIOD OF TIME AND THE NUMBER OF GALLONS OF LIQUID
3 FUELS USED FOR WHICH REIMBURSEMENT IS CLAIMED; A DESCRIPTION OF
4 THE FARM MACHINERY, READY MIX CONCRETE MACHINERY, AIRCRAFT OR
5 AIRCRAFT ENGINE IN WHICH LIQUID FUELS HAVE BEEN USED; THE
6 PURPOSES FOR WHICH THE MACHINERY, AIRCRAFT OR AIRCRAFT ENGINE
7 HAS BEEN USED; AND THE SIZE OF THE FARM AND PART IN CULTIVATION
8 ON WHICH SUCH LIQUID FUELS HAVE BEEN USED. A CLAIM MUST CONTAIN
9 STATEMENTS THAT THE LIQUID FUELS FOR WHICH REIMBURSEMENT IS
10 CLAIMED HAVE BEEN USED ONLY FOR PURPOSES FOR WHICH
11 REIMBURSEMENTS ARE PERMITTED; THAT RECORDS OF THE AMOUNTS OF
12 SUCH FUELS USED IN EACH PIECE OF FARM MACHINERY, READY MIX
13 CONCRETE MACHINERY, AIRCRAFT OR AIRCRAFT ENGINE HAVE BEEN KEPT;
14 AND THAT NO PART OF THE CLAIM HAS BEEN PAID EXCEPT AS STATED. A
15 CLAIM MUST CONTAIN A DECLARATION THAT IT AND ACCOMPANYING
16 RECEIPTS ARE TRUE AND CORRECT TO THE BEST OF THE CLAIMANT'S
17 KNOWLEDGE AND MUST BE SIGNED BY THE CLAIMANT OR THE PERSON
18 CLAIMING ON THE CLAIMANT'S BEHALF. A CLAIM MUST BE ACCOMPANIED
19 BY RECEIPTS INDICATING THAT THE LIQUID FUELS TAX WAS PAID ON THE
20 LIQUID FUELS OR THAT THE EXCESS LIQUID FUELS TAX WAS PAID ON THE
21 LIQUID FUELS FOR WHICH REIMBURSEMENT IS CLAIMED. RECORDS OF
22 PURCHASES OF LIQUID FUELS AND USE IN EACH TRACTOR OR POWERED
23 MACHINERY, AIRCRAFT OR AIRCRAFT ENGINE SHALL BE KEPT FOR A
24 PERIOD OF TWO YEARS. A CLAIM MUST BE MADE ANNUALLY FOR THE
25 PRECEDING YEAR ENDING ON JUNE 30. A CLAIM MUST BE SUBMITTED TO
26 THE BOARD BY SEPTEMBER 30. THE BOARD SHALL REFUSE TO CONSIDER
27 ANY CLAIM RECEIVED OR POSTMARKED LATER THAN THAT DATE. THE
28 CLAIMANT MUST SATISFY THE BOARD THAT THE TAX HAS BEEN PAID AND
29 THAT THE LIQUID FUELS HAVE BEEN CONSUMED BY THE CLAIMANT FOR
30 PURPOSES FOR WHICH REIMBURSEMENTS ARE PERMITTED UNDER THIS

1 SECTION. THE ACTION OF THE BOARD IN GRANTING OR REFUSING
2 REIMBURSEMENT SHALL BE FINAL. THE BOARD SHALL DEDUCT THE SUM OF
3 \$1.50, WHICH SHALL BE CONSIDERED A FILING FEE, FROM EVERY CLAIM
4 FOR REIMBURSEMENT GRANTED. FILING FEES ARE SPECIFICALLY
5 APPROPRIATED TO THE BOARD AND TO THE DEPARTMENT FOR EXPENSES
6 INCURRED IN THE ADMINISTRATION OF THE REIMBURSEMENT PROVISIONS
7 OF THIS CHAPTER. THE BOARD HAS THE POWER TO REFER TO THE
8 DEPARTMENT FOR INVESTIGATION ANY CLAIM FOR REIMBURSEMENT FILED
9 UNDER THE PROVISIONS OF THIS CHAPTER. THE DEPARTMENT SHALL
10 INVESTIGATE THE APPLICATION AND REPORT TO THE BOARD. A PERSON
11 MAKING ANY FALSE OR FRAUDULENT STATEMENT FOR THE PURPOSE OF
12 OBTAINING REIMBURSEMENT COMMITS A MISDEMEANOR OF THE THIRD
13 DEGREE.

14 (G) FUND SOURCES.--REFUNDS AND REIMBURSEMENTS OF MONEY
15 ALLOWED UNDER THIS SECTION SHALL BE PAID FROM THE MOTOR LICENSE
16 FUND AND THE LIQUID FUELS TAX FUND IN AMOUNTS EQUAL TO THE
17 ORIGINAL DISTRIBUTION AND PAYMENT OF SUCH MONEY INTO THOSE
18 FUNDS. REIMBURSEMENT FOR TAXES PAID ON LIQUID FUELS CONSUMED IN
19 THE OPERATION OF TRACTORS AND POWERED MACHINERY FOR PURPOSES
20 RELATING TO THE ACTUAL PRODUCTION OF FARM PRODUCTS OR READY MIX
21 CONCRETE AND REIMBURSEMENT FOR TAXES PAID ON LIQUID FUELS USED
22 IN AIRCRAFT OR AIRCRAFT ENGINES SHALL BE PAID OUT OF THE MOTOR
23 LICENSE FUND.

24 * * *

25 Section 2. The addition of 75 Pa.C.S. § 9017(e.3) shall
26 apply to liquid fuels and fuels consumed on or after the first
27 day of the first full calendar quarter following the effective
28 date of this section.

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