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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 2233 Session of  
2020

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INTRODUCED BY GREINER, HILL-EVANS, ROTHMAN, NEILSON, DUNBAR,  
RYAN, PICKETT, SAINATO, JAMES, FEE, LONGIETTI, HICKERNELL,  
MENTZER, ZIMMERMAN, GALLOWAY, ROEBUCK AND HERSHEY,  
JANUARY 17, 2020

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REFERRED TO COMMITTEE ON TRANSPORTATION, JANUARY 17, 2020

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AN ACT

1 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated  
2 Statutes, in liquid fuels and fuels tax, further providing  
3 for definitions, providing for exempt entity use, sale and  
4 delivery of tax-free motor fuels and further providing for  
5 examination of records and equipment.

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

8 Section 1. Section 9002 of Title 75 of the Pennsylvania  
9 Consolidated Statutes is amended by adding definitions to read:

10 § 9002. Definitions.

11 The following words and phrases when used in this chapter  
12 shall have the meanings given to them in this section unless the  
13 context clearly indicates otherwise:

14 \* \* \*

15 "Motor fuels." Liquid fuels or fuels. This term does not  
16 include alternative fuels.

17 \* \* \*

18 "Political subdivision." A county, city, borough,

1 incorporated town, township, school district, vocational school  
2 district and county institution district.

3 "Registered distributor." A distributor that holds a valid  
4 liquid fuels or fuels tax permit issued by the department.

5 \* \* \*

6 "Tax-free motor fuels." Motor fuels upon which the oil  
7 company franchise tax has not been imposed.

8 "Volunteer service." A volunteer fire company, volunteer  
9 ambulance service or volunteer rescue squad.

10 Section 2. Title 75 is amended by adding a section to read:

11 § 9004.1. Exempt entity use, sale and delivery of tax-free  
12 motor fuels.

13 (a) Limitations.--An exempt entity:

14 (1) May not be a distributor.

15 (2) May use tax-free motor fuels only for its own  
16 official business purposes.

17 (3) May not sell or deliver tax-free motor fuels to any  
18 other person or exempt entity except to political  
19 subdivisions as provided under subsection (c).

20 (4) May purchase and take delivery of tax-free motor  
21 fuels only from a registered distributor except for volunteer  
22 services as provided under subsection (c).

23 (5) Shall cooperate with the department during an  
24 investigation or audit related to the use, sale or delivery  
25 of tax-free motor fuels provided for in this chapter.

26 (b) Penalties.--An exempt entity that improperly uses, sells  
27 or delivers tax-free motor fuels shall:

28 (1) Pay to the Commonwealth the tax imposed by section  
29 9004(b) (relating to imposition of tax, exemptions and  
30 deductions).

1           (2) Pay an additional penalty equal to 100% of the tax  
2 imposed by section 9004(b).

3           (3) Become subject to any other penalties, summary  
4 offenses or misdemeanors that may be imposed upon  
5 distributors who violate the provisions of this chapter.

6           (c) Conditions on sales or deliveries to volunteer  
7 services.--A political subdivision may sell or deliver tax-free  
8 motor fuels to a volunteer service if:

9           (1) The political subdivision's bulk storage tank from  
10 which the volunteer service removes tax-free motor fuels  
11 contains only tax-free motor fuels that are either owned  
12 exclusively by the political subdivision or owned by both the  
13 political subdivision and one or more volunteer services  
14 pursuant to a valid commingling agreement as provided for in  
15 subsection (d).

16           (2) The volunteer service provides services to the  
17 political subdivision and the residents of the political  
18 subdivision.

19           (3) The volunteer service takes delivery of the motor  
20 fuel directly from a bulk storage tank owned by the political  
21 subdivision.

22           (4) The withdrawal of tax-free motor fuels from the  
23 political subdivision's bulk storage tank by a volunteer  
24 service is considered a nontaxable use of the fuel by the  
25 political subdivision and the fuel is placed directly into  
26 the vehicle propulsion tank of a vehicle owned and operated  
27 by the volunteer service.

28           (5) Prior to the volunteer service's withdrawal of tax-  
29 free motor fuels from the political subdivision's bulk  
30 storage tank, the volunteer service and political subdivision

1 enters into a written agreement that contains:

2 (i) Controls and security procedures for the removal  
3 of tax-free motor fuels from the bulk storage tank by the  
4 volunteer service.

5 (ii) Recordkeeping compliance provisions similar to  
6 this chapter's provisions that apply to distributors.

7 (d) Exempt entity use of commingled tax-free motor fuels.--

8 An exempt entity may withdraw tax-free motor fuels from a bulk  
9 storage tank containing only commingled tax-free motor fuels if:

10 (1) The bulk storage tank is located on property owned  
11 by one of the exempt entities that owns tax-free motor fuels  
12 placed into the tank and the exempt entity owning the  
13 property is the owner of the bulk storage tank.

14 (2) Each exempt entity commingling tax-free motor fuels  
15 in the bulk storage tank contracts separately with a  
16 distributor for purchase and delivery of tax-free motor fuels  
17 placed into the tank.

18 (3) Each exempt entity owning tax-free motor fuels in  
19 the bulk storage tank enters into an agreement with the  
20 exempt entity that owns the bulk storage tank and the  
21 agreement includes provisions pertaining to:

22 (i) Purchase from distributors of tax-free motor  
23 fuels placed into the bulk storage tank.

24 (ii) Method of delivery of tax-free motor fuels into  
25 the bulk storage tank.

26 (iii) Storage of tax-free motor fuels in the bulk  
27 storage tank.

28 (iv) Removal of tax-free motor fuels from the bulk  
29 storage tank.

30 (v) Compliance with all of the recordkeeping

1 requirements for liquid fuels and fuels as provided in  
2 this chapter.

3 (vi) Acknowledgment of joint and several liability  
4 for loss, misuse or undocumented withdrawals of tax-free  
5 motor fuels from the bulk storage tank.

6 (4) The exempt entity does not withdraw from the bulk  
7 storage tank any amount of commingled tax-free motor fuels  
8 for which the exempt entity has not previously paid a  
9 distributor to deliver into the tank.

10 (5) Tax-paid motor fuels are not placed into a bulk  
11 storage tank containing commingled fuels.

12 (6) Only exempt entities may own tax-free motor fuels  
13 placed into or removed from the bulk storage tank containing  
14 commingled tax-free motor fuels.

15 (7) All of the recordkeeping compliance provisions of  
16 this chapter are satisfied by each entity owning commingled  
17 tax-free motor fuels in the bulk storage tank.

18 (e) Distributors not liable.--A registered distributor  
19 holding a permit that sold or delivered tax-free motor fuels to  
20 an exempt entity under this section shall not be responsible for  
21 the tax imposed by this chapter if:

22 (1) the purchaser subsequently sells or delivers the  
23 tax-free motor fuels to another entity; or

24 (2) the purchaser subsequently uses the motor fuels for  
25 a taxable purpose.

26 Section 3. Section 9008 of Title 75 is amended by adding  
27 subsections to read:

28 § 9008. Examination of records and equipment.

29 \* \* \*

30 (c) Consumer protection.--Notwithstanding subsection (a) or

1 (b) or section 731 of the act of April 9, 1929 (P.L.343,  
2 No.176), known as The Fiscal Code, incorrect liquid fuel, fuel  
3 or alternative fuel composition information, including octane  
4 values, discovered by the department upon examination of storage  
5 tank contents or related records may be disclosed to an  
6 appropriate enforcement authority for investigation.

7 (d) Public safety.--Notwithstanding subsection (a) or (b) or  
8 section 731 of The Fiscal Code, any suspected violation that  
9 could pose a threat to public safety discovered by the  
10 department during an examination authorized by this section may  
11 be disclosed to an appropriate enforcement authority for  
12 investigation.

13 Section 4. This act shall take effect immediately.