

LAWS  
OF THE  
**COMMONWEALTH OF PENNSYLVANIA**

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No. 1  
AN ACT

Imposing a road tax upon certain motor carriers, providing for the collection and administration thereof, establishing penalties, and making an appropriation to the Motor License Fund.

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

Section 1. Short Title.—This act shall be known and may be cited as the “Motor Carriers Road Tax Act.”

Section 2. Definitions.—As used in this act:

(1) “Motor fuel” means “fuels” as defined in the act of January 14, 1952 (P. L. 1965), known as the “Fuel Use Tax Act” and “liquid fuels” as defined in the act of May 21, 1931 (P. L. 149), known as “The Liquid Fuels Tax Act.”

(2) “Motor carrier” means every person who operates or causes to be operated any motor vehicle on any highway in this State.

(3) “Motor vehicle” means a “Commercial Motor Vehicle” as defined in the act of April 29, 1959 (P. L. 58), known as “The Vehicle Code,” and having more than two axles; or a “Truck Tractor” as defined in \* “The Vehicle Code,” and having two or more axles.

(4) “Operations” \*\*mean operations of all motor vehicles, whether loaded or empty, whether operated singly or in combination with trailers or semi-trailers, whether for compensation or not for compensation, and whether owned by or leased to the motor carrier who operates them or causes them to be operated.

(5) “Highway” means the Pennsylvania Turnpike and every way or place, of whatever nature, open to the use of the public as a matter of right, for purposes of vehicular travel. The term “highway” shall not be deemed to include a roadway or driveway upon grounds owned by private persons, colleges, universities or other institutions.

\* “said” in original.

\*\* “means” in original.

(6) "Secretary" means the Secretary of Revenue of this Commonwealth, or his duly authorized deputy or representative.

(7) "Department" means the Department of Revenue of this Commonwealth.

Section 3. Rate of Tax.—Every motor carrier shall pay a road tax equivalent to the rate per gallon of the Pennsylvania liquid fuels tax which is currently in effect, calculated on the amount of motor fuel used in its operations on highways within this State.

Section 4. Credit for Motor Fuel Tax Payment.—  
(a) Every motor carrier subject to the tax hereby imposed, shall be entitled to a credit on such tax equivalent to the rate per gallon of the Pennsylvania tax which is currently in effect, on all gasoline or other motor fuel purchased by such carrier within this State for use in its operation either within or without this State and upon which gasoline or other motor fuel the tax imposed by the laws of this State has been paid by such carrier. Evidence of the payment of such tax in such form as may be required by, or is satisfactory to, the secretary, shall be furnished by each such carrier claiming the credit herein allowed. When the amount of the credit herein provided to which any motor carrier is entitled for any quarter exceeds the amount of the tax for which such carrier is liable for the same quarter, such excess shall, upon application and under regulations of the secretary, be allowed as a credit on the tax for which such carrier would be otherwise liable for any of the six succeeding quarters; or upon application with the Board of Finance and Revenue within one year from the end of any quarter, duly verified and presented, in accordance with regulations promulgated by the secretary and supported by such evidence as may be satisfactory to the board, such excess shall be refunded if it shall appear that the applicant has paid to another state under a lawful requirement of such state a tax, similar in effect to the tax herein provided, on the use or consumption in said state of gasoline or other motor fuel purchased in Pennsylvania, to the extent of such payment to said other state, but in no case to exceed the rate per gallon of the Pennsylvania fuels tax which is currently in effect.

(b) The Board of Finance and Revenue shall not allow such refund except after an audit by the secretary of the applicant's records and the secretary shall audit the records of an applicant at least once a year. If the board shall refuse to allow a refund in the amount claimed by the applicant, the applicant may request a formal hearing on the application for a refund. Such

hearing shall be held by the board after written notice to the applicant of not less than ten days. Whenever any refund is ordered it shall be paid out of the Motor License Fund. So much of the moneys received as payment of the tax, interest and penalties under this act, as shall be necessary for the payment of the refunds provided for in this act, is hereby appropriated for payment of such refunds. No tax, interest, penalty, or fee received or derived from any other tax imposed by the laws of this Commonwealth shall be used to pay any refund or credit due and payable under the provisions of this act.

Section 5. Tax Due Date.—The tax hereby imposed shall be paid by each motor carrier quarterly to the Department of Revenue on or before the last day of April, July, October and January of each year and calculated upon the amount of motor fuel used in its operations on highways within this State by each such carrier during the quarter ending with the last day of the preceding month.

Section 6. Tax Revenue to Motor License Fund.—All taxes, fees, penalties and interest paid under the provisions of this act, shall be credited to and are hereby appropriated to the Motor License Fund as provided for by article IX, section 18 of the Pennsylvania Constitution.

Section 7. Calculation of Amount of Fuel Used in State.—The amount of gasoline or other motor fuel used in the operations of any motor carrier on highways within this State, shall be such proportion of the total amount of such gasoline or other motor fuel used in its entire operations within and without this State, as the total number of miles traveled on highways within this State bears to the total number of miles traveled within and without this State.

Section 8. Report Requirements.—Every motor carrier subject to the tax imposed by this act, shall on or before the last day of April, July, October and January of every year make to the department such reports of its operations during the quarter ending the last day of the preceding month as the secretary may require and such other reports from time to time as the secretary may deem necessary. The secretary by regulation may exempt from the quarterly reporting requirements of this section those motor carriers operating solely within the Commonwealth of Pennsylvania, and require in such instance an annual affidavit, if in his discretion the enforcement of this act would not be adversely affected by such a regulation. The secretary is further authorized by regulation to exempt from the quarterly

reporting requirements of this section, and require in such instances an annual affidavit of motor carriers licensed in this State who perform substantially all of their travel in this State provided the secretary is assured that a sufficient amount of fuel is purchased in this Commonwealth which is commensurate with the motor carrier's operations on highways within this State.

Section 9. Average Consumption.—In the absence of adequate records or other evidence satisfactory to the secretary, showing the number of miles operated by a motor carrier's motor vehicles per gallon \*of motor fuel, any such motor vehicle using gasoline shall be deemed to have consumed one gallon of motor fuel for each four miles operated and any such motor vehicle using other motor fuel shall be deemed to have consumed one gallon of motor fuel for each six miles operated; and, if such records or other evidence do not show the type of fuel used by such motor vehicle, it shall be deemed to use gasoline for the purpose of this section.

Section 10. Records.—Every motor carrier shall keep such records, in such form as the secretary reasonably may prescribe, as will enable the carrier to report and enable the department to determine the total number of over-the-road miles traveled by its entire fleet of motor vehicles, the total number of over-the-road miles traveled in Pennsylvania by said entire fleet, the total number of gallons of motor fuel used by said entire fleet and the total number of gallons of motor fuel purchased in Pennsylvania for said entire fleet. As used in this section and in section 7, "entire fleet" and "entire operations" shall mean those motor vehicles which use the highways of Pennsylvania at any time during the period covered by the quarterly report and the operations of such vehicles respectively. All such records shall be safely preserved for a period of three years in such manner as to insure their security and availability for inspection by the secretary or any authorized employe engaged in the administration of this act. Upon application in writing, stating the reasons therefor, the secretary may, in his discretion, consent to the destruction of any such records at any time within said period if such records pertain to a period which has been audited by the department.

Section 11. Vehicle Marker; Fee.—(a) The secretary shall provide an identification marker and registration card to every motor vehicle operated by the motor carrier. The identification marker must be affixed to the vehicle in an easily visible position and the registration card carried in the cab of the vehicle. The identification marker and registration card shall remain

\* "on" in original.

the property of the Commonwealth of Pennsylvania and may be recalled for any violation of the provisions of this act or of the regulations promulgated thereunder. The secretary shall provide by regulation for the registration of every such vehicle, for a fee of two dollars (\$2) each. Registration cards and identification markers shall be issued on a twelve month basis effective April 1 of each year and shall be valid through the next succeeding March 31, except that any such registration cards and identification markers issued prior to April 15, 1965, shall be valid through March 31, 1966. The enforcement of this subsection shall not become effective until April 15 of each year providing the motor carrier has the previous year's identification marker displayed on his vehicles and the registration card in the cab of his vehicles before entry into the Commonwealth of Pennsylvania. It shall be illegal to operate or to cause to be operated in this State any motor vehicle defined in section 2 hereinabove, unless the vehicle bears the identification marker required by this section; provided, however, the secretary by regulation may exempt from the requirement for displaying the said identification marker such vehicles as urban and public transit vehicles or others if in his discretion they are clearly identifiable and the effective enforcement of this act will not suffer thereby: And further provided, That vehicles bearing valid registration plates issued by this State shall be exempt from the provisions of this section. In addition and for a period not exceeding twenty-five days as to any one motor carrier the secretary by letter or telegram may authorize the operation of a vehicle or vehicles without the identification marker required when the enforcement of this section for that period would cause undue delay and hardship in the operation of the said vehicle or vehicles, and further the secretary by regulation may authorize the issuance of a book of temporary twenty-five day permits. The fee for these permits shall be five dollars (\$5) for each motor vehicle and conditions for the issuance of such permits shall be set forth by regulations promulgated by the department.

(b) Any motor carrier, the motor vehicles of which make entries into this State totaling not more than four during a calendar year may apply to the department for a flat fee permit, which application shall be accompanied by a fee of five dollars (\$5). Such permit shall be subject to such regulations as may be promulgated by the department, and shall be deemed to relieve the motor carrier of the marker, registration, report, record and tax payment requirements of this act, for the calendar year specified in such permit.

Section 12. Imposition of Tax.—The taxes imposed on motor carriers by this act, are in addition to any

taxes of whatever character imposed on such carriers by any other provision of law.

Section 13. Exemption; Reciprocal Agreements.—The provisions of this act shall not apply to motor vehicles bearing the registration plates of any other state which does not impose a tax, license or fee upon motor vehicles bearing valid registration plates of this State. The secretary is authorized to make reciprocal agreements with the proper officials of any other state imposing any such tax, license or fee, providing for the reduction or relief from the tax imposed by this act, upon motor vehicles bearing valid registration plates of such other state, in exchange for the reduction or relief from the tax, license or fee imposed by such other state upon motor vehicles bearing valid registration plates of this State.

Section 14. Filing of Bond; Refund Provisions.—A motor carrier may give a surety company bond in the amount of ten thousand dollars (\$10,000) payable to the Commonwealth of Pennsylvania, and conditioned that the carrier will pay all taxes due and to become due under this act from the date of the bond to the date when either the carrier or the bonding company notifies the department that the bond has been cancelled. The surety shall be a corporation authorized to write surety bonds in Pennsylvania. So long as the bond remains in force the board may order refunds to the motor carrier in the amounts appearing to be due on applications duly filed by the motor carrier under section 4, without first auditing the records of the carrier including the penalties and interest provided in section 18, even though the assessment is made after cancellation of the bond, but only for taxes due and payable while the bond was in force and penalties and interest on said taxes.

Section 15. False Statements; Penalties.—Any person who wilfully and knowingly makes, publishes, delivers or utters a false statement orally, or in writing, or in the form of a receipt for the sale of motor fuel, for the purpose of obtaining or attempting to obtain, or to assist any other person to obtain or attempt to obtain a credit or refund or reduction of liability for taxes under this act, shall be guilty of a misdemeanor and, upon conviction thereof, shall be sentenced to pay a fine not exceeding five hundred dollars (\$500), or undergo imprisonment for a term not exceeding one year, or both.

Section 16. Departure or Removal of Property from State or Discontinuing Business; Arbitrary Assessment.—If the department ascertains that a person designs

quickly to depart from this State, or to remove therefrom his property, or any property used by him in operations subject to this act, or to discontinue business, or to do any other act tending to prejudice or render wholly or partly ineffectual proceedings to assess or collect such tax, whereby it becomes important that such proceedings be brought without delay, the secretary may immediately make an arbitrary assessment of the amount of tax due, whether or not any report is then due by law, and may proceed under such arbitrary assessment to collect the tax, or compel security for the same, and thereafter shall cause notice of such finding to be given to such motor carrier, together with a demand for an immediate report and immediate payment of such tax.

Section 17. Failure to Report or Pay Tax; Penalty; Interest.—When any motor carrier fails to file a report within the time prescribed by this act for the filing thereof, he shall pay as a penalty for each day thereafter, Saturdays, Sundays, and other legal holidays excluded, until the report is filed, the sum of five dollars (\$5). In addition to the penalty herein imposed, any unpaid tax shall bear interest at the rate of one per cent per month or fraction thereof until the same is paid. The penalties and interest charges herein imposed shall be paid to the department in addition to the tax due. The secretary, if satisfied that the failure to file the report or pay the tax was excusable, may remit or waive the payment of the whole or part of any penalty and such portion of the interest charge as is in excess of six per cent per annum.

Section 18. Time for Payment of Taxes, Penalties and Interest; Additional Penalty.—All taxes, penalties and interest assessed pursuant to the provisions of this act, unless earlier payment is provided in this act, shall be paid within fifteen days after notice and demand shall have been mailed to the carrier by the department. If such taxes, penalties and interest so assessed pursuant to sections 16, 17 and 18 shall not be paid within the said fifteen days, there shall be added to the amount of assessment, in addition to interest as already provided and any other penalties provided by law, a sum equivalent to five per cent of the tax.

Section 19. Manner of Payment and Recovery of Penalties and Interest; Debt of Motor Carrier; Lien; Preference.—(a) All penalties and interest when imposed under this act, shall be payable to and recoverable by the department in the same manner as if they were part of the tax imposed.

(b) The taxes, fees, interest and penalties imposed under this act, from the time the same shall be due,

shall be a debt of a motor carrier who does not maintain premises for the transaction of business within Pennsylvania, recoverable in the Court of Common Pleas of Dauphin County in an action of assumpsit in the name of the Commonwealth. Such debt, whether sued upon or not, shall be a lien on all the property of the debtor except as against an innocent purchaser for value without notice thereof, and shall have priority both in lien and distribution of the assets of the motor carrier, whether in bankruptcy, insolvency or otherwise. The proceeds of any judgment or order obtained hereunder shall be paid to the department. The service of all papers in the action of assumpsit shall be upon the Secretary of the Commonwealth, with a copy mailed, by certified mail, to the last known address of the defendant.

(c) Any tax determined to be due from any person who maintains premises for the conduct of business in Pennsylvania and remaining unpaid after demand for the same, and all penalties and interest thereon, shall be a lien in favor of the Commonwealth upon the property, both real and personal, of such person but only after said lien has been entered and docketed of record by the prothonotary of the county where such property is situated. The department may at any time transmit to the prothonotaries of the respective counties certified copies of all liens for such taxes, penalties and interest, and it shall be the duty of each prothonotary receiving the lien to enter and docket the same of record in his office, which lien shall be indexed as judgments are now indexed. A writ of execution may directly issue upon such lien, without the issuance and prosecution to judgment of a writ of seire facias: Provided, That not less than ten days before issuance of any execution on the lien, notice of the filing and the effect of the lien shall be sent by registered mail to the taxpayer at his last known post office address. No prothonotary shall require as a condition precedent to the entry of such liens, the payment of any costs incident thereto.

(d) The lien imposed hereunder, shall have priority from the date of its recording as aforesaid, and shall be fully paid and satisfied out of the proceeds of any judicial sale of property subject thereto, before any other obligation, judgment, claim, lien or estate to which said property may subsequently become subject, except costs of the sale and of the writ upon which the sale was made, and real estate taxes and municipal claims against such property, but shall be subordinate to mortgages and other liens existing and duly recorded or entered of record prior to the recording of the tax lien. In the case of a judicial sale of property subject to a lien imposed hereunder upon a lien or claim over which the lien imposed hereunder has priority, as aforesaid, such sale shall dis-



charge the lien imposed hereunder to the extent only that the proceeds are applied to its payment, and such lien shall continue in full force and effect as to the balance remaining unpaid.

(e) The lien imposed hereunder shall continue for five years from the date of its entry of record, and may be renewed and continued in the manner now or hereafter provided for the renewal of judgments.

Section 20. Failure to Pay Tax; Determination; Redetermination; Review.—(a) If any person shall fail to pay any tax imposed by this act for which he is liable, the department is hereby authorized and empowered to make a determination of additional tax and interest due by such person based upon any information within its possession or that shall come into its possession. All of such determinations shall be made so that notice thereof shall reach the parties against whom made within three years after the due date of the tax.

(b) Promptly after the date of such determination, the department shall send, by certified mail, a copy thereof to the person against whom it was made. Within ninety days after the date upon which the copy of any such determination was mailed, such person may file with the department a petition for redetermination of such taxes. Every petition for redetermination shall state specifically the reasons which the petitioner believes \*entitles him to such redetermination, and it shall be supported by affirmation that it is not made for the purpose of delay and that the facts set forth therein are true. It shall be the duty of the department within six months after the date of any determination to dispose of any petition for redetermination. Notice of the action taken upon any petition for redetermination shall be given to the petitioner promptly after the date of redetermination by the department.

(c) Any person shall have the right to review by the Board of Finance and Revenue and appeal to the Court of Common Pleas of Dauphin County, in the same manner and within the same time as provided by law in the case of capital stock and franchise taxes imposed upon corporations.

Section 21. Penalties.—Any person wilfully violating the provisions of this act, not covered by any other penalty provision contained in this act, shall be guilty of a misdemeanor and, upon conviction thereof, shall be sentenced to pay a fine not exceeding five hundred dollars (\$500), or undergo imprisonment for a term not exceeding one year, or both. If the person convicted is a corporation, any imprisonment imposed shall be served by the responsible corporate officer.

\* "entitle" in original.

Section 22. Availability of Records of Other Agencies.—The records of any other Commonwealth agency, board or commission to the extent that the same may be pertinent to the administration and enforcement of this act, and the determination of liability thereunder, shall be available to the department.

Section 23. Regulations; Promulgation by Secretary.—The secretary shall, from time to time, promulgate such regulations as may be necessary for the effective enforcement of this act.

Section 24. Exempt Vehicles; Carriers.—Nothing in this act shall apply to any vehicle operated by or on behalf of any department, board, bureau or commission of this State, or any political subdivision thereof, or any quasi-governmental authority of which this State is a participating member, or any agency of the Federal government or the District of Columbia, or of any state or any political subdivision thereof which grants similar exemption to publicly owned vehicles registered in this State. Nor shall the provisions of this act apply to any school bus operated by, for, or on behalf of this State, any political subdivision thereof, or any private or privately operated school. The provisions of this act shall not apply to those motor buses operating under the provisions of the act of August 1, 1963 (P. L. 476), entitled “An act providing for the taxation of motor fuels consumed by interstate buses upon a system uniform among jurisdictions enacting the same provisions.”

Section 25. The provisions of this act shall not apply to any motor carrier owning or operating not more than one motor vehicle for its own use and not for hire.

Section 26. Effective Date.—This act shall take effect October 1, 1964.

APPROVED—The 19th day of June, A. D. 1964.

WILLIAM W. SCRANTON

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No. 2

AN ACT

Imposing a State excise tax on net earnings or income of mutual thrift institutions; requiring the filing of reports and payment of the tax; providing certain exemptions from the tax and repealing part of an act imposing other taxes.

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

Section 1. Short Title.—This act shall be known as and may be cited as “The Mutual Thrift Institutions Tax Act.”