

## No. 550

## AN ACT

Imposing a permanent and a temporary State tax on fuels used within the Commonwealth in internal combustion engines for the generation of power to propel motor vehicles using the public highways; providing for the collection and lien of the tax and the distribution and use of the proceeds thereof; requiring dealer-users to secure licenses and to file bonds as a guarantee of payment of taxes, penalties, interest, fines, uncollectible check fees and Attorney General's fees, to file reports and to compile and retain certain records; requiring registration of carriers for hire; imposing duties on such persons; requiring persons selling or delivering fuels to licensed dealer-users to furnish information; imposing certain costs on counties; conferring powers and imposing duties on State officers and departments; providing for refunds of taxes, penalties and interest illegally or erroneously collected from licensees; and providing penalties.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows: "Fuel Use Tax Act."

Section 1. Short Title.—This act shall be known and may be cited as the "Fuel Use Tax Act."

Section 2. Definitions.—The following words, terms and phrases when used in this act shall have the meanings ascribed to them in this section, except in those instances where the context clearly indicates a different meaning.

"Association" shall mean and include a partnership, limited partnership or any other form of unincorporated enterprise owned by two or more persons.

"Corporation" shall mean and include a corporation or joint stock association organized under the laws of this Commonwealth, the United States or any other state, territory or foreign country or dependency.

"Dealer-user" shall mean and include any person who delivers or places fuels into the fuel supply tanks or other fueling receptacles or devices of a motor vehicle, or who uses fuels within the meaning of the word "use" as defined in this section.

"Department" shall mean and include the Department of Revenue of this Commonwealth.

"Fuels" shall mean and include all combustible gases and liquids used in an internal combustion engine for the generation of power to propel vehicles of any kind or character on the public highways, except such fuels as are defined as liquid fuels by the act, approved the twenty-first day of May, one thousand nine hundred thirty-one (Pamphlet Laws 149), known as "The Liquid Fuels Tax Act," and its amendments.

“Magistrate” shall mean and include a magistrate, alderman, justice of the peace or other officer having the powers of a committing magistrate in this Commonwealth.

“Motor Vehicles” shall mean and include all vehicles, engines, machines or mechanical contrivances which are propelled by internal combustion engines or motors.

“Person” shall mean and include every natural person, association or corporation. Whenever used in any clause prescribing and imposing a fine or imprisonment, or both, the term “person” as applied to association shall mean the partners or members thereof and as applied to corporations the officers thereof.

“Public Highways” shall mean and include every way or place, of whatever nature, open to the public as a matter of right, including a toll highway, for the purpose of vehicular travel, excepting those that are closed or that portion of any stretch which is closed to such travel by order of the State Highway Department for the purpose of construction or reconstruction.

“Secretary” shall mean and include the Secretary of Revenue of this Commonwealth or his duly authorized deputy or representative.

“Use” shall mean and include (a) the importation into this Commonwealth of fuels in the fuel supply tanks or other fueling receptacles or devices of a motor vehicle in excess of fifty (50) gallons, and (b) the delivery or placing of fuels into the fuel supply tanks or other fueling receptacles or devices of a motor vehicle in this Commonwealth for use in whole or part for the generation of power to propel such motor vehicle on the public highways of this Commonwealth. The delivery of fuels into such supply tanks or other fueling receptacles or devices shall constitute a conclusive presumption that the fuel so delivered is to be used in propelling such motor vehicles on the public highways of this Commonwealth.

The singular shall include the plural and the masculine shall include the feminine and neuter.

Section 3. Application for License; Licensing of Dealer-Users; Bond or Deposit of Collateral Securities.—

(a) On and after the effective date of this act, it shall be unlawful for any dealer-user to engage in or thereafter begin to engage in the use or sale and delivery of fuels within this Commonwealth, unless a license shall have been issued to him as hereinafter prescribed.

Penalty.—Each day in which any dealer-user shall engage in the use of fuels within this Commonwealth without a license, as required by this act, shall constitute a separate offense and he shall, upon summary conviction thereof before a magistrate, be sentenced to pay a

fine of one hundred dollars (\$100) and costs of prosecution or to undergo imprisonment for not more than thirty (30) days for each offense; or both.

(b) Every person desiring to operate as a dealer-user shall file an application for a license with the department. The application for license shall be made upon a form prescribed, prepared and furnished by the department upon request, and shall set forth the name under which the applicant transacts or intends to transact business, the location of his principal place of business in this Commonwealth, and such other information as the department may require. If the applicant is an association, the application shall set forth the names and addresses of the persons constituting the association, and if a corporation, the names and addresses of the principal officers thereof and any other information prescribed by the department for the purpose of identification. The application shall be signed and verified by oath or affirmation by the applicant, if a natural person; in the case of an association, by a member or partner thereof; and in the case of a corporation, by the executive officers thereof or person specifically authorized by the corporation to sign the application, to which shall be attached written evidence of their authority.

(c) Upon approval of the application and the bond hereinafter required, the department shall grant and issue to each dealer-user a license or licenses, which shall at all times be posted conspicuously at all places where fuels are stored for use or for sale and delivery. Licenses shall not be assignable or transferable and shall be valid only for the dealer-user in whose name issued. Licenses shall be displayed for identification purposes by dealer-users to any officer of the Pennsylvania State Police upon request. Licenses shall continue permanently in effect unless surrendered or suspended or revoked for cause by the secretary.

Penalty.—Any person assigning or attempting to assign or transfer a license, or who shall fail to display his license as required herein, shall, upon summary conviction before a magistrate, be sentenced to pay a fine of one hundred dollars (\$100) for each offense and costs of prosecution or to undergo imprisonment for not more than thirty (30) days for each offense, or both.

(d) A license shall not be granted and issued until the person applying therefor has filed with the department a surety bond, payable to the Commonwealth of Pennsylvania, in such amount as shall be fixed by the department, except that the amount shall never be less than five hundred dollars (\$500). Every such bond shall have as surety a duly authorized surety company approved by

the Insurance Department of this Commonwealth and signed by a resident Pennsylvania agent of the surety, conditioned that the dealer-user shall faithfully comply with the provisions of this act during the effective period of his license. The department may require any dealer-user to furnish such additional surety bond as shall be necessary to secure at all times the payment by him to the Commonwealth of all fuel taxes, penalties, interest, fines, uncollectible check fees and Attorney General's fees due by him.

For the purpose of determining whether an existing bond or bonds are sufficient, the department may at any time by a written notice require any dealer-user to furnish a financial statement in such form as it may prescribe. Upon failure of any dealer-user to furnish a financial statement within thirty (30) days of such written notice, the department may forthwith suspend or revoke the license or licenses issued to him and shall collect all fuel taxes, penalties, interest, fines, uncollectible check fees and Attorney General's fees due by him.

Any surety on a bond furnished by a dealer-user, as provided herein, shall be released and discharged from any and all liability to the Commonwealth accruing on such bond after the expiration of sixty (60) days from date upon which the surety shall have lodged with the department a written request to be released and discharged; but this provision shall not operate to relieve, release or discharge the surety from any liability already accrued or which shall accrue before the expiration of the sixty (60) day period. The department shall promptly after receiving such request notify the dealer-user who furnished the bond, and unless the dealer-user shall, on or before the expiration of the sixty (60) day period, file with the department a new bond with corporate surety approved by the Insurance Department of this Commonwealth, the department shall forthwith cancel the dealer-user's license or licenses. Whenever a new bond shall be furnished by the dealer-user as aforesaid, the department shall cancel and surrender the original bond of the dealer-user as soon as it shall be satisfied that all liability under the original bond has been fully discharged.

(e) Any person required by the provisions of this section to file a surety bond may, in lieu thereof, deposit with the State Treasurer negotiable or assigned bonds which are direct obligations of the United States Government or of the Commonwealth of Pennsylvania, the par value thereof to be of the amount of the surety bond required of such person, as collateral guarantee of payment of all liabilities accruing under the provisions of

this act. The State Treasurer shall issue to such person and to the Department of Revenue a certificate of such deposit. The said securities shall be retained by the State Treasurer after the termination of the license of such person, whether by his own act or the action of the department, and such securities shall not be released from any liability to the Commonwealth already accrued or which shall accrue prior to the issuance of certification by the department that all fuel taxes, penalties, interest, fees, fines, uncollectible check fees and Attorney General's fee have been paid. The department shall furnish the State Treasurer with a copy of such certification and authorize the return of said securities by the State Treasurer to the owner.

(f) Upon the surrender or revocation for cause of the license of any dealer-user, the department shall return surety bonds for cancellation or deposits made in accordance with the provisions of this section only after it is satisfied that all fuel taxes, penalties, interest, fees and fines due the Commonwealth under the terms of the bond and the provisions of this act have been paid.

Section 4. Imposition of Tax; Exemptions.—A permanent excise tax at the rate of three cents (3c) a gallon or fractional part thereof is hereby imposed on all dealer-users upon the use, as herein defined, of fuel within this Commonwealth, to be computed in the manner herein-after set forth. The tax herein imposed shall not apply on fuels not within the taxing power of this Commonwealth under the Commerce Clause of the Constitution of the United States: Provided, That the tax herein imposed and assessed shall be paid to the Commonwealth but once in respect to any fuels used within the Commonwealth: And provided further, That no tax is hereby imposed upon (1) any fuel that is used by or sold and delivered to the United States government, when such sales and deliveries are supported by documentary evidence satisfactory to the department, or (2) upon any fuel not in excess of fifty (50) gallons brought into this Commonwealth in the fuel supply tanks or other fueling receptacles or devices of a motor vehicle, or (3) upon any fuel used by or sold or delivered for use in farm machinery or equipment, engaged in the production or harvesting of farm or agricultural products, involving the use of the public highways within a ten (10) mile radius of the domicile of the owner of the machinery or equipment, when such sales and deliveries are supported by documentary evidence satisfactory to the department, or (4) upon any fuel used by or sold or delivered to the Commonwealth of Pennsylvania and its political subdivisions, when such sales and deliveries are supported by documentary evidence satisfactory to the department.

In addition to such tax, an additional State excise tax of two cents (2c) a gallon or fractional part thereof is hereby imposed and assessed on all dealer-users upon the use, as herein defined, of fuel within this Commonwealth, within the limitations of the provisions of this section, for the period beginning February first, one thousand nine hundred fifty-two and ending on the thirty-first day of May, one thousand nine hundred fifty-three.

Section 5. By Whom Tax is Payable.—Every dealer-user upon whom a tax is imposed by this act shall pay the tax into the State Treasury, through the department, in the manner and within the time specified in this act. It shall be the duty of each dealer-user to furnish to the department such information concerning such use as the department may require.

Section 6. Dealer-user's Reports and Payments of Tax; Discount Allowed; Interest and Penalties.—For the purpose of ascertaining the amount of tax payable under this act, it shall be the duty of every dealer-user, on or before the last day of each month, to file with the department, upon forms prescribed, prepared and furnished by the department, a report under oath or affirmation of the fuels used by him within this Commonwealth during the preceding month. This report shall include all such information as the department may require and prescribe. Dealer-users having more than one place of business within this Commonwealth shall combine in each report the use of fuels at all such separate places of business.

Dealer-users, at the time of making every report required by this section, shall compute and pay to the department the tax due to the Commonwealth on fuels used by him during the preceding month. Fuels not accounted for to the satisfaction of the department shall be deemed to have been used for taxable purposes and taxes imposed thereon and collected by the department.

If the report required herein is filed and tax paid on time, a discount of two per centum (2%) of the gross amount of tax shall be allowed the dealer-user.

The amount of all taxes imposed under the provisions of this act, for each month, shall be due and payable on the last day of the next succeeding month, and shall bear interest at the rate of one per centum (1%) per month or fractional part of a month from the date they are due and payable until paid.

If any dealer-user shall fail, neglect or refuse to make any report or payment as herein required, an additional ten per centum (10%) of the gross amount of tax shall be added by the department and collected as hereinafter provided, and in addition thereto the license of a dealer-

user may forthwith be suspended or revoked by the department and required to be surrendered to the department.

Section 7. Determination and Redetermination of Tax; Penalties and Interest Due.—(a) If any dealer-user shall fail, neglect or refuse to secure a license as provided in this act, or to file a report and pay the tax imposed by this act, or if the department is not satisfied with the report and payment of tax made by any dealer-user under the provisions of this act, the department is hereby authorized and empowered to make a determination of the tax due by such dealer-user, based upon any information which it may have in its possession or may obtain from other sources.

(b) Promptly after the date of any such determination, the department shall send, by registered mail, a copy thereof to such dealer-user. Within thirty (30) days after notice of any such determination, such dealer-user may file with the department a petition for redetermination of such tax. Every petition for redetermination shall state specifically the reasons which the petitioner believes entitle him to such redetermination, and shall be supported by affidavit that it is not made for the purpose of delay and that the facts therein set forth are true. It shall be the duty of the department, within six (6) months after the date of any petition, 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 action on petition by the department.

(c) Within sixty (60) days after notice by the department of the action taken on any petition for redetermination filed with it, the dealer-user against whom such determination was made may, by petition, request the Board of Finance and Revenue to review such action. Every petition for review filed hereunder shall state specifically the reasons upon which the petitioner relies, and shall be in such form as the Board of Finance and Revenue may prescribe. The petition shall be supported by affidavit that it is not made for the purpose of delay and that the facts therein set forth are true. The Board of Finance and Revenue shall dispose of such petitions filed with it within six (6) months after they have been received, and in the event of the failure of said board to dispose of any such petition within six (6) months, the action taken by the department upon the petition for redetermination shall be deemed sustained. The Board of Finance and Revenue may sustain the action taken on the petition for redetermination, or it may redetermine the tax due upon such basis as it shall deem according

to law and equity. Notice of the action of the Board of Finance and Revenue shall be given, by mail or otherwise, to the department and to the petitioner.

(d) The department or any person aggrieved by the decision of the Board of Finance and Revenue or by the board's failure to act upon his petition for review within six (6) months may, within sixty (60) days, appeal to the Court of Common Pleas of Dauphin County from the decision of the Board of Finance and Revenue or from the decision of the department, as the case may be, in the manner now or hereafter provided by law for appeals in the case of tax settlement.

(e) The department is hereby empowered to redetermine taxes and to authorize adjustments on current fuel use tax reports of dealer-users of overpayments within ninety (90) days of due date and payment, providing information in the department's possession warrants such adjustment.

**Section 8. Examination of Records and Equipment.**—The department, or any employe appointed in writing by it, or any officer of the Pennsylvania State Police, is hereby authorized to examine the books and records of account, storage tanks, motor vehicles and any other equipment of any dealer-user, carrier or any other person, pertaining to the use, sale or delivery of fuels taxable under this act, to determine the use, or for the purpose of ascertaining whether or not the tax imposed by this act has been paid, or to verify the accuracy of any report or payment made under the provisions of this act, or to determine the financial responsibility of any dealer-user, or the accuracy of any financial statement required to be submitted to the department under the provisions of this act or regulations of the department.

The secretary or his deputy is hereby authorized and shall have the power, in the enforcement of provisions of this act, to hold hearings, to administer oaths to witnesses, and to take the sworn testimony of any person and cause it to be transcribed into writing.

The secretary or his deputy is hereby authorized to issue subpoenas and subpoenas duces tecum and compel the attendance of witnesses, and shall have the power to conduct such investigations as he may deem necessary. If any person shall refuse access to such books and records of account or other documents or any equipment, or if any person shall fail or refuse to obey such subpoenas or subpoenas duces tecum, or shall fail or refuse to testify before the secretary or his deputy, the Court of Common Pleas of Dauphin County or of any other county in which the dealer-user resides or has its principal place of business or may be found, upon application of the



secretary or his deputy and after notice to the dealer-user and hearing, may issue an order requiring such dealer-user to appear before the secretary or his deputy, in obedience to such subpoena, and testify and produce books, records or other documents or equipment in compliance with such subpoena, and upon refusal of the dealer-user to obey such order of the court, punish such dealer-user for contempt.

Section 9. Regulations; Records Required and Retention of Records by All Dealer-users and Carriers.—

(a) The secretary shall have the authority to prescribe all forms upon which reports shall be made to the department and any other forms required for the proper administration of this act, and shall prescribe and cause to be published all needful rules and regulations for the enforcement of this act.

(b) Every dealer-user shall maintain, issue and keep, as the case may be, for a period of two (2) years, complete records of fuels received, used, sold or delivered within this Commonwealth by such dealer-user, including suitable books and records of accounts and such other pertinent papers as may be required by regulation. Every carrier shall keep similar records with respect to deliveries of products capable of being used as fuels.

(c) Any person shall, at the request of the department, furnish to it information with respect to all sales and deliveries made by him to licensed dealer-users of such products capable of being used as fuels, as may be designated by regulations issued by the department.

Penalty.—Any person failing to comply with any of the provisions of this section shall, upon summary conviction before a magistrate, be sentenced to pay a fine of one hundred dollars (\$100) and costs of prosecution for each offense or to undergo imprisonment for not more than thirty (30) days for each offense, or both.

Section 10. Disposition and Use of Tax.—The permanent and additional State taxes collected under the provisions of this act, less discounts allowed, shall be paid into the Liquid Fuels Tax Fund and the Motor License Fund in the same proportions as are liquid fuels taxes and are hereby specifically appropriated for the same uses and purposes.

Section 11. Discontinuance of Business by Dealer-user.—Whenever a dealer-user engaged in the "use," as defined in this act, of fuels ceases to be a dealer-user by reason of discontinuance, sale or transfer of his business, it shall be his duty to so notify the department in writing within five (5) days after the discontinuance, sale or transfer takes effect. His notice shall give the date of discontinuance and, in the event of a sale or

transfer of his business, the name and address of the purchaser or transferee thereof. It shall also be the duty of dealer-users, within ten (10) days after the discontinuance, sale or transfer takes effect, to make a report and pay all taxes, interest, penalties, fees and fines that may be due by him, and to surrender to the department the license or licenses issued to him by the department.

Penalty.—Any person failing, neglecting or refusing to comply with any of the provisions of this section shall, upon summary conviction thereof before a magistrate, be sentenced to pay a fine of one hundred dollars (\$100) and costs of prosecution or to undergo imprisonment for not more than thirty (30) days, or both.

Section 12. Suspension or Revocation of Licenses.—Whenever the department finds that the holder of a license or licenses has failed to comply with the provisions of this act or regulations issued by the department, the department shall notify such holder and afford him a hearing on five (5) days' written notice, except as hereinbefore provided. After such hearing, the department may revoke or suspend the dealer-user's license or licenses; and upon suspending or revoking any license, shall demand the holder thereof to surrender to it immediately all licenses issued to him; and the dealer-user shall surrender, within five (5) days, all licenses to the department, as hereby required.

Any holder of a dealer-user's license, aggrieved by the decision of the department in suspending or revoking his license, may, within thirty (30) days, appeal to the Court of Common Pleas of Dauphin County from the decision of the department, in the manner provided by law for appeals in the case of tax settlements. No such appeal shall act as a supersedeas, but the suspension or revocation of the license by the department shall remain in full force and effect pending the disposition of the appeal.

Penalty.—Any person failing, neglecting or refusing to surrender a license suspended or revoked by the department, as provided herein, shall, upon summary conviction thereof before a magistrate, be sentenced to pay a fine of not less than one hundred dollars (\$100) and costs of prosecution or to undergo imprisonment for not more than thirty (30) days, or both.

Section 13. Lien of Taxes, Penalties, Interest, Fees and Fines.—(a) All taxes herein imposed and unpaid penalties, interest, fees and fines due by any person shall be a lien upon the franchises and property, both real and personal, of such person from the date said taxes, penalties, interest, fees and fines are due and payable as provided in this act; and if and when recorded, as provided in clause (b) hereof, shall have priority over any

subsequent lien or encumbrance whatsoever, except the lien of other State taxes having priority by law, and except also, that such taxes, penalties, interest, fees and fines shall have priority over a mortgage only if the liens thereof were filed of record, as provided in clause (b) hereof, prior to the recording of the mortgage.

(b) Liens and statements of all taxes, penalties, interest, fees and fines herein imposed, due and unpaid, certified by the secretary or his representative, shall be transmitted to the prothonotaries of the respective counties of the Commonwealth, through the Department of Justice, to be entered of record as of the date due and payable, upon which record it shall be lawful for writs of scire facias to issue and be prosecuted to judgment and execution in the same manner as such writs are ordinarily employed.

(c) No sheriff, receiver, trustee, assignee, master or other officer shall sell the property or franchises of any person who is a licensed dealer-user, as herein defined, without first giving the department thirty days notice of the sale, and a statement containing the following information:

1. Name or names of the plaintiff or party at whose instance or upon whose account the sale is to be made;
2. Name of the person whose property or franchise is to be sold;
3. The time and place of sale;
4. The nature of the property and the location of the same.

(d) It shall be the duty of the department, after receiving notice as aforesaid, to furnish the sheriff, receiver, trustee, assignee, master or other officers having charge of the sale, a certified statement of all fuel taxes, penalties, interest, fines and fees due the Commonwealth as liens against such person, and in case no such liens exist, a certificate setting forth that fact, which certificate shall be publicly read by such officer at and immediately before the sale of the property or franchise of such person.

(e) It shall be the duty of the department to furnish to any person applying therefor, upon payment of the fee herein prescribed, a certificate showing the amount of all taxes, penalties, interest, fees and fines owing by any licensed dealer-user which are of record in the department as a lien or which may become a lien against any person under the provisions of this act.

Section 14. Collection of Unpaid Taxes.—Whenever the taxes, penalties, interest, fees and fines imposed by this act are not paid within thirty days after the date of their determination if no petition for redetermination has been filed, or from the date of the department's action

on the petition if no petition for review has been filed, or within sixty days from the date of decision of the Board of Finance and Revenue upon a petition for review, or the expiration of the board's time for acting upon such petition if no appeal has been made, and in all cases of judicial sales, assignments or bankruptcies, the department shall request the Department of Justice to collect the same.

On all claims for taxes, penalties, interest, fees and fines hereunder which are collected after the institution of suit by the Department of Justice or any attorney employed by it, there shall be paid by and recovered from the dealer-user, for the use of the Commonwealth, an Attorney General's commission of five (5) per centum upon the amount of recovery not exceeding ten thousand dollars (\$10,000), and three (3) per centum upon the amount of recovery in excess of ten thousand dollars (\$10,000), and the payment of the Attorney General's commission shall not affect liability for any penalty or interest payable under this act. The Attorney General's commission shall be paid into the State Treasury through the Department of Revenue and credited to the General Fund. The amount of the Attorney General's commission shall in all cases be added to the amount of the claim against the licensed dealer-user and shall be a lien against his property in like manner as the amount of the claim.

Section 15. Registration of Carriers and Reports Required of Carriers.—Every person engaged in or intending to engage in the transportation and delivery of products capable of being used as fuels taxable under this act in any manner for hire to a dealer-user, as defined in this act, shall register with the department on forms prescribed and furnished by the department upon request.

Every person engaged for hire in the transportation and delivery of products capable of being used as fuels taxable under this act in any manner to a dealer-user, either in interstate or intrastate commerce, to a point within this Commonwealth from a point within or without this Commonwealth, shall report under oath or affirmation to the department, on or before the last day of each month, for the preceding month, all deliveries of such products capable of being used as fuels taxable under this act, as may be designated by regulations issued by the department, made to points within this Commonwealth. Such reports shall be on forms prescribed, prepared and furnished by the department, and shall state the names and addresses of the consignor and consignee, the number of gallons of such products which were

transported and delivered, together with date of delivery and any other information which the department may require.

Penalty.—Any person failing, neglecting or refusing to comply with any of the provisions of this section shall, upon summary conviction before a magistrate, be sentenced to pay a fine of one hundred dollars (\$100) and costs of prosecution for each offense or to undergo imprisonment for thirty (30) days for each offense, or both.

Section 16. Refunds.—The Board of Finance and Revenue may refund to dealer-users tax, penalties and interest provided by this act and paid by them as a result of an error of law or of fact, or of both law and fact. Claims for refund shall be filed with the Board of Finance and Revenue within one year of the date of overpayment and shall be made under the procedure prescribed by The Fiscal Code.

All refunds of moneys allowed hereunder shall be paid from the Motor License Fund and the Liquid Fuels Tax Fund in the amounts equal to the original distribution and the payment of such moneys into said funds.

As much of the moneys from time to time in the Motor License Fund and the Liquid Fuels Tax Fund as may be necessary is hereby appropriated to the Board of Finance and Revenue for the purpose of making refunds as herein authorized. Estimates of the amounts to be expended from these funds from time to time by the board shall be submitted to the Governor for his approval or disapproval, as in the case of other appropriations to administrative departments, boards and commissions, and it shall be unlawful for the Auditor General to honor any requisitions of the Board of Finance and Revenue for the expenditure of moneys hereunder in excess of the estimates approved by the Governor.

Section 17. Enforcement.—The department shall be charged with the enforcement of this act. Such employees of the Commonwealth as are designated as "Pennsylvania State Police" shall aid the department in the enforcement of this act, and for this purpose are hereby declared to be peace officers and are hereby given authority throughout the Commonwealth to arrest on view, without writ, rule, order or process, any person known to have violated any of the provisions of this act.

Whenever any person, acting for or on behalf of the department, shall in good faith institute legal proceedings for any variations of the provisions of this act and for any reason shall fail to recover costs of record, such costs shall be a charge upon the proper county, as shall such costs in the event defendant is imprisoned for failure to pay fine or costs, or both, and shall be audited and paid as are costs of like character in said county.

Section 18. Disposition of Fees, Fines and Forfeitures.—Except as otherwise in this act provided and except as otherwise provided by the Constitution, fees, fines, penalties and bail forfeitures that shall be received, recovered, paid or collected under the provisions of this act shall be paid into the State Treasury by the department and credited to the Motor License Fund.

Section 19. Exchange of Information Among the States; Issuance and Sale of Lists and Certified Copies of Records.—The secretary or his representatives shall, upon request received from the officials to whom are entrusted the enforcement of the fuel tax laws of any other state, forward to such officials any information, for governmental use, which it may have in its possession relative to the manufacture, receipt, sale, use, transportation, shipment or delivery by any person of fuel.

The department shall prepare, issue and distribute such lists of dealer-users and carriers as may be necessary for the proper administration and enforcement of this act without charge. Sales of such lists as are issued by the department under these provisions may be made for other than governmental use, and for each list a fee of ten dollars (\$10) shall be charged, payable in advance.

The fee for each certified copy or certified photostat copy of any department record shall be one dollar (\$1), payable in advance: Provided, That no fee shall be charged for certified copies or certified photostat copies of any departmental records furnished to any State or Federal Government authorities.

Section 20. Uncollectible Checks.—Whenever any check issued in payment of tax, penalties, interest, fees or fines imposed by this act shall be returned to the department as uncollectible, the department shall charge a fee of five dollars (\$5) per hundred dollars or fractional part thereof, plus all protest fees, to the person offering such check in payment.

Section 21. Violation.—(a) Any person who shall fail, neglect or refuse to make the report, or pay the tax, penalties and interest imposed by this act, or who shall refuse to permit representatives of the department or the Pennsylvania State Police to examine his books and records of account, storage tanks, motor vehicles or other equipment pertaining to the use, sale or delivery or importation of fuels within this Commonwealth, or who shall make any incomplete, false or fraudulent report, or who shall attempt to do anything whatsoever to avoid a full disclosure of the quantities of fuels used, sold or delivered, or to avoid the payment of the whole or any part of the tax, penalties or interest due, shall be guilty of a misdemeanor, and, upon conviction thereof, be sen-

tenced to pay a fine of not less than two hundred fifty dollars (\$250) and not exceeding one thousand dollars (\$1000) and costs of prosecution or to undergo imprisonment for not more than one (1) year, or both. In the case of an association any partner or member thereof, and in the case of a corporation any officer thereof, whose duty it was to make the report required by this act, shall be subject to imprisonment, as aforesaid, for failure to make the report required and attend to the payment of tax imposed by this act. Such fines shall be in addition to any penalty imposed by any other section or subsection of this act. Upon conviction, all of the guilty dealer-users' licenses shall be revoked.

(b) It shall be unlawful for any person to commit any of the following acts:

(1) To display or represent as one's own, or cause or permit to be displayed, any license not issued to the person displaying it, or to have unlawfully in one's possession any unsigned, fictitious or altered license, or any license which is invalid as a result of cancellation, suspension, revocation by the department, for expiration.

(2) To give, use or enter a false or fictitious name, or give, use or enter a false or fictitious address, in any investigation or on any application, business record or report required under the provisions of this act, or otherwise misrepresent or commit a fraud on any application or business record required under the provisions of this act.

Penalty.—Any person violating any of the provisions of this subsection shall be guilty of a misdemeanor and shall, upon conviction thereof, be sentenced to pay a fine of not less than two hundred fifty dollars (\$250) nor more than one thousand dollars (\$1000) and costs of prosecution or to undergo imprisonment for not more than one year, or both.

Section 22. Carriers, registered with the department as such, under the provisions of the Fuel Use Tax Act of 1947, as amended, shall not be required to reregister under this act.

Section 23. Saving Clause.—(a) The passage of this act shall not be taken or construed to relieve any person, association or corporation whatsoever from the payment of any tax, penalty or interest due or owing the Commonwealth under any laws in force at the time this act becomes effective, or to affect or terminate any petitions, investigations, prosecutions, legal or other proceedings pending under such laws, or to prevent the commencement of any legal proceedings for violations of such laws heretofore committed, or for the recovery of taxes,

penalties or interest due or owing to the Commonwealth under such laws.

(b) All taxes, penalties and interest due from users of fuels, under laws heretofore in force, that are collected or received by the department after the effective date of this act shall be transmitted to the State Treasury through the department and credited to the Liquid Fuels Tax Fund and the Motor License Fund in the proportion provided in the act under which the tax was collected.

Section 24. Constitutional Construction.—The provisions of this act are severable, and if any of its provisions shall be held unconstitutional, the decision of the court shall not affect or impair any of the remaining provisions of this act. It is hereby declared to be the legislative intent that this act would have been adopted had such unconstitutional provisions not been included herein.

Act of July 2,  
1947, P. L. 1199,  
and amendments,  
repealed.

Section 25. Acts of Assembly Repealed.—The act, approved the second day of July, one thousand nine hundred forty-seven (Pamphlet Laws 1199), entitled "An act imposing a State tax, payable by those herein defined as users, on fuels used within the Commonwealth in internal combustion engines for the generation of power to propel motor vehicles using the public highways; providing for the collection and lien of the tax and the distribution and use of the proceeds thereof; requiring such users to secure licenses, to file bonds as a guarantee of payment of taxes, penalties, interest, fines, uncollectible check fees and Attorney General's fees, to file reports and to compile and retain certain records; imposing duties on dealers, wholesalers and carriers for hire; imposing certain costs on counties; conferring powers and imposing duties on certain State officers and departments; providing for refunds of taxes, penalties and interest illegally or erroneously collected from licensed users; and making appropriations," and its amendments, is hereby repealed.

Inconsistent  
acts repealed.

All acts and parts of acts are hereby repealed in so far as they are inconsistent with the provisions of this act.

Act effective  
February 1, 1952.

Section 26. Effective Date.—This act shall become effective on the first day of February, one thousand nine hundred fifty-two.

APPROVED—The 14th day of January, A. D. 1952.

JOHN S. FINE