

No. 1990-70

## AN ACT

SB 1272

Amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for the Catastrophic Loss Benefits Continuation Fund; creating the offense of trespass by motor vehicles; and further providing for fines, penalties and suspension of driver's license for unauthorized operation of motor vehicles on private real property.

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

Section 1. Section 1798.4 of Title 75 of the Pennsylvania Consolidated Statutes is amended by adding a subsection to read:

§ 1798.4. Catastrophic Loss Benefits Continuation Fund.

\* \* \*

*(d) Borrowing from the Workers' Compensation Security Fund.—Whenever the Governor shall ascertain that the cash balance and the current estimated receipts of the Catastrophic Loss Benefits Continuation Fund shall be insufficient at any time during any fiscal period to meet promptly any expenses payable from the fund, the Governor shall authorize the transfer from the Workers' Compensation Security Fund to the Catastrophic Loss Benefits Continuation Fund such sums as are necessary. Any sum so transferred shall be available for the purpose for which the Catastrophic Loss Benefits Continuation Fund is created by law and shall be considered as a loan to that fund. Such transfers shall be made upon warrant of the State Treasurer upon requisition of the Governor. For purposes of determining whether contributions to the Workers' Compensation Security Fund pursuant to section 5 of the act of July 1, 1937 (P.L.2532, No.470), known as the Workers' Compensation Security Fund Act, are necessary, the Insurance Commissioner shall consider the amount of any loan made pursuant to this act as an asset of the Workers' Compensation Security Fund that does not reduce the fund below 5% of its loss reserves and does not trigger the resumption of contributions to the fund. The amounts transferred to the Catastrophic Loss Benefits Continuation Fund may carry over from fiscal year to fiscal year and shall be repaid together with an amount of interest equivalent to the average interest rate derived from investments of the Workers' Compensation Security Fund in the immediately preceding fiscal year as determined by the State Treasurer. An estimate of the actual and projected borrowings and loan repayments to be made from and to the Workers' Compensation Security Fund shall be included in the report required pursuant to section 7 of the act of July 1, 1989 (P.L.115, No.24), entitled "An act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, creating the Catastrophic Loss Benefits Continuation Fund for payment of certain catastrophic loss benefits; providing for surcharges for certain offenses to provide moneys for the fund; and further providing*

*for conditions of permits.” The authorization to make transfers pursuant to this subsection shall expire on July 1, 1993, unless otherwise provided by the General Assembly.*

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

**§ 3717. Trespass by motor vehicle.**

*(a) General rule.—It is unlawful for a person to knowingly operate a motor vehicle on private real property other than a private road or driveway without consent of the owner or lessor of the real property.*

*(b) Operation of motor vehicle on private road or driveway prohibited.—Except when necessary as a result of emergency or when necessary to provide the operator a means of turning his vehicle around on portions of highways where no other means of turning around is provided, it is unlawful, without the consent of the owner or lessor, for a person to knowingly operate a motor vehicle on a private road or driveway. There shall be a rebuttable presumption that a person has knowingly violated this subsection if the owner or lessor of the road or driveway has placed, at or near the points of entry from public or private vehicular access, a gate, fence or similar obstruction or a readily visible sign that would reasonably convey that the unauthorized operation of motor vehicles on the road or driveway is prohibited.*

*(c) Damage to real property by operation of motor vehicle prohibited.—It is unlawful for a person to knowingly or recklessly cause damage to any real or personal property by means of the operation of a motor vehicle on private real property. There shall be a rebuttable presumption that a person has knowingly or recklessly caused damage under this subsection where digging, ground breakage or other damage to land, sod or soil or damage to trees, growing crops, ornamental flowers or shrubs or other similar flora affixed to the land or to structures, fixtures or personal property affixed to or located on the private real property has resulted from the operation of a motor vehicle on the private real property.*

*(d) Travel on cultivated land prohibited.—It is unlawful for a person to knowingly operate a motor vehicle on cultivated agricultural land of another without the consent of the owner or lessor. For purposes of this subsection, the term “cultivated agricultural land” includes land which is or has been recently groomed or prepared for the purpose of present or future commercial or private agricultural, silvicultural, horticultural or floricultural production, whether or not the land is currently in seed or sustaining growing crops. There shall be a rebuttable presumption that a person has knowingly operated a motor vehicle on cultivated agricultural land either if there are agricultural crops or residue from the crops visible on the land or if the owner or lessor of the land has placed near the roadside boundaries of the property visible signs which would easily convey to the operator of a motor vehicle that the land is cultivated agricultural land and that operation of a motor vehicle on it is prohibited.*

*(e) Offense defined.—The following penalties shall apply:*

*(1) A person who violates subsection (b) commits a summary offense and shall, upon conviction, be subject to a fine of \$100.*

**(2) A person who violates subsection (c) or (d) commits a summary offense and shall, upon conviction, be subject to the following penalties:**

**(i) A fine of \$500 for a first conviction of the offense.**

**(ii) A fine of \$1,000 plus suspension of operating privileges for a period of six months for a second or subsequent conviction of the offense. If a person is under 16 years of age at the time of the second or subsequent conviction of an offense, the period of suspension shall commence upon the person's 16th birthday.**

**(3) In addition, restitution shall be made for the value of damage to real or personal property which results from the violation of this section.**

**(f) Assessment of points.--A person whose operating privilege has been suspended pursuant to subsection (e) shall not be subject to assessment of points otherwise applicable under section 1545 (relating to restoration of operating privilege) upon restoration of privileges.**

**(g) Additional penalties.--This section is not intended nor shall this section be construed to preclude prosecution, conviction or imposition of penalties pursuant to other provisions of this title that may be applicable.**

Section 3. Section 7724(a) of Title 75 is amended to read:

§ 7724. Operation on private or State property.

(a) Private *real* property.--

**(1) No person shall operate a snowmobile or an ATV on any private real property without the consent of the owner [of] or lessor thereof. Any person operating a snowmobile or an ATV upon lands of another shall stop and identify himself upon the request of the landowner or his duly authorized representatives and, if requested to do so by the landowner, shall promptly remove the snowmobile or ATV from the premises.**

**(2) When a person operates a snowmobile or an ATV in a manner as to violate section 3717 (relating to trespass by motor vehicle), the applicable fines, penalties and suspensions provided in this title for violation of section 3717 shall apply to this subsection.**

\* \* \*

Section 4. This act shall take effect as follows:

(1) Section 1 (section 1798.4(d)) shall take effect immediately.

(2) The remainder of this act shall take effect in 60 days.

APPROVED—The 1st day of July, A. D. 1990.

ROBERT P. CASEY