

No. 1992-47

AN ACT

SB 559

Amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for the use of dealer registration plates, for issuance and content of driver's license and for permits for moving construction equipment; prohibiting driving of pedalcycles on freeways; further providing for reports by police, for operation of vehicle without official certificate of inspection, for an exception for maximum wheel weights, for the determination of average fuel consumption for the motor carrier road tax, for the licensing of limousines and for when lighted head lamps are required; authorizing the Secretary of Transportation and the Secretary of Revenue to enter into road tax agreements; providing for the enforcement of liquid fuels and fuel use taxes; imposing a motorbus road tax; adding a member to the Snowmobile Trail Advisory Committee; providing penalties; and making repeals.

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

Section 1. Section 1336(a)(2)(ii) and (b) of Title 75 of the Pennsylvania Consolidated Statutes are amended to read:

§ 1336. Use of dealer registration plates.

(a) General rule.—

* * *

(2) Dealer registration plates may be used on any laden or unladen vehicle owned or in possession of a dealer or manufacturer, but only if the vehicle is being held for sale and is being used for any of the following purposes:

* * *

(ii) For testing vehicles in the possession of the dealer [or manufacturer] within a radius of 25 miles of the place of business of the dealer [or manufacturer]. *Vehicles in the possession of the manufacturer may be tested within a radius of 50 miles of the place of business of the manufacturer.*

* * *

(b) Records.—Records shall be kept by the dealer in a manner prescribed by the department indicating which vehicles have been used as provided in subsection (a)(2)[, (5) and (6)] (i), (iv) and (v). The records shall be open to inspection by representatives of the department and police officers.

Section 2. Sections 1510 and 1609 of Title 75 are amended by adding subsections to read:

§ 1510. Issuance and content of driver's license.

* * *

(f) *Waiver.—Notwithstanding the provisions of subsection (a), the department shall issue a driver's license to an otherwise eligible person who has no Social Security number if the person submits a waiver obtained from the Federal Government permitting him not to have a Social Security*

number. The department may require other identifiers, including, but not limited to, a taxpayer identification number, before issuing the license.

§ 1609. Application for commercial driver's license.

* * *

(d) Waiver.—Notwithstanding the provisions of subsection (a)(4), the department shall not require a Social Security number on the application for a commercial driver's license of a person who submits a waiver obtained from the Federal Highway Administration of the United States Department of Transportation permitting him not to have a Social Security number. If the waiver requires the person to have some other sort of identifier in place of the Social Security number, the identifier must be indicated on the application.

Section 3. Section 1901(b) of Title 75 is amended by adding a paragraph to read:

§ 1901. Exemption of entities and vehicles from fees.

* * *

(b) Title and registration fees.—No fee shall be charged for titling or registration of any of the following:

* * *

(5) Vehicles on loan or transferred to a nonprofit corporation by the United States Department of Defense or the United States General Services Administration and used exclusively for leasing to political subdivisions, State agencies and the Federal Government. Such vehicles shall be issued the same kind of registration plates as are issued to vehicles registered by political subdivisions.

* * *

Section 4. Section 1925.1 of Title 75 is amended to read:

§ 1925.1. Limousines.

The department shall issue registration plates for limousines for an annual fee as prescribed in section 1917 (relating to motor buses and limousines). The limousine registration plate shall be issued only to vehicles [licensed as limousines by the Pennsylvania Public Utility Commission] *used as limousines for the transportation of persons for compensation.*

Section 5. Title 75 is amended by adding a section to read:

§ 3511. *Pedalcycles prohibited on freeways.*

(a) General rule.—No person shall ride a pedalcycle on a freeway.

(b) Exceptions.—

(1) The department and local authorities, on highways under their respective jurisdictions, may issue permits for a procession or event prohibited under subsection (a) upon a determination that:

(i) The pedalcycle procession or event is of national, State or regional interest; and

(ii) the results of an engineering and traffic study indicate that the procession or event can be conducted with safety.

(2) On State-designated freeways, pedalcycles may be authorized under the following limitations:

(i) *The pedalcycler is 16 years of age or older or is accompanied by a pedalcycler 18 years of age or older.*

(ii) *A written request for review of the freeway route based on the potential unavailability of a reasonable alternate route is made to the department.*

(iii) *The department determines that no reasonable alternate route exists.*

(iv) *The department publishes a notice in the Pennsylvania Bulletin authorizing pedalcycle access to the freeway. The notice shall constitute approval for the persons authorized under subparagraph (i) to ride a pedalcycle on the State-designated freeway.*

(c) *Action by local authorities.—Action taken by local authorities regarding permission to use pedalcycles on freeways under their jurisdiction shall be:*

(1) *by ordinance of the local governing body; or*

(2) *by a commission or public official authorized to act on specified matters.*

Section 6. Sections 3751(a), 4302, 4703(b), 4944 and 4970(b) of Title 75 are amended to read:

§ 3751. Reports by police.

(a) *General rule.—Every police department that investigates a vehicle accident for which a report must be made as required in this subchapter, or otherwise] and prepares a written report as a result of an investigation either at the time and at the scene of the accident or thereafter by interviewing the participants or witnesses[,] shall [promptly], within 15 days of the accident, forward [a] an initial written report of the accident to the department. If the initial report is not complete, a supplemental report shall be submitted at a later date.*

* * *

§ 4302. [Period] *Periods* for requiring lighted lamps.

[Every vehicle upon a highway at any time between sunset and sunrise and at any other time when, due to insufficient light or unfavorable atmospheric conditions, persons and vehicles on the highway are not clearly discernible from a distance of 1000 feet ahead shall display lighted head and other lamps and illuminating devices as required under this chapter for different classes of vehicles, subject to exceptions with respect to parked vehicles. Stop lights, turn signals and other signaling devices shall be lighted as prescribed in this title.]

(a) *General rule.—The operator of a vehicle upon a highway shall display the lighted head lamps and other lamps and illuminating devices required under this chapter for different classes of vehicles, subject to exceptions with respect to parked vehicles, at the following times:*

(1) *Between sunset and sunrise.*

(2) *Any time when, due to insufficient light or unfavorable atmospheric conditions, including rain, snow, sleet, hail, fog, smoke or smog, persons and vehicles on the highway are not clearly discernible to the operator for a distance of 1,000 feet ahead.*

(b) Signal lights.—*Stop lights, turn signals and other signaling devices shall be lighted as prescribed in this title.*

§ 4703. Operation of vehicle without official certificate of inspection.

* * *

(b) Exceptions.—Subsection (a) does not apply to:

- (1) Special mobile equipment.
- (2) Implements of husbandry.
- (3) Motor vehicles being towed.
- (4) Motor vehicles being operated or trailers being towed by an official inspection station owner or employee for the purpose of inspection.
- (5) Trailers having a registered gross weight of 3,000 pounds or less.
- (6) Motorized pedalcycles.
- (7) Vehicles being repossessed by a financier or collector-repossessor through the use of miscellaneous motor vehicle business registration plates.
- (8) New vehicles while they are in the process of manufacture, including testing, and not in transit from the manufacturer to a purchaser or dealer.

(9) Any military vehicle used for training by a private, nonprofit, tax exempt military educational institution when such vehicle does not travel on public roads in excess of one mile and the property on both sides of the public road is owned by the institution.

(10) Antique vehicles.

(11) A motor vehicle being operated by the vehicle owner while enroute to an inspection station where an appointment for inspection has been scheduled, provided that such operation occurs no later than ten days after the expiration of a valid certificate of inspection issued under this chapter.

* * *

§ 4944. Maximum wheel load.

No motor vehicle or combination shall, when operated upon a highway, have a weight upon any one wheel in excess of 800 pounds for each nominal inch of width of tire on the wheel. *Special mobile equipment may be authorized to carry up to 1,000 pounds per nominal inch of tire width subject to the issuance of a permit by the department.*

§ 4970. Permit for movement of construction equipment.

* * *

(b) Construction trucks.—An annual permit may be issued for a construction truck to exceed the registered gross weight permitted in section 4941(c) (relating to maximum gross weight of vehicles) and the maximum allowable axle weight permitted in section 4943(a) (relating to maximum axle weight of vehicles) on highways and bridges designated by the department. This subsection shall:

- (1) only apply to trucks registered at the time of enactment of this subsection; and
- (2) expire on May 31, [1992] 1998.

Section 7. Section 7717(b) of Title 75 is amended to read:

§ 7717. Snowmobile Trail Advisory Committee.

* * *

(b) Composition.—The Snowmobile Trail Advisory Committee shall be appointed within three months of the effective date of this section and biannually thereafter. The membership shall be composed of three members from the Pennsylvania State Snowmobile Association, one of whom shall have experience in trail creation on public land, one of whom shall have experience in trail creation on private land and one of whom shall be a member at large. In addition, one member shall be appointed from each of the following organizations: Pennsylvania Travel Council, Pennsylvania State Association of Township Supervisors, Pennsylvania State Association of Township Commissioners, Pennsylvania State Association of Boroughs, Pennsylvania State Association of County Commissioners, Pennsylvania Association of Realtors, Pennsylvania Landowners Association, Pennsylvania Vacation Land Developers Association, *Pennsylvania Chapter of Rails to Trails Conservancy*, Department of Commerce and Department of Community Affairs. The name of the representatives shall be submitted to the secretary within ten days of the receipt of the request for them.

* * *

Section 8. Subchapter A of Chapter 81 of Title 75 is repealed.

Section 9. Title 75 is amended by adding a chapter to read:

CHAPTER 94

LIQUID FUELS AND FUEL USE TAX ENFORCEMENT

Sec.

9401. Short title of chapter.

9402. Construction of chapter.

9403. Revenue agents; powers.

9404. Violations and penalties.

9405. Forfeitures; process and procedures.

9406. Disposition of fines and forfeitures.

§ 9401. Short title of chapter.

This chapter shall be known and may be cited as the Liquid Fuels and Fuel Use Tax Enforcement Act.

§ 9402. Construction of chapter.

This chapter shall be construed in conjunction with the act of May 21, 1931 (P.L.149, No.105), known as The Liquid Fuels Tax Act, and the act of January 14, 1952 (1951 P.L.1965, No.550), known as the Fuel Use Tax Act, and any terms defined therein shall have the same meanings when used in this chapter.

§ 9403. Revenue agents; powers.

(a) Revenue agents.—Employees of the Department of Revenue who are designated by the Secretary of Revenue as revenue agents and who carry identification indicating such capacity are hereby declared to be police officers of this Commonwealth and are hereby given police power and authority throughout this Commonwealth.

(b) Powers.—Revenue agents shall have the power to:

(1) Enforce the provisions of this chapter, the act of May 21, 1931 (P.L.149, No.105), known as The Liquid Fuels Tax Act, and the act of January 14, 1952 (1951 P.L.1965, No.550), known as the Fuel Use Tax Act, and to arrest, with or without a warrant, any person violating such provisions.

(2) Stop a vehicle, upon request or signal, for the purpose of inspection for compliance with the provisions of this chapter, The Liquid Fuels Tax Act or the Fuel Use Tax Act.

(3) Seize and take possession, with the assistance of the Pennsylvania State Police, of any property subject to forfeiture under section 9405 (relating to forfeitures; process and procedures).

§ 9404. Violations and penalties.

(a) Violations.—On and after the effective date of this chapter, it shall be made unlawful for:

(1) A person, other than a common or contract carrier, to import or cause to be imported liquid fuels into this Commonwealth unless the person possesses a valid liquid fuels permit.

(2) A common or contract carrier to knowingly transport liquid fuels into this Commonwealth on behalf of any person who does not possess a valid liquid fuels permit.

(3) A distributor to continue to engage in or to begin to engage in the use or sale and delivery of liquid fuels within this Commonwealth unless a liquid fuels permit or permits shall have been issued to him as prescribed in the act of May 21, 1931 (P.L.149, No.105), known as The Liquid Fuels Tax Act, and the act of January 14, 1952 (1951 P.L.1965, No.550), known as the Fuel Use Tax Act. Each day in which any distributor shall engage in the use or sale and delivery of liquid fuels within this Commonwealth without a liquid fuels permit or permits, as required by law, shall constitute a separate offense.

(4) A dealer or user to engage in or 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 prescribed in the Fuel Use Tax Act. Each day in which any dealer or user shall engage in the use of fuels within this Commonwealth without a license, as required by law, shall constitute a separate offense.

(5) A distributor, dealer-user or any other person who is required by law to maintain and keep records to fail to maintain and keep the records required by section 9 of The Liquid Fuels Tax Act or section 9 of the Fuel Use Tax Act.

(6) A person to assign or attempt to assign a liquid fuels permit or fuel use tax license.

(7) A person to fail to display conspicuously his liquid fuels permit or fuel use tax license as required by The Liquid Fuels Tax Act or the Fuel Use Tax Act.

(8) A person to refuse, neglect or fail to surrender a liquid fuels permit or fuel use tax license as required by The Liquid Fuels Tax Act or the Fuel Use Tax Act.

(b) Penalties.—Any person who violates any provision of subsection (a) commits a summary offense and shall, upon conviction, be sentenced to pay a fine of:

(1) not less than \$500 nor more than \$2,000 or to imprisonment for not more than 90 days, or both, if the violation is of subsection (a)(1) or (2);

(2) not less than \$100 nor more than \$2,000 or to imprisonment for not more than 90 days, or both, if the violation is of subsection (a)(3), (4) or (5); or

(3) not less than \$50 nor more than \$200 if the violation is of subsection (a)(6), (7) or (8).

(c) Restraining prohibited acts.—Upon the occurrence of two or more violations of subsection (a)(3) or (4) within a 30-day period, the Department of Revenue may institute a civil action in the court of common pleas of the judicial district in which a violation occurs for injunctive relief to restrain the violation and for such other relief as the court shall deem proper. Neither the institution of such an action nor any of the proceedings therein shall relieve any party to the proceedings from other fines or penalties prescribed for the violation of this chapter, The Liquid Fuels Tax Act or the Fuel Use Tax Act.

(d) Sealing of fuel pump or dispensing unit.—Upon the occurrence of a violation of subsection (a)(5), the Department of Revenue may place a security seal on the totalizer portion of the fuel pump or other dispensing device in such a manner that the totalizer cannot be removed, disconnected or adjusted once the security seal is in place. The seal may remain in place until such time as the Department of Revenue determines that adequate records are being kept and maintained. In the event a security seal is removed or broken without the permission of the Department of Revenue, the department may seek injunctive relief as provided in subsection (c).

§ 9405. Forfeitures; process and procedures.

(a) Subjects of forfeiture.—The following are subject to forfeiture to the Commonwealth and no property right shall exist in them:

(1) Any liquid fuels produced in or imported into this Commonwealth by any distributor who does not possess a valid liquid fuels tax permit as required by section 3 of the act of May 21, 1931 (P.L.149, No.105), known as The Liquid Fuels Tax Act, except liquid fuels imported in barrels, drums or similar containers with a capacity of not more than 55 gallons in each barrel, drum or container.

(2) All conveyances, including vehicles or vessels, used to transport liquid fuels as described in paragraph (1) except:

(i) no conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of The Liquid Fuels Tax Act; and

(ii) no bona fide security interest retained or acquired under Title 13 (relating to commercial code) by any merchant dealing in new or used vehicles or vessels, or retained or acquired by any licensed or regulated

finance company, bank, lending institution or by any other business regularly engaged in the financing of or lending on the security of such vehicles or vessels, shall be subject to forfeiture or impairment.

(b) Method of seizure.—Property subject to forfeiture under this section may be seized by the Department of Revenue upon process issued by any court of common pleas having jurisdiction over the property. Seizure without process may be made if the seizure is incident to an inspection or arrest for a violation of this act or The Liquid Fuels Tax Act.

(c) Limit on return of property.—

(1) No property seized in accordance with this section, when in the custody of the Department of Revenue, shall be seized or taken therefrom by any writ of replevin or other judicial process unless a petition for forfeiture is not timely filed.

(2) Any liquid fuels seized under this section may be immediately used for any public purpose or sold to any person at the discretion of the Secretary of Revenue. If such liquid fuels are determined not to be subject to forfeiture, they need not be returned to the owner or any other person making a claim thereto, but at the option of the Secretary of Revenue an amount equal to the wholesale value of the liquid fuels as determined on the date of seizure may be returned.

(d) In rem proceedings.—The proceedings for the forfeiture of any liquid fuels or conveyances seized under this section shall be in rem. The Commonwealth shall be the plaintiff and the property shall be the defendant. A petition shall be filed, within five days after seizure, in the court of common pleas of the county in which the property was seized by revenue agents of the Department of Revenue, verified by oath or affirmation of any revenue agent. In the event that the petition is not filed within the time prescribed herein, the seized property shall be immediately returned to the person from whom seized or the owner thereof.

(e) Contents of petition.—The petition shall contain the following:

(1) The description of the property seized.

(2) A statement of the time when and the place where seized.

(3) The name and address of the owner, if known.

(4) The name and address of the person who was in possession of the property at the time of seizure, if known.

(5) A statement of the circumstances under which the property was seized.

(6) A prayer for an order forfeiting the property to the Commonwealth, unless cause be shown to the contrary.

(f) Service of process.—A copy of the petition shall be served on the owner if he can be found within this Commonwealth in any manner provided by law for service of process or a complaint in an action in assumpsit. If the owner cannot be found within this Commonwealth, a copy of the petition shall be served on the owner by registered mail or certified mail, return receipt requested, addressed to the last known address of the owner. The person in possession of the property and all encumbrance holders having a perfected security interest in the property confiscated shall be notified in a

like manner. Copies shall have endorsed thereon a notice substantially similar to the following:

To the claimant of the within property: You are required to file an answer to this petition setting forth your title in and right to possession of the property within 20 days from the service hereof, and you are also notified that, if you fail to file an answer, a decree of forfeiture will be entered against the property.

The notice shall be signed by the petitioner or his attorney.

(g) Advertisement.—If the owner of the property is unknown, notice of the petition shall also be given by an advertisement in only one newspaper of general circulation published in the county where the property was seized, once a week for two successive weeks. No other advertisement of any sort shall be necessary, any other law to the contrary notwithstanding. The notice shall contain a statement of the seizure of the property, with the description thereof and the place and date of seizure, and shall direct any claimants thereof to file a claim therefor on or before a date given in the notice which shall not be less than ten days from the date of the last publication.

(h) Hearing date.—Upon the filing of any claim for the property setting forth a right of possession thereof, the case shall be deemed at issue, and a hearing shall be held within five days thereof.

(i) Standard of proof.—The claimant shall have the burden of proving that he is not subject to the provisions of this section, but the burden of proof shall be upon the Commonwealth to prove all other facts necessary for the forfeiture of the property. In the event that the Commonwealth has not met its burden by a preponderance of the evidence or the claimant has proved that he is not subject to the provisions of this section, the court shall order the property returned to the claimant; otherwise, the court shall order the property forfeited to the Commonwealth. In the case of a motor vehicle, vessel or conveyance, should the claimant prove to the satisfaction of the court that he is the registered owner of the motor vehicle, vessel or conveyance and that he did not know nor had reason to know that it was being used to transport liquid fuels in violation of the provisions of section 4 of The Liquid Fuels Tax Act, the court in its discretion may order the same returned to the claimant.

(j) Encumbered motor vehicle.—In the case of a motor vehicle, should the claimant prove that he holds a valid encumbrance upon such motor vehicle, notice of which encumbrance has been duly noted on the certificate of title to the motor vehicle in accordance with the provisions of Chapter 11 (relating to certificate of title and security interests), the forfeiture shall be subject to such encumbrance as of the date of the seizure less prepaid or unearned interest. Before the motor vehicle may be sold, exchanged or otherwise transferred or retained for use by the Commonwealth, the outstanding amount of the encumbrance shall be paid to the claimant or possession of the motor vehicle shall be turned over to the claimant who shall expose the same to public sale and shall pay over to the Commonwealth any amount realized in excess of the outstanding amount of such encumbrance less the reasonable costs incurred by claimant in conducting such sale.

§ 9406. Disposition of fines and forfeitures.

All fines imposed under this chapter and the net proceeds received from the sale of forfeited property shall be payable to the Commonwealth and credited to the Motor License Fund.

Section 10. Section 9609 of Title 75 is amended to read:

§ 9609. Average consumption.

In the absence of adequate records or other evidence satisfactory to the department 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. 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 11. Title 75 is amended by adding a section to read:

§ 9622. *Reciprocal agreements.*

The Secretary of Revenue and Secretary of Transportation may jointly enter into, modify or terminate agreements with other states relating to the collection of motor carriers road taxes, such as the International Fuel Tax Agreement, Regional Fuel Tax Agreement or similar agreements.

Section 12. Title 75 is amended by adding a chapter to read:

CHAPTER 98
MOTORBUS ROAD TAX

Sec.

- 9801. Short title of chapter.
- 9802. Definitions.
- 9803. Imposition of tax.
- 9804. Exemptions.
- 9805. Credit for motor fuel tax payment.
- 9806. Tax due date.
- 9807. Tax revenue to Motor License Fund.
- 9808. Calculation of amount of fuel used in Commonwealth.
- 9809. Report requirements.
- 9810. Identification markers required.
- 9811. Average consumption.
- 9812. Records.
- 9813. Penalty and interest for failure to report or pay tax.
- 9814. Time for payment of taxes, penalties and interest.
- 9815. Manner of payment and recovery of taxes, penalties and interest.
- 9816. Determination, redetermination and review.
- 9817. Timely mailing treated as timely filing and payment.
- 9818. Availability of records of other agencies.
- 9819. False statements and penalties.
- 9820. Special investigators; powers.
- 9821. Regulations.

§ 9801. Short title of chapter.

This chapter shall be known and may be cited as the Motorbus Road Tax Act.

§ 9802. Definitions.

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

“Bus company.” Every person who operates or causes to be operated any motorbus on any highway in this Commonwealth.

“Department.” The Department of Revenue of the Commonwealth.

“Highway.” 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 does not include a roadway or driveway upon grounds owned by private persons, colleges, universities or other institutions.

“Motor fuel.” Includes “fuels” as defined in the act of January 14, 1952 (1951 P.L.1965, No.550), known as the Fuel Use Tax Act, and “liquid fuels” as defined in the act of May 21, 1931 (P.L.149, No.105), known as The Liquid Fuels Tax Act.

“Motorbus.” A bus with a seating capacity of 20 or more passengers, excluding the driver, except a school bus.

“Operations.” Operations of all motorbuses, whether loaded or empty, whether for compensation or not for compensation and whether owned by or leased to the bus company which operates them or causes them to be operated.

“Secretary.” The Secretary of Revenue of the Commonwealth.

§ 9803. Imposition of tax.

(a) General rule.—Every bus company shall pay a road tax, calculated on the amount of motor fuel used in its operations on highways within this Commonwealth, equivalent to the sum of:

(1) the rate per gallon of the Pennsylvania Liquid Fuels Tax which is currently in effect; and

(2) the amount of tax, expressed on a cents-per-gallon basis, imposed pursuant to Chapter 95 (relating to taxes for highway maintenance and construction).

(b) Other taxes unaffected.—The taxes imposed on bus companies by this chapter are in addition to any taxes of whatever character imposed on such companies by any other statute.

§ 9804. Exemptions.

The requirements of this chapter do not apply to the following motorbuses:

(1) A motorbus operated by or on behalf of any department, board or commission of the Commonwealth or any political subdivision, agency or authority thereof or any governmental unit or quasi-governmental authority of which this Commonwealth 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 exemptions to publicly owned vehicles registered in this Commonwealth.

(2) An unloaded or towed motorbus which enters this Commonwealth solely for the purpose of securing repairs or reconditioning. The repair facility shall furnish to the bus company a certificate to be carried by the motorbus operator while the vehicle is in this Commonwealth for the purposes of this paragraph.

(3) A motorbus needing emergency repairs which secures authorization from the Pennsylvania State Police to enter this Commonwealth under this section.

§ 9805. Credit for motor fuel tax payment.

(a) General rule.—Every bus company subject to the tax imposed under this chapter shall be entitled to a credit on the tax for other fuel taxes paid on all motor fuel purchased by the bus company within this Commonwealth for use in its operation either within or without this Commonwealth. For purposes of this section, other fuel taxes shall include the tax imposed pursuant to the act of May 21, 1931 (P.L.149, No.105), known as The Liquid Fuels Tax Act, the tax imposed pursuant to the act of January 14, 1952 (1951 P.L.1965, No.550), known as the Fuel Use Tax Act, the tax imposed pursuant to Chapter 95 (relating to taxes for highway maintenance and construction) and all similar taxes now or hereafter imposed on motor fuel. Evidence of the payment of the tax in such form as may be required by or is satisfactory to the department shall be furnished by each bus company claiming the credit.

(b) Excess credit.—When the amount of the credit to which any bus company is entitled for any reporting period exceeds the amount of the tax for which the bus company is liable for the same period, the department may apply all or part of the amount of such excess credit against any liability in respect of the tax imposed by this chapter on the bus company which incurred the excess credit and upon request shall issue a refund in the remaining amount of the credit to the bus company. For purposes of payment of interest on refunds pursuant to section 806.1 of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code, the amount of the refund shall be considered an overpayment of tax made with the report on which credit is claimed. Refunds shall be paid out of the Motor License Fund. As much of the moneys received as payment of the tax, interest and penalties under this chapter as shall be necessary for the payment of the refunds provided for in this chapter is hereby appropriated for the 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 due and payable under the provisions of this chapter.

§ 9806. Tax due date.

The tax imposed under this chapter shall be paid by each bus company quarterly to the department on or before the last day of April, July, October and January of each year and shall be calculated upon the amount of motor fuel used in its operations on highways within this Commonwealth during the quarter ending with the last day of the preceding month.

§ 9807. Tax revenue to Motor License Fund.

All taxes, fees, penalties and interest paid under this chapter shall be credited to and are hereby appropriated to the Motor License Fund as provided for by section 11 of Article VIII of the Constitution of Pennsylvania.

§ 9808. Calculation of amount of fuel used in Commonwealth.

The amount of motor fuel used in the operations of any bus company on highways within this Commonwealth shall be such proportion of the total amount of the motor fuel used in its entire operations within and without this Commonwealth as the total number of miles traveled on highways within this Commonwealth bears to the total number of miles traveled within and without this Commonwealth.

§ 9809. Report requirements.

Every bus company subject to the tax imposed by this chapter 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 department may require and such other reports from time to time as the department may deem necessary. The department may, by regulation, permit bus companies whose estimated annual liability under this chapter is \$250 or less to file its report on an annual basis.

§ 9810. Identification markers required.

(a) General rule.—The secretary shall provide an identification marker for every motorbus.

(1) All motorbuses required to display the identification marker shall permanently affix and display the identification marker in such manner as the department, by regulation, may specify.

(2) The identification marker shall remain the property of the Commonwealth and may be recalled for any violation of the provisions of this chapter or the regulations promulgated thereunder.

(b) Fee.—The fee for issuance of an identification marker shall be \$5.

(c) Issuance of markers.—Identification markers shall be issued on a 12-month basis, effective April 1 of each year, and shall be valid through the next succeeding March 31; however, enforcement of this section shall not become effective until April 15 of each year as to motorbuses displaying the previous year's identification marker.

(d) Operation without identification marker unlawful.—It shall be unlawful to operate or to cause to be operated in this Commonwealth any motorbus unless the vehicle bears the identification marker required by this section.

(e) Exemption.—

(1) The secretary may, by regulation, exempt from the requirement to display the identification marker motorbuses which in his opinion are clearly identifiable such that effective enforcement of this chapter will not suffer thereby.

(2) For a period not exceeding five days as to any one bus company, the Secretary of Revenue, by letter or telegram, may authorize the operation of a motorbus without the identification marker required when the

enforcement of this section for that period would cause undue delay and hardship in the operation of such motorbus.

(3) The fee for such permits shall be \$25 for each motorbus.

(4) Conditions for the issuance of such permits shall be set forth in regulations promulgated by the department.

§ 9811. Average consumption.

In the absence of adequate records or other evidence satisfactory to the department showing the number of miles operated by a bus company's motorbuses per gallon of motor fuel, any such motorbus shall be deemed to have consumed one gallon of motor fuel for each four miles operated.

§ 9812. Records.

Every bus company shall keep such records, in such form as the department reasonably may prescribe, as will enable the bus company to report and enable the department to determine the total number of over-the-road miles traveled by its entire fleet of motorbuses, the total number of over-the-road miles traveled in this Commonwealth by the entire fleet, the total number of gallons of motor fuel used by the entire fleet and the total number of gallons of motor fuel purchased in this Commonwealth for the entire fleet. All such records shall be safely preserved for a period of five years in such manner as to insure their security and availability for inspection by the secretary or any authorized employee engaged in the administration of this chapter. Upon application in writing stating the reasons therefor, the department may, in its discretion, consent to the destruction of any such records at any time within that period if the records pertain to a period which has been audited by the department. Every taxpayer shall retain records required by this chapter at a place within this Commonwealth, but a taxpayer who elects to retain records outside of this Commonwealth shall assume reasonable out-of-State audit expenses.

§ 9813. Penalty and interest for failure to report or pay tax.

When any bus company fails to file a report within the time prescribed by this chapter, he shall pay as a penalty \$25 for each failure to file on or before the prescribed date. In addition to this penalty, any unpaid tax shall bear interest pursuant to section 806 of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code, until the tax is paid. The penalties and interest charges imposed shall be paid to the department in addition to the tax due.

§ 9814. Time for payment of taxes, penalties and interest.

All taxes, penalties and interest assessed under this chapter, unless earlier payment is provided in this chapter, shall be paid within 15 days after notice and demand have been mailed to the bus company by the department. If the taxes, penalties and interest assessed pursuant to this section and section 9813 (relating to penalty and interest for failure to report or pay tax) are not paid within 15 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 5% of the tax. Payment of any taxes, penalties and interest assessed under this chapter shall not prejudice a bus company's right to file a petition for redetermination, refund or review with the department, the Board of Finance and Revenue or the courts.

§ 9815. Manner of payment and recovery of taxes, penalties and interest.

(a) General rule.—All penalties and interest when imposed under this chapter shall be payable to and recoverable by the department in the same manner as if they were part of the tax imposed.

(b) Imposition of lien.—The taxes, fees, interests and penalties imposed under this chapter from the time they are due shall be a debt of a bus company which does not maintain premises for the transaction of business within this Commonwealth, recoverable in an action of assumpsit in the name of the Commonwealth. This 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 bus company, whether in bankruptcy, insolvency or otherwise. The proceeds of any judgment or order obtained under this section shall be paid to the department.

(c) Recording of lien and execution.—Any tax determined to be due from any person who maintains premises for the conduct of business in this Commonwealth and remaining unpaid after demand for the tax and all penalties and interest thereon shall be a lien in favor of the Commonwealth upon the real and personal property of the person, but only after the lien has been entered and docketed of record by the prothonotary of the county where the 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 lien of record in his office, which lien shall be indexed as judgments are now indexed. A writ of execution may directly issue upon the lien without the issuance and prosecution to judgment of a writ of scire facias. 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.

(d) Priority of lien.—The lien imposed under this section shall have priority from the date of its recording 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 the 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 the 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 under this section upon a lien or claim over which the lien imposed under this section has priority, the sale shall discharge the lien imposed under this section to the extent only that the proceeds are applied to its payment, and the lien shall continue in full force and effect as to the balance remaining unpaid.

(e) Renewal of lien.—The lien imposed under this section shall continue for five years from the date of its entry of record and may be renewed and continued in the manner provided for the renewal of judgments.

§ 9816. Determination, redetermination and review.

(a) Determination of correct tax.—If any person fails to pay any tax imposed by this chapter for which he is liable or if any person overpays the tax for which he is liable, the department may make a determination of the correct amount of tax and interest due by the person based upon any information within its possession or that shall come into its possession. All determinations shall be made so that notice thereof shall reach the parties against whom made within five years after the due date of the tax. Any assessment of additional tax may be made at any time during that period notwithstanding that the department may have made one or more previous assessments against the taxpayer for the year in question or for any part of that year. In any case, no credit shall be given for any penalty previously assessed or paid.

(b) Failure to file report.—Where no report is filed, the amount of the tax due may be assessed and collected at any time as to taxable transactions not reported.

(c) False or fraudulent report.—Where the taxpayer willfully files a false or fraudulent report with intent to evade the tax imposed by this chapter, the amount of tax due may be assessed and collected at any time.

(d) Extension of period for assessment.—Notwithstanding any of the other provisions of this chapter, where, before the expiration of the period prescribed therein for the determination of the correct amount of tax, a taxpayer has consented in writing that the period be extended, the correct amount of tax may be determined at any time within the extended period. The period so extended may be extended further by subsequent consent in writing made before the expiration of the extended period.

(e) Petition for redetermination.—Promptly after the date of the determination, the department shall send, by first class mail, a copy thereof to the person against whom it was made. Within 90 days after the date on which the copy of any such determination was mailed, the person may file with the department a petition for redetermination of the taxes. The petition for redetermination shall state specifically the reasons which the petitioner believes entitle him to the 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.

(f) Review and appeal.—Any person shall have the right to review by the Board of Finance and Revenue and appeal 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.

§ 9817. Timely mailing treated as timely filing and payment.

With respect to all reports, claims, statements and other documents required to be filed and all payments required to be made under this chapter, a report, claim, statement and other document or payment of tax withheld shall be considered as timely filed if the report, claim, statement or other

document or payment which has been received by the department is post-marked by the United States Postal Service on or prior to the final day on which payment is to be received. For the purposes of this chapter, the presentation of a receipt indicating that the report, claim, statement or other document or payment was mailed by registered or certified mail on or before the due date shall be prima facie evidence of timely filing of the report, claim, statement or other document or payment.

§ 9818. Availability of records of other agencies.

The records of any other Commonwealth agency, to the extent that they may be pertinent to the administration and enforcement of this chapter and the determination of liability thereunder, shall be available to the department.

§ 9819. False statements and penalties.

(a) False statements.—Any person who willfully 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 assisting any person to obtain or attempt to obtain a credit or refund or reduction of liability for taxes under this chapter commits a summary offense and shall, upon conviction, be sentenced to pay a fine of not less than \$100 nor more than \$500. For each subsequent or additional offense, the person shall be sentenced to pay a fine of not less than \$200 nor more than \$500 or to imprisonment for not more than 90 days, or both.

(b) Other penalties.—Any person violating any provision of this chapter not covered by any other penalty contained in this chapter commits a summary offense and shall, upon conviction, be sentenced to pay a fine of not less than \$100 nor more than \$500. For each subsequent or additional offense, the person shall be sentenced to pay a fine of not less than \$200 nor more than \$500 or to imprisonment for not more than 90 days, or both. If the person convicted is a corporation, any imprisonment imposed shall be served by the responsible corporate employee.

§ 9820. Special investigators; powers.

Employees of the department who are designated as special investigators and who carry identification indicating such capacity are hereby declared to be peace officers of the Commonwealth, are hereby given police power and authority throughout this Commonwealth to arrest on view without warrant any driver of a motorbus engaged in any operations in violation of any provision of this chapter and shall have the power and authority, upon probable cause that any such violation may have occurred, to search and seize without warrant or process any motorbus so operated.

§ 9821. Regulations.

The department shall, from time to time, promulgate such regulations as may be necessary for the effective enforcement of this chapter.

Section 13. (a) The act of August 1, 1963 (P.L.476, No.249), entitled "An act providing for the taxation of motor fuels consumed by interstate buses upon a system uniform among jurisdictions enacting the same provisions," is repealed.

(b) The following acts and parts of acts are repealed to the extent they impose any penalties:

Sections 3(a) and (f) and 12 of the act of May 21, 1931 (P.L. 149, No. 105), known as The Liquid Fuels Tax Act.

Sections 3(a) and (c) and 12 of the act of January 14, 1952 (1951 P.L. 1965, No. 550), known as the Fuel Use Tax Act.

Section 14. The addition or repeal of 75 Pa.C.S. Ch. 81 Subch. A and Ch. 98 shall apply on the first day of the first quarter beginning at least three months after its effective date. The provisions of 75 Pa.C.S. § 9810(d) shall not be enforced until the first day of the second quarter beginning at least three months after the effective date of this act. If this act takes effect on or after October 1, 1991, any identification marker issued for any period prior to April 1, 1992, shall not expire until March 31, 1993.

Section 15. This act shall take effect as follows:

(1) The amendment of 75 Pa.C.S. §§ 1510, 1609 and 4970 shall take effect immediately.

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

APPROVED—The 11th day of June, A. D. 1992.

ROBERT P. CASEY