

No. 1993-33

AN ACT

SB 970

Amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further defining "court"; extending the authorization for transfers to the Catastrophic Loss Benefits Continuation Fund from the Workers' Compensation Security Fund; further providing for suspension or revocation of vehicle business registration plates, for revocation or suspension of operating privilege, for issuance and content of driver's license, for an exemption from certain fees, for certification of mechanics, for snowmobile and all-terrain vehicle registration exemptions, for judicial review and for reports by courts; and making repeals.

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

Section 1. The definition of "court" in section 102 of Title 75 of the Pennsylvania Consolidated Statutes is amended to read:

§ 102. Definitions.

Subject to additional definitions contained in subsequent provisions of this title which are applicable to specific provisions of this title, the following words and phrases when used in this title shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

* * *

"Court." Includes (when exercising criminal or quasi-criminal jurisdiction pursuant to 42 Pa.C.S. § 1515 (relating to jurisdiction and venue) *or concerning the receipt, storage, reproduction, electronic transmission and admissibility of documentation under section 1377 (relating to judicial review) or 1550 (relating to judicial review)*) a district justice *or issuing authority or the equivalent official from the Federal Government or another state.*

* * *

Section 2. Sections 1374, 1377 and 1510(a) of Title 75 are amended to read:

§ 1374. Suspension or revocation of vehicle business registration plates.

(a) Suspension or revocation after opportunity for hearing.—The department may *impose a monetary penalty for certain violations and offenses as prescribed by regulation or this section* or suspend or revoke registration plates for dealers, manufacturers or members of the "Miscellaneous Motor Vehicle Business" class after providing *an* opportunity for a hearing in any of the following cases when the department finds upon sufficient evidence that:

(1) Except as provided in subsection [(b)(1)] (g)(I) the registrant is no longer entitled to licensing as a dealer or manufacturer or to registration in the "Miscellaneous Motor Vehicle Business" class.

(2) The registrant has made or permitted to be made any unlawful use of the vehicle or registration plate or plates or registration card or permitted the use by a person not entitled thereto.

(3) The registrant has knowingly made a false statement or knowingly concealed a material fact or otherwise committed a fraud in any application.

(4) The registrant has failed to give notice of transfer of ownership or of the destruction or junking of any vehicle when and as required by this title.

(5) The registrant has failed to deliver to a transferee lawfully entitled thereto or to the department, when and as required by this title, a properly assigned certificate of title.

(6) The registrant has repeatedly violated any of the provisions of this title.

(7) Any fee payable to the Commonwealth in connection with the operation of the business of the registrant has not been paid.

(b) Mitigating events.—The opportunity for a hearing as authorized by subsection (a) shall include the consideration of relevant mitigating events as prescribed by regulation for violations and offenses of subsection (a)(2), (5) and (7).

(c) Written warning for first offense.—If the registrant violates subsection (a)(2), (5) or (7) as a first offense, the department shall sanction the registrant with a written warning without providing the opportunity for a hearing.

(d) Schedule of sanctions.—The department shall impose the following sanctions for violations:

(1) If the department finds that the registrant has violated subsection (a)(5) or (7) as a second offense, the registrant may be sanctioned with a monetary penalty of not less than \$50 and not more than \$100 per violation.

(2) If the department finds that the registrant has violated subsection (a)(5) or (7) as a third offense, the registrant may be sanctioned with a monetary penalty of not less than \$100 and not more than \$200 per violation.

(3) A monetary penalty imposed for a violation of subsection (a)(5) shall be in addition to the requirement that the registrant deliver a properly assigned certificate of title. If the registrant fails to pay the monetary penalty or to deliver the certificate of title within 45 days after notice was sent by the department, except as otherwise provided by section 1377 (relating to judicial review), the department shall suspend the registrant's registration plates until the monetary penalty has been paid and the title delivered.

(4) A monetary penalty imposed for a violation of subsection (a)(7) shall be in addition to payment of the original amount due for taxes and fees and any other penalty provided by law for submission of an

uncollectible or dishonored check. If the registrant fails to pay the monetary penalty, the original amount due or any other penalty within 45 days after notice was sent by the department, except as otherwise provided by section 1377, the department shall suspend the registrant's registration plates until all fees, taxes and penalties have been paid.

(5) A violation of subsection (a)(5) shall remain on the registrant's record for a period of 18 months from the date that the violation was sanctioned by the department. If the registrant does not commit another violation of subsection (a)(5) within that 18-month period, the department shall rescind from the registrant's record the prior sanction that was imposed. After rescission of the prior sanction, if the registrant thereafter commits a subsequent violation of subsection (a)(5), that violation shall be considered the same degree of offense as was previously imposed, unless more than three years have elapsed since the last date that the registrant was sanctioned for a violation of subsection (a)(5), in which case said subsequent violation shall be deemed a first offense.

(6) If the department has previously given notice of, and considered at a departmental hearing, violations of subsection (a)(5), no sanction shall be imposed for an alleged violation of subsection (a)(5) which was not included within said notice if said violation occurred prior to the date of the notice, the department's records reflected that the violation existed and the violation could have been included in the notice as an additional subject of the departmental hearing.

(e) Hearing.—Until regulations are prescribed by the department as authorized by subsection (b), the hearing shall include the consideration of relevant mitigating events for a violation of subsection (a)(5).

(f) Interim regulations.—Until such regulations are prescribed by the department as authorized by subsections (a) and (b), the applicable departmental regulations as currently promulgated shall remain in full force and effect, except as specifically superseded by the provisions of subsections (c), (d) and (e).

[(b)] (g) Suspension without hearing.—The department may suspend or revoke registration plates for dealers, manufacturers or members of the “Miscellaneous Motor Vehicle Business” class without providing the opportunity for a hearing in any of the following cases:

(1) The registrant's license as a dealer or manufacturer has been suspended or revoked by the State Board of Vehicle Manufacturers, Dealers and Salespersons or the board has determined that the registrant is not entitled to such a license.

(2) If the Pennsylvania State Police shall certify that the dealer, manufacturer or member of the “Miscellaneous Motor Vehicle Business” class is no longer in business.

[(c)] (h) Recommended action by State licensing board.—The department may also audit and investigate dealers and manufacturers registered by the

State Board of Vehicle Manufacturers, Dealers and Salespersons to determine whether any dealer or manufacturer has violated any provision of this title pertaining to dealers or manufacturers or any regulation promulgated by the department. The department may recommend that the State Board of Vehicle Manufacturers, Dealers and Salespersons suspend the license of any dealer or manufacturer which it finds has committed a violation and the board shall take prompt action on any such recommendations under the act of December 22, 1983 (P.L.306, No.84), known as the Board of Vehicles Act.

§ 1377. Judicial review [of denial or suspension of registration].

(a) *General rule.*—Any person *who has been sanctioned by the department under this chapter or whose registration or authority to issue registration cards or plates has been denied [or], suspended or otherwise sanctioned* by the department shall have the right to appeal to the court vested with jurisdiction of such appeals by or pursuant to Title 42 (relating to judiciary and judicial procedure). The filing of the appeal shall act as a supersedeas, *except for a warning or a revocation*, and the suspension [of registration] *or monetary penalty* shall not be imposed until determination of the matter as provided in this section. *Upon application of the registrant and prior notice to the department, the court may grant a supersedeas from a revocation of registration or authority to issue registration.* The court shall [set the matter down] *schedule the appeal* for hearing upon 30 [days] *days'* written notice to the department, and thereupon take testimony and examine into the facts of the case and determine whether the petitioner is entitled to registration [or], subject to suspension of registration *or other sanction* under the provisions of this title *or departmental regulations*.

(b) *Documentation.*—*In any proceeding under this section, documents received by the department from a court or from an insurance company shall be admissible into evidence to support the department's case. In addition, if the department receives information from a court by means of electronic transmission or from an insurance company which is complying with its obligation under Subchapter H of Chapter 17 (relating to proof of financial responsibility) by means of electronic transmission, it may certify that it has received the information by means of electronic transmission, and that certification shall be prima facie proof of the adjudication and facts contained in such an electronic transmission.*

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

(a) *General rule.*—The department shall, upon payment of the required fee, issue to every qualified applicant a driver's license indicating the type or general class of vehicles the licensee is authorized to drive and any endorsements or restrictions, which license shall contain a distinguishing number assigned by the department to the licensee, [the Social Security number of the licensee,] the actual name, date of birth, residence address, a color photograph or photographic facsimile of the licensee, such other information as may be required by the department, and either a facsimile of the signature of the licensee or a space upon which the licensee shall write

his usual signature with pen and ink. Personal medical data and other information for use in an emergency may be included as a part of the license. Information other than that required to identify the licensee, the distinguishing number and the class of license issued may be included in microdata form. ***Except as provided in subsection (f), an applicant shall include his Social Security number on his license application, but the Social Security number shall not be included on the license.*** No driver's license shall be valid until it has been signed by the licensee.

* * *

Section 3. Sections 1532 and 1550 of Title 75 are amended by adding subsections to read:

§ 1532. Revocation or suspension of operating privilege.

* * *

(c) Suspension.—The department shall suspend the operating privilege of any person upon receiving a certified record of the person's conviction of any offense involving the possession, sale, delivery, offering for sale, holding for sale or giving away of any controlled substance under the laws of the United States, this Commonwealth or any other state.

(1) The period of suspension shall be as follows:

(i) For a first offense, a period of six months from the date of the suspension.

(ii) For a second offense, a period of one year from the date of the suspension.

(iii) For a third and any subsequent offense thereafter, a period of two years from the date of the suspension.

(2) For the purposes of this subsection, the term "conviction" shall include any conviction or adjudication of delinquency for any of the offenses listed in paragraph (1), whether in this Commonwealth or any other Federal or state court.

§ 1550. Judicial review.

* * *

(d) Documentation.—

(1) In any proceeding under this section, documents received by the department from the courts or administrative bodies of other states or the Federal Government shall be admissible into evidence to support the department's case. In addition, the department may treat the received documents as documents of the department and use any of the methods of storage permitted under the provisions of 42 Pa.C.S. § 6109 (relating to photographic copies of business and public records) and may reproduce such documents in accordance with the provisions of 42 Pa.C.S. § 6103 (relating to proof of official records). In addition, if the department receives information from courts or administrative bodies of other states or the Federal Government by means of electronic transmission, it may certify that it has received the information by means of electronic transmission and that certification shall be prima facie

proof of the adjudication and facts contained in such an electronic transmission.

(2) In any proceeding under this section, documents received by the department from any other court or from an insurance company shall be admissible into evidence to support the department's case. In addition, if the department receives information from a court by means of electronic transmission or from an insurance company which is complying with its obligation under Subchapter H of Chapter 17 (relating to proof of financial responsibility) by means of electronic transmission, it may certify that it has received the information by means of electronic transmission, and that certification shall be prima facie proof of the adjudication and facts contained in such an electronic transmission.

Section 4. Section 1798.4(d) of Title 75 is amended 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] 1998, unless otherwise provided by the General Assembly.

Section 5. Section 1902 of Title 75 is amended by adding a paragraph to read:

§ 1902. Exemptions from other fees.

No fee shall be charged under this title for or to any of the following:

* * *

(8) Volunteer emergency service personnel who require a certified driving record for certification under the act of July 3, 1985 (P.L.164, No.45), known as the Emergency Medical Services Act.

Section 6. Sections 4726(a), 6323(1), 7714 and 7715 of Title 75 are amended to read:

§ 4726. Certification of mechanics.

(a) General rule.—No mechanic shall conduct motor vehicle inspections or mass transit vehicle inspections at an official inspection station unless certified as to training, qualifications and competence by the department or the department's designate according to department regulations. The regulations relating to mass transit vehicle inspections shall require that any mechanic conducting such inspections shall possess proven competence in the area of mass transit vehicle operation and maintenance. The provisions of this title or regulations adopted thereunder shall not be construed or applied in a manner which would preclude or impair the right of a person who is a resident of another state, and who is in possession of a valid driver's license issued by such state, to be certified to conduct motor vehicle inspections or mass transit vehicle inspections at an official inspection station in this Commonwealth. ***A certified official inspection mechanic performing a road test on a vehicle for the purpose of conducting a motor vehicle inspection is not required to hold a commercial driver's license if the entire road test is performed on private property, provided the mechanic holds a valid Class C driver's license and the road test area is of adequate space and size to perform a complete and proper road test as specified in department regulations.*** No official inspection station appointment shall be issued or renewed unless a certified official inspection mechanic is employed there.

* * *

§ 6323. Reports by courts.

Subject to any inconsistent procedures and standards relating to reports and transmission of funds prescribed pursuant to Title 42 (relating to judiciary and judicial procedure):

(1) The clerk of any court of this Commonwealth, within ten days after final judgment of conviction or acquittal or other disposition of charges under any of the provisions of this title ***or under section 13 of the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act,*** including an adjudication of delinquency

or the granting of a consent decree, shall send to the department a record of the judgment of conviction, acquittal or other disposition.

* * *

§ 7714. Exemptions from registration.

[(a) General rule.—]No certificate of registration or decal shall be required for a snowmobile or an ATV:

(1) Owned and used by the United States or another state, or a political subdivision thereof, but such snowmobile shall display the name of the owner on the cowling thereof, and such ATV shall display the name of the owner in a manner prescribed by regulation of the department.

[(2) Covered by a valid registration or license of another state, province or country.

[(3)] (2) Owned and operated on lands owned by the owner or operator of the snowmobile or ATV or on lands to which he has a contractual right other than as a member of a club or association, provided the snowmobile or ATV is not operated elsewhere within this Commonwealth.

[(b) Penalty.—]Any person violating the provisions of subsection (a)(3) commits a summary offense and shall, upon conviction, be sentenced to pay a fine of \$300 or 90 days imprisonment, or both.]

§ 7715. Reciprocity.

[The provisions of this chapter relating to certificates of registration and decals shall not apply to nonresident owners who have complied with the registration and licensing laws of the state, province, district or country of residence, provided that the snowmobile or ATV is appropriately identified in accordance with the laws of the state of residence.]

(a) General rule.—*Nonresident owners of a snowmobile or an ATV covered by a valid registration of the state, province, district or country of residence are required to pay a registration fee and to display a current validation decal.*

(b) Exception.—*Subsection (a) does not apply to nonresident owners if the State, province, district or country of residence similarly recognizes a properly registered snowmobile or ATV of Pennsylvania resident owners.*

(c) Penalty.—*Any person violating this section commits a summary offense and shall, upon conviction, be sentenced to pay a fine of \$300 or 90 days imprisonment, or both.*

Section 7. (a) Section 13(m) of the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, is repealed.

(b) Section 619-A(1)(i) of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, is repealed insofar as it is inconsistent with the provisions of 75 Pa.C.S. § 1902(8).

Section 8. The provisions of 75 Pa.C.S. §§ 1532(c) and 1550(d) and the repeal of the provisions of section 13(m) of the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and

Cosmetic Act, by this act shall not affect any act done, liability incurred or right accrued or vested or affect any suit or prosecution pending or be instituted to enforce any right or penalty or to punish any offense under the authority of any statute repealed by this act.

Section 9. This act shall take effect as follows:

(1) The amendment or addition of 75 Pa.C.S. §§ 102, 1377(b) and 1550(d) and this section shall take effect July 1, 1993, or immediately, whichever is later.

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

APPROVED—The 28th day of June, A.D. 1993.

MARK S. SINGEL
ACTING GOVERNOR