No. 1997-3

AN ACT

HB 67

Amending Titles 74 (Transportation) and 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for annual appropriation and computation of subsidy and for distribution of funding; providing for distribution of supplemental funding; further providing for use of funds distributed; providing for public transportation grants management accountability, for competitive procurement and for the Public Transportation Assistance Fund; further providing for period of registration, for duties of agents, for registration and other fees, for requirements for periodic inspection of vehicles, for limits on number of towed vehicles, for operation of certain combinations on interstate and other highways and[1] for width and length of vehicles; providing for liquid fuels and fuels permits and bond or deposit of securities, for imposition of liquid fuels and fuels tax, for taxpayer, for distributor's report and payment of tax, for determination of tax, penalties and interest, for examination of records and equipment, for retention of records by distributors and dealers, for disposition and use of tax, for discontinuance or transfer of business, for suspension or revocation of permits, for lien of taxes, penalties and interest, for collection of unpaid taxes, for reports from common carriers, for violations and reward for detection of violations, for refunds, for diesel fuel importers and transporters, for prohibiting use of dyed diesel fuel, for disposition of fees, fines and forfeitures, for certified copies of records and for uncollectible checks; further providing for distribution of State highway maintenance funds and for standards and methodology for data collection; providing for dirt and gravel road maintenance; further providing for imposition of tax and additional tax; providing for tax on alternative fuels; further providing for disposition of tax revenue; making an appropriation; and making repeals.

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

Section 1. Section 1303(g) of Title 74 of the Pennsylvania Consolidated Statutes is amended to read:

§ 1303. Annual appropriation and computation of subsidy.

* * *

(g) Standards and measures.—

(1) Within one year after the effective date of this part and every year thereafter, each local transportation organization or transportation company receiving moneys pursuant to this section shall adopt a series of service standards and performance evaluation measures. Such standards and measures shall ***be in addition to the performance audits required by section 1315 (relating to public transportation grants management accountability) and shall*** consist of objectives and specific numeric performance levels to be achieved in meeting these standards and objectives. Those standards and measures adopted shall include the

[1] "highways," in enrolled bill.

following, in addition to others deemed appropriate by the local transportation organization or transportation company:

(i) An automatic mechanism to review the utilization of routes.

(ii) Staffing ratios (ratio of administrative employees to operating employees; number of vehicles per mechanic).

(iii) Productivity measures (vehicle miles per employee; passenger and employee accidents per 100,000 vehicle miles; on-time performance; miles between road calls).

(iv) Fiscal indicators (operating cost per passenger; subsidy per passenger and operating ratio).

(iv.1) Reasonable minimum prequalification standards for prospective transit service subcontractors.

(v) Any other matter desired by the governing body of such local transportation organization or transportation company.

(2) The service standards and performance evaluation measures shall be established by formal action of the governing body of such local transportation organization or transportation company following an opportunity for comment by the public and the department. Upon submission, the department will review and may make recommendations to the local transportation organization or transportation company concerning the service standards and performance evaluation measures.

(3) In the discretion of such governing body, the service standards and performance evaluation measures may be systemwide or based on a sampling.

(4) The service standards and performance evaluation measures shall only constitute goals for such local transportation organization or transportation company in providing service in the year following their adoption. At the end of such year, fiscal or calendar, as the case may be, a report shall be transmitted to the department for its consideration indicating the projected performance levels and the performance levels actually achieved. Upon submission, the department will review the report and may make recommendations to such local transportation organization or transportation company concerning the performance levels actually achieved. Such report shall be released to the public at the time of issuance.

(5) The department may suspend the eligibility for future discretionary transit grant funds of any transit entity which fails to comply with the provisions of this section. The department shall restore the discretionary funding eligibility of a suspended transit entity at such time as the requirements of this section are met in an amended application received by the department.

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Section 2. Section 1310(b)(1), (5) and (6), (c), (d), the definition of "Class 4 transit entity section 1310 share" in subsection (f) and subsection (g)(1), (3) and (4) of Title 74 are amended to read:

§ 1310. Distribution of funding.

* * *

(b) Distribution procedure.—During each fiscal year, capital project, asset maintenance and other program funds shall be distributed as follows:

(1) On or before the **[15th]** ***fifth*** day of each month, the Treasury Department shall **[determine]** ***certify to the department*** the total amount **[of moneys then available for distribution and shall disburse such funds]** ***then available for distribution, and the department shall make distribution of payments required under this subsection*** on or before the 20th day of each month **[in the manner provided in this subsection]**.

* * *

(5) Each month, the **[Treasury Department shall pay]** ***department shall distribute*** one-twelfth of the Class 4 transit entity section 1310 share to Class 4 transit entities in the manner provided in this paragraph. Each Class 4 transit entity shall receive a portion of each monthly distribution of the Class 4 transit entity section 1310 share as follows:

(i) Fifty percent of the monthly distribution of the Class 4 transit entity section 1310 share shall be distributed to Class 4 transit entities based upon each transit entity's Class 4 operating assistance grant section 1310 percentage. The actual amount received by each Class 4 transit entity under this subparagraph shall be determined by multiplying a particular Class 4 transit entity's Class 4 operating assistance grant section 1310 percentage times the total amount available for distribution under this subparagraph.

(ii) Twenty-five percent of the monthly distribution of the Class 4 transit entity section 1310 share shall be distributed to Class 4 transit entities based upon each transit entity's Class 4 revenue mile section 1310 percentage. The actual amount received by each Class 4 transit entity under this subparagraph shall be determined by multiplying a particular Class 4 transit entity's Class 4 revenue mile section 1310 percentage times the total amount available for distribution under this subparagraph.

(iii) Twenty-five percent of the monthly distribution of the Class 4 transit entity section 1310 share shall be distributed to Class 4 transit entities based upon each transit entity's Class 4 revenue hour section 1310 percentage. The actual amount received by each Class 4 transit entity under this subparagraph shall be determined by multiplying a particular Class 4 transit entity's Class 4 transit entity revenue hour section 1310 percentage times the total amount available for distribution under this subparagraph.

(6) Each month, after providing for payment of the portion of the Department of Transportation project management oversight share, the community transportation program section 1310 share, the planning, development, research, rural expansion and department-initiated programs section 1310 **[share]** ***shares*** and the Class 4 transit entity section 1310

share to be distributed that month, the **[Treasury Department]** ***department*** shall distribute all remaining capital project, asset maintenance and other program funds as follows:

(i) Each Class 1 transit entity shall receive a prorata share of the Class 1 transit entity section 1310 share. If there is only one Class 1 transit entity, it shall receive the entire Class 1 transit entity section 1310 share.

(ii) Each Class 2 transit entity shall receive a prorata share of the Class 2 transit entity section 1310 share. If there is only one Class 2 transit entity, it shall receive the entire Class 2 transit entity section 1310 share.

(iii) Each Class 3 transit entity shall receive a portion of the Class 3 transit entity section 1310 share as follows:

(A) Sixteen and sixty-seven hundredths percent of the Class 3 transit entity section 1310 share shall be distributed to Class 3 transit entities based upon each transit entity's Class 3 vehicle mile section 1310 percentage. The actual amount received by each Class 3 transit entity under this clause shall be determined by multiplying a particular Class 3 transit entity's Class 3 vehicle mile section 1310 percentage times the total amount available for distribution under this clause.

(B) Sixteen and sixty-seven hundredths percent of the Class 3 transit entity section 1310 share shall be distributed to Class 3 transit entities based upon each transit entity's Class 3 vehicle hour section 1310 percentage. The actual amount received by each Class 3 transit entity under this clause shall be determined by multiplying a particular Class 3 transit entity's Class 3 vehicle hour section 1310 percentage times the total amount available for distribution under this clause.

(C) Sixteen and sixty-six hundredths percent of the Class 3 transit entity section 1310 share shall be distributed to Class 3 transit entities based upon each transit entity's Class 3 total passenger section 1310 percentage. The actual amount received by each Class 3 transit entity under this clause shall be determined by multiplying a particular Class 3 transit entity's Class 3 total passenger section 1310 percentage times the total amount available for distribution under this clause.

(D) Twenty-five percent of the Class 3 transit entity section 1310 share shall be distributed to Class 3 transit entities based upon each transit entity's Class 3 Federal operating cap percentage. The actual amount received by each Class 3 transit entity under this clause shall be determined by multiplying a particular Class 3 transit entity's Class 3 Federal operating cap percentage times the total amount available for distribution under this clause.

(E) Twenty-five percent of the Class 3 transit entity section 1310 share shall be distributed to Class 3 transit entities based upon each transit entity's Class 3 State operating grant percentage. The actual amount received by each Class 3 transit entity under this clause shall be determined by multiplying a particular Class 3 transit entity's Class 3 State operating grant percentage times the total amount available for distribution under this clause.

(c) Change of classification.—If, during any fiscal year, either the number of vehicles operated by a local transportation organization or transportation company or the area served by such a local transportation organization or transportation company changes so that the local transportation organization or transportation company meets the criteria for a different transit entity class, as such criteria are set forth in section 1301 (relating to definitions), on or before July 15 of the fiscal year which follows such a change and in each fiscal year thereafter, the department shall reflect any change in the transit entity class of such a local transportation organization or transportation company in the Department of Transportation certification for that and subsequent fiscal years. In its calculation of the transit entity section 1310 shares for each transit entity class required by subsection (g)(1) ***and the transit entity section 1310.1 shares for each transit entity class required by subsection (g)(1)***[1] for the fiscal year following the change in a local transportation organization or transportation company's transit entity class and thereafter, the department shall include the amount of the transit entity **[section 1310 share]** ***sections 1310 and 1310.1 shares*** allocated to such a local transportation organization or transportation company for the fiscal year prior to the change in the transit entity class, in the transit entity **[section 1310 share]** ***sections 1310 and 1310.1 shares*** for the new transit entity class of such a local transportation organization or transportation company, and shall delete an equal amount from the transit entity **[section 1310 share]** ***sections 1310 and 1310.1 shares*** for the transit entity class for which such a local transportation organization or transportation company no longer meets the criteria in the new fiscal year. ***No local transportation organization or transportation company which has changed from one transit entity class to another due to either an increase in the number of vehicles operated or the United States Census Bureau's declaring its service area an urbanized area shall receive less than the amount transferred on its account by the department pursuant to this section.***

(d) Oversight.—The department shall initiate and maintain a program of review and oversight for any projects receiving funds distributed pursuant to this section ***and section 1310.1 (relating to supplemental public transportation assistance funding)***. The department is authorized to perform independent financial audits of the financial statements of each local

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[1] "section 1310.1(f)(1)" in enrolled bill.

transportation organization, transportation company or community transportation program receiving moneys pursuant to this section. These audits shall be conducted in accordance with generally accepted auditing standards. Any financial statements subject to the audit or reports resulting from the audit shall be prepared and presented in accordance with generally accepted accounting principles, consistently applied with previous statements rendered for or on behalf of such organization or company. The department may coordinate such audits in conjunction with audits undertaken by the Auditor General.

* * *

(f) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

* * *

"Class 4 transit entity section 1310 share." Four million dollars during the 1991-1992 fiscal year and $4,160,000 during the 1992-1993 fiscal year. During the 1993-1994 ***through 1996-1997*** fiscal **[year and each fiscal year thereafter]** ***years***, the term shall mean the Class 4 transit entity section 1310 share for the prior fiscal year plus (or minus) the product of the Class 4 transit entity section 1310 share for the prior fiscal year times the percentage increase or decrease in the total funds available for distribution pursuant to this section received by the Treasury Department in the most recently completed fiscal year as compared with the prior fiscal year. ***For the 1997-1998 fiscal year and each fiscal year thereafter, the term shall mean 2.8% of the total amount of capital project, asset maintenance and other program funds projected by the department to be available under this section for distribution during the subject fiscal year.***

* * *

(g) Certification to Treasury Department.—On or before July 15 of each fiscal year, the Department of Transportation shall calculate and certify to the Treasury Department the following:

(1) The Department of Transportation project management oversight share, the community transportation program **[section 1310 share]** ***sections 1310 and 1310.1 shares***, the Class 1 transit entity **[section 1310 share]** ***sections 1310 and 1310.1 shares***, the Class 2 transit entity **[section 1310 share]** ***sections 1310 and 1310.1 shares***, the Class 3 transit entity **[section 1310 share]** ***sections 1310 and 1310.1 shares*** and the Class 4 transit entity **[section 1310 share]** ***sections 1310 and 1310.1 shares*** and the planning, development, research, rural expansion and department-initiated programs **[section 1310 share]** ***sections 1310 and 1310.1 shares.***

* * *

(3) The vehicle miles of each Class 3 transit entity, the total vehicle miles of all Class 3 transit entities, the Class 3 vehicle mile **[section 1310 percentage]** ***sections 1310 and 1310.1 percentages*** for each Class 3 transit entity, the vehicle hours of each Class 3 transit entity, total vehicle hours of all Class 3 transit entities, the Class 3 vehicle hour **[section 1310**

percentage] ***sections 1310 and 1310.1 percentages*** for each Class 3 transit entity, total passengers for each Class 3 transit entity, the total passengers for all Class 3 transit entities, the Class 3 total passenger **[section 1310 percentage]** ***sections 1310 and 1310.1 percentages*** for each Class 3 transit entity, the Federal operating ceiling for each Class 3 transit entity, the Federal operating ceiling for all Class 3 transit entities, the Federal operating cap percentage for each Class 3 transit entity, the State subsidy received pursuant to section 1303 (relating to annual appropriation and computation of subsidy) as described in the definition of "Class 3 State operating grant percentage" for each Class 3 transit entity, the State subsidy received pursuant to section 1303 as described in the definition of "Class 3 State operating grant percentage" for all Class 3 transit entities, and the Class 3 State grant percentage for each Class 3 transit entity.

(4) The operating assistance grant received by each Class 4 transit entity during fiscal year 1990-1991 pursuant to the act of February 11, 1976 (P.L.14, No.10), known as the Pennsylvania Rural and Intercity Common Carrier Surface Transportation Assistance Act, the operating assistance grant received by all Class 4 transit entities during fiscal year 1990-1991 pursuant to that act, the Class 4 operating assistance grant **[section 1310 percentage]** ***sections 1310 and 1310.1 percentages*** for each Class 4 transit entity, the revenue miles of each Class 4 transit entity, the revenue miles of all Class 4 transit entities, the Class 4 revenue mile **[section 1310 percentage]** ***sections 1310 and 1310.1 percentages*** of each Class 4 transit entity, the revenue hours for each Class 4 transit entity, the revenue hours for all Class 4 transit entities and the Class 4 revenue hour **[section 1310 percentage]** ***sections 1310 and 1310.1 percentages*** for each Class 4 transit entity.

Section 3. Title 74 is amended by adding a section to read:

§ 1310.1. Supplemental public transportation assistance funding.

(a) General rule.—Beginning July 1, 1997, 1.22% of the money collected from the tax imposed under Article II of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, up to a maximum of $75,000,000, shall be deposited in the Supplemental Public Transportation Account, which is established in the State Treasury. Within 30 days of the close of a calendar month, 1.22% of the taxes received in the prior calendar month shall be transferred to the account. No funds in excess of $75,000,000 may be transferred to the account in any one fiscal year. The money in the account shall be used by the department for supplemental public transportation assistance, to be distributed under this section. Transit entities may use supplemental assistance moneys for any of the purposes enumerated in section 1311 (relating to use of funds distributed). In addition to those enumerated purposes, Class 1, 2 and 3 transit entities also may use the base supplemental assistance share for general operations. Class 4 transit entities may use all supplemental assistance moneys for general operations.

(b) Distribution.—During each fiscal year, capital project, asset maintenance and other program funds designated as supplemental public transportation assistance funding to be distributed pursuant to this section shall be distributed as follows:

(1) On or before the fifth day of each month, the Treasury Department shall certify to the department the total amount of money then available for distribution, and the department shall disburse the money on or before the 20th day of each month.

(2) Each month the department shall distribute to each local transportation organization or transportation company 1/12 of the base supplemental assistance share of that local transportation organization or transportation company.

(3) Each month the Treasury Department shall pay 1/12 of the community transportation program section 1310.1 share for that fiscal year to the Department of Transportation to make grants to counties pursuant to section 1312 (relating to community transportation programs) for the purpose of funding capital projects of community transportation programs.

(4) Each month the department shall distribute 1/12 of the Class 4 transit entity section 1310.1 share to Class 4 transit entities according to the same formula as provided for distribution of funds under section 1310(b)(5) (relating to distribution of funding), using the Class 4 transit entity section 1310.1 share in place of the Class 4 transit entity section 1310 share.

(5) Each month, after providing for payment of the portion of the base supplemental assistance share, the community transportation program section 1310.1 share and the Class 4 transit entity section 1310.1 share to be distributed that month, the department shall distribute all remaining capital project, asset maintenance and other program funds required to be distributed pursuant to this section according to the same formula as provided for distribution of funds in section 1310(b)(6), using the transit entity's section 1310.1 share in place of the transit entity's section 1310 share.

(c) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection. Any term used in this section but not defined in this subsection shall have the meaning given in section 1310(f):

"Base supplemental assistance share." The P.L. 103-122 percentage for each local transportation organization or transportation company multiplied by $54,616,000.

"Capital project, asset maintenance and other program funds." Moneys made available under this section to finance capital projects and asset maintenance costs of local transportation organizations, transportation companies or community transportation programs or to fund other programs specified in this section.

"Class 1 section 1310.1 percentage." 70.3%.

"Class 2 section 1310.1 percentage." 25.4%.

"Class 3 section 1310.1 percentage." 4.3%.

"Class 1 to 3 section 1310.1 allocation." The total amount of capital project, asset maintenance and other program funds available for distribution by the Treasury Department during a particular month less:

(1) the amount of the base supplemental assistance share to be paid each month under subsection (b)(2);

(2) the amount of the community transportation program section 1310.1 share to be paid each month under subsection (b)(3); and

(3) the amount of the Class 4 transit entity section 1310.1 share to be paid each month under subsection (b)(4).

"Class 1 transit entity section 1310.1 share." The product of the Class 1 section 1310.1 percentage times the Class 1 to 3 section 1310.1 allocation.

"Class 2 transit entity section 1310.1 share." The product of the Class 2 section 1310.1 percentage times the monthly Class 1 to 3 allocation.

"Class 3 transit entity section 1310.1 share." The product of the Class 3 section 1310.1 percentage times the monthly Class 1 to 3 allocation.

"Class 4 transit entity section 1310.1 share." For each fiscal year, the total amount projected by the department to be available for distribution in the fiscal year in accordance with this section, less $54,616,000, times 2.8%.

"Class 3 Federal operating cap percentage." The percentage determined by dividing the Federal operating ceiling for a Class 3 transit entity by the total of all Federal operating ceilings for Class 3 transit entities.

"Class 3 total passenger section 1310.1 percentage." The percentage determined by dividing the total passengers transported by a Class 3 transit entity, as stated in the latest Department of Transportation certification, by the total number of passengers transported by all Class 3 transit entities, as stated in the latest Department of Transportation certification.

"Class 3 vehicle hour section 1310.1 percentage." The percentage determined by dividing the vehicle hours of a Class 3 transit entity, as stated in the latest Department of Transportation certification, by the total number of vehicle hours of all Class 3 transit entities, as stated in the latest Department of Transportation certification.

"Class 3 vehicle mile section 1310.1 percentage." The percentage determined by dividing the vehicle miles of a Class 3 transit entity, as stated in the latest Department of Transportation certification, by the total number of vehicle miles of all Class 3 transit entities, as stated in the latest Department of Transportation certification.

"Class 4 operating assistance grant section 1310.1 percentage." The percentage determined by dividing the Class 4 transit entity adjusted base grant received by a Class 4 transit entity, as stated in the latest Department of Transportation certification, by the total Class 4 transit entity adjusted base grants received by all Class 4 transit entities during fiscal year 1990-1991, as stated in the latest Department of Transportation certification.

"Class 4 revenue hour section 1310.1 percentage." The percentage determined by dividing the revenue hours of a Class 4 transit entity, as stated in the latest Department of Transportation certification, by the total number of revenue hours of all Class 4 transit entities, as stated in the latest Department of Transportation certification.

"Class 4 revenue mile section 1310.1 percentage." The percentage determined by dividing the revenue miles of a Class 4 transit entity, as stated in the latest Department of Transportation certification, by the total number of revenue miles of all Class 4 transit entities, as stated in the latest Department of Transportation certification.

"Community transportation program section 1310.1 share." The greater of:

(1) $1,200,000; or

(2) the total amount projected by the Department of Transportation to be available for distribution in the subject fiscal year in accordance with this section, less $54,616,000, times 2.5%.

"P.L. 103-122 percentage." The percentage determined by dividing the operating assistance grant or operating assistance limitation, whichever is greater, but not to exceed the total apportionment of funds made available to a particular local transportation organization or transportation company in this Commonwealth for each Class 1 transit entity, Class 2 transit entity and Class 3 transit entity and the base grants approved for each Class 4 transit entity pursuant to Public Law 103-122, 107 Stat. 1199, for the Federal fiscal year ending September 30, 1994, by the total of such amounts for all Commonwealth local transportation organizations and transportation companies pursuant to Public Law 103-122 for the fiscal year as determined by the Department of Transportation.

Section 4. Section 1311(d), (e), (i) and (j) of Title 74 are amended to read:

§ 1311. Use of funds distributed.

* * *

(d) Management of funds.—

(1) Each local transportation organization or transportation company receiving moneys pursuant to **[section 1310]** *sections 1310 and 1310.1 (relating to supplemental public transportation assistance funding)* shall hold such moneys in an account separate from other funds of the local transportation organization or transportation company and shall invest such moneys until such funds are used in accordance with this section, with such funds being invested in accordance with the limits on investment of the local transportation organization or transportation company. Notwithstanding any other provisions of this chapter, any interest earned shall be used for capital projects and asset maintenance costs during any period as determined by the local transportation organization or transportation company.

(2) All moneys distributed pursuant to section 1310 and utilized for asset maintenance under subsection (e) shall be matched by local or private funding in an amount equal to at least 1/30 of the amount expended for such purposes, except that, in the case of Class 3 and 4 transit entities, no matching funds shall be required if the department shall have received from the local governmental funding source which would otherwise provide the matching funds a certification that compliance with the matching requirement would create an undue financial burden upon the local governmental funding source such that a curtailment of government services endangering public health and safety would ensue.

(3) All moneys distributed pursuant to section 1310.1 and utilized under this section shall be matched by local or private funding in an amount equal to at least 1/30 of the amount expended for such purposes, except that, in the case of Class 3 and 4 transit entities, no funds utilized for asset maintenance under subsection (e) shall require a local match if the department shall have received from the local governmental funding source which would otherwise provide the matching funds a certification that compliance with the matching requirement would create an undue financial burden upon the local governmental funding source such that a curtailment of government services endangering public health and safety would ensue.

(e) Asset maintenance.—

(1) Each local transportation organization or transportation company may expend moneys distributed pursuant to **[section 1310 share]** *sections 1310 and 1310.1 shares* to fund asset maintenance costs as provided in this subsection.

(2) Moneys distributed pursuant to **[section 1310]** *sections 1310 and 1310.1* may only be used to fund asset maintenance costs incurred during the fiscal year in which such moneys are allocated. Thereafter, such funds may only be used to fund capital projects.

(3) On or before March 1 of each year, the department shall certify to each local transportation organization or transportation company the amount of capital project, asset maintenance, *base supplemental assistance* and other program funds which the department estimates each local transportation organization or transportation company will be entitled to receive during the ensuing fiscal year. Each local transportation organization or transportation company may expend moneys distributed pursuant to **[section 1310 share]** *sections 1310 and 1310.1 shares* to fund asset maintenance costs up to the following maximum percentages of the estimate from the department, including accrued interest, the amount received during the prior fiscal year or the amount actually received in the current fiscal year, whichever is greater:

(i) Class 1 transit entities may utilize for asset maintenance costs up to a maximum of 30% of the funds received pursuant to **[section 1310**

share] ***sections 1310 and 1310.1 shares.*** **[Moneys received by a Class 1 transit entity pursuant to section 1310 and utilized to fund asset maintenance costs pursuant to this subsection shall be matched by local or private funding in an amount equal to at least one-thirtieth of the amount expended for such purposes.]**

(ii) Class 2 ***and 3*** transit entities may utilize for asset maintenance costs up to a maximum of 50% of the funds received pursuant to **[section 1310]** ***sections 1310 and 1310.1.*** **[Moneys received by a Class 2 transit entity pursuant to section 1310 and utilized to fund asset maintenance costs pursuant to this subsection shall be matched by local or private funding in an amount equal to at least one-thirtieth of the amount expended for such purposes.**

(iii) Class 3 transit entities may utilize for asset maintenance costs up to a maximum of 50% of the funds received pursuant to section 1310. Moneys received by a Class 3 transit entity pursuant to section 1310 and utilized to fund asset maintenance costs pursuant to this subsection shall be matched by local or private funding in an amount equal to at least one-thirtieth of the amount expended for such purposes. No matching funds shall, however, be required if the department shall have received from the local governmental funding source which would otherwise provide such matching funds a certification that compliance with the matching requirement would create an undue financial burden upon the local governmental funding source such that a curtailment of government services endangering the public health and safety would ensue.]

(iv) Class 4 transit entities may utilize for asset maintenance costs up to a maximum of 50% of the funds received pursuant to **[section 1310]** ***sections 1310 and 1310.1.*** **[Moneys received by a Class 4 transit entity pursuant to section 1310 and utilized to fund asset maintenance costs pursuant to this subsection shall be matched by local or private funding in an amount equal to at least one-thirtieth of the amount expended for such purposes, provided, however, that no matching funds shall be required if the department shall have received from the local governmental funding source which would otherwise provide such matching funds a certification that compliance with the matching requirement would create an undue financial burden upon the local governmental funding source such that a curtailment of government services endangering the public health and safety would ensue.]**

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(i) Accounting.—Within **[60]** ***120*** days after the end of each fiscal year for capital programs established by the local transportation organization or transportation company pursuant to section 1310(e), each local transportation organization and transportation company receiving moneys pursuant to

[section 1310 share] ***sections 1310 and 1310.1 shares*** shall transmit to the department an accounting of all funds received pursuant to **[section 1310 share]** ***sections 1310 and 1310.1 shares*** in that fiscal year. The accounting shall be in a form prescribed by the department and shall include a listing of all expenditures on a project by project basis and the status of all unspent funds. The local transportation organization or transportation company shall grant access to the department or its duly authorized representatives to any and all records pertaining to funds received pursuant to **[section 1310 share]** ***sections 1310 and 1310.1 shares.***

(j) Limit on certain amounts expended.—Notwithstanding any law to the contrary ***and except as provided in subsection (a) for Class 4 transit entities,*** local transportation organizations and transportation companies are authorized to expend moneys distributed pursuant to **[section 1310 share]** ***sections 1310 and 1310.1 shares*** for asset maintenance costs in an amount not to exceed the greater of:

(1) the maximum amount of asset maintenance expenditures which could have been approved by the department for expenditure by that local transportation organization or transportation company for the 1991-1992 fiscal year pursuant to section 17(a) of the act of August 5, 1991 (P.L.238, No.26), entitled "An act amending Titles 74 (Transportation) and 75 (Vehicles) of the Pennsylvania Consolidated Statutes, codifying provisions relating to public transportation; imposing certain fees and taxes; further providing for certain Pennsylvania Turnpike projects; defining 'farm equipment'; further providing for the responsibilities of vehicle transferees, for exemptions from registration and certificates of title and for the use of dealer plates, multipurpose dealer plates and farm equipment plates; further providing for funeral processions; further providing for a restricted receipts fund and for registration for snowmobiles and ATV's; establishing the Snowmobile Trail Advisory Committee; further providing for the highway maintenance and construction tax; and making repeals," based upon a projection of $200,000,000 in total dedicated capital assistance funds ***plus estimated amounts of supplemental public transportation assistance funding available for distribution pursuant to section 1310.1 in that fiscal year, which estimate shall not be less than $75,000,000 in any fiscal year***; or

(2) the amount permitted to be expended for such purposes under subsection (e).

Section 5. Title 74 is amended by adding a section to read:

§ 1315. Public transportation grants management accountability.

(a) Performance audits.—All classes of transit entities shall complete periodic management performance audits which shall encompass all public transportation programs and services financed in whole or in part by grants provided by the department as follows:

(1) The department shall establish criteria to be included in a performance audit performed pursuant to this section. The criteria shall

be published in the Pennsylvania Bulletin. Separate criteria may be established for each class of transit entity.

(2) Management performance audits shall be completed within ten months of their initiation and shall be performed as follows:

(i) Class 1 transit entities shall begin the initial management performance audit required pursuant to this section no later than July 1, 1999, or, with the written approval of the department, within five years of the completion of the most recent performance audit. Thereafter, Class 1 transit entities shall complete a management performance audit at least once every five years.

(ii) Class 2 transit entities shall begin the initial management performance audit required by this section no later than July 1, 2000, or, with the written approval of the department, within five years of the most recent performance audit. The department may extend the initiation date for a period of up to five years. Thereafter, Class 1 transit entities shall complete a management performance audit at least once every five years.

(iii) Class 3 transit entities in urbanized areas with a population of 200,000 or greater shall begin the initial management performance audit required by this section no later than July 1, 2001. Class 3 transit entities in urbanized areas with a population of less than 200,000 shall begin the first management performance audit required by this section no later than July 1, 2002. Thereafter, Class 3 transit entities shall perform a management performance audit at ~~least once~~ every seven years.

(iv) Class 4 transit entities shall begin the first initial management performance audit required by this section no later than July 1, 2002. Thereafter, Class 4 transit entities shall perform a management performance audit at least once every ten years. The department shall perform management performance audits for Class 4 entities through qualified independent contractors unless written notice is provided to the department by the Class 4 transit entity that the transit entity wishes to perform its own audit. The notice shall be provided no later than one year prior to the initiation date of the next scheduled audit.

(3) Class 1, 2 and 3 transit entities shall bear all costs of performing management performance audits pursuant to this section. The cost of such management performance audits for Class 4 transit entities shall be paid by the department from funds made available under section 1310(d) (relating to distribution of funding).

(4) For Class 1, 2 and 3 transit entities, the management performance audit shall be conducted by a qualified independent ~~auditor~~ selected by competitive procurement. Procurement documents shall specify the scope of the audit, comply with department criteria and be submitted to the department for written approval prior to procurement.

(b) Submission of audit report; transit entity response.—

(1) Upon receipt of a final audit report from the auditor or, in the case of Class 4 transit entities, from the department, each transit entity shall prepare an action plan addressing the findings and recommendations of the audit report. The action plan shall be completed and approved by the transit entity's governing body within two months of receipt of the final audit report. The transit entity shall implement its action plan in accordance with the time frames specified in the plan.

(2) Upon approval of the action plan by the entity's governing body, the transit entity shall submit the plan and the auditor's report to the department. Class 1 and 2 transit entities shall also submit their action plans to the Legislative Budget and Finance Committee, the chairman and minority chairman of the Transportation Committee of the Senate and the chairman and minority chairman of the Transportation Committee of the House of Representatives.

(c) Customer satisfaction surveys.—Customer satisfaction surveys shall be conducted as follows:

(1) All Class 1 and 2 entities shall conduct customer satisfaction surveys at least once every two years. Class 3 and 4 transit entities shall conduct customer satisfaction surveys at least once every three years. An initial customer satisfaction survey for each transit entity shall be completed and submitted to the department no later than December 31, 1998.

(2) The department shall provide guidelines regarding the scope of the surveys and suggested questions which may be included in the surveys.

(3) Upon completion of the survey, the transit entity shall submit a report to the department containing survey methodology, survey results, relevant trends in the level of customer satisfaction and actions taken or planned to improve customer satisfaction.

(d) Suspension of grant funds.—The department may suspend eligibility for grants under section 1303 (relating to annual appropriation and computation of subsidy) for any transit entity which fails to comply with any of the provisions of this section.

(e) Restoration or continuation of funding.—The department shall continue eligibility of a transit entity for grants under section 1303 if the entity has initiated its audit or survey in a timely manner and the delay in completion of the audit or survey is not the fault of the transit entity. The department shall restore eligibility of a suspended transit entity at such time as the audit or survey is completed in accordance with the requirements of this section.

(f) Cost reduction and productivity improvement.—As part of its annual application for funding under section 1303, Class 1, 2, 3 and 4 transit entities shall include a report outlining initiatives it has undertaken to reduce costs and improve productivity.

Section 6. Section 1307(a.1) of Title 75 is amended and the section is amended by adding a subsection to read:

§ 1307. Period of registration.

* * *

(a.1) Seasonal registration.—Upon application on a form prescribed by the department, the owner or lessee of a passenger car, ***recreational motor vehicle,*** motorcycle, truck or farm vehicle which does not have a gross vehicle weight rating of more than 9,000 pounds may register the vehicle with the department for a period of successive months of less than one year. The applicant shall specify the period of months during which the vehicle shall be registered. Except when the department initially converts a currently valid annual registration to a seasonal registration, the annual fee prescribed for the vehicle by Chapter 19 (relating to fees) shall be paid in full by the applicant regardless of the number of months chosen for registration by the applicant. Upon receipt of the appropriate fee and the properly completed form, including all information required by this chapter, the department shall issue a seasonal registration that shall expire on the last day of the expiration month chosen by the registrant. No insurer of a vehicle belonging to any owner or lessee who obtains a seasonal registration and who applies for or receives a reduced automobile insurance premium on account thereof shall be required to provide any contractual coverage, whether in the form of the provision of a defense or the payment of first-party or third-party benefits or otherwise, to the owner or lessee in connection with any event occurring during that part of the year in which the vehicle is not registered; and such owner or lessee shall be treated for all purposes, including, without limitation, ascertaining rights to stack coverages and to uninsured and underinsured motorist coverage, as a person who does not own that vehicle and has no duty to carry financial responsibility on it for that part of the year.

* * *

(f) Optional permanent trailer registration.—The registration of trailers permanently registered as provided in section 1920(c) (relating to trailers) shall expire upon salvaging of the vehicle or transfer of ownership.

Section 7. Section 1318 of Title 75 is amended by adding subsections to read:

§ 1318. Duties of agents.

* * *

(d) Verification of information on application.—In addition to any other duty prescribed by this title or departmental regulations, an agent shall verify that the purchase price stated on the application approximates the fair market value of the vehicle in a manner prescribed by the department as set forth in a notice published in the Pennsylvania Bulletin.

(e) Penalty.—Any person who violates this section, in addition to any penalty, suspension or revocation imposed by the department, commits a summary offense and shall, upon conviction, be sentenced to pay a fine of not less than $100 nor more than $500 and for each subsequent or

additional offense a fine of not less than $200 nor more than $500, or to imprisonment for not more than 90 days, or both.

Section 8. Sections 1912, 1913, 1914, 1915, 1916, 1917, 1920, 1921, 1922, 1923, 1924, 1925, 1926, 1926.1, 1927, 1929, 1932, 1933 and 1952 of Title 75 are amended to read:

§ 1912. Passenger cars.

The annual fee for registration of a passenger car shall be **[$24]** ***$36.***

§ 1913. Motor homes.

The annual fee for registration of a motor home shall be determined by its registered gross weight in pounds according to the following table:

Class	Registered Gross Weight in Pounds	Fee
[1	**8,000 or less**	**$30**
2	**8,001 - 11,000**	**42**
3	**11,001 or more**	**54]**
1	***8,000 or less***	***$45***
2	***8,001 - 11,000***	***63***
3	***11,001 or more***	***81***

§ 1914. Motorcycles.

The annual fee for registration of a motorcycle other than a motor-driven cycle shall be **[$12]** ***$18.***

§ 1915. Motor-driven cycles.

The annual fee for registration of a motor-driven cycle shall be **[$6]** ***$9.***

§ 1916. Trucks and truck tractors.

(a) General rule.—

(1) The annual fee for registration of a truck or truck tractor shall be determined by its registered gross weight or combination weight in pounds according to the following table:

Class	Registered Gross or Combination Weight in Pounds	Fee
[1	**5,000 or less**	**$ 39**
2	**5,001 - 7,000**	**54**
3	**7,001 - 9,000**	**102**
4	**9,001 - 11,000**	**132**
5	**11,001 - 14,000**	**162**
6	**14,001 - 17,000**	**192**
7	**17,001 - 21,000**	**237**
8	**21,001 - 26,000**	**270**
9	**26,001 - 30,000**	**315**
10	**30,001 - 33,000**	**378**
11	**33,001 - 36,000**	**414**
12	**36,001 - 40,000**	**438**
13	**40,001 - 44,000**	**465**
14	**44,001 - 48,000**	**501**

15	**48,001 - 52,000**	**552**
16	**52,001 - 56,000**	**588**
17	**56,001 - 60,000**	**666**
18	**60,001 - 64,000**	**741**
19	**64,001 - 68,000**	**777**
20	**68,001 - 73,280**	**834**
21	**73,281 - 76,000**	**1,065**
22	**76,001 - 78,000**	**1,089**
23	**78,001 - 78,500**	**1,101**
24	**78,501 - 79,000**	**1,113**
25	**79,001 - 80,000**	**1,125]**
1	***5,000 or less***	***$ 58.50***
2	***5,001 - 7,000***	***81.00***
3	***7,001 - 9,000***	***153.00***
4	***9,001 - 11,000***	***198.00***
5	***11,001 - 14,000***	***243.00***
6	***14,001 - 17,000***	***288.00***
7	***17,001 - 21,000***	***355.50***
8	***21,001 - 26,000***	***405.00***
9	***26,001 - 30,000***	***472.50***
10	***30,001 - 33,000***	***567.00***
11	***33,001 - 36,000***	***621.00***
12	***36,001 - 40,000***	***657.00***
13	***40,001 - 44,000***	***697.50***
14	***44,001 - 48,000***	***751.50***
15	***48,001 - 52,000***	***828.00***
16	***52,001 - 56,000***	***882.00***
17	***56,001 - 60,000***	***999.00***
18	***60,001 - 64,000***	***1,111.50***
19	***64,001 - 68,000***	***1,165.50***
20	***68,001 - 73,280***	***1,251.00***
21	***73,281 - 76,000***	***1,597.50***
22	***76,001 - 78,000***	***1,633.50***
23	***78,001 - 78,500***	***1,651.50***
24	***78,501 - 79,000***	***1,669.50***
25	***79,001 - 80,000***	***1,687.50***

(2) A portion of the registration fee for any truck or truck tractor in Classes 9 through 25 shall be deposited in the Highway Bridge Improvement Restricted Account within the Motor License Fund according to the following table:

Classes	Amount Deposited in Highway Bridge Improvement Restricted Account
9-12	$ 72
13-17	108

18-20	144
21-25	180

(b) Optional registration.—Any vehicle falling within the range of weights for Classes 1 through 4, inclusive, shall notwithstanding any gross vehicle weight stamped on the manufacturer's serial plate, be registered, upon request of the person making application for registration, at the maximum allowable gross or combination weight for the particular weight class within which the gross vehicle weight determined by the manufacturer causes such vehicle to fall.

§ 1917. Motor buses and limousines.

The annual fee for registration of a motor bus or a limousine shall be determined by its seating capacity according to the following table:

Seating Capacity	Fee
[26 or less	**$ 6 per seat**
27 - 51	**156 plus $7.50 per seat in excess of 26**
52 or more	**360]**
26 or less	***$ 9 per seat***
27 - 51	***234 plus $11.25 per seat in excess of 26***
52 or more	***540***

§ 1920. Trailers.

(a) General rule.—The annual fee for registration of a trailer shall be determined by its registered gross weight according to the following table:

Registered Gross Weight in Pounds	Fee
3,000 or less	$ 6
3,001 - 10,000	12
10,001 or more	27

(b) Optional five-year registration.—A trailer ***with a registered gross weight of 10,000 pounds or less*** may be registered for a period of five years upon payment by the registrant of the applicable fee for such period.

(c) Optional permanent registration.—A trailer with a registered gross weight of 10,001 or more pounds may be registered for a one-time fee of $135 in lieu of the annual fee at the option of the registrant.

§ 1921. Special mobile equipment.

The annual fee for registration of special mobile equipment shall be **[$24]** ***$36***.

§ 1922. Implements of husbandry.

The annual fee for registration of an implement of husbandry not exempt from registration under this title shall be **[$12]** ***$18***.

§ 1923. Antique, classic and collectible vehicles.

The fee for registration of an antique, classic or collectible motor vehicle shall be **[$50]** ***$75***.

§ 1924. Farm vehicles.

(a) General rule.—The annual fee for registration of a farm vehicle shall be **[$51]** ***$76.50*** or one-third of the regular fee, whichever is greater.

(b) Certificate of exemption.—The biennial processing fee for a certificate of exemption issued in lieu of registration of a farm vehicle shall be determined by the type of certificate issued and the gross weight or combination weight or weight rating according to the following table:

Certificate type	Weight in pounds	Fee
Type I	17,000 or less	$24
Type II	greater than 17,000	50
Type I	greater than 17,000	100

§ 1925. Ambulances, taxis and hearses.

The annual fee for registration of an ambulance, taxi or hearse shall be **[$36]** ***$54***.

§ 1926. Dealers and miscellaneous motor vehicle business.

(a) General rule.—The annual fee for a dealer registration plate or miscellaneous motor vehicle business plate shall be **[$24]** ***$36***.

(b) Motorcycle dealers.—The annual fee for each dealer registration plate issued to a motorcycle dealer other than a motor-driven cycle dealer shall be **[$12]** ***$18***.

(c) Motor-driven cycle dealers.—The annual fee for each dealer registration plate issued to a motor-driven cycle dealer shall be **[$6]** ***$9***.

(d) Multipurpose dealer registration plate.—The annual fee for a multipurpose dealer registration plate shall be the appropriate fee specified in section 1913 (relating to motor homes) for motor homes, the appropriate fee specified in section 1916 (relating to trucks and truck tractors) for trucks and truck tractors and the appropriate fee specified in section 1920(a) (relating to trailers) for trailers.

§ 1926.1. Farm equipment vehicle dealers.

The annual fee for registration of a farm equipment dealer truck or truck tractor shall be one-half of the regular fee or **[$162]** ***$243***, whichever is greater.

§ 1927. Transfer of registration.

The fee for transfer of registration shall be **[$4]** ***$6***.

§ 1929. Replacement registration plates.

The fee for a replacement registration plate other than a legislative or personal plate shall be **[$5]** ***$7.50***.

§ 1932. Duplicate registration cards.

The fee for each duplicate registration card when ordered at the time of vehicle registration or transfer or renewal of registration shall be **[$1]** ***$1.50***. The fee for each duplicate registration card issued at any other time shall be **[$3]** ***$4.50***.

§ 1933. Commercial implements of husbandry.

The annual fee for registration of a commercial implement of husbandry shall be **[$51]** ***$76.50*** or one-half of the regular fee, whichever is greater.

§ 1952. Certificate of title.

(a) General rule.—The fee for issuance of a certificate of title shall be **[$15]** ***$22.50***.

(b) **[Duplicate certificate.—The fee for a duplicate certificate of title shall be $5.**

(c)] Manufacturer's or dealer's notification.—The fee for a manufacturer's or dealer's notification of acquisition of a vehicle from another manufacturer or dealer for resale pursuant to section 1113 (relating to transfer to or from manufacturer or dealer) shall be $**[2]** ***3***.

Section 9. Sections 4702(b), 4904(e) and 4908 of Title 75 are amended to read:

§ 4702. Requirement for periodic inspection of vehicles.

* * *

(b) Semiannual safety inspection of certain vehicles.—The following vehicles shall be subject to semiannual safety inspection:

(1) School buses.

(2) Passenger vans under contract with or owned by a school district or private or parochial school, including vehicles having chartered group and party rights under the Pennsylvania Public Utility Commission and used to transport school students.

(3) Passenger vans used to transport persons for hire or owned by a commercial enterprise and used for the transportation of employees to or from their place of employment.

[(4) Trailers, other than recreational trailers, having a registered gross weight in excess of 10,000 pounds. Recreational trailers shall be subject to annual safety inspection.]

(5) Construction trucks for which annual permits are issued pursuant to section 4970(b) (relating to permit for movement of construction equipment).

(6) Mass transit vehicles.

(7) Motor carrier vehicles, other than farm vehicles for which a biennial certificate of exemption has been issued.

* * *

§ 4904. Limits on number of towed vehicles.

* * *

(e) Two-trailer combinations on interstate and **[designated primary]** ***certain other*** highways.—Combinations consisting of a truck tractor and two trailers may **[only]** be driven ***only*** as described in section 4908 (relating to operation of certain combinations on interstate and certain **[primary]** ***other*** highways).

* * *

§ 4908. Operation of certain combinations on interstate and certain **[primary]** ***other*** highways.

(a) General rule.—Combinations authorized by section 4904(e) (relating to limits on number of towed vehicles) to have two trailers, or by section

4923(b)(6) or (7) (relating to length of vehicles) to exceed the length limitation for combinations, may be driven only on the types of highways and under the limitations set forth below:

(1) On **[a]** ***the*** designated ***national*** network consisting of all interstate highways and portions of Federal aid primary highways having at least a 48-foot-wide roadway or two 24-foot-wide roadways and designated by the department as capable of safely accommodating such vehicles.

(2) Between the designated national network and **[either of the following:**

(i) A**]** ***a*** terminal or a facility for food, fuel, repair or rest having an entrance within the access limitation prescribed by Federal Highway Administration regulation of the nearest ramp or intersection, but only on highways having lanes at least ten feet wide.

[(ii) A terminal which can safely and reasonably be accessed using highways approved under subsection (d).]

(3) On highways marked with traffic route signs having travel lanes at least ten feet in width unless prohibited by the department on State highways or the municipality on local highways based on safety reasons and marked with signs prohibiting such vehicles.

(4) Between the highways authorized under paragraph (3) and a terminal or facility for food, fuel, repair or rest having an entrance within one-half road mile of the nearest ramp or intersection, but only on highways having lanes at least ten feet wide.

(5) Approval of a highway other than as designated under paragraphs (1) through (4) shall be obtained from the:

(i) City in the case of a highway in a city.

(ii) Department in the case of a State highway not in a city, except that the department will, upon request, delegate authority to approve routes under this subsection to a municipality which has been delegated authority to issue permits under section 420 of the act of June 1, 1945 (P.L.1242, No.428), known as the State Highway Law.

(iii) Municipality in the case of a local highway not in a city.

(b) Household goods carriers.—In addition to the operations authorized in subsection (a), a household goods carrier, consisting of a truck tractor and either of the following:

(1) A single trailer, which exceeds the maximum length for combinations established in section 4923(a), may be driven between the designated network and a point of loading or unloading which can safely and reasonably be accessed.

(2) Two trailers may be driven between the designated ***national*** network and a point of loading or unloading which can safely and reasonably be accessed using highways approved under subsection **[(d)]** ***(a)(2) through (5)*** for the particular movement.

(b.1) Short 102-inch trailers.—In addition to the operations authorized in subsection (a), a combination, consisting of a truck tractor and a single trailer

not exceeding 28 1/2 feet in length and 102 inches in width may be driven **[between the designated network and a point of loading or unloading which can safely and reasonably be accessed]** ***on all highways.***

[(c) Nearby terminals and facilities.—Where one or more terminals or facilities for food, fuel, repair or rest along a highway having lanes at least ten feet wide are in close proximity to a terminal or facility which is within the distance from the designated network described in subsection (a)(2)(i) of the designated network, all of such terminals and facilities shall be deemed to be within the prescribed distance of the designated network.

(d) Route approval.—Approval of a route under subsection (a)(2)(ii) or (b)(2) shall be obtained from the:

(1) City in the case of any highway in a city.

(2) Department in the case of a State highway not in a city, except that the department will, upon request, delegate authority to approve routes under this subsection to a municipality which has been delegated authority to issue permits in accordance with section 420 of the act of June 1, 1945 (P.L.1242, No.428), known as the State Highway Law.

(3) Municipality in the case of a local highway not in a city.]

(e) Notice.—

(1) The department shall publish the designated network established in subsection (a)(1) in the Pennsylvania Bulletin as a notice under 45 Pa.C.S. § 725(a)(3) (relating to additional contents of Pennsylvania Bulletin) and will also forward the designated network to trucking companies and associations and other interested parties, upon request.

(2) Approval of a route under subsection **[(a)(2)(ii)]** ***(a)(5)*** shall be effective upon notice by the approving authority to the person who requested it. Notice of the approval shall also be given to State and affected local police and shall be published in the Pennsylvania Bulletin **[within ten days]** ***in a timely manner*** as a notice under 45 Pa.C.S. § 725(a)(3).

(3) Approval of a route under subsection (b)(2) shall be effective upon notice by the approving authority to the person who requested it. Notice of the approval shall also be given to State and affected local police and shall be published in the Pennsylvania Bulletin **[within ten days]** ***in a timely manner.***

(f) Revocation of route approval.—The authority which approved a route under subsection **[(a)(2)(ii)]** ***(a)(5)*** may revoke the route approval if it determines that the route or some portion of it cannot safely and reasonably accommodate combinations authorized to exceed length or number of trailer limitations. Notice of the revocation shall be published in the Pennsylvania Bulletin as a notice under 45 Pa.C.S. § 725(a)(3) and shall be effective 15 days after such publication, except that the posting authority may effect an earlier revocation by posting signs to indicate the revocation. Written notice

of the revocation shall also be given to the person who requested the route approval and to State and affected local police.

(g) Penalty.—A person who operates a combination in violation of this section on a highway which is not marked with signs prohibiting the operation of such a combination commits a summary offense and shall, upon conviction, be sentenced to pay a fine of $50 for each violation. A person cited under this subsection shall not be subject to citation under section 4921 (relating to width of vehicles) or 4923 (relating to length of vehicles).

Section 10. Section 4921(a) of Title 75 is amended and the section is amended by adding a subsection to read:

§ 4921. Width of vehicles.

(a) General rule.—The total outside width of a vehicle, including any load, shall not exceed eight feet except as otherwise provided in this section. With regard to stinger-steered automobile or boat transporters or vehicles operating as provided in section 4908 (relating to operation of certain combinations on interstate and certain **[primary]** ***other*** highways), the total width of a vehicle, including any load, shall not exceed eight and one-half feet, except as otherwise provided in this chapter.

* * *

(c.3) Trucks other than combinations.—The total outside width, including any load, of a truck other than a combination shall not exceed eight and one-half feet except as otherwise provided in this chapter.

* * *

Section 11. Section 4923 of Title 75 is amended to read:

§ 4923. Length of vehicles.

(a) General rule.—Except as provided in subsection (b), no motor vehicle, including any load and bumpers, shall exceed an overall length of 40 feet**[, and no combination, including any load and bumpers, shall exceed an overall length of 60 feet]**.

(b) Exceptions.—The limitations of (a) do not apply to the following:

(1) Any motor vehicle equipped with a boom or boom-like device if the vehicle does not exceed 55 feet.

(2) Any combination transporting articles which do not exceed 70 feet in length and are nondivisible as to length.

(3) Any bus of an articulated design which does not exceed 60 feet.

(4) Any motor vehicle towing a disabled motor vehicle to a location for repair or to some other place of safety.

(5) A combination other than a stinger-steered automobile or boat transporter designed and used exclusively for carrying motor vehicles if the overall length of the combination and load does not exceed 65 feet. When driven as described in section 4908 (relating to operation of certain combinations on interstate and certain **[primary]** ***other*** highways), the load may extend beyond the 65-foot limit of such a combination by no more than three feet in the front and no more than four feet to the rear. Saddle-

mount, including those combinations not in excess of 75 feet in length as described in section 4904(d) (relating to limits on number of towed vehicles), and full-mount mechanisms shall qualify under this exception.

(6) Any combination consisting of a truck tractor and one or two trailers[**, when driven as described in section 4908. Except when being operated as a part of a combination of a tractor and single trailer not exceeding an overall length of 60 feet, the**]. ***The*** length of a single trailer shall not exceed [**48 feet**] ***53 feet, provided the distance between the kingpin of the trailer and the center line of the rear axle or rear axle group does not exceed 41 feet or, in the case of a trailer used exclusively or primarily to transport vehicles in connection with motor sports competition events, does not exceed 46 feet;*** and the length of each double trailer shall not exceed 28 1/2 feet. [**A single trailer, when driven as described in section 4908, may have an overall length greater than 48 feet but not greater than 53 feet, provided the distance between the kingpin of the trailer and the center line of the rear axle or rear axle group does not exceed 41 feet.**]

(7) Any maxi-cube vehicle when driven as described in section 4908.

(8) Any stinger-steered automobile or boat transporter.

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

CHAPTER 90
LIQUID FUELS AND FUELS TAX

Sec.

9001. Short title of chapter.
9002. Definitions.
9003. Liquid fuels and fuels permits; bond or deposit of securities.
9004. Imposition of tax, exemptions and deductions.
9005. Taxpayer.
9006. Distributor's report and payment of tax.
9007. Determination and redetermination of tax, penalties and interest due.
9008. Examination of records and equipment.
9009. Retention of records by distributors and dealers.
9010. Disposition and use of tax.
9011. Discontinuance or transfer of business.
9012. Suspension or revocation of permits.
9013. Lien of taxes, penalties and interest.
9014. Collection of unpaid taxes.
9015. Reports from common carriers.
9016. Reward for detection of violations.
9017. Refunds.
9018. Violations.
9019. Diesel fuel importers and transporters; prohibiting use of dyed diesel fuel on highways; violations and penalties.

9020. Disposition of fees, fines and forfeitures.
9021. Certified copies of records.
9022. Uncollectible checks.

§ 9001. Short title of chapter.

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

§ 9002. 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:

"Alternative fuels." Natural gas, compressed natural gas (CNG), liquified natural gas (LNG), liquid propane gas and liquified petroleum gas (LPG), alcohols, gasoline-alcohol mixtures containing at least 85% alcohol by volume, hydrogen, hythane, electricity and any other fuel used to propel motor vehicles on the public highways which is not taxable as fuels or liquid fuels under this chapter.

"Alternative fuel dealer-user." Any person who delivers or places alternative fuels into the fuel supply tank or other device of a vehicle for use on the public highways.

"Association." A partnership, limited partnership or any other form of unincorporated enterprise owned by two or more persons.

"Average wholesale price." The average wholesale price per gallon of all taxable liquid fuels and fuels, excluding the Federal excise tax and all liquid fuels taxes, as determined by the Department of Revenue for the 12-month period ending on the September 30 immediately prior to January 1 of the year for which the rate is to be set. In no case shall the average wholesale price be less than 90¢ nor more than $1.25 per gallon.

"Cents-per-gallon equivalent basis." The average wholesale price per gallon multiplied by the decimal equivalent of any tax imposed by section 9502 (relating to imposition of tax), the product of which is rounded to the next highest tenth of a cent per gallon. The rate of tax shall be determined by the Department of Revenue on an annual basis beginning every January 1 and shall be published as a notice in the Pennsylvania Bulletin no later than the preceding December 15. In the event of a change in the rate of tax imposed by section 9502, the department shall redetermine the rate of tax as of the effective date of such change and give notice as soon as possible.

"Corporation." 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." Any person engaged in the retail sale of liquid fuels or fuels.

"Department." The Department of Revenue of the Commonwealth.

"Diesel fuel." Any liquid, other than liquid fuels, which is suitable for use as a fuel in a diesel-powered highway vehicle. The term includes kerosene.

"Distributor." Any person that:

(1) Produces, refines, prepares, blends, distills, manufactures or compounds liquid fuels or fuels in this Commonwealth for the person's use or for sale and delivery in this Commonwealth.

(2) Imports or causes to be imported from any other state or territory of the United States or from a foreign country liquid fuels or fuels for the person's use in this Commonwealth or for sale and delivery in and after reaching this Commonwealth, other than in the original package, receptacle or container.

(3) Imports or causes to be imported from any other state or territory of the United States liquid fuels or fuels for the person's use in this Commonwealth or for sale and delivery in this Commonwealth after they have come to rest or storage in the other state or territory, whether or not in the original package, receptacle or container.

(4) Purchases or receives liquid fuels or fuels in the original package, receptacle or container in this Commonwealth for the person's use or for sale and delivery in this Commonwealth from any person who has imported them from a foreign country.

(5) Purchases or receives liquid fuels or fuels in the original package, receptacle or container in this Commonwealth for the person's use in this Commonwealth or for sale and delivery in this Commonwealth from any person who has imported them from any other state or territory of the United States if the liquid fuels or fuels have not, prior to purchase or receipt, come to rest or storage in this Commonwealth.

(6) Receives and uses or distributes liquid fuels or fuels in this Commonwealth on which the tax provided for in this chapter has not been previously paid.

(7) Owns or operates aircraft, aircraft engines or facilities for delivery of liquid fuels to aircraft or aircraft engines and elects, with the permission of the Secretary of Revenue, to qualify and obtain a permit as a distributor.

(8) Exports liquid fuels or fuels other than in the fuel supply tanks of motor vehicles.

"Dyed diesel fuel." Any liquid, other than liquid fuels, which is suitable for use as a fuel in a diesel-powered highway vehicle and which is dyed pursuant to Federal regulations issued under section 4082 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 4082) or which is a dyed fuel for purposes of section 6715 of the Internal Revenue Code of 1986 (26 U.S.C. § 6715).

"Export." Accountable liquid fuels or fuels delivered out of State by or for the seller constitutes an export by the seller. Accountable liquid fuels or fuels delivered out of State by or for the purchaser constitutes an export by the purchaser.

"Fuels." Includes diesel fuel and all combustible gases and liquids used for the generation of power in aircraft or aircraft engines or used in an internal combustion engine for the generation of power to propel vehicles on

the public highways. The term does not include liquid fuels or dyed diesel fuel.

"Gallon equivalent basis." The amount of any alternative fuel as determined by the department to contain 114,500 BTUs.[1] The rate of tax on the amount of each alternative fuel as determined by the department under the previous sentence shall be the current liquid fuels tax and oil company franchise tax applicable to one gallon of gasoline.

"Highway." Every way or place open to the use of the public, as a matter of right, for purposes of vehicular travel.

"Import." Accountable liquid fuels or fuels delivered into this Commonwealth from out of State by or for the seller constitutes an import by the seller. Accountable liquid fuels or fuels delivered into this Commonwealth from out of State by or for the purchaser constitutes an import by the purchaser.

"Liquid fuels." All products derived from petroleum, natural gas, coal, coal tar, vegetable ferments and other oils. The term includes gasoline, naphtha, benzol, benzine or alcohols, either alone or when blended or compounded, which are practically and commercially suitable for use in internal combustion engines for the generation of power or which are prepared, advertised, offered for sale or sold for use for that purpose. The term does not include kerosene, fuel oil, gas oil, diesel fuel, tractor fuel by whatever trade name or technical name known having an initial boiling point of not less than 200 degrees fahrenheit and of which not more than 95% has been recovered at 464 degrees fahrenheit (ASTM method D-86), liquified[2] gases which would not exist as liquids at a temperature of 60 degrees fahrenheit and pressure of 14.7 pounds per square inch absolute or naphthas and benzols and solvents sold for use for industrial purposes.

"Magistrate." An officer of the minor judiciary. The term includes a district justice.

"Mass transportation systems." Persons subject to the jurisdiction of the Pennsylvania Public Utility Commission and municipality authorities that transport persons on schedule over fixed routes and derive 90% of their intrastate scheduled revenue from scheduled operations within the county in which they have their principal place of business or with contiguous counties.

"Permit." A liquid fuels permit or a fuels permit.

"Person." Every natural person, association or corporation. Whenever used in any provision prescribing and imposing a fine or imprisonment, the term as applied to associations means the partners or members and as applied to corporations means the officers thereof.

"Sale" and "sale and delivery." Includes the invoicing or billing of liquid fuels or fuels free of tax as provided in section 9005 (relating to taxpayer)

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[1] "BUTs" in enrolled bill.

[2] "liquefied" in enrolled bill.

from one distributor to another regardless of whether the purchasing distributor is an accommodation party for purposes of taking title or takes actual physical possession of the liquid fuels or fuels.

"Secretary." The Secretary of Revenue of the Commonwealth.

§ 9003. Liquid fuels and fuels permits; bond or deposit of securities.

(a) Permit required; violation.—A distributor may not engage in the use or sale and delivery of liquid fuels within this Commonwealth without a liquid fuels permit or engage in the use or sale and delivery of fuels within this Commonwealth without a fuels permit. Each day in which a distributor engages in the use or sale and delivery of liquid fuels within this Commonwealth without a liquid fuels permit or fuels without a fuels permit shall constitute a separate offense. For each such offense, the distributor commits a misdemeanor of the third degree.

(b) Application.—A person desiring to operate as a distributor shall file an application for a liquid fuels permit or a fuels permit, or both, with the department. The application for a permit must be made upon a form prescribed by the department and must set forth the name under which the applicant transacts or intends to transact business, the location of the place of business within this Commonwealth and such other information as the department may require. If the applicant has or intends to have more than one place of business within this Commonwealth, the application shall state the location of each place of business. If the applicant is an association, the application shall set forth the names and addresses of the persons constituting the association. If the applicant is a corporation, the application shall set forth the names and addresses of the principal officers of the corporation and any other information prescribed by the department for purposes of identification. The application shall be signed and verified by oath or affirmation by:

(1) the owner, if the applicant is an individual;

(2) a member or partner, if the applicant is an association; or

(3) an officer or an individual authorized in a writing attached to the application, if the applicant is a corporation.

(c) Permit issuance.—Upon approval of the application and the bond required in subsection (d), the department shall grant and issue to each distributor a permit for each place of business within this Commonwealth set forth in the application. Permits shall not be assignable and shall be valid only for the distributors in whose names they are issued. Permits shall be valid only for the transaction of business at the places designated. Permits shall be conspicuously displayed at the places for which they are issued. A permit shall expire on the May 31 next succeeding the date upon which it was issued.

(d) Surety bond.—A permit shall not be granted until the applicant has filed with the department a surety bond payable to the Commonwealth in an amount fixed by the department of at least $2,500. Every bond must have as surety an authorized surety company approved by the department. The bond must state that the distributor will faithfully comply with the provisions of

this chapter during the effective period of his permit. The department may require any distributor to furnish such additional, acceptable corporate surety bond as necessary to secure at all times the payment to the Commonwealth of all taxes, penalties and interest due under the provisions of this chapter and section 9502 (relating to imposition of tax). If a distributor fails to file the additional bond within ten days after written notice from the department, the department may suspend or revoke the permit and collect all taxes, penalties and interest due. For the purpose of determining whether an existing bond is sufficient, the department may by written notice require a distributor to furnish a financial statement in such form as it may prescribe. Upon failure of any distributor to furnish a financial statement within 30 days of written notice, the department may suspend or revoke the permit and shall collect all taxes, penalties and interest due by him.

(e) Surety discharge.—A surety on a bond furnished by a distributor as provided in this section shall be released and discharged from liability to the Commonwealth accruing on the bond after the expiration of 60 days from the date upon which such surety shall have lodged with the department a written request to be released and discharged. This provision shall not operate to relieve, release or discharge the surety from liability already accrued or which shall accrue before the expiration of the 60-day period. The department shall, upon receiving any such request, notify the distributor who furnished the bond. Unless the distributor, on or before the expiration of the 60-day period, files with the department a new bond, with corporate surety approved by and acceptable to the department, the department shall cancel the distributor's permit or permits. If a new bond is furnished by a distributor, the department shall cancel and surrender the old bond of the distributor as soon as it and the Office of Attorney General are[1] satisfied that all liability under the old bond has been fully discharged.

(f) Renewal.—Permits issued under the provisions of this chapter may be renewed annually, before June 1, upon an application being made to the department. No permit shall be renewed until the applicant files with the department a new surety bond in an amount fixed by the department and conditioned that the distributor will faithfully comply with the provisions of this chapter and section 9502.

(g) Interstate or foreign commerce.—Nothing contained in this chapter shall require the filing of any application or bond or the possession and display of a liquid fuels permit for the use or sale and delivery of liquid fuels in interstate or foreign commerce not within the taxing power of the Commonwealth or for the use of liquid fuels by the Federal Government.

(h) Financial guarantees.—Any person required by the provisions of this section to file a surety bond may, in lieu of the bond, deposit with the State Treasurer bonds of the United States or of the Commonwealth, the par value

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[1] "is" in enrolled bill.

of which is the amount of the surety bond required of such person, or present to the State Treasurer satisfactory evidence of financial guarantees in the form of an irrevocable letter of credit from a financial institution authorized to do business in this Commonwealth. The treasurer shall issue to the person a certificate of such deposit or financial guarantee. The person shall file the certificate with the department. Its securities or letter of credit deposited with the State Treasurer shall be held as a guarantee that the holder of the permit shall faithfully comply with the provisions of this chapter and section 9502 during the effective period of the permit. The securities or letter of credit shall be retained by the State Treasurer for a period of 60 days after the termination of the permit, and such securities or letter of credit shall not be released from any liability to the Commonwealth already accrued or which shall accrue before the expiration of the 60-day period. At the end of the 60-day period, the securities or letter of credit shall be returned to their owner only if all claims of the Commonwealth guaranteed by the deposit have been fully satisfied.

(i) Penalties.—Any person that assigns a permit or fails to display conspicuously a permit at the place for which it is issued commits a summary offense.

§ 9004. Imposition of tax, exemptions and deductions.

(a) Liquid fuels and fuels tax.—A permanent State tax of 12¢ a gallon or fractional part thereof is imposed and assessed upon all liquid fuels and fuels used or sold and delivered by distributors within this Commonwealth.

(b) Oil company franchise tax for highway maintenance and construction.—In addition to the tax imposed by subsection (a), the tax imposed by Chapter 95 (relating to taxes for highway maintenance and construction) shall also be imposed and collected on liquid fuels and fuels, on a cents-per-gallon equivalent basis, upon all gallons of liquid fuels and fuels as are taxable under subsection (a).

(c) Aviation gasoline tax.—In lieu of the taxes under subsections (a) and (b):

(1) A State tax of 1 1/2¢ a gallon or fractional part thereof is imposed and assessed upon all liquid fuels used or sold and delivered by distributors within this Commonwealth for use as fuel in propeller-driven piston engine aircraft or aircraft engines.

(2) A State tax of 1 1/2¢ a gallon or fractional part thereof is imposed and assessed upon all liquid fuels used or sold and delivered by distributors within this Commonwealth for use as fuel in turbine-propeller jet, turbojet or jet-driven aircraft or aircraft engines.

(d) Alternative fuels tax.—

(1) A tax is hereby imposed upon alternative fuels used to propel vehicles of any kind or character on the public highways. The rate of tax applicable to each alternative fuel shall be computed by the department on a gallon equivalent basis and shall be published as necessary by notice in the Pennsylvania Bulletin.

(2) The tax imposed in this section upon alternative fuels shall be reported and paid to the department by each alternative fuel dealer-user rather than by distributors under this chapter similar to the manner in which distributors are required to report and pay the tax on liquid fuels and fuels, and the licensing and bonding provisions of this chapter shall be applicable to alternative fuel dealer-users. The department may permit alternative fuel dealer-users to report the tax due for reporting periods greater than one month up to an annual basis provided the tax is prepaid on the estimated amount of alternative fuel to be used in such extended period. The bonding requirements may be waived by the department where the tax has been prepaid.

(e) Exceptions.—The tax imposed under subsections (a), (b), (c) and (d) shall not apply to liquid fuels, fuels or alternative fuels[1]:

(1) Delivered to the Federal Government on presentation of an authorized Federal Government exemption certificate or other evidence satisfactory to the department.

(2) Used or sold and delivered which are not within the taxing power of the Commonwealth under the Commerce Clause of the Constitution of the United States.

(3) Used as fuel in aircraft or aircraft engines, except for the tax imposed under subsection (c).

(4) Delivered to this Commonwealth, a political subdivision, a volunteer fire company, a volunteer ambulance service, a volunteer rescue squad, a second class county port authority or a nonpublic school not operated for profit on presentation of evidence satisfactory to the department.

(f) Single payment.—The tax imposed and assessed under this subsection shall be collected by and paid to the Commonwealth only once in respect to any liquid fuels, fuels and alternative fuels.

(g) Distributors to pay tax.—Distributors shall be liable to the Commonwealth for the collection and payment of the tax imposed by this chapter. The tax imposed by this chapter shall be collected by the distributor at the time the liquid fuels and fuels are used or sold and delivered by the distributor and shall be borne by the consumer.

(h) Losses to be allowed.—The department shall allow for handling and storage losses of liquid fuels and fuels that are substantiated to the satisfaction of the department.

§ 9005. Taxpayer.

(a) Duty of distributor.—Every distributor using or delivering liquid fuels and fuels upon which a tax is imposed by this chapter shall pay the tax into the State Treasury through the department.

(b) Delivery between distributors.—

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[1] "fules" in enrolled bill.

(1) Whenever liquid fuels and fuels are delivered within this Commonwealth by one distributor to another distributor holding a permit under this chapter, the distributor receiving the liquid fuels and fuels shall separately show, in that distributor's monthly reports to the department, all such deliveries from each distributor and shall pay the liquid fuels and fuels tax provided for by this chapter upon all such liquid fuels and fuels used or sold and delivered within this Commonwealth.

(2) The distributor making deliveries under paragraph (1) shall separately show those deliveries in that distributor's monthly reports to the department and shall then be exempt from the payment of the tax which would otherwise be imposed upon the liquid fuels and fuels so delivered.

(3) The distributor shall furnish to the department such information concerning such deliveries as the department may require.

(4) The department shall furnish to any distributor, upon request, a list of distributors holding permits under this chapter and their addresses.

(c) Recovery of tax payment.—Distributors may add the amount of the tax to the price of liquid fuels and fuels sold by them and shall state the rate of the tax separately from the price of the liquid fuels and fuels on all price display signs, sales or delivery slips, bills and statements which advertise or indicate the price of liquid fuels and fuels.

(d) Penalty.—A person who violates this section commits a summary offense.

§ 9006. Distributor's report and payment of tax.

(a) Monthly report.—For the purpose of ascertaining the amount of tax payable under this chapter, the distributor, on or before the 20th day of each month, shall transmit to the department on a form prescribed by the department a report, under oath or affirmation, of the liquid fuels and fuels used or delivered by that distributor within this Commonwealth during the preceding month. The report shall show the number of gallons of liquid fuels and fuels used or delivered within this Commonwealth during the period for which that report is made and any further information that the department prescribes. A distributor having more than one place of business within this Commonwealth shall combine in each report the use or delivery of liquid fuels and fuels at all such separate places of business.

(b) Computation and payment of tax.—

(1) The distributor, at the time of making the report under subsection (a), shall compute and pay to the department the tax due to the Commonwealth on liquid fuels and fuels used or sold and delivered by that distributor during the preceding month, less a discount, if the report is filed and the tax paid on time, computed as follows:

(i) 2%, if the tax amounts to $50,000 or less;

(ii) 1.5%, on tax in excess of $50,000 and not exceeding $75,000;

(iii) 1%, on tax in excess $75,000 and not exceeding $100,000; and

(iv) .5%, on tax in excess of $100,000.

(2) The discount under paragraph (1) shall not be computed on any tax imposed and remitted with respect to the oil company franchise tax imposed under sections 9004(b) (relating to imposition of tax, exemptions and deductions) and 9502 (relating to imposition of tax).

(c) Due dates.—The amount of all taxes imposed under the provisions of this chapter for each month shall be due and payable on the 20th day of the next succeeding month. Taxes due shall bear interest at the rate of 1% per month or fractional part of a month from the date they are due and payable until paid.

(d) Additional penalty.—If a distributor neglects or refuses to make any report and payment as required, an additional 10% of the amount of the tax due shall be added by the department and collected as provided. In addition to the added penalty, the permit of the distributor may be suspended or revoked by the department.

§ 9007. Determination and redetermination of tax, penalties and interest due.

(a) Determination.—If the department is not satisfied with the report and payment of tax made by any distributor under the provisions of this chapter, it is authorized to make a determination of the tax due by the distributor based upon the facts contained in the report or upon any information within its possession.

(b) Notice.—Promptly after the date of determination, the department shall send by registered mail a copy to the distributor. Within 90 days after the date upon which the copy of the determination was mailed, the distributor may file with the department a petition for redetermination of such tax. A petition for redetermination must state specifically the reasons which the petitioner believes allow the redetermination and must be supported by affidavit that it is not made for the purpose of delay and that the facts set forth are true. The department shall, within six months after the date of a determination, dispose of a petition for redetermination. Notice of the action taken upon any petition for redetermination shall be given to the petitioner promptly after the date of redetermination by the department.

(c) Administrative appeal.—Within 60 days after the date of mailing of notice by the department of the action taken on any petition for redetermination filed with it, the distributor against whom the determination was made may by petition request the Board of Finance and Revenue to review the action. A petition for review must state specifically the reason upon which the petitioner relies or must incorporate by reference the petition for redetermination in which the reasons have been stated. The petition must be supported by affidavit that it is not made for the purpose of delay and that the facts set forth are true. If the petitioner is a corporation or association, the affidavit must be made by one of its principal officers. A petition for review may be amended by the petitioner at any time prior to the hearing. The board shall act finally in disposition of petitions filed with it within six months after they have been received. In the event of the failure to dispose of a petition within six months, the action taken by the department upon the petition for

redetermination shall be deemed sustained. The board may sustain the action taken on the petition for redetermination or it may redetermine the tax due upon such basis as it deems according to law and equity. Notice of the action of the board shall be given to the department and to the petitioner.

(d) Sanctions.—If a distributor neglects or refuses to make a report and payment of tax required by this chapter, the department shall estimate the tax due by such distributor and determine the amount due for taxes, penalties and interest. There shall be no right of review or appeal from this determination. Upon neglect or refusal, permits issued to the distributor may be suspended or revoked by the department and required to be surrendered to the department.

§ 9008. Examination of records and equipment.

(a) General rule.—The department or any agent appointed in writing by the department is authorized to examine the books, papers, records, storage tanks and any other equipment of any distributor, dealer or any other person pertaining to the use or sale and delivery of liquid fuels and fuels taxable under this chapter to verify the accuracy of any report or payment made under the provisions of this chapter or to ascertain whether or not the tax imposed by this chapter has been paid. Any information gained by the department as the result of the reports, investigations or verifications required to be made shall be confidential.

(b) Penalty.—A person divulging confidential information under subsection (a) commits a misdemeanor of the third degree.

§ 9009. Retention of records by distributors and dealers.

(a) Record retention period.—

(1) The distributor and dealer shall maintain and keep for a period of two years a record of liquid fuels and fuels used or sold and delivered within this Commonwealth by the distributor, together with invoices, bills of lading and other pertinent papers as required by the department.

(2) A person purchasing liquid fuels and fuels taxable under this chapter from a distributor for the purpose of resale shall maintain for a period of two years a record of liquid fuels and fuels received, the amount of tax paid to the distributor as part of the purchase price, delivery tickets, invoices and bills of lading and such other records as the department requires.

(3) Additional records include:

(i) A distributor shall keep a record showing the number of gallons of:

(A) all diesel fuel inventories on hand at the first of each month;

(B) all diesel fuel refined, compounded or blended;

(C) all diesel fuel purchased or received, showing the name of the seller and the date of each purchase or receipt;

(D) all diesel fuel sold, distributed or used, showing the name of the purchaser and the date of sale, distribution or use; and

(E) all diesel fuel lost by fire or other accident.

(ii) A dealer shall keep a record showing the number of gallons of:

(A) all diesel fuel inventories on hand at the first of each month;

(B) all diesel fuel purchased or received, showing the name of the seller, the date of each purchase or receipt;

(C) all diesel fuel sold, distributed or used; and

(D) all diesel fuel lost by fire or other accident.

(b) Penalty.—Any person violating any of the provisions of this section commits a misdemeanor of the third degree.

§ 9010. Disposition and use of tax.

(a) Payment to Liquid Fuels Tax Fund.—One-half cent per gallon of the tax collected under section 9004(a) (relating to imposition of tax, exemptions and deductions) shall be paid into the Liquid Fuels Tax Fund of the State Treasury. The money paid into that fund is specifically appropriated for the purposes set forth in this chapter.

(b) Payment to counties.—

(1) The money paid into the Liquid Fuels Tax Fund, except that which is refunded, shall be paid to the respective counties of this Commonwealth on June 1 and December 1 of each year in the ratio that the average amount returned to each county during the three preceding years bears to the average amount returned to all counties during the three preceding years.

(2) All money received by the counties under paragraph (1) shall be deposited and maintained in a special fund designated as the County Liquid Fuels Tax Fund. No other money shall be deposited and commingled into the County Liquid Fuels Tax Fund, except in a county which does not have sufficient money in such special fund to provide for payments designated in the current annual budget.

(i) Payment from that special fund shall be for the following purposes:

(A) Construction, reconstruction, maintenance and repair of roads, highways, bridges and curb ramps from a road or highway to provide for access by individuals with disabilities consistent with Federal and State law.

(B) Property damages and compensation of viewers for services in eminent domain proceedings involving roads, highways and bridges.

(C) Construction, reconstruction, operation and maintenance of publicly owned ferryboat operations.

(D) Interest and principal payments on road, bridge or publicly owned ferryboat operation bonds or sinking fund charges for such bonds becoming due within the current calendar year.

(E) Acquisition, maintenance, repair and operation of traffic signs and traffic signals.

(F) Erection and maintenance of stop and go signal lights, blinkers and other like traffic control devices.

(G) Indirect costs, including benefit costs, overhead and other administrative charges for those county employees directly engaged in eligible projects. Expenditures under this clause may not exceed 10% of the yearly allocation to the county.

(H) Individual vehicle liability insurance for equipment purchased under the fund. Expenditures under this clause may not exceed 10% of the yearly allocation to the county.

(ii) The county for the purpose of payments under subparagraph (i) may borrow and place in the special fund money not in excess of the liquid fuels tax funds to be received during the current calendar year. Loans shall be repaid from the special fund before the expiration of the current calendar year and not thereafter. Money so received and deposited shall be used only for the following purposes:

(A) Construction, reconstruction, maintenance and repair of roads, highways, bridges and curb ramps from a road or highway to provide for access by individuals with disabilities consistent with Federal and State law.

(B) Payment of property damage and compensation of viewers for services in eminent domain proceedings involving roads, highways and bridges occasioned by the relocation or construction of highways and bridges.

(C) Construction, reconstruction, operation and maintenance of publicly owned ferryboat operations.

(D) Payment of interest and sinking fund charges on bonds issued or used for highways and bridge purposes and publicly owned ferryboat operations.

(E) Acquisition, maintenance, repair and operation of traffic signs and traffic signals.

(iii) No expenditures from the special fund shall be made by the county commissioners for new construction on roads, bridges, curb ramps or publicly owned ferryboat operations without the approval of the plans for construction by the department.

(iv) The county commissioners shall not allocate money from the special fund to any political subdivision within the county until the application and the contracts or plans for the proposed expenditures have been made on a form prescribed by the department.

(v) The county commissioners of each county shall make to the department, by January 15 for the period ending December 31, on a form prescribed by the department a report showing the receipts and expenditures of the money received by the county from the Commonwealth under this section. Copies of the report shall be transmitted to the department and to the Department of the Auditor General for audit.

(vi) Upon the failure of the county commissioners to file the report or to make any payments, allocations or expenditures in compliance

with this section, the department shall withhold further payments to the county out of the Liquid Fuels Tax Fund until the delinquent report is filed, the money is allocated or the expenditures for the prior 12 months are approved by the department.

(c) Allocation of money.—The county commissioners may allocate and apportion money from the County Liquid Fuels Tax Fund to the political subdivisions within the county in the ratio as provided in this subsection. When the unencumbered balance in the County Liquid Fuels Tax Fund is greater than the receipts for the 12 months immediately preceding the date of either of the reports, the county commissioners shall notify the political subdivisions to make application within 90 days for participation in the redistribution of the unencumbered balance. Redistribution shall be effected within 120 days of the date of either of the reports. The county commissioners may distribute the unencumbered balance in excess of 50% of the receipts for the previous 12 months to the political subdivisions making application in the following manner:

(1) Fifty percent of the money shall be allocated and apportioned among the political subdivisions within the county in the ratio which the total mileage of all roads and streets maintained by each political subdivision making application bears to the total mileage of all the roads and streets maintained by all political subdivisions making application in the county as of January 1 of the year in which an allocation is made.

(2) The remaining 50% of the money shall be allocated and apportioned among the same political subdivisions on a population basis in the ratio which the population in each political division making an application bears to the total population of all political subdivisions making application.

(3) In the case of an emergency and upon approval of the Department of Transportation, the county commissioners may enter into contracts and obligations for the expenditure of the estimated liquid fuels tax receipts for a period not exceeding two years and receive a credit for expenditures against subsequent receipts. No county may carry over any credit balance against future fuel tax receipts from year to year.

(d) Copies of laws.—The Department of Transportation shall annually issue to the county commissioners and to the corporate authorities of the political subdivisions in the counties copies of the laws with special reference to pertinent provisions and regulations relating to the receipts and expenditures of any funds authorized to be apportioned, allocated or expended.

(e) Appropriation.—

(1) Notwithstanding the provisions of this subsection and notwithstanding the provisions of section 3 of the act of June 1, 1956 (1955 P.L.1944, No.655), referred to as the Liquid Fuels Tax Municipal

Allocation Law, the entire revenues from 1¢ of the tax imposed by this chapter[1] are hereby appropriated to the Department of Transportation.

(2) The following apply insofar as consistent with section 9102 (relating to distribution of State highway maintenance funds):

(i) Except as provided in subparagraph (ii), the department shall use the revenues appropriated to it under this subsection for the maintenance and resurfacing of secondary roads.

(ii) The revenues shall be apportioned by the department for expenditure in the several counties of this Commonwealth in the ratio that the total mileage of State highways in any county bears to the total mileage of State highways in this Commonwealth.

(3) The remaining tax collected under section 9004(a), the tax of 1 1/2¢ a gallon imposed and assessed on liquid fuels used or sold and delivered for use as a fuel in propeller-driven aircraft or aircraft engines, the tax of 1 1/2¢ a gallon on liquid fuels used or sold and delivered for use as a fuel in jet or turbojet-propelled aircraft or aircraft engines in lieu of other taxes, all penalties and interests and all interest earned on deposits of the Liquid Fuels Tax Fund shall be paid into the Motor License Fund. This money is specifically appropriated for the same purposes for which money in the Motor License Fund is appropriated by law.

§ 9011. Discontinuance or transfer of business.

(a) Notice to department.—If a distributor engaged in the use or sale and delivery of liquid fuels or fuels ceases to be a distributor by reason of the discontinuance, sale or transfer of the distributor's business, the distributor shall notify the department in writing within ten days after the discontinuance, sale or transfer takes effect. The notice shall give the date of discontinuance and, in the event of a sale or transfer of the business, the name and address of the purchaser or transferee of the business. The distributor, within ten days after the discontinuance, sale or transfer takes effect, shall make a report and pay all taxes, interest and penalties due and shall surrender the permit to the department.

(b) Penalty.—A person violating any of the provisions of subsection (a) commits a misdemeanor of the third degree.

§ 9012. Suspension or revocation of permits.

(a) Notice and hearings.—If the department finds that the holder of a permit has failed to comply with the provisions of this chapter, the department shall notify the permit holder and afford the permit holder a hearing on five days' written notice.

(b) Action by department.—After a hearing, the department may revoke or suspend the permit. Upon suspending or revoking a permit, the department shall request the holder of the permit to surrender to it immediately all permits or duplicates issued to the holder.

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[1] "act" in enrolled bill.

(c) Surrender of permits.—The holder shall surrender promptly all permits to the department as requested.

(d) Penalty.—A person who refuses to surrender a permit suspended or revoked by the department commits a summary offense.

§ 9013. Lien of taxes, penalties and interest.

(a) General rule.—All unpaid taxes imposed by this chapter and section 9502 (relating to imposition of tax) and penalties and interest due shall be a lien upon the franchises and property of the taxpayer after the lien has been entered and docketed of record by the prothonotary or similar officer of the county where the property is situated.

(b) Priority of lien.—The lien under subsection (a) shall have priority from the date of its entry of record and shall be fully paid and satisfied out of the proceeds of a judicial sale of property subject to the lien 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. The lien under subsection (a) shall be subordinate to mortgages and other liens existing and recorded or entered of record prior to the recording of the tax lien.

(c) Discharge of lien.—In the case of a judicial sale of property subject to a lien imposed under this section, 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.

(d) Procedure.—

(1) Statements of all taxes imposed under this chapter and section 9502, together with penalties and interest, certified by the secretary, may be transmitted to the prothonotaries or similar officers of the respective counties of this Commonwealth to be entered of record and indexed as judgments are now indexed.

(2) A writ of execution may directly issue upon the lien without the issuance and prosecution to judgment of a writ of scire facias.

(3) Not less than ten days before issuance of execution on a lien, notice of the filing and the effect of the lien shall be sent by registered mail to the taxpayer at the taxpayer's last known post office address.

(4) A prothonotary or similar officer may not require, as a condition precedent to the entry of a lien under this section, the payment of costs incident to entry of the lien.

(5) A lien under this section shall continue for five years from the date of entry and may be revived and continued under the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code.

(e) Statement to department.—A sheriff, receiver, trustee, assignee, master or other officer may not sell the property or franchises of a distributor without first filing with the department a statement containing all of the following information:

(1) Name or names of the plaintiff or party at whose instance or upon whose account the sale is made.

(2) Name of the person whose property or franchise is to be sold.

(3) The time and place of sale.

(4) The nature and location of the property.

(f) Notice concerning lien.—The department, after receiving notice under subsection (e), shall furnish to the sheriff, receiver, trustee, assignee, master or other officer having charge of the sale a certified copy or copies of all liquid fuels tax, fuels tax and oil company franchise tax penalties and interest on file in the department as liens against the person or, if there are no such liens, a certificate showing that fact. The certified copy or copies or certificate shall be publicly read by the officer in charge of the sale at and immediately before the sale of the property or franchise of the person.

(g) Lien certificate.—The department shall furnish to a person making application, upon payment of the prescribed fee, a certificate showing the amount of all liens for liquid fuels tax, fuels tax or oil company franchise tax, penalties and interest under the provisions of this chapter on record in the department against any person.

§ 9014. Collection of unpaid taxes.

(a) When collection commences.—[1]

(1) The department shall call upon the Office of Attorney General to collect taxes, penalties or interest imposed by this chapter or section 9502 (relating to imposition of tax) at the following times:

(i) When payment is not made within 30 days of determination unless a petition for redetermination has been filed.

(ii) When payment is not made within 30 days of the date of redetermination unless a petition for review has been filed.

(iii) When payment is not made within 90 days from the date of the decision of the Board of Finance and Revenue upon a petition for review.

(iv) When payment is not made by the expiration of the board's time for acting upon a petition if no appeal has been made.

(2) The department shall call upon the Office of Attorney General to collect taxes, penalties or interest imposed by this chapter or section 9502 if there is a judicial sale of property subject to lien under section 9013 (relating to lien of taxes, penalties and interest).

(b) Commission.—On all claims for taxes, penalties and interest which are collected after the institution of suit by the Office of Attorney General, the distributor shall pay an Attorney General's commission of 5% upon the amount of recovery not exceeding $10,000 and of 3% upon the amount of recovery in excess of $10,000. Payment of the Attorney General's commission shall not affect liability for any penalty or interest payable under

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[1]".—If:" in enrolled bill.

this chapter. The Attorney General's commission shall be paid into the State Treasury through the department for credit to the General Fund. The amount of the Attorney General's commission shall be added to the amount of the claim against the distributor and shall be a lien against the distributor's property in like manner as the amount of the claim.

(c) Trust fund for certain taxes.—

(1) All taxes collected by a taxpayer from a purchaser under this chapter or Chapter 95 (relating to taxes for highway maintenance and construction) which have not been properly refunded to the purchaser shall constitute a trust fund for the Commonwealth.

(2) Subject to the provisions of paragraph (3), the trust shall be enforceable against the taxpayer and any person, other than a purchaser to whom a refund has been properly made, receiving any part of the fund without consideration or knowing that the taxpayer is committing a breach of trust.

(3) A person receiving payment of a lawful obligation of the taxpayer from the fund shall be presumed to have received the payment in good faith and without any knowledge of the breach of trust.

(4) Unpaid taxes, penalties and interest due for which a trust may be enforced against the partners or members of an association or the officers of a corporation under this section shall also be a lien upon franchises and property of a partner, member or officer under section 9013.

§ 9015. Reports from common carriers.

(a) Duty.—A person transporting liquid fuels 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 liquid fuels made to points within this Commonwealth.

(b) Forms.—The report shall be on a form prescribed by the department and shall state the names and addresses of the consignor and consignee, the number of gallons of liquid fuels transported and any other information which the department may require.

(c) Penalty.—Any person violating any of the provisions of this section commits a misdemeanor of the third degree.

§ 9016. Reward for detection of violations.

The secretary is authorized to pay a reward, out of money appropriated from the Motor License Fund for the purpose, to any person, other than a State officer or employee, who reports a distributor who has failed to file the reports required and pay the tax imposed by this chapter. The reward shall be in an amount the secretary deems proper, not exceeding 10% of the amount of the tax, penalty and interest due. A reward shall not be paid unless collection of the delinquent tax has been made or the distributor has been convicted for violating this chapter.

§ 9017. Refunds.

(a) Federal Government; errors.—The Board of Finance and Revenue may refund to distributors taxes, penalties and interest paid by them on liquid fuels and fuels delivered to the Federal Government or paid as the result of an error of law or of fact. Claims for refunds must be made under the procedure prescribed by the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code.

(b) Farm tractors and volunteer fire rescue and ambulance services.—A person shall be reimbursed the full amount of the tax imposed by this chapter if the person uses or buys liquid fuels and fuels on which the tax imposed by this chapter has been paid and consumes them:

(1) in the operation of any nonlicensed farm tractor or licensed farm tractor when used off the highways for agricultural purposes relating to the actual production of farm products; or

(2) in the operation of a vehicle of a volunteer fire company, volunteer ambulance service or volunteer rescue squad.

(c) Motorboats and watercraft.—

(1) When the tax imposed by this chapter has been paid and the fuel on which the tax has been imposed has been consumed in the operation of motorboats or watercraft upon the waters of this Commonwealth, including waterways bordering on this Commonwealth, the full amount of the tax shall be refunded to the Boat Fund on petition to the board in accordance with prescribed procedures.

(2) In accordance with such procedures, the Pennsylvania Fish and Boat Commission shall biannually calculate the amount of liquid fuels consumed by the motorcraft and furnish the information relating to its calculations and data as required by the board. The board shall review the petition and motorboat fuel consumption calculations of the commission, determine the amount of liquid fuels tax paid and certify to the State Treasurer to refund annually to the Boat Fund the amount so determined. The department shall be accorded the right to appear at the proceedings and make its views known.

(3) This money shall be used by the commission acting by itself or by agreement with other Federal and State agencies only for the improvement of the waters of this Commonwealth on which motorboats are permitted to operate and may be used for the development and construction of motorboat areas; the dredging and clearing of water areas where motorboats can be used; the placement and replacement of navigational aids; the purchase, development and maintenance of public access sites and facilities to and on waters where motorboating is permitted; the patrolling of motorboating waters; the publishing of nautical charts in those areas of this Commonwealth not covered by nautical charts published by the United States Coast and Geodetic Survey or the United States Army Engineers and the administrative expenses arising out of such activities; and other similar purposes.

(d) Off-highway recreational vehicles.—

(1) When the tax imposed by this chapter has been paid on fuel used in off-highway recreational vehicles within this Commonwealth, an amount equal to the revenue generated by the tax, but not derived therefrom, may be appropriated through the General Fund to the Department of Conservation and Natural Resources. It is the intent of this chapter that all proceeds from the tax paid on fuel used in off-highway recreational vehicles within this Commonwealth be paid without diminution of the Motor License Fund.

(2) The Department of Conservation and Natural Resources shall biennially calculate the amount of liquid fuel consumed by off-highway recreational vehicles and furnish information relating to its calculations and data as may be required by the Appropriations Committee of the Senate and the Appropriations Committee of the House of Representatives.

(3) The General Assembly shall review the fuel consumption calculations of the Department of Conservation and Natural Resources to determine the amount of liquid fuels tax paid on liquid fuels consumed in the propulsion of off-highway recreational vehicles in this Commonwealth and may annually appropriate to the Department of Conservation and Natural Resources the amount so determined.

(4) Money appropriated under paragraph (3) shall be used for the benefit of motorized and nonmotorized recreational trails by the Department of Conservation and Natural Resources as provided in the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240, 105 Stat. 1914).

(e) Aircraft.—A person shall be reimbursed in the amount of the excess if a person uses liquid fuel on which a tax imposed by this chapter in excess of 1 1/2¢ per gallon has been paid in:

(1) a propeller-driven aircraft or aircraft engines; or

(2) a jet or turbojet-propelled aircraft or aircraft engines.

(f) Claims, forms, contents, penalties.—A claim for reimbursement shall be made upon a form to be furnished by the board and must include, in addition to such other information as the board may by regulation prescribe, the name and address of the claimant; the period of time and the number of gallons of liquid fuels used for which reimbursement is claimed; a description of the farm machinery, aircraft or aircraft engine in which liquid fuels have been used; the purposes for which the machinery, aircraft or aircraft engine has been used; and the size of the farm and part in cultivation on which such liquid fuels have been used. A claim must contain statements that the liquid fuels for which reimbursement is claimed have been used only for purposes for which[1] reimbursements are permitted; that records of the amounts of such

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[1] "reimbursement is claimed have been used only for purposes for which" omitted in enrolled bill.

fuels used in each piece of farm machinery, aircraft or aircraft engine have been kept; and that no part of the claim has been paid except as stated. A claim must contain a declaration that it and accompanying receipts are true and correct to the best of the claimant's knowledge and must be signed by the claimant or the person claiming on the claimant's behalf. A claim must be accompanied by receipts indicating that the liquid fuels tax was paid on the liquid fuels or that the excess liquid fuels tax was paid on the liquid fuels for which reimbursement is claimed. Records of purchases of liquid fuels and use in each tractor or powered machinery, aircraft or aircraft engine shall be kept for a period of two years. A claim must be made annually for the preceding year ending on June 30. A claim must be submitted to the board by September 30. The board shall refuse to consider any claim received or postmarked later than that date. The claimant must satisfy the board that the tax has been paid and that the liquid fuels have been consumed by the claimant for purposes for which reimbursements are permitted under this section. The action of the board in granting or refusing reimbursement shall be final. The board shall deduct the sum of $1.50, which shall be considered a filing fee, from every claim for reimbursement granted. Filing fees are specifically appropriated to the board and to the department for expenses incurred in the administration of the reimbursement provisions of this chapter. The board has the power to refer to the department for investigation any claim for reimbursement filed under the provisions of this chapter. The department shall investigate the application and report to the board. A person making any false or fraudulent statement for the purpose of obtaining reimbursement commits a misdemeanor of the third degree.

(g) Fund sources.—Refunds and reimbursements of money allowed under this section shall be paid from the Motor License Fund and the Liquid Fuels Tax Fund in amounts equal to the original distribution and payment of such money into those funds. Reimbursement for taxes paid on liquid fuels consumed in the operation of tractors and powered machinery for purposes relating to the actual production of farm products and reimbursement for taxes paid on liquid fuels used in aircraft or aircraft engines shall be paid out of the Motor License Fund.

(h) Appropriations; approval by Governor.—As much of the money in the Motor License Fund and the Liquid Fuels Tax Fund as may be necessary is appropriated to the board for the purpose of making refunds and reimbursements as authorized in this section. Estimates of the amounts to be expended from these funds for refunds and reimbursements by the board must be submitted to the Governor for approval or disapproval as in the case of other appropriations to administrative departments, boards and commissions. It is unlawful to honor any requisition of the board for the expenditure of money under this section in excess of the estimates approved by the Governor.

§ 9018. Violations.

(a) Failure to report and pay; examinations; unlawful acts.—

(1) A person commits a misdemeanor of the third degree if the person does any of the following:

(i) Fails, neglects or refuses to make the report and pay the tax, penalties and interest imposed by this chapter.

(ii) Refuses to permit the department or any agent appointed by it in writing to examine books, records, papers, storage tanks or other equipment pertaining to the use or sale and delivery of liquid fuels within this Commonwealth.

(iii) Makes any incomplete, false or fraudulent report.

(iv) Attempts to do anything to avoid a full disclosure of the amount of liquid fuels used or sold and delivered or to avoid the payment of the tax, penalties and interest due.

(2) Any partner or member of an association and any officer of a corporation whose duty it was to make the report required by this chapter shall be subject to imprisonment under paragraph (1) for failing to make the report required and attend to the payment of the tax imposed by this chapter.

(3) The fine under paragraph (1) shall be in addition to any penalty imposed by any other section or subsection of this chapter.

(4) Upon conviction under paragraph (1), all of the convicted distributor's permits shall be revoked.

(b) Unlawful acts.—A person may not do any of the following:

(1) Knowingly display or knowingly possess a fictitious, suspended, canceled, revoked or altered permit.

(2) Knowingly permit the use of a permit by a person not entitled to the permit.

(3) Display or represent as one's own any permit not issued to the person displaying it.

(4) Use a false or fictitious name or give a false or fictitious address in any application or form required under this chapter.

(5) Commit a fraud in any application, record or report.

(c) Penalty.—A person who violates any of the provisions of this section commits a misdemeanor of the third degree. The fine shall be in addition to any penalty imposed by any other section or subsection of this chapter. Upon conviction, all of the convicted person's permits shall be revoked.

§ 9019. Diesel fuel importers and transporters; prohibiting use of dyed diesel fuel on highways; violations and penalties.

(a) Diesel fuel transporters.—

(1) A person must obtain a diesel fuel transporter's permit in order to import, export or transport within this Commonwealth diesel fuel, other than dyed diesel fuel, via a pipeline or by means of a tank-truck vehicle, railroad tank car or vessel with a capacity of 2,000 gallons or more. The permit application must be filed with the department upon a form prescribed by the department.

(2) A fee of $5 shall be charged by the department for the issuance of a permit.

(3) Every person required to obtain a permit under paragraph (1) 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 diesel fuel, other than dyed diesel fuel, and retail deliveries of kerosene in quantities of less than 300 gallons per delivery to any point within this Commonwealth, including any interstate or intrastate movements of diesel fuel and any exports. The form shall be prescribed by the department and may require any of the following:

(i) The names and addresses of the cosigner and cosignee, the seller or other party from whom the diesel fuel was received, the buyer or other party to whom the diesel fuel was delivered and points to and from which the diesel fuel was shipped or delivered.

(ii) The method of shipment or delivery.

(iii) The number of gallons.

(4) All shipments of diesel fuel, including dyed diesel fuel, shall be accompanied by sales delivery tickets or bills of lading. Shipments for which the required documentation does not accompany the shipment or for which the notice required with respect to dyed diesel fuel does not comply with the requirements of subsection (b) shall be presumed to not be shipments of dyed diesel fuel.

(b) Notices with respect to dyed diesel fuel.—

(1) A notice, stating: DYED DIESEL FUEL, NONTAXABLE USE ONLY, PENALTY FOR TAXABLE USE, shall be:

(i) Provided by the terminal operator to any person that receives dyed diesel fuel at a terminal rack of that operator.

(ii) Provided by the seller of dyed diesel fuel to its buyer if the fuel is located outside the bulk transfer or terminal system and is not sold from a retail pump posted in accordance with the requirements of subparagraph (iii).

(iii) Posted by a seller on any retail pump where it sells dyed diesel fuel for use by its buyer.

(2) The notice required under paragraph (1)(i) or (ii) shall be provided by the time of the removal or sale and shall appear on shipping papers, bills of lading and invoices accompanying the sale or removal of the fuel.

(3) The department may designate any Federal notice provision which is substantially similar to a provision of this subsection as satisfying any notice requirement of this subsection.

(c) Dyed diesel fuel not to be used on public highways.—

(1) A person may not operate a motor vehicle on the public highways of this Commonwealth if the fuel supply tanks of the vehicle contain dyed diesel fuel unless permitted to do so under a Federal law or regulation relating to the use of dyed diesel fuel on the highways.

(2) A person may not sell or deliver any dyed diesel fuel knowing or having reason to know that the fuel will be consumed in a highway use. A person who dispenses dyed diesel fuel from a retail pump that is not properly labeled with the notice required by subsection (b) or who knowingly delivers dyed diesel fuel into the storage tank of such a pump shall be presumed to know the fuel will be consumed on the highway.

(d) Violations.—A person may not do any of the following:

(1) Import, export or transport within this Commonwealth diesel fuel, other than dyed diesel fuel, without the permit required under subsection (a)(1).

(2) Transport diesel fuel in this Commonwealth without the permit required under subsection (a)(1).

(3) Operate a motor vehicle on the public highways of this Commonwealth with dyed diesel fuel in the fuel supply tank except as provided in subsection (c)(1).

(4) Sell or deliver dyed diesel fuel from a retail pump unless the pump is properly labeled as required under subsection (b).

(e) Criminal penalty.—A person who violates any provision of subsection (d) commits a summary offense and shall, upon conviction, be sentenced to pay a fine of not less than $100 nor more than $2,000 or to imprisonment for not more than 90 days, or both.

(f) Civil penalty.—In addition to any penalty provided in subsection (d), a person who violates subsection (c)(1) or (2) shall be assessed a penalty of $1,000 or $10 per gallon of dyed diesel fuel involved in the sale, delivery or consumption, whichever amount is more. This amount shall be multiplied by the number of prior penalties imposed on the violator under this subsection. The resulting product shall be the penalty to be imposed.

(g) Enforcement.—

(1) Any revenue enforcement agent or other person authorized by the department may enter any place where fuels are produced or stored and may physically inspect any tank, reservoir or other container that can be used for the production, storage or transportation of diesel fuel, diesel fuel dyes or diesel fuel markers. Inspection may also be made of any equipment used for or in connection with the production, storage or transportation of diesel fuel, diesel fuel dyes or diesel fuel markers. This includes any equipment used for the dyeing or marking of diesel fuel. Books, records and other documents may be inspected to determine tax liability. An agent may detain a vehicle, vessel or railroad tank car placed on a customer's siding for use or storage for the purpose of inspecting fuel tanks or fuel storage tanks as necessary to determine the amount and composition of the fuel. An agent may take and remove samples of diesel fuel in reasonable quantities necessary to determine the composition of the fuel.

(2) A person that refuses to allow an inspection as provided in this subsection commits a summary offense and shall, upon conviction, be

sentenced to pay a fine of not less than $1,000 nor more than $2,000 for each refusal.

§ 9020. Disposition of fees, fines and forfeitures.

Except as otherwise provided in this chapter, fees, fines, penalties and bail forfeited, collected under this chapter, shall be paid into the State Treasury, through the department, and credited to the Motor License Fund.

§ 9021. Certified copies of records.

The fee for a certified copy or certified photostatic copy of any department record shall be $1. Fees shall not be charged for certified copies or certified photostatic copies of any department record furnished to Federal, State, county or municipal authorities.

§ 9022. Uncollectible checks.

If a check issued in payment of tax, penalty or interest imposed by this chapter is returned to the department as uncollectible, the department shall charge a fee of $5 per hundred dollars or fractional part thereof, plus all protest fees, to the person presenting the check to the department.

Section 13. Sections 9101, 9102 and 9104 of Title 75 are amended to read:

§ 9101. Definitions.

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

["ASHMA." One hundred percent of all additional State highway maintenance appropriations and executive authorizations in excess of 95% of the total of all counties' base allocations.

"Base allocation." The total highway maintenance appropriations and executive authorizations received by a county maintenance district for either fiscal year 1978-1979 or, based on the best current information available to the department and certified by the Governor as of May 21, 1980, fiscal year 1979-1980, whichever is greater.

"BD." The number of square feet of State highway bridge deck in each county as a proportion of the total amount of square feet of State highway bridge deck in this Commonwealth.]

"ASHMA." All additional State funds from the highway maintenance appropriation, the secondary roads, maintenance and resurfacing executive authorization and supplemental distributions pursuant to section 9502(a)(2)(i) and (3)(ii) (relating to imposition of tax) in excess of all counties' base allocations.

"Base allocation." The annual expenditure for routine maintenance operations by a county maintenance district averaged over the immediately preceding five years.

"BMD." The Bridge Maintenance Deficiency index based upon bridge safety inspections conducted by certified professionals who have physically evaluated the condition of all State highway bridges greater than or equal to eight feet in length on a periodic basis in accordance with the National

Bridge Inspection Standards. The criteria for determining any State highway bridge maintenance deficiencies shall include, but not be limited to, the priority and urgency of maintenance needs and the bridge deck area of all bridges greater than or equal to eight feet in length.

"c." When used alone or in conjunction with any formula part, any given county.

"Highway maintenance." A program to preserve, repair and restore a system of existing State roadways with its elements to its designed or accepted configuration. System elements include but are not limited to travelway surfaces, shoulders, roadsides, drainage facilities, bridges, tunnels, signs, markings, lighting and fixtures. Included in the program are such traffic services as lighting and signal operation, snow and ice removal and operation of roadside rest areas. Highway maintenance programs are developed to offset the effects of weather, organic growth, deterioration, traffic wear, damage and vandalism. Deterioration would include effects of aging, material failures and design and construction faults to existing State highways.

"LM." The number of actual State highway lane miles in each county as a proportion of the total number of State highway lane miles in this Commonwealth.

"Routine maintenance operations." Highway maintenance activities including traffic, roadside and winter services performed by a county maintenance district and also including costs incurred for personnel services, operational expenses and fixed assets. The term shall not include the costs of roadway repair and restoration.

"RPQ." The Relative Pavement Quality Index which shall be based upon a Road Quality Report which entails **[the use of trained professionals to physically evaluate]** ***the evaluation of*** the conditions of the highways in each county on a periodic basis. The criteria for determining any road deficiencies shall include but not be limited to road surface, foundation, drainage, shoulders and other safety features such as road striping, guardrails, median barriers and signs. The index shall provide a reasonable comparison of highway quality and conditions between all counties. The report ***indicating methodology utilized and the resulting data*** shall be submitted annually to the Transportation Committees of the Senate and House of Representatives for their review.

["SI." The snow index for each county is the product of an average of the immediately preceding four calendar years snow days for each county times the number of State highway lane miles in each county as a proportion of the sum of the products (snow days times lane miles) for every county in this Commonwealth.

"Snow day." Any day in which the snow fall reached or exceeded one inch in depth.]

"Vehicle miles." The total number of miles traveled by all vehicles on State maintained roads within a county as determined by the department.

"VM." The number of vehicle miles traveled in each county as a proportion of the total vehicle miles traveled in this Commonwealth.

§ 9102. Distribution of State highway maintenance funds.

(a) General rule.—The department shall distribute **[all]** highway appropriations and executive authorizations for State highway maintenance in the various county maintenance districts in the following manner:

(1) For any fiscal year in which the total highway maintenance appropriations and executive authorizations are equal to the combined total base allocations for all the county maintenance districts, each maintenance district shall receive its base allocation.

(2) For any fiscal year in which the total highway maintenance appropriations and executive authorizations are less than the combined total base allocations of all the county maintenance districts, each maintenance district's share shall be reduced, to the extent necessary to bring the total allocation within the funding limits, in the same proportion that each county's base allocations bears to the combined total of all counties' base allocations.

(3) For any fiscal year in which the total highway maintenance appropriations and executive authorizations are greater than the combined total base allocations of all the county maintenance districts, the funds shall be distributed based upon the formula in subsection (b), but notwithstanding the formula calculation for any particular county, no county shall receive less than its base allocation in any year.

(b) Formula for distribution.—The department shall distribute to each county maintenance district:

(1) an amount equal to **[95% of]** the county's base allocation; plus

(2) an amount based on the following **[incremented]** ***incremental*** formula in which each county shall receive a portion of **[100% of all]** State highway maintenance appropriations and executive authorizations in excess of **[95% of]** the total of all counties' base allocations, expressed in the following manner:

ASHMA (40% RPQc **[+ 15% BDc]** + 15% ***BMDc*** + ***30%*** LMc + 15% VMc **[+ 15% SIc]**).

(c) Establishment of applicable data.—The applicable data for all counties corresponding to each individual factor in the incremental formula in subsection (b) shall be established and certified by the Governor **[based on the best current information available as of May 21, 1980, and such data shall be updated and recertified on]** ***by*** May 1 of each year **[thereafter]** based on the best information available at that time for the immediately preceding **[12-month period.]** ***five-year period with the exception of BMD. The submission of data relative to BMD shall only include the immediately preceding 12-month period beginning with fiscal year 1997-1998. In each subsequent fiscal year, an additional year of data relative to BMD shall be added until such time as data from a five-year period has been accumulated.***

(d) Effect of insufficient funds.—In the event sufficient funds are not available to fully fund all county maintenance districts under the formula in subsection (b) due to the hold harmless provision in subsection (a), each county maintenance district receiving an increase above its base allocation shall have its share reduced in the proportion that the increase over its base allocation bears to the total increases over the base allocation of all counties entitled to an increase, to the extent necessary to bring the total allocations within the funding limit.

§ 9104. Standards and methodology for data collection.

The department shall initially determine the standards and methodology for data collection and shall, within ten days of the effective date of this chapter,[1] **[promulgate them in the form of regulations and]**[2] publish them in the Pennsylvania Bulletin as a basis for making such determinations in subsequent years.

Section 14. Title 75 is amended by adding a section to read:

§ 9106. Dirt and gravel road maintenance.

(a) Statement of purpose.—It is the intent and purpose of this section:

(1) To fund safe, efficient and environmentally sound maintenance of sections of dirt and gravel roads which have been identified as sources of dust and sediment pollution.

(2) To establish a dedicated and earmarked funding mechanism that provides streamlined appropriation to the county level and enables local officials to establish fiscal and environmental controls.

(b) General rule.—Of the funds available under section 9502(a)(1) (relating to imposition of tax), $1,000,000 shall be annually distributed to the Department of Conservation and Natural Resources for the maintenance and mitigation of dust and sediment pollution from forestry roads. Funds in the amount of $4,000,000 shall be appropriated annually to the State Conservation Commission and administered in a nonlapsing, nontransferable account restricted to maintenance and improvement of dirt and gravel roads. The State Conservation Commission shall apportion the funds based on written criteria it develops to establish priorities based on preventing dust and sediment pollution. In the first fiscal year, top priority shall be given to specific trouble spot locations already mapped by the Task Force on Dirt and Gravel Roads and available from the department.

(c) Apportionment criteria.—The apportionment criteria shall:

(1) Be based on verified need to correct pollution problems related to the road.

(2) Consider the total miles of dirt and gravel roads maintained by local municipalities or State agencies that are open to the public during any period of the year.

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[1] "[," in enrolled bill.

[2] "] and" in enrolled bill.

(3) Consider total miles of dirt and gravel roads within watersheds protected as of November 1996 as exceptional value or high quality waters of this Commonwealth.

(4) Consider allowances for the local costs of limestone aggregate.

(5) Consider the commitments of grant applicants to comply with the nonpollution requirements established.

(d) State Conservation Commission.—The State Conservation Commission shall:

(1) Adopt performance standards.

(2) Provide for a system of audit.

(3) Annually assess the program and annually report to the Transportation Committee of the Senate and the Transportation Committee of the House of Representatives on its acceptance and effectiveness.

The State Conservation Commission shall be entitled to withhold and expend the costs of the audit and report preparation up to the maximum limit of 2% of the funds administered.

(e) Quality assurance boards.—Apportioned funds are to be dispersed to county conservation districts which apply for them and are to be used by State agencies and local municipalities that maintain roads within the county and fulfill certain requirements specified under subsection (g). Within the conservation district a quality assurance board shall be impaneled to establish and administer the grant program. The four-member quality assurance board is to be comprised of a nonvoting chairman appointed by the conservation district directors and one local representative appointed by each of the following entities:

(1) The Federal Natural Resources[1] Conservation Service.

(2) The Pennsylvania Fish and Boat Commission.

(3) The county conservation district.

If circumstances require, the chairman may vote to decide a tie vote.

(f) Administration.—The quality assurance board's administration of funding shall include:

(1) Adoption of written criteria to assure equal access for all eligible applicants within specified funding categories.

(2) Provision of documentation that application has been made for all required permits.

(3) Adoption of procedures that assure a minimal amount of procedural paperwork.

(4) Adoption of written criteria to specify priorities.

(5) Adoption of funding categories to provide for separate budgeting for:

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[1] "Resource" in enrolled bill.

(i) Department of Conservation and Natural Resources, Bureau of Forestry roads.

(ii) Municipal government roads.

(iii) Road demonstration projects.

(iv) Training grants restricted to 15% of funding.

(v) Administrative costs, limited to actual documented costs and restricted to a maximum of 10%.

(6) Adoption of incentives for training road managers and equipment operators.

(7) Adoption of standards that prohibit use of materials or practices which are environmentally harmful.

(8) Adoption of site inspection requirements to verify completion of work.

(g) Grant applications.—Each grant application shall:

(1) Be specific to one work location or one type of work except that all State forest roads within one county and within one forest district may be authorized on a single grant.

(2) Expedite the approval process by allowing the quality assurance board to insert additional requirements that complete and qualify the grant for approval and which when accepted by the applicant become a binding obligation on the applicant.

(3) Require minimal handwritten information such as location, problem being solved, basis of cost estimate, project work schedule, basis of successful completion and type and amount of pollution reduced.

The grant application shall not exceed one page with reference to published standards being acceptable.

Section 15 Section 9501 of Title 75 is repealed.

Section 16. Sections 9401, 9402, 9403(b)(1) and (2), 9404(a) and (c), 9405(a)(1) and (2)(i), (b), (c)(2), (d) and (i), 9501, 9502(a), (d), (e), (f), (g), (h), (i), (j) and (k) of Title 75 are amended to read:

§ 9401. Short title of chapter.

This chapter shall be known and may be cited as the Liquid Fuels and **[Fuel Use Tax]** ***Fuels 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,]** ***Chapter 90 (relating to liquid fuels and fuels tax),*** and any terms defined therein shall have the same meanings when used in this chapter.

§ 9403. Revenue agents; powers.

* * *

(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 Chapter 90 (relating to liquid fuels and fuels tax)*** 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]** ***and Chapter 90.***

* * *

§ 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 ***or fuels*** into this Commonwealth unless the person possesses a valid liquid fuels ***or fuels*** permit.

(2) A common or contract carrier to knowingly transport liquid fuels ***or fuels*** into this Commonwealth on behalf of any person who does not possess a valid liquid fuels ***or 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 ***and fuels*** within this Commonwealth unless a liquid fuels permit or permits ***or 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]** ***Chapter 90 (relating to liquid fuels and fuels tax).*** Each day in which any distributor shall engage in the use or sale and delivery of liquid fuels ***or fuels*** within this Commonwealth without a liquid fuels permit or permits ***or 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]** ***dealer*** 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]** ***section 9009 (relating to retention of records by distributors and dealers).***

(6) A person to assign or attempt to assign a liquid fuels ***or 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]** ***fuels permit as required by Chapter 90.***

(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]** ***fuels permit as required by Chapter 90.***

* * *

(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]** ***or Chapter 90.***

* * *

§ 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 ***or fuels*** produced in or imported into this Commonwealth by any distributor who does not possess a valid liquid fuels tax permit ***or fuels 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]** ***section 9003 (relating to liquid fuels and fuels permits; bond or deposit of securities)***, except liquid fuels ***or 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 ***or 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]** ***Chapter 90 (relating to liquid fuels and fuels tax)***; and

* * *

(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]** ***chapter or Chapter 90.***

(c) Limit on return of property.—

* * *

(2) Any liquid fuels ***or 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 ***or 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 ***or 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 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.

* * *

(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]** ***or have*** reason to know that it was being used to transport liquid fuels ***or fuels*** in violation of the provisions of **[section 4 of The Liquid Fuels Tax Act]** ***section 9404 (relating to violations and penalties) or 9019 (relating to diesel fuel importers and transporters; prohibiting use of dyed diesel fuel on highways; violations and penalties)***, the court in its discretion may order the **[same]** ***motor vehicle, vessel or conveyance*** returned to the claimant.

* * *

[§ 9501. Definitions.

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

"Average wholesale price." The average wholesale price per gallon of all taxable petroleum products, excluding the Federal excise tax and all liquid fuels taxes, as determined by the department. In no case shall the average wholesale price be less than 90¢ or more than $1.25 per gallon.

"Department." The Department of Revenue of the Commonwealth.

"Motor vehicle." All vehicles, engines, machines or mechanical contrivances which are propelled by internal combustion engines or motors.

"Oil company." Every corporation, association, joint-stock association, partnership, limited partnership, copartnership, natural individual or individuals, and any business conducted by a trustee or trustees wherein evidence of ownership is evidenced by certificate or written instrument, formed for or engaged in the sale or the importation of petroleum products within this Commonwealth.

"Person." Any oil company subject to tax under this chapter.

"Petroleum products." Any product of the industrial processing of crude oil and its fractionation products manufactured or refined or used for the generation of power used in an internal combustion engine for the generation of power to propel motor vehicles of any kind or character on the public highways. Petroleum products include but are not limited to gasoline, diesel fuel, kerosene, propane and any other product of crude oil used for such purpose. Petroleum products do not include any product used for residential heating purposes or in the generation of electricity by a public utility, rural electric association or municipality.

"Petroleum revenue." An amount derived by multiplying the number of gallons of petroleum products, otherwise subject to liquid fuels taxes, at the time of their first sale to wholesale or retail dealers in this Commonwealth for marketing and distribution or to a direct user plus the number of gallons used by the first seller in this Commonwealth by the average wholesale price. A deduction shall be allowed for returned merchandise. Sales of petroleum products are allocable to this Commonwealth if the property is delivered or shipped to a purchaser located within this Commonwealth regardless of the F.O.B. point or other conditions of the sale. The importation of petroleum products into this Commonwealth upon which this tax has not been imposed or collected shall constitute a sale within this Commonwealth and the importing purchaser shall be deemed an oil company for the purposes of this chapter. Subsequent exportation of these imported products from this Commonwealth shall constitute a deduction from taxable revenue.]

§ 9502. Imposition of tax.

(a) General rule.—

(1) **[Every oil company incorporated or organized now or hereafter by or under any law of this Commonwealth, or of any other state, territory or by the United States or any foreign government or dependency, and doing business in this Commonwealth, shall pay an]** ***An*** "oil company franchise tax for highway maintenance and construction" which shall be an excise tax of 60 mills **[upon each dollar of its petroleum revenues for the privilege of exercising its corporate franchise or of doing business, or of employing capital, or of owning or leasing property in this Commonwealth in a corporate or organized capacity, or of maintaining an office in this Commonwealth, or of having employees in this Commonwealth, for all or any part of any**

calendar year.] ***is hereby imposed upon all liquid fuels and fuels as defined and provided in Chapter 90 (relating to liquid fuels and fuels tax), and such tax shall be collected as provided in section 9004(b) (relating to imposition of tax, exemptions and deductions).***

(2) An additional 55 mills is hereby imposed on **[each dollar of petroleum revenues]** ***all liquid fuels and fuels as defined and provided in Chapter 90, and such tax shall also be collected as provided in section 9004(b),*** the proceeds of which shall be distributed as follows:

(i) Forty-two percent to county maintenance districts for highway maintenance. This allocation shall be made according to the formula provided in section 9102(b)(2) (relating to distribution of State highway maintenance funds). This allocation shall be made in addition to and not a replacement for amounts normally distributed to county maintenance districts under section 9102.

(ii) Seventeen percent for highway capital projects.

(iii) Thirteen percent for bridges.

(iv) Two percent for bridges identified as county or forestry bridges.

(v) Twelve percent for local roads pursuant to section 9511(c) (relating to basic allocation to municipalities).

(vi) Fourteen percent for toll roads designated pursuant to the act of September 30, 1985 (P.L.240, No.61), known as the Turnpike Organization, Extension and Toll Road Conversion Act, to be appropriated under section 9511(h).

(3) An additional 38.5 mills is hereby imposed upon all liquid fuels and fuels as defined and provided in Chapter 90 and such tax shall also be collected as provided in section 9004(b), the proceeds of which shall be deposited in The Motor License Fund and distributed as follows:

(i) Twelve percent to municipalities on the basis of and subject to the provisions of the act of June 1, 1956 (1955 P.L.1944, No.655), referred to as the Liquid Fuels Tax Municipal Allocation Law, is appropriated.

(ii) Eighty-eight percent to the department is appropriated as follows:

(A) Forty-seven percent for distribution in accordance with section 9102(b)(2) for fiscal year 1997-1998.

(B) Fifty-three percent for a Statewide highway restoration, betterment and resurfacing program for fiscal year 1997-1998.

(C) Fifty-seven percent for distribution in accordance with section 9102(b)(2) for fiscal year 1998-1999.

(D) Forty-three percent for a Statewide highway restoration, betterment and resurfacing program for fiscal year 1998-1999.

(E) Sixty-seven percent for distribution in accordance with section 9102(b)(2) for fiscal year 1999-2000.

(F) Thirty-three percent for a Statewide highway restoration, betterment and resurfacing program for fiscal year 1999-2000.

(G) Seventy-seven percent for distribution in accordance with section 9102(b)(2) for fiscal year 2000-2001.

(H) Twenty-three percent for a Statewide highway restoration, betterment and resurfacing program for fiscal year 2000-2001.

(I) One hundred percent for distribution in accordance with section 9102(b)(2) for fiscal year 2001-2002 and each year thereafter.

(J) For any fiscal year beginning with 1997-1998 through and including fiscal year 2000-2001, the department shall make supplemental maintenance program payments from the Statewide highway restoration betterment program to those county maintenance districts for which the total highway maintenance appropriations and executive authorizations in accordance with section 9102(b) would be less than the amount received in 1996-1997 from the highway maintenance appropriation, the Secondary Roads-Maintenance and Resurfacing Executive Authorization, the Highway Maintenance Excise Tax Executive Authorization and the Highway Maintenance Supplemental Appropriation.

The words and phrases used in this paragraph shall have the meanings given to them in section 9101 (relating to definitions). This one-time allocation shall be made in addition to and is not a replacement for amounts normally distributed to county maintenance districts under section 9102.

(4) An additional 55 mills is hereby imposed upon all fuels as defined and provided in chapter 90 and such tax shall also be collected as provided in section 9004(b) upon such fuels, the proceeds of which shall be deposited in The Highway Bridge Improvement Restricted Account within the Motor License Fund and is hereby appropriated.

* * *

[(d) Proof of use for nontaxable purpose.—The department may require purchasers of petroleum products to provide the selling oil company with documentation in such form and under such terms and conditions as the department may prescribe to substantiate any portion of its purchases which are or will be used for a nontaxable purpose.

(e) Absence of proof of use for nontaxable purpose.—If at the time of a sale or importation of petroleum products by an oil company it cannot be reasonably determined whether the products will be used for a taxable purpose, it shall be presumed that the products are being used for a taxable purpose. The department may provide, in such form and under such terms as it may prescribe, a credit against any tax due and payable for any subsequent month upon submission to the department of such proof as it may require that any products presumed taxable were ultimately used for a nontaxable purpose.

(f) Change to use for taxable purpose.—Any purchaser of petroleum products for a nontaxable purpose which provides documentation to an

oil company pursuant to subsections (d) and (e) and which subsequently sells or uses those products for a taxable purpose shall be deemed an oil company for the purposes of this chapter.

(g) Credit in absence of proof of nontaxable purpose.—The department may provide, in any case in which the purchaser is unable to provide documentation proving that petroleum products are used for a nontaxable purpose, for the payment of a credit to the exempt purchaser based on the average wholesale price of petroleum products determined pursuant to regulations adopted by the department. For purposes of calculating credits, the exempt purchaser of petroleum products upon which the tax imposed by this chapter has previously been paid shall be deemed to have paid the tax and be eligible to receive a credit for any exempt purchase or use.

(h) False information concerning product use.—Any purchaser from an oil company subject to tax under this chapter which intentionally provides an oil company with false or fraudulent proof of the ultimate use of petroleum products, which enables that oil company to obtain a credit or exemption it was not entitled to, or who directly receives a credit for taxes paid, shall be liable to pay to the department 200% of the credit so obtained, plus interest as provided in section 9503(c) (relating to reports and payment of tax).

(i) Election to be taxed as oil company.—Any purchaser or user of petroleum products may, upon application to and approval by the department, elect to be deemed an oil company for the purposes of this chapter and to pay the taxes imposed by this chapter. Any purchaser or user electing to be taxed as an oil company may acquire petroleum products without the imposition of tax upon the supplier of the petroleum products.

(j) Limitation on collection of tax.—The tax imposed by this chapter shall be collected once on any petroleum products sold or used in this Commonwealth.

(k) Motor carriers road tax.—The tax imposed by this chapter shall be included as part of the tax currently in effect for calculating credits and taxes payable pursuant to Chapter 96 (relating to motor carriers road tax), based on the average wholesale price of petroleum products determined pursuant to regulations adopted by the department.]

Section 17. Sections 9503, 9504, 9505, 9506, 9507, 9508, 9509, 9510 and 9511.1 of Title 75 are repealed.

Section 18. The definition of "motor fuel" in section 9602 of Title 75 is amended to read:

§ 9602. Definitions.

The following words and phrases when used in this chapter and in Chapter 21 (relating to motor carriers road tax identification markers) shall have the

meanings given to them in this section and in section 2101.1 (relating to definitions) unless the context clearly indicates otherwise:

* * *

"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**] ***"fuels," "liquid fuels" and "alternative fuels" as defined in section 9002 (relating to definitions).***

* * *

Section 19. Sections 9603 and 9606 of Title 75 are amended to read:

§ 9603. Imposition of tax.

(a) General rule.—Every motor carrier shall pay a road tax equivalent to the rate per gallon [**of the**] ***currently in effect on*** Pennsylvania liquid fuels [**tax which is currently in effect plus an additional tax of 6¢ per gallon**], ***fuels or other alternative fuels as provided in section 9004(a), (b), (c) and (d) (relating to imposition of tax, exemptions and deductions),*** calculated on the amount of motor fuel used in its operations on highways within this Commonwealth.

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

§ 9606. 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[, **except that the additional tax of 6¢ per gallon imposed under section 9603 (relating to imposition of tax) shall be deposited in the Highway Bridge Improvement Restricted Account within the Motor License Fund**].

Section 20. The additional revenue derived from increases in fees specified under 75 Pa.C.S. §§ 1912, 1913, 1914, 1915, 1916, 1917, 1921, 1922, 1923, 1924, 1925, 1926, 1926.1, 1927, 1929, 1932, 1933 and 1952 shall be deposited in the Motor License Fund and is hereby appropriated for the use of the Department of Transportation for new highway capital projects. Of this amount $28,000,000 of the proceeds deposited in the Motor License Fund pursuant to this section is hereby appropriated to the Pennsylvania Turnpike Commission annually, to be distributed in the monthly amount of $2,333,333.33, for toll roads designated under the act of September 30, 1985 (P.L.240, No.61), known as the Turnpike Organization, Extension and Toll Road Conversion Act. This section shall operate as a pledge, by the Commonwealth to an individual or entity that acquires a bond issued by the commission, to:

(1) secure the portion of the money described in this section and distributed under this section; and

(2) not limit or alter the rights vested in the commission to the appropriation and distribution of the money set forth in this section.

Section 21. (a) It is the intent of this act to move the collection point of both the fuel use tax and oil company franchise tax to the distributor level currently used for the collection of liquid fuels tax. It is also the intent of this act that no fuels or liquid fuels will be subject to double taxation as a result of the movement of the point of collection. The Department of Revenue is authorized to take reasonable and necessary steps to prevent such double taxation.

(b) The addition of 75 Pa.C.S. Ch. 90 is a codification of 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 is intended as a continuation of those acts.[1]

(c) Notwithstanding the repeal of the Fuel Use Tax Act and the movement of the point of taxation for fuels to the distributor level, it is the intent of this act that dealer-users shall, after the effective date of the change in the point of taxation, remain liable for and continue to report and pay the fuel use tax on the use of any fuels upon which the tax imposed by 75 Pa.C.S. § 9004 has not been previously imposed and paid. The department is authorized to prescribe by published notice reasonable measures for such reporting and payment.

(d) For purposes of the "cents-per-gallon equivalent basis" computation provided in 75 Pa.C.S. §§ 9002 and 9004 for the period from the effective date of such provisions to the following January 1, the department shall employ an average wholesale price of 90¢, and no determination or notice of that price is required.

Section 22. (a) The following acts are repealed to the extent specified:

Act of May 21, 1931 (P.L.149, No.105), known as The Liquid Fuels Tax Act, absolutely.

Act of January 14, 1952 (1951 P.L.1965, No.550), known as the Fuel Use Tax Act, absolutely.

Article XI-B of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, absolutely.

Act of July 12, 1974 (P.L.458, No.161), referred to as the Liquid Fuels Additional Tax Act, absolutely.

(b) All other acts and parts of acts are repealed insofar as they are inconsistent with this act.

Section 23. This act shall take effect as follows:

(1) The amendment or addition of 75 Pa.C.S. §§ 1318, 4702, 4904, 4908, 4921 and 4923 shall take effect in 60 days or July 1, 1997, whichever occurs first.

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[1] "that act" in enrolled bill.

(2) The amendment of 75 Pa.C.S. § 1916 shall take effect January 1, 1998.

(3) The amendment or addition of 75 Pa.C.S. Ch. 90 and §§ 9502(a)(4), 9602, 9603 and 9606 shall take effect October 1, 1997.

(4) The addition of 75 Pa.C.S. § 9502(a)(3) shall take effect May 1, 1997.

(5) Section 22 of this act shall take effect October 1, 1997.

(6) This section shall take effect immediately.

(7) The remainder of this act shall take effect July 1, 1997.

APPROVED—The 17th day of April, A.D. 1997.

THOMAS J. RIDGE