

ment with an employer, who has not accepted or complied with the provisions of section three hundred five, or shall file a claim petition with the board against such employer, he may file a certified copy thereof with the prothonotary of the court of common pleas of any county. The prothonotary shall enter the amount stipulated in any such agreement or claimed in any such petition as judgment against the employer, *and where the amount so stipulated or claimed is for total and permanent disability, such judgment shall be in the sum of thirty thousand dollars.* If the agreement be approved by the department, or compensation awarded as claimed in the petition, the amount of compensation stipulated in the agreement or claimed in the petition shall be a lien, as of the date when the agreement or petition was filed with the prothonotary. Pending the approval of the agreement or the award of compensation, no other lien which may be attached to the employer's property during such time shall gain priority over the lien of such agreement or award; but no execution shall issue on any compensation judgment before the approval of the agreement or the award of compensation on the said petition.

* * * * *

Effective date.

Section 7. This act shall take effect January 30, 1960.

APPROVED—The 28th day of December, A. D. 1959, in the sum of \$15,000. I withhold my approval from the remainder of said appropriation because it will not be necessary in this biennial period.

DAVID L. LAWRENCE

No. 748

AN ACT

Amending the act of March 6, 1956 (P. L. 1228), entitled, as amended, "An act to provide revenue for purposes of public education by imposing a tax on the sale, use, storage, rental or consumption of certain personal property and certain services; providing for licenses, reports and payment of tax, interest and penalties, assessments, collections, liens, reviews and appeals; conferring powers and imposing duties upon the Department of Revenue, public officers, manufacturers, wholesalers, retailers, corporations, partnerships, associations and individuals and making an appropriation," defining or re-defining certain words, terms and phrases; clarifying the scope of the exemption for vessels; imposing a tax upon the occupancy of hotel rooms; prescribing the procedure for the raising of certain taxpayer defenses; providing for notice of liens; imposing the burden of proof on the department in certain proceedings; and providing for the application of general laws in the administration and enforcement of this act.

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

Selective Sales and Use Tax Act.

Section 1. The title of the act of March 6, 1956 (P. L. 1228), known as the "Selective Sales and Use Tax Act," amended April 15, 1959 (P. L. 20), is amended to read:

Title of act of March 6, 1956, P. L. 1228, amended April 15, 1959, P. L. 20, further amended.

An Act

To provide revenue for * purposes of public education by imposing a tax on the sale, use, storage, rental or consumption of certain personal property and certain services *and upon the occupancy of hotel rooms*; providing for licenses, reports and payment of tax, interest and penalties, assessments, collections, liens, reviews and appeals; *prescribing crimes and offenses and penalties therefor*; *providing for the application of general laws in the administration and enforcement of this act*; conferring powers and imposing duties upon the Department of Revenue, public officers, manufacturers, wholesalers, retailers, *operators*, corporations, partnerships, associations and individuals and making an appropriation.

New title.

Section 2. Clause (a) of section 2 of the act, amended November 21, 1959 (Act No. 559), is amended to read:

Clause (a), section 2 of the act, amended November 21, 1959, Act No. 559, further amended.

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

(a) "Soft Drinks"—All nonalcoholic beverages, whether carbonated or not, such as soda water, ginger ale, coca cola, lime cola, pepsicola, Dr. Pepper, fruit juice when plain or carbonated water, flavoring or syrup is added, carbonated water, orangeade, lemonade, root beer or any and all preparations, commonly referred to as "soft drinks," of whatsoever kind, and are further described as including any and all beverages, commonly referred to as "soft drinks," which are made with or without the use of any syrup. The term "soft drinks" shall not include natural fruit or vegetable juices or their concentrates, *or non-carbonated fruit juice drinks containing not less than twenty-five per cent (25%) by volume of natural fruit juices or of fruit juice which has been reconstituted to its original state*, or natural concentrated fruit or vegetable juices reconstituted to their original state, whether any of the foregoing natural juices are frozen or unfrozen, sweetened or unsweetened, seasoned with salt or spice or unseasoned, nor shall the term "soft drinks" include coffee, coffee substitutes, tea,

* "the" in original.

cocoa, natural fluid milk or non-carbonated drinks made from milk derivatives.

* * * * *

Subclause 2, clause (k) and clause (l), section 203 of the act, amended April 15, 1959, P. L. 20, further amended.

Section 3. Subclause 2 of clause (k) and clause (l) of section 203 of the act, amended April 15, 1959, (P. L. 20), are amended to read:

Section 203. Exclusions from Tax.—The tax imposed by section 201 shall not be imposed upon

* * * * *

(k) * * *

(2) Sale at retail of tangible personal property or services used or consumed in building, rebuilding, repairing and making additions to or replacements in and upon vessels designed for commercial use of registered tonnage of fifty tons or more upon special order of the purchaser, or when rebuilt, repaired or enlarged, or when replacements are made upon order of or for the account of the owner.

(1) The sale at retail or use of tangible personal property or services to be used or consumed for ship cleaning or maintenance or as fuel, supplies, ships' equipment, ships' stores or sea stores on vessels to be operated principally outside the limits of the Commonwealth.

* * * * *

Section 4. The act is amended by adding, after article III., a new article to read:

The act is amended by adding a new article IV., sections 401, 402 and 403.

ARTICLE IV.

HOTEL OCCUPANCY TAX

Section 401. Definitions.—(a) For the purposes of this article IV. only the following words, terms and phrases shall have the meaning ascribed to them in this subsection, except where the context clearly indicates a different meaning:

(1) "Hotel." A building or buildings in which the public may, for a consideration, obtain sleeping accommodations. The term "hotel" shall not include any charitable, educational or religious institution summer camp for children, hospital or nursing home.

(2) "Occupant." A person (other than a "permanent resident," as defined herein,) who, for a consideration, uses, possesses or has a right to use or possess any room or rooms in a hotel under any lease, concession, permit, right of access, license or agreement.

(3) "Occupancy." The use or possession or the right to the use or possession by any person (other than a

“permanent resident,” as defined herein,) of any room or rooms in a hotel for any purpose or the right to the use or possession of the furnishings or to the services and accommodations accompanying the use and possession of the room or rooms.

(4) “Operator.” Any person operating a hotel.

(5) “Permanent resident.” Any occupant who has occupied or has the right to occupancy of any room or rooms in a hotel for at least thirty consecutive days.

(6) “Rent.” The consideration received for occupancy valued in money, whether received in money or otherwise, including all receipts, cash, credits and property or services of any kind or nature, and also any amount for which the occupant is liable for the occupancy without any deduction therefrom whatsoever.

(b) The following words, terms and *phrases and words, terms and phrases of similar import, when used in articles III., V. and VI. of this act for the purposes of those articles only, shall, in addition to the meaning ascribed to them by section 2 of this act, have the meaning ascribed to them in this subsection, except where the context clearly indicates a different meaning:

(1) “Maintaining a place of business in this Commonwealth,” being the operator of a hotel in this Commonwealth.

(2) “Purchase at retail,” occupancy.

(3) “Purchase price,” rent.

(4) “Purchaser,” occupant.

(5) “Sale at retail,” the providing of occupancy to an occupant by an operator.

(6) “Tangible personal property,” occupancy.

(7) “Vendor,” operator.

(8) “Services,” occupancy.

(9) “Use,” occupancy.

Section 402. Imposition of Tax.—There is hereby imposed an excise tax of four per cent of the rent upon every occupancy of a room or rooms in a hotel in this Commonwealth, which tax shall be collected by the operator from the occupant and paid over to the Commonwealth as herein provided.

Section 403. Seasonal Tax Returns.—Notwithstanding any other provisions in this act, the department may, by regulation, waive the requirement for the filing of quarterly returns in the case of any operator whose hotel is operated only during certain seasons of the year, and may provide for the filing of returns by such persons at times other than those provided by section 520.

* “phases” in original.

Section 547 of the act, amended May 24, 1956, P. L. 1707, further amended.

Section 5. Section 547 of the act, amended May 24, 1956 (P. L. 1707), is amended to read:

Section 547. Collection upon Failure to Request Re-assessment, Review or Appeal.—The department may collect any tax:

(a) If an assessment of tax is not paid within ten days or thirty days, as the case may be, after notice thereof to the taxpayer, and no petition for reassessment has been filed;

(b) Within sixty days from the date of reassessment, if no petition for review has been filed;

(c) Within sixty days from the date of the decision of the Board of Finance and Revenue upon a petition for review, or of the expiration of the board's time for acting upon such petition, if no appeal has been made; and

(d) In all cases of judicial sales, receiverships, assignments or bankruptcies.

In any such case in a proceeding for the collection of such taxes, the person against whom they were assessed shall not be permitted to set up any ground of defense that might have been determined by the department, the Board of Finance and Revenue or the courts: *Provided, That the defense of failure of the department to mail notice of assessment or reassessment to the taxpayer and the defense of payment of assessment or reassessment may be raised in proceedings for collection by a motion to stay the proceedings.*

Subsection (b), section 548 of the act, amended November 21, 1959, Act No. 559, further amended.

Section 6.—Subsection (b) of section 548 of the act, amended November 21, 1959 (Act No. 559), is amended to read:

Section 548. Lien for Taxes.—* * *

(b) Priority and Effect of Lien on Judicial Sale.—All such liens shall have priority to, and be fully paid and satisfied out of, the judicial sale before any other obligation, judgment, claim, lien or estate with which the property may subsequently become charged or for which it may subsequently become liable; subject, however, to mortgage or other liens existing and duly recorded at the time the tax lien is recorded, save and except the cost of sale and of the writ upon which it is made. There shall be no inquisition or condemnation upon any judicial sale of real estate made by the Commonwealth pursuant to the provisions hereof. The lien of the taxes, interest and penalties, shall continue for five years from the date of entry, and may be revived and continued in the manner now or hereafter provided for the renewal of judgments, and a writ of execution may directly issue upon such lien without the issuance and prosecution to judgment of a writ of scire facias [but]: *Provided, That not less than*

ten days before issuance of any execution on the lien, notice of the filing and the effect of the lien shall be sent by registered mail to the taxpayer at his last known post office address: And provided further, That the said lien shall have no effect upon any stock of goods, wares or merchandise regularly sold or leased in the ordinary course of business by the person against whom said lien has been entered, unless and until a writ of execution has been issued and a levy made upon said stock of goods, wares and merchandise.

Section 7. Subsection (b) of section 572 of the act, added May 9, 1957 (P. L. 114), is amended to read:

Subsection (b), section 572 of the act, added May 9, 1957, P. L. 114, further amended.

Section 572. Penalties.—* * *

(b) Attempt to Evade or Defeat Tax. Any person who wilfully attempts, in any manner, to evade or defeat the tax imposed by this act, or the payment thereof, or to assist any other person to evade or defeat the tax imposed by this act, or the payment thereof, or to receive a refund improperly, shall, in addition to other penalties provided by law, be liable for a penalty equal to one-half of the total amount of the tax evaded.

In any direct proceeding arising out of a petition for reassessment or refund as provided in this act, in which an issue of fact is raised with respect to whether a return is fraudulent or with respect to the propriety of the imposition by the department of the penalty prescribed in this subsection (b), the burden of proof with respect to such issue shall be upon the department.

Section 8. Section 601 of the act, amended May 24, 1956 (P. L. 1707), is amended to read:

Section 601 of the act, amended May 24, 1956, P. L. 1707, further amended.

Section 601. Saving [Clause] *Clauses (a)* Notwithstanding anything contained in any law to the contrary, the validity of any law or any ordinance, or part of any law or of any ordinance, or any resolution or part of any resolution, and any amendments or supplements thereto, now or hereafter enacted or adopted by the Commonwealth or any political subdivision thereof, providing for or relating to the imposition, levy or collection of any tax, shall not be affected or impaired by anything contained in this act.

(b) Nothing contained in this act shall be deemed to repeal, suspend, modify or render inoperative any provision of the general laws of this Commonwealth, heretofore or hereafter enacted, prescribing any criminal offenses and penalties therefor, and the criminal offenses and penalties therefor prescribed by this act shall be, in addition to any criminal offenses prescribed by the general laws of this Commonwealth, which may arise out of the same transaction or transactions.

Specific repeals.

Section 9. The act of March 6, 1956 (P. L. 1256), known as "The Hotel Occupancy Tax Act," is repealed. Nothing contained in this section shall be construed to affect or terminate any prosecutions or other proceedings pending under the provisions of the act of March 6, 1956 (P. L. 1256), known as "The Hotel Occupancy Tax Act," or of the general laws of this Commonwealth prior to this amendment, or to prevent the commencement or further prosecution of any proceedings for violation of the act of March 6, 1956 (P. L. 1256), known as "The Hotel Occupancy Tax Act" or of the general laws of this Commonwealth.

Effective dates.

Section 10. (a) The provisions of this act amending clause (a) of section 2 and clause (1) of section 203 shall be effective August 20, 1959, and April 15, 1959, respectively. No refunds of taxes, interest or additions paid prior to the date of the enactment of this act shall be made as a result of the amendments to clause (a) of section 2 and clause (1) of section 203.

(b) The provisions of this act adding article IV. and repealing the act of March 6, 1956 (P. L. 1256), known as "The Hotel Occupancy Tax Act," shall take effect thirty days after final enactment.

(c) The provisions of this act amending subsection (b) of section 572 shall be effective May 24, 1956.

(d) All other provisions of this act shall take effect immediately.

APPROVED—The 30th day of December, A. D. 1959.

DAVID L. LAWRENCE

No. 749

N ACT

Amending the act of June 30, 1947 (P. L. 1183), entitled "An act relating to strikes by public employes; prohibiting such strikes; providing that such employes by striking terminate their employment; providing for reinstatement under certain conditions; providing for a grievance procedure; and providing for hearings before civil service and tenure authorities, and in certain cases before the Pennsylvania Labor Relations Board," imposing certain duties on the Governor and State agency or political subdivision involved.

Strikes by public employes.

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

Clause (b), section 1, act of June 30, 1947, P. L. 1183, amended December 15, 1955, P. L. 871, further amended.

Section 1. Clause (b) of section 1, act of June 30, 1947 (P. L. 1183), entitled "An act relating to strikes by public employes; prohibiting such strikes; providing that such employes by striking terminate their employment; providing for reinstatement under certain condi-