

## No. 1990-21

## AN ACT

## SB 851

Amending Title 66 (Public Utilities) of the Pennsylvania Consolidated Statutes, providing for the regulation of taxicabs in first class cities.

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

Section 1. Sections 510(b) and 1103(c) of Title 66 of the Pennsylvania Consolidated Statutes are amended to read:

§ 510. Assessment for regulatory expenses upon public utilities.

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(b) Allocation of assessment.—On or before March 31 of each year, every public utility shall file with the commission a statement under oath showing its gross intrastate operating revenues for the preceding calendar year. If any public utility shall fail to file such statement on or before March 31, the commission shall estimate such revenues, which estimate shall be binding upon the public utility for the purposes of this section. For each fiscal year, the allocation shall be made as follows:

(1) The commission shall determine for the preceding calendar year the amount of its expenditures directly attributable to the regulation of each group of utilities furnishing the same kind of service, and debit the amount so determined to such group.

(2) The commission shall also determine for the preceding calendar year the balance of its expenditures, not debited as aforesaid, and allocate such balance to each group in the proportion which the gross intrastate operating revenues of such group for that year bear to the gross intrastate operating revenues of all groups for that year.

(3) The commission shall then allocate the total assessment prescribed by subsection (a) to each group in the proportion which the sum of the debits made to it bears to the sum of the debits made to all groups.

(4) Each public utility within a group shall then be assessed for and shall pay to the commission such proportion of the amount allocated to its group as the gross intrastate operating revenues of the public utility for the preceding calendar year bear to the total gross intrastate operating revenues of its group for that year.

(5) *The assessment provided for in this section shall not be made against utilities governed by the provisions of Chapter 24 (relating to taxicabs in first class cities).*

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§ 1103. Procedure to obtain certificates of public convenience.

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(c) Taxicabs.—

(1) A certificate of public convenience to provide taxicab service within cities of the first class shall be granted by order of the commission without proof of the need for the service if the commission finds or determines that the applicant is capable of providing dependable taxicab service to the public according to the rules and regulations of the commission.

(2) The commission is authorized to issue a maximum of **[1,400] 1,600** certificates of public convenience for taxi service in any city of the first class upon the effective date of this **[subsection. Eighteen months after the effective date of this subsection, the commission is authorized to issue in its discretion a maximum of 1,700 certificates of public convenience for taxi service in any city of the first class. Thirty months after the effective date of this subsection, the commission is authorized to issue in its discretion a maximum of 2,000 certificates of public convenience for taxi service in any city of the first class]** *amendatory act*. Upon the second year of the effective date of this **[subsection] amendatory act**, the commission shall institute a formal investigation on the future need for taxi service in any city of the first class. The commission shall report to the Senate and House Consumer Affairs Committees its findings, conclusions and recommendations.

(3) It is hereby declared to be the policy of the General Assembly to regulate the provision of taxicab service within cities of the first class in such a manner that any certificate of public convenience hereinafter granted by order of the commission shall, in addition to any other conditions imposed by the commission, require that at least 40% of such trips of such taxicab service shall be derived from such service provided to and from points within specific geographical areas to be determined by the commission as being in the public interest. The commission shall have the power to rescind or revoke any certificate of public convenience granted to any existing holder or any new recipient for the operation of taxicabs within a city of the first class whenever it is shown that the holder of the certificate is not operating the taxicabs on an average of 50% of the time over any consecutive three-month period.

(4) The commission shall have the authority to grant immediate temporary certificates of public convenience for taxicab service in cities of the first class. Such temporary certificates are subject to further investigation before a permanent certificate shall be granted by the commission.

**[(5) In cities of the first class, all operators shall utilize the services of a centralized dispatch system utilizing radio. Any existing holder or any new recipient of a certificate of public convenience for the operation of taxicabs in cities of the first class which owns or operates a centralized radio dispatch system shall make such system available to all other taxicab operations for a reasonable fee as described in a tariff to be filed with the commission for its review and approval but with no obligation to use any specific radio system. It is mandatory, however, that every taxi operated in the city be linked to a central radio service.]**

(6) A minimum of 5% of all certificates of public convenience issued under this subsection in cities of the first class shall be issued to minority

persons or to corporations in which 51% or more of the voting shares or interest in the corporation is held by minority individuals. For purposes of this paragraph, "minority" shall describe one who is Black, Puerto Rican, Hispanic, American Indian, Eskimo, Aleut or Oriental.

(7) The transfer of a certificate of public convenience, by any means or device, shall be subject to the prior approval of the commission which may, in its sole or peculiar discretion as it deems appropriate, attach such conditions, including the appropriate allocation of proceeds, as it may find to be necessary or proper.

**[(8) In cities of the first class, any new holder of a certificate of public convenience for the operation of a taxicab shall, prior to the initial operation of such taxicab, have such taxicab inspected under the supervision of a State Police officer at the expense of the holder of such certificate. The holder of said certificate shall make payment of such expenses at the time of the inspection with a certified check payable to the Pennsylvania Department of Transportation.]**

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Section 2. Title 66 is amended by adding a chapter to read:

CHAPTER 24  
TAXICABS IN FIRST CLASS CITIES

Sec.

- 2401. Definitions.
- 2402. Medallion system created.
- 2403. Property and licensing rights.
- 2404. Certificate and medallion required.
- 2405. Contested complaints.
- 2406. Reissuance of medallion.
- 2407. Additional certificates and medallions.
- 2408. Restrictions.
- 2409. Driver certification program.
- 2410. Wages.
- 2411. Centralized dispatcher.
- 2412. Regulations.
- 2413. Enforcement.
- 2414. Budget and fees.
- 2415. Penalties.
- 2416. Applicability.
- § 2401. 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:

"First Class City Taxicab Regulatory Fund" or "Fund." A fund administered by the commission to which all moneys collected pursuant to the requirements of this chapter shall be deposited and from which all expenses and costs associated with administration and enforcement of this chapter shall be paid. Moneys deposited in the fund shall not be used for any purpose not specified herein.

“Taxi driver’s certificate.” A certificate or permit to drive a taxicab issued pursuant to section 2409 (relating to driver certification program).

“Taxicab.” A motor vehicle designed for carrying no more than eight passengers, exclusive of the driver, on a call or demand basis and used for the transportation of persons for compensation.

§ 2402. Medallion system created.

There is hereby created a medallion system in cities of the first class in order to provide holders of certificates of public convenience which authorize citywide call or demand service the opportunity to upgrade and improve the operations of taxicabs. Each current holder of a certificate of public convenience which authorizes citywide call or demand service in cities of the first class is entitled to apply to obtain a medallion from the commission at its offices, within 90 days of the effective date of this chapter, for an initial fee in an amount to be determined pursuant to the requirements of section 2414 (relating to budget and fees). In the case of a corporate certificate holder, a medallion shall be issued in the name of the corporation to its corporate president. The medallion shall be marked with the taxicab number assigned to the corresponding certificate of public convenience.

§ 2403. Property and licensing rights.

(a) Property rights.—Medallions are property and may not be revoked or canceled by the commission. Medallions may be pledged to lenders or creditors as security on debt. All lenders or creditors who accept a medallion as security shall file with the commission a notice of lien which describes the loan transaction. A lien on a medallion is void by operation of law unless a notice of lien is filed with the commission. The commission may not permit a sale of a medallion if a notice of lien has been filed on the medallion until the lien is removed or unless the commission is notified by the lienholder that the lien will be satisfied from the proceeds of the sale. If a lender or creditor executes on or seizes a medallion, it shall immediately notify the commission in writing. Any sale of the medallion, upon seizure or execution, shall occur at commission offices, pursuant to the requirements of section 2408 (relating to restrictions), within one year of the seizure or execution. If the medallion is not sold within one year, the medallion will become nontransferable, and possession must be surrendered to the commission.

(b) Licensing rights.—A certificate of public convenience is a licensing right which accompanies each medallion and authorizes the operation of one taxicab in cities of the first class. No property interest shall exist in the certificate itself. A certificate may not be pledged to lenders or creditors as security on debt. A certificate may be canceled by the commission, upon due cause shown, for violation of this title or commission regulations. If the commission cancels a certificate, the certificate holder shall have the right to sell the accompanying medallion within six months of the date of cancellation, and the certificate holder must turn the medallion over to the commission office within five days of cancellation of the certificate for safekeeping until the medallion is sold. This six-month time period shall be extended during the pendency of a petition for reinstatement of the certificate of public convenience. If the medallion is not sold within the statutory period, the medallion

will become nontransferable, and possession must be surrendered to the commission.

§ 2404. Certificate and medallion required.

(a) Procedure.—A vehicle may not be operated as a taxicab in cities of the first class unless a certificate of public convenience is issued authorizing the operation of the taxicab and a medallion is attached to the hood of the vehicle. Prior to the issuance of a medallion, the certificate holder shall have its vehicle inspected by the commission. The commission shall require, by order or regulation, that each medallion holder submit to a periodic vehicle inspection of its taxicab by commission personnel to ensure that the vehicle meets the requirements of this title and commission regulations. Commission inspection requirements shall be in addition to the vehicle requirements set forth in Title 75 (relating to vehicles). Commission inspection and recording requirements shall be established by regulations. No vehicle which is more than six years old shall continue in operation as a taxicab. Notwithstanding the foregoing, the commission may authorize the operation of antique vehicles in call or demand service in such circumstances as the commission may deem appropriate. Each medallion holder's tariff rates shall be clearly and visibly displayed in each taxicab. A medallion shall not be removed from a vehicle without prior notification to and permission of the commission. A medallion authorizes operation of a vehicle as a taxicab only for the fiscal year for which the medallion is issued.

(b) Protective barrier.—Each taxicab in cities of the first class shall be equipped with a protective barrier for the protection of the driver, separating the front seat from the back seat. The commission may provide for additional driver protection measures by order or regulation.

(c) Service.—A vehicle authorized by a certificate to provide call or demand service in cities of the first class may transport persons and their baggage upon call or demand and parcels, packages and property at the same basic metered rates charged to passengers:

- (1) between points in the city of the first class for which its certificate is issued;
- (2) from any point in the city of the first class for which its certificate is issued to any point in this Commonwealth;
- (3) from any point in this Commonwealth to any point in the city of the first class for which its certificate is issued, if the request for service for such transportation is received by call to its radio dispatch service; and
- (4) from any point in the city of the first class for which its certificate is issued to any point outside this Commonwealth as a continuous part of a trip.

(d) Other vehicles.—A vehicle which is not authorized by a certificate to provide call or demand service in cities of the first class, but which is operated by the holder of a certificate of public convenience from the commission authorizing call or demand service elsewhere in this Commonwealth, may transport persons and property:

- (1) to cities of the first class in accordance with the service authorized under its certificate of public convenience; and

(2) from any point in a city of the first class to any point in this Commonwealth beyond that city of the first class if the request for service for such transportation is received by call to its radio dispatch service.

(e) Penalties involving certificated taxicabs.—Operating a certificated taxicab in violation of subsections (a) and (b) or authorizing or permitting such operation is a nontraffic summary offense. Offenders of subsections (a) and (b) may also be subject to civil penalties pursuant to section 3301 (relating to civil penalties for violations).

(f) Unauthorized vehicles.—Operating an unauthorized vehicle as a taxicab, or giving the appearance of offering call or demand service with an unauthorized vehicle, without first having received a certificate of public convenience and a medallion is a nontraffic summary offense in the first instance and a misdemeanor of the third degree for each offense thereafter. The owner and the driver of a vehicle being operated as or appearing as a taxicab without a certificate of public convenience and a medallion are also subject to civil penalties pursuant to section 3301. Civil penalties which have been assessed and collected shall be deposited in the fund.

(g) Confiscation and impoundment of vehicles.—In addition to penalties provided for in subsection (f), police officers in cities of the first class are empowered to confiscate and impound vehicles and equipment utilized to provide call or demand service without a certificate of public convenience and a medallion. Upon satisfaction of all penalties imposed and all outstanding fines assessed against the owner or operator of the unauthorized vehicle and payment of the city's costs associated with confiscation and impoundment, the vehicle and equipment shall be returned to its owner. Failure to timely satisfy these conditions within 90 days of impoundment may result in the sale of confiscated property by a city of the first class at auction. Proceeds received from the sale of confiscated property, after payment of the city's costs associated with confiscation, shall be deposited into the fund.

(h) Counterfeit medallions.—The manufacture or possession of a counterfeit medallion is a misdemeanor of the third degree for each offense.

§ 2405. Contested complaints.

(a) Adjudication.—Contested complaints brought before the commission, alleging violations of this chapter or rules and regulations promulgated by the commission pursuant to this chapter, shall be assigned by the commission to a presiding officer who shall be a special agent or administrative law judge for adjudication. Presiding officers assigned to cases pursuant to this chapter may be removed by the commission only for good cause shown. Following the taking and receiving of evidence, the presiding officer shall issue a decision which determines the merits of the complaint and assesses a penalty, if warranted. In extraordinary circumstances, the presiding officer may require the filing of briefs prior to issuing a decision. The presiding officer's decision shall not be subject to exception or administrative appeal. In its discretion, the commission may exercise review of a presiding officer's decision within 15 days of the date of issuance. If the commission does not exercise its authority to review a presiding officer's decision, the decision will become a final order without further commission action. The commission may estab-

lish orders or regulations which designate rules and procedures for the adjudication of complaints brought pursuant to this chapter.

(b) Commencement of complaints.—Commission enforcement officers and police officers or licensing officials in cities of the first class may commence and prosecute complaints brought before the commission pursuant to this chapter and provisions of this title and commission regulations applicable to taxicab operations in cities of the first class.

(c) Other penalties.—Nothing in this section shall be deemed to limit the ability of any city of the first class to prosecute violations and seek criminal penalties in a court of law.

§ 2406. Reissuance of medallion.

Within 30 days of the close of each fiscal year, a medallion holder shall apply to obtain from the commission a reissued medallion for a fee in an amount to be determined pursuant to the requirements of section 2414 (relating to budget and fees). Each year's medallion shall designate the year of issuance and shall be identifiable by a distinctive tint or color and shape to be determined by the commission. A medallion may not be issued by the commission unless all outstanding commission fines, penalties and fees have been paid in full and unless all insurance, tariff and vehicle inspection filings are current. Immediately prior to reissuance of a medallion, a medallion holder shall remove the prior year's medallion from the hood of its taxicab and surrender it to the commission. Upon reissuance, the new medallion shall be immediately attached to the vehicle. The annual fee paid under this section shall be in lieu of the assessment set forth in section 510 (relating to assessment for regulatory expenses upon public utilities).

§ 2407. Additional certificates and medallions.

Subject to the limits established in section 1103(c) (relating to procedure to obtain certificates of public convenience), the commission may increase the number of certificates and medallions if it finds a need for additional taxicab service in cities of the first class by issuing certificates and corresponding medallions to applicants on a first-come-first-served basis. Each applicant shall pay a fee in an amount equal to the reasonable market value of the medallions at the time of issuance as determined by the commission. The fee is payable prior to the time of issuance. In determining the reasonable market value of a medallion, the commission shall consider the purchase price in medallion transactions over the prior year as reflected in commission records. The commission in its discretion may hold hearings to determine the reasonable market value of a medallion. In no case shall the number of certificates and medallions issued by the commission exceed 1,600 each.

§ 2408. Restrictions.

(a) Place of transaction.—A medallion may not be sold or transferred to another party unless the closing of the sales transaction occurs at commission offices in the presence of a designated commission staff member. The commission staff member shall witness the execution of each contract of sale to evidence staff presence at the execution. All contracts for the sale of medallions which are not executed at commission offices and witnessed by a commission staff member are void by operation of law. All sales contracts

shall conform to such rules and regulations as the commission may prescribe. Prior to each closing, the buyer of the medallion shall pay a fee in an amount to be determined pursuant to the requirements of section 2414 (relating to budget and fees).

(b) Issuance of certificate.—Upon the witnessing of a sale of a medallion and upon application of the purchaser and compliance with commission tariff, insurance and inspection requirements, the commission staff shall issue an accompanying certificate to the new medallion holder unless the commission determines that the transfer of the certificate is inconsistent with the public interest. Where there is a determination that a transfer is not in the public interest, the new medallion holder shall have six months from the date the adverse determination is entered to sell the medallion to a new owner. If a sale is not consummated before commission personnel within six months, the medallion will become nontransferable, and possession must be surrendered to the commission.

(c) Criminal records.—No person or corporation may purchase a medallion or apply for a certificate if the person or corporation or an officer or director of the corporation has been convicted or found guilty of a felony within the five-year period immediately preceding the transfer. All applications for a certificate shall contain a sworn affidavit certifying that the purchaser has not been convicted of a felony in the previous five years. If, at any time, the commission finds that a medallion holder has been convicted of a felony while holding the medallion or during the five years immediately preceding its purchase, the commission shall cancel the corresponding certificate.

§ 2409. Driver certification program.

(a) General rule.—The commission shall provide for the establishment of a driver certification program for drivers of taxicabs in cities of the first class. Standards for fitness of taxi drivers shall be established under such rules and regulations as the commission may prescribe. The commission may revoke or suspend a taxi driver's certificate upon a finding that the individual is not fit to operate a taxicab. Each applicant for a taxi driver's certificate shall pay a fee in an amount to be determined pursuant to the requirements of section 2414 (relating to budget and fees). Upon approval, a picture taxi driver's certificate will be issued to an applicant. No individual shall operate a taxicab at any time unless the individual is certified as a taxi driver by the commission. Each certified taxi driver shall carry and display in full view a taxi driver's certificate at all times of operation of a taxicab. The commission may establish orders or regulations which designate additional requirements governing the certification of drivers and the operation of taxicabs by drivers, including, but not limited to, dress codes for drivers.

(b) Violations.—Operating a taxicab without a taxi driver's certificate or authorizing or permitting the operation of a taxicab by a driver who is not certified as a taxi driver in cities of the first class is a nontraffic summary offense in the first instance and a misdemeanor of the third degree for each offense thereafter. The commission may by regulation provide for suspension and revocation of taxi drivers' certificates for violations of this chapter and commission regulations.

(c) **Agreements delegating responsibilities.**—The commission is hereby authorized to enter into agreements or contracts delegating the duties and responsibilities designated in subsection (a) to a different governmental entity or to another party.

§ 2410. **Wages.**

(a) **Minimum wage.**—Each medallion holder shall pay at least a prevailing minimum wage rate or, in the alternative, charge at most a prevailing maximum lease amount to the drivers of its taxicab, as determined by the commission upon investigation. The minimum wage rate and the maximum lease amount, as established by the commission, may include employee benefits.

(b) **Uniform rates.**—All taxicabs in cities of the first class shall charge a uniform rate to passengers, as determined by the commission upon investigation.

(c) **Reopen investigations.**—Any medallion holder or licensed driver may petition the commission to reopen the investigations addressed by subsections (a) and (b) no less than 18 months after the close of the preceding investigation.

§ 2411. **Centralized dispatcher.**

In cities of the first class, all medallion holders shall utilize the services of a centralized dispatch radio system. Any owner of a centralized radio dispatch system shall make such system available to all medallion holders for a reasonable fee, as described in a rate schedule to be filed with the commission. The commission, in its discretion, may review the rate schedules of radio associations to determine if rates charged discriminate against new applicants. Medallion holders shall have no obligation to use any particular radio system.

§ 2412. **Regulations.**

The commission may prescribe such rules and regulations as it deems necessary to govern the regulation of taxicabs in cities of the first class pursuant to the provisions of this chapter.

§ 2413. **Enforcement.**

The provisions of this chapter and the rules and regulations promulgated by the commission pursuant to this act shall be enforced by commission personnel in conjunction with the police department in each first class city to the degree funding is provided. The commission shall enter into contracts with each first class city or its police department to provide for continuous enforcement of this chapter. Such contracts shall include specific delineation of personnel, including supervisory, field, support and legal personnel, and other resources to be supplied by the first class city and a listing of activities which shall be addressed. Annually, prior to the commission submitting a budget and proposed fee schedule and based upon discussions and negotiations with the police departments of each first class city, the commission shall determine the number of police (field) officers desired for enforcement. Based on this determination, each first class city shall submit to the commission, for its consideration within 30 days of receipt of such determination, a budget which lists the number, experience and ranks of personnel, including

supervisory, field, support and legal personnel, and the level of operating and fixed asset funding. The commission shall provide for full funding of the city enforcement activities, as agreed upon by the commission and a first class city, from the fund.

§ 2414. Budget and fees.

(a) Initial budget and fees.—After execution of a contract between the commission and a first class city or its police department pursuant to section 2413 (relating to enforcement), the commission shall complete an initial budget and fee schedule. The fee schedule shall identify the initial fees for initial issuance of a medallion, transfer of a medallion and issuance of a taxi driver's license. The commission's initial budget and fee schedule shall be submitted to the House Consumer Affairs Committee and the Senate Consumer Protection and Professional Licensure Committee. Unless either the Senate or the House of Representatives acts to disapprove through adoption of a resolution within ten legislative days from the date of submittal, the commission's fee schedule shall become effective and the commission shall notify each medallion holder by certified letter of the initial fee schedule.

(b) Fiscal year budget and fees.—The fiscal year for the fund shall commence on July 1 of each year. Prior to the close of each fiscal year, the commission shall submit a budget and proposed fee schedule for the coming fiscal year along with comprehensive financial data from the past fiscal year to the House Consumer Affairs Committee and the Senate Consumer Protection and Professional Licensure Committee. Unless either the Senate or the House of Representatives acts to disapprove through adoption of a resolution within ten legislative days from the submission, the commission fee schedule shall become effective. The commission shall notify all medallion holders of the fee schedule for the coming fiscal year by certified letter.

§ 2415. Penalties.

For the purpose of this chapter, any person or corporation convicted of:

- (1) a summary offense shall be sentenced to pay a fine of \$500 and may be sentenced to a term of imprisonment not to exceed 90 days, or both; or
- (2) a misdemeanor shall be sentenced to pay a fine of \$2,500 and may be sentenced to a term of imprisonment not to exceed one year, or both.

§ 2416. Applicability.

Where other provisions of this title or other laws of this Commonwealth are in conflict with the provisions of this chapter, the provisions of this chapter shall govern taxicabs in cities of the first class and other conflicting provisions are hereby suspended insofar as they govern taxicabs in cities of the first class.

Section 3. This act does not affect any act done, liability incurred or right accrued or vested or affect any civil or criminal proceeding pending or to be commenced to enforce any right or penalty or punish any offense under any statute or part of a statute suspended by this act.

Section 4. This act shall take effect as follows:

- (1) The provisions of section 2404(a) that prohibit the operation of taxicabs more than six years old shall take effect in one year.

(2) The remainder of this act shall take effect in 90 days.

APPROVED—The 4th day of April, A. D. 1990.

ROBERT P. CASEY