

No. 1995-72

AN ACT

HB 48

Amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further defining "pedalcycles"; further providing for handicapped plate and placard, for veteran plates and placard, for the operation of pedalcycles on Commonwealth highways, for pedalcycle helmets, for the use of hearing impairment devices and for hand and arm signals; repealing the Pedalcycle Helmet Fund; providing for the establishment of the Pennsylvania Pedalcycle and Pedestrian Advisory Committee; further providing for exemption from surcharge; providing for authorization for the Governor to transfer funds from the Catastrophic Loss Benefits Continuation Fund and funds from continuing appropriations for hazardous waste control to satisfy litigation awards and all costs associated with litigation involving a centralized emission inspection contract; and deleting authority for centralized emission inspections.

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

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

§ 102. Definitions.

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

* * *

"Pedalcycle." A vehicle propelled solely by human-powered pedals. *The term does not mean a three-wheeled human-powered pedal-driven vehicle with a main driving wheel 20 inches in diameter or under and primarily designed for children six years of age or younger.*

* * *

Section 2. Section 1306(8) and (9) of Title 75 are repealed.

Section 3. Sections 1338, 1342 and 3105 of Title 75 are amended by adding subsections to read:

§ 1338. Handicapped plate and placard.

* * *

(c.1) Return of plates and placard.—Upon the death of a person to whom a plate or placard has been issued under this section, the plate or placard shall be void 30 days after death and shall not be displayed on any vehicle. The personal representative of the deceased shall return the plate to the department. If there is no personal representative, the spouse or, if there is no spouse, the next of kin of the deceased shall return the plate or placard to the department.

(c.2) Authorized use.—This section shall not preclude the operation of a vehicle which bears a handicapped plate when the vehicle is not being used for the benefit of the handicapped person or when the handicapped person is not present in the vehicle, provided the driver does not use or attempt to use any special privilege or benefit otherwise accorded to vehicles displaying the plate.

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§ 1342. Veteran plates and placard.

* * *

(f) Return of plates and placard.—Upon the death of a veteran to whom a severely disabled veteran plate or placard has been issued under this section, the severely disabled veteran plate or placard shall be void 30 days after death and shall not be displayed on any vehicle. The personal representative of the deceased shall return the plate to the department. If there is no personal representative, the spouse or, if there is no spouse, the next of kin of the deceased shall return the plate or placard to the department.

§ 3105. Drivers of emergency vehicles.

* * *

(f) Pedalcycles.—No part of this title shall be construed to restrict the operation of a pedalcycle used by a police officer during the course of performing official duties.

Section 4. Sections 3336, 3504, 3505, 3507(a) and 3510 of Title 75 are amended to read:

§ 3336. Method of giving hand and arm signals.

All signals given by hand and arm shall be given from the left side of the vehicle in the following manner *except as indicated for pedalcycles and motorcycles* and the signals shall indicate as follows:

- (1) For a left turn, the hand and arm shall be extended horizontally.
- (2) For a right turn, the *left* hand and arm shall be extended upward[.], *except that operators of motorcycles and pedalcycles may also be permitted to signal a right turn by extending the right hand and arm horizontally.*
- (3) To stop or decrease speed, the *left* hand and arm shall be extended downward.

§ 3504. Riding on pedalcycles.

(a) Use of seat by operator.—A person propelling a pedalcycle shall not ride other than upon or astride a permanent and regular seat attached to the pedalcycle.

(b) Number of riders.—No pedalcycle shall be used to carry more persons at one time than the number for which the pedalcycle is designed and equipped except that an adult rider may [carry a child securely attached to the rider in a back pack or sling] *transport a child in a pedalcycle child carrier which is securely attached to the pedalcycle or in a trailer which is towed by a pedalcycle.*

§ 3505. Riding on roadways and pedalcycle paths.

[(a) General rule.—Except as provided in subsection (b), every person operating a pedalcycle upon a roadway shall ride as near to the right side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.

(b) One-way highways.—Any person operating a pedalcycle upon a roadway of a highway, which highway carries traffic in one direction only and has two or more marked traffic lanes, may ride as near the left-hand curb or edge of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.

(c) Limitation on riding abreast.—Persons riding pedalcycles upon a roadway shall not ride more than two abreast except on paths or parts of roadways set aside for the exclusive use of pedalcycles.

(d) Use of available pedalcycle paths.—Whenever a lane or path for pedalcycles has been provided as part of a highway, pedalcycle riders shall use the lane or path and shall not use any other part of the highway. This subsection does not apply when use of the pedalcycle lane or path is not possible, safe or reasonable.]

(a) General rule.—Except as provided in subsections (b) and (c), every person operating a pedalcycle upon a highway shall obey the applicable rules of the road as contained in this title.

(b) Operation on shoulder.—A pedalcycle may be operated on the shoulder of a highway and shall be operated in the same direction as required of vehicles operated on the roadway.

(c) Slower than prevailing speeds.—A pedalcycle operated at slower than prevailing speed shall be operated in accordance with the provisions of section 3301(b) (relating to driving on right side of roadway) unless it is unsafe to do so.

(d) One-way roadways.—Any person operating a pedalcycle upon a roadway which carries traffic in one direction only and has two or more marked traffic lanes may ride as near the left-hand curb or edge of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.

(e) Limitation on riding abreast.—Persons riding pedalcycles upon a roadway shall not ride more than two abreast except on paths or parts of roadways set aside for the exclusive use of pedalcycles.

(f) Mandatory use of available pedalcycle path.—Whenever a lane or path for pedalcycles has been provided as a part of a highway and mandatory use of the lane or path has been indicated by official traffic-control devices, pedalcycle riders shall use the lane or path and shall not use any other part of the highway. This subsection does not apply when use of the pedalcycle lane or path is not possible, safe or reasonable.

§ 3507. Lamps and other equipment on pedalcycles.

(a) Lamps and reflectors.—Every pedalcycle when in use between sunset and sunrise shall be equipped on the front with a lamp which emits a *beam*

of white light intended to illuminate the pedalcycle operator's path and visible from a distance of at least 500 feet to the front. Operators of pedalcycles may supplement the required front lamp with a white flashing lamp, light-emitting diode or similar device to enhance their visibility to other traffic and with a red reflector on the rear [of a type approved by the department] which shall be visible from all distances from [100 feet to 600] 500 feet to the rear and with an amber reflector on each side. A lamp emitting a red [light] flashing lamp, light-emitting diode or similar device visible from a distance of 500 feet to the rear may be used in addition to the red reflector. A lamp worn by the operator of a pedalcycle shall comply with the requirements of this subsection if the lamp can be seen at the distances specified. [All lamps and reflectors shall be of a type approved by the department.]

* * *

§ 3510. Pedalcycle helmets for certain persons.

(a) General rule.—A person under 12 years of age shall not operate a pedalcycle or ride as a passenger on a pedalcycle unless the person is wearing a pedalcycle helmet meeting the standards of the American National Standards Institute [or of], *the American Society for Testing and Materials*, the Snell Memorial Foundation's Standards for Protective Headgear for Use in Bicycling *or any other nationally recognized standard for pedalcycle helmet approval*. This subsection shall also apply to a person who rides:

- (1) upon a pedalcycle while in a restraining seat attached to a pedalcycle; or
- (2) in a trailer towed by a pedalcycle.

(b) Helmet to be labeled.—Any helmet sold or offered for sale for use by operators and passengers of pedalcycles shall be [conspicuously] labeled in accordance with the standard described in subsection (a), which shall constitute the manufacturer's certification that the helmet conforms to the applicable safety standards.

(b.1) Sale of helmet.—No person shall sell or offer for sale for use by an operator or passenger of a pedalcycle a helmet which is not of a type meeting the requirements established by this section.

(b.2) Waiver of fine.—If a person receives a citation issued by the proper authority for violation of subsection (a), a district justice, magistrate or judge shall dismiss the charges if the person prior to or at his hearing displays evidence of acquisition of a helmet meeting the standards prescribed in subsection (a) to such district justice, magistrate or judge. Sufficient evidence shall include a receipt mailed to the appropriate court officer which evidences purchase or transfer of such a helmet from another helmet owner, evidenced by a notarized letter.

(b.3) Exemption.—*This section shall not apply to a child under 12 years of age who can produce a statement from the family's church authorities attesting that it is against the tenets of the family's religion to wear a helmet.*

(c) Civil actions.—In no event shall a violation or alleged violation of subsection (a) be used as evidence in a trial of any civil action; nor shall any jury in a civil action be instructed that any conduct did constitute or could be interpreted by them to constitute a violation of subsection (a); nor shall failure to use a pedalcycle helmet be considered as contributory negligence nor shall failure to use a pedalcycle helmet be admissible as evidence in the trial of any civil action.

(d) Penalty.—Notwithstanding any other provisions of law, any violation of subsection (a) is punishable by a fine, including all penalties, assessments and court costs imposed on the convicted person not to exceed \$25. [The court imposing and collecting any such fines shall transfer the fines thus collected to the State Treasurer for deposit in the Pedalcycle Helmet Fund, pursuant to section 3512 (relating to Pedalcycle Helmet Fund).] The parent or legal guardian having control or custody of a person under 12 years of age whose conduct violates this section shall be jointly and severally liable with the person for the amount of the fine imposed.

(e) Definitions.—As used in this section, the term “wearing a pedalcycle helmet” means having a pedalcycle helmet of good fit fastened securely upon the head with the helmet straps.

Section 5. Section 3511 of Title 75 is amended by adding a subsection to read:

§ 3511. Pedalcycles prohibited on freeways.

* * *

(d) Operation on shoulder.—If the department authorizes pedalcycle access to a freeway, the pedalcycle shall be operated upon the shoulder of that freeway whenever practicable.

Section 6. Section 3512 of Title 75 is repealed.

Section 7. Chapter 35 of Title 75 is amended by adding a subchapter to read:

CHAPTER 35 SPECIAL VEHICLES AND PEDESTRIANS

* * *

SUBCHAPTER D PEDALCYCLE AND PEDESTRIAN ADVISORY COMMITTEE

Sec.

3571. Pedalcycle and Pedestrian Advisory Committee.

§ 3571. Pedalcycle and Pedestrian Advisory Committee.

(a) Establishment.—There is hereby established under the jurisdiction of the Department of Transportation the Pennsylvania Pedalcycle and Pedestrian Advisory Committee.

(b) Composition.—The committee shall consist of 12 members. The members shall be as follows:

- (1) The Secretary of Transportation, ex officio.
- (2) The Secretary of Environmental Resources, ex officio.
- (3) The chairman and minority chairman of the Transportation Committee of the Senate.
- (4) The chairman and minority chairman of the Transportation Committee of the House of Representatives.
- (5) Six members of the public representing areas of concern specified who shall have extensive experience and knowledge of bicycle, pedalcycle, pedestrian and human power issues throughout this Commonwealth, to be appointed by the Governor as follows:

- (i) One member from a list of at least three representatives submitted by the Bicycling Federation of Pennsylvania.

- (ii) One member from a list of at least three representatives submitted by the League of American Bicyclists.

- (iii) One member from a list of at least three representatives submitted by the United States Cycling Federation.

- (iv) One member from a list of at least three representatives submitted by the Pennsylvania Chapter of the Rails-to-Trails Conservancy.

- (v) One member from a list of at least three representatives submitted by the Eastern Paralyzed Veterans Association.

- (vi) One member from the general public.

Each member may designate an alternate to serve in his stead. A member shall notify the chairman in writing of this designation.

(c) Terms of appointees.—The terms of all members of the committee appointed by the Governor shall be for three years. Any member of the committee may be reappointed for additional terms. An individual appointed to fill a vacancy shall serve for the unexpired term and shall be eligible for reappointment.

(d) Officers.—The members of the committee shall annually elect a chairman, a vice chairman and a secretary from among the public members of the committee.

(e) Meetings and expenses.—

- (1) The committee shall meet at least annually.

- (2) A public member, including a designee, who misses three consecutive meetings without good cause acceptable to the chairman may be replaced by the Governor.

- (3) The public members of the committee shall be allowed actual, necessary and reasonable per diem expenses in accordance with regulations of the Executive Board. The department shall provide appropriate staff support to enable the committee to properly carry out its functions.

(f) Powers and duties.—The powers and duties of the committee shall be to advise and comment on all phases of cycling and pedestrian program activities being undertaken or financially assisted by the department and agencies of State government.

Section 8. Section 4706(b.3), (b.4), (b.7) and (f) of Title 75 are repealed.

Section 9. Section 4706(g)(3) of Title 75 is amended to read:

§ 4706. Prohibition on expenditures for emission inspection program.

* * *

(g) Alternative enhanced emission inspection program.—Notwithstanding the provisions of subsection (f), the department shall comply with all of the following requirements:

* * *

(3) [No later than March 1, 1995, the] *The* department shall develop and submit to the Environmental Protection Agency an alternative enhanced vehicle emission inspection program for approval which meets the requirements of Federal law and consists of a decentralized test and repair program or a hybrid program which combines both decentralized test and repair and test-only components. The decentralized test program may contain an additional component which will test and repair only those components necessary to achieve compliance with Federal clean air standards. As part of this decentralized test program, the department shall utilize the newest and most efficient technologies, including, but not limited to, remote roadside testing, identification and targeting of gross polluting vehicles and alternative equipment to existing inspection technology. The department may incorporate pilot programs and demonstration projects which achieve and enhance vehicle emissions reductions.

* * *

Section 10. Title 75 is amended by adding a section to read:

§ 4706.1. *Centralized emission inspection litigation settlement.*

(a) *Authorization.*—*Except as otherwise provided in subsection (d) and notwithstanding any other provision of law to the contrary, the Governor is hereby authorized to transfer funds from the specific funds and continuing appropriations set forth in subsection (b) for the sole purpose of paying all settlements and court orders arising from legal action related to any contract with the department for the conduct of a program of centralized emissions inspections entered into prior to November 16, 1994, pursuant to the act of December 16, 1992 (P.L.1250, No.166).*

(b) *Sources of transferable funds.*—*The funds and continuing appropriations subject to the authorization under subsection (a) are as follows:*

(1) *The Catastrophic Loss Benefits Continuation Fund established under section 1798.4 (relating to Catastrophic Loss Benefits Continuation Fund).*

(2) *Any funds remaining unexpended, unencumbered or uncommitted from the continuing appropriations for the hazardous waste control program contained in:*

(i) *Section 211 of the act of June 29, 1984 (P.L.1360, No.7A), known as the General Appropriation Act of 1984.*

(ii) Section 212 of the act of June 30, 1985 (P.L.592, No.5A), known as the General Appropriation Act of 1985.

(iii) Section 212 of the act of July 1, 1986 (P.L.1776, No.5A), known as the General Appropriation Act of 1986.

(iv) Section 213 of the act of July 3, 1987 (P.L.459, No.9A), known as the General Appropriation Act of 1987.

(v) Section 213 of the act of July 1, 1988 (P.L.1956, No.5A), known as the General Appropriation Act of 1988.

Funds from this fund and these appropriations may be transferred upon approval of the Governor to a restricted account and are hereby appropriated for the payment of any settlements and court orders arising from legal action related to any contract with the department for the conduct of a program of centralized emission inspections entered into before November 16, 1994.

(c) Transfer mechanism.—The transfers shall be upon warrant of the State Treasurer upon requisition of the Governor and shall be for the sole purpose of settling the legal action under this section. A statement of the actual amount of each transfer shall be reported to the General Assembly within 14 days of the requisition.

(d) Exceptions.—This section shall not authorize the Governor to transfer any funds from the Catastrophic Loss Benefits Continuation Fund if the transfer of funds for the purpose contained in this section prevents timely processing and payment of catastrophic loss benefits under section 1798.2 (relating to transition).

(e) Expiration.—This section shall expire December 31, 1998.

Section 11. Section 6506(a) of Title 75 is amended to read:

§ 6506. Surcharge.

(a) Levy and imposition.—In addition to any fines, fees or penalties levied or imposed as provided by law, under this title or any other statute, a surcharge shall be levied for disposition in accordance with subsection (b) as follows:

(1) Upon conviction for any violation of the provisions of this title or other statute of the Commonwealth, or regulations promulgated under this title, which is a traffic violation and which is not included within the provisions of paragraphs (2) through (7), exclusive of parking offenses, a surcharge of \$30.

(2) Upon conviction for a violation of the following provisions of this title, a surcharge of \$40:

(i) Section 3306(a)(1) (relating to limitations on driving on left side of roadway).

(ii) Section 3745 (relating to accidents involving damage to unattended vehicle or property).

(3) Upon conviction for a violation of section 3345(a) (relating to meeting or overtaking school bus), a surcharge of \$50.

(4) Upon conviction for a violation of section 3362 (relating to maximum speed limits), the following applicable surcharge:

(i) \$30 for exceeding the maximum speed limit by 6 to 10 miles per hour or 11 to 15 miles per hour.

(ii) \$40 for exceeding the maximum speed limit by 16 to 25 miles per hour.

(iii) \$50 for exceeding the maximum speed limit by at least 26 miles per hour.

(5) Upon conviction for violation of section 4902 (relating to restrictions on use of highways and bridges), Subchapter C of Chapter 49 (relating to maximum weights of vehicles) or Subchapter E of Chapter 49 (relating to measuring and adjusting vehicle size and weight), a surcharge of \$150.

(6) Upon conviction for violation of Chapter 47 (relating to inspection of vehicles), by the owner or operator or driver of a vehicle which is subject to the provisions of Chapter 49 (relating to size, weight and load), a surcharge of \$30.

(7) Upon conviction of offenses under section 3731 (relating to driving under influence of alcohol or controlled substance), or upon admission to programs for Accelerated Rehabilitative Disposition for offenses enumerated in section 3731, a surcharge, respectively, of:

(i) \$50 for the first offense.

(ii) \$100 for the second offense.

(iii) \$200 for the third offense.

(iv) \$300 for the fourth and subsequent offenses.

The provisions of this subsection shall not apply to any violation committed by the operator of a motorcycle, motor-driven cycle, *pedalcycle*, motorized pedalcycle or recreational vehicle not intended for highway use.

* * *

Section 12. The addition of 75 Pa.C.S. Ch. 35 Subch. D shall expire December 31, 2000.

Section 13. This act shall take effect as follows:

(1) The amendment, addition or repeal of 75 Pa.C.S. §§ 1306(8) and (9), 4706(b.3), (b.4), (b.7), (f) and (g)(3) and 4706.1 shall take effect immediately.

(2) This section shall take effect immediately.

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

APPROVED—The 15th day of December, A.D. 1995.

THOMAS J. RIDGE