

*summary conviction before a magistrate, be sentenced to pay a fine of twenty-five (\$25) dollars and costs of prosecution, and, in default of the payment thereof, shall undergo imprisonment for not more than five (5) days; and any person operating any motor bus or motor omnibus on any highway with a gross weight or with weight on any one axle or wheel exceeding by more than ten (10) per centum the maximum weight allowed in subsections (b) or (c) shall, in each case, upon summary conviction before a magistrate, be sentenced to pay a fine of fifty (\$50) dollars and costs of prosecution, and, in default of the payment thereof, shall undergo imprisonment for not more than ten (10) days. Any person violating any of the provisions of subsection (d) of this section shall, upon summary conviction before a magistrate, be sentenced to pay a fine of not less than ten (\$10) dollars or more than twenty-five (\$25) dollars and costs of prosecution, and, in default of the payment thereof, shall undergo imprisonment for not more than ten (10) days. Such fine shall be in addition to any penalty imposed by any other section or subsection of this act.*

APPROVED—The 25th day of July, A. D. 1953.

JOHN S. FINE

No. 149

AN ACT

To provide revenue for State purposes by imposing an excise tax upon any increase in capital, as defined, actually employed in Pennsylvania, by any foreign corporation, limited partnership or joint-stock association; requiring the filing of reports; providing for rights, powers and duties of the Department of Revenue, the taxpayers and officers thereof; imposing interest and penalties; and repealing a certain act relating to foreign corporations, limited partnerships and joint-stock associations.

Excise tax imposed upon increases in capital actually employed in Pennsylvania by foreign corporations, limited partnerships and joint-stock associations.

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

Section 1. Definitions.—The following terms when used in this act shall have the meanings ascribed to them in this section:

“Department” means the Department of Revenue.

“Foreign Corporation” means any corporation, limited partnership or joint-stock association chartered or created by or under the laws of any other state or of the United States or of any foreign country, which has been issued a certificate of authority by the Department of State to do business within this Commonwealth and which either (a) has its principal office or chief place of business located within this Commonwealth, or (b)

has any part of its capital actually employed within this Commonwealth. The term "foreign corporation" shall not include foreign insurance companies and foreign non-profit corporations which do not have any capital stock.

"Increase of Capital" means, (a) as to foreign corporations doing business in this Commonwealth at the effective date of this act, any increase of capital in excess of the amount actually employed wholly in this Commonwealth at any time prior to the first day of January, one thousand nine hundred fifty-three, by such corporations reporting on a calendar year basis, or at any time prior to the first day of any fiscal year, beginning in the calendar year one thousand nine hundred fifty-three, by such corporations reporting on a fiscal year basis; (b) as to corporations admitted to do business in this Commonwealth after the effective date of this act, capital actually employed wholly within this Commonwealth at the time of or after receiving a certificate of authority to do business from the Department of State and any increase thereof.

Section 2. Imposition of Tax.—From and after the effective date of this act, every foreign corporation, in addition to complying with all the laws of the Commonwealth now or hereafter in effect, shall, for the privilege of exercising its franchises in Pennsylvania, pay to the Department an excise tax of one-third of one per centum upon the amount of any increase of capital actually employed wholly within this Commonwealth.

Section 3. Initial and Annual Report.—Every foreign corporation shall, within sixty (60) days after (a) the final enactment of this act or (b) the end of its fiscal year ending in one thousand nine hundred fifty-three, file a report with the Department for information purposes, on a form prescribed by the Department, stating (1) the state or country in which incorporated or created, (2) the date of incorporation or organization, (3) location of its chief office in this Commonwealth, (4) the name and address of its president and treasurer, (5) the greatest amount of capital actually employed wholly within this Commonwealth during the preceding calendar or fiscal year, (6) the greatest amount of capital actually employed wholly within this Commonwealth at any time prior to the preceding calendar or fiscal year, and (7) such other information as the Department shall require for the purpose of this act.

Every foreign corporation shall thereafter make a report annually to the Department, on a form prescribed by the Department, on or before the seventy-fifth day after the close of its calendar or fiscal year, setting forth therein (1) the state or country in which incorporated or created, (2) the date of incorporation or organiza-

tion, (3) the date it qualified or was issued a certificate of authority to do business in this Commonwealth, (4) the name and address of its president or treasurer, (5) the greatest amount of capital actually employed wholly within this Commonwealth during such calendar or fiscal year, and (6) such other information as the Department shall require for the purpose of this act, and shall pay to the Department, at the time of filing such report, the tax due under this act for such annual period.

Section 4. Settlement, Resettlement and Appeal.—All taxes due under this act shall be settled by the Department, with the approval of the Department of the Auditor General, and such settlement shall be subject to resettlement, review, appeal and refund to the same extent and in the same manner as is now provided by law for the settlement, resettlement, review, appeal and refund of capital stock and franchise taxes imposed upon corporations. If the officers of any foreign corporation shall neglect or refuse to make any report as herein required or shall knowingly make any false report, an additional ten per cent (10%) of the amount of the tax shall be added to the tax determined by the said Departments to be due.

The taxes imposed by this act shall bear interest at the rate of six per cent (6%) per annum from the date they are due and payable until paid: Provided, That any foreign corporation may pay the full amount of such tax or any part thereof, together with interest thereon, without prejudice to its right to resettlement, review, appeal or refund, as provided by law, with respect to capital stock and franchise taxes imposed on corporations.

Section 5. Powers and Duties of Department.—The Department is hereby charged with the enforcement of the provisions of this act and is hereby authorized and empowered to prescribe, adopt, promulgate and impose rules and regulations, not inconsistent with this act, relating to any matter or thing pertaining to the administration and enforcement of the provisions of this act and the collection of taxes, penalties and interest imposed by this act.

The Department shall have the same powers relating to the administration or enforcement of this act as are conferred upon the Department by the laws relating to capital stock and franchise taxes imposed on corporations.

Section 6. Penalties.—(a) Any person who shall wilfully make a false and fraudulent report under this act shall be guilty of wilful and corrupt perjury, and, upon conviction thereof, shall be subject to punishment as provided by law. Such penalty shall be in addition to any other penalties imposed by this act.

(b) Any person who wilfully fails, neglects or refuses to make a report or to pay the tax as herein prescribed, or who shall refuse to permit the Department to examine the books, papers and records of any corporation liable to pay tax under this act, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand dollars (\$1000) and costs of prosecution, or to undergo imprisonment not exceeding six (6) months, or both, in the discretion of the court. Such penalty shall be in addition to any other penalties imposed by this act.

Section 7. Constitutional Construction.—The provisions of this act are not intended to be severable, and if any provision hereof is found by a court of record to be unconstitutional and void, the remaining provisions of this act shall fall and become void; and the act repealed in section 8 shall be revived and continued in force and effect as of the effective date of this act.

Section 8. Repeal.—Subject to the conditions imposed in section 7 of this act, the act, approved the eighth day of May, one thousand nine hundred one (Pamphlet Laws 150), entitled "An act providing for the raising of revenue for State purposes, by imposing upon certain foreign corporations, limited partnership and joint-stock associations a bonus of one-third of one per centum upon the capital actually employed in Pennsylvania, and requiring the filing of certain reports in the office of the Auditor General," is hereby repealed: Provided further, That the said act shall remain in force and effect as to bonus imposable and collectible for any period prior to the effective date of this act.

Section 9. Effective Date.—This act shall become effective as of the first day of January, one thousand nine hundred fifty-three, for foreign corporations reporting on a calendar year basis, or as of the first day of any fiscal year, beginning in the calendar year one thousand nine hundred fifty-three, for foreign corporations reporting on a fiscal year basis; and the first annual reports required to be filed hereunder shall be filed for the calendar year one thousand nine hundred fifty-three or for any fiscal year beginning in the calendar year one thousand nine hundred fifty-three.

APPROVED—The 25th day of July, A. D. 1953.

JOHN S. FINE