

## No. 7

## AN ACT

## HB 754

Authorizing the imposition of a tax on the sale at retail of liquor and malt and brewed beverages within school districts of the first class coterminous with a city of the first class for public school purposes; providing for its levy and collection; conferring and for a limited period of time imposing powers and duties, and providing penalties.

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

Section 1. Short Title.—This act shall be known as the “First Class School District Liquor Sales Tax Act of 1971.”

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

(1) “Tax Collector.” The School Revenue Commissioner of a first class school district imposing a tax under this act.

(2) “Person.” Any individual, limited partnership, partnership, association or corporation. Whenever used in a clause prescribing or imposing a fine or imprisonment or both, the term “person” as applied to “limited partnership” or “partnership,” shall mean the partners thereof, as applied to “association,” the members thereof, and as applied to “corporation,” the officers thereof, except that, as to incorporated clubs, the term “person” shall mean such individual or individuals who, under the bylaws of such clubs, shall have jurisdiction over the possession and sale of liquor therein.

(3) “Purchaser.” A person who acquires liquor or malt and brewed beverages through sale at retail.

(4) “Sale at retail.” Any transfer at retail for a consideration in any manner or by any means whatsoever of liquor and malt and brewed beverages, but the term shall not include any transaction which was or is subject to tax by the Commonwealth under either the Tax Act of 1963 for Education or Article II of the Tax Reform Code of 1971.

(5) “Tax year.” The twelve-month period corresponding to the fiscal year of a school district imposing a tax under this act, and the year for which a tax is levied under this act.

(6) “Vendor.” Any person maintaining a place of business in any school district of the first class and licensed by the Commonwealth of Pennsylvania to sell liquor or malt and brewed beverages, the sale of which is subject to the tax authorized by this act, but not including an employe who, in the ordinary scope of employment, renders services to his employer in exchange for wages or salary.

Section 3. Authority to Levy and Collect Tax; Use of Tax.—For the tax

year beginning on or after July 1, 1971, every school district of the first class coterminous with a city of the first class, if authorized to do so by city council of said city of the first class, shall levy and collect a tax in the manner and at the rates hereinafter set forth. Such tax shall be in addition to any other tax every such school district is empowered to levy and collect under any existing law. The taxes, interest and penalties collected under the provisions of this act shall be used by every such school district for general public school purposes.

Section 4. Authorization of Tax and Rate Thereof.—Any council of any city of the first class coterminous with a school district of the first class may authorize the board of education of such school district of the first class to levy a tax imposed upon each separate sale at retail as defined herein within the school district of the first class of ten per cent of the sale price, which tax shall be collected by the vendor from the purchaser, and shall be paid over by the vendor to the Tax Collector as herein provided.

Section 5. Returns and Payment of Tax.—Every vendor required to collect and remit the tax to the Tax Collector shall file monthly returns with respect to such tax on or before the twenty-fifth day of the month succeeding the month with respect to which the return is made. Such returns shall be filed with the Tax Collector on forms provided by him.

Every vendor filing a return shall pay over to the Tax Collector the amount of tax shown as due thereon at the time such return is filed. The failure of any vendor to procure or receive a return form shall not excuse him from filing a return and paying over the tax due.

Section 6. Powers and Duties of the Tax Collector.—(a) It shall be the duty of the Tax Collector to collect and receive the taxes, interest and penalties authorized by this act.

(b) The Tax Collector is hereby charged with the enforcement of the provisions of this act and is hereby empowered to prescribe, adopt, promulgate and enforce rules and regulations governing the administration and enforcement of the provisions of this act, including the reexamination and correction of returns and payments alleged or found to be incorrect, or as to which an overpayment is claimed or found to have occurred.

(c) The Tax Collector is hereby authorized to examine the books, papers and records of any vendor in order to verify the accuracy of any return filed or ascertain the amount of tax due. Every vendor is hereby directed and required to give to the Tax Collector the means, facilities and opportunities for such examinations. The Tax Collector is hereby authorized to examine any person concerning the amount of tax due and to this end may compel the production of books, papers and records and the attendance of all persons before him, whether as parties or witnesses, whom he believes to have knowledge relating to the amount of tax due.

Section 7. Review and Appeal.—The board of education of every school district levying a tax under this act shall provide a method of appeal

for persons aggrieved by any decision of the Tax Collector and for review of petitions for abatement of interest and penalties, compromise and refund of taxes authorized by this act: Provided, however, That as to a school district of the first class coterminous with a city of the first class, such methods shall be the same as provided in the act of May 23, 1949 (P.L.1669), as amended, or as used by said city of the first class for review, abatement, compromise and refund of similar city taxes, interest and penalties.

Section 8. Interest and Penalties.—(a) Any vendor who fails to pay over to the Tax Collector any amount of tax due on or before the last date prescribed for payment shall pay interest on such amount at the rate of one-half of one per cent per month or fraction thereof from such last date to the date paid, without regard to any extension of time for payment.

(b) Any vendor who fails to pay over to the Tax Collector any amount of tax due on or before the last date prescribed for payment, shall be liable to pay a penalty of one per cent per month or fraction thereof from such last date to the date paid.

(c) The interest and penalties provided for in this section shall be added to the tax assessed and collected at the same time, in the same manner, and as part of the tax.

Section 9. Suit for Collection.—It shall be the duty of the Tax Collector to sue for the recovery of all taxes due hereunder not paid when due. Any suit to recover any tax, together with interest and penalties, authorized hereunder, from any vendor, shall be begun within six years after such tax is due or within six years after a return has been filed, whichever date is later; but this limitation shall not apply:

(1) Where a vendor has failed to file a report required under the provisions of this act.

(2) Where an examination of a return filed by a vendor and of other evidence relating to such return reveals a fraudulent evasion of taxes, including, but not limited to, substantial understatement of sales at retail taxed hereunder.

Where suit is brought for the recovery of any such tax, the vendor shall be liable for, and it shall be the duty of the Tax Collector to collect, in addition to the tax assessed against such vendor, the costs of such collection and the interest and penalties provided hereunder.

Section 10. Criminal Penalties.—(a) Any vendor who wilfully makes any false or untrue statement on his return shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine of not more than three hundred dollars (\$300), or to undergo imprisonment for not more than ninety days, or both.

(b) Any vendor who wilfully fails or refuses to appear before the collector in person with his books, records or accounts for examination when required under the provisions of this act to do so, or who wilfully refuses to permit inspection of the books, records or accounts in his

custody or control when the right to make such inspection by the collector is requested, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine of not more than three hundred dollars (\$300), or to undergo imprisonment for not more than ninety days, or both.

(c) Any vendor who wilfully fails or refuses to file a return required by this act or to collect and pay over to the Tax Collector any tax imposed hereunder shall be guilty of a misdemeanor and, upon conviction thereof, shall be sentenced to pay a fine of not more than three hundred dollars (\$300), or to undergo imprisonment for not more than ninety days, or both.

Section 11. Effective Date.—This act shall take effect immediately.

APPROVED—The 10th day of June, A. D. 1971.

MILTON J. SHAPP

The foregoing is a true and correct copy of Act of the General Assembly No. 7.

A handwritten signature in cursive script, reading "C. McLaughlin Tucker".

*Secretary of the Commonwealth.*