

No. 357

AN ACT

HB 111

Amending the act of April 29, 1959 (P.L.58), entitled "An act consolidating and revising the Vehicle Code, the Tractor Code, the Motor Vehicle Financial Responsibility Act and other acts relating to the ownership, possession and use of vehicles and tractors," changing certain definitions to conform to existing law and providing for control of smoke from diesel-powered heavy duty motor vehicles and providing penalties.

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

Section 1. The definitions of "Department" and "Secretary" in section 102, act of April 29, 1959 (P.L.58), known as "The Vehicle Code," repealed in so far as inconsistent by the act of May 6, 1970 (Act No. 120), are reenacted and amended to read:

Section 102. Definitions.—The following words and phrases when used in this act shall, for the purpose of this act, have the following meanings, respectively, except in those instances where the context clearly indicates a different meaning:

\* \* \*

"Department."—The Department of [Revenue] *Transportation* of this Commonwealth.

\* \* \*

"Secretary."—The Secretary of [Revenue] *Transportation* of this Commonwealth.

\* \* \*

Section 2. The act is amended by adding a new section to read:

**Section 1828.4. Control of Smoke from Diesel-powered Motor Vehicles.—**

(a) *Definitions. Except where the context requires otherwise, as used in this section:*

(1) *"Diesel-powered Motor Vehicle" means a self-propelled vehicle designed primarily for transporting persons or property on a public street or highway and which is powered by an internal combustion engine of the compression ignition type.*

(2) *"Smoke" means the solid or liquid matter, except water, discharged from a motor vehicle engine which obscures the transmission of light.*

(3) *"Federal Standards" mean the Federal standards for the "Control of Air Pollution from New Motor Vehicles and New Motor Vehicle Engines," promulgated by the United States Department of Health, Education and Welfare in the Code of Federal Regulations, Title 45, Subtitle A, Part 85, and subsequent revisions thereof.*

<sup>1</sup>"828.2" in original.

(4) "Smokemeter" means a full-flow light-extinction smokemeter of a type approved by the Secretary of Transportation and operating on the principles described in the Federal standards.

(5) "Opacity" means the degree to which a smoke plume emitted from a motor vehicle engine will block the passage of a beam of light expressed in a percentage.

(6) "Smoke Control System" means a system consisting of one or more devices and/or adjustments designed to control the discharge of smoke from diesel-powered motor vehicles.

(7) "Administrator" means the Secretary of Transportation.

(b) *Applicability.* This section shall apply to all diesel-powered motor vehicles operated within this State with the exception of those listed in subsection (c) of this section.

(c) *Exemptions.* Vehicles in the following categories are exempt from this section:

(1) Emergency vehicles operated by Federal, State and local governmental authorities.

(2) Vehicles which are not required to be registered in accordance with applicable motor vehicle laws of this State.

(3) Vehicles used for research and development which have been approved by the administrator.

(4) Vehicles being operated while undergoing maintenance.

(5) Vehicles operated under emergency conditions.

(6) Vehicles being operated in the course of training programs which have been approved by the administrator.

(7) Other vehicles expressly exempted by the administrator.

(d) *Standards.* No one shall operate a diesel-powered motor vehicle on any public street or highway in this State in such a manner that the smoke exceeds the opacity set forth in the rules and regulations promulgated by the secretary.

(e) *Vehicles with a Control System.* No one shall intentionally make a change or other alteration to any vehicle equipped by its manufacturer with a smoke control system, including the basic fuel system, that may limit the ability of the system to control smoke, and no one shall remove such a smoke control system except for repair or install a proper replacement.

(f) *Penalties.* Every person who operates a diesel-powered motor vehicle in this State in violation of the standards established by this act or rules and regulations promulgated hereunder on summary conviction thereof, after failure to correct any such violation within forty-eight (48) hours, after receipt of written notice from a peace officer therefor and after failure to report to the arresting police department proof of such correction shall be sentenced for each day's violation to pay a fine of twenty-five dollars (\$25.00) and costs of prosecution, or in

*default of the payment thereof, to undergo imprisonment for one (1) day.*

*(g) Enforcement. (1) State and local enforcement officials shall have the authority to arrest suspected violators of this section on the basis of their visual evaluation of the smoke emitted from a diesel-powered motor vehicle: Provided, however, That a suspected violator may demand that the suspect vehicle be tested in accordance with this section by an approved smokemeter prior to hearing on the alleged violation.*

*(2) Smokemeter tests shall be conducted: (i) by or under the supervision of a person or testing facility authorized by the administrator to conduct such tests, and (ii) by installing an approved smokemeter on the exhaust pipe and operating the suspected vehicle in a manner similar to the manner of operation at the time of the alleged violation.*

*(3) The results of smokemeter tests run in accordance with this section and after the arrest shall be admissible as evidence in legal proceedings.*

*(h) Authority of the Administrator. (1) The administrator shall have the power, in accordance with the provisions of the act of July 31, 1968 (Act No. 240), known as the "Commonwealth Documents Law," to promulgate, consistent with and in furtherance of this section, rules and regulations in accordance with which the administrator will carry out his responsibilities and obligations under this section.*

*(2) As the state of knowledge and technology relating to the control of smoke from diesel-powered motor vehicles may permit or make appropriate, and in furtherance of the purposes of this section, the administrator may provide by rules and regulations, promulgated, in accordance with the provisions of the act of July 31, 1968 (Act No. 240), known as the "Commonwealth Documents Law," for the control of such smoke. Such rules and regulations may prescribe standards, inspection procedures and approval of inspection equipment to ~~insure compliance~~ with subsection (d) of this section.*

*(3) Any rules or regulations promulgated by the administrator pursuant to this section shall be consistent with provisions of the Federal law, if any, relating to control of emissions from the vehicles affected by such rules and regulations. The administrator shall not require, as a condition for the sale of any vehicle covered by this section, the inspection, certification, or other approval of any feature or equipment designed for the control of emissions from such motor vehicles, if such feature or equipment has been certified, approved, or otherwise authorized pursuant to laws or regulations of any Federal governmental body as sufficient to make the sale of any vehicle covered by this section lawful.*

*(i) Other Laws. The provisions of this section shall be exclusive and prevail over other provisions of law in this State or any of its political subdivisions applied to smoke from diesel-powered motor vehicles.*

APPROVED—The 29th day of December, A. D. 1972.

MILTON J. SHAPP

The foregoing is a true and correct copy of Act of the General Assembly  
No. 357.

A handwritten signature in black ink, reading "C. McLaughlin Tucker". The signature is written in a cursive style with a large initial "C" and a prominent "T" at the end.

*Secretary of the Commonwealth.*