

No. 1985-20

AN ACT

SB 36

Amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further defining the term "bus"; further providing for the seizure of suspended registration plates and registration cards; providing for seizure of revoked and suspended drivers' licenses; further providing for violations relating to equipment requirements, for inspection of vehicles and for the weighing and measuring of vehicles; granting the department additional regulating power; and providing for the impoundment and disposition of impounded vehicles.

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

Section 1. The definition of "bus" 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:

* * *

"Bus." [A]

(1) *At all times prior to July 1, 1986, a motor vehicle designed for carrying more than ten passengers, exclusive of the driver, and used for the transportation of persons and a motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation.*

(2) *On and after July 1, 1986, a motor vehicle designed for carrying more than ten persons, including the driver, and used for the transportation of persons and a motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation. The term does not include a vehicle owned by a natural person which is used solely for noncommercial purposes, or a vehicle used in a ridesharing arrangement, as defined in the act of December 14, 1982 (P.L.1211, No.279), entitled "An act providing for ridesharing arrangements and providing that certain laws shall be inapplicable to ridesharing arrangements."*

* * *

Section 2. Sections 1376 and 1540 of Title 75 are amended to read:

§ 1376. Surrender of registration plates and cards upon suspension.

(a) General rule.—The department, upon suspending any registration, shall require the registration plate or plates and registration card to be surrendered immediately to the department and may delegate authority to any authorized department employee [or], *member of the Pennsylvania State Police or local police officer* to seize the registration plate or plates and registration card or cards. *The department shall, by regulation, prescribe the manner of selecting the employees and State and local police officers to seize the registration plates and registration cards.*

(b) **Penalty.**—Any person failing or refusing to surrender to the department, upon demand, any registration plate or card which has been suspended is guilty of a summary offense and shall, upon conviction, be sentenced to pay a fine of \$100.

§ 1540. Surrender of license.

(a) **Conviction of offense.**—Upon a conviction for any offense which calls for mandatory revocation in accordance with section 1532 (relating to revocation or suspension of operating privilege), the court or the district attorney shall require the surrender of any driver's license then held by the defendant and shall forward the driver's license together with a record of the conviction to the department.

(b) **Suspension of operating privilege.**—Upon the suspension of the operating privilege of any person by the department, the department shall forthwith notify the person in writing to surrender his driver's license to the department for the term of suspension.

(c) **Seizure of revoked and suspended licenses.**—*The department may delegate authority to any authorized department employee, member of the Pennsylvania State Police or local police officer to seize the driver's license of any person when the operating privilege of that person has been revoked or suspended and his driver's license has been ordered to be surrendered by a court or district attorney or by the department. The department shall, by regulation, prescribe the manner of selecting the employees and State and local police officers to seize the drivers' licenses.*

Section 3. Section 4107(b)(2) of Title 75 is amended and the section is amended by adding a subsection to read:

§ 4107. Unlawful activities.

* * *

(b) **Other violations.**—It is unlawful for any person to do any of the following:

* * *

(2) Operate, or cause or permit another person to operate, on any highway in this Commonwealth any vehicle or combination which is not equipped as required under this part *or under department regulations* or which is otherwise in an unsafe condition *or in violation of department regulations*.

* * *

(d) **Penalty.**—

(1) *A person who operates a motor carrier vehicle or a bus in violation of subsection (b)(2) commits a summary offense and, upon conviction, shall be sentenced to pay a fine of \$25 per violation, except that the fine for a violation which causes the vehicle to be placed out of Commonwealth service under section 4704(c) (relating to inspection by police or Commonwealth personnel) shall be \$50 per violation. The maximum fine which may be levied on the basis of multiple charges filed together shall be \$500.*

(2) *A person who causes or permits another person to operate a motor carrier vehicle or a bus in violation of subsection (b)(2) commits a summary offense and, upon conviction, shall be sentenced to pay a fine of*

\$50 per violation, except that the minimum fine for a violation which causes the vehicle to be placed out of service under section 4704(c) shall be \$100 per violation. The maximum fine which may be levied on the basis of multiple charges filed together shall be \$1,000.

Section 4. Section 4522 of Title 75 is repealed.

Section 5. Section 4704 of Title 75 is amended to read:

§ 4704. Inspection by police or [department] Commonwealth personnel.

(a) *Authority to inspect.*—

(1) Inspection in conjunction with vehicle weighing.—Any police officer or [department] Commonwealth employee engaged in weighing vehicles as provided in Subchapter E of Chapter 49 (relating to measuring and adjusting vehicle size and weights) is authorized to inspect any items of a vehicle's equipment to determine whether they meet the standards established in department regulations.

(2) *Systematic vehicle inspection programs.*—Any Pennsylvania State Police officer or qualified Commonwealth employee engaged in a systematic vehicle inspection program may inspect any vehicle, driver, documents, equipment and load to determine whether they meet standards established in department regulations.

(3) *Probable cause.*—

(i) Any State Police officer or qualified Commonwealth employee having probable cause to believe that a vehicle, driver, documents, equipment or load are unsafe, not equipped as required or otherwise not in compliance with the law or regulations may inspect the vehicle, driver, documents, equipment or load.

(ii) Any police officer having probable cause to believe that a vehicle or its equipment is unsafe, not equipped as required or otherwise not in compliance with the law or regulations may inspect the vehicle or its equipment.

(b) [Inspection by police officer] *Notice of violation.*—Any police officer or qualified Commonwealth employee, having probable cause to believe that any vehicle or mass transit vehicle, regardless of whether it is being operated, [is] or its equipment, documents or load, are unsafe [or], not equipped as required [by], or are otherwise not in compliance with the law or department regulations, may at any time submit a written notice of the [condition] violations to the driver of the vehicle or the mass transit vehicle or to the owner or registrant, or if [neither] none of them is present, to an adult occupant of the vehicle or the mass transit vehicle, or if the vehicle or the mass transit vehicle is unoccupied, the notice shall be attached to the vehicle or the mass transit vehicle in a conspicuous place.

(1) [If an item of equipment is broken or missing, the] *The notice shall specify the particulars of the [condition] violations and require that the [equipment be adjusted or repaired] violations be corrected. Within five days or, in the case of a motor carrier vehicle or bus, within 15 days or before commencement of the vehicle's next trip, whichever occurs first, evidence must be submitted to the police or the Commonwealth, whichever is applicable, that the [requirements for repair have been satisfied] violations have been corrected.*

(2) If the police officer *or qualified Commonwealth employee* has probable cause to believe that a vehicle or mass transit vehicle is unsafe or not in proper repair, he may require in the written notice that the [car] *vehicle* or mass transit vehicle be inspected. The owner or driver shall, *within five days of the date of notification or, in the case of a motor carrier vehicle or bus, within 15 days of the date of notification or before commencement of the vehicle's next trip, whichever occurs first*, submit to the police [within five days of the date of notification] *or the Commonwealth, whichever is applicable*, certification from an official inspection station that the vehicle or the mass transit vehicle has been restored to safe operating condition in relation to the particulars specified on the notice.

(3) After the expiration of the five-day *or 15-day* period specified in paragraphs (1) and (2), *whichever is appropriate*, the vehicle shall not be operated upon the highways of this Commonwealth and a mass transit vehicle shall not be operated until the owner or driver has submitted to the police *or the Commonwealth, whichever is applicable*, evidence of compliance with the requirements of paragraph (1) or (2), whichever is applicable.

(c) Operation prohibited if hazardous.—In the event a vehicle or a mass transit vehicle, *or its equipment, load or driver*, in the reasonable judgment of the officer *or qualified Commonwealth employee*, is in such condition that further operation would be hazardous, the officer *or qualified Commonwealth employee* may require that the vehicle or the mass transit vehicle not be operated under its own power *or that the driver discontinue driving, or both*, and may so stipulate in the notice given under subsection (b). *In the case of motor carrier vehicles or their drivers, all such determinations shall be based on out-of-service criteria established in department regulations.*

(d) *Authority of police and qualified Commonwealth employees.—Any police officer or qualified Commonwealth employee shall be authorized to detain and inspect any sealed or unsealed vehicle, container or shipment which they have probable cause to believe may be in violation of the law or Commonwealth regulations while in transit or in maintenance facilities, terminals or other public or private property to ascertain if commodities or materials are being unloaded, stored or transported in an illegal manner; to inspect contents; to inspect and copy documents and otherwise to ensure compliance with the law and Commonwealth regulations, except that only State Police and qualified Commonwealth employees shall have the authority to enforce any law or regulation pertaining to drivers, including, but not limited to, minimum driver qualifications, maximum hours of service and driver records, or pertaining specifically to hazardous materials. If a seal is opened for inspection, the inspecting officer or Commonwealth employee shall reseal any vehicle, container or shipment prior to further transportation.*

(e) *Limitation of authority of qualified Commonwealth employees.—The authority granted to qualified Commonwealth employees under this section shall be exercised only when the employee is in uniform and shall apply only to motor carrier vehicles, buses and all vehicles and combinations*

carrying hazardous materials in an amount and type which require the vehicle to be placarded under Chapter 83 (relating to hazardous materials transportation) and to the drivers of all such vehicles. Qualified Commonwealth employees shall be regarded as police officers for the purpose of instituting criminal proceedings by citation under Chapter 50 of the Pennsylvania Rules of Criminal Procedure.

(f) Training of Commonwealth employees.—The department shall establish a program to train and qualify Commonwealth employees, including Pennsylvania State Police officers, to inspect vehicles, equipment, documents, loads and drivers as authorized under this section. After one year following the effective date of this section, inspections under subsection (a)(2) may be conducted only by personnel qualified under this program. Until that time, such inspections may be conducted by personnel designated by the department. A document executed by a department official, or a photostatic copy thereof, indicating that a person has been so qualified or designated shall be competent and prima facie evidence of the qualification or designation.

(g) Limitations.—Farm trucks not required to be registered, implements of husbandry and special mobile equipment shall not be subject to the systematic vehicle inspections authorized under subsection (a).

Section 6. Sections 4946 and 4947 of Title 75 are repealed.

Section 7. Section 4981(a) of Title 75 is amended to read:

§ 4981. Weighing and measurement of vehicles.

(a) Authority of police [officer] officers and qualified department employees.—Any police officer or qualified department employee is authorized to require the driver of any vehicle or combination to stop and submit the vehicle or combination to be measured and weighed. Weighing may be done by using either portable or stationary scales. The weighing shall be conducted by qualified personnel who have been trained in the use of weighing equipment in a training program approved by the Department of Agriculture. A police officer or qualified department employee may require that a vehicle or combination be driven to the nearest stationary scales if the scales are within two miles.

* * *

Section 8. Section 4983 of Title 75 is repealed.

Section 9. Section 6103 of Title 75 is amended by adding subsections to read:

§ 6103. Promulgation of rules and regulations by department.

* * *

(c) Adoption of Federal statute or regulation.—The department shall be authorized to adopt by reference any Federal statute or regulation or provision thereof relating to vehicles or drivers, including, but not limited to, minimum driver qualifications, maximum hours of service, loading, unloading, hazardous materials, operation, equipment, records and inspection.

(1) The department shall be authorized to extend the coverage of any Federal statute or regulation adopted under this subsection to vehicles and drivers operating only in intrastate commerce, except as follows:

(i) *No Federal statute or regulation shall be extended to cover farm trucks not required to be registered, special mobile equipment or implements of husbandry.*

(ii) *No Federal statute or regulation pertaining to drivers, including, but not limited to, minimum driver qualifications, maximum hours of service or driver records, shall be extended to cover farm trucks, except farm trucks carrying hazardous materials in an amount and type which require the vehicle to be placarded under Chapter 83 (relating to hazardous materials transportation).*

(2) *The regulations promulgated by the department under paragraph (1) may be modified, but shall, to the maximum extent possible, be consistent with safety and correspond to Federal regulations and standards.*

(d) *Modification of Federal statute or regulation.—If any Federal statute, regulation or standard adopted by the department is amended or modified by the Federal Government, the amendment or modification shall have the effect of so amending or modifying the department's regulations. The amendment or modification shall take effect 60 days after the effective date of the Federal amendment or modification unless the department publishes a notice in the Pennsylvania Bulletin stating that the amendment or modification shall not take effect.*

(e) *Additional penalties.—*

(1) *In addition to any other penalty provided by law, the department may promulgate regulations providing for the suspension of the operating privilege, vehicle registration and fleet inspection privilege of:*

(i) *Any person who fails to pay any fee, charge or fine levied under this title.*

(ii) *Any person the department finds has repeatedly operated or caused or permitted the operation of motor carrier vehicles or buses placed out of service under section 4704(c) (relating to inspection by police or Commonwealth personnel).*

(2) *Except in the case of a person having been convicted of a violation, the department shall provide the opportunity for a hearing prior to imposing a suspension. The department shall be authorized to charge an administrative fee, based on department costs, if the person requests a hearing.*

Section 10. Section 6308(b) of Title 75 is amended to read:

§ 6308. Investigation by police officers.

* * *

(b) *Authority of police officer.—Whenever a police officer is engaged in a systematic program of checking vehicles or drivers or has articulable and reasonable grounds to suspect a violation of this title, he may stop a vehicle, upon request or signal, for the purpose of [inspecting the vehicle as to its equipment and operation, or] checking the vehicle's registration, proof of financial responsibility, vehicle identification number or engine number or the driver's license, or to secure such other information as the officer may reasonably believe to be necessary to enforce the provisions of this title.*

* * *

Section 11. Title 75 is amended by adding sections to read:

§ 6309. Impoundment of vehicles for nonpayment of fines.

(a) **General rule.**—Upon imposition of a fine in excess of \$250 imposed pursuant to section 1301 (relating to registration and certificate of title required), 1371 (relating to operation following suspension of registration), 4107(b) (relating to unlawful activities) or Chapter 49 (relating to size, weight and load), the defendant shall be allowed 24 hours to obtain the funds and pay the fine and costs of prosecution, during which time the vehicle or combination shall be rendered temporarily inoperative by such police officer or constable as the issuing authority shall designate. On default of payment within the 24-hour period, the issuing authority may impound the vehicle or combination and order a police officer or constable to seize it.

(b) **Storage.**—Upon impoundment, the issuing authority shall forthwith notify the sheriff of the county in which the violation occurred, who shall store the impounded vehicle or combination.

(c) **Notice of impoundment.**—The sheriff shall give immediate notice by the most expeditious means and by certified mail, return receipt requested, of the impoundment and location of the vehicle or combination to the owner of the vehicle or combination and the owner of the load if the names and addresses of the owner are known or can be ascertained by the sheriff.

(d) **Cost.**—The police officer's, constable's and sheriff's costs, reasonable storage costs and all other reasonable costs incident to seizure and impounding under subsections (a) and (b) shall be recoverable in addition to costs of prosecution.

(e) **Applicability.**—This section shall not apply in the case of a vehicle duly registered in this Commonwealth.

§ 6310. Disposition of impounded vehicles and loads.

(a) **Rights of owner of load.**—The title to the load on an impounded vehicle or combination remains in the owner who may repossess the load at any time upon presentation of proof of ownership to the sheriff. If the load spoils during impoundment, the loss shall be on the owner subject to any right of recovery of damages that the owner may have against the owner of the vehicle or combination or against any other party, and the costs of disposition of the load shall be recoverable in addition to the costs of prosecution.

(b) **Sale of unclaimed vehicle or load.**—In case any impounded vehicle or combination is unredeemed, or the load is unclaimed, for a period of 60 days after notice of impoundment is given, it shall be sold at a public sale by the sheriff upon order of the issuing authority and after ten days' notice of sale to the owners, lienholders or secured parties of the vehicle or load except that, if the sheriff determines it to be necessary to preserve their value, goods which may spoil may be sold in any commercially reasonable manner prior to expiration of the 60-day period and, if impractical to do so, without giving notice to the owners, lienholders or secured parties.

(c) **Disposition of proceeds of sale.**—The proceeds of sale shall first be applied to the payment of the fine and costs and, secondly, to the payment of the encumbrances. The balance shall be remitted to the owner.

§ 6311. Enforcement authority.

If a driver fails or refuses to comply with the requirements of a police officer or qualified Commonwealth employee given pursuant to this title, the police officer or Commonwealth employee shall have authority to take the vehicle into temporary custody for the purpose of inspecting or weighing the vehicle, its equipment, documents or load. In addition to any fine or penalty attributable to the weight, inspection or other offense, any driver who fails or refuses to comply commits a summary offense and shall, upon conviction, be sentenced to pay a fine of \$500. Any costs incurred in weighing or inspecting shall be paid by the driver to the person or agency incurring the costs or to the issuing authority for payment to the person or agency incurring the costs.

Section 12. Section 8306 of Title 75 is amended by adding a subsection to read:

§ 8306. Penalties.

* * *

(f) Shipping documents.—A properly prepared shipping document shall be prima facie evidence of the contents of a vehicle carrying hazardous materials.

Section 13. The amendment to the definition of “bus” in section 102 shall be retroactive to July 10, 1984.

Section 14. For a period not to exceed one year after the effective date of this act, State Police officers and qualified Commonwealth employees are authorized to enforce against vehicles and drivers operating in interstate commerce the provisions of 49 CFR Parts 390-397.

Section 15. The department shall submit the regulations authorized by section 6103(c) (relating to promulgation of the rules and regulations by department) for review pursuant to section 5(e) of the act of June 25, 1982 (P.L.633, No.181), known as the Regulatory Review Act, with notice of proposed rulemaking omitted pursuant to section 204 of the act of July 31, 1968 (P.L.769, No.240), referred to as the Commonwealth Documents Law.

Section 16. This act shall take effect in 60 days.

APPROVED—The 19th day of June, A. D. 1985.

DICK THORNBURGH