

LAWS
OF THE
STATE OF DELAWARE

ONE HUNDRED AND TWENTY-NINTH
GENERAL ASSEMBLY

SPECIAL SESSION COMMENCED AND HELD AT DOVER

On Tuesday, January 4, A.D.
1977

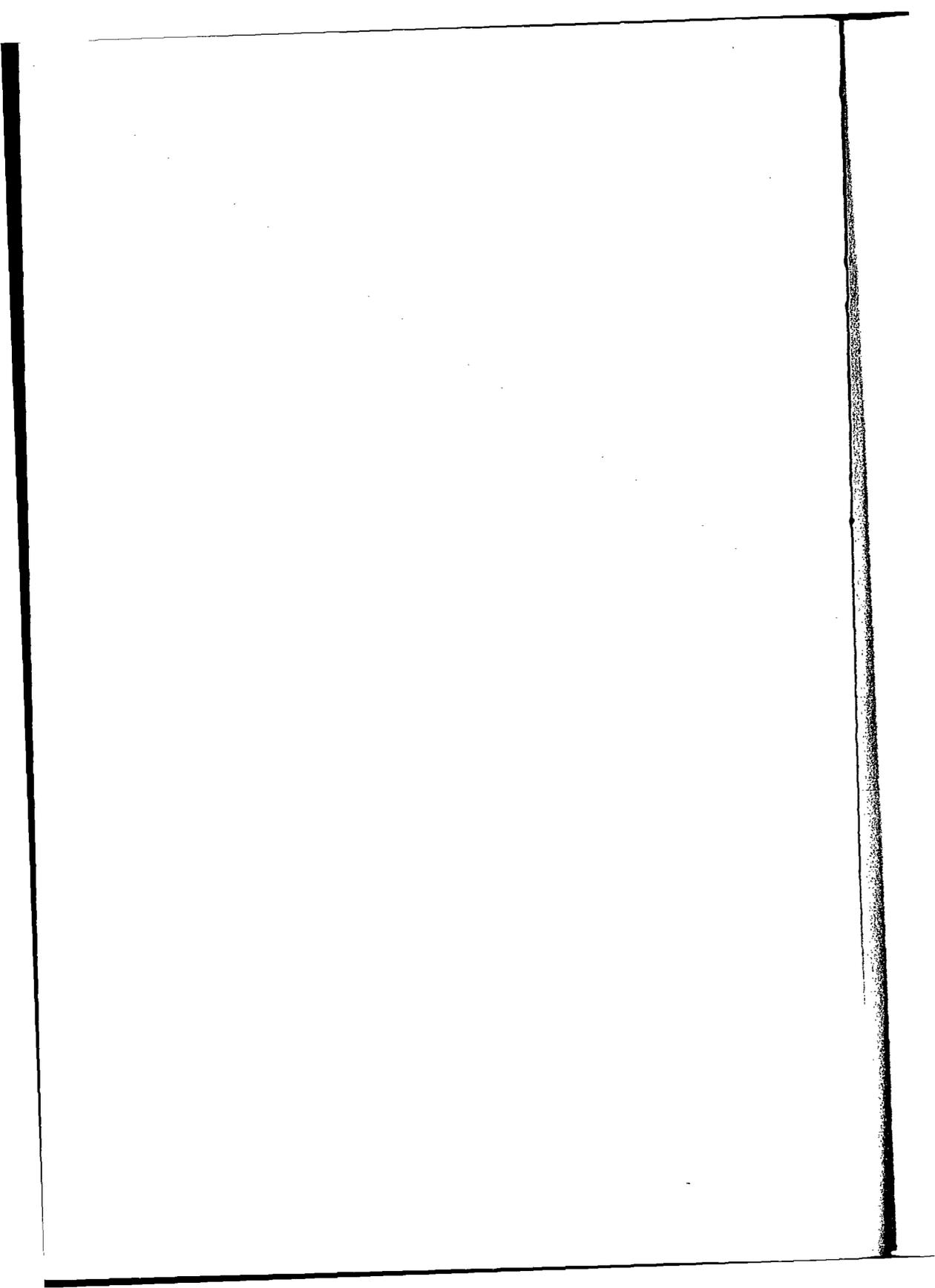
FIRST SESSION COMMENCED AND HELD AT DOVER

On Tuesday, January 11, A.D.
1977

SECOND SESSION COMMENCED AND HELD AT DOVER

On Tuesday, January 10, A.D.
1978

PART I
VOLUME LXI



CHAPTER 1

FORMERLY SENATE BILL NO. 41

AN ACT TO AMEND CHAPTER 1, TITLE 26 OF THE DELAWARE CODE RELATING
TO THE PUBLIC SERVICE COMMISSION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF
DELAWARE:

Section 1. Amend §103(b), Chapter 1, Title 26 of the
Delaware Code, by striking, in the last sentence, the phrase
"a practicing member of the Bar of this State and,".

Approved January 13, 1977.

CHAPTER 2

FORMERLY SENATE BILL NO. 16

AN ACT TO AMEND CHAPTER 5, TITLE 28, OF THE DELAWARE CODE RELATING TO HARNESS RACING.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend §507, Chapter 5, Title 28 Delaware Code by striking the words "Department of Administrative Services" as the same appear therein in their entirety and substituting in lieu thereof the word "Commission".

Approved January 15, 1977.

CHAPTER 3

FORMERLY SENATE BILL NO. 29

AN ACT TO AMEND CHAPTER 69, TITLE 29 OF THE DELAWARE CODE RELATING TO PUBLIC WORK CONTRACTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend §6903 (a), Chapter 69, Title 29 of the Delaware Code by adding thereto a new paragraph (4) to read as follows:

"(4) Where, because of changed situations, unforeseen conditions, strikes and Acts of God, change orders or extra work determined to be necessary and requested by the agency, and not specified in the agency's solicitation or advertisement for bids and in the contract as awarded, the awarding agency may issue a change order setting forth the change, addition or extra work required to be undertaken by the contractor on a public works contract, which shall not (1) be subject to the competitive bidding requirements of this Section, or (2) invalidate the contract, provided that such change is within the scope of the contract as set forth in the Standard Specifications, Special Provisions or similar publication of the Agency."

Section 2. Amend §6931 (a), Chapter 69, Title 29, Delaware Code by striking the period "." immediately following the word "head" as the same appears in the first sentence and inserting the following:

"and except where professional services are determined by the agency to be necessary during the course of completion of a previously awarded public works contract and the agency determines that the interest of the State would be best served by procuring such additional or supplemental professional services from a firm already under contract for the project or public works contract for which supplemental or additional professional services are required, provided that such additional or supplemental professional services are within the scope of the contract".

Section 3. Amend Section 6937 (a), Chapter 69, Title 29 of the Delaware Code by deleting the figure "5,000" and inserting in lieu thereof the figure "25,000".

Approved January 15, 1977.

CHAPTER 4

FORMERLY SENATE BILL NO. 58
AS AMENDED BY
SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 11, TITLE 29 OF THE DELAWARE CODE BY
CREATING A DIVISION OF MAINTENANCE, COMMUNICATIONS AND
CAPITAL SECURITY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF
DE AWARE:

Section 1. Amend Chapter 11, Title 29 of the Delaware Code
by adding thereto a new Subchapter III to read as follows:

"SUBCHAPTER III. DIVISION OF MAINTENANCE, COMMUNI-
CATIONS AND CAPITAL SECURITY

§1131. Division of Maintenance, Communications and Capital
Security

There is established a Division of Maintenance, Commu-
nications and Capital Security, which Division shall be
under the direction and supervision of the Legislative
Council.

§1132. Director; personnel; Merit System

(a) The Division of Maintenance, Communications and
Capital Security shall be administered by a director who
shall be selected by the Legislative Council by majority
vote.

(b) All employees of the Division of Maintenance and
Communications, heretofore established by Executive Order
No. 7 approved April 6, 1973, including the Director, shall
be transferred to the Division of Maintenance, Communi-
cations and Capital Security and shall be deemed to be em-
ployees of such Division and employees of the State in class-
ified service with all the benefits accrued as merit employ-
ees as of the effective date of this subchapter.

§1133. Powers; duties and functions

The Division of Maintenance, Communications and Cap-
ital Security shall have all the powers, duties and functions
heretofore vested in the Division of Maintenance and Comm-
unications established by Executive Order No. 7 approved
April 6, 1973, and such other powers, duties and functions
as may be assigned to it by law or by Legislative Council
by majority vote."

Section 2. All personnel, funds, property, books, records, papers, plans and other materials including, but not limited to, any equipment in possession of any agency of the State and used in connection with the function hereby transferred to the Legislative Council shall on the effective date of this Act be delivered into the custody of the Legislative Council. The service and employee positions to be transferred to the Legislative Council as contemplated by this section must be approved by the Controller General and the Budget Director.

Approved January 15, 1977.

CHAPTER 5

FORMERLY HOUSE BILL NO. 5

AN ACT TO AMEND CHAPTER 82, TITLE 29, DELAWARE CODE, RELATING TO THE ESTABLISHMENT OF A DIVISION OF MOTOR FUEL TAX WITHIN THE DEPARTMENT OF PUBLIC SAFETY.

WHEREAS, pursuant to §8203 (4) of Title 29, Delaware Code, the Secretary of Public Safety, with the concurrence of the Governor, has the power to establish divisions within the Department; and

WHEREAS, in the judgement of the Secretary of the Department of Public Safety it was necessary that when the duties, powers and functions of the Motor Fuel Tax law and the Motor Carriers Fuel Purchase Act were transferred from the Department of Finance to the Department of Public Safety such transfer warranted the creation of a Division of Motor Fuel Tax; and

WHEREAS, on October 11, 1973 Governor Tribbitt issued Executive Order No. 21 creating a Motor Fuel Tax Division within the Department of Public Safety; and

WHEREAS, the only legal basis for the Division is Executive Order No. 21 which does not have the legality of a statute.

NOW, THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 82 of Title 29, Delaware Code by adding thereto a new section to be designated as §8223 to read as follows:

"§8223. Division of Motor Fuel Tax

(a) The Division of Motor Fuel Tax is established and shall be responsible for the performance of all the powers, duties and functions pursuant to Chapters 51 and 52 of Title 30, Delaware Code.

(b) All employees of the Division of Motor Fuel Tax, heretofore established pursuant to Executive Order No. 21, including the Director, shall be transferred to the Department of Public Safety and shall be deemed to be employees of such office and employees of the State in classified service with all the benefits accrued as merit employees as of the effective date of this Act."

Approved January 15, 1977

CHAPTER 6

FORMERLY HOUSE BILL NO. 34

AN ACT MAKING AN APPROPRIATION TO THE DIVISION OF REVENUE TO PAY A REFUND TO DISTRIBUTORS OF TOBACCO PRODUCTS WHO WERE EXEMPTED FROM TAXATION ON GROSS RECEIPTS.

WHEREAS, by Chapter 273, Volume 60, Laws of Delaware, retail and wholesale distributors of tobacco products were exempted from paying a gross-receipts tax computed on a base that included State excise taxes on cigarettes; and

WHEREAS, retail and wholesale distributors of tobacco products nevertheless paid into the State during FY 1970 the sum of \$18,600; and

WHEREAS, this sum should now be refunded to the wholesale and retail distributors of cigarettes.

NOW, THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. There is hereby appropriated to the Division of Revenue the sum of \$18,600 to be used to refund to retail and wholesale distributors of cigarettes sums paid by them during FY 1970, although they had been exempted by Chapter 273, Volume 60, Laws of Delaware from paying a gross-receipts tax based on the State excise tax on cigarettes.

Section 2. This Act is a supplementary appropriation act and the funds hereby appropriated shall be paid from the General Fund of the State Treasury from moneys not otherwise appropriated.

Section 3. The funds herein appropriated shall be expended only in the manner set forth herein and any funds appropriated but unexpended by June 30, 1977, shall revert to the General Fund.

Approved January 15, 1977.

CHAPTER 7

FORMERLY SENATE BILL NO. 68

AN ACT TO AMEND CHAPTER 83, PART V, TITLE 11 OF THE DELAWARE CODE
RELATING TO POWERS AND DUTIES OF STATE POLICE AND LOCAL
POLICE OFFICERS ASSISTING STATE POLICE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF
DELAWARE:

Section 1. Amend §8302, Chapter 83, Part V, Title 11 of the
Delaware Code by striking subsection (a) of said section, and
substituting in lieu thereof the following:

"(a) State Police shall have police powers similar to
those of sheriffs, constables and other police officers, and
shall be conservators of the peace throughout the State, and
they shall suppress all acts of violence, and enforce all
laws relating to the safety of persons and property."

Approved January 27, 1977.