

**SENATE, No. 2723**

**STATE OF NEW JERSEY**  
**213th LEGISLATURE**

INTRODUCED MARCH 10, 2009

**Sponsored by:**

**Senator STEVEN V. OROHO**

**District 24 (Sussex, Hunterdon and Morris)**

**SYNOPSIS**

Excludes certain stable stall rentals from sales and use tax imposition and provides sales and use tax exemption for sales of equine-related services.

**CURRENT VERSION OF TEXT**

As introduced.



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1 AN ACT excluding the lease or rental of certain stable stalls from  
2 the imposition of the sales and use tax and providing a sales and  
3 use tax exemption for sales of equine-related services, amending  
4 and supplementing P.L.1966, c.30.

5

6 **BE IT ENACTED** by the Senate and General Assembly of the State  
7 of New Jersey:

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9 1. Section 3 of P.L.1966, c.30 (C.54:32B-3) is amended to read  
10 as follows:

11 3. There is imposed and there shall be paid a tax of 7% upon:

12 (a) The receipts from every retail sale of tangible personal  
13 property or digital property, except as otherwise provided in this  
14 act.

15 (b) The receipts from every sale, except for resale, of the  
16 following services:

17 (1) Producing, fabricating, processing, printing or imprinting  
18 tangible personal property or digital property, performed for a  
19 person who directly or indirectly furnishes the tangible personal  
20 property or digital property, not purchased by him for resale, upon  
21 which such services are performed.

22 (2) Installing tangible personal property or digital property, or  
23 maintaining, servicing, repairing tangible personal property or  
24 digital property not held for sale in the regular course of business,  
25 whether or not the services are performed directly or by means of  
26 coin-operated equipment or by any other means, and whether or not  
27 any tangible personal property or digital property is transferred in  
28 conjunction therewith, except (i) such services rendered by an  
29 individual who is engaged directly by a private homeowner or  
30 lessee in or about his residence and who is not in a regular trade or  
31 business offering his services to the public, (ii) such services  
32 rendered with respect to personal property exempt from taxation  
33 hereunder pursuant to section 13 of P.L.1980, c.105 (C.54:32B-8.1),  
34 (iii) (Deleted by amendment, P.L.1990, c.40), (iv) any receipts from  
35 laundering, dry cleaning, tailoring, weaving, or pressing clothing,  
36 and shoe repairing and shoeshining and (v) services rendered in  
37 installing property which, when installed, will constitute an addition  
38 or capital improvement to real property, property or land, other than  
39 landscaping services and other than installing carpeting and other  
40 flooring.

41 (3) Storing all tangible personal property not held for sale in the  
42 regular course of business; the rental of safe deposit boxes or  
43 similar space; and the furnishing of space for storage of tangible  
44 personal property by a person engaged in the business of furnishing  
45 space for such storage.

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 "Space for storage" means secure areas, such as rooms, units,  
2 compartments or containers, whether accessible from outside or  
3 from within a building, that are designated for the use of a customer  
4 and wherein the customer has free access within reasonable  
5 business hours, or upon reasonable notice to the furnisher of space  
6 for storage, to store and retrieve property. Space for storage shall  
7 not include the lease or rental of an entire building, such as a  
8 warehouse or airplane hanger, or the lease or rental of a stall in a  
9 livery stable or a boarding and exchange stable.

10 (4) Maintaining, servicing or repairing real property, other than  
11 a residential heating system unit serving not more than three  
12 families living independently of each other and doing their cooking  
13 on the premises, whether the services are performed in or outside of  
14 a building, as distinguished from adding to or improving such real  
15 property by a capital improvement, but excluding services rendered  
16 by an individual who is not in a regular trade or business offering  
17 his services to the public, and excluding garbage removal and sewer  
18 services performed on a regular contractual basis for a term not less  
19 than 30 days.

20 (5) Mail processing services for printed advertising material,  
21 except for mail processing services in connection with distribution  
22 of printed advertising material to out-of-State recipients.

23 (6) (Deleted by amendment, P.L.1995, c.184).

24 (7) Utility service provided to persons in this State, any right or  
25 power over which is exercised in this State.

26 (8) Tanning services, including the application of a temporary  
27 tan provided by any means.

28 (9) Massage, bodywork or somatic services, except such  
29 services provided pursuant to a doctor's prescription.

30 (10) Tattooing, including all permanent body art and permanent  
31 cosmetic make-up applications.

32 (11) Investigation and security services.

33 (12) Information services.

34 (13) Transportation services originating in this State and  
35 provided by a limousine operator, as permitted by law, except such  
36 services provided in connection with funeral services.

37 (14) Telephone answering services.

38 (15) Radio subscription services.

39 Wages, salaries and other compensation paid by an employer to  
40 an employee for performing as an employee the services described  
41 in this subsection are not receipts subject to the taxes imposed  
42 under this subsection (b).

43 Services otherwise taxable under paragraph (1) or (2) of this  
44 subsection (b) are not subject to the taxes imposed under this  
45 subsection, where the tangible personal property or digital property  
46 upon which the services were performed is delivered to the  
47 purchaser outside this State for use outside this State.

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1 (c) (1) Receipts from the sale of prepared food in or by  
2 restaurants, taverns, or other establishments in this State, or by  
3 caterers, including in the amount of such receipts any cover,  
4 minimum, entertainment or other charge made to patrons or  
5 customers, except for meals especially prepared for and delivered to  
6 homebound elderly, age 60 or older, and to disabled persons, or  
7 meals prepared and served at a group-sitting at a location outside of  
8 the home to otherwise homebound elderly persons, age 60 or older,  
9 and otherwise homebound disabled persons, as all or part of any  
10 food service project funded in whole or in part by government or as  
11 part of a private, nonprofit food service project available to all such  
12 elderly or disabled persons residing within an area of service  
13 designated by the private nonprofit organization; and

14 (2) Receipts from sales of food and beverages sold through  
15 vending machines, at the wholesale price of such sale, which shall  
16 be defined as 70% of the retail vending machine selling price,  
17 except sales of milk, which shall not be taxed. Nothing herein  
18 contained shall affect other sales through coin-operated vending  
19 machines taxable pursuant to subsection (a) above or the exemption  
20 thereto provided by section 21 of P.L.1980, c.105 (C.54:32B-8.9).

21 The tax imposed by this subsection (c) shall not apply to food or  
22 drink which is sold to an airline for consumption while in flight.

23 (3) For the purposes of this subsection:

24 "Food and beverages sold through vending machines" means  
25 food and beverages dispensed from a machine or other mechanical  
26 device that accepts payment; and

27 "Prepared food" means:

28 (i) A. food sold in a heated state or heated by the seller; or

29 B. two or more food ingredients mixed or combined by the  
30 seller for sale as a single item, but not including food that is only  
31 cut, repackaged, or pasteurized by the seller, and eggs, fish, meat,  
32 poultry, and foods containing these raw animal foods requiring  
33 cooking by the consumer as recommended by the Food and Drug  
34 Administration in Chapter 3, part 401.11 of its Food Code so as to  
35 prevent food borne illnesses; or

36 C. food sold with eating utensils provided by the seller,  
37 including plates, knives, forks, spoons, glasses, cups, napkins, or  
38 straws. A plate does not include a container or packaging used to  
39 transport the food;

40 provided however, that

41 (ii) "prepared food" does not include the following sold without  
42 eating utensils:

43 A. food sold by a seller whose proper primary NAICS  
44 classification is manufacturing in section 311, except subsector  
45 3118 (bakeries);

46 B. food sold in an unheated state by weight or volume as a  
47 single item; or

1 C. bakery items, including bread, rolls, buns, biscuits, bagels,  
2 croissants, pastries, donuts, danish, cakes, tortes, pies, tarts,  
3 muffins, bars, cookies, and tortillas.

4 (d) The rent for every occupancy of a room or rooms in a hotel  
5 in this State, except that the tax shall not be imposed upon a  
6 permanent resident.

7 (e) (1) Any admission charge to or for the use of any place of  
8 amusement in the State, including charges for admission to race  
9 tracks, baseball, football, basketball or exhibitions, dramatic or  
10 musical arts performances, motion picture theaters, except charges  
11 for admission to boxing, wrestling, kick boxing or combative sports  
12 exhibitions, events, performances or contests which charges are  
13 taxed under any other law of this State or under section 20 of  
14 P.L.1985, c.83 (C.5:2A-20), and, except charges to a patron for  
15 admission to, or use of, facilities for sporting activities in which  
16 such patron is to be a participant, such as bowling alleys and  
17 swimming pools. For any person having the permanent use or  
18 possession of a box or seat or lease or a license, other than a season  
19 ticket, for the use of a box or seat at a place of amusement, the tax  
20 shall be upon the amount for which a similar box or seat is sold for  
21 each performance or exhibition at which the box or seat is used or  
22 reserved by the holder, licensee or lessee, and shall be paid by the  
23 holder, licensee or lessee.

24 (2) The amount paid as charge of a roof garden, cabaret or other  
25 similar place in this State, to the extent that a tax upon such charges  
26 has not been paid pursuant to subsection (c) hereof.

27 (f) (1) The receipts from every sale, except for resale, of  
28 intrastate, interstate, or international telecommunications services  
29 and ancillary services sourced to this State in accordance with  
30 section 29 of P.L.2005, c.126 (C.54:32B-3.4).

31 (2) (Deleted by amendment, P.L.2008, c.123)

32 (g) (Deleted by amendment, P.L.2008, c.123)

33 (h) Charges in the nature of initiation fees, membership fees or  
34 dues for access to or use of the property or facilities of a health and  
35 fitness, athletic, sporting or shopping club or organization in this  
36 State, except for: (1) membership in a club or organization whose  
37 members are predominantly age 18 or under; and (2) charges in the  
38 nature of membership fees or dues for access to or use of the  
39 property or facilities of a health and fitness, athletic, sporting or  
40 shopping club or organization that is exempt from taxation pursuant  
41 to paragraph (1) of subsection (a) of section 9 of P.L.1966, c.30  
42 (C.54:32B-9), or that is exempt from taxation pursuant to paragraph  
43 (1) or (2) of subsection (b) of section 9 of P.L.1966, c.30 and that  
44 has complied with subsection (d) of section 9 of P.L.1966, c.30.

45 (i) The receipts from parking, storing or garaging a motor  
46 vehicle, excluding charges for the following: residential parking;  
47 employee parking, when provided by an employer or at a facility  
48 owned or operated by the employer; municipal parking, storing or

1 garaging; receipts from charges or fees imposed pursuant to section  
2 3 of P.L.1993, c.159 (C.5:12-173.3) or pursuant to an agreement  
3 between the Casino Reinvestment Development Authority and a  
4 casino operator in effect on the date of enactment of P.L.2007,  
5 c.105; and receipts from parking, storing or garaging a motor  
6 vehicle subject to tax pursuant to any other law or ordinance.

7 For the purposes of this subsection, "municipal parking, storing  
8 or garaging" means any motor vehicle parking, storing or garaging  
9 provided by a municipality or county, or a parking authority  
10 thereof.

11 (cf: P.L.2008, c. 123, s.2)

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13 2. (New section) a. Receipts from sales of equine-related  
14 services rendered in connection with the boarding of a horse, pony,  
15 mule, donkey, or hinny while that horse, pony, mule, donkey, or  
16 hinny is boarded by the keeper of a livery stable or a boarding and  
17 exchange stable are exempt from the tax imposed under the "Sales  
18 and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), if the  
19 equine-related services are separately stated on the invoice, bill, or  
20 similar document given to the purchaser at the time of purchase.

21 b. For purposes of this section:

22 "Equine-related services" includes, but shall not be limited to:  
23 (1) feeding, watering, grooming and bathing, turning-out and  
24 exercising, nursing, spraying, blanketing, or worming a horse, pony,  
25 mule, donkey, or hinny; (2) holding a horse, pony, mule, donkey, or  
26 hinny for a farrier or for veterinarian or dental care; or (3) cleaning  
27 the stall of a horse, pony, mule, donkey, or hinny; and

28 "Keeper of a livery stable or a boarding and exchange stable"  
29 includes, but shall not be limited to: (1) the proprietor of a stable,  
30 training facility, or any other business engaged in boarding a horse,  
31 pony, mule, donkey, or hinny for compensation; (2) a trainer; (3) a  
32 veterinarian; or (4) a farrier.

33

34 3. This act shall take effect immediately; provided, however,  
35 that sections 1 and 2 shall remain inoperative until the first day of  
36 the second month next following the date of enactment.

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#### STATEMENT

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41 This bill excludes the lease or rental of certain stable stalls from  
42 the imposition of the sales and use tax and provides a sales and use  
43 tax exemption for sales of equine-related services.

44 Under the provisions of the bill, receipts from the lease or rental  
45 of a stall in a livery stable or a boarding and exchange stable are  
46 excluded from the State's seven percent sales and use tax. While  
47 separately stated stall rental charges had been excluded from  
48 taxation as the rental of real property, tax law changes under

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1 P.L.2006, c.44 have allowed the State to reinterpret certain stall  
2 rentals as the furnishing of “space for storage.” Since October of  
3 2006, furnishing of space for storage of tangible personal property  
4 by a person engaged in furnishing storage space has been subject to  
5 taxation.

6 In addition, this bill provides a separate, free-standing sales and  
7 use tax exemption for receipts from separately stated sales of  
8 equine-related services rendered in connection with the boarding of  
9 a horse, pony, mule, donkey, or hinny while that horse, pony, mule,  
10 donkey, or hinny is boarded by the keeper of a livery or boarding  
11 and exchange stable. Under current law, charges for equine-related  
12 services, such as feeding, grooming, or exercising a horse under  
13 board, are generally subject to taxation as the maintenance of  
14 tangible personal property.

15 Under the bill, “equine-related services” is broadly defined to  
16 exempt a wide range services, including: (1) feeding, watering,  
17 grooming and bathing, turning-out and exercising, nursing,  
18 spraying, or worming a horse, pony, mule, donkey, or hinny; (2)  
19 holding a horse, pony, mule, donkey, or hinny for a farrier or for  
20 veterinarian or dental care; or (3) cleaning the stall of a horse, pony,  
21 mule, donkey, or hinny.

22 For purposes of the bill, the “keeper of a livery stable or a  
23 boarding and exchange stable” is defined as: (1) the proprietor of a  
24 stable, horse training facility, or any other business primarily  
25 engaged in boarding horses, ponies, mules, donkeys, or hinnies for  
26 compensation; (2) a trainer; (3) a veterinarian; or (4) a farrier.