

ASSEMBLY, No. 3886

STATE OF NEW JERSEY 216th LEGISLATURE

INTRODUCED NOVEMBER 13, 2014

Sponsored by:

Assemblyman JOHN S. WISNIEWSKI

District 19 (Middlesex)

SYNOPSIS

Increases petroleum products gross receipts tax rate; dedicates revenue generated from tax to Transportation Trust Fund; provides gross income tax deduction for certain taxes paid on motor fuel.

CURRENT VERSION OF TEXT

As introduced.



A3886 WISNIEWSKI

2

1 AN ACT concerning motor fuel taxes, amending various parts of the
2 statutory law, and supplementing Title 54A of the New Jersey
3 Statutes.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. Section 20 of P.L.1984, c.73 (C.27:1B-20) is amended to read
9 as follows:

10 20. There is hereby established in the General Fund an account
11 entitled "Transportation Trust Fund Account," which shall consist
12 of two subaccounts entitled: "Transportation Trust Fund Account -
13 Subaccount for Debt Service for Prior Bonds" and "Transportation
14 Trust Fund Account - Subaccount for Debt Service for
15 Transportation Program Bonds." During the fiscal year beginning
16 July 1, 1984 and during each succeeding fiscal year in which the
17 authority has bonds, notes, or other obligations outstanding, the
18 treasurer shall credit to the "Transportation Trust Fund Account -
19 Subaccount for Debt Service for Prior Bonds" a portion of the
20 revenues derived from the following, as determined by the
21 treasurer, and to the "Transportation Trust Fund Account -
22 Subaccount for Debt Service for Transportation Program Bonds"
23 only revenues derived under subsection a. of this section and from
24 the petroleum and sales tax as set forth in subsection d. of this
25 section:

26 a. An amount equivalent to the revenue derived from \$0.105
27 per gallon from the tax imposed on the sale of motor fuels pursuant
28 to chapter 39 of Title 54 of the Revised Statutes, as provided in
29 Article VIII, Section II, paragraph 4 of the State Constitution,
30 provided, however, such amount during any fiscal year shall not be
31 less than \$483,000,000;

32 b. (Deleted by amendment, P.L.2000, c.73).

33 c. An amount equivalent to **[moneys]** monies received by the
34 State in accordance with contracts entered into with toll road
35 authorities or other State agencies, provided that effective with the
36 fiscal year beginning July 1, 1988 the amount so credited shall not
37 be less than \$24,500,000.00 in any fiscal year.

38 The treasurer shall also credit to the "Transportation Trust Fund
39 Account - Subaccount for Debt Service for Prior Bonds," in
40 accordance with a contract between the treasurer and the authority,
41 an amount equivalent to the sum of the revenues due from the
42 increase of fees for motor vehicle registrations collected pursuant to
43 the amendment to R.S.39:3-20 made by section 32 of P.L.1984,
44 c.73 and from the increase in the tax on diesel fuels imposed
45 pursuant to the amendment to R.S.54:39-27 made by section 35 of

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 P.L.1984, c.73 and by P.L.1987, c.460, and as amended by section
2 18 of P.L.1992, c.23, and repealed by section 56 of P.L.2010, c.22
3 and now imposed pursuant to section 3 of P.L.2010, c.22 (C.54:39-
4 103), provided that the total amount credited during the fiscal year
5 beginning July 1, 1984 shall not be less than \$20,000,000.00 and
6 that the total amount credited during the fiscal year beginning July
7 1, 1985 and during every fiscal year thereafter shall not be less than
8 \$30,000,000.00.

9 In addition to the amounts credited to the account by this section,
10 commencing with the fiscal year beginning July 1, 1995 and every
11 fiscal year thereafter, there shall be appropriated from the General
12 Fund such additional amounts as are necessary to carry out the
13 provisions of this act and beginning July 1, 2000 the fees collected
14 pursuant to subsection a. of section 68 of P.L.1990, c.8 (C.17:33B-
15 63) shall be credited to the account for the purposes of this act,
16 provided, however, the amount credited from such fees during any
17 fiscal year shall not be less than \$60,000,000.

18 d. In addition to the amount credited in subsection a. of this
19 section, beginning January 1 following approval by the voters an
20 amount equivalent to the revenue derived from the tax imposed on
21 the sale of petroleum products pursuant to P.L.1990, c.42
22 (C.54:15B-1 et seq.), provided, however, such amount shall not be
23 less than \$100,000,000 in the period January 1 through June 30
24 following approval by the voters and shall not be less than
25 \$200,000,000 in any fiscal year **【thereafter】** from fiscal year 2002
26 through fiscal year 2015, and provided further that, commencing on
27 the first fiscal year beginning after the effective date of P.L. , c.
28 (C.) (pending before the Legislature as this bill) and each fiscal
29 year thereafter, the amount shall be equivalent to the entire amount
30 derived from the tax imposed on the sale of petroleum products
31 pursuant to P.L.1990, c.42 (C.54:15B-3), or if that amount is less
32 than \$1,450,000,000, any additional State funds necessary to ensure
33 that the amount credited to the Transportation Trust Fund Account
34 is not less than \$1,450,000,000, whichever is greater, and for the
35 fiscal year commencing July 1, 2001 and for each fiscal year
36 thereafter an amount equivalent to the revenue derived from the tax
37 imposed under the "Sales and Use Tax Act," P.L.1966, c.30
38 (C.54:32B-1 et seq.) on the sale of new motor vehicles, provided,
39 however, that such amount shall not be less than \$200,000,000 for
40 the fiscal year commencing July 1, 2003 and for each fiscal year
41 thereafter, as provided in Article VIII, Section II, paragraph 4 of the
42 State Constitution.

43 No later than the fifth business day of the month following the
44 month in which a credit has been made, the treasurer shall pay to
45 the authority, for its purposes as provided herein, the amounts then
46 credited to the "Transportation Trust Fund Account - Subaccount
47 for Debt Service for Prior Bonds" and "Transportation Trust Fund
48 Account - Subaccount for Debt Service for Transportation Program

1 Bonds," provided that the payments to the authority shall be subject
2 to and dependent upon appropriations being made from time to time
3 by the Legislature of the amounts thereof for the purposes of the
4 act, and further provided that the revenues deposited into the
5 "Transportation Trust Fund Account - Subaccount for Debt Service
6 for Transportation Program Bonds" shall consist solely of revenues
7 which are dedicated pursuant to the New Jersey Constitution,
8 including Article VIII, Section II, paragraph 4, and subsections a.
9 and d. of this section.
10 (cf: P.L.2012, c.13, s.5)
11

12 2. Section 3 of P.L.1990, c.42 (C.54:15B-3) is amended to read
13 as follows:

14 3. a. There is imposed on each company which is engaged in
15 the refining or distribution, or both, of petroleum products and
16 which distributes **such** these products in this State a tax at the rate
17 of **two and three-quarters percent (2 3/4%)** nine percent of its
18 gross receipts derived from the first sale of petroleum products
19 within this State; provided however, that the applicable tax rate for
20 fuel oils, aviation fuels, and motor fuels subject to tax under
21 **R.S.54:39-1 et seq.** P.L.2010, c.22 (C.54:39-101 et seq.) shall be
22 converted to a cents per gallon rate and adjusted semiannually by
23 the director, on January 1 and July 1, to reflect the average retail
24 price per gallon of unleaded regular gasoline in the State, as
25 determined in the most recent retail gasoline price survey conducted
26 by the Board of Public Utilities, Office of the Chief Economist, or
27 its successor. Any change in the cents per gallon rate determined
28 by the director shall be rounded to the nearest tenth of a cent. The
29 adjusted rate shall be effective for the tax due for months ending
30 after those dates. There shall be a minimum cents per gallon tax
31 rate, rounded to the nearest cent, that shall be calculated by the use
32 of the average retail price per gallon of unleaded regular gasoline in
33 **December 1990** August 2014, as determined in a survey of retail
34 gasoline prices that included a Statewide representative random
35 sample conducted in **December 1990** August 2014 for that month
36 by the Board of Public Utilities, Office of the Chief Economist,
37 and shall be effective for the tax due for months ending after that
38 date; and**].**

39 b. There is imposed on each company that imports or causes to
40 be imported, other than by a company subject to and having paid
41 the tax on those imported petroleum products that have generated
42 gross receipts taxable under subsection a. of this section, petroleum
43 products for use or consumption by it within this State a tax at the
44 rate of **two and three-quarters percent (2 3/4%)** nine percent of
45 the consideration given or contracted to be given for **such** these
46 petroleum products if the consideration given or contracted to be
47 given for all **such** deliveries made during a quarterly period

1 exceeds \$5,000; provided however, that the applicable tax rate for
2 fuel oils, aviation fuels, and motor fuels subject to tax under
3 **[R.S.54:39-1 et seq.] P.L.2010, c.22 (C.54:39-101 et seq.)** shall be
4 converted to a cents per gallon rate and adjusted semiannually by
5 the director, on January 1 and July 1, to reflect the average retail
6 price per gallon of unleaded regular gasoline in the State, as
7 determined in the most recent retail gasoline price survey by the
8 Board of Public Utilities, Office of the Chief Economist, or its
9 successor. Any change in the cents per gallon rate so determined by
10 the director shall be rounded to the nearest tenth of a cent. The
11 adjusted rate shall be effective for the tax due for months ending
12 after those dates. There shall be a minimum cents per gallon tax
13 rate, rounded to the nearest cent, that shall be calculated by the use
14 of the average retail price per gallon of unleaded regular gasoline in
15 **[December 1990] August 2014**, as determined in a survey of retail
16 gasoline prices that included a Statewide representative random
17 sample conducted in **[December 1990] August 2014** for that month
18 by the Board of Public Utilities, Office of the Chief Economist,
19 and shall be effective for the tax due for months ending after that
20 date].

21 c. An amount equivalent to the entire revenue collected from the
22 tax imposed pursuant to subsections a. and b. of this section, or
23 \$1,450,000,000, whichever is greater, shall be dedicated to the
24 Transportation Trust Fund Account, established pursuant to section
25 20 of P.L.1984, c.73 (C.27:1B-20).

26 (cf: P.L.2000, c.48, s.1)

27

28 3. Section 2 of P.L.1991, c.19 (C.54:15B-9) is amended to read
29 as follows:

30 2. a. A person who shall purchase or otherwise acquire
31 petroleum products, upon which the petroleum products gross
32 receipts tax has not been paid and is not due pursuant to subsection
33 b. of section 5 of P.L.1990, c.42 (C.54:15B-5) or upon which a
34 reimbursement payment has been paid pursuant to section 3 of **[this**
35 **act]** P.L.1991, c.19 (C.54:15B-10), from a federal government
36 department, agency or instrumentality, or any agent or officer
37 thereof, for use not specifically associated with any federal
38 government function or operation, shall pay to the State a tax
39 equivalent to **[two and three-quarters percent (2 3/4%)]** nine
40 percent of the consideration given or contracted to be given for the
41 purchase or acquisition of the petroleum products in accordance
42 with the procedures set forth in the "Petroleum Products Gross
43 Receipts Tax Act," P.L.1990, c.42 (C.54:15B-1 et seq.).

44 b. A person who knowingly uses, or who conspires with an
45 official, agent, or employee of a federal government department,
46 agency, or instrumentality, for the use of, a requisition, purchase
47 order, or a card or an authority to which the person is not

1 specifically entitled by government regulations, with the intent to
2 obtain petroleum products from a federal government department,
3 agency, or instrumentality for a use not specifically associated with
4 a federal government function or operation, upon which the
5 petroleum products gross receipts tax has not been paid, is guilty of
6 a crime of the fourth degree.

7 (cf: P.L.1991, c.19, s.2)

8

9 4. Section 3 of P.L.1991, c.19 (C.54:15B-10) is amended to read
10 as follows:

11 3. a. A federal government department, agency, or
12 instrumentality, that purchases petroleum products other than by the
13 first sale of that product in this State for use in a federal government
14 function or operation, upon which petroleum products the
15 petroleum products gross receipts tax has been paid or is due and
16 payable, shall be reimbursed and paid an amount equivalent to **two**
17 **and three-quarters percent (2 3/4%)** nine percent of the
18 consideration given or contracted to be given by the federal
19 government department, agency or instrumentality for the purchase
20 of the petroleum products.

21 b. The reimbursement shall be claimed by presenting to the
22 Director of the Division of Taxation in the Department of the
23 Treasury an application for the reimbursement, on a form prescribed
24 by the director, which application shall be verified by a declaration
25 of the applicant that the statements contained therein are true.
26 **Such** The application for reimbursement shall be supported by an
27 invoice, or invoices, showing the name and address of the person
28 from whom the petroleum products were purchased, the name of the
29 purchaser, the date of purchase, the quantity of the product
30 purchased, the price paid for the purchase of the product, and an
31 acknowledgment by the seller that payment of the cost of the
32 product to the seller, including the petroleum gross receipts tax due
33 thereon, has been made. **Such** The invoice, or invoices, shall be
34 legibly written and shall be void if any corrections or erasures shall
35 appear on the face thereof.

36 c. If petroleum products are sold to a federal government
37 department, agency, or instrumentality that shall be entitled to a
38 reimbursement under **this act** P.L.1991, c.19 (C.54:15B-9 et al.),
39 the seller of the petroleum products shall supply the purchaser with
40 an invoice that conforms with the requirements of subsection b. of
41 this section.

42 (cf: P.L.1991, c.19, s.3)

43

44 5. (New section) a. A taxpayer shall be allowed to deduct from
45 the taxpayer's gross income for the taxable year the amount of taxes
46 paid on motor fuel during the taxable year and not otherwise
47 deductible or reimbursed as a business expense.

1 b. As used in this section, “taxes paid on motor fuel” means the
2 tax imposed by the “Motor Fuel Tax Act,” P.L.2010, c.22 (C.54:39-
3 101 et seq.), the “Petroleum Products Gross Receipts Tax Act,”
4 P.L.1990, c.42 (C.54:15B-1 et seq.), and similar impositions on
5 “motor fuel,” as defined by section 2 of P.L.2010, c.22 (C.54:39-
6 102), made by other jurisdictions.

7
8 6. This act shall take effect immediately, and sections 2 through
9 4 shall apply to petroleum products sold on or after July 1, 2015 and
10 section 5 shall apply to taxable years ending after July 1, 2015.

11
12
13 STATEMENT

14
15 This bill increases the tax on petroleum products gross receipts
16 from four cents per gallon to nine percent of the average retail price
17 of unleaded regular gasoline. The bill requires that the tax be
18 converted to a cents-per-gallon rate and adjusted semiannually by
19 the Director of the Division of Taxation in the Department of the
20 Treasury, on January 1 and July 1 of each year, to reflect the
21 average retail price per gallon of unleaded regular gasoline in the
22 State. The adjusted tax rate will thereafter be applied for months
23 ending after the adjustment. The bill increases the minimum per
24 gallon tax rate to nine percent of the average retail price of
25 unleaded gasoline in August 2014. The bill also statutorily
26 dedicates all revenue generated from the tax on petroleum products
27 gross receipts to the Transportation Trust Fund, an amount equal to
28 the revenue collected from the petroleum products gross receipts tax
29 or \$1,450,000,000, whichever is greater. Currently, an amount not
30 less than \$200 million per year is statutorily and constitutionally
31 dedicated. The bill also allows taxpayers to claim an income tax
32 deduction equal to the amount of tax paid for motor fuel from the
33 motor fuels tax and the petroleum products gross receipts tax.