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

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

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

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

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

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

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

The treasurer shall also credit to the "Transportation Trust Fund Account - Subaccount for Debt Service for Prior Bonds," in accordance with a contract between the treasurer and the authority, an amount equivalent to the sum of the revenues due from the increase of fees for motor vehicle registrations collected pursuant to the amendment to R.S.39:3-20 made by section 32 of P.L.1984, c.73 and from the increase in the tax on diesel fuels imposed 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.
P.L.1984, c.73 and by P.L.1987, c.460, and as amended by section 18 of P.L.1992, c.23, and repealed by section 56 of P.L.2010, c.22 and now imposed pursuant to section 3 of P.L.2010, c.22 (C.54:39-103), provided that the total amount credited during the fiscal year beginning July 1, 1984 shall not be less than $20,000,000.00 and that the total amount credited during the fiscal year beginning July 1, 1985 and during every fiscal year thereafter shall not be less than $30,000,000.00.

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

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

No later than the fifth business day of the month following the month in which a credit has been made, the treasurer shall pay to the authority, for its purposes as provided herein, the amounts then credited to the "Transportation Trust Fund Account - Subaccount for Debt Service for Prior Bonds" and "Transportation Trust Fund Account - Subaccount for Debt Service for Transportation Program
Bonds,” provided that the payments to the authority shall be subject to and dependent upon appropriations being made from time to time by the Legislature of the amounts thereof for the purposes of the act, and further provided that the revenues deposited into the "Transportation Trust Fund Account - Subaccount for Debt Service for Transportation Program Bonds” shall consist solely of revenues which are dedicated pursuant to the New Jersey Constitution, including Article VIII, Section II, paragraph 4, and subsections a. and d. of this section.

(cf: P.L.2012, c.13, s.5)

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

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

b. There is imposed on each company that imports or causes to be imported, other than by a company subject to and having paid the tax on those imported petroleum products that have generated gross receipts taxable under subsection a. of this section, petroleum products for use or consumption by it within this State a tax at the rate of [two and three-quarters percent (2 3/4%)] nine percent of the consideration given or contracted to be given for [such] these petroleum products if the consideration given or contracted to be given for all [such] deliveries made during a quarterly period
exceeds $5,000; provided however, that the applicable tax rate for
fuel oils, aviation fuels, and motor fuels subject to tax under
【R.S.54:39-1 et seq.】P.L.2010, c.22 (C.54:39-101 et seq.) shall be
converted to a cents per gallon rate and adjusted semiannually by
the director, on January 1 and July 1, to reflect the average retail
price per gallon of unleaded regular gasoline in the State, as
determined in the most recent retail gasoline price survey by the
Board of Public Utilities, Office of the Chief Economist, or its
successor. Any change in the cents per gallon rate so determined by
the director shall be rounded to the nearest tenth of a cent. The
adjusted rate shall be effective for the tax due for months ending
after those dates. There shall be a minimum cents per gallon tax
rate, rounded to the nearest cent, that shall be calculated by the use
of the average retail price per gallon of unleaded regular gasoline in
【December 1990】August 2014, as determined in a survey of retail
gasoline prices that included a Statewide representative random
sample conducted in 【December 1990】August 2014 for that month
by the Board of Public Utilities, Office of the Chief Economist, and
shall be effective for the tax due for months ending after that
date.

c. An amount equivalent to the entire revenue collected from the
tax imposed pursuant to subsections a. and b. of this section, or
$1,450,000,000, whichever is greater, shall be dedicated to the
Transportation Trust Fund Account, established pursuant to section
20 of P.L.1984, c.73 (C.27:1B-20).
(cf: P.L.2000, c.48, s.1)

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

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

b. A person who knowingly uses, or who conspires with an
official, agent, or employee of a federal government department,
agency, or instrumentality, for the use of, a requisition, purchase
order, or a card or an authority to which the person is not
specifically entitled by government regulations, with the intent to
obtain petroleum products from a federal government department,
agency, or instrumentality for a use not specifically associated with
a federal government function or operation, upon which the
petroleum products gross receipts tax has not been paid, is guilty of
a crime of the fourth degree.
(cf: P.L.1991, c.19, s.2)

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

3. a. A federal government department, agency, or
instrumentality, that purchases petroleum products other than by the
first sale of that product in this State for use in a federal government
function or operation, upon which petroleum products the
petroleum products gross receipts tax has been paid or is due and
payable, shall be reimbursed and paid an amount equivalent to [two
and three-quarters percent (2 3/4%)] nine percent of the
consideration given or contracted to be given by the federal
government department, agency or instrumentality for the purchase
of the petroleum products.
b. The reimbursement shall be claimed by presenting to the
Director of the Division of Taxation in the Department of the
Treasury an application for the reimbursement, on a form prescribed
by the director, which application shall be verified by a declaration
of the applicant that the statements contained therein are true.
Such The application for reimbursement shall be supported by an
invoice, or invoices, showing the name and address of the person
from whom the petroleum products were purchased, the name of the
purchaser, the date of purchase, the quantity of the product
purchased, the price paid for the purchase of the product, and an
acknowledgment by the seller that payment of the cost of the
product to the seller, including the petroleum gross receipts tax due
thereon, has been made. Such The invoice, or invoices, shall be
legibly written and shall be void if any corrections or erasures shall
appear on the face thereof.
c. If petroleum products are sold to a federal government
department, agency, or instrumentality that shall be entitled to a
the seller of the petroleum products shall supply the purchaser with
an invoice that conforms with the requirements of subsection b. of
this section.
(cf: P.L.1991, c.19, s.3)

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

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

STATEMENT

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