Sponsored by:
Senator RAYMOND J. LESNIAK
District 20 (Union)

SYNOPSIS
Establishes DEP program to reduce heavy-duty diesel truck emissions from trucks operating in the ports of Bayonne, Elizabeth, Jersey City, and Newark.

CURRENT VERSION OF TEXT
As introduced.
S2507 LESNIAK

AN ACT concerning reduction of air pollutants and diesel exhaust emissions, and supplementing Title 26 of the Revised Statutes.

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

1. The Legislature finds and declares that the daily confluence of heavy-duty diesel truck traffic coming and going through the ports of Bayonne, Elizabeth, Jersey City, and Newark create a unique and burdensome environmental problem for the State and the citizens of these cities and the surrounding communities; that the concentration of air pollutants and diesel exhaust from these trucks queuing to drop off and pick up shipping containers at the ports create a serious environmental and health hazard for the area around the ports, including the Ironbound Neighborhood in Newark, whose high particulate emissions from diesel exhaust has been studied and documented; that the federal government has recently acknowledged the serious health and environmental risks of diesel emissions, calling for a 25 percent reduction in these emissions over the next 10 years; that the Port Authority of New York and New Jersey has sought to require trucks operating in the port district to be model year 2007 and newer so as to greatly reduce this problem, but has postponed enforcement of the requirement because, after committing to the project and promising funding, the Port Authority did not provide funding for truckers to update their vehicles despite the economic hardship it would impose on truckers and their trucking companies if trucks operating in the port district were required to be model year 2007 or newer; that the Department of Environmental Protection has long been aware of the air pollution problems at the New Jersey ports; that, since 1995, the department has endeavored to reduce emissions from heavy-duty diesel trucks in the State through enforcement of the periodic and roadside diesel emissions programs, and, since 2005, through increased enforcement of idling standards and the reduction of fine particulate emissions through the retrofitting and conversion of vehicles and fleets with funding from the Diesel Risk Mitigation Fund established pursuant to section 28 of P.L.2005, c.219 (C.26:2C-8.53); that much of the accomplished reductions were possible because of the funding from the Diesel Risk Mitigation Fund; and that establishing a similar stable source of funding and concentrated effort on the reduction of diesel emissions in the ports of Bayonne, Elizabeth, Jersey City, and Newark could improve the long-standing environmental and health risks associated with the heavy-duty diesel truck traffic there.

The Legislature therefore determines that reduction of diesel emissions at the ports of Bayonne, Elizabeth, Jersey City, and Newark in the New Jersey portion of the Port District of New York and New Jersey is a State environmental problem; that it is in the
best interest of the State to establish a clean truck tariff program at
the ports of Bayonne, Elizabeth, Jersey City, and Newark in order
to protect the health of the residents and citizens while maintaining
the economic vitality of the region; and that the clean truck tariff
program should encourage the updating of the trucks operating
there and provide funding to accomplish those updates.

Furthermore, the Legislature urges the Port Authority of New
York and New Jersey to reinstate its commitment to funding the
conversion of trucks operating in the ports of Bayonne, Elizabeth,
Jersey City, and Newark to model years eight years old and newer
by supporting the clean truck tariff established pursuant to section 3
of this act and assisting the Department of Environmental
Protection by entering into an agreement with the department
pursuant to that section.

2. As used in this act:
“Beneficial cargo owner” means the person who owns the
contents of a container being delivered to, or collected from, the
New Jersey portion of the port district.

“Department” means the New Jersey Department of
Environmental Protection.

“Eligible truck” is any heavy-duty diesel truck registered to
operate in the New Jersey portion of the port district with a model
year of 2011 or older, or after January 2, 2020, with a model year
more than eight years old.

“Fund” means the Clean Truck Tariff Fund established pursuant
to section 4 of this act.

“New Jersey portion of the port district” means the portion of the
Port District of New York and New Jersey located entirely in the
State of New Jersey, and encompassing the ports of Bayonne, E
Elizabeth, Jersey City, and Newark.

“Port authority” means the Port Authority of New York and New
Jersey.

3. a. Prior to January 2, 2020, the beneficial cargo owner of
the contents of a container being transported by an owner or
operator of a heavy-duty diesel truck registered to operate in the
New Jersey portion of the port district with a model year of 2011 or
older shall pay a per-trip clean truck tariff. The clean truck tariff
shall be not less than $100 nor more than $150 per trip by an owner
or operator of a heavy-duty diesel truck to a port receiving or
delivering a shipping container, as determined in the agreement
established pursuant to subsection c. of this section and collected in
the manner provided by the agreement. On January 2, 2020 and
thereafter, the beneficial cargo owner of the contents of a container
being transported by an owner or operator of a heavy-duty diesel
truck registered to operate in the New Jersey portion of the port
district with a model year more than eight years old shall pay the
clean truck tariff.

b. Any moneys collected for the clean truck tariff pursuant to
subsection a. of this section shall be forwarded to the New Jersey
Department of Environmental Protection and deposited in the
“Clean Truck Tariff Fund,” established pursuant to section 4 of this
act. An owner of a heavy-duty diesel truck registered to operate in
the New Jersey portion of the port district with a model year of
2011 or older, or after January 2, 2020, with a model year more
than eight years old, may apply to the department for a subsidy or
reimbursement as provided in section 5 of this act.

c. The department shall enter into an agreement with the Port
Authority of New York and New Jersey to provide for the
collection and receipt by the department of the clean truck tariff
established pursuant to subsection a. of this section. If the port
authority facilitates the collection of the clean truck tariff and incurs
any administrative expenses therefor, it may retain a portion of the
collected moneys, not to exceed 2 percent, for administrative
expenses connected with its responsibilities pursuant to the
agreement. The agreement shall establish the dollar amount of the
clean truck tariff, how it shall be imposed and collected, and any
other provisions the department and the port authority determine to
be necessary for the collection of the clean truck tariff.

4. a. There is established in the department a special,
nonlapsing fund to be known as the "Clean Truck Tariff Fund." The
fund shall be administered by the department and shall be credited
with moneys collected as clean truck tariffs pursuant to section 3 of
this act and any moneys that may be made available to the
department by the Legislature, the federal government, the State, or
pursuant to its applications or solicitations pursuant to subsection d.
of this section.

b. Moneys in the fund shall be used by the department solely
for:
(1) providing subsidies or reimbursements to owners of eligible
trucks as provided pursuant to subsection c. of this section;
(2) administrative costs incurred by the department in the
awarding and distribution of the subsidies or reimbursements,
provided that these administrative costs do not exceed 1 percent of
the moneys deposited in the fund annually; and
(3) any moneys due to the port authority pursuant to the
agreement entered into pursuant to subsection c. of section 3 of this
act.

c. Any owner of an eligible truck shall be eligible for a subsidy
or reimbursement pursuant to section 5 of this act from the fund
established pursuant to subsection a. of this section.

d. The department shall also apply for and solicit funding from
any sources that may be available for the subsidies or
reimbursements to owners of eligible trucks provided pursuant to
this act.

5. a. Moneys in the fund shall be allocated and used to provide
a subsidy or reimbursement to the owner of any eligible truck for a
percentage of the cost of purchase of a replacement truck, as
determined by the department.
b. An owner of an eligible truck seeking a subsidy or
reimbursement authorized by subsection a. of this section shall file
an application therefor on a form to be developed by the
Department of Environmental Protection, with the documentation
required by the department. The department shall not charge an
application fee.
c. Upon determination that an application for a subsidy or
reimbursement meets all established criteria for an award from the
fund, the department shall approve the application and award the
subsidy or reimbursement, upon the availability of sufficient
moneys in the fund. If moneys in the fund are not sufficient at any
point to fund all applications for a subsidy or reimbursement,
awards shall be made based upon the date of approval of the
application.

6. a. The Department of Environmental Protection, pursuant to
the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
seq.), shall adopt rules and regulations establishing:
   (1) filing requirements for a complete application for a subsidy
   or reimbursement from the fund;
   (2) requirements for an owner of an eligible truck to submit
documentation or other information demonstrating the intent to
purchase or the actual purchase of an eligible truck, which may
include the vehicle identification number of the truck, and
documentation of the actual costs incurred for the purchase or the
projected costs for the intended purchase;
   (3) eligibility requirements for an owner of an eligible truck,
including, but not limited to, documentation that the owner is in
compliance with the applicable labor, truck safety, and tax laws;
and
   (4) any other procedures or requirements necessary for the
implementation of this act.
b. In establishing requirements for an application for a subsidy
or reimbursement, the department shall strive to minimize the
complexity of the process and the application requirements, and
shall expeditiously process all applications in accordance with the
funding available.

7. a. The department may deny an application for a subsidy or
reimbursement from the fund, and any subsidy or reimbursement
awarded from the fund may be recoverable by the department, upon
a finding that the owner of a heavy-duty diesel truck provided false
information or withheld information on an application that would
render the owner ineligible for a subsidy or reimbursement from the
fund, that resulted in the owner receiving a larger subsidy or
reimbursement than the owner would otherwise be eligible for, or
that resulted in payments from the fund in excess of the actual costs
incurred by the owner or the amount to which the owner is legally
eligible.

b. Nothing in this section shall be construed to require the
department, or any other State agency or department, to undertake
an investigation or make any findings concerning the conduct
described in subsection a. of this section.

8. This act shall take effect immediately.

STATEMENT

This bill establishes in the New Jersey Department of
Environmental Protection (DEP) a clean truck tariff program to be
administered by the DEP to address the State health and
environmental problems from heavy-duty diesel truck traffic in the
ports of Bayonne, Elizabeth, Jersey City, and Newark. The bill
requires the beneficial cargo owner of a container being transported
by an owner or operator of a heavy-duty diesel truck registered to
operate in the New Jersey portion of the port district to pay a clean
truck tariff of not less than $100 nor more than $150 per trip to a
port to receive or deliver a shipping container:
1) prior to January 2, 2020 if the model year of the truck is 2011
or older; and
2) on and after January 2, 2020 if the model year of the truck is
more than eight years old.

The bill further provides that all moneys collected for the clean
truck tariff would be deposited in the “Clean Truck Tariff Fund,”
established in the bill, and that the moneys would be used to
subsidize or reimburse the costs of updating the model years of the
trucks operating in the ports of Bayonne, Elizabeth, Jersey City, and
Newark. The bill also directs the DEP to apply for and solicit
funding for these subsidies or reimbursements from whatever
funding sources may be available, for deposit into the “Clean Truck
Tariff Fund.” Any owner of a heavy-duty diesel truck registered to
operate in the New Jersey portion of the port district with a model
year of 2011 or older, or on or after January 2, 2020, with a model
year more than eight years old, may apply to the DEP for a subsidy
or reimbursement in the manner established by the DEP.

The bill also directs the DEP to enter into an agreement with the
Port Authority of New York and New Jersey (the Port Authority) to
provide for the collection of the clean truck tariff and the
forwarding of the moneys therefrom to the DEP. The bill allows
the Port Authority to retain a portion of the collected moneys, not to
exceed 2 percent, for administrative expenses connected with its
responsibilities pursuant to the agreement. The bill also requires
the agreement to establish the dollar amount of the clean truck
tariff, how it would be imposed and collected, and any other
provisions the DEP and the Port Authority determine to be
necessary for the collection of the clean truck tariff.