

ASSEMBLY, No. 128

STATE OF NEW JERSEY

218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

Sponsored by:

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District 14 (Mercer and Middlesex)

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District 38 (Bergen and Passaic)

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SYNOPSIS

Exempts fuel used for operation of certain school buses from petroleum products gross receipts tax and motor fuel tax.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 6/26/2018)

1 AN ACT providing an exemption from the petroleum products gross
2 receipts tax and the motor fuel tax for fuel used for the operation
3 of certain school buses, amending P.L.1991, c.181 and P.L.2010,
4 c.22.

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

8
9 1. Section 7 of P.L.1991, c.181 (C.54:15B-2.1) is amended to
10 read as follows:

11 7. a. "Gross receipts," as otherwise defined by section 2 of
12 P.L.1990, c.42 (C.54:15B-2), shall not include receipts from sales
13 of petroleum products used by marine vessels engaged in interstate
14 or foreign commerce and receipts from sales of aviation fuels used
15 by common carriers in interstate or foreign commerce other than the
16 "burnout" portion which shall be taxable pursuant to rules
17 promulgated by the director.

18 b. Highway fuel used for the following purposes is exempt from
19 the tax imposed by section 3 of P.L.1990, c.42 (C.54:15B-3), and a
20 refund of the tax imposed by that section may be claimed by the
21 consumer providing proof the tax has been paid and no refund has
22 been previously issued:

23 (1) autobuses while being operated over the highways of this
24 State in those municipalities to which the operator has paid a
25 monthly franchise tax for the use of the streets therein under the
26 provisions of R.S.48:16-25 and autobuses while being operated over
27 the highways of this State in a regular route bus operation as
28 defined in R.S.48:4-1 and under operating authority conferred
29 pursuant to R.S.48:4-3, or while providing bus service under a
30 contract with the New Jersey Transit Corporation or under a
31 contract with a county for special or rural transportation bus service
32 subject to the jurisdiction of the New Jersey Transit Corporation
33 pursuant to P.L.1979, c.150 (C.27:25-1 et seq.), and autobuses
34 providing commuter bus service which receive or discharge
35 passengers in New Jersey. For the purpose of this paragraph
36 "commuter bus service" means regularly scheduled passenger
37 service provided by motor vehicles whether within or across the
38 geographical boundaries of New Jersey and utilized by passengers
39 using reduced fare, multiple ride, or commutation tickets and shall
40 not include charter bus operations for the transportation of enrolled
41 children and adults referred to in subsection c. of R.S.48:4-1 and
42 "regular route service" does not mean a regular route in the nature
43 of special bus operation or a casino bus operation;

44 (2) agricultural tractors not operated on a public highway;

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 (3) farm machinery;
- 2 (4) ambulances;
- 3 (5) rural free delivery carriers in the dispatch of their official
- 4 business;
- 5 (6) vehicles that run only on rails or tracks, and such vehicles as
- 6 run in substitution therefor;
- 7 (7) highway motor vehicles that are operated exclusively on
- 8 private property;
- 9 (8) motor boats or motor vessels used exclusively for or in the
- 10 propagation, planting, preservation and gathering of oysters and
- 11 clams in the tidal waters of this State;
- 12 (9) motor boats or motor vessels used exclusively for
- 13 commercial fishing;
- 14 (10) motor boats or motor vessels, while being used for hire for
- 15 fishing parties or being used for sightseeing or excursion parties;
- 16 (11) fire engines and fire-fighting apparatus;
- 17 (12) stationary machinery and vehicles or implements not
- 18 designed for the use of transporting persons or property on the
- 19 public highways;
- 20 (13) heating and lighting devices;
- 21 (14) motor boats or motor vessels used exclusively for Sea
- 22 Scout training by a duly chartered unit of the Boy Scouts of
- 23 America; **[and]**
- 24 (15) emergency vehicles used exclusively by volunteer first-aid
- 25 or rescue squads; and
- 26 (16) school buses operated for the transportation of pupils to or
- 27 from school or a school-sponsored activity or event by a religious
- 28 or other charitable organization or corporation or by a person under
- 29 contract with a public or governmental agency or a religious or
- 30 other charitable organization or corporation. For the purpose of this
- 31 paragraph "school buses" means "school bus" as that term is
- 32 defined by R.S.39:1-1.
- 33 (cf: P.L.2016, c.57, s.13)

34

35 2. Section 12 of P.L.2010, c.22 (C.54:39-112) is amended to
36 read as follows:

37 12. a. Fuel used for the following purposes is exempt from the
38 tax imposed by the "Motor Fuel Tax Act," P.L.2010, c.22 (C.54:39-
39 101 et seq.), and a refund of the tax imposed by subsection a. of
40 section 3 of P.L.2010, c.22 (C.54:39-103) may be claimed by the
41 consumer providing proof the tax has been paid and no refund has
42 been previously issued:

43 (1) Buses while being operated over the highways of this
44 State in those municipalities to which the operator has paid a
45 monthly franchise tax for the use of the streets therein under the
46 provisions of R.S.48:16-25 and buses while being operated over
47 the highways of this State in a regular route bus operation as
48 defined in R.S.48:4-1 and under operating authority conferred

1 pursuant to R.S.48:4-3, or while providing bus service under a
2 contract with the New Jersey Transit Corporation or under a
3 contract with a county for special or rural transportation bus service
4 subject to the jurisdiction of the New Jersey Transit Corporation
5 pursuant to P.L.1979, c.150 (C.27:25-1 et seq.), and autobuses
6 providing commuter bus service which receive or discharge
7 passengers in New Jersey. For the purpose of this paragraph
8 "commuter bus service" means regularly scheduled passenger
9 service provided by motor vehicles whether within or across the
10 geographical boundaries of New Jersey and utilized by passengers
11 using reduced fare, multiple ride or commutation tickets and shall
12 not include charter bus operations for the transportation of enrolled
13 children and adults referred to in subsection c. of R.S.48:4-1 and
14 "regular route service" does not mean a regular route in the nature
15 of special bus operation or a casino bus operation,
16 (2) agricultural tractors not operated on a public highway,
17 (3) farm machinery,
18 (4) aircraft,
19 (5) ambulances,
20 (6) rural free delivery carriers in the dispatch of their official
21 business,
22 (7) vehicles that run only on rails or tracks, and such vehicles as
23 run in substitution therefor,
24 (8) highway motor vehicles that are operated exclusively on
25 private property,
26 (9) motor boats or motor vessels used exclusively for or in the
27 propagation, planting, preservation and gathering of oysters and
28 clams in the tidal waters of this State,
29 (10) motor boats or motor vessels used exclusively for
30 commercial fishing,
31 (11) motor boats or motor vessels, while being used for hire for
32 fishing parties or being used for sightseeing or excursion parties,
33 (12) cleaning,
34 (13) fire engines and fire-fighting apparatus,
35 (14) stationary machinery and vehicles or implements not
36 designed for the use of transporting persons or property on the
37 public highways,
38 (15) heating and lighting devices,
39 (16) motor boats or motor vessels used exclusively for Sea
40 Scout training by a duly chartered unit of the Boy Scouts of
41 America,
42 (17) emergency vehicles used exclusively by volunteer first-aid
43 or rescue squads, **【and】**
44 (18) three cents per gallon, the difference between the rate of tax
45 on diesel fuel and the rate of tax on gasoline, for diesel fuel used by
46 passenger automobiles and motor vehicles of less than 5,000 pounds
47 gross weight, and

1 (19) school buses operated for the transportation of pupils to or
2 from school or a school-sponsored activity or event by a religious
3 or other charitable organization or corporation or by a person under
4 contract with a public or governmental agency or a religious or
5 other charitable organization or corporation. For the purpose of this
6 paragraph "school buses" means "school bus" as that term is
7 defined by R.S.39:1-1.

8 b. Subject to the procedural requirements and conditions set
9 out in the "Motor Fuel Tax Act," P.L.2010, c.22 (C.54:39-101 et
10 seq.), the following uses are exempt from the tax imposed by
11 section 3 of P.L.2010, c.22 (C.54:39-103) on fuel, and a deduction
12 or a refund may be claimed by the supplier, permissive supplier or
13 licensed distributor:

14 (1) fuel for which proof of export, satisfactory to the director, is
15 available and is either:

16 (a) removed by a licensed supplier for immediate export to a
17 state in which the supplier has a valid license;

18 (b) removed from a terminal by a licensed distributor for
19 immediate export as evidenced by the terminal issued shipping
20 papers; or

21 (c) acquired by a licensed distributor and which the tax imposed
22 by P.L.2010, c.22 (C.54:39-101 et al.) has previously been paid or
23 accrued either as a result of being stored outside of the terminal
24 transfer system immediately prior to loading or as a diversion
25 across state boundaries properly reported in conformity with
26 P.L.2010, c.22 (C.54:39-101 et al.) and was subsequently exported
27 from this State on behalf of the distributor.

28 The exemption pursuant to subparagraphs (a) and (b) of this
29 paragraph shall be claimed by a deduction on the report of the
30 supplier which is otherwise responsible for remitting the tax upon
31 removal of the product from a terminal or refinery in this State. The
32 exemption pursuant to subparagraph (c) of this paragraph shall be
33 claimed by the distributor, upon a refund application made to the
34 director within six months of the licensed distributor's acquisition of
35 the fuel;

36 (2) undyed kerosene sold to a licensed ultimate vendor - blocked
37 pumps; if the licensed ultimate vendor - blocked pumps does not
38 sell the kerosene through dispensers that have been designed and
39 constructed to prevent delivery directly from the dispenser into a
40 motor vehicle fuel supply tank, the ultimate vendor - blocked
41 pumps shall be responsible for the tax imposed by section 3 of
42 P.L.2010, c.22 (C.54:39-103) at the diesel fuel rate. Exempt use of
43 undyed kerosene shall be governed by rules and regulations of the
44 director. If rules or regulations are not promulgated by the director,
45 then the exempt use of undyed kerosene shall be governed by rules
46 and regulations of the Internal Revenue Service. An ultimate
47 vendor-blocked pumps who obtained undyed kerosene upon which
48 the tax levied by section 3 of P.L.2010, c.22 (C.54:39-103) had

1 been paid and makes sales qualifying pursuant to this subsection
2 may apply for a refund of the tax pursuant to an application, as
3 provided by section 14 of P.L.2010, c.22 (C.54:39-114), to the
4 director provided the ultimate vendor-blocked pumps did not charge
5 that tax to the consumer;

6 (3) fuel sold to the United States or any agency or
7 instrumentality thereof, and to the State of New Jersey and its
8 political subdivisions, departments and agencies;

9 (4) aviation fuel sold to a licensed aviation fuel dealer;

10 (5) liquefied petroleum gas except when delivered to the tank of
11 a highway vehicle;

12 (6) motor fuel on which tax has been paid under this act that is
13 later contaminated in a manner making it unsuitable for taxable use.
14 This credit or refund is limited to the remaining portion of taxed
15 fuel in the contaminated mixture and is conditioned upon
16 submitting to the director adequate documentation that the
17 contaminated mixture was subsequently used in an exempt manner;

18 (7) fuel on which tax has been paid pursuant to P.L.2010, c.22
19 (C.54:39-101 et al.) that is either subsequently delivered back into
20 the terminal transfer system for further distribution or delivered to a
21 refinery for further processing;

22 (8) fuel on which tax has been previously imposed and paid
23 pursuant to section 3 of P.L.2010, c.22 (C.54:39-103) and which is
24 either subsequently exported, sold or distributed in this State in a
25 manner which would result in a second tax being owed. If there is a
26 second taxable distribution or sale, the party responsible for
27 remittance of the second tax shall be the party eligible for claiming
28 the refund or deduction;

29 (9) Fuel grade alcohol, biobased liquid fuel, or biodiesel fuel
30 when sold to a licensed supplier and delivered to a qualified
31 terminal.

32 (cf: P.L.2015, c.101, s.2)

33
34 3. This act shall take effect immediately and apply to highway
35 fuel and fuel used on or after the first day of the first month next
36 following the date of enactment.

37 38 39 STATEMENT

40
41 This bill provides an exemption from the petroleum products
42 gross receipts tax and the motor fuel tax for fuel used for the
43 operation of certain school buses.

44 Under the bill, the exemption from tax applies to fuel that is used
45 for school buses operated for the transportation of pupils to or from
46 school or a school-sponsored activity or event by a religious or
47 other charitable organization or corporation or by a person under

1 contract with a public or governmental agency or a religious or
2 other charitable organization or corporation.

3 The bill defines “school buses” by reference to the definition of
4 “school bus” under R.S.39:1-1. Under that section of law, a “school
5 bus” is any motor vehicle operated by, or under contract with, a
6 public or governmental agency, or religious or other charitable
7 organization or corporation, or privately operated for the
8 transportation of children to or from school for secular or religious
9 education, which complies with the regulations of the New Jersey
10 Motor Vehicle Commission affecting school buses, and includes
11 “School Vehicle Type I” and “School Vehicle Type II.”

12 Under current law, consumers of fuel that are eligible for an
13 exemption from the petroleum products gross receipts tax and the
14 motor fuel tax must pay the tax at the point of purchase and seek a
15 refund of the taxes paid by the filing of a claim with the Director of
16 the Division of Taxation in the Department of the Treasury. The
17 law provides that the claim for refund must be filed by the
18 consumer providing proof that the tax has been paid and a refund
19 has not been previously issued.

20 The bill takes effect immediately and applies to fuel used on or
21 after the first day of the first month next following the date of
22 enactment.