

SENATE, No. 1273

STATE OF NEW JERSEY

INTRODUCED JUNE 3, 1996

By Senators KYRILLOS and CIESLA

1 AN ACT exempting sales by certain shops operated by tax exempt
2 organizations from the sales and use tax, amending P.L.1966, c.30.

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

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

9 9. (a) Except as to motor vehicles sold by any of the following,
10 any sale, service or amusement charge by or to any of the following or
11 any use or occupancy by any of the following shall not be subject to
12 the sales and use taxes imposed under this act:

13 (1) The State of New Jersey, or any of its agencies,
14 instrumentalities, public authorities, public corporations (including a
15 public corporation created pursuant to agreement or compact with
16 another State) or political subdivisions where it is the purchaser, user
17 or consumer, or where it is a vendor of services or property of a kind
18 not ordinarily sold by private persons;

19 (2) The United States of America, and any of its agencies and
20 instrumentalities, insofar as it is immune from taxation where it is the
21 purchaser, user or consumer, or where it sells services or property of
22 a kind not ordinarily sold by private persons;

23 (3) The United Nations or any international organization of which
24 the United States of America is a member where it is the purchaser,
25 user or consumer, or where it sells services or property of a kind not
26 ordinarily sold by private persons.

27 (b) Except as otherwise provided in this section any sale or
28 amusement charge by or to any of the following or any use or
29 occupancy by any of the following, where such sale, charge, use or
30 occupancy is directly related to the purposes for which the following
31 have been organized, shall not be subject to the sales and use taxes
32 imposed under this act: [(1) Any] a corporation, association, trust, or
33 community chest, fund or foundation, organized and operated
34 exclusively for religious, charitable, scientific, testing for public safety,

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

Matter underlined thus is new matter.

1 literary or educational purposes, or for the prevention of cruelty to
2 children or animals, or as a volunteer fire company, rescue, ambulance,
3 first aid or emergency company or squad, and an association of parents
4 and teachers of an elementary or secondary public or private school
5 exempt under the provisions of this section [9] , no part of the net
6 earnings of which inures to the benefit of any private shareholder or
7 individual, no substantial part of the activities of which is carrying on
8 propaganda, or otherwise attempting to influence legislation, and
9 which does not participate in, or intervene in (including the publishing
10 or distributing of statements), any political campaign on behalf of any
11 candidate for public office.

12 (c) Nothing in this section shall exempt:

13 (1) the sale of a motor vehicle by an organization described in
14 subsection (b)[(1)] of this section from the taxes imposed under the
15 "Sales and Use Tax Act", unless the purchaser is an organization
16 exempt under this section; or

17 (2) retail sales of tangible personal property by any shop or store
18 operated by [such] an organization described in subsection (b) of this
19 section from the taxes imposed under the "Sales and Use Tax Act",
20 unless the shop or store is in which substantially all the work in
21 carrying on the business of the shop or store is performed for the
22 organization without compensation and substantially all of the shop's
23 or store's merchandise has been received by the organization as gifts
24 or contributions or [from the taxes imposed hereunder] unless the
25 purchaser is an organization exempt under this section.

26 (d) Any organization enumerated in subsection (b)[(1) hereof] of
27 this section shall not be entitled to [the] an exemption [herein]
28 granted pursuant to this section unless it has complied with such
29 requirements for obtaining a tax immunity authorization as may be
30 provided in this act.

31 (e) Where any organization described in subsection (b)[(1) hereof]
32 of this section carries on its activities in furtherance of the purposes
33 for which it was organized, in premises in which, as part of [said]
34 those activities, it operates a hotel, occupancy of rooms in the
35 premises and rents [therefrom] from those rooms received by [such
36 corporation or association]the organization shall not be subject to tax
37 [hereunder] under the "Sales and Use Tax Act."

38 (f) (1) Except as provided in paragraph (2) of this subsection, any
39 admissions all of the proceeds of which inure exclusively to the benefit
40 of the following organizations shall not be subject to any of the taxes
41 imposed under subsection (e) of section 3 of P.L.1966, c.30
42 (C.54:32B-3):

43 (A) an organization described in paragraph (1) of subsection
44 (a)[(1)] or subsection (b) of this section;

45 (B) a society or organization conducted for the sole purpose of
46 maintaining symphony orchestras or operas and receiving substantial

1 support from voluntary contributions;

2 (C) national guard organizations, posts or organizations of war
3 veterans, or auxiliary units or societies of any such posts or
4 organizations, if such posts, organizations, units or societies are
5 organized in this State, and if no part of their net earnings inures to
6 the benefit of any private stockholder or individual; or

7 (D) a police or fire department of a political subdivision of the
8 State, or a volunteer fire company, ambulance, first aid, or emergency
9 company or squad, or exclusively to a retirement, pension or disability
10 fund for the sole benefit of members of a police or fire department or
11 to a fund for the heirs of such members.

12 (2) The exemption provided under paragraph (1) of this subsection
13 shall not apply in the case of admissions to:

14 (A) Any athletic game or exhibition unless the proceeds shall inure
15 exclusively to the benefit of elementary or secondary schools or unless
16 in the case of an athletic game between 2 elementary or secondary
17 schools, the entire gross proceeds from such game shall inure to the
18 benefit of one or more organizations described in subsection (b)[(1)]
19 of this section;

20 (B) Carnivals, rodeos, or circuses in which any professional
21 performer or operator participates for compensation;

22 (3) Admission charges for admission to the following places or
23 events shall not be subject to any of the taxes imposed under
24 subsection (e) of section 3 of P.L.1966, c.30 (C.54:32B-3):

25 (A) Any admission to agricultural fairs if no part of the net earnings
26 thereof inures to the benefit of any stockholders or members of the
27 association conducting the same; provided the proceeds therefrom
28 are used exclusively for the improvement, maintenance and operation
29 of such agricultural fairs.

30 (B) Any admission to a home or garden which is temporarily open
31 to the general public as a part of a program conducted by a society or
32 organization to permit the inspection of historical homes and gardens;
33 provided no part of the net earnings thereof inures to the benefit of
34 any private stockholder or individual.

35 (C) Any admissions to historic sites, houses and shrines, and
36 museums conducted in connection therewith, maintained and operated
37 by a society or organization devoted to the preservation and
38 maintenance of such historic sites, houses, shrines and museums;
39 provided no part of the net earnings thereof inures to the benefit of
40 any private stockholder or individual.

41 (cf: P.L.1967, c.25, s.3)

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43 2. This act shall take effect immediately but remain inoperative
44 until the first day of the third month following enactment.

1 STATEMENT

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3 This bill allows certain charitable and public safety organizations to
4 make sales tax-exempt sales at certain shops.

5 Currently, certain charitable and public welfare organizations are
6 allowed a sales tax exemption for the purchases and sales they make
7 in relation to their public purposes. However, no exemption is
8 allowed for sales made through a shop or store. This limit on the
9 exemption from sales taxes prevents charitable organizations from
10 coming into competition with businesses that are operated for profit
11 and are obligated to collect sales taxes.

12 This bill allows the exempt charitable and public safety
13 organizations to make sales tax-exempt sales at stores that meet
14 certain requirements: substantially all of the work must be done by
15 volunteers and substantially all of the store's merchandise must have
16 been donated. The exemption allowed by this bill is really in the spirit
17 of the current rule that prevents charities from unfairly competing with
18 for-profit businesses, because those volunteer run charity thrift shops
19 that sell donated goods are not in competition with private business.

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24 Exempts sales by certain charity shops from the sales and use tax.