

SENATE, No. 2328

STATE OF NEW JERSEY

INTRODUCED DECEMBER 11, 1997

By Senators KYRILLOS and KENNY

1 AN ACT concerning the petroleum products gross receipts taxes for
2 fuel used to generate certain electricity, supplementing P.L.1990,
3 c.42.

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

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8 1. (New section.) a. "Gross receipts" shall not include receipts
9 from sales of petroleum products used by a utility, a co-generation
10 facility or a wholesale generation facility to generate electricity that is
11 sold for resale or to an end user other than the end user upon whose
12 property is located the co-generation facility that generated the
13 electricity or upon the property purchased or leased from the end user
14 by the person owning the co-generation facility if such property is
15 contiguous to the user's property and is the property upon which is
16 located a co-generation facility that generated the electricity.

17 b. For the purposes of P.L.1990, c.42 (C.54:15B-1 et seq.):

18 "Co-generation facility" means a facility the primary purpose of
19 which is the sequential production of electricity and steam or other
20 forms of useful energy that are used for industrial or commercial
21 heating or cooling purposes and which is designated by the Federal
22 Energy Regulatory Commission, or its successor, as a "qualifying
23 facility" pursuant to the provisions of the "Public Utility Regulatory
24 Policies Act of 1978," Pub.L.95-617.

25 "Wholesale generation facility" means a facility the primary purpose
26 of which is the sequential production of electricity to be sold
27 exclusively at wholesale as determined by the Federal Energy
28 Regulatory Commission, or its successor, as an "exempt wholesale
29 generator" pursuant to the provisions of section 32 of the "Public
30 Utility Holding Company Act of 1935," (15 U.S.C.s.79z-5a).

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32 2. This act shall take effect immediately and apply to petroleum
33 products delivered for use or consumption on or after the first day of
34 the quarterly period next following enactment.

STATEMENT

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The petroleum products gross receipts tax is imposed on most first sales and uses of petroleum products in this State at a rate of 2.75% of the purchase price of the petroleum products. Fuel oils, such as diesel fuel, that are taxable under the motor fuels tax are taxed at a cents-per-gallon-rate based on the price of gasoline, which is currently higher than 2.75% of the purchase price on diesel fuel.

This bill exempts fuel oil purchased by utilities and co-generators for use to generate electricity sold at wholesale or at certain retail sales from the petroleum products gross receipts tax.



Provides petroleum products gross receipts tax exemption for fuel oil used by certain electricity generators.