

54:39-2

LEGISLATIVE HISTORY CHECKLIST

NJSA: 54:39-2 (Motor fuels-- amendments)

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SPONSOR(S): Thomas

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ASSEMBLY, No. 334

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 13, 1950

By Mr. THOMAS

Referred to Committee on Taxation

AN ACT concerning the tax upon sale of motor fuels, and amending sections 54:39-2, 54:39-3, 54:39-5, 54:39-12, 54:39-17, 54:39-27, 54:39-28, 54:39-30, 54:39-31, 54:39-32, 54:39-33, 54:39-38, 54:39-41, 54:39-42, 54:39-47, 54:39-51, 54:39-52, 54:39-53, 54:39-54, 54:39-66, 54:39-67, 54:39-68 and 54:39-69, of the Revised Statutes.

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

1 1. Section 54:39-2 of the Revised Statutes is amended to read as fol-  
2 lows:

3 54:39-2. "Fuels" means **[(a) all products] (1) any liquid or gaseous**  
4 **substance commonly or commercially known or sold as gasoline [(including**  
5  **casinghead and absorption or natural gasoline), benzol, benzene, or naphtha]**  
6 **regardless of [their] its classification or use[s]; and (2) any liquid or gas-**

7 **eous substance used, offered for sale or sold for use, either alone or when**  
8 **mixed, blended, or compounded, for the purpose of generating power for the**  
9 **propulsion of motor vehicles upon the public highways; and shall include:**

10 (a) all grades of motor gasoline, natural gasoline, marine gasoline,  
11 aviation gasoline, motor fuel blending naphthas, motor grade benzol and  
12 motor grade toluol; and

13 (b) any liquid prepared, advertised, offered for sale or sold for use as or  
14 commonly and commercially used as a fuel in internal combustion engines.

15 which when [subject] subjected to distillation in accordance with the latest  
 16 revised standard method of test for distillation of gasoline, naphtha, kero-  
 17 sene, and similar petroleum products (American Society [of] for testing  
 18 [material] materials [Designation] Method D-86) [show] shows not less  
 19 than ten per centum (10%) distilled (recovered) below three hundred forty-  
 20 seven degrees (347°) Fahrenheit [(one hundred seventy-five degrees (175 )  
 21 centigrade)] and not less than ninety-five per centum (95%) distilled (re-  
 22 covered) below four hundred sixty-four degrees (464°) Fahrenheit; [(two  
 23 hundred forty degrees (240°) centigrade)]; and

24 (c) all combustible gases which exist in a gaseous state at sixty degrees  
 26 (60°) Fahrenheit and at fourteen and seven-tenths (14.7) pounds per square  
 26 inch absolute pressure, industrial naphthas and solvents, aromatic distillates,  
 27 diesel fuel, additives, and all other products not included within the fore-  
 28 going provisions of this [paragraph] section; provided, however, that only  
 29 those quantities of said combustible gases and said other products, which are  
 30 used, offered for sale or sold [to be used] for use to propel motor vehicles  
 31 upon the public highways shall be subject to this act; and provided further,  
 32 that any person dealing therein, shall at any time, and from time to time,  
 33 upon written request of the commissioner, report his receipts, sales, use and  
 34 distribution of said combustible gases and said other products in a manner  
 35 prescribed by the commissioner.

1 2. Section 54:39-3 of the Revised Statutes is amended to read as follows:

2 54:39-3. "Distributor" means and includes every person, wherever resi-  
 3 dent or located, who imports [or causes to be imported] into this State fuels  
 4 as herein defined, for use, distribution, storage or sale in this State after the  
 5 same shall reach this State, [whether in the original packages or containers  
 6 in which it is imported or otherwise]; and also [any] every person who pro-  
 7 duces, refines, manufactures, blends or compounds [, or causes to be produced,  
 8 refined, manufactured, blended or compounded] fuels as herein defined and  
 9 sells, uses, stores or distributes the same within this State.

1 3. Section 54:39-5 of the Revised Statutes is amended to read as follows:

2 54:39-5. "Retail dealer" means any person as herein defined, [operat-  
3 ing] who engages in the business of selling fuels as herein defined from a  
4 fixed location such as a service station, filling station, store[,] or garage, [or  
5 other fixed place of business for the sale of motor fuel for delivery] directly  
6 into the service tank or tanks of any vehicle propelled by [an internal com-  
7 bustion engine] said fuel.

1 4. Section 54:39-12 of the Revised Statutes is amended to read as  
2 follows:

3 54:39-12. The license held by any distributor, retail dealer, wholesale  
4 dealer or special licensee may be suspended or revoked by the commissioner  
5 for a violation of any of the provisions of this chapter, or on other reason-  
6 able grounds, after five days' notice of and hearing on such proposed revo-  
7 cation or suspension [and the ground thereof to such distributor, retail  
8 dealer, wholesale dealer or special licensee]. Upon receipt of a written  
9 request from the holder of any license issued pursuant to the provisions of  
10 this chapter, the commissioner shall have the power to cancel such license  
11 effective as soon thereafter as it has been determined that all tax, fines,  
12 penalties and interest properly owing to the State have been paid. ~~and the~~  
13 ~~commissioner shall find that any person to whom a license has been issued~~  
14 ~~is no longer engaged in the business for which the license was issued, the~~  
15 ~~commissioner shall have the power to cancel such license by giving such per-~~  
16 ~~son reasonable notice of such intent to cancel by mail to the last known~~  
17 ~~address of such person. Whenever a license is canceled, the license cer-~~  
18 ~~tificate theretofore issued shall be surrendered to the commissioner.~~

1 5. Section 54:39-17 of the Revised Statutes is amended to read as  
2 follows:

3 54:39-17. Every distributor, before continuing in or commencing to  
4 transact the business of a distributor, shall procure a license from the State  
5 Tax Commissioner, permitting him to engage in said business within this

6 State. The license shall be issued by the commissioner without charge. Ap-  
 7 plications shall be made to the commissioner for such license before the  
 8 issuance thereof and such application shall be in writing in the form pre-  
 9 scribed by the commissioner [ , and shall be sworn to by the applicant be-  
 10 fore anyone authorized to take acknowledgments]. In the event that any  
 11 application for a license shall be filed by any person whose license shall  
 12 at any time theretofore have been revoked by the commissioner, or if the  
 13 commissioner is satisfied that such application is filed by some person as  
 14 a subterfuge for the real person in interest whose license shall thereto-  
 15 fore have been revoked by the commissioner, the commissioner, after hear-  
 16 ing, [shall have the right to] may refuse [to issue] such [a] person a  
 17 license [certificate].

1 6. Section 54:39-27 of the Revised Statutes is amended to read as  
 2 follows:

3 54:39-27. Every distributor shall, on or before the next to the last busi-  
 4 ness day of each month, render a report to the commissioner, on forms pre-  
 5 scribed, prepared and furnished by the commissioner, stating the number  
 6 of gallons of fuel sold or used in this State by him during the preceding  
 7 calendar month. [on forms to be furnished by the commissioner.] A tax of  
 8 three cents (\$0.03) per gallon on each gallon so reported shall be paid by each  
 9 distributor, such payment to accompany the filing of the report[.]. [which  
 10 ~~shall be in addition to any motor vehicle license fee now or hereafter as-~~  
 11 sessed in this State.] Such report shall contain such further information  
 12 as the commissioner may require. Under such regulations as the commis-  
 13 sioner may prescribe, sales of fuel may be made by one licensed distributor  
 14 to another licensed distributor free of such tax. If any distributor shall  
 15 fail, neglect or refuse to file the report within the time prescribed by this  
 16 section, the commissioner shall note such failure, neglect or refusal upon  
 17 his records, and shall estimate the [fuel] sales, distribution[s] and use  
 18 of said distributor, assessing the tax thereon, adding to said tax a penalty

19 of twenty per centum (20%) thereof for failure, neglect or refusal to report,  
20 and such estimate shall be prima facie evidence of the true amount of tax  
21 due to the commissioner from such distributor[.]; provided, that if a  
22 good and sufficient cause or reason is shown for such delinquency, the com-  
23 missioner may remit or waive the payment of the whole or any part of the  
24 penalty. Reports required by this section, exclusive of schedules, itemized  
25 statements and other supporting evidence annexed thereto, shall at all rea-  
26 sonable times be open to the public, anything contained in section 54:50-8  
27 to the contrary notwithstanding.

1 7. Section 54:39-28 of the Revised Statutes is amended to read as  
2 follows:

3 54:39-28. Neither this chapter nor any of the provisions hereof shall  
4 apply to fuels when exported or sold for exportation from the State of New  
5 Jersey **[to]** into any other State or country, but every [distributor] per-  
6 son exporting or selling for export shall be required to report such ex-  
7 ports and sales to the commissioner in such detail as the commissioner  
8 shall require, otherwise the exemption herein granted shall be null and void,  
9 and it shall be prima facie evidence that all such fuel was distributed in  
10 this State subject to the tax provided for in this chapter.

1 8. Section 54:39-30 of the Revised Statutes is amended to read as  
2 follows:

3 54:39-30. Every person engaged in the retail sale of fuels, as herein  
4 defined, shall be known as a retail dealer, and shall, before engaging in said  
5 business, procure from the commissioner a license for each establishment  
6 operated by such person. A license fee of five dollars (\$5.00) shall be paid  
7 for the issuing of such license and the commissioner shall supply a license  
8 plate or suitable substitute containing the number assigned to the licensee,  
9 and words denoting the type of license, which the licensee shall publicly dis-  
10 play at each establishment in a manner to be regulated by the commissioner.  
11 **[**Every person who has heretofore obtained a license as a retail dealer for

12 the year one thousand nine hundred and thirty-eight, and who shall continue  
 13 to engage in business as such retail dealer after the passage of this act, shall  
 14 pay to the commissioner, as an additional license fee for the balance of the  
 15 year one thousand nine hundred and thirty-eight, the sum of three dollars  
 16 (\$3.00) for each such license.】 All moneys received by the commissioner for  
 17 such license fees shall be accounted for and forwarded by him to the State  
 18 Treasurer to be held by the State Treasurer to the credit of the commis-  
 19 sioner and disbursed in payment of the expenses incurred in the administra-  
 20 tion and enforcement of an act entitled "An act to regulate the retail sale  
 21 of motor fuels, and providing penalties for violations," and all moneys  
 22 received by the commissioner for all such license fees are hereby appro-  
 23 priated to the commissioner for that purpose.

1 9. Section 54:39-31 of the Revised Statutes is amended to read as  
 2 follows:

3 54:39-31. Every wholesale dealer shall, before engaging in said 【whole-  
 4 sale】 business, procure from the commissioner a license for each establish-  
 5 ment 【or place of business so operated. When said wholesale dealer carries  
 6 on business by the sale of motor fuel from a motor vehicle he may procure  
 7 such license either for his place of business, if any, or for his motor vehicle if  
 8 he has no permanent place of business. A license fee of two dollars (\$2.00)  
 9 shall be paid for the issuing of such license.】, wherever located, operated by  
 10 such person out of which wholesale sales in New Jersey are made. If such  
 11 sales are made by a person not having any such establishment, the license  
 12 shall be secured for the location at which the records of such business are  
 13 kept. Applicants with out-of-State establishments or locations shall furnish  
 14 the commissioner with the name and address of their New Jersey registered  
 15 agent. A license fee of two dollars (\$2.00) shall be paid for the issuance of  
 16 each license.

1 10. Section 54:39-32 of the Revised Statutes is amended to read as  
2 follows:

3 54:39-32. Every license and permit required by the provisions of this  
4 chapter shall be issued for a fiscal year, or unexpired portion thereof, com-  
5 mencing on the first day of April and ending on the succeeding thirty-first  
6 day of March and shall be void thereafter, and said license or permit may be  
7 revoked by the commissioner in accordance with the provisions of article  
8 two of this chapter (54:39-10 et seq.).

9 **[All licenses and permits issued and outstanding on the effective date**  
10 **of this act and all licenses and permits issued prior to March thirty-first, one**  
11 **thousand nine hundred and forty-nine, shall be extended to and shall expire**  
12 **on March thirty-first, one thousand nine hundred and forty-nine, without the**  
13 **payment of any additional fee for such extension.**

14 For the period from January first, one thousand nine hundred and forty-  
15 nine, to March thirty-first, one thousand nine hundred and forty-nine, every  
16 distributor and every person holding a special license A required under sec-  
17 tion 54:39-64 of the Revised Statutes shall furnish bond coverage as  
18 required by section 54:39-18, of the Revised Statutes.]

1 11. Section 54:39-33 of the Revised Statutes is amended to read as  
2 follows:

3 54:39-33. Every wholesale dealer and retail dealer purchasing fuels, tax-  
4 able under this chapter, shall maintain and keep **[within this State]** for a  
5 period of one year, a record of fuels received and sold, the amount of tax  
6 paid to the distributor as part of the purchase price, together with delivery  
7 tickets, invoices, and bills of lading, and such other records as the commis-  
8 sioner may require.

1 12. Section 54:39-38 of the Revised Statutes is amended to read as  
2 follows:

3 54:39-38. Every railway or railroad company, water transportation com-  
4 pany, and every carrier **[, except a duly licensed distributor,]** transporting

5 fuels, as herein defined, in bulk, between points within the State, and every  
 6 railway or railroad company, water transportation company, and every car-  
 7 rier transporting fuel in bulk to a point outside the State from any point  
 8 within the State, or to a point within the State from a point outside of the  
 9 State, shall, at any time, and from time to time, upon written request of the  
 10 commissioner, report [under oath to the commissioner on forms prescribed  
 11 by the commissioner.], in a manner prescribed by the commissioner, all  
 12 deliveries of fuel in bulk so made to points within or without the State.

1 13. Section 54:39-41 of the Revised Statutes is amended to read as  
 2 follows:

3 54:39-41. Every person [operating any conveyance for the purpose]  
 4 engaged in the business of hauling, transporting or delivering fuel, shall,  
 5 before entering upon the [public] highways or waterways of this State with  
 6 [such] any conveyance used therein, apply for the registration thereof to the  
 7 commissioner on [such form as shall be provided] forms prescribed by the  
 8 commissioner. [and the commissioner shall issue separate license cards for  
 9 each such conveyance intended to be operated over the highways or water-  
 10 ways of this State, which card shall show the license number assigned, and  
 11 the ~~name~~ name and address of the owner of the conveyance and such other informa-  
 12 tion as the commissioner shall prescribe. Such card shall be displayed on  
 13 the conveyance at all times during its operation on the public highways or  
 14 waterways of this State. The commissioner shall supply a license plate to  
 15 the licensee for each conveyance so operated, containing the number assigned  
 16 to the conveyance, and the words "New Jersey motor fuel transport license,"  
 17 or any abbreviation thereof authorized by the commissioner. Such license  
 18 plate shall be attached to each such conveyance so that it is readily visible]  
 19 Upon receipt of any application, the commissioner shall issue a license cer-  
 20 tificate and license plate for each conveyance which shall show the license  
 21 number assigned and which shall be displayed on the conveyance at all times  
 22 [and] in such a manner as the commissioner may regulate. An annual license

23 fee of two dollars (\$2.00) shall be paid for the licensing of each such con-  
24 veyance. Nothing contained in this section shall in any manner relieve or  
25 discharge **[the owner or operator of such conveyance]** persons obtaining  
26 licenses thereunder from complying with any or all provisions of other laws.

1 14. Section 54:39-42 of the Revised Statutes is amended to read as  
2 follows:

3 54:39-42. **[All such persons]** The driver of any conveyance must have  
4 and possess **[during the entire time they are]** at all times while hauling, dis-  
5 tributing or transporting [said fuel] "fuels," a delivery ticket, or other  
6 form approved by the commissioner, [showing] which shall show the true  
7 names [and address of the consignor or seller, the name of the consignee or  
8 purchaser, if any, the number of gallons, and the name and address of the  
9 person who has assumed or who shall assume the payment of the tax.] of  
10 the seller and purchaser and such other information as the commissioner  
11 shall prescribe. Any agent of the commissioner, or police officer, may stop  
12 **[such]** any conveyance in order to determine whether or not the provisions  
13 of this section [have been] are being complied with. **[If said person fails**  
14 **to produce said delivery ticket, or if when produced it fails to disclose the**  
15 **aforsaid information, then the agent or police officer or other person author-**  
16 **ized to stop such conveyance, shall take and impound said fuel, together with**  
17 **the conveying equipment until the tax on said fuel, together with a penalty**  
18 **equal to one hundred per centum (100%) of said tax, have been paid. In case**  
19 **of the default, and the taking and impounding hereinbefore provided for,**  
20 **the tax and penalty shall be collected, even though the full tax may have**  
21 **already been paid on said fuel. In case the tax and penalty are not paid**  
22 **within a period of six days after the taking of said property, the com-**  
23 **missioner may proceed to sell the fuel and conveyance equipment at public**  
24 **sale, upon notice of such sale being first published once a week for a period**  
25 **of three weeks in one or more newspapers published and circulating in the**  
26 **State, and also posting such notice in five public places in this State, said**  
27 **newspapers and public places to be designated by the commissioner.]**

1 15. Section 54:39-47 of the Revised Statutes is amended to read as  
2 follows:

3 54:39-47. As an additional or alternative remedy, the commissioner may  
4 issue a certificate to the clerk of the supreme Superior Court or to any  
5 county clerk that any person is indebted under this chapter in an amount  
6 named in such certificate and thereupon the clerk to whom such certifi-  
7 cate shall have been issued shall immediately enter upon his record of dock-  
8 eted judgments the name of such person, the amount of the debt so certi-  
9 fied and the date of making such entries, and the making of such entries  
10 shall have the same force and effect as the entry of a docketed judgment  
11 in the office of such clerk, and the commissioner shall have all of the rem-  
12 edies and may take all of the proceedings for the collection thereof  
13 which may be had or taken upon the recovery of a judgment in an action  
14 at law upon contract. Every person who shall be licensed as a distrib-  
15 utor under this chapter, and every refund claimant who has applied for  
16 and received benefits under article eleven shall, by the acceptance of such  
17 license and benefits, be deemed to have consented to the procedure set forth  
18 in this section. Such person may within a period of six months from the  
19 date of the issuance of such certificate appeal to the State Board of Tax  
20 Appeals for a review of the assessment included in such certificate, and all  
21 proceedings taken for the collection of such judgment shall be stayed dur-  
22 ing the time that the appeal shall be pending.

1 16. Section 54:39-51 of the Revised Statutes is amended to read as  
2 follows:

3 54:39-51. Every person who engages in business as a retail dealer or  
4 wholesale dealer without first procuring a license from the commissioner  
5 shall be subject for the first offense to a penalty of one hundred dol-  
6 lars twenty-five dollars (\$25.00) and for the second offense and thereafter  
7 shall be subject to a penalty of two hundred dollars (\$200.00), and for  
8 failure to forthwith pay such penalty after conviction, he shall be impris-

oned for a period **[not exceeding]** of not less than five nor more than thirty  
10 days.

1 17. Section 54:39-52 of the Revised Statutes is amended to read as  
2 follows:

3 54:39-52. Every retail dealer or wholesale dealer who shall fail to keep  
4 the records required to be kept by virtue of sections 54:39-3<sup>2</sup> and 54:39-34  
5 of this Title, or who shall refuse or fail to permit inspection of such rec-  
6 ords by the commissioner or any of his agents shall be subject **[to a pen-**  
7 **alty of not more than one hundred dollars for each offense,]** for the first  
8 offense to a penalty of twenty-five dollars (\$25.00) and for the second  
9 offense and thereafter shall be subject to a penalty of two hundred dollars  
10 (\$200.00), and [in default of the payment of such penalty] for failure to  
11 forthwith pay such penalty after conviction, he shall [forthwith] be im-  
12 prisoned for a period [not exceeding] of not less than five nor more than  
13 thirty days.

1 18. Section 54:39-53 of the Revised Statutes is amended to read as  
2 follows:

3 ~~54:39-53. Any person [who] shall operate any conveyance for the pur-~~  
4 ~~pose of transporting or hauling fuels without the proper license card dis-~~  
5 ~~played on the conveyance or who shall operate a conveyance without hav-~~  
6 ~~ing license plates thereon]. engaged in the business of hauling, transport-~~  
7 ~~ing or delivering fuel who shall cause to be operated any conveyance with-~~  
8 ~~out having a license certificate and license plate displayed thereon, as~~  
9 ~~provided in section 54:39-41 of this Title shall [upon conviction of such]~~  
10 ~~be subject for the first offense [be fined one hundred dollars,] to a pen-~~  
11 ~~alty of twenty-five dollars (\$25.00) and for the second offense and there-~~  
12 ~~after shall be subject to a penalty of two hundred dollars (\$200.00), and~~  
13 ~~for failure [or refusal] to forthwith pay such [fine] penalty after convic-~~  
14 ~~tion, shall be imprisoned for [not] a period of not less than five nor more~~  
15 ~~than thirty days.~~

1 19. Section 54:39-54 of the Revised Statutes is amended to read as  
2 follows:

3 54:39-54. The **[owner or operator]** driver of any conveyance used for  
4 the transportation or hauling of fuels who shall fail to have and possess  
5 at all times while hauling or transporting fuels a delivery ticket contain-  
6 ing the information provided for in sections 54:39-42 and 54:39-44 of this  
7 Title, shall be **[fined fifty dollars or]** subject for the first offense to a pen-  
8 alty of twenty-five dollars (\$25.00) and for the second offense and there-  
9 after shall be subject to a penalty of two hundred dollars (\$200.00), and  
10 for failure to forthwith pay such penalty after conviction, shall be impris-  
11 oned for [not more than twenty days for each offense] a period of not  
12 less than five nor more than thirty days.

1 20. Section 54:39-66 of the Revised Statutes is amended to read as  
2 follows:

3 54:39-66. Any person who shall use any fuels as herein defined for any  
4 of the following purposes:

5 (a) operating or propelling motor vehicles, motor boats or other imple-  
6 ments owned by the State and all the political subdivisions thereof,

7 (b) autobusses while being operated over the highways of this State in  
8 those municipalities to which the operator has paid a monthly franchise tax  
9 for the use of the streets therein under the provisions of sections 48:4-14,

10 48:4-15 and 48:4-16 or 48:16-25 of the Title Public Utilities,

11 (c) agricultural tractors not operated on a public highway,

12 (d) farm machinery,

13 (e) aircraft,

14 (f) ambulances,

15 (g) rural free delivery carriers in the dispatch of their official business,

16 (h) such vehicles as run only on rails or tracks, and such vehicles as  
17 run in substitution thereof,

18 (i) such highway motor vehicles as are operated exclusively on private  
19 property,

20 (j) motor boats or motor vessels used exclusively for or in the propaga-  
21 tion, planting, preservation and gathering of oysters and clams in the tidal  
22 waters of this State,

23 (k) motor boats or motor vessels used exclusively for commercial fishing,

24 (l) motor boats or motor vessels while being used for hire for fishing  
25 parties,

26 (m) cleaning [or dyeing],

27 (n) fire engines and fire-fighting apparatus,

28 (o) stationary machinery and vehicles or implements not designed for the  
29 use of transporting persons or property on the public highway,

30 (p) heating and lighting devices,

31 (q) fuels previously taxed under this chapter and later exported or sold  
32 for exportation from the State of New Jersey to any other State or country  
33 provided, proof satisfactory to the commissioner of such exportations is  
34 submitted,

35 (r) motor boats or motor vessels used exclusively for Sea Scout train-

36 ing by a duly chartered unit of the Boy Scouts of America, and who shall

37 have paid the tax for such fuels hereby required to be paid, shall be reim-

38 bursed and repaid the amount of tax so paid upon presenting to the com-

39 missioner an application [supported by the original invoice or invoices show-

40 ing purchase.] for such reimbursement or repayment, in form prescribed by

41 the commissioner, which application shall be verified by a declaration of the

42 applicant that the statements contained therein are true. Such application

43 for reimbursement or repayment shall state the name of the person from

44 whom purchased, date of purchase, the total amount of such fuel, and that

45 the cost of the fuel and the tax thereon so purchased has been paid and shall

46 be verified by the declaration of the applicant that the statements contained

47 therein are true.] be supported by an invoice, or invoices, showing the name

48 and address of the person from whom purchased, the name of the purchaser,  
 49 the date of purchase, the number of gallons purchased, the price paid per  
 50 gallon, and an acknowledgment by the seller that payment of the cost of the  
 51 fuel, including the tax thereon, has been made. Such invoice, or invoices, shall  
 52 be legibly written and shall be void if any corrections or erasures shall  
 53 appear on the face thereof.

1 21. Section 54:39-67 of the Revised Statutes is amended to read as  
 2 follows:

3 54:39-67. Upon approval by the commissioner of such application a war-  
 4 rant shall be drawn upon the State Treasurer for the amount of such claim  
 5 in favor of such claimant and such warrant shall be paid from the tax col-  
 6 lected on motor fuel. The application for reimbursements and repayments  
 7 shall be filed with the commissioner on or before the last business day of the  
 8 month following that in which the fuels in question were purchased unless the  
 9 applicant shall have obtained from the commissioner an extension of time for  
 10 the filing of the application for the refund. The commissioner may extend the  
 11 ~~time for filing an application for refund for a period not to exceed six~~  
 12 ~~months from the [time] end of the month of [the] purchase of the fuels in~~  
 13 ~~question. Any person or the member of any firm or the officer or agent of~~  
 14 ~~any corporation who shall make any false statement in any application~~  
 15 ~~required for the reimbursement and repayment of any taxes, or who shall~~  
 16 ~~collect or cause to be repaid to him or to any other person any such reim-~~  
 17 ~~bursement or refund without being entitled to the same shall be guilty of a~~  
 18 ~~misdemeanor.~~

19 Section 54:39-68 of the Revised Statutes is amended to read as fol-  
 2 lows:

3 54:39-68. In order to establish the validity of claims filed, the claimant  
 4 shall be required to maintain and preserve for a period of at least two years  
 5 such fuel consumption records as may be prescribed by the commissioner.  
 6 The commissioner shall have the right [ , in order to establish the validity of

7 any claim] to require a claimant to furnish such additional proof of the  
 8 validity of [the] a claim as the commissioner may determine, and to exam-  
 9 ine the books and records of the claimant for such purpose. [and the] [f]  
 10 Failure of the claimant to maintain and preserve such records, furnish such  
 11 additional proof or to accede to the demand for such examination by the com-  
 12 missioner, or any of his representatives, shall constitute a waiver of all  
 13 rights to the [refund claimed on account of the transaction] claim or claims  
 14 questioned [.] and such subsequent claims as the commissioner may de-  
 15 termine.

1 23. Section 54:39-69 of the Revised Statutes is amended to read as fol-  
 2 lows:

3 54:39-69. When fuel is sold to any person who shall claim to be entitled  
 4 to a refund of the tax hereunder imposed, the seller of such fuel shall [make  
 5 out separate invoices for each purchase on forms which shall be approved  
 6 by the commissioner, showing the name and address of the seller and the  
 7 name and address of the purchaser, the number of gallons of fuel so sold  
 8 written in words and figures and the date of purchase. Such invoice shall  
 9 be legibly written and shall be void if any corrections or erasures shall ap-  
 10 pear upon the face thereof.] furnish the purchaser with an invoice, or in-  
 11 voices, in conformity with the requirements pertaining to invoices set forth  
 12 under section 54:39-66 hereof.

1 24. This act shall take effect July first, one thousand nine hundred and  
 2 fifty.

#### STATEMENT

The purpose of this bill is to bring up-to-date certain portions of the New Jersey Motor Fuel Tax Law. It brings under the authority of the law newly-developed fuels and clarifies the "fuel" status of certain other materials. In addition, it provides for a new monthly date of the next to the last business day of each month for reporting and paying the tax by New Jersey licensed

motor fuel distributors, who are the taxpayers under the law, so as to conform with the new bookkeeping methods prescribed by the State Comptroller for the Motor Fuels Tax Bureau as a result of recommendations therefor made by the State Auditor. As an aid to taxpayers in meeting such day of reporting, a provision is made for sales between licensed distributors to be made on a tax-free basis, an arrangement which will not result in any loss of revenue. Another provision opens the reports of distributors to the public, a practice which is in use in about forty States including those adjoining New Jersey.

The other amendments clarify certain requirements under the law pertaining to wholesale dealers, retail dealers, transporters of motor fuels and reports by common carriers. There is also included amendments reducing the penalties of certain violations of the law.

Further, the refund provisions of the law are changed with a view of bringing about clarification as a result of problems discovered in the daily administration of the refund sections of the law.

# STATE OF NEW JERSEY

INTRODUCED FEBRUARY 13, 1950

By Mr. THOMAS

Referred to Committee on Taxation

An Act concerning the tax upon sale of motor fuels, and amending sections 54:39-2, 54:39-3, 54:39-5, 54:39-12, 54:39-17, 54:39-27, 54:39-28, 54:39-30, 54:39-31, 54:39-32, 54:39-33, 54:39-38, 54:39-41, 54:39-42, 54:39-47, 54:39-51, 54:39-52, 54:39-53, 54:39-54, 54:39-66, 54:39-67, 54:39-68 and 54:39-69, of the Revised Statutes.

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

1 1. Section 54:39-2 of the Revised Statutes is amended to read as fol-  
2 lows:

3 ~~54:39-2. "Fuels" mean (1) any liquid or gaseous substance commonly~~  
4 or commercially known or sold as gasoline regardless of its classification or  
5 use; and (2) any liquid or gaseous substance used, offered for sale or sold  
6 for use, either alone or when mixed, blended, or compounded, for the pur-  
7 pose of generating power for the propulsion of motor vehicles upon the  
8 public highways; and shall include:

9 (a) all grades of motor gasoline, natural gasoline, marine gasoline,  
10 aviation gasoline, motor fuel blending naphthas, motor grade benzol and  
11 motor grade toluol; and

12 (b) any liquid prepared, advertised, offered for sale or sold for use as or  
13 commonly and commercially used as a fuel in internal combustion engines,  
14

15 which when subjected to distillation in accordance with the latest  
 16 revised standard method of test for distillation of gasoline, naphtha, kero-  
 17 sene, and similar petroleum products (American Society for testing ma-  
 18 terials Method D-86) shows not less than ten per centum (10%) distilled  
 19 (recovered) below three hundred forty-seven degrees (347 ) Fahrenheit and  
 20 not less than ninety-five per centum (95%) distilled (recovered) below four  
 21-23 hundred sixty-four degrees (464 ) Fahrenheit; and

24 (c) all combustible gases which exist in a gaseous state at sixty degrees  
 25 (60 ) Fahrenheit and at fourteen and seven-tenths (14.7) pounds per square  
 26 inch absolute pressure, industrial naphthas and solvents, aromatic distillates,  
 27 diesel fuel, additives, and all other products not included within the fore-  
 28 going provisions of this section; *provided, however,* that only  
 29 those quantities of said combustible gases and said other products, which are  
 30 used, offered for sale or sold for use to propel motor vehicles  
 31 upon the public highways shall be subject to this act; *and provided further,*  
 32 that any person dealing therein, shall at any time, and from time to time,  
 33 upon written request of the commissioner, report his receipts, sales, use and  
 34 ~~distribution of said combustible gases and said other products in a manner~~  
 35 ~~prescribed by the commissioner.~~

1 2. Section 54:39-3 of the Revised Statutes is amended to read as follows:

2 54:39-3. "Distributor" means and includes every person, wherever resi-  
 3 dent or located, who imports into this State fuels as herein defined, for use,  
 4 distribution, storage or sale in this State after the same shall reach this  
 5 State; and also every person who ~~receives, refines, manufactures, blends or~~  
 6 ~~compounds fuels as heretofore defined and sells, uses, stores or distributes the~~  
 7 same within this State.

1 3. Section 54:39-5 of the Revised Statutes is amended to read as follows:

2 54:39-5. "Retail dealer" means any person as herein defined, who en-  
 3 gages in the business of selling fuels as herein defined from a fixed location  
 4 such as a service station, filling station, store or garage, directly into the  
 5 service tank or tanks of any vehicle propelled by said fuel.

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1 4. Section 54:39-12 of the Revised Statutes is amended to read as  
2 follows:

3 54:39-12. The license held by any distributor, retail dealer, wholesale  
4 dealer or special licensee may be suspended or revoked by the commissioner  
5 for a violation of any of the provisions of this chapter, or on other reason-  
6 able grounds, after five days' notice of and hearing on such proposed revo-  
7-8 cation or suspension. Upon receipt of a written request from  
9 the holder of any license issued pursuant to the provisions of  
10 this chapter, the commissioner shall have the power to cancel such license  
11 effective as soon thereafter as it has been determined that all tax, fines,  
12 penalties and interest properly owing to the State have been paid. If the  
13 commissioner shall find that any person to whom a license has been issued  
14 is no longer engaged in the business for which the license was issued, the  
15 commissioner shall have the power to cancel such license by giving such per-  
16 son reasonable notice of such intent to cancel by mail to the last known  
17 address of such person. Whenever a license is canceled, the license cer-  
18 tificate theretofore issued shall be surrendered to the commissioner.

1 ~~5. Section 54:39-17 of the Revised Statutes is amended to read as~~  
2 follows:

3 ~~54:39-17. Every distributor, before continuing in or commencing to~~  
4 ~~transact the business of a distributor, shall procure a license from the State~~  
5 ~~Tax Commissioner, permitting him to engage in said business within this~~  
6 ~~State. The license shall be issued by the commissioner without charge. Ap-~~  
7 ~~plications shall be made to the commissioner for such license before the~~  
8 ~~issuance thereof and such application shall be in writing in the form pre-~~  
9-10 ~~scribed by the commission. In the event that any application~~  
11 ~~for a license shall be filed by any person whose license shall~~  
12 ~~at any time theretofore have been revoked by the commissioner, or if the~~  
13 ~~commissioner is satisfied that such application is filed by some person as~~  
14 ~~a subterfuge for the real person in interest whose license shall thereto-~~  
15 ~~fore have been revoked by the commissioner, the commissioner, after hear-~~  
16 ~~ing, may refuse such person a license.~~

1 6. Section 54:39-27 of the Revised Statutes is amended to read as  
2 follows:

3 54:39-27. Every distributor shall, on or before the next to the last busi-  
4 ness day of each month, render a report to the commissioner, on forms pre-  
5 scribed, prepared and furnished by the commissioner, stating the number  
6 of gallons of fuel sold or used in this State by him during the preceding  
7 calendar month. A tax of three cents (\$.03) per gallon on each gallon so  
8 reported shall be paid by each distributor, such payment to accompany the  
9-11 filing of the report. Such report shall contain such further information  
12 as the commissioner may require. Under such regulations as the commis-  
13 sioner may prescribe, sales of fuel may be made by one licensed distributor  
14 to another licensed distributor free of such tax. If any distributor shall  
15 fail, neglect or refuse to file the report within the time prescribed by this  
16 section, the commissioner shall note such failure, neglect or refusal upon  
17 his records, and shall estimate the sales, distribution and use  
18 of said distributor, assessing the tax thereon, adding to said tax a penalty  
19 of twenty per centum (20%) thereof for failure, neglect or refusal to report,  
20 and such estimate shall be prima facie evidence of the true amount of tax  
21 due to the commissioner from such distributor; *provided*, that if a  
22 good and sufficient cause or reason is shown for such delinquency, the com-  
23 missioner may remit or waive the payment of the whole or any part of the  
24 penalty. Reports required by this section, exclusive of schedules, itemized  
25 statements and other supporting evidence annexed thereto, shall at all rea-  
26 sonable times be open to the public, anything contained in section 54:50-8  
27 to the contrary notwithstanding.

1 7. Section 54:39-28 of the Revised Statutes is amended to read as  
2 follows:

3 54:39-28. Neither this chapter nor any of the provisions hereof shall  
4 apply to fuels when exported or sold for exportation from the State of New  
5 Jersey into any other State or country, but every person ex-  
6 porting or selling for export shall be required to report such ex

7 ports and sales to the commissioner in such detail as the commissioner  
8 shall require, otherwise the exemption herein granted shall be null and void,  
9 and it shall be prima facie evidence that all such fuel was distributed in  
10 this State subject to the tax provided for in this chapter.

1 8. Section 54:39-30 of the Revised Statutes is amended to read as  
2 follows:

3 54:39-30. Every person engaged in the retail sale of fuels, as herein  
4 defined, shall be known as a retail dealer, and shall, before engaging in said  
5 business, procure from the commissioner a license for each establishment  
6 operated by such person. A license fee of five dollars (\$5.00) shall be paid  
7 for the issuing of such license and the commissioner shall supply a license  
8 plate or suitable substitute containing the number assigned to the licensee,  
9 and words denoting the type of license, which the licensee shall publicly dis-  
10 play at each establishment in a manner to be regulated by the commissioner.  
11 16 All moneys received by the commissioner for such license fees  
17 shall be accounted for and forwarded by him to the State Treas-  
18 urer to be held by the State Treasurer to the credit of the commis-  
19 sioner and disbursed in payment of the expenses incurred in the administra-  
20 tion and enforcement of an act entitled "An act to regulate the retail sale  
21 of motor fuels, and providing penalties for violations," and all moneys  
22 received by the commissioner for all such license fees are hereby appro-  
23 priated to the commissioner for that purpose.

1 9. Section 54:39-31 of the Revised Statutes is amended to read as  
2 follows:

3 ~~54:39-31. Every wholesale dealer shall, before engaging in said busi-~~  
4 ness, procure from the commissioner a license for each establishment, where-  
5 ever located, operated by such person out of which wholesale sales in New  
6 Jersey are made. If such sales are made by a person not having any such  
7 establishment, the license shall be secured for the location at which the  
8 records of such business are kept. Applicants with out-of-State establish-  
9 ments or locations shall furnish the commissioner with the name and address

10 of their New Jersey registered agent. A license fee of two dollars (\$2.00)  
11 shall be paid for the issuance of each license.

1 10. Section 54:39-32 of the Revised Statutes is amended to read as  
2 follows:

3 54:39-32. Every license and permit required by the provisions of this  
4 chapter shall be issued for a fiscal year, or unexpired portion thereof, com-  
5 mencing on the first day of April and ending on the succeeding thirty-first  
6 day of March and shall be void thereafter, and said license or permit may be  
7 revoked by the commissioner in accordance with the provisions of article  
8 two of this chapter (54:39-10 et seq.).

1 11. Section 54:39-33 of the Revised Statutes is amended to read as  
2 follows:

3 54:39-33. Every wholesale dealer and retail dealer purchasing fuels, tax-  
4 able under this chapter, shall maintain and keep for a period  
5 of one year, a record of fuels received and sold, the amount of tax  
6 paid to the distributor as part of the purchase price, together with delivery  
7 tickets, invoices, and bills of lading, and such other records as the commis-  
8 sioner may require.

1 12. Section 54:39-38 of the Revised Statutes is amended to read as  
2 follows:

3 54:39-38. Every railway or railroad company, water transportation com-  
4 pany, and every carrier transporting fuels, as herein defined, in  
5 bulk, between points within the State, and every railway or  
6 railroad company, water transportation company, and every car-  
7 rier transporting fuel in bulk to a point outside the State from any point  
8 within the State, or to a point within the State from a point outside of the  
9 State, shall, at any time, and from time to time, upon written request of the  
10 commissioner, report, in a manner prescribed by the commissioner, all de-  
11 liveries of fuel in bulk so made to points within or without the State.

1 13. Section 54:39-41 of the Revised Statutes is amended to read as  
2 follows:

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3 54:39-41. Every person engaged in the business of hauling, transporting  
 4 or delivering fuel, shall, before entering upon the highways or waterways of  
 5 this State with any conveyance used therein, apply for the registration  
 6-18 thereof to the commissioner on forms prescribed by the commissioner.  
 19 Upon receipt of any application, the commissioner shall issue a license cer-  
 20 tificate and license plate for each conveyance which shall show the license  
 21 number assigned and which shall be displayed on the conveyance at all times  
 22 in such a manner as the commissioner may regulate. An annual license  
 23 fee of two dollars (\$2.00) shall be paid for the licensing of each such con-  
 24 veyance. Nothing contained in this section shall in any manner relieve or  
 25 discharge persons obtaining licenses thereunder from complying with any or  
 26 all provisions of other laws.

1 14. Section 54:39-42 of the Revised Statutes is amended to read as  
 2 follows:

3 54:39-42. The driver of any conveyance must have and possess at all  
 4 times while hauling, distributing or transporting "fuels," a delivery ticket,  
 5 or other form approved by the commissioner, which shall show the true  
 6 names of the seller and purchaser and such other information as the commis-

7 sioner shall prescribe. Any agent of the commissioner, or police officer, may  
 8 stop any conveyance in order to determine whether or not the provisions  
 9 of this section are being complied with.

1 15. Section 54:39-47 of the Revised Statutes is amended to read as  
 2 follows:

3 54:39-47. As an additional or alternative remedy, the commissioner may  
 4 issue a certificate to the clerk of the Superior Court or to any  
 5 county clerk that any person is indebted under this chapter in an amount  
 6 named in such certificate and thereupon the clerk to whom such certifi-  
 7 cate shall have been issued shall immediately enter upon his record of dock-  
 8 eted judgments the name of such person, the amount of the debt so certi-  
 9 fied and the date of making such entries, and the making of such entries  
 10 shall have the same force and effect as the entry of a docketed judgment

11 in the office of such clerk, and the commissioner shall have all of the remain-  
 12 edies and may take all of the proceedings for the collection thereof  
 13 which may be had or taken upon the recovery of a judgment in an action  
 14 at law upon contract. Every person who shall be licensed  
 15 under this chapter, and every refund claimant who has applied for  
 16 and received benefits under article eleven shall, by the acceptance of such  
 17 license and benefits, be deemed to have consented to the procedure set forth  
 18 in this section. Such person may within a period of six months from the  
 19 date of the issuance of such certificate appeal to the State Board of Tax  
 20 Appeals for a review of the assessment included in such certificate, and all  
 21 proceedings taken for the collection of such judgment shall be stayed dur-  
 22 ing the time that the appeal shall be pending.

1 16. Section 54:39-51 of the Revised Statutes is amended to read as  
 2 follows:

3 54:39-51. Every person who engages in business as a retail dealer or  
 4 wholesale dealer without first procuring a license from the commissioner  
 5 shall be subject for the first offense to a penalty of twenty-five dollars  
 6 (\$25.00) and for the second offense and thereafter shall be subject to a pen-  
 7 alty of two hundred dollars (\$200.00), and for failure to forthwith pay such  
 8 penalty after conviction, he shall be imprisoned for a period of not less  
 9 than five nor more than thirty days.

1 17. Section 54:39-52 of the Revised Statutes is amended to read as  
 2 follows:

3 54:39-52. Every retail dealer or wholesale dealer who shall fail to keep  
 4 the records required to be kept by virtue of sections 54:39-33 and 54:39-34  
 5 of this Title, or who shall refuse or fail to permit inspection of such rec-  
 6-7 ords by the commissioner or any of his agents shall be subject for the first  
 8 offense to a penalty of twenty-five dollars (\$25.00) and for the second  
 9 offense and thereafter shall be subject to a penalty of two hundred dollars  
 10 (\$200.00), and for failure to forthwith pay such penalty after conviction,  
 11 he shall be imprisoned for a period of not less than five nor more than thirty  
 12 days.

1 18. Section 54:39-53 of the Revised Statutes is amended to read as  
2 follows:

3 54:39-53. Any person engaged in the business of hauling, transporting  
4 or delivering fuel who shall cause to be operated any conveyance without  
5 having a license certificate and license plate displayed thereon, as provided  
6 in section 54:39-41 of this Title shall be subject for the first offense to a  
7 penalty of twenty-five dollars (\$25.00) and for the second offense and there-  
8 after shall be subject to a penalty of two hundred dollars (\$200.00), and  
9 for failure to forthwith pay such penalty after conviction, shall be imprisoned  
10 for a period of not less than five nor more than thirty days.

1 19. Section 54:39-54 of the Revised Statutes is amended to read as  
2 follows:

3 54:39-54. The driver of any conveyance used for the trans-  
4 portation or hauling of fuels who shall fail to have and possess  
5 at all times while hauling or transporting fuels a delivery ticket contain-  
6 ing the information provided for in sections 54:39-42 and 54:39-44 of this  
7 Title, shall be subject for the first offense to a penalty of twenty-  
8 ~~five dollars (\$25.00) and for the second offense and thereafter shall be sub-~~  
9 ject to a penalty of two hundred dollars (\$200.00), and for failure to forth-  
10 with pay such penalty after conviction, shall be imprisoned for a period of  
11 not less than five nor more than thirty days.

1 20. Section 54:39-66 of the Revised Statutes is amended to read as  
2 follows:

3 54:39-66. Any person who shall use any fuels as herein defined for any  
4 of the following purposes:

5 (a) operating or propelling motor vehicles, motor boats or other imple-  
6 ments owned by the State and all the political subdivisions thereof,

7 (b) autobusses while being operated over the highways of this State in  
8 those municipalities to which the operator has paid a monthly franchise tax  
9 for the use of the streets therein under the provisions of sections 48:4-14,

10 48:4-15 and 48:4-16 or 48:16-25 of the Title Public Utilities,

11 (c) agricultural tractors not operated on a public highway,

12 (d) farm machinery,

13 (e) aircraft,

14 (f) ambulances,

15 (g) rural free delivery carriers in the dispatch of their official business,

16 (h) such vehicles as run only on rails or tracks, and such vehicles as  
17 run in substitution thereof,

18 (i) such highway motor vehicles as are operated exclusively on private  
19 property,

20 (j) motor boats or motor vessels used exclusively for or in the propaga-  
21 tion, planting, preservation and gathering of oysters and clams in the tidal  
22 waters of this State,

23 (k) motor boats or motor vessels used exclusively for commercial fishing,

24 (l) motor boats or motor vessels while being used for hire for fishing  
25 parties,

26 (m) ~~clawing,~~

27 (n) fire engines and fire-fighting apparatus,

28 (o) stationary machinery and vehicles or implements not designed for the  
29 use of transporting persons or property on the public highway,

30 (p) heating and lighting devices,

31 (q) fuels previously taxed under this chapter and later exported or sold  
32 for exportation from the State of New Jersey to any other State or country  
33 provided, proof satisfactory to the commissioner of such exportations is  
34 submitted,

35 (r) motor boats or motor vessels used exclusively for Sea Scout train-  
36 ing by a duly chartered unit of the Boy Scouts of America, and who shall  
37 have paid the tax for such fuels hereby required to be paid, shall be re-  
38 bursed and repaid the amount of tax so paid upon presenting to the com-  
39 missioner an application for such reimbursement or repayment, in form pre-  
40 scribed by the commissioner, which application shall be verified by a declara-

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tion of the applicant that the statements contained therein are true. Such application for reimbursement or repayment shall be supported by an invoice, or invoices, showing the name and address of the person from whom purchased, the name of the purchaser, the date of purchase, the number of gallons purchased, the price paid per gallon, and an acknowledgment by the seller that payment of the cost of the fuel, including the tax thereon, has been made. Such invoice, or invoices, shall be legibly written and shall be void if any corrections or erasures shall appear on the face thereof.

21. Section 54:39-67 of the Revised Statutes is amended to read as follows:

54:39-67. Upon approval by the commissioner of such application a warrant shall be drawn upon the State Treasurer for the amount of such claim in favor of such claimant and such warrant shall be paid from the tax collected on motor fuel. The application for reimbursements and repayments shall be filed with the commissioner on or before the last business day of the month following that in which the fuels in question were purchased unless the applicant shall have obtained from the commissioner an extension of time for the filing of the application for the refund. The commissioner may extend the time for filing an application for refund for a period not to exceed six months from the end of the month of purchase of the fuels in question. Any person or the member of any firm or the officer or agent of any corporation who shall make any false statement in any application required for the reimbursement and repayment of any taxes, or who shall collect or cause to be repaid to him or to any other person any such reimbursement or refund without being entitled to the same shall be guilty of a misdemeanor.

22. Section 54:39-68 of the Revised Statutes is amended to read as follows:

54:39-68. In order to establish the validity of claims filed, the claimant shall be required to maintain and preserve for a period of at least two years such fuel consumption records as may be prescribed by the commissioner.

6 The commissioner shall have the right to require a claimant to furnish such  
7 additional proof of the validity of a claim as the commissioner may de-  
8 termine, and to examine the books and records of the claimant for such  
9 purpose. Failure of the claimant to maintain and preserve such records,  
10 furnish such additional proof or to accede to the demand for such examina-  
11 tion by the commissioner, or any of his representatives, shall constitute a  
12 waiver of all rights to the claim or claims questioned and such subsequent  
13 claims as the commissioner may determine.

1 23. Section 54:39-69 of the Revised Statutes is amended to read as fol-  
2 lows:

3 54:39-69. When fuel is sold to any person who shall claim to be entitled  
4 to a refund of the tax hereunder imposed, the seller of such fuel shall fur-  
5 nish the purchaser with an invoice, or invoices, in conformity with the re-  
6 quirements pertaining to invoices set forth under section 54:39-66 hereof.

1 24. This act shall take effect July first, one thousand nine hundred and  
2 fifty.

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[OFFICIAL COPY REPRINT]  
SENATE AMENDMENTS TO  
**ASSEMBLY, No. 334**

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**STATE OF NEW JERSEY**

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ADOPTED MARCH 27, 1950

Amend page 3, section 5, line 9-10, for "commission" substitute "commissioner".

Amend page 10, section 20, line 36, after "America" change ",", to " ; " omit "and who shall" before "have" insert "and who shall".

[OFFICIAL COPY REPRINT]  
SENATE AMENDMENTS TO  
**ASSEMBLY, No. 334**

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**STATE OF NEW JERSEY**

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ADOPTED MARCH 30, 1950

Amend page 10, section 20, line 36, omit “; and who shall” insert “,”.

Amend page 10, section 20, line 37, before “have” insert “and who shall”.

[SECOND OFFICIAL COPY REPRINT]

**ASSEMBLY, No. 334**

**STATE OF NEW JERSEY**

INTRODUCED FEBRUARY 13, 1950

By Mr. THOMAS

Referred to Committee on Taxation

AN ACT concerning the tax upon sale of motor fuels, and amending sections

54:39-2, 54:39-3, 54:39-5, 54:39-12, 54:39-17, 54:39-27, 54:39-28, 54:39-30,  
54:39-31, 54:39-32, 54:39-33, 54:39-38, 54:39-41, 54:39-42, 54:39-47,  
54:39-51, 54:39-52, 54:39-53, 54:39-54, 54:39-66, 54:39-67, 54:39-68  
and 54:39-69, of the Revised Statutes.

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

1 1. Section 54:39-2 of the Revised Statutes is amended to read as fol-  
2 lows:

3 54:39-2. "Fuels" mean (1) any liquid or gaseous substance commonly  
4 or commercially known or sold as gasoline regardless of its classification or  
5 use; and (2) any liquid or gaseous substance used, offered for sale or sold  
6 for use, either alone or when mixed, blended, or compounded, for the pur-  
7 pose of generating power for the propulsion of motor vehicles upon the  
8-9 public highways; and shall include:

10 (a) all grades of motor gasoline, natural gasoline, marine gasoline,  
11 aviation gasoline, motor fuel blending naphthas, motor grade benzol and  
12 motor grade toluol; and

13 (b) any liquid prepared, advertised, offered for sale or sold for use as or  
14 commonly and commercially used as a fuel in internal combustion engines,

15 which when subjected to distillation in accordance with the latest  
16 revised standard method of test for distillation of gasoline, naphtha, kero-  
17 sene, and similar petroleum products (American Society for testing ma-  
18 terials Method D-86) shows not less than ten per centum (10%) distilled  
19 (recovered) below three hundred forty-seven degrees (347°) Fahrenheit and  
20 not less than ninety-five per centum (95%) distilled (recovered) below four  
21-23 hundred sixty-four degrees (464°) Fahrenheit; and

24 (c) all combustible gases which exist in a gaseous state at sixty degrees  
25 (60°) Fahrenheit and at fourteen and seven-tenths (14.7) pounds per square  
26 inch absolute pressure, industrial naphthas and solvents, aromatic distillates,  
27 diesel fuel, additives, and all other products not included within the fore-  
28 going provisions of this section; *provided, however, that only*  
29 those quantities of said combustible gases and said other products, which are  
30 used, offered for sale or sold for use to propel motor vehicles  
31 upon the public highways shall be subject to this act; *and provided further,*  
32 that any person dealing therein, shall at any time, and from time to time,  
33 upon written request of the commissioner, report his receipts, sales, use and  
34 distribution of said combustible gases and said other products in a manner  
35 prescribed by the commissioner.

1 2. Section 54:39-3 of the Revised Statutes is amended to read as follows:

2 54:39-3. "Distributor" means and includes every person, wherever resi-  
3 dent or located, who imports into this State fuels as herein defined, for use,  
4 ~~distribution, storage or sale in this State, after the same shall reach this~~  
5 State; and also every person who produces, refines, manufactures, blends or  
6 compounds fuels as herein defined and sells, uses, stores or distributes the  
7 same within this State.

1 3. Section 54:39-5 of the Revised Statutes is amended to read as follows:

2 54:39-5. "Retail dealer" means any person as herein defined, who en-  
3 gages in the business of selling fuels as herein defined from a fixed location  
4 such as a service station, filling station, store or garage, directly into the  
5 service tank or tanks of any vehicle propelled by said fuel.

1 4. Section 54:39-12 of the Revised Statutes is amended to read as  
2 follows:

3 54:39-12. The license held by any distributor, retail dealer, wholesale  
4 dealer or special licensee may be suspended or revoked by the commissioner  
5 for a violation of any of the provisions of this chapter, or on other reason-  
6 able grounds, after five days' notice of and hearing on such proposed revo-  
7-8 cation or suspension. Upon receipt of a written request from  
9 the holder of any license issued pursuant to the provisions of  
10 this chapter, the commissioner shall have the power to cancel such license  
11 effective as soon thereafter as it has been determined that all tax, fines,  
12 penalties and interest properly owing to the State have been paid. If the  
13 commissioner shall find that any person to whom a license has been issued  
14 is no longer engaged in the business for which the license was issued, the  
15 commissioner shall have the power to cancel such license by giving such per-  
16 son reasonable notice of such intent to cancel by mail to the last known  
17 address of such person. Whenever a license is canceled, the license cer-  
18 tificate theretofore issued shall be surrendered to the commissioner.

1 5. Section 54:39-17 of the Revised Statutes is amended to read as  
2 follows:

3 54:39-17. Every distributor, before continuing in or commencing to  
4 transact the business of a distributor, shall procure a license from the State  
5 Tax Commissioner, permitting him to engage in said business within this  
6 State. The license shall be issued by the commissioner without charge. Ap-  
7 plications shall be made to the commissioner for such license before the  
8 issuance thereof and such application shall be in writing in the form pre-  
9-10 scribed by the commissioner. In the event that any application  
11 for a license shall be filed by any person whose license shall  
12 at any time theretofore have been revoked by the commissioner, or if the  
13 commissioner is satisfied that such application is filed by some person as  
14 a subterfuge for the real person in interest whose license shall thereto-  
15 fore have been revoked by the commissioner, the commissioner, after hear-  
16 ing, may refuse such person a license.

1 6. Section 54:39-27 of the Revised Statutes is amended to read as  
2 follows:

3 54:39-27. Every distributor shall, on or before the next to the last busi-  
4 ness day of each month, render a report to the commissioner, on forms pre-  
5 scribed, prepared and furnished by the commissioner, stating the number  
6 of gallons of fuel sold or used in this State by him during the preceding  
7 calendar month. A tax of three cents (\$0.03) per gallon on each gallon so  
8 reported shall be paid by each distributor, such payment to accompany the  
9-11 filing of the report. Such report shall contain such further information  
12 as the commissioner may require. Under such regulations as the commis-  
13 sioner may prescribe, sales of fuel may be made by one licensed distributor  
14 to another licensed distributor free of such tax. If any distributor shall  
15 fail, neglect or refuse to file the report within the time prescribed by this  
16 section, the commissioner shall note such failure, neglect or refusal upon  
17 his records, and shall estimate the sales, distribution and use  
18 of said distributor, assessing the tax thereon, adding to said tax a penalty  
19 of twenty per centum (20%) thereof for failure, neglect or refusal to report,  
20 and such estimate shall be prima facie evidence of the true amount of tax  
21 due to the commissioner from such distributor; *provided*, that if a  
22 good and sufficient cause or reason is shown for such delinquency, the com-  
23 missioner may remit or waive the payment of the whole or any part of the  
24 penalty. Reports required by this section, exclusive of schedules, itemized  
25 statements and other supporting evidence annexed thereto, shall at all rea-  
26 sonable times be open to the public, anything contained in section 54:50-8  
27 to the contrary notwithstanding.

1 7. Section 54:39-28 of the Revised Statutes is amended to read as  
2 follows:

3 54:39-28. Neither this chapter nor any of the provisions hereof shall  
4 apply to fuels when exported or sold for exportation from the State of New  
5 Jersey into any other State or country, but every person ex-  
6 porting or selling for export shall be required to report such ex-

7 ports and sales to the commissioner in such detail as the commissioner  
8 shall require, otherwise the exemption herein granted shall be null and void,  
9 and it shall be prima facie evidence that all such fuel was distributed in  
10 this State subject to the tax provided for in this chapter.

1 8. Section 54:39-30 of the Revised Statutes is amended to read as  
2 follows:

3 54:39-30. Every person engaged in the retail sale of fuels, as herein  
4 defined, shall be known as a retail dealer, and shall, before engaging in said  
5 business, procure from the commissioner a license for each establishment  
6 operated by such person. A license fee of five dollars (\$5.00) shall be paid  
7 for the issuing of such license and the commissioner shall supply a license  
8 plate or suitable substitute containing the number assigned to the licensee,  
9 and words denoting the type of license, which the licensee shall publicly dis-  
10 play at each establishment in a manner to be regulated by the commissioner.  
11-16 All moneys received by the commissioner for such license fees  
17 shall be accounted for and forwarded by him to the State Treas-  
18 urer to be held by the State Treasurer to the credit of the commis-  
19 sioner and disbursed in payment of the expenses incurred in the administra-  
20 tion and enforcement of an act entitled "An act to regulate the retail sale  
21 of motor fuels, and providing penalties for violations," and all moneys  
22 received by the commissioner for all such license fees are hereby appro-  
23 priated to the commissioner for that purpose.

4 9. Section 54:39-31 of the Revised Statutes is amended to read as  
5 follows:

6 54:39-31. Every wholesale dealer shall, before engaging in said busi-  
7 ness, procure from the commissioner a license for each establishment, where-  
8 ever located, operated by such person out of which wholesale sales in New  
9 Jersey are made. If such sales are made by a person not having any such  
10 establishment, the license shall be secured for the location at which the  
11 records of such business are kept. Applicants with out-of-State establish-  
12 ments or locations shall furnish the commissioner with the name and address

10 of their New Jersey registered agent. A license fee of two dollars (\$2.00)  
11 shall be paid for the issuance of each license.

1 10. Section 54:39-32 of the Revised Statutes is amended to read as  
2 follows:

3 54:39-32. Every license and permit required by the provisions of this  
4 chapter shall be issued for a fiscal year, or unexpired portion thereof, com-  
5 mencing on the first day of April and ending on the succeeding thirty-first  
6 day of March and shall be void thereafter, and said license or permit may be  
7 revoked by the commissioner in accordance with the provisions of article  
8 two of this chapter (54:39-10 et seq.).

1 11. Section 54:39-33 of the Revised Statutes is amended to read as  
2 follows:

3 54:39-33. Every wholesale dealer and retail dealer purchasing fuels, tax-  
4 able under this chapter, shall maintain and keep for a period  
5 of one year, a record of fuels received and sold, the amount of tax  
6 paid to the distributor as part of the purchase price, together with delivery  
7 tickets, invoices, and bills of lading, and such other records as the commis-  
8 sioner may require.

1 12. Section 54:39-38 of the Revised Statutes is amended to read as  
2 follows:

3 54:39-38. Every railway or railroad company, water transportation com-  
4 pany, and every carrier transporting fuels, as herein defined, in  
5 bulk, between points within the State, and every railway or  
6 railroad company, water transportation company, and every car-  
7 rier transporting fuel in bulk to a point outside the State from any point  
8 within the State, or to a point within the State from a point outside of the  
9 State, shall, at any time, and from time to time, upon written request of the  
10 commissioner, report, in a manner prescribed by the commissioner, all de-  
11 liveries of fuel in bulk so made to points within or without the State.

1 13. Section 54:39-41 of the Revised Statutes is amended to read as  
2 follows:

3 54:39-41. Every person engaged in the business of hauling, transporting  
4 or delivering fuel, shall, before entering upon the highways or waterways of  
5 this State with any conveyance used therein, apply for the registration  
6-18 thereof to the commissioner on forms prescribed by the commissioner.  
19 Upon receipt of any application, the commissioner shall issue a license cer-  
20 tificate and license plate for each conveyance which shall show the license  
21 number assigned and which shall be displayed on the conveyance at all times  
22 in such a manner as the commissioner may regulate. An annual license  
23 fee of two dollars (\$2.00) shall be paid for the licensing of each such con-  
24 veyance. Nothing contained in this section shall in any manner relieve or  
25 discharge persons obtaining licenses thereunder from complying with any or  
26 all provisions of other laws.

1 14. Section 54:39-42 of the Revised Statutes is amended to read as  
2 follows:

3 54:39-42. The driver of any conveyance must have and possess at all  
4 times while hauling, distributing or transporting "fuels," a delivery ticket,  
5 or other form approved by the commissioner, which shall show the true  
6 names of the seller and purchaser and such other information as the commis-  
7 sioner shall prescribe. Any agent of the commissioner, or police officer, may  
8 stop any conveyance in order to determine whether or not the provisions  
9 of this section are being complied with.

1 15. Section 54:39-47 of the Revised Statutes is amended to read as  
2 follows:

3 54:39-47. As an additional or alternative remedy, the commissioner may  
4 issue a certificate to the clerk of the Superior Court or to any  
5 county clerk that any person is indebted under this chapter in an amount  
6 named in such certificate and thereupon the clerk to whom such certifi-  
7 cate shall have been issued shall immediately enter upon his record of dock-  
8 eted judgments the name of such person, the amount of the debt so certi-  
9 fied and the date of making such entries, and the making of such entries  
10 shall have the same force and effect as the entry of a docketed judgment

11 in the office of such clerk, and the commissioner shall have all of the rem-  
12 edies and may take all of the proceedings for the collection thereof  
13 which may be had or taken upon the recovery of a judgment in an action  
14 at law upon contract. Every person who shall be licensed  
15 under this chapter, and every refund claimant who has applied for  
16 and received benefits under article eleven shall, by the acceptance of such  
17 license and benefits, be deemed to have consented to the procedure set forth  
18 in this section. Such person may within a period of six months from the  
19 date of the issuance of such certificate appeal to the State Board of Tax  
20 Appeals for a review of the assessment included in such certificate, and all  
21 proceedings taken for the collection of such judgment shall be stayed dur-  
22 ing the time that the appeal shall be pending.

1 16. Section 54:39-51 of the Revised Statutes is amended to read as  
2 follows:

3 54:39-51. Every person who engages in business as a retail dealer or  
4 wholesale dealer without first procuring a license from the commissioner  
5 shall be subject for the first offense to a penalty of twenty-five dollars  
6 (.25.00) and for the second offense and thereafter shall be subject to a pen-  
7 alty of two hundred dollars (\$200.00), and for failure to forthwith pay such  
8 penalty after conviction, he shall be imprisoned for a period of not less  
9 than five nor more than thirty days.

1 17. Section 54:39-52 of the Revised Statutes is amended to read as  
2 follows:

3 54:39-52. Every retail dealer or wholesale dealer who shall fail to keep  
4 the records required to be kept by virtue of sections 54:39-33 and 54:39-34  
5 of this Title, or who shall refuse or fail to permit inspection of such rec-  
6-7 ords by the commissioner or any of his agents shall be subject for the first  
8 offense to a penalty of twenty-five dollars (\$25.00) and for the second  
9 offense and thereafter shall be subject to a penalty of two hundred dollars  
10 (\$200.00), and for failure to forthwith pay such penalty after conviction,  
11 he shall be imprisoned for a period of not less than five nor more than thirty  
12 days.

1 18. Section 54:39-53 of the Revised Statutes is amended to read as  
2 follows:

3 54:39-53. Any person engaged in the business of hauling, transporting  
4 or delivering fuel who shall cause to be operated any conveyance without  
5 having a license certificate and license plate displayed thereon, as provided  
6 in section 54:39-41 of this Title shall be subject for the first offense to a  
7 penalty of twenty-five dollars (\$25.00) and for the second offense and there-  
8 after shall be subject to a penalty of two hundred dollars (\$200.00), and  
9 for failure to forthwith pay such penalty after conviction, shall be imprisoned  
10 for a period of not less than five nor more than thirty days.

1 19. Section 54:39-54 of the Revised Statutes is amended to read as  
2 follows:

3 54:39-54. The driver of any conveyance used for the trans-  
4 portation or hauling of fuels who shall fail to have and possess  
5 at all times while hauling or transporting fuels a delivery ticket contain-  
6 ing the information provided for in sections 54:39-42 and 54:39-44 of this  
7 Title, shall be subject for the first offense to a penalty of twenty-  
8 five dollars (\$25.00) and for the second offense and thereafter shall be sub-  
9 ject to a penalty of two hundred dollars (\$200.00), and for failure to forth-  
10 with pay such penalty after conviction, shall be imprisoned for a period of  
11 not less than five nor more than thirty days.

1 20. Section 54:39-66 of the Revised Statutes is amended to read as  
2 follows:

3 54:39-66. Any person who shall use any fuels as herein defined for any  
4 of the following purposes:

5 (a) operating or propelling motor vehicles, motor boats or other imple-  
6 ments owned by the State and all the political subdivisions thereof,

7 (b) autobusses while being operated over the highways of this State in  
8 those municipalities to which the operator has paid a monthly franchise tax  
9 for the use of the streets therein under the provisions of sections 48:4-14,

10 48:4-15 and 48:4-16 or 48:16-25 of the Title Public Utilities,

11 (c) agricultural tractors not operated on a public highway,

12 (d) farm machinery,

13 (e) aircraft,

14 (f) ambulances,

15 (g) rural free delivery carriers in the dispatch of their official business,

16 (h) such vehicles as run only on rails or tracks, and such vehicles as  
17 run in substitution thereof,

18 (i) such highway motor vehicles as are operated exclusively on private  
19 property,

20 (j) motor boats or motor vessels used exclusively for or in the propaga-  
21 tion, planting, preservation and gathering of oysters and clams in the tidal  
22 waters of this State,

23 (k) motor boats or motor vessels used exclusively for commercial fishing,

24 (l) motor boats or motor vessels while being used for hire for fishing  
25 parties,

26 (m) cleaning,

27 (n) fire engines and fire-fighting apparatus,

28 (o) stationary machinery and vehicles or implements not designed for the  
29 use of transporting persons or property on the public highway,

30 (p) heating and lighting devices,

31 (q) fuels previously taxed under this chapter and later exported or sold  
32 for exportation from the State of New Jersey to any other State or country

33 provided, proof satisfactory to the commissioner of such exportations is  
34 submitted,

35 (r) motor boats or motor vessels used exclusively for Sea Scout train-  
36 ing by a duly chartered unit of the Boy Scouts of America; and who shall  
37 have paid the tax for such fuels hereby required to be paid, shall be reim-  
38 bursed and repaid the amount of tax so paid upon presenting to the com-  
39 missioner an application for such reimbursement or repayment, in form pre-  
40 scribed by the commissioner, which application shall be verified by a declara-

41 tion of the applicant that the statements contained therein are true. Such  
42 application for reimbursement or repayment shall be supported by an in-  
43 voice, or invoices, showing the name and address of the person from whom  
44 purchased, the name of the purchaser, the date of purchase, the number of  
45 gallons purchased, the price paid per gallon, and an acknowledgment by the  
46 seller that payment of the cost of the fuel, including the tax thereon, has  
47 been made. Such invoice, or invoices, shall be legibly written and shall be  
48 void if any corrections or erasures shall appear on the face thereof.

1 21. Section 54:39-67 of the Revised Statutes is amended to read as  
2 follows:

3 54:39-67. Upon approval by the commissioner of such application a war-  
4 rant shall be drawn upon the State Treasurer for the amount of such claim  
5 in favor of such claimant and such warrant shall be paid from the tax col-  
6 lected on motor fuel. The application for reimbursements and repayments  
7 shall be filed with the commissioner on or before the last business day of the  
8 month following that in which the fuels in question were purchased unless the  
9 applicant shall have obtained from the commissioner an extension of time for  
10 the filing of the application for the refund. The commissioner may extend the  
11 time for filing an application for refund for a period not to exceed six  
12 months from the end of the month of purchase of the fuels in  
13 question. Any person or the member of any firm or the officer or agent of  
14 any corporation who shall make any false statement in any application  
15 ~~required for the reimbursement and repayment of any taxes, or who shall~~  
16 collect or cause to be repaid to him or to any other person any such reim-  
17 bursement or refund without being entitled to the same shall be guilty of a  
18 misdemeanor.

1 22. Section 54:39-68 of the Revised Statutes is amended to read as fol-  
2 lows:

3 54:39-68. In order to establish the validity of claims filed, the claimant  
4 shall be required to maintain and preserve for a period of at least two years  
5 such fuel consumption records as may be prescribed by the commissioner.

6 The commissioner shall have the right to require a claimant to furnish such  
7 additional proof of the validity of a claim as the commissioner may de-  
8 termine, and to examine the books and records of the claimant for such  
9 purpose. Failure of the claimant to maintain and preserve such records,  
10 furnish such additional proof or to accede to the demand for such examina-  
11 tion by the commissioner, or any of his representatives, shall constitute a  
12 waiver of all rights to the claim or claims questioned and such subsequent  
13 claims as the commissioner may determine.

1 23. Section 54:39-69 of the Revised Statutes is amended to read as fol-  
2 lows:

3 54:39-69. When fuel is sold to any person who shall claim to be entitled  
4 to a refund of the tax hereunder imposed, the seller of such fuel shall fur-  
5 nish the purchaser with an invoice, or invoices, in conformity with the re-  
6 quirements pertaining to invoices set forth under section 54:39-66 hereof.

1 24. This act shall take effect July first, one thousand nine hundred and  
2 fifty.