

48:4-20

**LEGISLATIVE HISTORY CHECKLIST**

**NJSA:** 48:4-20; 54:39-66, 54:39A-2

(Commuter bus--tax exemption)

**LAWS OF:** 1985

**CHAPTER:** 207

**Bill No:** S131

**Sponsor(s):** Rand, Feldman and Cardinale

**Date Introduced:** Pre-filed

**Committee:** **Assembly:** Transportation and Communications

**Senate:** Revenue, Finance and Appropriations; Transportation and Communications

**Amended during passage:** Yes Amendments during passage denoted by asterisks.

**Date of Passage:** **Assembly:** June 24, 1985

**Senate:** February 28, 1985

**Date of Approval:** June 27, 1985

**Following statements are attached if available:**

**Sponsor statement:** Yes

**Committee statement:** **Assembly** ~~No~~ Yes 3-25-85 and 5-13-85

**Senate** Yes 2-14-85 and 2-23-84

**Fiscal Note:** No

**Veto Message:** No

**Message on Signing:** ~~No~~ Yes

**Following were printed:**

**Reports:** No

**Hearings:** No

Section of N.Y. law, referred to in sponsors' statement: N.Y. (Tax Law) 289 (McKinney 1984)

207 85  
6-27-85  
[SECOND OFFICIAL COPY REPRINT]

SENATE, No. 131

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1984 SESSION

By Senators RAND, FELDMAN and CARDINALE

AN ACT concerning exemption from taxation of certain autobuses and their motor fuels, amending R. S. 48:4-20, R. S. 54:39-66 and P. L. 1963, c. 44 \***[and supplementing Title 54 of the Revised Statutes]**\*

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

1 1. R. S. 48:4-20 is amended to read as follows:

2 48:4-20. **[Every]** *A person owning or operating an autobus*  
3 *which is operated over any highway in this State for the purpose*  
4 *of carrying passengers from a point outside the State to another*  
5 *point outside the State, or from a point outside the State to a point*  
6 *within the State, or from a point within the State to a point outside*  
7 *the State shall pay to the Director of the Division of Motor Vehicles,*  
8 *as an excise for the use of such highway, one-half cent for each mile*  
9 *or fraction thereof such autobus shall have been operated over the*  
10 *highways of this State, except that [no excise shall be payable for*  
11 *the mileage traversed in regular route passenger service provided*  
12 *under operating authority conferred pursuant to R. S. 48:4-3.]*  
13 *a person owning or operating an autobus providing regular route*  
14 *service under authority conferred pursuant to R. S. 48:4-3, and a*  
15 *person owning or operating an autobus providing regular route*  
16 *commuter bus service from a point within the State to a point out-*  
17 *side the State, or from a point outside the State to a point within*  
18 *the State, shall be exempt from payment of the excise tax on the*  
19 *mileage traversed in providing that service. This exemption shall*  
20 *also apply to any person owning or operating an autobus under*  
21 *contract with the New Jersey Transit Corporation for providing*  
22 *bus service or under a contract with a county for special or rural*

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

Matter printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

\*—Senate committee amendments adopted February 23, 1984.

\*\*—Senate committee amendments adopted February 14, 1985.

23 *transportation bus service subject to the jurisdiction of the New*  
 24 *Jersey Transit Corporation pursuant to P. L. 1979, c. 150 (C.*  
 25 *27:25-1 et seq.). "Commuter bus service" means regularly sched-*  
 26 *uled passenger service utilized by passengers using reduced fare,*  
 27 *multiple ride or commutation tickets \*and shall not include charter*  
 28 *bus operations or special bus operations as defined in R. S. 48:4-1*  
 29 *or buses operated for the transportation of enrolled children and*  
 30 *adults referred to in paragraph c. of R. S. 48:4-1\*.*

1 2. R. S. 54:39-66 is amended to read as follows:

2 54:39-66. Any person:

3 (1) Who shall use any fuels as herein defined for any of the  
 4 following purposes:

5 (a) (Deleted by amendment.)

6 (b) Autobuses while being operated over the highways of  
 7 this State in those municipalities to which the operator has  
 8 paid a monthly franchise tax for the use of the streets therein  
 9 under the provisions of R. S. 48:16-25 and autobuses while  
 10 being operated over the highways of this State to provide  
 11 regular route passenger service under operating authority  
 12 conferred pursuant to R. S. 48:4-3, or while providing bus  
 13 service under a contract with the New Jersey Transit Corpora-  
 14 tion or under a contract with a county for special or rural  
 15 transportation bus service subject to the jurisdiction of the  
 16 New Jersey Transit Corporation pursuant to P. L. 1979, c. 150  
 17 (C. 27:25-1 et seq.), and autobuses providing commuter bus  
 18 service which receive or discharge passengers in New Jersey.  
 19 For the purpose of this paragraph "commuter bus service"  
 20 means regularly scheduled passenger service provided by  
 21 motor vehicles whether within or across the geographical  
 22 boundaries of New Jersey and utilized by passengers using  
 23 reduced fare, multiple ride or commutation tickets \*and shall  
 23A not include charter bus operations or special bus operations as  
 23B defined in R. S. 48:4-1 or buses operated for the transportation  
 23C of enrolled children and adults referred to in paragraph c. of  
 23D R. S. 48:4-1\*,

24 (c) Agricultural tractors not operated on a public highway,

25 (d) Farm machinery,

26 (e) Aircraft,

27 (f) Ambulances,

28 (g) Rural free delivery carriers in the dispatch of their  
 29 official business,

30 (h) Such vehicles as run only on rails or tracks, and such  
 31 vehicles as run in substitution thereof,

- 32 (i) Such highway motor vehicles as are operated exclusively  
 33 on private property,
- 34 (j) Motor boats or motor vessels used exclusively for or in  
 35 the propagation, planting, preservation and gathering of  
 36 oysters and clams in the tidal waters of this State,
- 37 (k) Motor boats or motor vessels used exclusively for com-  
 38 mercial fishing,
- 39 (l) Motor boats or motor vessels\*\*, while being used for  
 40 hire for fishing parties or being used for sightseeing or excur-  
 41 sion parties,
- 42 (m) Cleaning,
- 43 (n) Fire engines and fire-fighting apparatus,
- 44 (o) Stationary machinery and vehicles or implements not  
 45 designed for the use of transporting persons or property on  
 46 the public **\*\*[highway]\*\*** **\*\*highways\*\***,
- 47 (p) Heating and lighting devices,
- 48 (q) Fuels previously taxed under this chapter and later  
 49 exported or sold for exportation from the State of New Jersey  
 50 to any other state or country\*\*, provided, proof satisfactory  
 51 to the director of such exportations is submitted,
- 52 (r) Motor boats or motor vessels used exclusively for Sea  
 53 Scout training by a duly chartered unit of the Boy Scouts of  
 54 America,
- 55 (s) Emergency vehicles used exclusively by volunteer first-  
 56 aid or rescue squads, **[and]** **\*\*and\*\***  
 57 **\*\*[t. vehicles]** **\*(t) \*\*[Vehicles\* owned and operated exclu-**  
 58 **sively by private nonprofit social service agencies, as approved**  
 59 **by the Department of Transportation, for the provision of any**  
 60 **type of transit service other than exclusive ride service, and]****\*\***  
 60A **\*\*Diesel fuel, the increase in the tax thereof as imposed by**  
 60B **P. L. 1984, c. 73, as used by passenger automobiles and motor**  
 60C **vehicles of less than 5,000 pounds gross weight;\*\***
- 61 (2) Who shall have paid the tax for such fuels\*\*, hereby re-  
 62 quired to be paid, shall be reimbursed and repaid the amount of tax  
 63 so paid upon presenting to the director an application **\*\*[of]\*\***  
 64 **\*\*for\*\*** such reimbursement or repayment, in form prescribed by  
 65 the director, which application shall be verified by a declaration of  
 66 the applicant that the statements contained therein are true. Such  
 67 application for reimbursement or repayment shall be supported by  
 68 an invoice, or invoices, showing the name and address of the person  
 69 from whom purchased, the name of the purchaser, the date of pur-  
 70 chase, the number of gallons purchased, the price paid per gallon,  
 71 and an acknowledgment by the seller that payment of the cost of

72 the fuel, including the tax thereon, has been made. Such invoice,  
73 or invoices, shall be legibly written and shall be void if any cor-  
74 rections or erasures shall appear on the face thereof.

75 The director may, in his discretion, permit a distributor entitled  
76 to a refund under the provisions of this section to take credit  
77 therefor, in lieu of such refund, in such manner as the director may  
78 require, on a report filed pursuant to R. S. 54:39-27.

79 Any refund granted to a person under subsection (1) (e), for fuel  
80 used in aircraft, shall be paid from the moneys deposited in the  
81 Airport Safety Fund established by section 4 of the "New Jersey  
82 Airport Safety Act of 1983," P. L. 1983, c. 264 (C. 6:1-92). Such  
83 refunds shall be granted on an annual basis.

1 3. Section 2 of P. L. 1963, c. 44 (C. 54:39A-2) is amended to  
2 read as follows:

3 2. For the purpose of this act, unless inconsistent with the  
4 context:

5 (a) "User" means every person, firm or corporation who or  
6 which **\*\*[consumes motor fuels for the propulsion of]\*\*** *oper-*  
7 *ates or causes to be operated any\*\** motor **\*\*[** vehicles owned or  
7A **controlled by]\*\*** **[him]** **\*\*[the person, firm, or corporation]\*\***  
8 **\*\*vehicle\*\*** on any highway in this State. The term shall include a  
9 **\*\*[**lessor when said lessor provides the motor fuel used in the ve-  
10 hicles operated by the lessee. The term shall not include any public  
11 utility as defined in R. S. 48:2-13, which functions solely within the  
12 State of New Jersey provided that all of the fuel used by the ve-  
13 hicles of said public utility is purchased within the State, except on  
14 occasional emergencies, and the fuel tax thereon is paid at the time  
15 of purchase**]\*\*** *rental company in the case of a rental vehicle\*\**.

16 (b) "Motor vehicle" means any omnibus that has seats for more  
17 than 10 passengers in addition to the driver, or road tractor, or any  
18 truck tractor, or any truck having a gross *or registered\*\** weight  
19 **\*\***, *whichever is greater,\*\** in excess of 18,000 pounds alone or in  
19A combination with a motor-drawn vehicle.

20 (c) "Exempt vehicle" means:

21 (1) Any vehicle owned or operated by an agency of this State  
22 or any political subdivision thereof, or any quasi-governmental  
23 authority of which this State is a participating member, or any  
24 agency of the federal government or the District of Columbia, or  
25 of any state or province or political subdivision **\*\*[,]\*\*** thereof.

26 (2) School bus as defined in R. S. 39:1-1.

27 (3) Vehicles operated under authority of dealer, manufacturer,  
28 converter and transporter general registration plates such as pre-  
29 scribed in R. S. 39:3-18 and similar laws of other states.

30 (4) Special mobile equipment not designed or used primarily  
31 for the transportation of persons or property.

32 (5) Vehicles operated not for profit by any religious or charitable  
33 organization.

34 (6) Vehicles operated by a public utility as defined in R. S.  
35 48:2-13, or under a contract with the New Jersey Transit Corpo-  
36 ration or under a contract with a county for special or rural trans-  
37 portation bus service subject to the jurisdiction of the New Jersey  
38 Transit Corporation pursuant to P. L. 1979, c. 150 (C. 27:25-1 et  
39 seq.) whose operations are limited to the State of New Jersey,  
40 or vehicles providing commuter bus service which receive or dis-  
41 charge passengers in New Jersey\*\*[; providing that all of the fuel  
42 used by said vehicles is purchased within the State, except on  
43 occasional emergencies, and the fuel taxes paid thereon at the time  
44 of purchase]\*\*.

45 (7) Vehicles operated, not for hire, by a farmer as defined in  
46 R. S. 39:3-25.

47 (8) Vehicles used to transport farm labor.

48 (d) "Operations" means operations of all motor vehicles, \*\*[other  
49 than exempt vehicles, owned or controlled by the user,]\*\*\*\* whether  
50 loaded or empty, whether for compensation or not for compensa-  
51 tion, \*\*and whether owned by, contracted for use by, or leased by  
52 the user who operates or causes them to be operated,\*\* except op-  
53 erations of an omnibus within any municipality of this State in the  
53A regular route passenger service provided under operating authority  
53B conferred pursuant to R. S. 48:4-3.

54 (e) The term "motor fuels" means any combustible liquid or  
55 gaseous substance used, or suitable, for the generation of power  
56 to propel motor vehicles.

57 (f) "Motor \*\*[vehicle]\*\* fuel tax" means the tax imposed under  
58 R. S. 54:39-1 et seq.

59 (g) "Director" shall mean the Director of the Division of  
60 Motor Vehicles in the Department of Law and Public Safety.

61 (h) "Purchaser" means the person, firm or corporation who or  
62 which purchased the fuel, and paid the motor vehicle fuels tax  
63 thereon, used in the motor vehicles of the user.

64 (i) "Vendor" means any person, firm or corporation licensed, or  
65 required by law to be licensed, by the Director of the Division of  
66 Taxation to sell, distribute, import or transport motor fuels within  
67 this State.

68 \*\* (j) "Bulk fuel" means fuel in quantities of not less than 500  
69 gallons, delivered into storage tanks owned, or rented under lease  
70 for a term of not less than one year, by the user for future con-

71 *sumption. For the purposes of this act the term "storage tanks"*  
 72 *shall not apply to vehicle storage tanks used only to carry motor*  
 73 *fuels for use in propelling the vehicle carrying these tanks.*

74 (k) *"Rental Vehicle" means a vehicle owned by a rental company*  
 75 *and rented to the general public on an hourly, daily, trip, or other*  
 76 *short term basis.*

77 (l) *"Rental Company" means a person engaged in the business*  
 78 *of renting vehicles to the general public, including motor carriers,*  
 79 *on an hourly, daily, trip, or other short term basis.\*\**

80 **\*\*[(j)]\*\*** **\*(m)\*\*** *"Commuter bus service" means regularly*  
 81 *scheduled passenger service provided by motor vehicles within or*  
 82 *across the geographical boundaries of New Jersey and utilized by*  
 83 *passengers using reduced fare, multiple ride or commutation tickets*  
 84 *\*and shall not include charter bus operations or special bus opera-*  
 85 *tions as defined in R. S. 48:4-1 or buses operated for the transpor-*  
 86 *tation of enrolled children and adults referred to in paragraph c.*  
 87 *of R. S.48:4-1\*.*

1 **\*[4. (New section) a. For the purposes of this section:**

2 (1) *"Exempt person" means a person owning or operating an*  
 3 *autobus or providing bus service exempted under R. S. 48:4-20 or*  
 4 *P. L. 1963, c. 44 (C. 54:39A-1 et seq.) from taxation on fuels used*  
 5 *or who is eligible for reimbursement and repayment under R. S.*  
 6 *54:39-66 for fuels taxed.*

7 (2) *"Exempt mileage" means mileage traversed within the State*  
 8 *of New Jersey by an exempt person which is exempt from taxation*  
 9 *under R. S. 48:4-20 or P. L. 1963, c. 44 (C. 54:39A-1 et seq.) or for*  
 10 *which he may receive reimbursement or repayment under R. S.*  
 11 *54:39-66.*

12 (3) *"Total mileage traversed" means the sum of exempt mileage*  
 13 *and mileage which is not exempt traversed by an exempt person*  
 14 *within the State of New Jersey.*

15 b. *An exempt person operating a charter or special bus service*  
 16 *over the highways of this State may be exempted from taxation*  
 17 *under R. S. 48:4-20 or P. L. 1963, c. 44 (C. 54:39A-1 et seq.) or*  
 18 *may be eligible for reimbursement and repayment under R. S.*  
 19 *54:39-66, for fuels used in his charter or special bus service opera-*  
 20 *tions as provided in this section. The amount of the exemption*  
 21 *from the tax on fuels used in charter or special bus service opera-*  
 22 *tions or for which an exempt person may be eligible for reimburse-*  
 23 *ment and repayment is based upon the percentage of total mileage*  
 24 *which is classified as exempt mileage, in accordance with the fol-*  
 25 *lowing formula:*

$$\begin{array}{l} 26 \quad \text{Percentage of total} \\ 27 \quad \text{mileage exempt} \end{array} = \frac{\text{Exempt mileage}}{\text{Total mileage}}$$

28 The following table provides for the determination of the amount  
29 of taxation exempted or for which an exempt person is eligible  
30 for reimbursement and repayment under this section.

A	B
31 If the percentage of	Amount of taxation ex-
32 total mileage exempt	empted or able to be re-
33 is:	imbursed and repaid is:
34 Less than 10%	None
35 10% or greater than	Equal to the percentage
36 10% but less than	of total mileage exempted
37 70%	in column A
38 70% or more	100%

39 c. The Director of the Division of Taxation shall adopt rules  
40 and regulations providing for the manner in which the exempt  
41 mileage, the total mileage and the percentage thereof are to be  
42 determined and reported by persons subject to this section and  
43 making an application for reimbursement and repayment.

44 d. The form and manner of applications for reimbursements and  
45 repayments shall generally be in the form and manner prescribed  
46 for other repayments and reimbursements under R. S. 54:39-66.]\*

i \***[5.]**\* \*4.\* This act shall take effect 60 days following enactment.

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SENATE TRANSPORTATION AND COMMUNICATIONS  
COMMITTEE

STATEMENT TO  
**SENATE, No. 131**  
with Senate committee amendments

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**STATE OF NEW JERSEY**

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DATED: FEBRUARY 23, 1984

This bill, as amended by the committee, provides that: (1) Existing law is to be amended so that a person owning or operating interstate regular route commuter bus service shall be exempt from the one-half cent per mile excise tax. In addition, any bus carrier under contract with New Jersey Transit or under contract with a county for special or rural bus transportation subject to New Jersey Transit shall also be exempt. (The present exemption would be continued on intra-State regular route bus service.)

(2) Bus carriers which receive the excise tax exemption, carriers providing commuter bus service which receive or discharge passengers in New Jersey, and certain nonprofit carriers shall be reimbursed and repaid for the Motor Fuel Tax paid. An exemption is also provided from the Motor Fuels Use Tax.

Amendments approved by the committee delete that section of the original bill providing that charter and special buses would also be exempt from taxation in certain cases. Amendments, proposed by the Division of Taxation, also clarify the definition of "commuter bus services."

With these amendments, the Department of Transportation supports the bill.

SENATE REVENUE, FINANCE AND APPROPRIATIONS  
COMMITTEE

STATEMENT TO  
**SENATE, No. 131**

[OFFICIAL COPY REPRINT]  
with Senate committee amendments

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**STATE OF NEW JERSEY**

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DATED: FEBRUARY 14, 1985

As amended, this bill amends existing law to provide that a person owning or operating interstate regular route commuter bus service shall be exempt from the one-half cent per mile excise tax currently paid on mileage traversed on New Jersey highways. In addition, any bus carrier under contract with New Jersey Transit or under contract with a county for special or rural bus transportation subject to New Jersey Transit shall also be exempt. Under existing law, intra-State regular route bus service and New Jersey Transit are exempt from the bus excise tax.

The bill further provides that bus carriers which receive the excise tax exemption and carriers providing commuter bus service which receive or discharge passengers in New Jersey shall be reimbursed and repaid for the motor fuel tax paid. An exemption is also provided from the motor fuels use tax.

The exemptions under the bill do not apply to charter bus operations or special bus operations.

**FISCAL IMPACT**

A fiscal note on Senate No. 131 (OCR) estimates a revenue loss of approximately \$750,000 per year from foregone tax revenues. The provisions of the bill apply primarily to a limited number of companies providing regular route commuter bus service across State lines.

**COMMITTEE AMENDMENTS**

The committee amended the bill to remove the motor fuel tax exemption from DOT-approved private nonprofit social service agencies on the grounds that such an exemption is unrelated to the main purpose of the bill and would be difficult to regulate.

Committee amendments are technical in nature, reflecting the prior signing into law this year of Senate Bill No. 812 (OCR), P. L. 1985, c. 7.

ASSEMBLY TRANSPORTATION AND COMMUNICATIONS  
COMMITTEE

STATEMENT TO  
**SENATE, No. 131**  
[SECOND OFFICIAL COPY REPRINT]

**STATE OF NEW JERSEY**

DATED: MARCH 25, 1985

This bill amends existing law to provide that a person owning or operating a bus providing interstate regular route commuter bus service shall be exempt from the one-half cent per mile excise tax currently paid on mileage traversed on New Jersey highways. In addition, any bus carrier under contract with the New Jersey Transit Corporation or under contract with a county for special or rural bus transportation subject to the corporation shall also be exempt. Under existing law, intra-State regular bus service and the New Jersey Transit Corporation are exempt from the bus excise tax.

The bill further provides that bus carriers which receive the excise tax exemption and carriers providing commuter bus service which receive or discharge passengers in New Jersey shall be reimbursed and repaid for the motor fuel tax paid. An exemption is also provided from the motor fuels use tax.

The exemptions under the bill do not apply to charter bus operations or special bus operations.

The committee reported the bill favorably.

ASSEMBLY REVENUE, FINANCE AND APPROPRIATIONS  
COMMITTEE

STATEMENT TO  
**SENATE, No. 131**  
[SECOND OFFICIAL COPY REPRINT]

**STATE OF NEW JERSEY**

DATED: MAY 13, 1985

PROVISIONS:

Senate Bill No. 131 (2nd OCR) amends existing law to provide that a person owning or operating interstate regular route commuter bus service shall be exempt from the one-half cent per mile excise tax currently paid on mileage traversed on New Jersey highways. In addition, any bus carrier under contract with New Jersey Transit or under contract with a county for special or rural bus transportation subject to the jurisdiction of the New Jersey Transit Corporation shall also be exempt. Under existing law, intra-State regular route bus service and the New Jersey Transit Corporation are exempt from the bus excise tax.

The bill further provides that bus carriers which receive the excise tax exemption and carriers providing commuter bus service which receive or discharge passengers in New Jersey shall be reimbursed and repaid for the motor fuel tax paid. An exemption is also provided from the motor fuels use tax.

The exemptions under the bill do not apply to charter bus operations or special bus operations.

FISCAL IMPACT:

A fiscal note on Senate Bill No. 131 (2nd OCR) estimates a revenue loss of approximately \$750,000.00 per year from foregone tax revenues. The provisions of the bill apply primarily to a limited number of companies providing regular route commuter bus service across State lines.

The committee favorably reports this bill.

SENATE, No. 131

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STATE OF NEW JERSEY

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PRE-FILED FOR INTRODUCTION IN THE 1984 SESSION

By Senators RAND, FELDMAN and CARDINALE

AN ACT concerning exemption from taxation of certain autobuses and their motor fuels, amending R. S. 48:4-20, R. S. 54:39-66 and P. L. 1963, c. 44 and supplementing Title 54 of the Revised Statutes.

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

1 1. R. S. 48:4-20 is amended to read as follows:

2 48:4-20. **[Every]** *A person owning or operating an autobus*  
3 *which is operated over any highway in this State for the purpose*  
4 *of carrying passengers from a point outside the State to another*  
5 *point outside the State, or from a point outside the State to a point*  
6 *within the State, or from a point within the State to a point outside*  
7 *the State shall pay to the Director of the Division of Motor Vehicles,*  
8 *as an excise for the use of such highway, one-half cent for each mile*  
9 *or fraction thereof such autobus shall have been operated over the*  
10 *highways of this State, except that [no excise shall be payable for*  
11 *the mileage traversed in regular route passenger service provided*  
12 *under operating authority conferred pursuant to R. S. 48:4-3.]*  
13 *a person owning or operating an autobus providing regular route*  
14 *service under authority conferred pursuant to R. S. 48:4-3, and a*  
15 *person owning or operating an autobus providing regular route*  
16 *commuter bus service from a point within the State to a point out-*  
17 *side the State, or from a point outside the State to a point within*  
18 *the State, shall be exempt from payment of the excise tax on the*  
19 *mileage traversed in providing that service. This exemption shall*  
20 *also apply to any person owning or operating an autobus under*

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

21 *contract with the New Jersey Transit Corporation for providing*  
 22 *bus service or under a contract with a county for special or rural*  
 23 *transportation bus service subject to the jurisdiction of the New*  
 24 *Jersey Transit Corporation pursuant to P. L. 1979, c. 150 (C.*  
 25 *27:25-1 et seq.). "Commuter bus service" means regularly sched-*  
 36 *uled passenger service utilized by passengers using reduced fare,*  
 27 *multiple ride or commutation tickets.*

1 2. R. S. 54:39-66 is amended to read as follows:

2 54:39-66. Any person:

3 (1) Who shall use any fuels as herein defined for any of the  
 4 following purposes:

5 (a) (Deleted by amendment.)

6 (b) Autobusses while being operated over the highways of  
 7 this State in those municipalities to which the operator has  
 8 paid a monthly franchise tax for the use of the streets therein  
 9 under the provisions of R. S. 48:16-25 and autobusses while  
 10 being operated over the highways of this State to provide  
 11 regular route passenger service under operating authority  
 12 conferred pursuant to R. S. 48:4-3, or while providing bus  
 13 service under a contract with the New Jersey Transit Corpora-  
 14 tion or under a contract with a county for special or rural  
 15 transportation bus service subject to the jurisdiction of the  
 16 New Jersey Transit Corporation pursuant to P. L. 1979, c. 150  
 17 (C. 27:25-1 et seq.), and autobuses providing commuter bus  
 18 service which receive or discharge passengers in New Jersey.  
 19 For the purpose of this paragraph "commuter bus service"  
 20 means regularly scheduled passenger service provided by  
 21 motor vehicles whether within or across the geographical  
 22 boundaries of New Jersey and utilized by passengers using  
 23 reduced fare, multiple ride or commutation tickets,

24 (c) Agricultural tractors not operated on a public highway,

25 (d) Farm machinery,

26 (e) Aircraft,

27 (f) Ambulances,

28 (g) Rural free delivery carriers in the dispatch of their  
 29 official business,

30 (h) Such vehicles as run only on rails or tracks, and such  
 31 vehicles as run in substitution thereof,

32 (i) Such highway motor vehicles as are operated exclusively  
 33 on private property,

34 (j) Motor boats or motor vessels used exclusively for or in  
 35 the propagation, planting, preservation and gathering of  
 36 oysters and clams in the tidal waters of this State.

37 (k) Motor boats or motor vessels used exclusively for com-  
38 mercial fishing,

39 (l) Motor boats or motor vessels while being used for hire  
40 for fishing parties or being used for sightseeing or excursion  
41 parties,

42 (m) Cleaning,

43 (n) Fire engines and fire-fighting apparatus,

44 (o) Stationary machinery and vehicles or implements not  
45 designed for the use of transporting persons or property on  
46 the public highway,

47 (p) Heating and lighting devices,

48 (q) Fuels previously taxed under this chapter and later  
49 exported or sold for exportation from the State of New Jersey  
50 to any other state or country provided, proof satisfactory to  
51 the director of such exportations is submitted,

52 (r) Motor boats or motor vessels used exclusively for Sea  
53 Scout training by a duly chartered unit of the Boy Scouts of  
54 America,

55 (s) Emergency vehicles used exclusively by volunteer first-  
56 aid or rescue squads, **[and]**

57 *t. vehicles owned and operated exclusively by private non-*  
58 *profit social service agencies, as approved by the Department*  
59 *of Transportation, for the provision of any type of transit*  
60 *service other than exclusive ride service, and*

61 (2) Who shall have paid the tax for such fuels hereby required  
62 to be paid, shall be reimbursed and repaid the amount of tax so  
63 paid upon presenting to the director an application of such reim-  
64 bursement or repayment, in form prescribed by the director, which  
65 application shall be verified by a declaration of the applicant that  
66 the statements contained therein are true. Such application for  
67 reimbursement or repayment shall be supported by an invoice, or  
68 invoices, showing the name and address of the person from whom  
69 purchased, the name of the purchaser, the date of purchase, the  
70 number of gallons purchased, the price paid per gallon, and an  
71 acknowledgment by the seller that payment of the cost of the fuel,  
72 including the tax thereon, has been made. Such invoice, or invoices,  
73 shall be legibly written and shall be void if any corrections or  
74 erasures shall appear on the face thereof.

75 The director may, in his discretion, permit a distributor entitled  
76 to a refund under the provisions of this section to take credit  
77 therefor, in lieu of such refund, in such manner as the director may  
78 require, on a report filed pursuant to R. S. 54:39-27.

79 Any refund granted to a person under subsection (1) (e), for fuel

80 used in aircraft, shall be paid from the moneys deposited in the  
81 Airport Safety Fund established by section 4 of the "New Jersey  
82 Airport Safety Act of 1983," P. L. 1983, c. 264 (C. 6:1-92). Such  
83 refunds shall be granted on an annual basis.

1 3. Section 2 of P. L. 1963, c. 44 (C. 54:39A-2) is amended to  
2 read as follows:

3 2. For the purpose of this act, unless inconsistent with the  
4 context:

5 (a) "User" means every person, firm or corporation who or  
6 which consumes motor fuels for the propulsion of motor vehicles  
7 owned or controlled by [him] *the person, firm, or corporation* on  
8 any highway in this State. The term shall include a lessor when  
9 said lessor provides the motor fuel used in the vehicles operated  
10 by the lessee. The term shall not include any public utility as  
11 defined in R. S. 48:2-13, which functions solely within the State of  
12 New Jersey provided that all of the fuel used by the vehicles of  
13 said public utility is purchased within the State, except on occa-  
14 sional emergencies, and the fuel tax thereon is paid at the time  
15 of purchase.

16 (b) "Motor vehicle" means any omnibus that has seats for more  
17 than 10 passengers in addition to the driver, or road tractor, or any  
18 truck tractor, or any truck having a gross weight in excess of  
19 18,000 pounds alone or in combination with a motor-drawn vehicle.

20 (c) "Exempt vehicle" means:

21 (1) Any vehicle owned or operated by an agency of this State  
22 or any political subdivision thereof, or any quasi-governmental  
23 authority of which this State is a participating member, or any  
24 agency of the federal government or the District of Columbia, or  
25 of any state or province or political subdivision, thereof.

26 (2) School bus as defined in R. S. 39:1-1.

27 (3) Vehicles operated under authority of dealer, manufacturer,  
28 converter and transporter general registration plates such as pre-  
29 scribed in R. S. 39:3-18 and similar laws of other states.

30 (4) Special mobile equipment not designed or used primarily  
31 for the transportation of persons or property.

32 (5) Vehicles operated not for profit by any religious or charitable  
33 organization.

34 (6) Vehicles operated by a public utility as defined in R. S.  
35 48:2-13, *or under a contract with the New Jersey Transit Corpo-*  
36 *ration or under a contract with a county for special or rural trans-*  
37 *portation bus service subject to the jurisdiction of the New Jersey*  
38 *Transit Corporation pursuant to P. L. 1979, c. 150 (C. 27:25-1 et*  
39 *seq.)* whose operations are limited to the State of New Jersey,



40 *or vehicles providing commuter bus service which receive or dis-*  
41 *charge passengers in New Jersey; providing that all of the fuel*  
42 *used by said vehicles is purchased within the State, except on*  
43 *occasional emergencies, and the fuel taxes paid thereon at the time*  
44 *of purchase.*

45 (7) Vehicles operated, not for hire, by a farmer as defined in  
46 R. S. 39:3-25.

47 (8) Vehicles used to transport farm labor.

48 (d) "Operations" means operations of all motor vehicles, other  
49 than exempt vehicles, owned or controlled by the user, whether  
50 loaded or empty, whether for compensation or not for compensa-  
51 tion, except operations of an omnibus within any municipality of  
52 this State in the regular route passenger service provided under  
53 operating authority conferred pursuant to R. S. 48:4-3.

54 (e) The term "motor fuels" means any combustible liquid or  
55 gaseous substance used, or suitable, for the generation of power  
56 to propel motor vehicles.

57 (f) "Motor vehicle fuel tax" means the tax imposed under  
58 R. S. 54:39-1 et seq.

59 (g) "Director" shall mean the Director of the Division of  
60 Motor Vehicles in the Department of Law and Public Safety.

61 (h) "Purchaser" means the person, firm or corporation who or  
62 which purchased the fuel, and paid the motor vehicle fuels tax  
63 thereon, used in the motor vehicles of the user.

64 (i) "Vendor" means any person, firm or corporation licensed, or  
65 required by law to be licensed, by the Director of the Division of  
66 Taxation to sell, distribute, import or transport motor fuels within  
67 this State.

68 (j) "*Commuter bus service*" means *regularly scheduled passen-*  
69 *ger service provided by motor vehicles within or across the geo-*  
70 *graphical boundaries of New Jersey and utilized by passengers*  
71 *using reduced fare, multiple ride or commutation tickets.*

1 4. (New section) a. For the purposes of this section:

2 (1) "Exempt person" means a person owning or operating an  
3 autobus or providing bus service exempted under R. S. 48:4-20 or  
4 P. L. 1963, c. 44 (C. 54:39A-1 et seq.) from taxation on fuels used  
5 or who is eligible for reimbursement and repayment under R. S.  
6 54:39-66 for fuels taxed.

7 (2) "Exempt mileage" means mileage traversed within the State  
8 of New Jersey by an exempt person which is exempt from taxation  
9 under R. S. 48:4-20 or P. L. 1963, c. 44 (C. 54:39A-1 et seq.) or for  
10 which he may receive reimbursement or repayment under R. S.  
11 54:39-66.

12 (3) "Total mileage traversed" means the sum of exempt mileage  
 13 and mileage which is not exempt traversed by an exempt person  
 14 within the State of New Jersey.

15 b. An exempt person operating a charter or special bus service  
 16 over the highways of this State may be exempted from taxation  
 17 under R. S. 48:4-20 or P. L. 1963, c. 44 (C. 54:39A-1 et seq.) or  
 18 may be eligible for reimbursement and repayment under R. S.  
 19 54:39-66, for fuels used in his charter or special bus service opera-  
 20 tions as provided in this section. The amount of the exemption  
 21 from the tax on fuels used in charter or special bus service opera-  
 22 tions or for which an exempt person may be eligible for reimburse-  
 23 ment and repayment is based upon the percentage of total mileage  
 24 which is classified as exempt mileage, in accordance with the fol-  
 25 lowing formula:

$$26 \quad \text{Percentage of total} \quad = \quad \frac{\text{Exempt mileage}}{\text{Total mileage}}$$

$$27 \quad \text{mileage exempt}$$

28 The following table provides for the determination of the amount  
 29 of taxation exempted or for which an exempt person is eligible  
 30 for reimbursement and repayment under this section.

A	B
31 If the percentage of	Amount of taxation ex-
32 total mileage exempt	empted or able to be re-
33 is:	imbursed and repaid is:
34 Less than 10%	None
35 10% or greater than	Equal to the percentage
36 10% but less than	of total mileage exempted
37 70%	in column A
38 70% or more	100%

39 c. The Director of the Division of Taxation shall adopt rules  
 40 and regulations providing for the manner in which the exempt  
 41 mileage, the total mileage and the percentage thereof are to be  
 42 determined and reported by persons subject to this section and  
 43 making an application for reimbursement and repayment.

44 d. The form and manner of applications for reimbursements and  
 45 repayments shall generally be in the form and manner prescribed  
 46 for other repayments and reimbursements under R. S. 54:39-66.

1 5. This act shall take effect 60 days following enactment.

each month of delay or fraction thereof after the expiration of the first month after such return was required to be filed or such tax became due; but the tax commission, if satisfied that the delay was excusable, may remit all or any part of such penalty. Such penalty shall be determined, assessed, collected and paid in the same manner as the taxes imposed by this article and shall be disposed of as hereinafter provided with respect to moneys derived from the tax. Unpaid penalties under this subdivision shall be recovered by the attorney-general by action in the name of the people, and all penalties due from the same distributor may be sued for in one action.

[See main volume for text of 2 to 4]

(As amended L.1977, c. 507, § 2.)

1977 Amendment. Subd. 1. L.1977, c. 507, § 2, omitted "or corrected return" following "file a return" and provided that penalty shall be determined, assessed, collected and paid in same manner as taxes imposed by this article.

Effective Date of 1977 Amendment: Application. See note under section 288.

#### New York Codes, Rules and Regulations

Penalties for failure to file returns—  
Diesel motor fuel, see 20 NYCRR 420.6.  
Motor fuel, see 20 NYCRR 410.4.

#### United States Code Annotated

Penalty for failure to register, or false statement by manufacturer or producer of gasoline or lubricating oil, see section 7232 of Title 26, Internal Revenue Code.

#### Library References

Licenses ☞41.  
Taxation ☞1342.  
C.J.S. Licenses §§ 55, 62 to 65.

#### § 289-c. Refunds

[See main volume for text of 1 and 2]

3. (a) Except as otherwise provided in paragraph (b) of this section, any person who shall buy any motor fuel or diesel motor fuel, on which the tax imposed by this article shall have been paid, and shall consume the same in any manner except in the operation of a motor vehicle upon or over the highways of this state, or in the operation of a pleasure or recreational motor boat upon or over the waterways of the state including waterways bordering on the state, shall be reimbursed the amount of such tax in the manner and subject to the conditions herein provided except that there shall be no reimbursement of tax paid on motor fuel or diesel motor fuel taken out of this state in a fuel tank connected with the engine of a motor vehicle and consumed outside of this state.

(b) Any omnibus carrier which shall buy any motor fuel on which the aggregate tax imposed by section two hundred eighty-four and section two hundred eighty-four-a of this chapter, or any diesel motor fuel on which the aggregate tax imposed by section two hundred eighty-two-a and section two hundred eighty-two-b of this chapter, shall have been paid, shall be reimbursed, in the case of such motor fuel, the amount paid pursuant to such sections two hundred eighty-four and two hundred eighty-four-a in

contract franchise or consent between such carrier and a city having a population of more than one million inhabitants, or any agency of such city.

(e) Any nonpublic school operator which shall buy motor fuel on which the aggregate tax imposed by section two hundred eighty-four, section two hundred eighty-four-a and section two hundred eighty-four-c of this chapter or any diesel motor fuel on which the aggregate tax imposed by section two hundred eighty-two-a, section two hundred eighty-two-b and section two hundred eighty-two-c of this chapter shall have been paid, shall be reimbursed the amount paid provided such motor fuel or diesel motor fuel has been consumed by such nonpublic school operator exclusively in educational related activities.

(f) Any voluntary ambulance service, as defined in section thirty hundred one of the public health law, which shall buy motor fuel on which the tax or taxes imposed by this article shall have been paid shall be reimbursed the amount of such tax in the manner and subject to the conditions herein set forth, provided such motor fuel has been consumed by such volunteer ambulance service vehicle in the course of operating within the state.

[See main volume for text of 4 to 6]

7. If an agreement under the provisions of section two hundred eighty-eight (extending the period for determination of tax imposed by this article) is made within the two-year period for the filing of an application for refund under subdivision six of this section or, in the case of a claim for reimbursement under subdivision three of this section, if such agreement is made within two years from the date of purchase of the motor fuel, the period for filing an application for refund or a claim for reimbursement shall not expire prior to six months after the expiration of the period within which determination may be made pursuant to the agreement or any extension thereof.

(As amended L.1967, c. 817; L.1968, c. 542; L.1971, c. 411, §§ 2, 4; L.1974, c. 756, §§ 2, 3; L.1974, c. 836, §§ 6, 7; L.1975, c. 455, § 4; L.1978, c. 737, §§ 2, 3.)

**Historical Notes from 1972 to Date**

**1978 Amendment.** Subd. 3, par. (c). L.1978, c. 737, § 2, eff. on the 60th day after Aug. 7, 1978, incorporated separate amendments by L.1974, cc. 756 and 836 and in sentence beginning "The claimant shall" inserted "or volunteer ambulance service" and substituted "paragraph (b), (d), (e) or (f)" for "paragraph (b) or (d) or (e)".

Subd. 3, par. (f). L.1978, c. 737, § 3, eff. on the 60th day after Aug. 7, 1978, added par. (f).

**1975 Amendment.** Subd. 7. L.1975, c. 455, § 4, eff. July 24, 1975, added subd. 7.

**1974 Amendments.** Subd. 3, par. (c). L.1974, c. 836, § 6, eff. June 7, 1974, inserted "or (d)" in sentence beginning "The claimant."

L.1974, c. 756, § 2, eff. June 7, 1974, included claims for reimbursement by nonpublic school operators of the

amount of the tax reimbursable under paragraph (e) of subd. 3.

Subd. 3, par. (d). L.1974, c. 836, § 7, eff. June 7, 1974, inserted references to sections 282-c and 284-c, deleted "pursuant to such sections two hundred eighty-four, two hundred eighty-four-a, two hundred eighty-two-a and two hundred eighty-two-b in excess of three cents per gallon" preceding "provided such motor", and substituted "commissioner of transportation" for "public service commission."

Subd. 3, par. (e). L.1974, c. 756, § 3, eff. June 7, 1974, added par. (e).

**Applicability—L.1974, c. 756.** Amendment of this section by L.1974, c. 756, applicable with respect to taxes paid on or after March 1, 1974, see note under section 282.

—L.1974, c. 836. See note under section 183.

excess of four cents per gallon, and in the case of diesel motor fuel, the amount paid pursuant to such sections two hundred eighty-two-a and two hundred eighty-two-b in excess of six cents per gallon, provided such motor fuel or diesel motor fuel has been consumed by such carrier in the operation of an omnibus in this state. Any taxicab licensee, as defined by subdivision ten of section two hundred eighty-two of this chapter, who or which shall buy any motor fuel on which the aggregate tax imposed by section two hundred eighty-four and section two hundred eighty-four-a of this chapter or any diesel motor fuel on which the aggregate tax imposed by section two hundred eighty-two-a and section two hundred eighty-two-b of this chapter, shall have been paid, shall be reimbursed, in the case of such motor fuel, the amount paid pursuant to such sections two hundred eighty-four and two hundred eighty-four-a in excess of four cents per gallon, and in the case of diesel motor fuel, the amount paid pursuant to such sections two hundred eighty-two-a and two hundred eighty-two-b in excess of six cents per gallon, provided such motor fuel or diesel fuel has been consumed by such licensee in the operation of a taxicab in this state.

(c) All claims for reimbursement shall be in such form and contain such information, and be presented within such time as the state tax commission, by rules and regulations, shall prescribe. Every such claim shall include a certificate by or on behalf of the party presenting the same to the effect that it is just, true and correct, that no part thereof has been paid, except as stated therein, and that the balance therein stated is actually due and owing. The claimant shall satisfy the department of taxation and finance that he has borne the tax and that the motor fuel has been consumed by him in a manner other than the operation of a motor vehicle upon or over the highways of this state, the operation of a pleasure or recreational motorboat upon or over the waterways of the state including waterways bordering on the state or, in the case of an omnibus carrier, taxicab licensee, nonpublic school operator or volunteer ambulance service, that he has borne the tax and that the amount claimed is the amount of such tax reimbursable under paragraph (b), (d), (e) or (f) of subdivision three of this section. The department may require such further information or proof as it shall deem necessary for the administration of such claim. Claims for reimbursement approved by the department of taxation and finance shall be paid from revenues collected under this article and deposited to the credit of the comptroller as hereinafter provided; but no such claims shall be paid unless the department of taxation and finance is satisfied that the amount of the tax for which the reimbursement is claimed has actually been collected by the state. The amount of any erroneous or excessive payment to a claimant for reimbursement may be determined by the department of taxation and finance and may be recovered from such claimant in the same manner as a tax imposed by this article, provided, however, that any such determination shall be made within two years after the date of such erroneous or excessive payment.

(d) Any omnibus carrier which shall buy motor fuel on which the aggregate tax imposed by section two hundred eighty-four, section two hundred eighty-four-a and section two hundred eighty-four-c of this chapter or any diesel motor fuel on which the aggregate tax imposed by section two hundred eighty-two-a, section two hundred eighty-two-b and section two hundred eighty-two-c of this chapter shall have been paid, shall be reimbursed the amount paid provided such motor fuel or diesel motor fuel has been consumed by such carrier in the operation of an omnibus in local transit service in this state pursuant to a certificate of convenience and necessity issued by the commissioner of transportation of this state or by the interstate commerce commission of the United States or pursuant to a

## STATEMENT

This bill, provides that (1) existing law is to be amended so that a person owning or operating interstate regular route commuter bus service shall be exempt from the one-half cent per mile excise tax. In addition, any bus carrier under contract with New Jersey Transit or under contract with a county for special or rural bus transportation subject to New Jersey Transit shall also be exempt. (The present exemption would be continued on intra-State regular route bus services.) The bill applies the excise tax exemption to mileage traversed rather than merely to the person operating or owning a bus.

(2) Bus carriers which receive the excise tax exemption, carriers providing commuter bus service which receive or discharge passengers in New Jersey, and certain nonprofit carriers may be reimbursed and repaid for the Motor Fuel Tax paid. An exemption is also provided from the Motor Fuels Use Tax.

(3) Carriers exempted under this bill would be exempt in certain cases from taxation for fuels used in their charter and special bus operations. The amount of the exemption would depend on the degree to which the carrier has noncharter bus service. In most cases the greater the noncharter mileage the greater the exemption from taxation on fuels used in charter service. This provision, adapted from New York law, would permit those carriers providing commuter and regular route service to use this service to offset taxation on their charter service.

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# OFFICE OF THE GOVERNOR NEWS RELEASE

CN-001

Contact: PAUL WOLCOTT  
609-292-8956

TRENTON, N.J. 08625

Release: FRIDAY, JUNE 28, 1985

Governor Thomas H. Kean has signed legislation which provides tax relief for interstate commuter bus service, and bus service provided under contract to New Jersey Transit, by exempting these services from the interstate bus excise tax, the Motor Fuels Tax and the Motor Fuel Use Tax.

The bill, S-131, was sponsored by State Senator Walter Rand, D-Camden.

The Governor also signed A-3279, sponsored by Assemblyman Martin A. Herman, D-Salem, which exempts from the application of the State sales tax, those services performed by New Jersey companies from July 1, 1966, to April 5, 1977, on tangible personal property that was delivered out of state for use outside the State.

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