

54:39A-2 et al

LEGISLATIVE HISTORY CHECKLIST

NJSA: 54:39A-2 et al

(Motor Fuels Use Tax of 1963-increase fees and penalties)

LAWS OF: 1985

CHAPTER: 7

Bill No: S812

Sponsor(s): DiFrancesco

Date Introduced: January 23, 1984

Committee: Assembly: Revenue, Finance and Appropriations

Senate: Revenue, Finance and Appropriations

Amended during passage: Yes according to Governor's recommendations Amendments during passage denoted by asterisks

Date of Passage: Assembly: May 17, 1984 Re-enacted 1-8-85 Senate: July 30, 1984 Re-enacted 11-19-84

Date of Approval: January 16, 1985

Following statements are attached if available:

Sponsor statement: Yes

Committee statement: Assembly Yes

Senate Yes

Fiscal Note: Yes

Veto Message: Yes

Message on Signing: No

Following were printed:

Reports: No

Hearings: No

Vertical stamp: DEPARTMENT OF TREASURY

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1-16-84  
[OFFICIAL COPY REPRINT]

SENATE, No. 812

STATE OF NEW JERSEY

INTRODUCED JANUARY 23, 1984

By Senator DiFRANCESCO

Referred to Committee on Revenue, Finance and Appropriations

AN ACT concerning taxation, amending P. L. 1963, c. 44, and repealing section 7 of P. L. 1963, c. 44.

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

1. Section 2 of P. L. 1963, c. 44 (C. 54:39A-2) is amended to read  
2 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]\*** *\*operates\* or causes to be* **\*[consumed]** motor  
7 fuels for the propulsion of **\*[operated any]** motor **\*[vehicles]**  
8 owned or controlled by him **\*[vehicle]** on any highway in this  
9 State. **[The term shall include a lessor when said lessor provides**  
10 the motor fuel used in the vehicles operated by the lessee. The  
11 term shall not include any public utility as defined in R. S. 48:2-13,  
12 which functions solely within the State of New Jersey provided  
13 that all of the fuel used by the vehicles of said public utility is  
14 purchased within the State, except on occasional emergencies,  
14A and the fuel tax thereon is paid at the time of purchase.] *\*The term*  
14B *shall include a rental company in the case of a rental vehicle.\**

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

20 (c) "Exempt vehicle" means:

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 amendments adopted in accordance with Governor's recommenda-  
tions October 18, 1984.

21 (1) Any vehicle owned or operated by an agency of this State or  
 22 any political subdivision thereof, or any quasi-governmental au-  
 23 thority of which this State is a participating member, or any agency  
 24 of the federal government or the District of Columbia, or of any  
 25 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, whose operations are limited to the State of New Jersey, **]**  
 36 providing that all of the fuel used by said vehicles is purchased  
 37 within the State, except on occasional emergencies, and the fuel  
 38 taxes paid thereon at the time of purchase **]**.

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

41 (8) Vehicles used to transport farm labor.

42 (d) "Operations" means operations of all motor vehicles,  
 43 **\*[other than exempt vehicles, owned or controlled by the user,]\***  
 44 whether loaded or empty, whether for compensation or not for  
 45 compensation, *\*and whether owned by, contracted for use by, or*  
 46 *leased by the user who operates or causes them to be operated,\**  
 47 except operations of an omnibus within any municipality of this  
 47A State in the regular route passenger service provided under operat-  
 47B ing authority conferred pursuant to R. S. 48:4-3.

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

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

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

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

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

62 (j) "Bulk fuel" means fuel *\*in quantities of not less than 500*  
 63 *gallons,\* delivered into storage tanks owned, or rented under lease*  
 64 *for a term of not less than one year, by the user for future con-*  
 65 *sumption. For the purposes of this act the term "storage tanks"*  
 66 *shall not apply to vehicle storage tanks used only to carry motor*  
 67 *fuels for use in propelling the vehicle carrying these tanks.*

68 \*(k) "Rental Vehicle" means a vehicle owned by a rental com-  
 69 pany and rented to the general public on an hourly, daily, trip, or  
 70 other short term basis.

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

1 2. Section 8 of P. L. 1963, c. 44 (C. 54:39A-8) is amended to  
 2 read as follows:

3 8. Every user subject to the tax hereby imposed shall be entitled  
 4 to a credit against such tax *\*paid\** equivalent to the rate per gallon  
 5 of the motor **\*[vehicle]\*** fuel tax which is currently in effect, for all  
 6 motor fuels purchased **[by such user]** within this State *\*by the*  
 7 *user or a lessor of the user at the time of purchase\* for use in the*  
 7A *user's operations \*and vehicles subject to P. L. 1963, c. 44 (C.*  
 8 *54:39A-1 et seq.) as defined in section 2 of P. L. 1963, c. 44 (C.*  
 9 *54:39A-2) and upon which the motor vehicle fuel tax imposed*  
 10 *by the laws of this State has been paid provided [said user was*  
 11 *also] the purchaser as defined in this act was the user or a lessor*  
 12 *of the user at the time of purchase]\*. Evidence of the purchase of*  
 13 *such fuel and the payment of such tax shall be maintained by the*  
 14 *user[-purchaser], as part of the records required by this act, in*  
 15 *the form of a fuel purchase receipt or invoice supplied by the*  
 16 *vendor in such form as hereinafter prescribed.*

17 (a) When the amount of the credit herein provided to which any  
 18 user is entitled for any tax quarter exceeds the amount of the tax  
 19 for which such user is liable for the same tax quarter, such excess  
 20 **[of the credit]** shall **[under such regulations as the director shall**  
 21 **prescribe,]** be allowed as a credit **[for which such user would other-**  
 22 **wise be liable]** in the next succeeding tax quarter.

23 (b) When any user **[who is also the purchaser]** has established  
 24 bulk motor fuels storage facilities within this State and the re-  
 25 quired records of his entire operations within and without this  
 26 State are **[maintained]** *made available for audit* within this State,  
 27 he shall be entitled to a refund of any credit in excess of the tax  
 28 due for the reporting period *for those bulk fuels \*pumped into*  
 29 *service tanks of the vehicles\** provided he has submitted proof

30 acceptable to the director that the motor fuel on which motor  
 31 **\*[vehicle]\*** fuel tax refund is claimed was not used within this  
 32 State and files an application for the refund on a form provided by  
 33 the division, or notifies the director in writing *\*by certified mail\**  
 34 of his intention to file an application, within one year following the  
 35 end of the reporting quarter in which the fuel was pumped into the  
 36 service tanks of the vehicles. No refund claim may be allowed when  
 37 the amount claimed for a single tax quarter does not exceed the tax  
 38 on 2,000 gallons of motor fuel or on 1% of the total fuel purchased  
 39 by the user **\*[and his lessors]\*** *\*or a lessor of the user\** in this  
 40 State, whichever is greater. No refund shall be allowed unless an  
 41 audit of the user's records has been made by the director or his  
 42 employee. A refund may be allowed prior to such audit if the user  
 43 has given a bond issued by a surety company authorized to do  
 44 business within this State in an amount not less than the total  
 45 amount of all unaudited claims. The condition of the bond shall be  
 46 that if subsequent audit reveals the claim to be partially or entirely  
 47 unallowable the full amount of the unallowable portion of the claim  
 48 shall be repaid to the State together with interest at the rate of  
 49 **[1%]** *1½%* per month or fraction thereof from the date the refund  
 50 was paid to the user to the date he repays the State. The bond shall  
 50A remain in force until the claim has been audited and approved.

51 (c) No user shall be entitled to credit or refund for any motor  
 52 **\*[vehicle]\*** fuel tax otherwise lawfully paid except as herein pro-  
 53 vided and no user exempted from filing quarterly reports shall be  
 54 entitled to a refund.

55 (d) Any vendor who shall deliver motor fuels into the fuel  
 56 tanks servicing the propulsion of any vehicle of a user or **\*[his]\*** *\*,\*  
 57 lessor \*of the user\** shall provide the purchaser or his agent,  
 58 **[coincident with]** at the time of delivery of **[said]** the fuel, with an  
 59 original serially numbered receipt or invoice on which is shown:

60 (1) The name and station address of the vendor**[,]** machine  
 61 printed or **[credit card with]** credit card imprint.

62 (2) Date of delivery.

63 (3) Name of purchaser **[and his user identification number, if**  
 64 **any]**.

65 (4) Kind and number of gallons of fuel delivered *and price per*  
 66 *gallon.*

67 (5) **[Motor fuel tax rate charged per gallon.]** (*Deleted by*  
 68 *amendment, P. L. , c. .)*

69 (6) Signature of person who **[delivered]** *received* the fuel.

70 (7) Company unit number or motor vehicle license number of  
 71 the power unit.

72 (e) Any vendor who shall deliver motor fuels *in bulk quantities*  
 73 into a bulk storage or *bulk* transportation tank in the possession  
 74 of a user **[-purchaser]** within this State or deliver motor fuels in  
 75 bulk quantities to a user **[-purchaser]** in any manner within this  
 76 State shall provide said user **[-purchaser]** with an originally  
 77 serially numbered receipt or invoice, not later than 30 days follow-  
 78 ing the end of the calendar quarter during which the fuel was  
 79 delivered, on which is shown:

80 (1) The name of the vendor and address from which the fuel  
 81 was delivered.

82 (2) The name of the purchaser and address to which the fuel  
 83 was delivered.

84 (3) The date of delivery.

85 (4) The kind and number of gallons of fuel delivered.

86 (5) The motor fuel tax rate per gallon charged unless the  
 87 purchaser is licensed to purchase said fuel without payment of  
 88 said tax.

89 (f) Any vendor, or his employee, who fails to supply a receipt  
 90 or invoice to the user **[-purchaser or]**, his **[employee]** *agent*, or  
 91 *lessor* at the time of *delivery*, and in the form prescribed herein  
 92 shall be fined upon conviction in an amount not less than \$25.00  
 93 nor more than \$100.00 for each offense.

1 3. Section 10 of P. L. 1963, c. 44 (C. 54:39A-10) is amended to  
 2 read as follows:

3 10. The director shall issue to every user a motor fuels user  
 4 identification card\*,\* which shall be safely preserved in the user's  
 5 offices for as long as the card is valid. The user shall place a photo-  
 6 graphic **[or xerographic]** copy of said card in the cab of each  
 7 motor vehicle **[in his fleet]** *used in his operations*. The director  
 8 shall also issue for each vehicle **[in]** *operated by the* **[user's fleet]**  
 9 a motor fuels user *an* identification marker\*,\* which **[the user]**  
 10 shall **[affix]** *be affixed* to the vehicle in such manner as shall be pre-  
 11 scribed by the director. The fee for each original such marker and  
 12 any replacement marker shall be **\*[\$6.00]\*** *\*\$25.00*. Every identifi-  
 13 cation card and marker shall remain the property of the State and  
 14 may be recalled for any violation of this act or of the regulations  
 15 promulgated hereunder, or for failure to pay any **[moneys]** *monies*  
 16 due the State under this act or any other law administered by the  
 17 director. Identification cards and markers shall be issued on an  
 18 annual basis as of April 1, of the year and shall be valid through the  
 19 next succeeding March 31. The form and content of the card and  
 20 marker shall be as prescribed by the director. Any card and

21 marker issued pursuant to this act may be deemed by the direc-  
 22 tor as satisfying the equivalent requirements of any other law  
 23 administered by him\*,\* and any marker and card issued by him pur-  
 24 suant to any other law, regulation, reciprocity agreement or  
 25 arrangement, or declaration may be deemed as satisfying the  
 26 equivalent requirements of this act. It shall be illegal to operate  
 27 or cause to be operated in this State any motor vehicle\*,\* unless the  
 28 vehicle bears the identification marker and carries the copy of the  
 29 identification card required by this section; provided, however,  
 30 that upon the request of a user the director may issue by mail or  
 31 telecommunication a permit valid for the operation of a vehicle  
 32 for a period not exceeding 25 days\*,\* pending the application for  
 33 and issuance of an identification card or marker\*,\* or both. The fee  
 34 for such permit shall be \$8.00\*,\* which may be credited against the  
 35 identification marker fee applicable to the same vehicle. A user  
 36 whose vehicles in the aggregate make not more than six trips  
 37 into or through this State in a 12-month period may be issued  
 38 single trip permits valid for 96 hours for each round trip so made.  
 39 The fee for such trip permit shall be ~~[\$5.00]~~ \$10.00\*,\* which shall be  
 40 in lieu of reports, fees and taxes which may otherwise be applicable  
 41 to said trip under this act.

1 4. Section 12 of P. L. 1963, c. 44 (C. 54:39A-12) is amended to  
 2 read as follows:

3 12. If any user shall fail to make any report required under  
 4 this act within the time prescribed herein the director shall make  
 5 demand upon the user for the filing of the report and payment of  
 6 any tax due within ~~[15]~~ 45 days after notice shall have been mailed  
 7 to the user. If the user fails to file said report within said ~~[15-day~~  
 8 ~~period]~~ 45 days it shall be deemed that 40 gallons of fuel were  
 9 consumed in this State by each vehicle ~~[in the user's fleet]~~ used  
 10 in the user's operations for each day during the quarter for which  
 11 no report was filed. The director shall make an assessment against  
 12 such user for the tax on all such fuel ~~[used]~~ so deemed to have been  
 13 consumed in this State during said quarter and shall proceed to  
 14 compel payment of the tax, plus penalty and interest, in the manner  
 15 prescribed in this act.

1 5. Section 14 of P. L. 1963, c. 44 (C. 54:39A-14) is amended to  
 2 read as follows:

3 14. When any user fails to file a report within the time prescribed  
 4 by this act for the filing thereof he shall pay as a penalty the sum  
 5 of \$25.00. In addition to the penalty herein imposed any unpaid  
 6 tax shall bear interest at the rate of ~~[1%]~~ 1½% per month or

7 fraction thereof until the same is paid. The penalty and interest  
8 charges herein imposed shall be paid to the director in addition to  
9 the tax due. The director, if satisfied that the failure to file the  
10 report or pay the tax was excusable, may remit or waive the pay-  
11 ment of the whole or part of any penalty provided the report is  
12 filed within 30 days after the due date.

1 6. Section 15 of P. L. 1963, c. 44 (C. 54:39A-15) is amended to  
2 read as follows:

3 15. All taxes, penalties and interest assessed pursuant to the  
4 provisions of this act, unless earlier payment is provided by law,  
5 shall be paid within 15 days after notice and demand shall have  
6 been mailed to the **[carrier]** *user* by the director. If such taxes,  
7 penalties and interest so assessed pursuant to sections 11, 12 and  
8 13 shall not be paid within the said 15 days, there shall be added  
9 to the amount of assessment, in addition to interest as already pro-  
10 vided and any other penalties provided by law, a sum equivalent  
11 to 5% of the tax.

1 7. Section 7 of P. L. 1963, c. 44 (C. 54:39A-7) is repealed.

1 8. This act shall take effect immediately.

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## STATEMENT

This bill makes sundry amendments to P. L. 1963, c. 44, the "Motor Fuels Use Tax Act of 1963" (C. 54:39A-1 et seq.). Aside from making technical changes in the language of the act, this bill adds language dealing with bulk fuel, increases certain penalties and fees, and extends the period of time for filing certain reports. Section 7 of the act providing for the filing of joint reports is repealed.

5812 (1989)

ASSEMBLY REVENUE, FINANCE AND APPROPRIATIONS  
COMMITTEE

STATEMENT TO  
**SENATE, No. 812**

**STATE OF NEW JERSEY**

DATED: JUNE 28, 1984

Senate Bill No. 812 amends P. L. 1963, c. 44, the "Motor Fuels Use Tax Act of 1963" which imposes a tax on motor vehicle fuels consumed in New Jersey by designated classes of trucks, tractors and buses. The act is primarily designed to collect and allocate the New Jersey motor fuels tax on vehicles in interstate commerce. The bill makes several amendments to the motor Fuels Use Tax Act to advance three main purposes: greater audit efficiency on the part of the Division of Motor Vehicles, removal of detailed compliance requirements by individual owner-operators and increased uniformity with the tax collection procedures of other states.

The bill does the following:

(1) Amends the definition of "user" in the act to specify that the lessor of a vehicle (e.g. an individual truck owner) that is leased to a motor carrier (trucking firm) is no longer considered a user simply by virtue of the fact that he purchases the fuel for his vehicle. As amended, the motor carrier would become the user and become subject to the act's provisions for all vehicles under lease.

(2) Clarifies the application of the act with regard to bulk fuel storage.

(3) Increases certain penalties and permit fees.

(4) Extends filing deadlines for users.

**FISCAL IMPACT:**

The Division of Motor Vehicles estimates that additional revenue resulting from increased audits could approximate \$100,000.00 per year. The increased audits are made possible due to a reduction of between 10,000 and 15,000 motor carrier accounts. Postage and handling charges should be reduced, by approximately \$10,000.00. According to the division, there should be no decrease in tax collections.

SENATE REVENUE, FINANCE AND APPROPRIATIONS  
COMMITTEE

STATEMENT TO  
SENATE, No. 812

STATE OF NEW JERSEY

DATED: APRIL 30, 1984

Senate Bill No. 812 amends P. L. 1963, c. 44, the "Motor Fuels Use Tax Act of 1963." That act imposes a tax on motor vehicle fuels consumed in New Jersey by designated classes of trucks, tractors and buses. The act is primarily designed to collect and allocate the New Jersey motor fuels tax on vehicles in interstate commerce. Approximately \$6.6 million was collected in FY 1983. Enforcement is under the jurisdiction of the Division of Motor Vehicles (DMV).

PURPOSE

The bill makes several amendments to the Motor Fuels Use Tax Act to advance three main purposes: greater audit efficiency on the part of DMV, removal of detailed compliance requirements by individual owner-operators and increased uniformity with the tax collection procedures of other states.

PROVISIONS

The bill does the following:

(1) Amends the definition of "user" in the act to specify that the lessor of a vehicle (e.g. an individual truck owner) that is leased to a motor carrier (trucking firm) is no longer considered a user simply by virtue of the fact that he purchases the fuel for his vehicle. As amended, the motor carrier would become the user and become subject to the act's provisions for all vehicles under lease.

(2) Clarifies the application of the act with regard to bulk fuel storage.

(3) Increases certain penalties and permit fees.

(4) Extends filing deadlines for users.

FISCAL IMPACT

The DMV estimates that additional revenue resulting from increased audits could approximate \$100,000.00 per year. The increased audits are made possible because of a reduction of between 10,000 and 15,000 motor carrier accounts. Postage and handling charges should also be reduced, by about \$10,000.00.

According to the division, there should be no decrease in tax collections.

FISCAL NOTE TO  
**SENATE, No. 812**

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**STATE OF NEW JERSEY**

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DATED: MAY 31, 1984

Senate Bill No. 812 of 1984 diversely amends the "Motor Fuels Use Tax Act of 1963" (P. L. 1963, c. 44). The bill repeals section 7 of the act (requirement for filing of joint reports); extends filing deadlines for users; increases certain penalties and permit fees; clarifies assessments regarding bulk fuel storage; and designates motor carriers as "users" subject to the act's provisions for leased vehicles.

The Division of Motor Vehicles estimates an annual \$100,000.00 revenue increase resulting from increased audit efficiency and \$10,000.00 cost reduction due to substantial decreases in document mailings. Both of these savings derive from the reduced number of separate user accounts as "user" is redefined in the bill.

The Office of Legislative Services concurs with the estimate of the Division of Motor Vehicles.

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This fiscal note has been prepared pursuant to P. L. 1980, c. 67.

September 20, 1984

SENATE BILL NO. 812

To the Senate:

Pursuant to Article 5, Section 1, Paragraph 14 in the Constitution I am returning Senate Bill No. 812 with my objections for reconsideration.

This bill would make various amendments to the "Motor Fuels Use Tax Act" of 1963 by making technical changes in the language of the Act, add language dealing with bulk fuel, increase certain penalties and fees, and extend the period of time for filing certain reports required under the Act. I strongly applaud the sponsor's intention behind his legislation to clarify to those businesses who use our highways the extent of their financial obligation for the use of the highways. I also appreciate his willingness to have taken the time to review certain changes which I feel will more fully address the deficiencies in the manner in which the Act is carried out.

Therefore, I herewith return Senate Bill No. 812 and recommend that it be amended as follows:

Page 1, Section 2(a), Line 6: After "which" , delete "consumes", insert "operates"; after "be", delete "consumed motor fuels for the pro-", insert "operated any"

Page 1, Section 2(a), Line 7: Delete "pulsion of"; after "motor", omit "vehicles owned or controlled by him"; insert "vehicle"

Page 1, Section 2(a), Line 8: After "State", delete "["; delete "lessor when said lessor"; after "a", insert "rental company in the case of a rental vehicle."

Page 1, Section 2(a), Line 9: Before "provides", insert "[".

Page 2, Section 2(d), Line 43: Omit in entirety

Page 2, Section 2(d), Line 45: After "compensation", insert "and whether owned by, contracted for use by, or leased by the user who operates or causes them to be operated,"

Page 2, Section 2(f), Line 51: Delete "vehicle"

Page 2, Section 2(j), Line 62: After "means fuel", insert "in quantities of not less than 500 gallons,"

STATE OF NEW JERSEY  
EXECUTIVE DEPARTMENT

2

Page 2, After Line 67: Insert new paragraphs as follows "(k) 'Rental Vehicle' means a vehicle owned by a rental company and rented to the general public on an hourly, daily, trip, or other short term basis."

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

Page 3, Section 2, Line 4: After "tax", insert "paid"

Page 3, Section 2, Line 5: Delete "vehicle"

Page 3, Section 2, Line 6: After "state", insert "by the user or a lessor of the user at the time of purchase"

Page 3, Section 2, Line 7: After "operations", insert ".["

Page 3, Section 2, Line 12: After "purchase", insert "]"

Page 3, Section 2(b), Line 28: After "fuels", insert "pumped into service tanks of the vehicles"

Page 3, Section 2(b), Line 32: After "writing", insert ", by certified mail,"

Page 3, Section 2(b), Line 38: Delete "and his lessors"; insert "or a lessor of the user"

Page 4, Section 2(c), Line 52: Delete "vehicle"

Page 4, Section 2(d), Line 56: Delete "his", insert "A"; after "lessor", insert "of the user"

Page 5, Section 3, Line 12: Delete "\$6.00", insert "\$25.00"

Respectfully,  
/s/ Thomas H. Kean  
GOVERNOR

[seal]

Attest:

/s/ W. Cary Edwards

Chief Counsel