

LEGISLATIVE HISTORY CHECKLIST

NJSA 54:32B-8.12 (Sales tax--commercial vessels--exempt sales and repairs)

LAWS 1981 CHAPTER 218

Bill No. A911

Sponsor(s) Hurley and Chinnici

Date Introduced Feb. 11, 1980

Committee: Assembly Revenue, Finance and Appropriations

Senate Revenue, Finance and Appropriations

Amended during passage Yes ~~xxx~~ Amendments during passage denoted by asterisks. Substituted for S28 (not attached since identical to A911)

Date of Passage: Assembly May 5, 1980

Senate Feb. 23, 1981

Date of approval July 20, 1981

Following statements are attached if available:

Sponsor statement Yes ~~No~~

Committee Statement: Assembly Yes ~~No~~

Senate Yes ~~No~~

Fiscal Note ~~Yes~~ No

Veto Message ~~Yes~~ No

Message on signing ~~Yes~~ No

Following were printed:

Reports ~~Yes~~ No

Hearings ~~Yes~~ No

Do Not Remove From Library
 BUREAU OF LEGISLATION
 2007

218 LAWS OF N. J. 1981
APPROVED 7-20-81

[SECOND OFFICIAL COPY REPRINT]

ASSEMBLY, No. 911

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 11, 1980

By Assemblymen HURLEY and CHINNICI

Referred to Committee on Revenue, Finance and Appropriations

AN ACT to ****[**amend the "Sales and Use Tax Act," approved April 27, 1966 (P. L. 1966, c. 30)]****** ***exempt certain fishing vessels from the sales and use tax, amending P. L. 1980, c. 105, and supplementing P. L. 1966, c. 30***.

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

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

3 8. Exempt sales. Receipts from the following shall be exempt
4 from the tax on retail sales imposed under subsection (a) of section
5 3 and the use tax imposed under section 6:

6 (a) Sales of medicines and drugs sold pursuant to a doctor's
7 prescription for human use; crutches, artificial limbs, artificial
8 eyes, artificial hearing devices, corrective eyeglasses, prosthetic
9 aids, artificial teeth or dentures, braces, tampons or like products,
10 orthopedic appliances and artificial devices designed to correct or
11 alleviate physical incapacity, medical oxygen, human blood and its
12 derivative when sold for human use, wheelchairs, and replacement
13 parts for any of the foregoing;

14 (b) Sales of food, food products, beverages except alcoholic
15 beverages, excluding draft beer sold by the barrel, as defined in the
16 Alcoholic Beverage Tax Law, dietary foods and health supple-
17 ments, sold for human consumption off the premises where sold
18 but not including (i) candy and confectionery, and (ii) carbonated
19 soft drinks and beverages all of which shall be subject to the retail
20 sales and compensating use taxes, whether or not the item is sold
21 in liquid form. Nothing herein shall be construed as exempting
22 food or drink from the tax imposed under subsection (c) of sec-
23 tion 3;

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

- 24 (c) Sales of food sold in an elementary or secondary school
25 cafeteria, sales of food sold in an institution of higher education
26 or in a fraternity, sorority or eating club operated in connection
27 therewith, to students of such an institution;
- 28 (d) Sales of articles of clothing and footwear for human use
29 except articles made of fur on the hide or pelt of an animal or
30 animals where such fur is the component material of chief value of
31 the article. "Clothing" as used herein, shall also mean and include
32 sales to noncommercial purchasers of common wearing apparel
33 materials intended to be incorporated into wearing apparel as a
34 constituent part thereof, such as fabrics, thread, knitting yarn,
35 buttons and zippers. The director shall prescribe regulations to
36 carry out the provisions of this subsection;
- 37 (e) Sales of newspapers, magazines and periodicals;
- 38 (f) Casual sales except as to sales of motor vehicles, whether
39 for use on the highways or otherwise, and except as to sales of boats
40 or vessels registered or subject to registration under the New
41 Jersey Boat Act of 1962 (P. L. 1962, c. 73, and all amendments
42 thereto);
- 43 (g) Sales of gas, water, steam, fuel, electricity, telephone or
44 telegraph services delivered to consumers through mains, lines,
45 pipe, or in containers or bulk;
- 46 (h) Sales of motor fuels as motor fuels are defined for purposes
47 of the New Jersey Motor Fuel Tax Law; and sale of fuel to an
48 airline for use in its airplanes or to a railroad for use in its
49 locomotives;
- 50 (i) Tangible personal property sold through coin-operated vend-
51 ing machines at \$0.10 or less, provided the retailer is primarily
52 engaged in making such sales and maintains records satisfactory
53 to the director;
- 54 (j) Sales not within the taxing power of this State under the
55 Constitution of the United States;
- 56 (k) The transportation of persons or property;
- 57 (l) Sales, repairs, alterations or conversion of commercial ships,
58 or any component thereof including cargo container of any type
59 whatsoever, barges and other vessels of 50-ton burden or over,
60 primarily engaged in interstate or foreign commerce, *or other*
61 *vessels*, regardless of tonnage,* primarily engaged in commercial*
62 *fishing or shell fishing*, including equipment necessary for harvest-*
63 *ing fish, shellfish and other crustaceans and aquatic organisms,* or*
64 **other vessels primarily engaged* in commercial party boat (head*
65 *boat) sport fishing *and subject to annual inspection by the United*

65A *States Coast Guard**, and of governmentally-owned ships, barges,
65B and other vessels and property used by or purchased for the use of
65C such vessels for fuel, provisions, supplies, maintenance and repairs
65D (other than articles purchased for the original equipping of a new
65E ship);

66 (m) (1) Sales of machinery, apparatus or equipment for use or
67 consumption directly and primarily in the production of tangible
68 personal property by manufacturing, processing, assembling or
69 refining;

70 (2) Sales of machinery, apparatus or equipment for use or
71 consumption directly and primarily in the production, generation,
72 transmission or distribution of gas, electricity, refrigeration, steam
73 or water for sale or in the operation of sewerage systems;

74 (3) Sales of telephone lines, cables, central office equipment or
75 station apparatus, or other machinery, equipment or apparatus
76 or comparable telegraph equipment, for use directly and primarily
77 in receiving at destination or initiating, transmitting and switching
78 telephone or telegraph communication;

79 (4) The exemptions granted under this subsection shall not be
80 construed to apply to sales, otherwise taxable, of machinery, equip-
81 ment or apparatus whose use is incidental to the activities described
82 in paragraphs (1), (2) and (3) of this subsection;

83 (5) The exemptions granted in this subsection (m) shall not
84 apply to motor vehicles or to parts with a useful life of 1 year or
85 less or tools or supplies used in connection with the machinery,
86 equipment or apparatus described in this subsection;

87 (n) Sales of tangible personal property purchased for use or
88 consumption directly and exclusively in research and development
89 in the experimental or laboratory sense. Such research and de-
90 velopment shall not be deemed to include the ordinary testing or
91 inspection of materials or products for quality control, efficiency
92 surveys, management studies, consumer surveys, advertising, pro-
93 motions or research in connection with literary, historical or similar
94 projects;

95 (o) Sales or use of wrapping paper, wrapping twine, bags, car-
96 tons, tape, rope, labels, nonreturnable containers, reusable milk
97 containers and all other wrapping supplies when such use is in-
98 cidental to the delivery of any personal property;

99 (p) Sales of tangible personal property (except automobiles,
100 and except property incorporated in a building or structure) for
101 use and consumption directly and exclusively in the production for
102 sale of tangible personal property on farms, including stock, dairy,
103 poultry, fruit, fur-bearing animals, and truck farms, ranches,

104 nurseries, greenhouses or other similar structures used primarily
105 for the raising of agricultural or horticultural commodities, and
106 orchards;

107 (q) Sales of tangible personal property sold by a mortician,
108 undertaker or funeral director. However, all tangible personal
109 property sold to a mortician, undertaker or funeral director for
110 use in the conducting of funerals shall not be deemed a sale for
111 resale and shall not be exempt from the tax imposed by this act;

112 (r) Sales of films, records, tapes or any type of visual or sound
113 transcriptions to, or produced for exhibition in or use through the
114 medium of, theaters and radio and television broadcasting stations
115 or networks, and not used for advertising purposes;

116 (s) Sales of tangible personal property and services taxable
117 under any municipal ordinance heretofore adopted pursuant to
118 P. L. 1947, c. 71, which is in effect on April 27, 1966, but only to
119 the extent such sales are taxable under said ordinance;

120 (t) Sales of materials, such as chemicals and catalysts, used to
121 induce or cause a refining or chemical process, where such materials
122 are an integral or essential part of the processing operation, but
123 do not become a component part of the finished product;

124 (u) Sales of school textbooks for use by students in a school,
125 college, university or other educational institution, approved as
126 such by the Department of Education or by the Department of
127 Higher Education, when the educational institution, upon forms
128 and pursuant to regulations prescribed by the director, has declared
129 the books are required for school purposes and the purchaser has
130 supplied the vendor with the form at the time of the sale;

131 (v) (Deleted by amendment.) P. L. 1970, c. 7, s. 5.

132 (w) Sales made to contractors, subcontractors or repairmen of
133 materials, supplies or services for exclusive use in erecting struc-
134 tures, or building on, or otherwise improving, altering or repairing
135 real property of organizations described in subsections (a) and
136 (b) of section 9 of this act, provided any person seeking to qualify
137 for this exemption shall do so pursuant to such rules and regula-
138 tions and upon such forms as shall be prescribed by the director;

139 (x) The renting, leasing, licensing or interchanging of trucks,
140 tractors, trailers or semitrailers by persons not engaged in a reg-
141 ular trade or business offering such renting, leasing, licensing or
142 interchanging to the public, provided, that such renting, leasing,
143 licensing or interchanging is carried on with persons engaged in
144 a regular trade or business involving carriage of freight by such
145 vehicles.

146 (y) Sales of cigarettes subject to tax under the Cigarette Tax
147 Act;

148 (z) Sales of the Bible or similar sacred scripture of a bona fide
149 church or religious denomination;

150 (aa) Sales of the flag of the United States of America and of
151 the flag of the State of New Jersey;

152 (bb) Sales of locomotives, railroad cars and other railroad roll-
153 ing stock, including repair and replacement parts therefor, track
154 materials, and communication, signal and power transmission
155 equipment, to a railroad whose rates are regulated by the Inter-
156 state Commerce Commission or by the Board of Public
157 Utilities;

158 (cc) Sales of buses for public passenger transportation, includ-
159 ing repair and replacement parts therefor, to bus companies whose
160 rates are regulated by the Interstate Commerce Commission or the
161 Board of Public Utilities or to an affiliate of said bus companies
162 or to common or contract carriers for their use in the transporta-
163 tion of children to and from school. For the purposes of this
164 subsection "affiliate" shall mean a corporation whose stock is
165 wholly owned by the regulated bus company or whose stock is
166 wholly owned by the same persons who own all of the stock of
167 the regulated bus company.

168 (dd) Sales of newspaper production machinery, apparatus and
169 equipment for use and consumption directly and primarily in the
170 publication of newspapers in the production departments of a news-
171 paper plant, including, but not limited to: engraving, enlarging and
172 development equipment, internal process cameras and news trans-
173 mission equipment, composing and pressroom apparatus and equip-
174 ment, type fonts, lead, mats, ink, plats, conveyors, stackers, storing,
175 bundling, stuffing, labeling and wrapping equipment and supplies
176 for any of the foregoing except that sales of motor vehicles, type-
177 writers, and other equipment and supplies otherwise taxable under
178 this act are not exempt.

179 (ee) The sale of advertising to be published in a newspaper.

180 (ff) Sales, renting or leasing of: commercial motor vehicles,
181 and vehicles used in combination therewith, as defined in R. S.
182 39:1-1 and registered in New Jersey for more than 18,000 pounds;
183 or which are registered in New Jersey and operated pursuant to a
184 certificate or permit issued by the Interstate Commerce Com-
185 mission; and repair and replacement parts therefor.

186 (gg) The sale of gold or silver and storage thereof, in the
187 form traded on any contract market or other board of trade or ex-

188 change licensed by the Federal Commodity Futures Trading Com-
 189 mission as defined in the Commodity Exchange Act, as amended;
 190 provided that the sale shall have been in fulfillment of the obliga-
 191 tions of a contract for future delivery of gold or silver, or an option
 192 to purchase or sell such commodity, entered into on and in accord-
 193 ance with the rules of such licensed contract or options market; pro-
 194 vided, further that this exemption shall not apply with respect to
 195 any gold or silver subsequently converted to use by a purchaser
 196 and in such event such purchaser shall be liable for the sales and
 197 use tax imposed hereunder.

198 (hh) Sales of solar energy devices or systems designed to pro-
 199 vide heating or cooling, or electrical or mechanical power by
 200 collecting and transferring solar-generated energy and including
 201 mechanical or chemical devices for storing solar-generated energy.
 202 The Director of the Division of Energy Planning and Conservation
 203 in the Department of Energy shall establish standards with respect
 204 to the technical sufficiency of solar energy systems for purposes of
 205 qualification for exemption.】**

1 **1. Section 24 of P. L. 1980, c. 105 (C. 54:32B-8.12) is amended
 2 to read as follows:

3 24. Receipts from sales or charges for repairs, alterations or
 4 conversion of commercial ships or any component thereof includ-
 5 ing cargo containers of any type whatsoever, barges and other
 6 vessels of 50-ton burden or over, primarily engaged in interstate
 7 or foreign commerce, *or other vessels, regardless of tonnage, pri-*
 8 *marily engaged in commercial fishing or shell fishing, including*
 9 *equipment necessary for harvesting fish, shellfish and other crus-*
 10 *taceans and aquatic organisms, or other vessels primarily engaged*
 11 *in commercial party boat (head boat) sport fishing and subject to*
 12 *annual inspection by the United States Coast Guard, and of gov-*
 13 *ernmentally-owned ships, barges and other vessels and property*
 14 *used by or purchased for the use of such vessels for fuel, provisions,*
 15 *supplies, maintenance and repairs (other than articles purchased*
 16 *for the original equipping of a new ship) are exempt from the tax*
 17 *imposed under the Sales and Use Tax Act.*

1 2. *(New section) Any person who has paid sales and use taxes*
 2 *on items within 2 years prior to the effective date of this amendat-*
 3 *tory and supplementary act, which items are now exempt under the*
 4 *provisions of this amendatory and supplementary act, may file a*
 5 *claim for refund of those paid taxes no later than 90 days after*
 6 *the effective date of this amendatory and supplementary act.***

1 **[2.]** **3.** This act shall take effect immediately**[; how-
2 ever, the amendment to subsection (1) of (C. 54:32B-8), P. L. 1966,
3 c. 30, s. 8 (1) shall be retroactive with respect to making claims for
4 refund as to taxes paid within 2 years from the effective date of
5 this act and provided, however, that any claim for refund shall
6 only be made within the period prescribed in section 20 of the act
7 (C. 54:32B-20) of which this act is amendatory]** **and shall be
8 retroactive to March 1, 1970**.

198 (hh) Sales of solar energy devices or systems designed to pro-
 199 vide heating or cooling, or electrical or mechanical power by
 200 collecting and transferring solar-generated energy and including
 201 mechanical or chemical devices for storing solar-generated energy.
 202 The Director of the Division of Energy Planning and Conservation
 203 in the Department of Energy shall establish standards with respect
 204 to the technical sufficiency of solar energy systems for purposes of
 205 qualification for exemption.

1 2. This act shall take effect immediately; however, the amend-
 2 ment to subsection (1) of (C. 54:32B-8), P. L. 1966, c. 30, s. 8 (1)
 3 shall be retroactive with respect to making claims for refund as
 4 to taxes paid within 2 years from the effective date of this act and
 5 provided, however, that any claim for refund shall only be made
 6 within the period prescribed in section 20 of the act (C. 54:32B-20)
 7 of which this act is amendatory.

STATEMENT

This bill is designed to exempt from the sales tax the sale of vessels primarily engaged in commercial fishing or shell fishing or in commercial party boat sport fishing.

The well-being of the fishing industry is essential to the economic health of the State. This bill will relieve those engaged in commercial fishing from a heavy tax burden which would be imposed upon the acquisition of new vessels. The bill is intended to assist the State's efforts to promote the expansion of the commercial fishing industry.

This bill also corrects certain language in section 8 of P. L. 1966, c. 30 (C. 54:32B-8) which was deleted by P. L. 1977, c. 217 and which was inadvertently restored by P. L. 1977, c. 305.

A 911 (1980)

ASSEMBLY REVENUE, FINANCE AND APPROPRIATIONS
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 911
with committee amendments

STATE OF NEW JERSEY

DATED: APRIL 28, 1980

This bill is designed to exempt from the sales tax the sale of vessels primarily engaged in commercial fishing or shell fishing or in commercial party boat sport fishing.

The well-being of the fishing industry is essential to the economic health of the State. This bill will relieve those engaged in commercial fishing from a heavy tax burden which would be imposed upon the acquisition of new vessels. The bill is intended to assist the State's efforts to promote the expansion of the commercial fishing industry.

This bill also corrects certain language in section 8 of P. L. 1966, c. 30 (C. 54:32B-8) which was deleted by P. L. 1977, c. 217 and which was inadvertently restored by P. L. 1977, c. 305.

COMMITTEE AMENDMENTS:

Committee amendments include in the exemption of commercial fishing vessels any equipment necessary for the harvesting of fish or shellfish or other crustacean.

Further, qualifying for an exemption as a vessel engaged primarily in commercial party boat sport fishing are only those such vessels subject to annual inspection by the United States Coast Guard.

FISCAL IMPACT:

While a formal fiscal note is not yet available, the Division of Taxation provided the committee with an annual revenue loss estimate of \$300,000 with regard to vessels. The revenue loss attributable to the addition of an equipment exemption by committee amendment was not estimated.

LAW LIBRARY COPY
DO NOT REMOVE

SENATE REVENUE, FINANCE AND APPROPRIATIONS
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 911

[OFFICIAL COPY REPRINT]
with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 9, 1981

Assembly Bill No. 911 OCR with committee amendments exempts from the Sales Tax the sale and repair of commercial fishing vessels, the equipment necessary for harvesting fish or other aquatic life, and also exempts commercial party boats.

The bill is retroactive to March 1, 1970, to lay aside any outstanding tax claims and it also provides that eligible taxpayers can apply for a refund of taxes that were paid up to 2 years prior to the date the bill becomes law.

The other committee amendments are entirely technical as the one section of law addressed by the bill as introduced has been repealed and reenacted as 33 separate sections.

A formal fiscal note is not yet available. The Division of Taxation, however, estimates a \$300,000.00 annual revenue loss with regard to vessels. The equipment exemption was not estimated.