

54:32B-8.35

LEGISLATIVE HISTORY CHECKLIST

WUSA 54:32B-8.35 (Sales tax exemptions--aircraft and parts--certain)

LAWS OF 1980 CHAPTER 98

Bill No. S30

Sponsor(s) Cafiero and Perskie

Date Introduced Pre-filed

Committee: Assembly

Senate Revenue, Finance and Appropriations

Amended during passage Yes Amendments during passage denoted by asterisks

Date of Passage: Assembly June 28, 1980

Senate June 26, 1980

Date of approval Sept. 2, 1980

Following statements are attached if available:

Sponsor statement Yes (Below)

Committee Statement: Assembly Yes

Senate Yes

Fiscal Note Yes

Veto message Yes

Message on signing Yes

Following were printed:

Reports Yes

Hearings Yes

Sponsor's statement:

This bill would exempt from the Sales and Use Tax Act sales of aircraft, including repair and replacement parts, therefore, to airline companies engaged in regular interstate passenger service.

9/1/80

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SENATE, No. 30

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1980 SESSION

By Senators CAFIERO and PERSKIE

[AN ACT to amend] * *A Supplement to* the "Sales and Use Tax Act," approved April 27, 1966 (P. L. 1966, c. 30, *C. 54:32B-1 et seq.*).

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
23 section 3;

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;

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

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;

38-48 (f) Casual sales except as to sales of motor vehicles, whether
49 for use on the highways or otherwise, and except as to sales of boats
50 or vessels registered or subject to registration under the New
51 Jersey Boat Act of 1962 (P. L. 1962, c. 73, and all amendments
52 thereto);

53 (g) Sales of gas, water, steam, fuel, electricity, telephone or
54 telegraph services delivered to consumers through mains, lines,
55 pipe, or in containers or bulk;

56 (h) Sales of motor fuels as motor fuels are defined for purposes
57 of the New Jersey Motor Fuel Tax Law; and sale of fuel to an
58 airline for use in its airplanes or to a railroad for use in its
59-60 locomotives;

61 (i) Tangible personal property sold through coin-operated vend-
62 ing machines at \$0.10 or less, provided the retailer is primarily
63 engaged in making such sales and maintains records satisfactory to
64 the director;

65 (j) Sales not within the taxing power of this State under the
66 Constitution of the United States;

67 (k) The transportation of persons or property;

68 (l) Sales, repairs, alterations or conversion of commercial
69 ships, barges and other vessels of 50-ton burden or over, primarily
70 engaged in interstate or foreign commerce, and of governmentally-
71 owned ships, barges and other vessels and property used by or pur-
72 chased for the use of such vessels for fuel, provisions, supplies,
73 maintenance and repairs (other than articles purchased for the
74 original equipping of a new ship);

75 (m) (1) Sales of machinery, apparatus or equipment for use or
76 consumption directly and primarily in the production of tangible
77 personal property by manufacturing, processing, assembling or
78 refining;

79 (2) Sales of machinery, apparatus or equipment for use or
80 consumption directly and primarily in the production, generation,

81 transmission or distribution of gas, electricity, refrigeration, steam
82 or water for sale or in the operation of sewerage systems;

83 (3) Sales of telephone lines, cables, central office equipment or
84 station apparatus, or other machinery, equipment or apparatus,
85 or comparable telegraph equipment, for use directly and primarily
86 in receiving at destination or initiating, transmitting and switching
87 telephone or telegraph communication;

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

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

96 (n) Sales of tangible personal property purchased for use or
97 consumption directly and exclusively in research and development
98 in the experimental or laboratory sense. Such research and devel-
99 opment shall not be deemed to include the ordinary testing or
100 inspection of materials or products for quality control, efficiency
101 surveys, management studies, consumer surveys, advertising, pro-
102 motions or research in connection with literary, historical or
103 similar projects;

104 (o) Sales or use of wrapping paper, wrapping twine, bags, car-
105 tons, tape, rope, labels, nonreturnable containers, reusable milk
106 containers and all other wrapping supplies when such use is inci-
107 dental to the delivery of any personal property;

108 (p) Sales of tangible personal property (except automobiles,
109 and except property incorporated in a building or structure) for
110 use and consumption directly and exclusively in the production for
111 sale of tangible personal property on farms, including stock, dairy,
112 poultry, fruit, fur-bearing animals, and truck farms, ranches,
113 nurseries, greenhouses or other similar structures used primarily
114 for the raising of agricultural or horticultural commodities ,and
115 orchards;

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

121 (r) Sales of films, records, tapes or any type of visual or sound
122 transcriptions to, or produced for exhibition in or use through the

- 123 medium of, theatres and radio and television broadcasting stations
124 or networks, and not used for advertising purposes;
- 125 (s) Sales of tangible personal property and services taxable
126 under any municipal ordinance heretofore adopted pursuant to
127 P. L. 1947, c. 71, which is in effect on April 27, 1966, but only to
128 the extent such sales are taxable under said ordinance;
- 129 (t) Sales of materials, such as chemicals and catalysts, used to
130 induce or cause a refining or chemical process, where such materials
131 are an integral or essential part of the processing operation, but
132 do not become a component part of the finished product;
- 133-134 (u) Sales of school textbooks for use by students in a school,
135 college, university or other educational institution, approved as
136 such by the Department of Education or by the Department of
137 Higher Education, when the educational institution, upon forms
138 and pursuant to regulations prescribed by the director, has declared
139 the books are required for school purposes and the purchaser has
140 supplied the vendor with the form at the time of the sale;
- 141 (v) (Deleted by amendment.) P. L. 1970, c. 7, s. 5.
- 142 (w) Sales made to contractors, subcontractors or repairmen of
143 materials, supplies or services for exclusive use in erecting struc-
144 tures, or building on, or otherwise improving, altering or repairing
145 real property of organizations described in subsections (a) and
146 (b) of section 9 of this act, provided any person seeking to qualify
147 for this exemption shall do so pursuant to such rules and regula-
148 tions and upon such forms as shall be prescribed by the director;
- 149 (x) The renting, leasing, licensing or interchanging of trucks,
150 tractors, trailers or semitrailers by persons not engaged in a reg-
151 ular trade or business offering such renting, leasing, licensing or
152 interchanging to the public, provided, that such renting, leasing,
153 licensing or interchanging is carried on with persons engaged in
154 a regular trade or business involving carriage of freight by such
155 vehicles;
- 156 (y) Sales of cigarettes subject to tax under the Cigarette Tax
157 Act;
- 158 (z) Sales of the Bible or similar sacred scripture of a bona fide
159 church or religious denomination;
- 160 (aa) Sales of the flag of the United States of America and of
161 the flag of the State of New Jersey;
- 162 (bb) Sales of locomotives, railroad cars and other railroad roll-
163 ing stock, including repair and replacement parts therefor, track
164 materials, and communication, signal and power transmission
165 equipment, to a railroad whose rates are regulated by the Inter-

166 state Commerce Commission or by the Board of Public
167 Utilities;

168 (cc) Sales of buses for public passenger transportation, includ-
169 ing repair and replacement parts therefor, to bus companies whose
170 rates are regulated by the Interstate Commerce Commission or the
171 Board of Public Utilities or to an affiliate of said bus companies
172 or to common or contract carriers for their use in the transporta-
173 tion of children to and from school. For the purposes of this
174 subsection "affiliate" shall mean a corporation whose stock is
175 wholly owned by the regulated bus company or whose stock is
176 wholly owned by the same persons who own all of the stock of
177 the regulated bus company[.];

178 (dd) Sales of aircraft including repair and replacement parts
179 therefor when utilized by a company having its principal base of
180 operations within this State and engaged in the operation of sched-
181 uled airline services as defined by the Civil Aeronautics Board;

182 [(dd)] (ee) Sales of newspaper production machinery, appa-
183 ratus and equipment for use and consumption directly and primar-
184 ily in the publication of newspapers in the production departments
185 of a newspaper plant, including, but not limited to: engraving,
186 enlarging and development equipment, internal process cameras
187 and news transmission equipment, composing and pressroom
188 apparatus and equipment, type fonts, lead, mats, ink, plates, con-
189 veyors, stackers, sorting, bundling, stuffing, labeling and wrapping
190 equipment and supplies for any of the foregoing except that sales
191 of motor vehicles, typewriters, and other equipment and supplies
192 otherwise taxable under this act are not exempt[.];

193 [(ee)] (ff) The sale of advertising to be published in a news-
194 paper[.];

195 [(ff)] (gg) Sales, renting or leasing of: commercial motor
196 vehicles, and vehicles used in combination therewith, as defined in
197 R. S. 39:1-1 and registered in New Jersey for more than 18,000
198 pounds; or which are operated pursuant to a certificate or permit
199 issued by the Interstate Commerce Commission; and repair and
200 replacement parts therefor[.];

201 [(gg)] (hh) The sale of gold or silver and storage thereof, in the
202 form traded on any contract market or other board of trade or
203 exchange licensed by the Federal Commodity Futures Trading
204 Commission as defined in the Commodity Exchange Act, as
205 amended; provided that the sale shall have been in fulfillment of
206 the obligations of a contract for future delivery of gold or silver,
207 or an option to purchase or sell such commodity, entered into on

208 and in accordance with the rules of such licensed contract or
209 options market; provided, further that this exemption shall not
210 apply with respect to any gold or silver subsequently converted to
211 use by a purchaser and in such event such purchaser shall be
212 liable for the sales and use tax imposed hereunder[.];

213 [(hh)] (ii) Sales of solar energy devices or systems designed
214 to provide heating or cooling, or electrical or mechanical power
215 by collecting and transferring solar-generated energy and including
216 mechanical or chemical devices for storing solar-generated energy.
217 The Director of the Division of Energy Planning and Conservation
218 in the Department of Energy shall establish standards with respect
219 to the technical sufficiency of solar energy systems for purposes of
220 qualification for exemption.]*

221 *1. *Sales of aircraft and repairs thereto including machinery or*
222 *equipment to be installed on such aircraft and replacement parts*
223 *therefor when utilized by an air carrier as defined by the Civil*
224 *Aeronautics Board or the Code of Federal Regulations having its*
225 *principal place of operations within the State and engaging in inter-*
226 *state, foreign, or intrastate air commerce.**

1 2. This act shall take effect January 1, 1979.

SENATE REVENUE, FINANCE AND APPROPRIATIONS
COMMITTEE

STATEMENT TO
SENATE, No. 30
with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 26, 1980

Senate Bill No. 30, as amended by the Senate Revenue, Finance and Appropriations Committee exempts from the Sales and Use Tax Act the sales of aircraft and repairs thereto. The exemption applies to an air carrier having its principal place of operation in New Jersey and must be an air carrier as defined by the Civil Aeronautics Board or the Code of Federal Regulations.

A technical amendment made by the committee was to enact the provision as a supplement to the Sales and Use Tax Act. This was done to conform to the general revisions of N. J. S. A. 54:32B-8(1) as it is contained in Senate Bill No. 1219, which is pending before the Governor, and has been indicated, will be signed.

FROM THE OFFICE OF THE GOVERNOR

FOR IMMEDIATE RELEASE

SEPTEMBER 3, 1980

FOR FURTHER INFORMATION

JOE SANTANGELO

Governor Brendan Byrne has signed Senate Bill No. 30, sponsored by Senator James S. Cafiero (R-Cape May), which exempts the sale of aircraft, aircraft parts, and repairs by a purchasing airline having its principal place of business within New Jersey from the state Sales and Use Tax Act.

Surrounding states of New York, Pennsylvania, and Delaware currently exempt home-state-based air carriers from their sales and use taxes.

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