

54:32B-3

LEGISLATIVE HISTORY CHECKLIST

NJSA 54:32B-3, 54:32B-8.2, 54:32B-8.34 (Alcoholic Beverage Tax--Technical amendments)

LAWS 1980 CHAPTER 107

Bill No. S1364

Sponsor(s) Merlino

Date Introduced June 23, 1980

Committee: Assembly -----

Senate -----

Amended during passage Yes No Substituted for A1869
(not attached since identical to S1364)

Date of Passage: Assembly July 28, 1980

Senate June 26, 1980

Date of approval Sept. 11, 1980

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

LEGISLATIVE HISTORY

SENATE, No. 1364

STATE OF NEW JERSEY

INTRODUCED JUNE 23, 1980

By Senator MERLINO

(Without Reference)

AN ACT to revise and correct certain statutes.

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

1 1. Section 3 of P. L. 1966, c. 30 (C. 54:32B-3) is amended to read
2 as follows:

3 3. Imposition of sales tax. On and after July 1, 1966 and con-
4 tinuing through February 28, 1970 there is hereby imposed and
5 there shall be paid a tax of 3%, and on and after March 1, 1970
6 there is hereby imposed and there shall be paid a tax of 5% upon:

7 (a) The receipts from every retail sale of tangible personal
8 property, except as otherwise provided in this act.

9 (b) The receipts from every sale, except for resale, of the follow-
10 ing services:

11 (1) Producing, fabricating, processing, printing or imprinting
12 tangible personal property, performed for a person who directly
13 or indirectly furnishes the tangible personal property, not pur-
14 chased by him for resale, upon which such services are performed.

15 (2) Installing tangible personal property, or maintaining, ser-
16 vicing, repairing tangible personal property not held for sale in
17 the regular course of business, whether or not the services are
18 performed directly or by means of coin-operated equipment or by
19 any other means, and whether or not any tangible personal prop-
20 erty is transferred in conjunction therewith, except (i) such ser-
21 vices rendered by an individual who is engaged directly by a
22 private homeowner or lessee in or about his residence and who is
23 not in a regular trade or business offering his services to the public,

24 (ii) such services rendered with respect to personal property
25 exempt from taxation hereunder pursuant to subsection (a) of
26 section 8, (iii) services rendered with respect to trucks, tractors,
27 trailers or semitrailers by a person who is not engaged, directly
28 or indirectly through subsidiaries, parents, affiliates or otherwise,

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

29 in a regular trade or business offering such services to the public,
30 (iv) any receipts from laundering, dry cleaning, tailoring, weaving,
31 pressing, shoe repairing and shoeshining, and (v) services rendered
32 in installing property which, when installed, will constitute an
33 addition or capital improvement to real property, property or land.

34 (3) Storing all tangible personal property not held for sale in
35 the regular course of business and the rental of safe deposit boxes
36 or similar space.

37 (4) Maintaining, servicing or repairing real property, other than
38 a residential heating system unit serving not more than three
39 families living independently of each other and doing their cooking
40 on the premises, whether the services are performed in or outside
41 of a building, as distinguished from adding to or improving such
42 real property, by a capital improvement, but excluding services
43 rendered by an individual who is not in a regular trade or business
44 offering his services to the public, and excluding interior cleaning
45 and maintenance services, garbage removal and sewer services per-
46 formed on a regular contractual basis for a term not less than
47 30 days, other than window cleaning, and rodent and pest control.

48 (5) Advertising services except advertising services for use
49 directly and primarily for publication in newspapers and maga-
50 zines.

51 Wages, salaries and other compensation paid by an employer
52 to an employee for performing as an employee the services
53 described in this subsection are not receipts subject to the taxes
54 imposed under this subsection (b).

55 Services otherwise taxable under paragraph (1) or (2) of this
56 subsection (b) are not subject to the taxes imposed under this
57 subsection where the tangible personal property upon which the
58 services were performed is delivered to the purchaser outside this
59 State for use outside this State.

60 (c) Receipts from the sale of food and drink [except alcoholic
61 beverages as defined in the Alcoholic Beverage Tax Law,] in or by
62 restaurants, taverns, vending machines or other establishments in
63 this State, or by caterers, including in the amount of such receipts
64 any cover, minimum, entertainment or other charge made to
65 patrons or customers:

66 (1) In all instances where the sale is for consumption on the
67 premises where sold[.];

68 (2) In those instances where the vendor or any person whose
69 services are arranged for by the vendor, after the delivery of the
70 food or drink by or on behalf of the vendor for consumption off
71 the premises of the vendor, serves or assists in serving, cooks, heats

72 or provides other services with respect to the food or drink, except
73 for meals especially prepared for and delivered to homebound
74 elderly, age 60 or older, and to disabled persons, or meals pre-
75 pared and served at a group-sitting at a location outside of the
76 home to otherwise homebound elderly persons, age 60 or older,
77 and otherwise homebound disabled persons, as all or part of any
78 food service project funded in whole or in part by government or
79 as part of a private nonprofit food service project available to all
80 such elderly or disabled persons residing within an area of service
81 designated by the private nonprofit organization; and

82 (3) In those instances where the sale is for consumption off
83 the premises of the vendor, and consists of a meal, or food prepared
84 and ready to be eaten, of a kind obtainable in restaurants as the
85 main course of a meal, including a sandwich, except where food
86 other than sandwiches is sold in an unheated state and is of a type
87 commonly sold in the same form and condition in food stores other
88 than those which are principally engaged in selling prepared foods.

89 (4) Sales of food and beverages sold through coin-operated vend-
90 ing machines, at the wholesale price of such sale, which shall be
91 defined as 70% of the retail vending machine selling price, except
92 sales of milk which shall not be taxed. Nothing herein contained
93 shall effect other sales through coin-operated vending machines
94 taxable pursuant to subsection (a) above or the exemption thereto
95 provided by subsection (i) of section 8.

96 The tax imposed by this subsection (c) shall not apply to food or
97 drink which is sold to an air line for consumption while in flight.

98 (d) The rent for every occupancy of a room or rooms in a hotel
99 in this State, except that the tax shall not be imposed upon (1) a
100 permanent resident, or (2) where the rent is not more than at the
101 rate of \$2.00 per day.

102 (e) (1) Any admission charge where such admission charge is
103 in excess of \$0.75 to or for the use of any place of amusement in
104 the State, including charges for admission to race tracks, baseball,
105 football, basketball or exhibitions, dramatic or musical arts per-
106 formances, motion picture theatres, *except charges for admission*
107 *to boxing, sparring, or wrestling matches or exhibitions which*
108 *charges are taxed under any other law of this State or under R. S.*
109 *5:2-12, and, except charges to a patron for admission to, or use of,*
110 facilities for sporting activities in which such patron is to be a
111 participant, such as bowling alleys and swimming pools. For any
112 person having the permanent use or possession of a box or seat
113 or lease or a license, other than a season ticket, for the use of a box
114 or seat at a place of amusement, the tax shall be upon the amount

115 for which a similar box or seat is sold for each performance or
 116 exhibition at which the box or seat is used or reserved by the
 117 holder, licensee or lessee, and shall be paid by the holder, licensee
 118 or lessee.

119 (2) The amount paid as charge of a roof garden, cabaret or
 120 other similar place in this State, to the extent that a tax upon such
 121 charges has not been paid pursuant to subsection (c) hereof.

1 2. Section 14 of P. L., c. (C.) (now pending
 2 before the Legislature as Senate Bill No. 1219 of 1980) is amended
 3 to read as follows:

4 14. Receipts from the following are exempt from the tax imposed
 5 under the Sales and Use Tax Act: sales of food, food products,
 6 beverages [except alcoholic beverages, excluding draft beer sold
 7 by the barrel, as defined in the Alcoholic Beverage Tax Law (R. S.
 8 54:41-1 et seq.)], dietary foods and health supplements, sold for
 9 human consumption off the premises where sold but not including
 10 a. candy and confectionery, and b. carbonated soft drinks and bever-
 11 ages all of which shall be subject to the retail sales and compensat-
 12 ing use taxes, whether or not the item is sold in liquid form. The
 13 exemption in this section is not applicable to food and drink subject
 14 to tax under subsection (c) of section 3 of the Sales and Use Tax
 15 Act (C. 54:32B-3(c)).

1 3. (New section) Sales at retail of alcoholic beverages as de-
 2 fined in the Alcoholic Beverage Tax Law (R. S. 54:41-1 et seq.)
 3 are exempt from the tax imposed under the Sales and Use Tax Act.

1 4. This act shall take effect July 1, 1980.

STATEMENT

This bill, prepared by the Division of Legal Services in the
 Office of Legislative Services, corrects certain technical defects in
 the statutes relating to the imposition of a tax upon alcoholic
 beverages.

The bill amends these statutes to reflect the changes proposed
 in Assembly Bill No. 1526 and Senate Bill No. 1219 (an omnibus
 correction bill now awaiting action by the Governor) and would
 have no substantive effect upon the imposition of the alcoholic
 beverage tax.

FROM THE OFFICE OF THE GOVERNOR

FOR IMMEDIATE RELEASE

FOR FURTHER INFORMATION

SEPTEMBER 12, 1980

KATHRYN FORSYTH

Governor Brendan Byrne today signed the following bills:

S-281, sponsored by Senator Bernard J. Dwyer (D-Middlesex), which gives judges the discretion of imposing a 30-day suspension of the motor vehicle license of a person who discards glass or other sharp, injurious or cutting objects on a highway or permits those objects to be discarded from his car.

Prior law provided that a \$100 to \$500 fine be imposed on any person who discarded such material himself. The license suspension will supplement the fine.

S-1114, sponsored by Senator Joseph P. Merlino (D-Mercer), which repeals five statutes enacted in 1877, which set forth powers, rules and procedures governing certain municipal boards.

A study by the Division of Legal Services revealed that no boards are currently governed by these statutes and they have outlived their useful purpose.

S-1219, sponsored by Senator Joseph Merlino (D-Mercer) is an omnibus bill to correct and restructure statutes that were in whole or in part inadvertently repealed or amended by other legislation.

Thirty-two sections of this bill deal with exemptions to the State Sales and Use Tax. Another 12 sections correct the inadvertent repeal of amendments adopted between the introduction and final passage of another bill that modifies the same statute.

S-1364, also sponsored by Senator Merlino is technically a companion bill to S-1219. S-1364 will immediately reinstate statutes on the taxation of alcoholic beverages at the wholesale level which would be repealed by the signing of S-1219.

S-1151, sponsored by Senator Steven Perskie (D-Atlantic) amends a 1979 law that gave condominium associations the right of first refusal on the resale of condominium units.