

54:32B-8

LEGISLATIVE HISTORY CHECKLIST

(Sales - Use Tax--Exemption - Maintenance and repair of any component of commercial ships)

NJSA 54:32B-8

LAWS OF 1979

CHAPTER 291

Bill No. A1055

Sponsor(s) Jackman

Date Introduced April 17, 1978

Committee: Assembly Taxation

Senate Revenue, Finance and Appropriations

Amended during passage Yes Amendments during passage denoted by asterisks

Date of Passage: Assembly May 28, 1978

Senate May 24, 1979

Date of approval Jan. 14, 1980

Following statements are attached if available:

Sponsor statement Yes

Committee Statement: Assembly No

Senate Yes

Fiscal Note No

Veto message No

Message on signing Yes

Following were printed:

Reports No

Hearings No

N.Y. Law mentioned in Governor's message on signing:
N.Y. [Tax] Law (Consol.) §1115 (attached)

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ASSEMBLY, No. 1055**STATE OF NEW JERSEY**

INTRODUCED APRIL 17, 1978

By Assemblyman JACKMAN

Referred to Committee on Taxation

AN ACT to amend the "Sales and Use Tax Act," approved April 27, 1966 (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
16 the 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 (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 containers of any type*
59 *whatsoever*, barges and other vessels of 50-ton burden or over,
60 primarily engaged in interstate or foreign commerce, and of govern-
61 mentally-owned ships, barges and other vessels and property used
62 by or purchased for the use of such vessels for fuel, provisions,
63 supplies, maintenance and repairs (other than articles purchased
64 for the original equipping of a new ship);

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

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

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

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

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

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

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

98 (p) Sales of tangible personal property (except automobiles,
99 [trucks, trailers, and truck-trailer combinations,] and except prop-
100 erty incorporated in a building or structure) for use and consump-
101 tion directly and exclusively in the production for sale of tangible
102 personal property on farms, including stock, dairy, poultry, fruit,
103 fur-bearing animals, and truck farms, ranches, nurseries, green-
104 houses or other similar structures used primarily for the raising
105 of agricultural or horticultural commodities, and orchards;

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

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

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

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

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

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

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

138 (x) The renting, leasing, licensing or interchanging of trucks,
139 tractors, trailers or semitrailers by persons not engaged in a reg-
140 ular trade or business offering such renting, leasing, licensing or
141 interchanging to the public, provided, that such renting, leasing,
142 licensing or interchanging is carried on with persons engaged in
143 a regular trade or business involving carriage of freight by such
144 vehicles], and further provided, that in the case of any such motor
145 vehicle acquired by the owner or first used by the owner in this
146 State on or after July 1, 1966, any tax presumptively imposed by
147 this act on such acquisition or use shall have been paid at the time
148 of such acquisition or use without claim for exemption];

149 (y) Sales of cigarettes subject to tax under the Cigarette Tax
150 Act;

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

153 (aa) Sales of the flag of the United States of America and of the
154 flag of the State of New Jersey;

155 (bb) Sales of locomotives, railroad cars and other railroad roll-
156 ing stock, including repair and replacement parts therefor, track
157 materials, and communication, signal and power transmission
158 equipment, to a railroad whose rates are regulated by the Inter-
159 state Commerce Commission or by the Board of Public [Utility
160 Commissioners of New Jersey] *Utilities*;

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

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

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

183 (ff) Sales, renting or leasing of: commercial motor vehicles,
184 and vehicles used in combination therewith, as defined in R. S.
185 39:1-1 and registered in New Jersey for more than 18,000 pounds;
186 or which are **registered in New Jersey and** operated pursuant to
187 a certificate or permit issued by the Interstate Commerce Com-
188 mission; and **[repair]** ***[*repairs*]*** ***repair*** and replace-
188A ment parts therefor.

189 [ff] (gg) The sale of gold or silver and storage thereof, in the
190 form traded on any contract market or other board of trade or
191 exchange licensed by the Federal Commodity Futures Trading
192 Commission as defined in the Commodity Exchange Act, as
193 amended, provided that the sale shall have been in fulfillment of
194 the obligations of a contract for future delivery of gold or silver,

195 or an option to purchase or sell such commodity, entered into on
196 and in accordance with the rules of such licensed contract or options
197 market; provided, further that this exemption shall not apply with
198 respect to any gold or silver subsequently converted to use by a
199 purchaser and in such event such purchaser shall be liable for the
200 sales and use tax imposed hereunder.

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

1 2. This act shall take effect immediately.

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 202 to provide heating or cooling, or electrical or mechanical power
 203 by collecting and transferring solar-generated energy and including
 204 mechanical or chemical devices for storing solar-generated energy.
 205 The Director of the Division of Energy Planning and Conservation
 206 in the Department of Energy shall establish standards with respect
 207 to the technical sufficiency of solar energy systems for purposes
 208 of qualification for exemption.

1 2. This act shall take effect immediately.

STATEMENT

The purpose of this bill is to amend P. L. 1966, c. 30 (C. 54:32B-8(1)) so as to exempt from the sales and use tax the maintenance and repair of cargo containers. The present statute exempts the repair and maintenance of all commercial ships in the ports of New Jersey. The statute as enacted, however, overlooks the technological revolution which has occurred in the ports of New Jersey in the sense that the break-bulk commercial ships have all been replaced by container ships, an integral and component part of which is the container itself. The commercial container ship is functionless without the container and in many instances the container forms the bulkhead of the ship. This amendment clarifies the words "commercial ships" used in the statute so as to include the cargo containers and the container ships that are now in use in the ports of New Jersey.

A1055 (1979)

SENATE REVENUE, FINANCE AND APPROPRIATIONS
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 1055

[OFFICIAL COPY REPRINT]
with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 18, 1979

The purpose of this bill is to exempt from the Sales and Use Tax Act the sale, repair, alterations or conversion of any component part of commercial ships, including cargo containers.

After amendment by the Assembly Committee on Taxation the bill further clarifies the current exemption in law regarding sales, renting or leasing of commercial vehicles. The amendment requires that when the exemption is claimed by virtue of operation under a certificate or permit issued by the Interstate Commerce Commission the vehicle must also be registered in New Jersey. Further technical amendments make clear that repairs of commercial vehicles are exempt.

COMMITTEE AMENDMENTS

The purpose of the bill as introduced is to exempt from the "Sales and Use Tax Act" the sale, repair, alteration or conversion of any component part of commercial ships, including cargo containers.

Amendments regarding the nature of exemption currently enjoyed on commercial vehicles were included by amendment in the Assembly. This is viewed by this Senate committee as a separate consideration with potentially significant revenue loss and should therefore be considered as separate legislation. The committee amendments delete those Assembly amendments restoring the bill to its original form.

FROM THE OFFICE OF THE GOVERNOR

FOR IMMEDIATE RELEASE

FOR FURTHER INFORMATION

JANUARY 14, 1980

PATRICK SWEENEY

Governor Brendan Byrne today signed the following bills into law:

A-1055, sponsored by Assemblyman Christopher J. Jackman (D-Hudson), which amends the Sales and Use Tax Act to exempt from taxation the maintenance and repair of cargo containers for commercial cargo container ships. Upon signing the bill, Governor Byrne said, "A similar exemption exists in New York law, which has left New Jersey without its fair share of this work. This bill will allow more cargo container owners to come to New Jersey for their repairs and maintenance."

S-3319, sponsored by Senator S. Thomas Gagliano (R-Monmouth), which temporarily changes the date of the annual school district elections from Tuesday, April 1, 1980 to Tuesday, March 25, 1980. The reason for this temporary change of election date is to avoid any conflict or inconvenience due to the fact that April 1, 1980 is the first day of Passover.

A-1840, sponsored by Assemblyman James W. Bornheimer (D-Middlesex), which prescribes a new format to be used by school boards in preparing school district budgets. The purpose of the bill is to make school boards more accountable to the public.

The bill requires a listing for each budgetary item, such as teaching salaries, utilities, textbooks, supplies, transportation, repairs and special classes; the prior year's appropriation, amounts transferred, total expenditures, the current year appropriation and the estimated amount necessary for the ensuing school year.

- more -

at soda fountains or in connection therewith (other than coffee, tea and cocoa) and (iv) beer, wine or other alcoholic beverages, all of which shall be subject to the retail sales and compensating use taxes, whether or not the item is sold in liquid form. Nothing herein shall be construed as exempting food or drink from the tax imposed under subdivision (d) of section eleven hundred five.

(2) Water, when delivered to the consumer through mains or pipes.

(3) Drugs and medicines intended for use, internally or externally, in the cure, mitigation, treatment or prevention of illnesses or diseases in human beings, medical equipment (including component parts thereof) and supplies required for such use or to correct or alleviate physical incapacity, and products consumed by humans for the preservation of health but not including cosmetics or toilet articles notwithstanding the presence of medicinal ingredients therein or medical equipment (including component parts thereof) and supplies, other than such drugs and medicines, purchased at retail for use in performing medical and similar services for compensation.

(4) Prosthetic aids, hearing aids, eyeglasses and artificial devices and component parts thereof purchased to correct or alleviate physical incapacity in human beings.

(5) Newspapers and periodicals.

(6) Tangible personal property, except property incorporated in a building or structure, for use or consumption directly and predominantly in the production for sale of tangible personal property by farming, including stock, dairy, poultry, fruit, fur bearing animal, and truck farming. The term farming shall also include ranching, operating nurseries, greenhouses or other similar structures used primarily for the raising of agricultural, horticultural or floricultural commodities, and operating orchards. In addition, tangible personal property for use in erecting, adding to, altering or improving a silo used in farming to make and store silage on a farm, provided such tangible personal property is to become an integral component part of such silo.

(7) Tangible personal property sold by a mortician, undertaker or funeral director. However, all tangible personal property sold to a mortician, undertaker or funeral director for use in the conducting of funerals shall not be deemed a sale for resale within the meaning of paragraph (4) of subdivision (b) of section eleven hundred one of this chapter and shall not be exempt from the retail sales tax.

✓ (8) Commercial vessels primarily engaged in interstate or foreign commerce and property used by or purchased for the use of such vessels for fuel, provisions, supplies, maintenance and repairs (other than articles purchased for the original equipping of a new ship).

(9) Fuel sold to an air line for use in its airplanes.

(10) Tangible personal property purchased for use or consumption directly and predominantly in research and development in the experimental or laboratory sense. Such research and development shall not be deemed to include the ordinary testing or inspection of materials or products for quality control, efficiency surveys, management studies, consumer surveys,