

54:32B-8

LEGISLATIVE HISTORY CHECKLIST

RISA 54:32B-8 (Sales and Use Tax--business machinery and equipment exempt)

LAWS OF 1977 CHAPTER 18

Bill No. A1761

Sponsor(s) Perskie, Martin & Weidel

Date Introduced March 12, 1976

Committee: Assembly -----  
Senate Revenue, Finance and Appropriations

Amended during passage Yes  Amendments during passage denoted by asterisks

Date of Passage: Assembly July 8, 1976

Senate Nov. 8, 1976

Date of approval February 16, 1977

Following statements are attached if available:

Sponsor statement Yes  Below

Committee Statement: Assembly ~~Yes~~ No

Senate Yes

Fiscal Note ~~Yes~~ No

Veto Message ~~Yes~~ No

Message on signing ~~Yes~~ No

Following were printed:

Reports ~~Yes~~ No

Hearings ~~Yes~~ No

Sponsor's Statement:

This bill proposes to exempt from the sales and use tax the purchase of business machinery and equipment. This is in keeping with the practice in neighboring states. It will help to make New Jersey manufacturers more competitive with manufacturers in surrounding states.

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ASSEMBLY, No. 1761

STATE OF NEW JERSEY

INTRODUCED MARCH 12, 1976

By Assemblymen PERSKIE, MARTIN and WEIDEL

(Without Reference)

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, wheel chairs, 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  
 58 ships, barges and other vessels of 50-ton burden or over, primarily  
 59 engaged in interstate or foreign commerce, and of governmentally-  
 60 owned ships, barges and other vessels and property used by or pur-  
 61 chased for the use of such vessels for fuel, provisions, supplies,  
 62 maintenance and repairs (other than articles purchased for the  
 63 original equipping of a new ship);

64 (m) (1) [(Deleted by amendment.) P. L. 1970, c. 7, s. 5.] *Sales*  
 65 *of machinery, apparatus or equipment for use or consumption di-*  
 66 *rectly and primarily in the production of tangible personal property*  
 67 *by manufacturing, processing, assembling or refining;*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

170 (dd) ~~[(Deleted by amendment.) P. L. 1970, c. 7, s. 5.]~~ \*~~[(Deleted by amendment.) P. L. 1970, c. 7,~~  
171 ~~*newspaper production machinery, apparatus and equipment for use*~~  
172 ~~*and consumption directly and primarily in the publication of news-*~~  
173 ~~*papers in the production departments of a newspaper plant, in-*~~  
174 ~~*cluding, but not limited to: engraving, enlarging and development*~~  
175 ~~*equipment, internal process cameras and news transmission equip-*~~  
176 ~~*ment, composing and pressroom apparatus and equipment, type*~~  
177 ~~*fonts, lead, mats, ink, plates, conveyors, stackers, sorting, bundling,*~~  
178 ~~*stuffing, labeling and wrapping equipment and supplies for any of*~~  
179 ~~*the foregoing except that sales of motor vehicles, typewriters, and*~~  
180 ~~*other equipment and supplies otherwise taxable under this act are*~~  
181 ~~*not exempt.]*~~ \* \*\*~~[(Deleted by amendment.) P. L. 1970, c. 7,~~  
182 ~~*s. 5.]*~~ \*\* \*~~[(Deleted by amendment.) P. L. 1970, c. 7,~~  
183 ~~*newspaper production machinery, apparatus*~~  
184 ~~*and equipment for use and consumption directly and primarily in*~~  
185 ~~*the publication of newspapers in the production departments of*~~  
186 ~~*a newspaper plant, including, but not limited to: engraving, enlarg-*~~  
187 ~~*ing and development equipment, internal process cameras and*~~  
188 ~~*news transmission equipment, composing and pressroom apparatus*~~  
189 ~~*and equipment, type fonts, lead, mats, ink, plates, conveyors,*~~  
190 ~~*stackers, sorting, bundling, stuffing, labeling and wrapping equip-*~~  
191 ~~*ment and supplies for any of the foregoing except that sales of*~~  
192 ~~*motor vehicles, typewriters, and other equipment and supplies*~~  
193 ~~*otherwise taxable under this act are not exempt.*~~ \*\*

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

1 2. This act shall take effect January 1, \*~~1977~~\* \*1978\*.

SENATE REVENUE, FINANCE AND  
APPROPRIATIONS COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 1761**

with Senate committee amendments

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**STATE OF NEW JERSEY**

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DATED: MAY 13, 1976

This bill was released by the Senate Revenue, Finance and Appropriations Committee without recommendation with amendment for consideration by the full Senate and is part of a series of bills commonly referred to as the tax package passed by the General Assembly on March 15, 1976.

This bill, as passed by the General Assembly, proposes an exemption from the Sales and Use Tax Act for sales of machinery, apparatus, and equipment and for use or consumption directly and primarily in the production of tangible personal property by manufacturing, processing, assembling, or refining; sales of track materials, and communication, signal, and power transmission to a railroad regulated by the ICC or the State P.U.C.; and further a specific exemption of newspaper production machinery apparatus or equipment used primarily and directly in the production of a newspaper.

The Senate committee amendments delete the exemption for newspaper production equipment.

The bill would be effective January 1, 1977 and is anticipated to reduce sales tax revenue in the amount of \$17 million in the last six months of Fiscal Year 1977 and \$35 million annually thereafter. This is a loss in the sense that new business machinery and equipment purchased in future years would not be taxable.

**THE BUSINESS TAX REFORM PROGRAM**

The exemption provided in this bill, the repeal of gross receipts taxes on unincorporated businesses and retail store sales, together with the permanent exemption from assessment and taxation of new business personal property acquired represent a business tax reform package passed by the General Assembly. It is anticipated that the business tax reform package will reduce taxes on New Jersey businesses over the next 3 fiscal years by an amount approximating \$175 million and by approximately \$90 million in Fiscal Year 1980 alone. This will be supplemented by reduction in local property taxes as a result of limitations on

increases in county and municipal budgets, and revenue sharing including a State pick-up of the full cost of senior citizens and veterans tax deductions currently assessed and collected under local property taxes.

This business tax reform is a major step in a strategy designed to represent more than a token signal that the New Jersey Legislature is not anti-business. The program is expected by its proponents to be a direct encouragement to capital reinvestment in New Jersey and to eliminate discouraging taxes on small business. It has been observed by the New Jersey Economic Policy Council and the Governor's Commission on Economic Recovery that this type of reform of business taxation would have a measurable, positive effect on the State's economy.

This business tax reform program is accomplished by the provisions of Assembly Bills Nos. 1761, 1762, 1763 and 1766. The General Assembly package also included an investment credit bill (Assembly Bill No. 1765) but was not released by the Senate Revenue, Finance and Appropriations Committee after review of probable cost and benefit, taking into consideration the expected minimal impact of the Federal investment credit and the observations of the Economic Policy Council. The committee did provide, in lieu of this investment credit, amendments to Assembly Bill No. 1766 making the 1-year exemption from taxation of new acquisition of business personal property permanent, phasing the tax altogether.

This business tax reform package must be enacted before the income tax imposed under Assembly Bill No. 1513 can be operative, and includes Assembly Bills Nos. 1761, 1762, 1763, and 1766, as provided in section 27 (c) of Assembly Bill No. 1513.