

54:32B-8

LEGISLATIVE HISTORY CHECKLIST

(Gold and silver sold by dealer-exempt from Sales & Use Tax).

HJSA 54:32B-8

LAWS OF 1977

CHAPTER 305

Bill No. S3319

Sponsor(s) Dwyer

Date Introduced June 20, 1977

Committee: Assembly

Senate Revenue, Finance & Appropriations

Amended during passage Yes

* Amendments during passage denoted by asterisks

Date of Passage: Assembly Oct. 3, 1977

Senate Sept. 19, 1977

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Following statements are attached if available:

Sponsor statement Yes No

Committee Statement: Assembly Yes No

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Fiscal Note Yes No

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Message on signing Yes No

Following were printed:

Reports Yes No

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SENATE, No. 3319

STATE OF NEW JERSEY

INTRODUCED JUNE 20, 1977

By Senator DWYER

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).

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;

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 barges and other vessels of 50-ton burden or over, primarily en-
59 gaged 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) Sales of machinery, apparatus or equipment for use or
65 consumption directly and primarily in the production of tangible
66 personal property by manufacturing, processing, assembling or
67 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
92 similar 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, theaters 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 the stock
 169 of the regulated bus company.

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

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

182 ***[(ff)** *The sale of gold or silver, in the form traded on any con-*
 183 *tract market or other board of trade, by a person engaged in busi-*
 184 *ness as a dealer in such metals, where the trading takes place in*
 185 *this State and where such metals are held in storage in this State,*
 186 *provided that this exemption shall not apply with respect to any*
 187 *gold or silver subsequently converted to use by a purchaser and in*
 188 *such event such purchaser shall be liable for the sales and use tax,*
 189 *imposed hereunder. For the purposes of this section, dealer means*
 190 *any person who is a member of a national securities association*
 191 *registered with the Securities and Exchange Commission and who*
 192 *is regularly engaged, as a merchant, in purchasing gold or silver*
 193 *and selling same to customers with a view to the gains and profits*
 194 *which may be derived therefrom.]**

195 *(ff) *The sale of gold or silver and storage thereof, in the form*
196 *traded on any contract market or other board of trade or exchange*
197 *licensed by the Federal Commodity Futures Trading Commission*
198 *as defined in the Commodity Exchange Act, as amended; provided*
199 *that the sale shall have been in fulfillment of the obligations of a*
200 *contract for future delivery of gold or silver, or an option to*
201 *purchase or sell such commodity, entered into on and in accordance*
202 *with the rules of such licensed contract or options market; pro-*
203 *vided, further that this exemption shall not apply with respect to*
204 *any gold or silver subsequently converted to use by a purchaser*
205 *and in such event such purchaser shall be liable for the sales and*
206 *use tax imposed hereunder.**

1 2. This act shall take effect immediately.

STATEMENT

This bill would exempt from the New Jersey Sales and Use Tax Act the sale of gold or silver by a person engaged in a business as a dealer in such metals provided that the seller is a dealer who is a member of a national securities association registered with the Securities and Exchange Commission. The exemption would apply only if the trading takes place in this State and the gold or silver is held in storage in this State and is not subsequently converted to use by a purchaser. The purchasers of the gold would never actually take possession of the gold or silver but would own certificates of ownership showing that they have purchased the gold or silver which is being held in storage in the State of New Jersey. This legislation would help to promote and expand brokerage operations of this nature within the State of New Jersey.

SENATE REVENUE, FINANCE AND
APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 3319

STATE OF NEW JERSEY

DATED: JULY 11, 1977

This bill proposes an amendment to the "Sales and Use Tax Act" so as to exempt from the tax the sale of gold or silver by a person engaged in business as a dealer in such metals. For the exemption to apply the trading must take place in New Jersey and the gold or silver must be in storage in this State. Further, the exemption would not apply where the gold or silver is converted to use by the purchaser.

To qualify a dealer must be a member of a national securities association registered with the Securities and Exchange Commission and must be regularly engaged, as a merchant, in purchasing and selling gold or silver as a commodity for profit. One who purchases gold or silver and processes it and subsequently sells the gold or silver product would not qualify for the exemption.

The purpose of this bill is to promote gold and silver brokerage in the State of New Jersey.