

54:32B-5

December 16, 1970

LEGISLATIVE HISTORY OF R.S.54:32B-5
(Sales tax-Sales prior February 9, 1970)

(1970 amendment)

Copy 2

Sales tax raised from 3% to 5% by Chapter 7 of 1970j
(Approved February 9, 1970)

1.1970 - Chapter 25 - A677.

February 16 - Introduced by De Korte.

No statement (original bill enclosed).

March 12 - Passed Senate, amended (copy enclosed).

March 16 - Senate amended, Passed Assembly.

No statement.

For clippings on this legislation see:

Vertical file -- New Jersey -- Sales Tax (1970).

Article located:

974.905
M916

New Jersey Motor Truck Association.
Bulletin, Vol.VII, No.6, March 15, 1970. (copy enc)

RSL/EH
Enclosure

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ASSEMBLY, No. 677

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 16, 1970

By Assemblyman DE KORTE

(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 5 of P. L. 1966, chapter 30 (C. 54:32B-5) is amended
2 to read as follows:

3 5. Transitional provisions. (a) (1) The taxes imposed under
4 subsections (a), (b) and (c) of section 3 shall be paid upon re-
5 ceipts received on or after July 1, 1966 from all sales made and
6 services rendered although made on or rendered under a contract
7 entered into prior to said date, except that in the case of payment
8 for a delivery or transfer of possession of tangible personal prop-
9 erty made after July 1, 1966 pursuant to an agreement for the
10 sale of said property made before May 9, 1966 such receipts
11 shall not be subject to tax if; (A) such agreement for the sale
12 of said property was made in writing, (B) the particular item or
13 items of property so sold or agreed to be sold were segregated,
14 before May 9, 1966, from any other similar property in the
15 possession of the vendor and identified as having been appro-
16 priated to such sale or agreement of sale, and (C) the purchaser,
17 before July 1, 1966 shall have paid to the vendor not less than
18 10% of the sale price of said property. Upon written application,
19 made in accordance with applicable rules and regulations, the
20 director may waive the requirement for segregation where it is
21 demonstrated to the satisfaction of the director that in view of
22 the nature of the transaction such segregation would have been
23 impossible.

24 (2) Except as otherwise provided in this act, receipts received
25 from all sales made and services rendered on and after July 1, 1966
26 but prior to March 1, 1970, are subject to the taxes imposed under
27 subsections (a), (b), and (c) of section 3 of this act at the rate of

28 3%, except where the property so sold is delivered or the services
29 so sold are rendered on or after March 1, 1970, in which case the
30 tax shall be computed and paid at the rate of 5%, provided, how-
31 ever, that where a service or maintenance agreement taxable under
32 this act covers any period commencing on or after July 1, 1966 and
33 ending after February 28, 1970, the receipts from such agreement
34 are subject to tax at the rate applicable to each period as set forth
35 hereinabove and shall be apportioned on the basis of the ratio of
36 the number of days falling within each of the said periods to the
37 total number of days covered thereby.

38 (b) The tax imposed under subsection (d) of section 3 shall
39 be paid at the rate of 5% upon any occupancy on and after March
40 1, 1970 although such occupancy is pursuant to a prior contract,
41 lease or other arrangement. Where an occupancy, taxable under
42 this act, covers any period on or after July 1, 1966 but prior to
43 March 1, 1970 the rent for the period of occupancy prior to March
44 1, 1970 shall be taxed at the rate of 3%. Where rent is paid on a
45 weekly, monthly or other term basis, the rent applicable to each
46 period as set forth hereinabove shall be apportioned on the basis
47 of the ratio of the number of days falling within each of the said
48 periods to the total number of days covered thereby.

49 (c) Except as otherwise hereinafter provided, the tax imposed
50 under subsection (e) of section 3 shall be applicable at the rate of
51 5% to any admission to or for the use of facilities of a place of
52 amusement occurring on or after March 1, 1970, whether or not
53 the admission charge has been paid prior to such date unless the
54 tickets were actually sold and delivered (other than for resale)
55 prior to March 1, 1970 and the tax imposed under this act during
56 the period July 1, 1966 through February 28, 1970 shall have been
57 paid.

58 (d) (1) Sales made to contractors, subcontractors or repairmen
59 of materials, supplies, or services for use in erecting structures
60 for others, or building on, or otherwise improving, altering or
61 repairing real property of others shall be exempt from the taxes im-
62 posed by subsections (a) and (b) of section 3 and section 6 hereof,
63 provided such structure, building, improvement, alteration or re-
64 pair is the subject of a written bid or contract duly tendered
65 or entered into by such contractor, subcontractor, or repairman
66 before May 9, 1966.

67 (2) Sales made to contractors, subcontractors or repairmen
68 of materials, supplies, or services for use in erecting structures
69 for others, or building on, or otherwise improving, altering or

70 repairing real property of others shall be subject to the taxes
71 imposed by subsections (a) and (b) of section 3 and section 6 hereof
72 at the rate of 5%; provided, however, that when such sales are
73 made for use in performance of a contract which is, either at a
74 fixed price not subject to change or modification, or entered into
75 pursuant to the obligation of a formal written bid which cannot be
76 altered or withdrawn, and, in either case, such contract was entered
77 into or such bid was made on or after May 9, 1966 but prior to
78 March 1, 1970, such sales shall be subject to tax at the rate of 3%,
79 but the vendor shall charge and collect from the purchaser a tax
80 on such sales at the rate of 5% which tax shall be reduced to the rate
81 of 3% only by a claim for refund filed by the purchaser with the
82 director pursuant to the provisions of section 20 of this act.

83 *(3) As to sales other than those referred to in (2) above, the*
84 *taxes imposed under subsections (a) and (b) of section 3 and sec-*
85 *tion 6 hereof upon receipts received on or after March 1, 1970 and*
86 *on or before December 31, 1970 shall be at the rate in effect on*
87 *February 9, 1970 in case of sales made or services rendered pur-*
88 *suant to a written contract entered into on or after May 9, 1966 but*
89 *prior to February 9, 1970 and accompanied by a deposit or partial*
90 *payment of the contract price, but the vendor shall charge and col-*
91 *lect from the purchaser a tax on such sales at the rate of 5% which*
92 *tax shall be refunded, if such receipts were not subject to tax on*
93 *February 9, 1970, or reduced to the rate of 3%, as the case may be,*
94 *only by a claim for refund filed by the purchaser with the director*
95 *within 90 days after receipt of said receipts and otherwise pur-*
96 *suant to the provisions of section 20 of this act.*

97 (e) (1) No tax shall be imposed under subsections (a), (b) and
98 (c) of section 3 upon receipts received on or after July 1, 1966
99 in the case of sales made or services rendered, where delivery of
100 the property which was the subject matter of the sale has been
101 completed or such services have been entirely rendered, prior to
102 July 1, 1966.

103 (2) The taxes imposed under subsections (a), (b) and (c) of
104 section 3 upon receipts received on or after March 1, 1970 shall
105 be at the rate of 3% in the case of sales made or services rendered,
106 where delivery of the property which was the subject matter of the
107 sale has been completed or such services have been entirely ren-
108 dered, prior to March 1, 1970.

109 (f) The director shall be empowered to promulgate rules and
110 regulations to implement the provisions of this section.

1 2. This act shall take effect March 1, 1970.

SENATE AMENDMENTS TO
ASSEMBLY, No. 677

—•—
STATE OF NEW JERSEY
—•—

ADOPTED MARCH 9, 1970

Amend page 3, section 1, line 90, following “the contract price,” insert “except in the case of a contract which, in the usage of trade, is not customarily accompanied by a deposit or partial payment of the contract price,”.

Amend page 3, section 1, line 96, following “of this act.”, insert “A claim for refund where there has been no deposit or partial payment of the contract price shall not be allowed unless the claimant shall establish by clear and convincing evidence that, in the usage of trade, such contracts are not customarily accompanied by a deposit or partial payment of the contract price.”.

FISCAL NOTE TO
ASSEMBLY, No. 677

STATE OF NEW JERSEY

DATED: FEBRUARY 27, 1970

Assembly Bill No. 677 is designed to amend the Sales Tax Act, N. J. S. A. 54:32B-1, et seq., by imposing the 3% tax rate that was in effect on February 9, 1970, instead of the 5% rate where taxable sales were made or services rendered pursuant to a written contract entered into on or after May 9, 1966, but prior to February 9, 1970, accompanied by a deposit or partial payment of the contract price. In such case, the 3% rate remains in effect, provided receipts are received not later than December 31, 1970.

The Division of Taxation estimates that enactment of this legislation would cause a revenue loss to the State of about \$2.5 million on machinery and equipment and \$4.4 million on durable goods, for a total revenue loss of about \$6.9 million.

These estimates were arrived at on the basis of an approximation of a percentage that durables bear to the total tax base and an estimate of the loss from the limited continuation of the exemption of machinery and equipment used in production.

The Division of Taxation points out that it is important to understand that these figures are estimates and not precise amounts that the division should be held to.

In compliance with written request received, there is hereby submitted a fiscal estimate for the above bill, pursuant to P. L. 1962, c. 27.

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STATE OF NEW JERSEY

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16 priated to such sale or agreement of sale, and (C) the purchaser,
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18 10% of the sale price of said property. Upon written application,
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63 provided such structure, building, improvement, alteration or re-
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65 or entered into by such contractor, subcontractor, or repairman
66 before May 9, 1966.

67 (2) Sales made to contractors, subcontractors or repairmen
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69 for others, or building on, or otherwise improving, altering or

70 repairing real property of others shall be subject to the taxes
 71 imposed by subsections (a) and (b) of section 3 and section 6 hereof
 72 at the rate of 5%; provided, however, that when such sales are
 73 made for use in performance of a contract which is, either at a
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 76 altered or withdrawn, and, in either case, such contract was entered
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 90B *deposit or partial payment of the contract price,* but the vendor*
 91 *shall charge and collect from the purchaser a tax on such sales as*
 92 *the rate of 5% which tax shall be refunded, if such receipts were not*
 93 *subject to tax on February 9, 1970, or reduced to the rate of 3%, as*
 94 *the case may be, only by a claim for refund filed by the purchaser*
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