

54:39A-1 ET SEQ.

LEGISLATIVE HISTORY CHECKLIST

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Laws of 1973 Chapter 117

Bill No. A1174

Sponsor(s) Kennedy, Mc Donough, Hurley

Date Introduced May 8, 1972

Committee: Assembly Transportation & Public Utilities

Senate Transportation & Communications

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Amendments during passage denoted by asterisks.

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ASSEMBLY No. 1174

STATE OF NEW JERSEY

INTRODUCED MAY 8, 1972

By Assemlymen KENNEDY, McDONOUGH and HURLEY

Referred to Committee on Transportation and Public Utilities

AN ACT to amend the title of "An act imposing a road tax upon certain motor carriers, providing for the administration thereof and making an appropriation therefor," approved May 22, 1963 (P. L. 1963, c. 44), so that the same shall read "An act imposing a motor fuels use tax upon certain motor fuels users and providing for the administration thereof," to amend the body of said act, to repeal certain sections thereof, and to repeal "A supplement to the 'Motor Carriers Road Tax Act of 1963,' approved May 22, 1963 (P. L. 1963, c. 44)," approved June 30, 1969 (P. L. 1969, c. 120).

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

1 1. The title of P. L. 1963, c. 44 is amended to read as follows:

2 An act imposing a **[road]** *motor fuels use tax* upon certain motor
3 **[carriers]** *fuels users***[,]** and providing for the administration
4 thereof **[and making an appropriation therefor]**.

1 2. Section 1 of P. L. 1963, c. 44 (C. 54:39A-1) is amended to
2 read as follows:

3 1. This act shall be known and may be cited as the "Motor
4 **[Carriers Road]** *Fuels Use Tax Act of 1963.*"

1 3. Section 2 of P. L. 1963, c. 44 (C. 54:39A-2) is amended to read
2 as follows:

3 2. For the purpose of this act, unless inconsistent with the
4 context:

5 (a) **[**"Motor carrier"**]** "User" means every person, firm or

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

6 corporation who or which [operates or causes to be operated any
 7 motor vehicle] consumes motor fuels for the propulsion of motor
 8 vehicles owned or controlled by him on any highway in this State
 9 [but shall not include any person, firm or corporation who or
 10 which is a public utility as defined in R. S. 48:2-13 and who or
 11 which operates or causes to be operated autobuses for the trans-
 12 portation of passengers for hire in the State of New Jersey].
 13 The term shall exclude a lessor when said lessor provides the motor
 14 fuel used in the vehicles operated by the lessee. *The term shall
 14A not include any public utility as defined in R. S. 48:2-13, which
 14B functions solely within the State of New Jersey provided that all
 14C of the fuel used by the vehicles of said public utility is purchased
 14D within the State, except on occasional emergencies, and the fuel tax
 14E thereon is paid at the time of purchase.*

15 (b) "Motor vehicle" means any [passenger vehicle] omnibus
 16 that has seats for more than 10 passengers in addition to the
 17 driver, or road tractor, or any [tractor] truck tractor, or any
 18 truck having [more than two axles] a gross weight in excess of
 19 13,000 pounds alone or in combination with a motor-drawn vehicle.

20 (c) "Exempt [resident motor carrier] vehicle" means[, any
 21 resident person, firm or corporation owning or operating not more
 22 than one motor vehicle for his own use and not for hire.]:

23 (1) Any vehicle owned or operated by an agency of this State or
 24 any political subdivision thereof, or any quasi-governmental au-
 25 thority of which this State is a participating member, or any agency
 26 of the Federal Government or the District of Columbia, or of any
 27 State or province or political subdivision thereof.

28 (2) School bus as defined in R. S. 39:1-1.

29 (3) Vehicles operated under authority of dealer, manufacturer,
 30 converter and transporter general registration plates such as pre-
 31 scribed in R. S. 39:3-18 and similar laws of other states.

32 (4) Special mobile equipment not designed or used primarily
 33 for the transportation of persons or property.

34 (5) Vehicles operated not for profit by any religious or charitable
 35 organization.

35A *(6) Vehicles operated by a public utility as defined in R. S.
 35B 48:2-13, whose operations are limited to the State of New Jersey,
 35C providing that all of the fuel used by said vehicles is purchased
 35D within the State, except on occasional emergencies, and the fuel
 35E taxes paid thereon at the time of purchase.*

35F **(7) Vehicles operated, not for hire, by a farmer as defined
 35G in R. S. 39:3-25.

35H (8) Vehicles used to transport farm labor.**

36 (d) "Operations" means operations of all motor vehicles,
 37 *other than exempt vehicles, owned or controlled by the user,*
 38 *whether loaded or empty, whether for compensation or not for*
 39 *compensation, except operations of an omnibus within any municipi-*
 40 *ality of this State ***[(to which the user has paid a monthly franchise***
 41 *tax for the use of its streets)]* ***in the regular route passenger***
 42 *service provided under operating authority conferred pursuant to*
 43 *R. S. 48:4-3' **[(and whether owned by or leased to the motor carrier***
 43A *who operates them or causes them to be operated)].*

44 (e) The term "motor fuels" means **[(1)]** any *combustible*
 45 *liquid or gaseous substance used, or suitable, for the generation*
 46 *of power to propel motor vehicles. **[(commonly or commercially***
 47 *known or sold as gasoline regardless of its classification or use;*
 48 *and (2) any liquid or gaseous substance used, offered for sale or*
 49 *sold for use, either alone or when mixed, blended, or compounded,*
 50 *for the purpose of generating power for the propulsion of motor*
 51 *vehicles upon the public highways; and shall include:]*

52 **[(i) all grades of motor gasoline, natural gasoline, marine**
 53 *gasoline, aviation gasoline, motor fuel blending naphthas,*
 54 *motor grade benzol and motor grade toluol; and]*

55 **[(ii) any liquid prepared, advertised, offered for sale or**
 56 *sold for use as or commonly and commercially used as a fuel*
 57 *in internal combustion engines, which when subjected to dis-*
 58 *tillation in accordance with the latest revised standard method*
 59 *of test for distillation of gasoline, naphtha, kerosene, and*
 60 *similar petroleum products (American Society for testing*
 61 *materials Method D-86) shows not less than 10% distilled (re-*
 62 *covered) below 347 degrees Fahrenheit and not less than 95%*
 63 *distilled (recovered) below 464 degrees Fahrenheit; and]*

64 **[(iii) all combustible gases which exist in gaseous state at**
 65 *60 degrees Fahrenheit and 14.7 pounds per square inch abso-*
 66 *lute pressure, industrial naphthas and solvents, aromatic*
 67 *distillates, diesel fuel, additives, and all other products not*
 68 *included within the foregoing provisions of this subsection.]*

69 (f) "Motor vehicle fuel tax" means the tax imposed under
 70 R. S. 54:39-1 et seq.

71 (g) "Director" shall mean the Director of the Division of
 72 Motor Vehicles in the Department of Law and Public Safety.

73 (h) "Purchaser" means the person, firm or corporation who or
 74 *which purchased the fuel, and paid the motor vehicle fuels tax*
 75 *thereon, used in the motor vehicles of the user.*

76 (i) "Vendor" means any person, firm or corporation licensed, or
 77 *required by law to be licensed, by the Director of the Division of*

78 *Taxation to sell, distribute, impart or transport motor fuels within*
79 *this State.*

1 4. Section 3 of P. L. 1963, c. 44 (C. 54:39A-3) is amended to
2 read as follows:

3 3. Every [motor carrier,] user [except exempt resident motor
4 carriers and such other motor carriers as are expressly exempted
5 by section 25 of this act,] shall pay a [road] tax equivalent to
6 the rate per gallon of the motor vehicle fuel tax which is currently
7 in effect, calculated on the amount of motor fuels used in its opera-
8 tions within this State.

1 5. Section 4 of P. L. 1963, c. 44 (C. 54:39A-4) is amended to
2 read as follows:

3 4. Every [motor carrier] user [including exempt resident motor
4 carriers but excepting motor carriers exempted under section 25
5 of this act,] shall, on or before [October 30, 1963, and on or before
6 January 30, April 30, July 30 and October 30 of each year there-
7 after] *the last day of January, April, July and October of each*
8 *year, make to the director such aggregate reports of his entire*
9 *operations during the quarter ending on the last day of the pre-*
10 *ceding month as the director may require. [As used in this act the*
11 *“quarter” ending September 30, 1963, shall include the entire*
12 *period from the effective date of this act through September 30,*
12A *1963.]*

13 *If the director shall find that the administration and purpose*
14 *of this act would not be adversely affected thereby, he may in his*
15 *discretion exempt any user who purchases in this State, and pays*
16 *the motor vehicle fuel tax thereon, all motor fuels used in his entire*
17 *operations within and without this State, except for occasional*
18 *emergency purchases in other states, from the quarterly reporting*
19 *requirements of this act. Said user may be permitted to make an*
20 *annual report of his entire operations provided he has filed an*
21 *affidavit to the effect that he purchased in this State, and paid the*
22 *motor fuels tax thereon, all motor fuel used in his entire operations.*

1 6. Section 5 of P. L. 1963, c. 44 (C. 54:39A-5) is amended to
2 read as follows:

3 5. The tax hereby imposed shall be paid by each [motor carrier]
4 user quarterly to the director [beginning] on or before [October
5 30, 1963 and on or before January 30, April 30, July 30 and October
6 30 of each year thereafter] *the last day of the month following the*
7 *end of the tax quarter* and shall be calculated upon the amount of
8 motor fuels used in its operations within this State by each such
9 [carrier] user during the quarter ending on the last day of the
10 preceding month. [If the director shall find that the administration

11 and purpose of this act would not be adversely affected thereby,
12 he may in his discretion exempt any classes or categories of motor
13 carriers from the quarterly reporting requirements of section 4
14 of this act and from the quarterly remitting requirements of this
15 section and in lieu thereof establish annual reporting and remitting
16 requirements for motor carriers in such classes or categories.]

1 7. Section 6 of P. L. 1963, c. 44 (C. 54:39A-6) is amended to
2 read as follows:

3 6. The amount of motor fuels used in the operations of any
4 [motor carrier] user within this State shall be computed to be such
5 proportion of the total amount of such motor fuels used in [its]
6 his entire operations within and without this State as the total
7 number of miles traveled within this State bears to the total number
8 of miles traveled within and without this State. *Every motor*
9 *vehicle operated by the user shall be equipped with an accurate*
10 *mileage recording instrument in good working order and its reading*
11 *shall be taken and recorded at such intervals as the director shall*
12 *prescribe.*

13 *If any user has failed to maintain the records prescribed by this*
14 *act or the director's regulation, each vehicle in the user's fleet shall*
15 *be deemed to have consumed 40 gallons of fuel in this State each*
16 *day the vehicle was in this State during the applicable tax quarter.*
17 *It shall be deemed that the vehicle was in this State every day of*
18 *the quarter unless persuasive evidence by the user discloses*
19 *otherwise.*

1 8. Section 8 of P. L. 1963, c. 44 (C. 54:39A-8) is amended to
2 read as follows:

3 8. Every [motor carrier] user subject to the tax hereby imposed
4 shall be entitled to a credit against such tax equivalent to the rate
5 per gallon of the motor vehicle fuel tax which is currently in effect,
6 for all motor fuels purchased by such [carrier] user within this
7 State [for use in its operation either within or without this State]
8 and upon which the motor vehicle fuel tax imposed by the laws of
9 this State has been paid [by such carrier.] *provided said user was*
10 *also the purchaser as defined in this act.* Evidence of the purchase
11 *of such fuel and the payment of such tax [in such form as may be*
12 *required by, or is satisfactory to, the director shall be furnished*
13 *by each such carrier claiming the credit herein allowed, but no*
14 *carrier shall be required to furnish evidence or maintain records*
15 *identifying the particular motor vehicle to which any purchase of*
16 *motor fuel or payment of tax is applicable.] shall be maintained*
17 *by the user-purchaser, as part of the records required by this act,*
18 *in the form of a fuel purchase receipt or invoice supplied by the*

19 *vendor in such form as hereinafter prescribed.* [When the amount
20 of the credit herein provided to which any motor carrier is entitled
21 for any reporting period exceeds the amount of the tax for which
22 such carrier is liable for the same reporting period, such excess of
23 the credit shall, under such regulations as the director shall
24 prescribe,]

25 (a) [be allowed as a credit on the tax for which such carrier
26 would be otherwise liable in any of the succeeding three quarters
27 if such carrier reports on a quarterly basis, or for which such
28 carrier would be otherwise liable in the next succeeding year if
29 such carrier reports on an annual basis, or] *When the amount of*
30 *the credit herein provided to which any user is entitled for any*
31 *tax quarter exceeds the amount of the tax for which such user is*
32 *liable for the same tax quarter, such excess of the credit shall*
33 *under such regulations as the director shall prescribe, be allowed*
34 *as a credit for which such user would otherwise be liable in the next*
35 *succeeding tax quarter.*

36 (b) [be refunded to such carrier, upon application, to the extent
37 that such carrier has paid a tax of similar nature to a taxing
38 jurisdiction outside this State on or by reason of the use or con-
39 sumption therein within such carrier's reporting period of motor
40 fuel attributable to purchase in this State, as hereinafter deter-
41 mined. Any portion of such tax paid to such a foreign taxing
42 jurisdiction which results from a rate per gallon which exceeds
43 the rate per gallon of the motor vehicle fuel tax of this State in
44 effect on the last day of said reporting period shall be disregarded.]
45 *When any user who is also the purchaser has established bulk*
46 *motor fuels storage facilities within this State and the required*
47 *records of his entire operations within and without this State are*
48 *maintained within this State, he shall be entitled to a refund of any*
49 *credit in excess of the tax due for the reporting period provided*
50 *he has submitted proof acceptable to the director that the motor*
51 *fuel on which motor vehicle fuel tax refund is claimed was not used*
52 *within this State. No refund claim may be allowed when the amount*
53 *claimed for a single tax quarter does not exceed the tax on 2,000*
54 *gallons of motor fuel or on 1% of the total fuel purchased by the*
55 *user in this State, whichever is greater. No refund shall be allowed*
56 *unless an audit of the user's records has been made by the director*
57 *or his employee. A refund may be allowed prior to such audit if*
58 *the user has given a bond issued by a surety company authorized*
59 *to do business within this State in an amount not less than the*
60 *total amount of all unaudited claims. The condition of the bond*
61 *shall be that if subsequent audit reveals the claim to be partially*

62 *or entirely unallowable the full amount of the unallowable portion*
63 *of the claim shall be repaid to the State together with interest at*
64 *the rate of 1% per month or fraction thereof from the date the*
65 *refund was paid to the user to the date he repays the State. The*
66 *bond shall remain in force until the claim has been audited and*
67 *approved.*

68 **【Motor fuel the use or consumption of which is so taxed by a**
69 **foreign taxing jurisdiction shall, for the purpose of this subsection,**
70 **be attributable to purchases in this State only in such proportion,**
71 **for the reporting period in question, as the excess gallons purchased**
72 **by the carrier in this State bears to the sum of the excess gallons**
73 **purchased by the carrier in each taxing jurisdiction in which the**
74 **carrier had excess gallon purchases in said reporting period.**
75 **Excess gallons purchased by a carrier in a taxing jurisdiction shall**
76 **be determined, for a reporting period, by subtracting the number**
77 **of gallons used in the operation of the motor carrier in such taxing**
78 **jurisdiction, as determined in the manner provided for under**
79 **section 6, from the number of gallons of motor fuel purchased by**
80 **the carrier in such taxing jurisdiction.】**

81 **【A carrier who purchases fuel in another taxing jurisdiction**
82 **and who intends to apply for refund under this section shall keep**
83 **such records, in such form as the director reasonably may prescribe,**
84 **as will enable the carrier to report and enable the director to**
85 **determine, for each reporting period, the total number of over-the-**
86 **road miles traveled in each such taxing jurisdiction by its entire**
87 **fleet of motor vehicles and the total number of gallons of motor**
88 **fuel purchased in each such taxing jurisdiction. The director may**
89 **provide for the preservation, destruction, production and examina-**
90 **tion of such records according to the procedures provided in**
91 **section 9.】**

92 **【A carrier who purchases no fuel in a foreign taxing jurisdiction**
93 **need not maintain any such records, but the director may require**
94 **any such carrier, as a condition of obtaining a refund hereunder,**
95 **to inform the director at a specified time in advance of or during**
96 **the reporting period of its intention to make all such purchases in**
97 **this State.】**

98 **【An application for refund shall be made within 4 months follow-**
99 **ing the end of the reporting period. The director shall not allow**
100 **such refund except after an audit of the applicant's records and**
101 **shall audit the records of an applicant at least once a year. If**
102 **the director shall reject the application for refund in whole or in**
103 **part, he shall make an order accordingly and serve a notice upon**
104 **the carrier. If the director refuses to allow a refund in the amount**

105 claimed by the applicant, the applicant may request a formal hear-
106 ing on the application for a refund. Such hearing shall be held
107 by the director or his representative after notice to the applicant
108 of not less than 10 days.】

109 【A motor carrier may give a bond issued by a surety company
110 authorized to do business in this State, in the amount of \$10,000.00
111 payable to the director on condition that the carrier will pay all
112 taxes due and to become due under this act from the date of the
113 bond to the date when either the carrier or the bonding company
114 notifies the director that the bond has been canceled. So long as
115 the bond remains in force, the director may order refunds to the
116 motor carrier in the amounts appearing to be due on applications
117 for refunds filed by the carrier without first auditing the records
118 of the carrier. The surety shall be liable for all omitted taxes
119 assessed against the carrier, including the penalties and interest on
120 such taxes provided in section 15 of this act, even though the
121 assessment is made after cancellation of the bond, but only for
122 such taxes due and payable, while the bond was in force, and
123 penalties and interest on such taxes.】

124 【Any person who shall willfully and knowingly make a false
125 statement orally or in writing for the purpose of obtaining or
126 attempting to obtain or to assist any other person, partnership
127 or corporation to obtain or attempt to obtain a refund shall be
128 guilty of a misdemeanor.】

129 【No motor carrier shall be entitled to credit or refund for any
130 motor vehicle fuel tax otherwise lawfully paid except as herein
131 provided.】

132 *(c) No user shall be entitled to credit or refund for any motor
133 vehicle fuel tax otherwise lawfully paid except as herein provided
134 and no user exempted from filing quarterly reports shall be entitled
135 to a refund.*

136 **【(d) Any vendor who shall deliver motor fuels into the fuel tanks
137 servicing the propulsion of any vehicle of a user, or into a bulk
138 motor fuels storage or transportation tank in the possession or
139 custody of a user within this State, or to deliver to a user in any
140 manner within this State shall provide the purchaser or his agent
141 with an original preprinted serially numbered receipt or invoice,
142 and a duplicate prepared under double faced carbon paper, on which
143 is shown:*

144 *(1) The name and address of the vendor and the number of the
145 license issued to him by the Director of the Division of Taxation.*

146 *(2) The date of delivery.*

147 *(3) The kind and number of gallons of fuel delivered.*

148 (4) The price per gallon, including motor vehicle fuel tax
149 collected unless the user is licensed to purchase said fuel without
150 payment of said tax.

151 (5) The name of the user-purchaser and his user identification
152 number.

153 (6) The signature of the vendor, or his employee, who delivered
154 the motor fuel.

155 (7) The signature of the user-purchaser, or his employee, who
156 received the motor fuel.

157 (8) The fleet number assigned to the vehicle by the owner or
157A user or, if none, the vehicle license plate number.

157B Any vendor, or his employee, who fails to supply a receipt or
157C invoice in the prescribed form to the user-purchaser or his em-
157D ployee coincident with the delivery of the motor fuel shall be fined
157E upon conviction in an amount not less than \$25.00 nor more than
157F \$100.00 for each offense. As an additional penalty the Director of
157G the Division of Taxation may revoke the vendor's license if more
158 than one such violation was committed within a 12-month period.]*

158A *(d) Any vendor who shall deliver motor fuels into the fuel
158B tanks servicing the propulsion of any vehicle of a user shall pro-
158C vide the purchaser or his agent, coincident with the delivery of
158D said fuel, with an original serially numbered receipt or invoice
158E on which is shown:

158F (1) The name and station address of the vendor, machine
158G printed or credit card with credit card imprint.

158H (2) Date of delivery.

158I (3) Name of purchaser and his user identification number, if
158J any.

158K (4) Kind and number of gallons of fuel delivered.

158L (5) Motor fuel tax rate charged per gallon.

158M (6) Signature of person who delivered the fuel.

158N (7) Company unit number or motor vehicle license number of
158O the power unit.

158P (e) Any vendor who shall deliver motor fuels into a bulk stor-
158Q age or transportation tank in the possession of a user-purchaser
158R within this State or deliver motor fuels in bulk quantities to a
158S user-purchaser in any manner within this State shall provide said
158T user-purchaser with an originally serially numbered receipt or
158U invoice, not later than 30 days following the end of the calendar
158V quarter during which the fuel was delivered, on which is shown:

158W (1) The name of the vendor and address from which the fuel
158X was delivered.

158Y (2) *The name of the purchaser and address to which the fuel*
158Z *was delivered.*

158AA (3) *The date of delivery.*

158BB (4) *The kind and number of gallons of fuel delivered.*

158CC (5) *The motor fuel tax rate per gallon charged unless the*
158DD *purchaser is licensed to purchase said fuel without payment of*
158EE *said tax.*

158FF (f) *Any vendor, or his employee, who fails to supply a receipt*
158GG *or invoice to the user-purchaser or his employee at the time and*
158HH *in the form prescribed herein shall be fined upon conviction in*
158II *an amount not less than \$25.00 nor more than \$100.00 for each*
158JJ *offense.**

1 9. Section 9 of P. L. 1963, c. 44 (C. 54:39A-9) is amended to
2 read as follows:

3 9. Every [motor carrier] user shall keep [such] records, in such
4 form as the director reasonably may prescribe, as will enable the
5 [carrier] user to report and enable the director to determine the
6 total number of over-the-road miles traveled by [its] his entire
7 fleet of motor vehicles, the total number of over-the-road miles
8 traveled in New Jersey by said entire fleet, the total number of
9 gallons of motor fuel used by said entire fleet and the total number
10 of gallons of motor fuel purchased in New Jersey for said entire
11 fleet. All such records shall be safely preserved for a period of
12 3 years in such manner as to insure their security and availability
13 for inspection by the director or any authorized assistant engaged
14 in the administration of this act. Upon application in writing,
15 stating the reasons therefor, the director may in his discretion,
16 consent to the destruction of any such records at any time within
17 said period. The director or his authorized agents and repre-
18 sentatives may, at any reasonable time, inspect the books and
19 records of any [motor carrier] user subject to the tax imposed
20 by this act. The director shall provide by regulation for any such
21 examination of books and records to be conducted at the office or
22 offices of the [motor carrier] user where such books and records
23 are maintained.

1 10. Section 10 of P. L. 1963, c. 44 (C. 54:39A-10) is amended to
2 read as follows:

3 10. [The director shall provide an identification marker and
4 registration card for every motor vehicle operated by the motor
5 carrier. The requirement for identification marker and registra-
6 tion card shall apply, as well, to exempt resident motor carriers.
7 The identification marker shall be affixed to the vehicle in such
8 manner as shall be prescribed by the director and the registration

9 card shall be carried in the cab of the vehicle. The identification
10 marker and registration card shall remain the property of this
11 State and may be recalled for any violation of the provisions of
12 this act or of the regulations promulgated hereunder. The director
13 shall also provide, by regulation, for the registration of every such
14 vehicle. Registration cards and identification markers shall be
15 issued on an annual basis as of January 1 of each year and shall be
16 valid through the next succeeding December 31. The annual fee
17 for a registration card shall be \$3.00. There shall be no fee for
18 identification markers. The director shall issue a duplicate registra-
19 tion card or identification marker to replace a destroyed, lost,
20 stolen or illegible registration card or identification marker upon
21 the payment of a fee of \$2.00. It shall be illegal to operate or to
22 cause to be operated in this State any motor vehicle unless the
23 vehicle bears the identification number and carries the registration
24 card required by this section; provided, however, that, for a period
25 not exceeding 25 days as to any one motor carrier, the director,
26 upon request made by the motor carrier, may by letter or telegram
27 authorize the operation of a vehicle or vehicles without the identifi-
28 cation marker or the registration card required when the enforce-
29 ment of this requirement for that period would cause undue delay
30 and hardship in the operation of the said vehicle or vehicles.]
31 *The director shall issue to every user a motor fuels user identifica-*
32 *tion card which shall be safely preserved in the user's offices for as*
33 *long as the card is valid. The user shall place a photographic or*
34 *xerographic copy of said card in the cab of each motor vehicle in*
35 *his fleet. The director shall also issue for each vehicle in the user's*
36 *fleet a motor fuels user identification marker which the user shall*
37 *affix to the vehicle in such manner as shall be prescribed by the*
38 *director. The fee for each original such marker and any replace-*
39 *ment marker shall be \$3.00. Every identification card and marker*
40 *shall remain the property of the State and may be recalled for any*
41 *violation of this act or of the regulations promulgated hereunder,*
42 *or for failure to pay any moneys due the State under this act or*
43 *any other law administered by the director. Identification cards*
44 *and markers shall be issued on an annual basis as of April 1, of*
45 *the year and shall be valid through the next succeeding March 31.*
46 *Identification markers and registration cards issued for calendar*
47 *year 1972 under the former provisions of the act of which this*
48 *act is amendatory shall continue to be valid through March 31, 1973.*
49 *Identification cards and markers issued during the period from*
50 *January 1, 1973 through March 31, 1973 for vehicles not previously*
51 *registered during calendar year 1972 shall be valid through March*

52 31, 1974. The form and content of the card and marker shall be
53 as prescribed by the director. Any card and marker issued pur-
54 suant to this act may be deemed by the director as satisfying the
55 equivalent requirements of any other law administered by him
56 and any marker and card issued by him pursuant to any other law,
57 regulation, reciprocity agreement or arrangement, or declaration
58 may be deemed as satisfying the equivalent requirements of this
59 act. It shall be illegal to operate or cause to be operated in this
60 State any motor vehicle unless the vehicle bears the identification
61 marker and carries the copy of the identification card required by
62 this section; provided, however, that upon the request of a user the
63 director may issue by mail or telecommunication a permit valid
64 for the operation of a vehicle for a period not exceeding 25 days
65 pending the application for and issuance of an identification card
66 or marker or both. The fee for such permit shall be \$5.00 which
67 may be credited against the identification marker fee applicable
68 to the same vehicle. A user whose vehicles in the aggregate make
69 not more than six trips into or through this State in a 12-month
70 period may be issued single trip permits valid for 96 hours for
71 each round trip so made. The fee for such trip permit shall be \$5.00
72 which shall be in lieu of reports, fees and taxes which may other-
73 wise be applicable to said trip under this act.

1 11. Section 11 of P. L. 1963, c. 44 (C. 54:39A-11) is amended to
2 read as follows:

3 11. After a report is filed under the provisions of this act, the
4 director shall cause the same to be examined and may make such
5 further audit or investigation as he may deem necessary, and if
6 therefrom he shall determine that there is a deficiency with respect
7 to the payment of any tax due under this act, he shall assess the
8 additional taxes, penalties and interest due the State from such
9 [carrier] user, give notice of such assessment to the [carrier]
10 user and make demand upon him for payment.

1 12. Section 12 of P. L. 1963, c. 44 (C. 54:39A-12) is amended to
2 read as follows:

3 12. [If any motor carrier shall fail to make any report as required
4 under this act, the director may make an estimate of the taxable
5 liability of such carrier, from any information he may obtain,
6 and according to such estimate so made by him, assess the taxes,
7 fees, penalties and interest due the State from such carrier, give
8 notice of such assessment to the carrier, and make demand upon
9 him for payment.] If any user shall fail to make any report re-
10 quired under this act within the time prescribed herein the director
11 shall make demand upon the user for the filing of the report and

12 *payment of any tax due within 15 days after notice shall have been*
 13 *mailed to the user. If the user fails to file said report within said*
 14 *15-day period it shall be deemed that 40 gallons of fuel were con-*
 15 *sumed in this State by each vehicle in the user's fleet for each day*
 16 *during the quarter for which no report was filed. The director*
 17 *shall make an assessment against such user for the tax on all such*
 18 *fuel used in this State during said quarter and shall proceed to*
 19 *compel payment of the tax, plus penalty and interest, in the manner*
 20 *prescribed in this act.*

1 13. Section 13 of P. L. 1963, c. 44 (C. 54:39A-13) is amended to
 2 read as follows:

3 13. If the director finds that a [motor carrier] user designs
 4 quickly to depart from this State or to remove therefrom his
 5 property, or any property used by him in operations subject to
 6 this act, or to discontinue business, or to do any other act tending
 7 to prejudice or render wholly or partly ineffectual proceedings to
 8 assess or collect such tax, whereby it becomes important that such
 9 proceedings be brought without delay, the director may immediately
 10 make an arbitrary assessment as hereinbefore provided in section
 11 12 of this act, whether or not any report is then due by law, and
 12 may proceed under such arbitrary assessment to collect the tax,
 13 or compel security for the same, and thereafter shall cause notice
 14 of such finding to be given to such [motor carrier] user, together
 15 with a demand for [an immediate report and] immediate payment
 16 of such tax.

1 14. Section 14 of P. L. 1963, c. 44 (C. 54:39A-14) is amended to
 2 read as follows:

3 14. When any [motor carrier] user fails to file a report within
 4 the time prescribed by this act for the filing thereof he shall pay
 5 as a penalty [for each day thereafter, Saturdays, Sundays and
 6 other legal holidays excluded, until the report is filed,] the sum of
 7 [~~\$5.00~~] \$25.00. In addition to the penalty herein imposed any
 8 unpaid tax shall bear interest at the rate of 1% per month or
 9 fraction thereof until the same is paid. The [penalties] penalty
 10 and interest charges herein imposed shall be paid to the director
 11 in addition to the tax due. The director, if satisfied that the failure
 12 to file the report or pay the tax was excusable, may remit or waive
 13 the payment of the whole or part of any penalty [and such portion
 14 of the interest charge as is in excess of 6% per annum] provided
 15 the report is filed within 30 days after the due date.

1 15. Section 16 of P. L. 1963, c. 44 (C. 54:39A-16) is amended to
 2 read as follows:

3 16. (a) All penalties and interest when imposed under this act

4 shall be payable to and recoverable by the director in the same
5 manner as if they were part of the tax imposed.

6 (b) The taxes, fees, interest and penalties imposed under this
7 act, from the time the same shall be due, shall be a personal debt
8 of the [motor carrier] user to the State, recoverable in any court
9 of competent jurisdiction in an action in debt in the name of the
10 State. Such debt, whether sued upon or not, shall be a lien on all
11 the property of the debtor except as against an innocent purchaser
12 for value in the usual course of business and without notice thereof,
13 and shall have preference in any distribution of the assets of the
14 [motor carrier] user, whether in bankruptcy, insolvency or other-
15 wise. The proceeds of any judgment or order obtained hereunder
16 shall be paid to the director.

1 16. Section 17 of P. L. 1963, c. 44 (C. 54:39A-17) is amended to
2 read as follows:

3 17. (a) Any aggrieved [motor carrier] user may, within [3
4 months] 30 days after any decision, order, finding, assessment or
5 action of the director made pursuant to the provisions of this act,
6 appeal therefrom to the Division of Tax Appeals in the State
7 Department of the Treasury by filing a petition of appeal with
8 said division in the manner and form prescribed by the said division
9 [and on giving security, approved by the director, conditioned to
10 pay the tax, penalties and interest heretofore levied if the same
11 remain unpaid, with interest and cost].

12 (b) No such appeal shall stay the collection of any tax, interest
13 or penalties or the enforcement of the same by entry as a judge-
14 ment[, unless by order of the Division of Tax Appeals, and then
15 only after security approved by the director has been furnished
16 to him]. The judgement or order of the Division of Tax Appeals
17 respecting any matter arising under the provisions of this act may
18 be reviewed by a proceeding in lieu of prerogative writ in the
19 same manner as other judgements of said division.

1 17. Section 18 of P. L. 1963, c. 44 (C. 54:39A-18) is amended to
2 read as follows:

3 18. As an additional remedy, the director may issue a certificate
4 to the Clerk of the Superior Court or to the Clerk of the Law
5 Division of the County Court of any county, that any [motor
6 carrier] user is indebted under this act in such an amount as shall
7 be stated in the certificate. Thereupon the clerk to whom such
8 certificate shall have been issued shall immediately enter upon his
9 record of docketed judgments the name and address of such
10 [carrier] user and the address of the place of business where such
11 tax liability was incurred, if shown in the certificate, the amount

12 of the debt so certified, the short name of the tax and the date of
13 making such entries. The making of the entries shall have the
14 same force and effect as the entry of a docketed judgment in the
15 office of such clerk, and the director shall have all the remedies
16 and may take all of the proceedings for the collection thereof
17 which may be had or taken upon the recovery of a judgment in an
18 action, but without prejudice to the [carrier's] user's right of
19 appeal.

1 18. Section 19 of P. L. 1963, c. 44 (C. 54:39A-19) is amended to
2 read as follows:

3 19. Except with respect to payment of special assessment imposed
4 by the director pursuant to sections 11, 12 and 13 of this act, a
5 [motor carrier] user, at any time within 2 years after payment of
6 a tax, may file with the director a claim under oath for refund, in
7 such form as the director may prescribe, stating the grounds
8 therefor, but no claim for refund shall be permitted to be filed
9 after proceedings on appeal have been commenced as provided in
10 section 17 of this act. If, upon examination of such claim for refund,
11 it shall be determined by the director that there has been an over-
12 payment of tax, the amount of such overpayment shall be credited
13 against any liability of the [carrier] user under this act and if
14 there be no such liability, the [carrier] user shall be entitled to a
15 refund of the tax so overpaid. If the director shall reject the claim
16 for refund in whole or in part, he shall make an order accordingly
17 and serve a notice upon the [carrier] user. This section shall not
18 apply to applications for refunds provided for under section 8 of
19 this act.

1 19. Section 20 of P. L. 1963, c. 44 (C. 54:39A-20) is amended to
2 read as follows:

3 20. (a) Any person who shall willfully and knowingly make a
4 false statement orally, or in writing, or in the form of a receipt
5 for the sale of motor fuel, for the purpose of obtaining or attempt-
6 ing to obtain or to assist any other person, partnership or corpora-
7 tion to obtain or attempt to obtain a credit or refund or reduction
8 of liability for taxes under this act, shall be guilty of a misdemeanor.

9 (b) Any person who willfully violates any other provision of
10 this act or any provision of the rules and regulations prescribed
11 under this act, except provisions of this act or of such rules and
12 regulations for the violation of which a penalty is otherwise pro-
13 vided in this act, shall be subject to a fine of not more than \$500.00
14 to be recovered in a summary proceeding pursuant to the Penalty
15 Enforcement Law (N. J. S. 2A:58-1 et seq.). For the purposes

16 of such proceeding, such violation shall be deemed an act committed
17 in part at the office of the director in Trenton.

18 In addition to the provisions and remedies contained in the
19 Penalty Enforcement Law, the following provisions and remedies
20 shall be applicable in any proceeding brought for a violation of
21 any of the provisions of this act:

22 a. The several municipal courts shall have jurisdiction of any
23 such proceeding in addition to the courts prescribed in said Penalty
24 Enforcement Law, provided, however, that the maximum fine which
25 may be imposed by a municipal court in a proceeding involving
26 failure to exhibit an identification marker or a registration card
27 shall be \$50.00;

28 b. The complaint in any such proceeding may be made on in-
29 formation and belief by the director, any motor vehicle inspector
30 or by any member of the State Police;

31 c. A warrant may ~~issue~~ *be issued* in lieu of summons;

32 d. Any motor vehicle inspector or any police or peace officer
33 shall be empowered to serve and execute process in any such
34 proceeding;

35 e. The hearing in any such proceeding shall be without a jury;

36 f. Any such proceeding may be brought in the name of the
37 Director of the Division of Motor Vehicles, in the Department of
38 Law and Public Safety or in the name of the State of New Jersey;

39 g. Any sums received in payment of any fines imposed in any
40 such proceeding shall be paid to the Director of the Division of
41 Motor Vehicles and shall be paid by him into the State Treasury.

1 20. Section 21 of P. L. 1963, c. 44 (C. 54:39A-21) is amended to
2 read as follows:

3 21. The taxes and fees imposed on ~~motor carriers~~ *users* under
4 this act are in addition to any taxes and fees of whatever character
5 imposed on such ~~carriers~~ *users* by any other provisions of law.

1 21. Sections 25 and 26 of P. L. 1963, c. 44 (C. 54:39A-25 and
2 C. 54:39A-26) are repealed.

1 22. "A supplement to the 'Motor Carriers Road Tax Act of
2 1963,' approved May 22, 1963 (P. L. 1963, c. 44)," approved June
3 30, 1969 (P. L. 1969, c. 120) (C. 54:39A-27, C. 54:39A-28) is
4 repealed.

1 23. This act shall take effect July 1, 1972.

FISCAL NOTE TO
ASSEMBLY, No. 1174

STATE OF NEW JERSEY

DATED: NOVEMBER 20, 1972

Assembly Bill No. 1174 is an amendatory act imposing a motor fuels use tax upon certain motor fuels users, effective July 1, 1972.

It is thought enactment of this legislation will increase State revenues by

- (a) eliminating an exemption which will require interstate bus companies to pay motor fuels tax;
- (b) broadening the tax base - trucks will be required to purchase \$3.00 registrations based on weight instead of axles, and
- (c) requiring users to maintain certain records in New Jersey thereby altering audit procedures which will permit existing staff to concentrate on revenue audits. Recoveries will, as a result, increase.

State expenditures will decrease through a reduction in clerical, postage, etc., costs.

The Department of Law and Public Safety estimates that enactment of this legislation will increase the revenues of the State by \$241,145.00 in fiscal 1972-73, \$482,250.00 in fiscal 1973-74 and \$496,500.00 in fiscal 1974-75.

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