

# 54:32B-4.2 & 54:32B-6.1

## LEGISLATIVE HISTORY CHECKLIST

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**LAWS OF:** 2015                      **CHAPTER:** 170

**NJSA:** 54:32B-4.2 & 54:32B-6.1 (Provides partial exemption and maximum sales and use tax imposition amount for sales and uses of boats and vessels; establishes grace period for use tax imposition on certain boats and vessels used by resident purchasers)

**BILL NO:** S2784 (Substituted for A3856)

**SPONSOR(S):** Van Drew and others

**DATE INTRODUCED:** March 9, 2015

**COMMITTEE:**                      **ASSEMBLY:** ---

**SENATE:** Budget and Appropriations  
Economic Growth  
(Reviewed by the Sales Tax Review Commission – recommend to enact)

**AMENDED DURING PASSAGE:** Yes

**DATE OF PASSAGE:**                      **ASSEMBLY:** December 3, 2015

**SENATE:** October 22, 2015

**DATE OF APPROVAL:** December 9, 2015

### FOLLOWING ARE ATTACHED IF AVAILABLE:

**FINAL TEXT OF BILL** (Second Reprint Enacted) Yes

#### S2784:

**SPONSOR'S STATEMENT:** (Begins on page 3 of introduced bill) Yes

**COMMITTEE STATEMENT:**                      **ASSEMBLY:** No

**SENATE:** Yes      Economic Growth  
Budget and App.

**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL ESTIMATE:** Yes      11-13-15

#### A3856:

**SPONSOR STATEMENT:** (Begins on page 3 of introduced bill) Yes

**COMMITTEE STATEMENT:**                      **ASSEMBLY:** Yes      Commerce and  
Economic Dev.

Appropriations

**SENATE:** No

(continued)

<b>FLOOR AMENDMENT STATEMENT:</b>	No	
<b>LEGISLATIVE FISCAL ESTIMATE:</b>	Yes	6-29-15
<b>CONDITIONAL VETO MESSAGE (CORRECTED COPY):</b>	Yes	8-10-15
<b>GOVERNOR'S PRESS RELEASE ON SIGNING:</b>	Yes	

**FOLLOWING WERE PRINTED:**

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext. 103 or <mailto:refdesk@njstatelib.org>.

<b>REPORTS:</b>	No
<b>HEARINGS:</b>	No
<b>NEWSPAPER ARTICLES:</b>	Yes

"Christie signs bill cutting sales tax for boat sales," Burlington County Times, December 10, 2015

"Christie agrees to cut boat sales tax," The Press of Atlantic City, December 10, 2015

"Boat buyers will get break after Christie signs tax cut," northjersey.com, December 9, 2015

"N.J. Gives Tax Break to Boat Buyers – Cuts 7% Rate to 3.5%, Sets Maximum Due for any Purchase at \$20,000," The Record, December 10, 2015.

"Governor Signs Tax Cut on Jersey Boat Sales," The Star-Ledger, December 10, 2015

LAW/CL

§1 - C.54:32B-4.2

§2 - C.54:32B-6.1

§3 - T&E

§4 - Note

P.L.2015, CHAPTER 170, *approved December 9, 2015*

Senate, No. 2784 (*Second Reprint*)

1 AN ACT providing a <sup>2</sup>partial exemption and a<sup>2</sup> maximum sales and  
2 use tax imposition amount for sales and uses of boats and vessels  
3 and establishing a grace period for the imposition of use tax on  
4 certain boats and vessels used by resident purchasers,  
5 supplementing P.L.1966, c.30 (C.54:32B-1 et seq.).  
6

7 **BE IT ENACTED** by the Senate and General Assembly of the State  
8 of New Jersey:  
9

10 1. Notwithstanding the provisions of P.L.1966, c. 30 (C.54:32B-  
11 1 et seq.) to the contrary, <sup>2</sup>receipts from the sale of a boat or other  
12 vessel are exempt to the extent of 50 percent of the tax imposed under  
13 section 3 of the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-3)  
14 and<sup>2</sup> the maximum amount of tax imposed and collected on the sale or  
15 use of a boat or other vessel shall not exceed \$20,000.  
16

17 2. a. Notwithstanding the provisions of P.L.1966,  
18 c. 30 (C.54:32B-1 et seq.) to the contrary, the use within this State of a  
19 boat or other vessel for temporary periods, not totaling more than  
20 <sup>1</sup>**[30]** <sup>2</sup>**[90<sup>1</sup>]** <sup>30</sup><sup>2</sup> calendar days in a calendar year, shall not be subject  
21 to the compensating use tax imposed by section 6 of P.L.1966,  
22 c.30 (C.54:32B-6), provided that:

23 <sup>2</sup>**[(1)]** (1)<sup>2</sup> the boat or other vessel was purchased by a resident of the  
24 State of New Jersey outside of this State for use outside of this State,

25 <sup>2</sup>**[(1)]** (1)<sup>2</sup> the boat or other vessel is legally operated by the resident  
26 purchaser and meets all current requirements pursuant to applicable  
27 federal law or pursuant to a federally-approved numbering system for  
28 boats and vessels adopted by another state, and

29 <sup>2</sup>**[(3)]** (2)<sup>2</sup> the resident purchaser is not engaged in or carrying on  
30 in this State any employment, trade, business, or profession in which  
31 the boat or vessel will be used in this State.

32 b. If any of the conditions specified by subsection a. of this  
33 section have not been met, or after having been met fail to continue to  
34 be met, the exemption provided by subsection a. of this section shall  
35 not apply.

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Senate SBA committee amendments adopted June 22, 2015.

<sup>2</sup>Senate amendments adopted in accordance with Governor's recommendations September 24, 2015.

1       3. Notwithstanding the provisions of the “Administrative  
2 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.) to the  
3 contrary, the Director of the Division of Taxation in the Department  
4 of the Treasury may adopt immediately upon filing with the Office  
5 of Administrative Law such rules and regulations as the director  
6 determines to be necessary to implement the provisions of P.L.     ,  
7 c. (C.     ) (pending before the Legislature as this bill), which  
8 rules and regulations shall be effective for a period not to exceed  
9 360 days following the effective date of P.L.     , c. (C.     )  
10 (pending before the Legislature as this bill) and may thereafter be  
11 amended, adopted, or readopted by the director in accordance with  
12 the requirements of P.L.1968, c.410.

13

14       4. This act shall take effect immediately, provided that section  
15 1 shall apply to sales and uses on or after the first day of the second  
16 month next following the date of enactment and that section 2 shall  
17 apply to uses on or after January 1 next following the date of  
18 enactment.

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23       Provides partial exemption and maximum sales and use tax  
24 imposition amount for sales and uses of boats and vessels;  
25 establishes grace period for use tax imposition on certain boats and  
26 vessels used by resident purchasers.

# SENATE, No. 2784

## STATE OF NEW JERSEY 216th LEGISLATURE

INTRODUCED MARCH 9, 2015

**Sponsored by:**

**Senator JEFF VAN DREW**

**District 1 (Atlantic, Cape May and Cumberland)**

**Senator JIM WHELAN**

**District 2 (Atlantic)**

**SYNOPSIS**

Provides maximum sales and use tax imposition amount for sales and uses of boats and vessels; establishes grace period for imposition of use tax on certain boats and vessels used by resident purchasers.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 3/10/2015)**

1 AN ACT providing a maximum sales and use tax imposition amount  
2 for sales and uses of boats and vessels and establishing a grace  
3 period for the imposition of use tax on certain boats and vessels  
4 used by resident purchasers, supplementing P.L.1966,  
5 c.30 (C.54:32B-1 et seq.).  
6

7 **BE IT ENACTED** by the Senate and General Assembly of the State  
8 of New Jersey:  
9

10 1. Notwithstanding the provisions of P.L.1966,  
11 c. 30 (C.54:32B-1 et seq.) to the contrary, the maximum amount of  
12 tax imposed and collected on the sale or use of a boat or other  
13 vessel shall not exceed \$20,000.  
14

15 2. a. Notwithstanding the provisions of P.L.1966,  
16 c. 30 (C.54:32B-1 et seq.) to the contrary, the use within this State  
17 of a boat or other vessel for temporary periods, not totaling more  
18 than 30 calendar days in a calendar year, shall not be subject to the  
19 compensating use tax imposed by section 6 of P.L.1966,  
20 c.30 (C.54:32B-6), provided that:

21 (1) the boat or other vessel was purchased by a resident of the  
22 State of New Jersey outside of this State for use outside of this  
23 State,

24 (2) the boat or other vessel is legally operated by the resident  
25 purchaser and meets all current requirements pursuant to applicable  
26 federal law or pursuant to a federally-approved numbering system  
27 for boats and vessels adopted by another state, and

28 (3) the resident purchaser is not engaged in or carrying on in  
29 this State any employment, trade, business, or profession in which  
30 the boat or vessel will be used in this State.

31 b. If any of the conditions specified by subsection a. of this  
32 section have not been met, or after having been met fail to continue  
33 to be met, the exemption provided by subsection a. of this section  
34 shall not apply.  
35

36 3. Notwithstanding the provisions of the "Administrative  
37 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the  
38 contrary, the Director of the Division of Taxation in the Department  
39 of the Treasury may adopt immediately upon filing with the Office  
40 of Administrative Law such rules and regulations as the director  
41 determines to be necessary to implement the provisions of P.L. ,  
42 c. (C. ) (pending before the Legislature as this bill), which  
43 rules and regulations shall be effective for a period not to exceed  
44 360 days following the effective date of P.L. , c. (C. )  
45 (pending before the Legislature as this bill) and may thereafter be  
46 amended, adopted, or readopted by the director in accordance with  
47 the requirements of P.L.1968, c.410.

1       4. This act shall take effect immediately, provided that section  
2 1 shall apply to sales and uses on or after the first day of the second  
3 month next following the date of enactment and that section 2 shall  
4 apply to uses on or after January 1 next following the date of  
5 enactment.

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STATEMENT

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10       This bill provides for a maximum limit on the amount of sales  
11 and use tax that can be imposed and collected on the sale or use of a  
12 boat or other vessel, and establishes a limited grace period for the  
13 imposition of use tax on certain boats and vessels that are purchased  
14 out-of-State, for use out-of-State, by New Jersey residents and  
15 subsequently used, on a temporary basis, within this State.

16       The bill provides that the maximum amount of tax imposed and  
17 collected on the sale or use of a boat or other vessel in this State is  
18 limited to \$20,000. This maximum limitation on the imposition of  
19 tax will principally apply to new sales and uses of *non-commercial*  
20 boats and vessels, including motorboats, sailboats, and other yachts  
21 and cruisers, that are not eligible for the exemption currently  
22 granted for sales and uses of commercial ships and vessels under  
23 N.J.S.A.54:32B-8.12.

24       In addition, the bill establishes a limited grace period for the  
25 imposition of tax on the use of certain boats and vessels by resident  
26 purchasers by providing that the use within this State of a boat or  
27 other vessel for temporary periods, not totaling more than 30  
28 calendar days in a calendar year, will not be subject to the State's  
29 compensating use tax. The bill provides that for the grace period to  
30 apply:

31       -- the boat or other vessel used within this State must have been  
32 purchased by a resident of the State of New Jersey outside of this  
33 State for use outside of this State,

34       -- the boat or other vessel must be legally operated by the  
35 resident purchaser and must meet all current requirements pursuant  
36 to applicable federal law or pursuant to a federally-approved  
37 numbering system for boats and vessels adopted by another state,  
38 and

39       -- the resident purchaser must not be engaged in or carrying on in  
40 this State any employment, trade, business, or profession in which  
41 the boat or vessel will be used in this State.

42       The bill authorizes the Director of the Division of Taxation in  
43 the Department of the Treasury to adopt rules and regulations  
44 necessary to effectuate the purposes of the bill, and allows for the  
45 immediate filing of those rules and regulations with the Office of  
46 Administrative Law, effective for a period not to exceed 360 days  
47 following the bill's effective date.

**S2784 VAN DREW, WHELAN**

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1       The bill takes effect immediately, but provides for the limitation  
2 on tax to apply to sales and uses on or after the first day of the  
3 second month next following the date of enactment and for the  
4 grace period to apply to uses on or after January 1 next following  
5 the date of enactment.

6       The purpose of this bill is to provide support to the marine  
7 industry in this State by encouraging sales of new boats and vessels,  
8 and to allow New Jersey residents an annual window, of a limited  
9 duration, to use boats and other vessels, that are purchased and  
10 ordinarily kept and maintained at an out-of-State location, in this  
11 State without incurring a tax liability. Currently, boats and other  
12 vessels that are acquired by residents of this State from a dealer  
13 outside this State for use outside this State are subject to use tax at  
14 the time the boat or other vessel is first used in this State, unless the  
15 resident is eligible to claim a credit for sales tax paid to another  
16 state or jurisdiction.



# SENATE ECONOMIC GROWTH COMMITTEE

## STATEMENT TO

### **SENATE, No. 2784**

# **STATE OF NEW JERSEY**

DATED: JUNE 11, 2015

The Senate Economic Growth Committee reports favorably Senate Bill No. 2784.

As reported, this bill provides for a maximum limit on the amount of sales and use tax that can be imposed and collected on the sale or use of a boat or other vessel, and establishes a limited grace period for the imposition of use tax on certain boats and vessels that are purchased out-of-State, for use out-of-State, by New Jersey residents and subsequently used, on a temporary basis, within this State.

The bill provides that the maximum amount of tax imposed and collected on the sale or use of a boat or other vessel in this State is limited to \$20,000. This maximum limitation on the imposition of the tax is to principally apply to new sales and uses of non-commercial boats and vessels, including motorboats, sailboats, and other yachts and cruisers, that are not eligible for the exemption currently granted for sales and uses of commercial ships and vessels.

In addition, the bill establishes a limited grace period for the imposition of the tax on the use of certain boats and vessels by resident purchasers by providing that the use within this State of a boat or other vessel for temporary periods, not totaling more than 30 calendar days in a calendar year, is not to be subject to the State's compensating use tax. The bill requires: 1) the boat or other vessel used within this State to have been purchased by a resident of the State of New Jersey outside of this State for use outside of this State; 2) the boat or other vessel be legally operated by the resident purchaser and meet all current requirements pursuant to applicable federal law or pursuant to a federally-approved numbering system for boats and vessels adopted by another state; and 3) the resident purchaser to not be engaged in or carrying on in this State any employment, trade, business, or profession in which the boat or vessel is to be used in this State.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

### **SENATE, No. 2784**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JUNE 23, 2015

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 2784, with committee amendments.

As amended, this bill provides for a maximum limit on the amount of sales and use tax that can be imposed and collected on the sale or use of a boat or other vessel, and establishes an annual limited "use" grace period to avoid use tax on certain boats and vessels that are purchased by New Jersey residents out-of-State, for use out-of-State, and subsequently used, on a limited basis, within this State.

The bill provides that the maximum amount of tax imposed and collected on the sale or use of a boat or other vessel in this State is limited to \$20,000. This maximum limitation on the imposition of the tax is to principally apply to new sales and uses of non-commercial boats and vessels, including motorboats, sailboats, and other yachts and cruisers, that are not eligible for the exemption currently granted for sales and uses of commercial ships and vessels.

In addition, the bill establishes a limited "use" grace period to avoid the imposition of the tax on the use of certain boats and vessels by resident purchasers by providing that the use within this State of a boat or other vessel for temporary periods, not totaling more than 90 calendar days in a calendar year, is not to be subject to the State's compensating use tax. The bill requires: 1) the boat or other vessel used within this State to have been purchased by a resident of the State of New Jersey outside of this State for use outside of this State; 2) the boat or other vessel be legally operated by the resident purchaser and meet all current requirements pursuant to applicable federal law or pursuant to a federally-approved numbering system for boats and vessels adopted by another state; and 3) the resident purchaser to not be engaged in or carrying on in this State any employment, trade, business, or profession in which the boat or vessel is to be used in this State.

#### COMMITTEE AMENDMENTS:

The committee amendment changes, from 30 to 90 calendar days, the limited "use" grace period under which certain boats and vessels

purchased out of state by resident purchasers may be used within this State without being subject to use tax.

FISCAL IMPACT:

The Office of Legislative Services (OLS) has no data with which to estimate the impact of the grace period for imposition of use tax on certain boats and vessels used by resident purchasers under this bill. However, the maximum \$20,000 amount of tax imposed and collected on the sale or use of a boat or other vessel may reduce annual State tax revenues by an estimate of between \$1.0 million and \$2.0 million annually.

Extrapolating from data published in the National Marine Manufacturers Association's *2013 Recreational Boating Statistical Abstract*, the OLS estimates between 1% and 2% of New Jersey new boat sales, and between 30% and 40% of the estimated \$10.5 million in annual State sales tax revenues derived from boat sales, are attributable to higher-priced boats valued in excess of \$285,714 (the price above which taxpayers would begin to benefit from the bill's maximum \$20,000 tax). Thus, based on the national data, these higher priced sales account for an estimated range of between 70 and 140 boats and approximately \$3.1 million to \$4.2 million in sales tax revenue annually in New Jersey. As the bill would limit these 70 to 140 taxpayers to a maximum \$20,000 sales tax, the OLS estimates it is plausible that the maximum tax could reduce State sales tax revenues, and save these taxpayers, an aggregate of between \$1.0 million and \$2.0 million annually.

To the extent that the sales tax cap in the bill induces additional higher-price boat sales that would otherwise not occur, the State may gain \$20,000 tax revenue per additional higher-price boat sale.

# LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

**SENATE, No. 2784**

## **STATE OF NEW JERSEY 216th LEGISLATURE**

DATED: NOVEMBER 13, 2015

### SUMMARY

- Synopsis:** Provides partial exemption and maximum sales and use tax imposition amount for sales and uses of boats and vessels; establishes grace period for use tax imposition on certain boats and vessels used by resident purchasers.
- Type of Impact:** Recurring annual loss of State sales and use tax revenues deposited into the General Fund and the Property Tax Relief Fund.
- Agencies Affected:** Department of the Treasury.

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>Annual Impact</u></b>
<b>State Revenue</b>	Indeterminate Revenue Loss – See comments below

- The Office of Legislative Services (OLS) estimates the State will incur a **revenue loss of at least \$8.0 million - \$12.3 million per year** in the first few years following enactment as a result of *the bill's 50 percent exemption* for sales and uses of boats and vessels. These amounts **may increase by as much as \$3.1 million per year** in future years if sales of recreational boats and vessels return to pre-recession peaks achieved during the last decade.
- The OLS also **expects the State to incur additional revenue losses** as a result of the bill's *maximum \$20,000 tax limitation* and the bill's *30-day "use" grace period*, but lacks sufficient information to quantify the expected loss to the State from these tax-related measurers.

### BILL DESCRIPTION

Senate Bill No. 2784 (2R) of 2015 provides certain tax breaks for the sale or use of boats or vessels in this State. The bill provides a 50 percent exemption from the sales and use tax for sales of new and used boats and vessels, establishes a maximum \$20,000 tax limitation on the amount of sales and use tax that is permitted to be imposed and collected on the sale or use of a

boat or vessel, and institutes a 30-day “use” grace period under which certain boats and vessels are permitted to be used in this State without incurring a use tax liability.

Under the bill, the 50 percent exemption and the maximum \$20,000 tax limitation apply to sales and uses on or after the first day of the second month next following the date of enactment. The bill provides for the 30-day “use” grace period to apply to uses on or after January 1 next following the date of enactment.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS estimates the State will incur a revenue loss of at least \$8.0 million - \$12.3 million per year in the first few years following enactment as a result of the bill’s 50 percent exemption for sales and uses of boats and vessels. These amounts may increase by as much as \$3.1 million per year in future years if sales return to pre-recession peaks achieved during the last decade.

The OLS also expects the State to incur additional revenue losses as a result of the bill’s maximum \$20,000 tax limitation and the bill’s 30-day “use” grace period, but lacks sufficient information to quantify the expected loss to the State from these tax-related measures. There are no publicly available data that permit the OLS to identify the number and price of boats and vessels with a sales price in excess of \$571,428, the price point above which the maximum tax limitation will apply. Moreover, the OLS is unable to determine the number or value of boats and vessels that are used in this State and ordinarily would incur a use tax liability except for the bill’s “use” grace period.

#### *Estimated State Revenue Loss from 50 Percent Exemption*

The estimate that the State will incur a revenue loss of at least \$8.0 million - \$12.3 million per year in the first few years following enactment as a result of the bill’s 50 percent exemption is derived from national sales data published in the National Marine Manufacturers Association’s *2013 Recreational Boating Statistical Abstract*. These national sales figures are adjusted to account for certain assumptions regarding New Jersey’s likely share of the national recreational boating market, and further modified to reflect the tax rate expected to be collected from sales of boats and vessels at the time the exemption is implemented.

According to the association’s statistical abstract, there were 532,170 new boats (including recreational power, sail, and paddle) and 955,300 used boats (including recreational power and sail) sold nationally in 2013. During this same period, national expenditures for sales of new boats totaled \$7.550 billion, and national expenditures for sales of used boats totaled \$10.095 billion.

That same source of data also indicates that in 2013 New Jersey accounted for 1.99 percent of new recreational powerboat sales in the United States. Separate information obtained from the United States Coast Guard indicates New Jersey accounted for 1.29 percent of all recreational boat registrations in the United States during 2013.

Those percentages yield New Jersey specific estimates of between 19,188 and 29,586 new and used boat sales, and a total combined value generated from sales of those boats of between \$227.6 million and \$351.0 million in 2013. Applying one-half of the current sales and use tax rate (3.5 percent because of the 50 percent exemption) to the total combined value generated from New Jersey sales suggests State revenue losses may total between \$8.0 million and \$12.3 million per year in the first few years following enactment.

However, actual losses may increase by as much as \$3.1 million per year in future years if expenditures for new and used boats and vessels return to pre-recession peaks achieved during the last decade. Information obtained from the association's statistical abstract for 2013 indicate that in 2006 the total combined value generated from national sales of new and used boats totaled \$22.426 billion, or \$4.781 billion more than the amounts generated from sales of new and used boats in 2013.

#### *Expected State Revenue Loss from Maximum \$20,000 Tax Limitation*

The bill's maximum \$20,000 tax limitation on the amount of sales and use tax that is permitted to be imposed and collected on the sale or use of a boat or vessel is expected to result in a recurring annual revenue loss to the State. This expectation is based on the fact that following enactment the State will forgo the collection of sales and use tax on certain amounts paid for the purchase of each new or used boat or vessel that is sold for a sales price in excess of \$571,428.

Under the bill, the maximum tax limitation has no impact on taxpayers who purchase a new or used boat or vessel sold for a sales price that is less than or equal to \$571,428. Taxpayers who purchase a new or used boat or vessel with a sales price in excess of \$571,428 pay the maximum \$20,000 in sales and use tax, but are not required to pay tax, at the rate of 3.5 percent, on any amount that is paid for the boat or vessel in excess of that mark.

However, it is unclear how much revenue the State will forgo on an annual basis as a result of the bill's maximum tax limitation. The publicly available national data suggest that the vast majority of boat sales are for smaller boats and vessels priced well below \$571,428 and that the larger, higher-priced boats and vessels such as inboard cruisers account for a small fraction of all new boats and vessels sold nationally in 2013, but more precise data on the boats and vessels that are likely to benefit from the maximum tax limitation are not available.

There are no publicly available data that permit the OLS to determine the number of new and used boats and vessels that are sold for a sales price above \$571,428 in New Jersey on an annual basis. Additionally, there are no distributional data that permit the OLS to determine the price of each new or used boat or vessel that is sold in excess of \$571,428 in New Jersey on an annual basis, and, therefore, no way to calculate with any certainty the amount the State is expected to lose as a result of the bill's maximum \$20,000 tax limitation.

#### *Expected State Revenue Loss from 30-Day "Use" Grace Period*

The bill's 30-day "use" grace period is expected to result in a recurring annual State revenue loss. This expectation is based on the assumption that following enactment the State will be restricted from compelling the payment of use tax that is currently required to be paid in connection with the use of certain boats and vessels in this State.

Under the bill, boat owners who purchase their boat or vessel in another state or jurisdiction and typically keep that boat or vessel at an out-of-State location are granted a limited window of up to 30 calendar days in each calendar year to use that boat or vessel in this State without incurring a use tax liability. As a result of this change, the State will be required to forgo the

collection of some amount of use tax that is due and ordinarily required to be paid on certain boats and vessels that are purchased without payment of the State's sales tax (or purchased without payment of an amount equivalent to the State's sales tax to another state or jurisdiction) and subsequently used in this State.

However, the amount of revenue the State is expected to forgo on an annual basis as a result of the bill's 30-day "use" grace period cannot be determined. Anecdotal information made available by the Division of Taxation in the Department of the Treasury suggests the State has collected upwards of \$3.2 million since 2011 from boat owners who have failed to pay sales and use tax on their boats or vessels at the time of purchase or first use in New Jersey, but more precise data on the boats and vessels that are likely to benefit from the maximum tax limitation are not available.

There are no publicly available data that permit the OLS to determine the number of boats and vessels that will take advantage of the "use" grace period on an annual basis following enactment of the bill. Additionally, there are no distributional data that permit the OLS to determine the value of each boat or vessel that will benefit from the "use" grace period, and, therefore, no way to calculate with any certainty the amount the State is expected to lose as a result of the bill's 30-day "use" grace period following enactment of the bill.

#### *Additional Assumptions and Other Considerations*

It is important to note that the estimate for the amount of State revenue that may be lost as a result of the bill's 50 percent exemption for sales and uses of boats and vessels is derived using national sales data published by the National Marine Manufacturers Association, a trade organization that is dedicated to advocating on behalf of the recreational boating industry. For purposes of analysis, the OLS assumes the national data contained in the association's statistical abstract are accurate, but no secondary source of publicly available information was identified to independently verify the reliability of the sales figures that are used to estimate the amount of State revenue that may be lost on an annual basis as a result of the bill.

In addition, it is important to note that the estimate for the amount of State revenue that may be lost as a result of the bill's 50 percent exemption is derived using national sales data comprised of new and used recreational boat sales, and that the data pertaining to used boat sales specifically include sales figures for pre-owned powerboat and sailboat sales in 2013. For purposes of analysis, the OLS assumes the used boat sales data contained in the association's statistical abstract are a valid representation of the pre-owned boats and vessels sold nationally in a given year, but the lack of information on the used paddle boat segment of the market and uncertainty regarding the potential pool of unregistered boats and vessels that trade hands in a given year leave open the degree to which the available data may miss the mark in describing the used boat segment of the current recreational marketplace.

Further, it should be noted that the estimate of the potential revenue loss is an estimate of the direct revenue loss that may be incurred by the State. The estimate attempts to quantify the direct revenue that may be lost by the State in providing a 50 percent exemption, establishing a maximum \$20,000 tax limitation, and instituting a 30-day "use" grace period, but does not take into consideration the indirect gains or losses that may accrue to or be incurred by the State and local governments as a result of the bill.

In large part, the indirect gains or losses are not taken into consideration because it is unclear the extent to which the tax breaks provided by the bill will induce new or additional spending. It is not currently known if the 50 percent exemption, the maximum \$20,000 tax limitation, or the 30-day "use" grace period will encourage new or additional spending that would not have occurred but for the tax breaks provided by the bill, or if the individual measures will simply

reward recreational boating enthusiasts for doing something they would have done anyway regardless of the tax breaks provided by the bill.

*Section: Revenue, Finance, and Appropriations*

*Analyst: Luke E. Wolff  
Senior Research Analyst*

*Approved: Frank W. Haines III  
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).



# ASSEMBLY, No. 3856

## STATE OF NEW JERSEY 216th LEGISLATURE

INTRODUCED OCTOBER 23, 2014

**Sponsored by:**

**Assemblyman BOB ANDRZEJCZAK**

**District 1 (Atlantic, Cape May and Cumberland)**

**SYNOPSIS**

Provides maximum sales and use tax imposition amount for sales and uses of boats and vessels; establishes grace period for imposition of use tax on certain boats and vessels used by resident purchasers.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT providing a maximum sales and use tax imposition amount  
2 for sales and uses of boats and vessels and establishing a grace  
3 period for the imposition of use tax on certain boats and vessels  
4 used by resident purchasers, supplementing P.L.1966, c.30  
5 (C.54:32B-1 et seq.).  
6

7 **BE IT ENACTED** by the Senate and General Assembly of the State  
8 of New Jersey:  
9

10 1. Notwithstanding the provisions of P.L.1966, c. 30  
11 (C.54:32B-1 et seq.) to the contrary, the maximum amount of tax  
12 imposed and collected on the sale or use of a boat or other vessel  
13 shall not exceed \$20,000.  
14

15 2. a. Notwithstanding the provisions of P.L.1966, c. 30  
16 (C.54:32B-1 et seq.) to the contrary, the use within this State of a  
17 boat or other vessel for temporary periods, not totaling more than  
18 30 calendar days in a calendar year, shall not be subject to the  
19 compensating use tax imposed by section 6 of P.L.1966, c.30  
20 (C.54:32B-6), provided that:

21 (1) the boat or other vessel was purchased by a resident of the  
22 State of New Jersey outside of this State for use outside of this  
23 State,

24 (2) the boat or other vessel is legally operated by the resident  
25 purchaser and meets all current requirements pursuant to applicable  
26 federal law or pursuant to a federally-approved numbering system  
27 for boats and vessels adopted by another state, and

28 (3) the resident purchaser is not engaged in or carrying on in  
29 this State any employment, trade, business, or profession in which  
30 the boat or vessel will be used in this State.

31 b. If any of the conditions specified by subsection a. of this  
32 section have not been met, or after having been met fail to continue  
33 to be met, the exemption provided by subsection a. of this section  
34 shall not apply.  
35

36 3. Notwithstanding the provisions of the "Administrative  
37 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the  
38 contrary, the Director of the Division of Taxation in the Department  
39 of the Treasury may adopt immediately upon filing with the Office  
40 of Administrative Law such rules and regulations as the director  
41 determines to be necessary to implement the provisions of P.L. ,  
42 c. (C. ) (pending before the Legislature as this bill), which  
43 rules and regulations shall be effective for a period not to exceed  
44 360 days following the effective date of P.L. , c. (C. )  
45 (pending before the Legislature as this bill) and may thereafter be  
46 amended, adopted, or readopted by the director in accordance with  
47 the requirements of P.L.1968, c.410.



**A3856 ANDRZEJCZAK**

1       The bill takes effect immediately, but provides for the limitation  
2 on tax to apply to sales and uses on or after the first day of the  
3 second month next following the date of enactment and for the  
4 grace period to apply to uses on or after January 1 next following  
5 the date of enactment.

6       The purpose of this bill is to provide support to the marine  
7 industry in this State by encouraging sales of new boats and vessels,  
8 and to allow New Jersey residents an annual window, of a limited  
9 duration, to use boats and other vessels, that are purchased and  
10 ordinarily kept and maintained at an out-of-State location, in this  
11 State without incurring a tax liability. Currently, boats and other  
12 vessels that are acquired by residents of this State from a dealer  
13 outside this State for use outside this State are subject to use tax at  
14 the time the boat or other vessel is first used in this State, unless the  
15 resident is eligible to claim a credit for sales tax paid to another  
16 state or jurisdiction.

ASSEMBLY COMMERCE AND ECONOMIC DEVELOPMENT  
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3856

**STATE OF NEW JERSEY**

DATED: JUNE 15, 2015

The Assembly Commerce and Economic Development Committee reports favorably Assembly Bill No. 3856.

This bill provides for a maximum limit on the amount of sales and use tax that can be imposed and collected on the sale or use of a boat or other vessel, and establishes a limited grace period for the imposition of use tax on certain boats and vessels that are purchased out-of-State, for use out-of-State, by New Jersey residents and subsequently used, on a temporary basis, within this State.

The bill provides that the maximum amount of tax imposed and collected on the sale or use of a boat or other vessel in this State is limited to \$20,000. This maximum limitation on the imposition of tax will principally apply to new sales and uses of *non-commercial* boats and vessels, including motorboats, sailboats, and other yachts and cruisers, that are not eligible for the exemption currently granted for sales and uses of commercial ships and vessels.

In addition, the bill establishes a limited grace period for the imposition of tax on the use of certain boats and vessels by resident purchasers by providing that the use within this State of a boat or other vessel for temporary periods, not totaling more than 30 days in a calendar year, will not be subject to the State's compensating use tax. The bill provides that for the grace period to apply:

-- the boat or other vessel used within this State must have been purchased by a resident of the State of New Jersey outside of this State for use outside of this State,

-- the boat or other vessel must be legally operated by the resident purchaser and must meet all current requirements pursuant to applicable federal law or pursuant to a federally-approved numbering system for boats and vessels adopted by another state, and

-- the resident purchaser must not be engaged in or carrying on in this State any employment, trade, business, or profession in which the boat or vessel will be used in this State.

# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 3856**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JUNE 22, 2015

The Assembly Appropriations Committee reports favorably Assembly Bill No. 3856, with committee amendments.

As amended, this bill provides for a maximum limit on the amount of sales and use tax that can be imposed and collected on the sale or use of a boat or other vessel, and establishes an annual limited “use” grace period to avoid the imposition of use tax on certain boats and vessels that are purchased by New Jersey residents out-of-State, for use out-of-State, and subsequently used, on a temporary basis, within this State.

The bill provides that the maximum amount of tax imposed and collected on the sale or use of a boat or other vessel in this State is limited to \$20,000. This maximum limitation on the imposition of the tax is to principally apply to new sales and uses of non-commercial boats and vessels, including motorboats, sailboats, and other yachts and cruisers, that are not eligible for the exemption currently granted for sales and uses of commercial ships and vessels.

In addition, the bill establishes a limited “use” grace period to avoid the imposition of tax on the use of certain boats and vessels by providing that the use within this State of a boat or other vessel for temporary periods, not totaling more than 90 calendar days in a calendar year, is not subject to the State’s compensating use tax. The bill provides that for the grace period to apply:

- the boat or other vessel used within this State must have been purchased by a resident of the State of New Jersey outside of this State for use outside of this State,

- the boat or other vessel must be legally operated by the resident purchaser and must meet all current requirements pursuant to applicable federal law or pursuant to a federally-approved numbering system for boats and vessels adopted by another state, and

- the resident purchaser must not be engaged in or carrying on in this State any employment, trade, business, or profession in which the boat or vessel will be used in this State.

The bill authorizes the Director of the Division of Taxation in the Department of the Treasury to adopt rules and regulations necessary to effectuate the purposes of the bill, and allows for the immediate filing

of those rules and regulations with the Office of Administrative Law, effective for a period not to exceed 360 days following the bill's effective date.

The bill takes effect immediately, but provides for the maximum limitation on tax to apply to sales and uses on or after the first day of the second month next following the date of enactment and for the grace period to apply to uses on or after January 1 next following the date of enactment.

FISCAL IMPACT:

The Office of Legislative Services (OLS) has no data with which to estimate the impact of establishing an annual limited "use" grace period. However, the maximum \$20,000 amount of tax imposed and collected on the sale or use of a boat or other vessel may reduce annual State tax revenues by an estimate of between \$1.0 million and \$2.0 million annually.

Extrapolating from data published in the National Marine Manufacturers Association's *2013 Recreational Boating Statistical Abstract*, the OLS estimates between 1% and 2% of New Jersey new boat sales, and between 30% and 40% of the estimated \$10.5 million in annual State sales tax revenues derived from boat sales, are attributable to higher-priced boats valued in excess of \$285,714 (the price above which taxpayers begin to benefit from the bill's maximum \$20,000 tax). Thus, based on national data, these higher priced sales account for an estimated range of between 70 and 140 boats and approximately \$3.1 million to \$4.2 million in sales tax revenue annually in New Jersey. As the bill limits these 70 to 140 taxpayers to a maximum \$20,000 sales tax, the OLS estimates it is plausible the maximum tax could reduce sales tax revenues, and save these taxpayers, an aggregate of between \$1.0 million and \$2.0 million annually.

To the extent that the sales tax cap in the bill induces additional higher-price boat sales that would otherwise not occur, the State may gain \$20,000 tax revenue per additional higher-price boat sale.

COMMITTEE AMENDMENTS:

The amendments increase, from 30 to 90 calendar days, the limited "use" grace period under which certain boats and vessels purchased out-of-State by resident purchasers may be used within this State without incurring a use tax liability.

# LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

## ASSEMBLY, No. 3856

### STATE OF NEW JERSEY 216th LEGISLATURE

DATED: JUNE 29, 2015

#### SUMMARY

- Synopsis:** Provides maximum sales and use tax imposition amount for sales and uses of boats and vessels; establishes grace period for imposition of use tax on certain boats and vessels used by resident purchasers.
- Type of Impact:** Annual loss of State sales tax revenue deposited into the General Fund and the Property Tax Relief Fund.
- Agencies Affected:** Department of the Treasury.

#### Office of Legislative Services Estimate

Fiscal Impact	<u>Annual Impact</u>
State Revenue Loss	\$1,000,000 to \$2,000,000

- The Office of Legislative Services (OLS) has no data with which to estimate the impact of the grace period for imposition of use tax on certain boats and vessels used by resident purchasers under this bill. However, the maximum \$20,000 amount of tax imposed and collected on the sale or use of a boat or other vessel may reduce annual State tax revenues by an estimate of between \$1.0 million and \$2.0 million annually.

#### BILL DESCRIPTION

Assembly Bill No. 3856 (1R) of 2014 provides for a maximum limit on the amount of sales and use tax that can be imposed and collected on the sale or use of a boat or other vessel, and establishes a limited grace period for the imposition of use tax on certain boats and vessels that are purchased out-of-State, for use out-of-State, by New Jersey residents and subsequently used, on a temporary basis, within this State.

The bill provides that the maximum amount of tax imposed and collected on the sale or use of a boat or other vessel in this State is limited to \$20,000. This maximum limitation on the imposition of the tax is to principally apply to new sales and uses of non-commercial boats and vessels, including motorboats, sailboats, and other yachts and cruisers, that are not eligible for the exemption currently granted for sales and uses of commercial ships and vessels.



In addition, the amended bill establishes a limited grace period for the imposition of the tax on the use of certain boats and vessels by resident purchasers by providing that the use within this State of a boat or other vessel for temporary periods, not totaling more than 90 calendar days in a calendar year, is not to be subject to the State's compensating use tax. The bill requires: 1) the boat or other vessel used within this State to have been purchased by a resident of the State of New Jersey outside of this State for use outside of this State; 2) the boat or other vessel be legally operated by the resident purchaser and meet all current requirements pursuant to applicable federal law or pursuant to a federally-approved numbering system for boats and vessels adopted by another state; and 3) the resident purchaser to not be engaged in or carrying on in this State any employment, trade, business, or profession in which the boat or vessel is to be used in this State.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS has no data with which to estimate the impact of the grace period for imposition of use tax on certain boats and vessels used by resident purchasers under this bill. However, the maximum \$20,000 amount of tax imposed and collected on the sale or use of a boat or other vessel may reduce annual State tax revenues by an estimate of between \$1.0 million and \$2.0 million annually.

There is no precise State tax data from which to estimate the impact of this bill. Taxable boating sales are not tracked by the Division of Taxation. The OLS estimate is based on a series of assumptions derived from national data published in the National Marine Manufacturers Association's *2013 Recreational Boating Statistical Abstract*. The data indicate that NJ accounts for 1.3 percent of annual U.S. boating registrations and about 2.0 percent of annual U.S. powerboat retail sales. Those percentages yield New Jersey estimates of approximately 7,000 annual new boat sales, a value of approximately \$150.0 million, and an estimated average sales price of about \$21,000 per boat. Applying the State's 7 percent sales tax rate suggests that annual new boat sales in New Jersey may currently yield about \$10.5 million in sales tax revenue.

The bill's \$20,000 maximum sales tax would apply to the price of a boat up to \$285,714. The bill has no impact on taxpayers purchasing a boat priced below \$285,714. Taxpayers purchasing boats priced above \$285,714 would pay the maximum \$20,000 tax and no tax on the amount above this price. The national data indicate that the vast majority of sales are for smaller boats that fall well below \$285,714 price level. Larger, higher-price boats such as inboard cruisers account for only 1.4 percent of the US market, but 32 percent of retail sales value, and accordingly 32 percent of the estimated sales tax collection in states with a sales tax.

Assuming that between 1 percent and 2 percent of New Jersey new boat sales, and between 30 percent and 40 percent of the estimated \$10.5 million New Jersey sales tax amount, are for higher-price boats valued in excess of \$285,714 suggests that these higher-price new boat sales currently account for between 70 and 140 boats and between \$3.1 million and \$4.2 million sales tax revenue annually in New Jersey. The bill would limit these 70 to 140 taxpayers to a maximum \$20,000 sales tax. There is no distributional price data available for boat sales, so a

precise calculation of the potential tax impact is not possible. But the OLS believes it is plausible that the bill's \$20,000 maximum tax could reduce State sales tax revenues, and save these taxpayers, an aggregate of between \$1.0 million and \$2.0 million annually.

To the extent that the sales tax cap in the bill induces additional higher-price boat sales that would otherwise not occur, the State may gain \$20,000 tax revenue per additional higher-price boat sale.

*Section: Revenue, Finance and Appropriations*

*Analyst: Martin Poethke  
Lead Fiscal Analyst*

*Approved: David J. Rosen  
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

**CORRECTED COPY**

**SENATE BILL NO. 2784  
(First Reprint)**

To the Senate:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Senate Bill No. 2784 (First Reprint) with my recommendations for reconsideration.

This bill would establish a maximum sales tax imposition on the purchase of boats and other vessels in the amount of \$20,000. Additionally, this bill would establish a grace period against the imposition of the compensating use tax for vessels that are used within the State for less than 90 days in a calendar year. Lowering taxes on New Jersey residents and supporting the continued economic growth of our shore communities following the impact of Superstorm Sandy are laudable goals. However, I do not believe this bill goes far enough in accomplishing these goals.

This bill would only provide a tax cut to those individuals who are purchasing high-end boats and vessels that would have been subjected to a sales tax burden over \$20,000. It provides no relief to other individuals, including middle-class citizens, who purchase smaller boats. Accordingly, I propose a fifty percent reduction in the Sales and Use Tax on all boats and other vessels sold in New Jersey. Also, to ensure that the imposition of the use tax on boats is enforceable, I am recommending that the grace period for the use tax exemption be lowered from 90 to 30 days.

Accordingly, I herewith return Senate Bill No. 2784 (First Reprint) and recommend that it be amended as follows:

Page 2, Title, Line 1: After "providing a" insert "partial exemption and a"

Page 2, Section 1, Line 11: After "contrary," insert "receipts from the sale of a boat or other vessel are exempt to the extent of 50

percent of the tax imposed under section 3 of the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-3) and"

Page 2, Section 2, Line 18:

Delete "90" and insert "30"

Page 2, Section 2, Lines 21-23:

Delete in their entirety

Page 2, Section 2, Line 24:

Delete "(2)" and insert "(1)"

Page 2, Section 2, Line 28:

Delete "(3)" and insert "(2)"

Respectfully,

[seal]

/s/ Chris Christie

Governor

Attest:

/s/ Thomas P. Scrivo

Chief Counsel to the Governor

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## Governor Christie Takes Action On Pending Legislation

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Trenton, NJ - Governor Chris Christie announced action that has been taken on the following legislation:

**BILL SIGNINGS:**

**S-854/A-1341 (Vitale, Greenstein/Quijano, Sumter, Pinkin, Wimberly)** - Requires that certain health care facilities be generator ready; allows health care facilities to qualify for NJEDA loans for cost of generators

**S-2234/A-3397 (Thompson, Van Drew/Giblin, Clifton, O'Donnell)** - Abolishes Landscape Irrigation Contractors Examining Board in the Department of Environmental Protection and transfers regulation of landscape irrigation contractors to Department of Community Affairs

**S-2784/A-3856 (Van Drew, Whelan/Andrzejczak, Johnson)** - Provides partial exemption and maximum sales and use tax imposition amount for sales and uses of boats and vessels; establishes grace period for use tax imposition on certain boats and vessels used by resident purchasers

**A-3393/S-2167 (Spencer, Pintor Marin, Caputo, Tucker/Rice, Ruiz)** - Permits Newark to use rental car tax proceeds over three-year period to help reduce its "cash deficit for preceding year" appropriation and operational deficit

**A-3421/S-2220 (Dancer, Mukheriji/Singer)** - Revises the "Self-Funded Multiple Employer Welfare Arrangement Regulation Act"

###

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