



LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 1998

CHAPTER: 118

NJSA: 54:32B-9

"Exempt sales by charity shops"

BILL NO: S158 (Substituted for A1840)

SPONSOR(S): Kyrillos and Ciesla

DATE INTRODUCED: Pre-filed

COMMITTEE:

ASSEMBLY: Senior Issues and Community Services; Appropriations

SENATE: Budget and Appropriations

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE:

ASSEMBLY: September 28, 1998

SENATE: May 18, 1998

DATE OF APPROVAL: November 9, 1998

THE FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL: 1st Reprint

(Amendments during passage denoted by superscript numbers)

S158

SPONSORS STATEMENT: *Yes* (Begins on page 4 of original bill)

COMMITTEE STATEMENT:

ASSEMBLY: *Yes*

June 15, 1998

June 22, 1998

SENATE: *Yes*

FLOOR AMENDMENT STATEMENTS: *No*

LEGISLATIVE FISCAL ESTIMATE: *Yes*

April 16, 1998

June 26, 1998

A1840

SPONSORS STATEMENT: *Yes* (Begins on page 5 of original bill)

COMMITTEE STATEMENT:

ASSEMBLY: *Yes*

June 15, 1998

(Identical to June 15, 1998 Assembly statement for S158)

June 22, 1998

(Identical to June 22, 1998 Assembly statement for S158)

SENATE: *No*

FLOOR AMENDMENT STATEMENTS: *No*

LEGISLATIVE FISCAL ESTIMATE: *Yes*

(Identical to June 26, 1998 Fiscal Note for S158)

VETO MESSAGE: *No*

GOVERNOR'S PRESS RELEASE ON SIGNING: *Yes*

THE FOLLOWING WERE PRINTED:

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REPORTS: *No*

HEARINGS: *No*

NEWSPAPER ARTICLES: *No*

[First Reprint]

SENATE, No. 158

STATE OF NEW JERSEY
208th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 1998 SESSION

Sponsored by:

Senator JOSEPH M. KYRILLOS, JR.

District 13 (Middlesex and Monmouth)

Senator ANDREW R. CIESLA

District 10 (Monmouth and Ocean)

Co-Sponsored by:

Assemblymen Azzolina, Arnone, Assemblywoman Farragher,

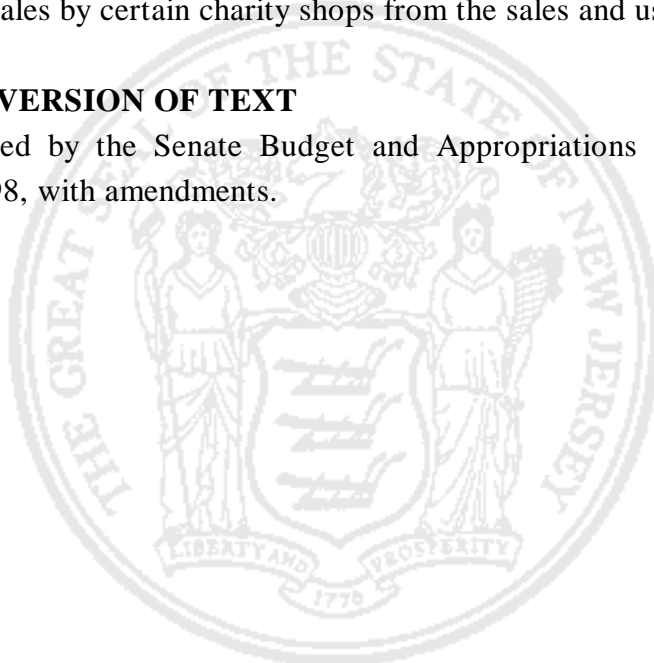
Assemblymen Corodemus, LeFevre, Blee and Thompson

SYNOPSIS

Exempts sales by certain charity shops from the sales and use tax.

CURRENT VERSION OF TEXT

As reported by the Senate Budget and Appropriations Committee on March 5, 1998, with amendments.



(Sponsorship Updated As Of: 9/29/1998)

1 AN ACT exempting sales ¹of donated goods¹ by certain shops
2 operated by tax exempt organizations from the sales and use tax,
3 amending P.L.1966, c.30.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. Section 9 of P.L.1966, c.30 (C.54:32B-9) is amended to read as
9 follows:

10 9. (a) Except as to motor vehicles sold by any of the following,
11 any sale, service or amusement charge by or to any of the following or
12 any use or occupancy by any of the following shall not be subject to
13 the sales and use taxes imposed under this act:

14 (1) The State of New Jersey, or any of its agencies,
15 instrumentalities, public authorities, public corporations (including a
16 public corporation created pursuant to agreement or compact with
17 another State) or political subdivisions where it is the purchaser, user
18 or consumer, or where it is a vendor of services or property of a kind
19 not ordinarily sold by private persons;

20 (2) The United States of America, and any of its agencies and
21 instrumentalities, insofar as it is immune from taxation where it is the
22 purchaser, user or consumer, or where it sells services or property of
23 a kind not ordinarily sold by private persons;

24 (3) The United Nations or any international organization of which
25 the United States of America is a member where it is the purchaser,
26 user or consumer, or where it sells services or property of a kind not
27 ordinarily sold by private persons.

28 (b) Except as otherwise provided in this section any sale or
29 amusement charge by or to any of the following or any use or
30 occupancy by any of the following, where such sale, charge, use or
31 occupancy is directly related to the purposes for which the following
32 have been organized, shall not be subject to the sales and use taxes
33 imposed under this act: **[(1) Any]** a corporation, association, trust,
34 or community chest, fund or foundation, organized and operated
35 exclusively for religious, charitable, scientific, testing for public safety,
36 literary or educational purposes, or for the prevention of cruelty to
37 children or animals, or as a volunteer fire company, rescue, ambulance,
38 first aid or emergency company or squad, and an association of parents
39 and teachers of an elementary or secondary public or private school
40 exempt under the provisions of this section **[9]**, no part of the net
41 earnings of which inures to the benefit of any private shareholder or

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SBA committee amendments adopted March 5, 1998.

1 individual, no substantial part of the activities of which is carrying on
2 propaganda, or otherwise attempting to influence legislation, and
3 which does not participate in, or intervene in (including the publishing
4 or distributing of statements), any political campaign on behalf of any
5 candidate for public office.

6 (c) **[(1)]** Nothing in this section shall exempt ¹**[:]** from the taxes
7 imposed under the "Sales and Use Tax Act":¹

8 (1) the sale of a motor vehicle by an organization described in
9 subsection (b)**[(1)]** of this section ¹**[from the taxes imposed under the**
10 **"Sales and Use Tax Act"]**¹ , unless the purchaser is an organization
11 exempt under this section; ¹**[or]**¹

12 (2) retail sales of tangible personal property by any shop or store
13 operated by **[such]** an organization described in subsection (b) of this
14 section ¹**[from the taxes imposed under the "Sales and Use Tax**
15 **Act"]**¹ , unless ¹the tangible personal property was received by the
16 organization as a gift or contribution and¹ the shop or store is one in
17 which substantially all the work in carrying on the business of the shop
18 or store is performed for the organization without compensation and
19 substantially all of the shop's or store's merchandise has been received
20 by the organization as gifts or contributions or **[from the taxes**
21 **imposed hereunder,]** unless the purchaser is an organization exempt
22 under this section¹**[.]; or**¹

23 ¹**[(2) Nothing in this section shall exempt]** ¹**(3)**¹ the sale or use of
24 energy or utility service to or by an organization described in
25 ¹paragraph (1) of subsection ¹**[(a)(1)] (a)**¹ or ¹**[(b)(1)] subsection**
26 **(b)**¹ of this section.

27 (d) Any organization enumerated in subsection (b)**[(1) hereof]** of
28 this section shall not be entitled to **[the]** an exemption **[herein]**
29 granted pursuant to this section unless it has complied with such
30 requirements for obtaining a tax immunity authorization as may be
31 provided in this act.

32 (e) Where any organization described in subsection (b) **[(1)**
33 **hereof]** of this section carries on its activities in furtherance of the
34 purposes for which it was organized, in premises in which, as part of
35 **[said]** those activities, it operates a hotel, occupancy of rooms in the
36 premises and rents **[therefrom]** from those rooms received by **[such**
37 **corporation or association]**the organization shall not be subject to tax
38 **[hereunder]** under the "Sales and Use Tax Act."

39 (f) (1) Except as provided in paragraph (2) of this subsection, any
40 admissions all of the proceeds of which inure exclusively to the benefit
41 of the following organizations shall not be subject to any of the taxes
42 imposed under subsection (e) of section 3 of P.L.1966, c.30
43 (C.54:32B-3):

44 (A) an organization described in paragraph (1) of subsection
45 (a)**[(1)]** or subsection (b) of this section;

1 (B) a society or organization conducted for the sole purpose of
2 maintaining symphony orchestras or operas and receiving substantial
3 support from voluntary contributions;

4 (C) national guard organizations, posts or organizations of war
5 veterans, or auxiliary units or societies of any such posts or
6 organizations, if such posts, organizations, units or societies are
7 organized in this State, and if no part of their net earnings inures to the
8 benefit of any private stockholder or individual;or

9 (D) a police or fire department of a political subdivision of the
10 State, or a volunteer fire company, ambulance, first aid, or emergency
11 company or squad, or exclusively to a retirement, pension or disability
12 fund for the sole benefit of members of a police or fire department or
13 to a fund for the heirs of such members.

14 (2) The exemption provided under paragraph (1) of this subsection
15 shall not apply in the case of admissions to:

16 (A) Any athletic game or exhibition unless the proceeds shall inure
17 exclusively to the benefit of elementary or secondary schools or unless
18 in the case of an athletic game between two elementary or secondary
19 schools, the entire gross proceeds from such game shall inure to the
20 benefit of one or more organizations described in subsection (b) **[(1)]**
21 of this section;

22 (B) Carnivals, rodeos, or circuses in which any professional
23 performer or operator participates for compensation;

24 (3) Admission charges for admission to the following places or
25 events shall not be subject to any of the taxes imposed under
26 subsection (e) of section 3 of P.L.1966, c.30 (C.54:32B-3):

27 (A) Any admission to agricultural fairs if no part of the net
28 earnings thereof inures to the benefit of any stockholders or members
29 of the association conducting the same; provided the proceeds
30 therefrom are used exclusively for the improvement, maintenance and
31 operation of such agricultural fairs.

32 (B) Any admission to a home or garden which is temporarily open
33 to the general public as a part of a program conducted by a society or
34 organization to permit the inspection of historical homes and gardens;
35 provided no part of the net earnings thereof inures to the benefit of
36 any private stockholder or individual.

37 (C) Any admissions to historic sites, houses and shrines, and
38 museums conducted in connection therewith, maintained and operated
39 by a society or organization devoted to the preservation and
40 maintenance of such historic sites, houses, shrines and museums;
41 provided no part of the net earnings thereof inures to the benefit of
42 any private stockholder or individual.

43 (cf: P.L.1997, c.162, s.27)

44

45 2. This act shall take effect immediately but remain inoperative
46 until the first day of the third month following enactment.

SENATE, No. 158

STATE OF NEW JERSEY
208th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 1998 SESSION

Sponsored by:

Senator JOSEPH M. KYRILLOS, JR.

District 13 (Middlesex and Monmouth)

Senator ANDREW R. CIESLA

District 10 (Monmouth and Ocean)

SYNOPSIS

Exempts sales by certain charity shops from the sales and use tax.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT exempting sales by certain shops operated by tax exempt
2 organizations from the sales and use tax, amending P.L.1966, c.30.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Section 9 of P.L.1966, c.30 (C.54:32B-9) is amended to read as
8 follows:

9 9. (a) Except as to motor vehicles sold by any of the following,
10 any sale, service or amusement charge by or to any of the following or
11 any use or occupancy by any of the following shall not be subject to
12 the sales and use taxes imposed under this act:

13 (1) The State of New Jersey, or any of its agencies,
14 instrumentalities, public authorities, public corporations (including a
15 public corporation created pursuant to agreement or compact with
16 another State) or political subdivisions where it is the purchaser, user
17 or consumer, or where it is a vendor of services or property of a kind
18 not ordinarily sold by private persons;

19 (2) The United States of America, and any of its agencies and
20 instrumentalities, insofar as it is immune from taxation where it is the
21 purchaser, user or consumer, or where it sells services or property of
22 a kind not ordinarily sold by private persons;

23 (3) The United Nations or any international organization of which
24 the United States of America is a member where it is the purchaser,
25 user or consumer, or where it sells services or property of a kind not
26 ordinarily sold by private persons.

27 (b) Except as otherwise provided in this section any sale or
28 amusement charge by or to any of the following or any use or
29 occupancy by any of the following, where such sale, charge, use or
30 occupancy is directly related to the purposes for which the following
31 have been organized, shall not be subject to the sales and use taxes
32 imposed under this act: **[(1) Any]** a corporation, association, trust,
33 or community chest, fund or foundation, organized and operated
34 exclusively for religious, charitable, scientific, testing for public safety,
35 literary or educational purposes, or for the prevention of cruelty to
36 children or animals, or as a volunteer fire company, rescue, ambulance,
37 first aid or emergency company or squad, and an association of parents
38 and teachers of an elementary or secondary public or private school
39 exempt under the provisions of this section **[9]**, no part of the net
40 earnings of which inures to the benefit of any private shareholder or
41 individual, no substantial part of the activities of which is carrying on
42 propaganda, or otherwise attempting to influence legislation, and
43 which does not participate in, or intervene in (including the publishing

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

Matter underlined thus is new matter.

1 or distributing of statements), any political campaign on behalf of any
2 candidate for public office.

3 (c) Nothing in this section shall exempt:

4 (1) the sale of a motor vehicle by an organization described in
5 subsection (b)~~[(1)]~~ of this section from the taxes imposed under the
6 "Sales and Use Tax Act", unless the purchaser is an organization
7 exempt under this section; or

8 (2) retail sales of tangible personal property by any shop or store
9 operated by ~~such~~ an organization described in subsection (b) of this
10 section from the taxes imposed under the "Sales and Use Tax Act",
11 unless the shop or store is one in which substantially all the work in
12 carrying on the business of the shop or store is performed for the
13 organization without compensation and substantially all of the shop's
14 or store's merchandise has been received by the organization as gifts
15 or contributions or ~~from the taxes imposed hereunder~~ unless the
16 purchaser is an organization exempt under this section.

17 (d) Any organization enumerated in subsection (b)~~[(1) hereof]~~ of
18 this section shall not be entitled to ~~the~~ an exemption ~~herein~~
19 granted pursuant to this section unless it has complied with such
20 requirements for obtaining a tax immunity authorization as may be
21 provided in this act.

22 (e) Where any organization described in subsection (b) ~~[(1)~~
23 ~~hereof]~~ of this section carries on its activities in furtherance of the
24 purposes for which it was organized, in premises in which, as part of
25 ~~said~~ those activities, it operates a hotel, occupancy of rooms in the
26 premises and rents ~~therefrom~~ from those rooms received by ~~such~~
27 corporation or association ~~the organization~~ shall not be subject to tax
28 ~~hereunder~~ under the "Sales and Use Tax Act."

29 (f) (1) Except as provided in paragraph (2) of this subsection, any
30 admissions all of the proceeds of which inure exclusively to the benefit
31 of the following organizations shall not be subject to any of the taxes
32 imposed under subsection (e) of section 3 of P.L.1966, c.30
33 (C.54:32B-3):

34 (A) an organization described in paragraph (1) of subsection
35 ~~(a)~~~~[(1)]~~ or subsection (b) of this section;

36 (B) a society or organization conducted for the sole purpose of
37 maintaining symphony orchestras or operas and receiving substantial
38 support from voluntary contributions;

39 (C) national guard organizations, posts or organizations of war
40 veterans, or auxiliary units or societies of any such posts or
41 organizations, if such posts, organizations, units or societies are
42 organized in this State, and if no part of their net earnings inures to the
43 benefit of any private stockholder or individual; or

44 (D) a police or fire department of a political subdivision of the
45 State, or a volunteer fire company, ambulance, first aid, or emergency

1 company or squad, or exclusively to a retirement, pension or disability
2 fund for the sole benefit of members of a police or fire department or
3 to a fund for the heirs of such members.

4 (2) The exemption provided under paragraph (1) of this subsection
5 shall not apply in the case of admissions to:

6 (A) Any athletic game or exhibition unless the proceeds shall inure
7 exclusively to the benefit of elementary or secondary schools or unless
8 in the case of an athletic game between 2 elementary or secondary
9 schools, the entire gross proceeds from such game shall inure to the
10 benefit of one or more organizations described in subsection (b) [(1)]
11 of this section;

12 (B) Carnivals, rodeos, or circuses in which any professional
13 performer or operator participates for compensation;

14 (3) Admission charges for admission to the following places or
15 events shall not be subject to any of the taxes imposed under
16 subsection (e) of section 3 of P.L.1966, c.30 (C.54:32B-3):

17 (A) Any admission to agricultural fairs if no part of the net
18 earnings thereof inures to the benefit of any stockholders or members
19 of the association conducting the same; provided the proceeds
20 therefrom are used exclusively for the improvement, maintenance and
21 operation of such agricultural fairs.

22 (B) Any admission to a home or garden which is temporarily open
23 to the general public as a part of a program conducted by a society or
24 organization to permit the inspection of historical homes and gardens;
25 provided no part of the net earnings thereof inures to the benefit of
26 any private stockholder or individual.

27 (C) Any admissions to historic sites, houses and shrines, and
28 museums conducted in connection therewith, maintained and operated
29 by a society or organization devoted to the preservation and
30 maintenance of such historic sites, houses, shrines and museums;
31 provided no part of the net earnings thereof inures to the benefit of
32 any private stockholder or individual.

33 (cf: P.L.1967, c.25, s.3)

34
35 2. This act shall take effect immediately but remain inoperative
36 until the first day of the third month following enactment.

37
38
39 STATEMENT

40
41 This bill allows certain charitable and public safety organizations to
42 make tax exempt sales at certain shops.

43 Currently, certain charitable and public safety organizations are
44 allowed a tax exemption for the purchases and sales they make in
45 relation to their public purposes. However, no exemption is allowed
46 for retail sales of tangible personal property made through a shop or

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5

1 store.

2 The bill allows the exempt charitable and public safety
3 organizations to make sales tax-exempt sales at stores that meet two
4 limiting requirements: substantially all of the work must be done by
5 volunteers and substantially all of the store's merchandise must have
6 been donated.

ASSEMBLY SENIOR ISSUES AND COMMUNITY SERVICES
COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 158

STATE OF NEW JERSEY

DATED: JUNE 15, 1998

The Assembly Senior Issues and Community Services Committee favorably reports Senate Bill No. 158 (1R).

This bill allows certain charitable and public safety organizations to make tax exempt sales of donated property at certain shops.

Currently, various charitable and public safety organizations are allowed a tax exemption for the purchases and sales they make in relation to their public purposes. (These exempt organizations include (1) any organization operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or for the prevention of cruelty to children or animals, (2) any voluntary fire company and any rescue, ambulance, first aid or emergency company or squad, and (3) any parent-teachers association.) However, no exemption is allowed to these organizations for retail sales of tangible personal property that they make through a shop or store.

The bill allows the exempt charitable and public safety organizations to make tax-exempt sales of tangible personal property received by gift or contribution at stores that meet two limiting requirements: substantially all of the work at the stores must be done by volunteers, and substantially all of the store's merchandise must have been donated. "Substantially all" is intended to have the same meaning it has in a parallel federal statute: all except an inconsiderable amount.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 158

STATE OF NEW JERSEY

DATED: JUNE 22, 1998

The Assembly Appropriations Committee reports favorably Senate Bill No. 158 (1R).

Senate Bill No. 158 (1R) allows certain charitable and public safety organizations to make tax exempt sales of donated property at certain shops.

Currently, various charitable and public safety organizations are allowed a tax exemption for the purchases and sales they make in relation to their public purposes. These exempt organizations include (1) any organization operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or for the prevention of cruelty to children or animals, (2) any voluntary fire company and any rescue, ambulance, first aid or emergency company or squad, and (3) any parent-teachers association. However, no exemption is allowed to these organizations for retail sales of tangible personal property that they make through a shop or store.

The bill allows the exempt charitable and public safety organizations to make tax-exempt sales of tangible personal property received by gift or contribution at stores that meet two limiting requirements: substantially all of the work at the stores must be done by volunteers, and substantially all of the store's merchandise must have been donated.

FISCAL IMPACT:

In a fiscal estimate for a similar bill introduced in the 1996-1997 session, the Office of Legislative Services (OLS) noted that, with the limitations on the exemption provided by the bill, no substantial revenue loss will result from the legislation. OLS also noted and that a substantial part of the sales of volunteer thrift stores selling donated merchandise is the sale of clothing, which is already exempt from the sales and use tax.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 158

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 5, 1998

The Senate Budget and Appropriations Committee reports favorably and with committee amendments Senate Bill No. 158.

As amended, Senate Bill No. 158 allows certain charitable and public safety organizations to make tax exempt sales of donated property at certain shops.

Currently, various charitable and public safety organizations are allowed a tax exemption for the purchases and sales they make in relation to their public purposes. (These exempt organizations include (1) any organization operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or for the prevention of cruelty to children or animals, (2) any voluntary fire company and any rescue, ambulance, first aid or emergency company or squad, and (3) any parent-teachers association.) However, no exemption is allowed to these organizations for retail sales of tangible personal property that they make through a shop or store.

The bill allows the exempt charitable and public safety organizations to make tax-exempt sales of tangible personal property received by gift or contribution at stores that meet two limiting requirements: substantially all of the work at the stores must be done by volunteers, and substantially all of the store's merchandise must have been donated.

This bill was prefiled for introduction in the 1998-1999 session pending technical review. As reported with amendments, the bill includes changes required by technical review, which has been performed.

COMMITTEE AMENDMENTS:

The committee adopted amendments to this bill to (1) restrict the merchandise to which the sales tax exemption will apply to merchandise donated to the charitable or public safety organization, and (2) incorporate changes made by P.L.1997, c.162 in the section being amended and clarify the text of that section in light of those changes and the further changes proposed by the bill.

FISCAL IMPACT:

In a fiscal estimate for this bill as introduced in the 1996-1997 session, the Office of Legislative Services (OLS) noted that with the limitations on the exemption provided by the bill, no substantial revenue loss will result from the legislation. The OLS noted that a substantial part of the sales of volunteer thrift stores selling donated merchandise is the sale of clothing, which is already exempt from the sales and use tax.

LEGISLATIVE FISCAL ESTIMATE

SENATE, No. 158

STATE OF NEW JERSEY

208th LEGISLATURE

DATED: APRIL 16, 1998

Senate Bill No. 158 of 1998 allows certain charitable and public safety organizations to make sales tax-exempt sales at certain shops.

Currently, certain charitable and public safety organizations are allowed a sales tax exemption for the purchases and sales they make in relation to their public purposes. However, no exemption is allowed for sales made through a shop or store.

The bill allows the exempt charitable and public safety organizations to make sales tax-exempt sales at stores that meet two limiting requirements: substantially all of the work must be done by volunteers and substantially all of the store's merchandise must have been donated.

Because of the limitations on the exemption provided by the bill, that the shops must sell donated merchandise and be staffed by volunteers, the Office of Legislative Services (OLS) anticipates that no substantial revenue loss will result from this bill. OLS notes further that a substantial part of the sales of volunteer thrift stores selling donated merchandise is the sale of clothing, which is already exempt from the sales and use tax.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.

FISCAL NOTE

[First Reprint]

SENATE, No. 158

STATE OF NEW JERSEY

208th LEGISLATURE

DATED: JUNE 26, 1998

Senate Bill No. 158 (1R) of 1998 allows certain charitable and public safety organizations to make sales tax-exempt sales of donated property at certain shops.

Currently, certain charitable and public safety organizations are allowed a sales tax exemption for the purchases and sales they make in relation to their public purposes. However, no exemption is allowed for sales made through a shop or store.

The bill allows the exempt charitable and public safety organizations to make sales tax-exempt sales at stores that meet two limiting requirements: substantially all of the work must be done by volunteers and substantially all of the store's merchandise must have been donated.

The Division of Taxation in the Department of the Treasury projects an annual loss of \$2.3 million as the result of this bill. They acknowledge that this figure is a maximum estimate, in that it represents all sales tax remitted by these organizations in 1996. The division has no data that allow them to narrow the estimate to reflect the potential revenue loss that would result from the limited exemptions in the bill

Because of the limitations on the exemption provided by the bill, that the items must have been donated and that the shops must sell donated merchandise and be staffed by volunteers, the Office of Legislative Services (OLS) anticipates that no substantial revenue loss will result from this bill. OLS notes further that a substantial part of the sales of volunteer thrift stores selling donated merchandise is the sale of clothing, which is already exempt from the sales and use tax.

This fiscal note has been prepared pursuant to P.L.1980, c.67.

ASSEMBLY, No. 1840

STATE OF NEW JERSEY 208th LEGISLATURE

INTRODUCED MARCH 23, 1998

Sponsored by:

Assemblyman JOSEPH AZZOLINA

District 13 (Middlesex and Monmouth)

Assemblyman MICHAEL J. ARNONE

District 12 (Monmouth)

Co-Sponsored by:

Assemblywoman Farragher, Assemblymen Corodemus, LeFevre, Blee and Thompson

SYNOPSIS

Exempts sales by certain charity shops from the sales and use tax.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/30/1998)

1 AN ACT exempting sales of donated goods by certain shops operated
2 by tax exempt organizations from the sales and use tax, amending
3 P.L.1966, c.30.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. Section 9 of P.L.1966, c.30 (C.54:32B-9) is amended to read as
9 follows:

10 9. (a) Except as to motor vehicles sold by any of the following,
11 any sale, service or amusement charge by or to any of the following or
12 any use or occupancy by any of the following shall not be subject to
13 the sales and use taxes imposed under this act:

14 (1) The State of New Jersey, or any of its agencies,
15 instrumentalities, public authorities, public corporations (including a
16 public corporation created pursuant to agreement or compact with
17 another State) or political subdivisions where it is the purchaser, user
18 or consumer, or where it is a vendor of services or property of a kind
19 not ordinarily sold by private persons;

20 (2) The United States of America, and any of its agencies and
21 instrumentalities, insofar as it is immune from taxation where it is the
22 purchaser, user or consumer, or where it sells services or property of
23 a kind not ordinarily sold by private persons;

24 (3) The United Nations or any international organization of which
25 the United States of America is a member where it is the purchaser,
26 user or consumer, or where it sells services or property of a kind not
27 ordinarily sold by private persons.

28 (b) Except as otherwise provided in this section any sale or
29 amusement charge by or to any of the following or any use or
30 occupancy by any of the following, where such sale, charge, use or
31 occupancy is directly related to the purposes for which the following
32 have been organized, shall not be subject to the sales and use taxes
33 imposed under this act: **[(1) Any]** a corporation, association, trust,
34 or community chest, fund or foundation, organized and operated
35 exclusively for religious, charitable, scientific, testing for public safety,
36 literary or educational purposes, or for the prevention of cruelty to
37 children or animals, or as a volunteer fire company, rescue, ambulance,
38 first aid or emergency company or squad, and an association of parents
39 and teachers of an elementary or secondary public or private school
40 exempt under the provisions of this section **[9]**, no part of the net
41 earnings of which inures to the benefit of any private shareholder or
42 individual, no substantial part of the activities of which is carrying on
43 propaganda, or otherwise attempting to influence legislation, and

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

Matter underlined thus is new matter.

1 which does not participate in, or intervene in (including the publishing
2 or distributing of statements), any political campaign on behalf of any
3 candidate for public office.

4 (c) **[(1)]** Nothing in this section shall exempt from the taxes
5 imposed under the "Sales and Use Tax Act":

6 (1) the sale of a motor vehicle by an organization described in
7 subsection (b)**[(1)]** of this section, unless the purchaser is an
8 organization exempt under this section; [or]

9 (2) retail sales of tangible personal property by any shop or store
10 operated by **[such]** an organization described in subsection (b) of this
11 section, unless the tangible personal property was received by the
12 organization as a gift or contribution and the shop or store is one in
13 which substantially all the work in carrying on the business of the shop
14 or store is performed for the organization without compensation and
15 substantially all of the shop's or store's merchandise has been received
16 by the organization as gifts or contributions or [from the taxes
17 imposed hereunder,] unless the purchaser is an organization exempt
18 under this section**[.]; or**

19 **[(2)]** Nothing in this section shall exempt **(3)** the sale or use of
20 energy or utility service to or by an organization described in
21 paragraph (1) of subsection [(a)(1)] (a) or [(b)(1)] subsection (b) of
22 this section.

23 (d) Any organization enumerated in subsection (b)**[(1) hereof]** of
24 this section shall not be entitled to **[the]** an exemption [herein]
25 granted pursuant to this section unless it has complied with such
26 requirements for obtaining a tax immunity authorization as may be
27 provided in this act.

28 (e) Where any organization described in subsection (b) **[(1)**
29 **hereof]** of this section carries on its activities in furtherance of the
30 purposes for which it was organized, in premises in which, as part of
31 **[said]** those activities, it operates a hotel, occupancy of rooms in the
32 premises and rents [therefrom] from those rooms received by [such
33 corporation or association]the organization shall not be subject to tax
34 **[hereunder] under the "Sales and Use Tax Act."**

35 (f) (1) Except as provided in paragraph (2) of this subsection, any
36 admissions all of the proceeds of which inure exclusively to the benefit
37 of the following organizations shall not be subject to any of the taxes
38 imposed under subsection (e) of section 3 of P.L.1966, c.30
39 (C.54:32B-3):

40 (A) an organization described in paragraph (1) of subsection
41 (a)**[(1)]** or subsection (b) of this section;

42 (B) a society or organization conducted for the sole purpose of
43 maintaining symphony orchestras or operas and receiving substantial
44 support from voluntary contributions;

45 (C) national guard organizations, posts or organizations of war

1 veterans, or auxiliary units or societies of any such posts or
2 organizations, if such posts, organizations, units or societies are
3 organized in this State, and if no part of their net earnings inures to the
4 benefit of any private stockholder or individual;or

5 (D) a police or fire department of a political subdivision of the
6 State, or a volunteer fire company, ambulance, first aid, or emergency
7 company or squad, or exclusively to a retirement, pension or disability
8 fund for the sole benefit of members of a police or fire department or
9 to a fund for the heirs of such members.

10 (2) The exemption provided under paragraph (1) of this subsection
11 shall not apply in the case of admissions to:

12 (A) Any athletic game or exhibition unless the proceeds shall inure
13 exclusively to the benefit of elementary or secondary schools or unless
14 in the case of an athletic game between two elementary or secondary
15 schools, the entire gross proceeds from such game shall inure to the
16 benefit of one or more organizations described in subsection (b) **[(1)]**
17 of this section;

18 (B) Carnivals, rodeos, or circuses in which any professional
19 performer or operator participates for compensation;

20 (3) Admission charges for admission to the following places or
21 events shall not be subject to any of the taxes imposed under
22 subsection (e) of section 3 of P.L.1966, c.30 (C.54:32B-3):

23 (A) Any admission to agricultural fairs if no part of the net
24 earnings thereof inures to the benefit of any stockholders or members
25 of the association conducting the same; provided the proceeds
26 therefrom are used exclusively for the improvement, maintenance and
27 operation of such agricultural fairs.

28 (B) Any admission to a home or garden which is temporarily open
29 to the general public as a part of a program conducted by a society or
30 organization to permit the inspection of historical homes and gardens;
31 provided no part of the net earnings thereof inures to the benefit of
32 any private stockholder or individual.

33 (C) Any admissions to historic sites, houses and shrines, and
34 museums conducted in connection therewith, maintained and operated
35 by a society or organization devoted to the preservation and
36 maintenance of such historic sites, houses, shrines and museums;
37 provided no part of the net earnings thereof inures to the benefit of
38 any private stockholder or individual.

39 (cf: P.L.1997, c.162, s.27)

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41 2. This act shall take effect immediately but remain inoperative
42 until the first day of the third month following enactment.

STATEMENT

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This bill allows certain charitable and public safety organizations to make tax exempt sales of donated property at certain shops.

Currently, various charitable and public safety organizations are allowed a tax exemption for the purchases and sales they make in relation to their public purposes. (These exempt organizations include (1) any organization operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or for the prevention of cruelty to children or animals, (2) any voluntary fire company and any rescue, ambulance, first aid or emergency company or squad, and (3) any parent-teachers association.) However, no exemption is allowed to these organizations for retail sales of tangible personal property that they make through a shop or store.

The bill allows the exempt charitable and public safety organizations to make tax-exempt sales of tangible personal property received by gift or contribution at stores that meet two limiting requirements: substantially all of the work at the stores must be done by volunteers, and substantially all of the store's merchandise must have been donated. "Substantially all" is intended to have the same meaning it has in a parallel federal statute: all except an inconsiderable amount.

ASSEMBLY SENIOR ISSUES AND COMMUNITY SERVICES
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1840

STATE OF NEW JERSEY

DATED: JUNE 15, 1998

The Assembly Senior Issues and Community Services Committee favorably reports Assembly Bill No. 1840.

This bill allows certain charitable and public safety organizations to make tax exempt sales of donated property at certain shops.

Currently, various charitable and public safety organizations are allowed a tax exemption for the purchases and sales they make in relation to their public purposes. (These exempt organizations include (1) any organization operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or for the prevention of cruelty to children or animals, (2) any voluntary fire company and any rescue, ambulance, first aid or emergency company or squad, and (3) any parent-teachers association.) However, no exemption is allowed to these organizations for retail sales of tangible personal property that they make through a shop or store.

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ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1840

STATE OF NEW JERSEY

DATED: JUNE 22, 1998

The Assembly Appropriations Committee reports favorably on Assembly Bill No. 1840.

Assembly Bill No. 1840 allows certain charitable and public safety organizations to make tax exempt sales of donated property at certain shops.

Currently, various charitable and public safety organizations are allowed a tax exemption for the purchases and sales they make in relation to their public purposes. These exempt organizations include (1) any organization operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or for the prevention of cruelty to children or animals, (2) any voluntary fire company and any rescue, ambulance, first aid or emergency company or squad, and (3) any parent-teachers association. However, no exemption is allowed to these organizations for retail sales of tangible personal property that they make through a shop or store.

The bill allows the exempt charitable and public safety organizations to make tax-exempt sales of tangible personal property received by gift or contribution at stores that meet two limiting requirements: substantially all of the work at the stores must be done by volunteers, and substantially all of the store's merchandise must have been donated.

FISCAL IMPACT:

In a fiscal estimate for a similar bill introduced in the 1996-1997 session, the Office of Legislative Services (OLS) noted that, with the limitations on the exemption provided by the bill, no substantial revenue loss will result from the legislation. OLS also noted that a substantial part of the sales of volunteer thrift stores selling donated merchandise is the sale of clothing, which is already exempt from the sales and use tax.

FISCAL NOTE

ASSEMBLY, No. 1840

STATE OF NEW JERSEY

208th LEGISLATURE

DATED: JULY 20, 1998

Assembly Bill No. 1840 of 1998 allows certain charitable and public safety organizations to make sales tax-exempt sales of donated property at certain shops.

Currently, certain charitable and public safety organizations are allowed a sales tax exemption for the purchases and sales they make in relation to their public purposes. However, no exemption is allowed for sales made through a shop or store.

The bill allows the exempt charitable and public safety organizations to make sales tax-exempt sales at stores that meet two limiting requirements: substantially all of the work must be done by volunteers and substantially all of the store's merchandise must have been donated.

The Division of Taxation in the Department of the Treasury projects an annual loss of \$2.3 million as the result of this bill. They acknowledge that this figure is a maximum estimate, in that it represents all sales tax remitted by these organizations in 1996. The division has no data that allow them to narrow the estimate to reflect the potential revenue loss that would result from the limited exemptions in the bill.

Because of the limitations on the exemption provided by the bill, that the items must have been donated and that the shops must sell donated merchandise and be staffed by volunteers, the Office of Legislative Services (OLS) anticipates that no substantial revenue loss will result from this bill. OLS notes further that a substantial part of the sales of volunteer thrift stores selling donated merchandise is the sale of clothing, which is already exempt from the sales and use tax.

This fiscal note has been prepared pursuant to P.L.1980, c.67.

Office of the Governor
NEWS RELEASE

PO BOX 004
TRENTON, NJ 08625

CONTACT: Jayne O'Connor
Gene Herman
609-777-2600

RELEASE: November 10, 1998

Gov. Christie Whitman today signed the following legislation:

A-63 allows beneficiaries of the Pharmaceutical Assistance for the Aged and Disabled (PAAD) program to receive the longer of 100 pills or a 34-day supply of medication for both the initial prescription and refills. Changes in the Fiscal Year 1999 Appropriations bill had limited to a 34-day maximum supply.

The bill was sponsored by Assembly Members Francis J. Blee (R-Atlantic), John C. Gibson (R-Cape May/Atlantic/Cumberland) and Kenneth C. LeFevre (R-Atlantic) and Guy F. Talarico (R-Bergen) and Senators Norman M. Robertson (R-Essex/Passaic) and Robert W. Singer (R-Burlington/Monmouth/Ocean).

A-809, sponsored by Assembly Member Charlotte Vandervalk (R-Bergen) and Senator Jack Sinagra (R-Middlesex), permits physician assistant to order or prescribe drugs, excluding controlled dangerous substances, both outpatient and inpatient settings. The bill requires that a supervising physician countersign and order or prescription for drugs within 48 hours of its entry by a physician assistant in an outpatient setting. The bill changes current law, which permits physician assistants to order or prescribe drugs only in an inpatient setting.

A-1332, sponsored by Assembly Members Rose Marie Heck (R-Bergen) and Guy F. Talarico (R-Bergen) and Senators Anthony R. Bucco (R-Morris) and Joseph M. Kyrillos, Jr. (R-Middlesex/Morris), clarifies that the depiction and dissemination of child pornography on the Internet is a crime under the endangering the welfare of a child statute. Endangering the welfare of a child is a second-degree crime when, among other things, a person causes or permits a child under 16 to engage in a sexual act knowing the act will be photographed or otherwise reproduced; photographs or reproduces a child engaged in a sexual act; or receives for the purpose of selling, sells or transfers a photograph of a child engaged in a sexual act.

The bill also upgrades to a crime of the first degree the offense of causing or permitting a child to engage in a sexual act knowing the act will be photographed, filmed or otherwise reproduced when the defendant is the child's parent or guardian. A first-degree crime is punishable by a prison term of between 10 and 20 years, a fine of \$200,000 or both, while a second-degree crime is punishable by a prison term of between five and 10 years and a fine of up to \$150,000 or both.

A-1511 amends current law to require that certain parents undergo substance abuse assessment when a court makes a finding of abuse or neglect and orders out-of-home placement for a child. If the law reveals positive evidence of substance abuse, the parent must demonstrate that he or she is receiving treatment and complying with the

treatment program before the child is returned to the parental home. Under previous law, a parent was required to demonstrate progress in reaching the goals that Division of Youth and Family Services established as part of a treatment program in order for a child to be returned to the home. The bill also appropriates \$50,000 for substance abuse treatment.

The bill was sponsored by Assembly Members Joseph R. Malone, 3d (R-Burlington/Monmouth/Ocean) and Melvin Cottrell (R-Burlington/Monmouth/Ocean) and Senator Robert W. Singer (R-Burlington/Monmouth/Ocean).

A-1632, sponsored by Assembly Members Gerald J. Luongo (R-Camden/Gloucester) and Peter J. Biondi (R-Morris/Somerset) and Senators Diane B. Allen (R-Burlington/Camden) and Norman M. Robertson (R-Essex/Passaic), establishes the Senior and Disabled Cooperative Housing Finance Incentive Program. The bill assists non-profit corporations in providing cooperative living opportunities for low and moderate-income senior citizens and citizens with disabilities.

The bill authorizes the New Jersey Housing and Mortgage Finance Agency to set aside some portion of its bonding capacity in order to provide mortgage loans to eligible purchasers and to assist qualified non-profit corporations in creating eligible projects.

A-1976, sponsored by Assembly Members Joseph V. Doria, Jr. (D-Hudson) and Alex DeCrose (R-Essex/Morris/Passaic), provides that surcharges levied by the Division of Motor Vehicles (DMV) are extinguished upon an individual's death once the DMV obtains a copy of the driver's death certificate. The bill also requires that the DMV obtain a death certificate when the decedent's family or estate representative does not provide the DMV with a copy of the document. Under previous practice, the DMV extinguished a decedent's surcharges when a death certificate was provided by the family of the deceased. If the certificate was not received from the family, the DMV continued to mail surcharge notices to the decedent's family

A-2077 rectifies a problem created by a previous law, A-2323, which inadvertently changed the definitions regarding modifications of open-ended and close-ended loans.

The bill clarifies that an advance of principal made with respect to any mortgage (open-ended or close-ended) other than a line of credit does not have the lien priority of the original mortgage and is not a mortgage modification.

The bill was sponsored by Assembly Members Christopher "Kip" Bateman (R-Morris/Somerset) and Peter J. Biondi (R-Morris/Somerset) and Senators Walter J. Kavanaugh (R-Morris/Somerset) and Peter A. Inverso (R-Mercer/Middlesex).

A-2223, expands the number of persons eligible to receive the New Jersey Distinguished Service Medal (DSM) from the Governor to include any state resident who was a resident of the state at the time of entry into active military service and saw active military service in a combat theater and received an honorable discharge. The expansion would also apply to deceased persons. The bill also gives the Governor the authority to issue the DSM to residents who saw active combat service and were officially listed as a POW/MIA by the United States Department of Defense. The

Department of Military and Veterans' Affairs will establish regulatory standards requiring a finding of distinguished service prior to its recommendation to the Governor to award the medal.

Under previous law, the Governor, on behalf of the state, could issue a DSM to persons who distinguished themselves by especially meritorious service and who had been cited or were expected to be cited in orders for distinguished service by the Governor or appropriate federal authority.

The legislation was sponsored by Assembly Members Louis D. Greenwald (D-Camden) and Joseph Azzolina (R-Middlesex/Morris) and Senators Diane B. Allen (R-Burlington/Camden) and John J. Mattheusen (R-Camden/Gloucester).

S-158, sponsored by Senators Joseph M. Kyrillos, Jr. (R-Middlesex/Monmouth) and Andrew R. Ciesla (R-Monmouth/Ocean) and Assembly Members Joseph Azzolina (R-Middlesex/Monmouth) and Michael J. Arnone (R-Monmouth), exempts certain shops operated to raise money for charity from state sales and use tax. The bill applies to shops run in support of organizations that are already exempt from paying the sales tax. The exemption includes any organization operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes. It also exempts any organizations operated for the prevention of cruelty to children or animals; any voluntary fire, rescue, ambulance, first aid or emergency company or squad, and any parent-teachers association.

S-700, sponsored by Senator Diane B. Allen (R-Burlington/Camden), allows Burlington Island to enter into a long-term lease to promote development designed only for recreational, conservational, educational and cultural purposes. The island's charter, established in 1852, limited to five the number of years island property could be leased for any purpose.

S-877, sponsored by Senator Shirley K. Turner (D-Mercer), requires the State Board of Education, in consultation with the Commissioner of the Department of Health and Senior Services (DHSS) to promulgate rules and regulations for the certification of persons employed by boards of education to teach swimming in public schools. The bill requires that the regulations include appropriate swimming and first aid skills necessary to protect the health and safety of students. Currently, safety standards specified in DHSS regulations require the presence of at least one person currently certified in standard first aid and cardiopulmonary resuscitation (CPR). That person must be available and readily accessible when the pool is in use. Additionally, the regulations require that at least one lifeguard be on duty for 60 or less swimmers or 2,000 square feet of surface space at all times when the pool is in use. Additional lifeguards are required based on a variety of specified factors.

S-888, sponsored by Senator Norman M. Robertson (R-Essex/Passaic) and Assembly Members Kenneth C. LeFevre (R-Atlantic) and Francis J. Blee (R-Atlantic), permits the release of certain account information by a financial institution under certain circumstances. The bill allows the release of account information to a law enforcement agency or a county protective adult services provider if the customer account is held by

a senior citizen or "vulnerable" person -- defined in the bill as a person over 18 that appears to have a physical or mental illness, disability or deficiency, etc. The bill parallels federal law allowing financial institutions to release account information to certain federal law enforcement officials.

S-955, revises the Garage Keepers Lien Act by eliminating the requirement that a motor vehicle owner post the full amount of a disputed bill or a double bond before a pre-sale hearing. The bill provides that if possession of a vehicle is refused because of a dispute over the amount owned or nonpayment, the owner may immediately bring an action in court for possession of the vehicle. The bill was sponsored by Senator John Q. Bennett (R-Monmouth) and Assembly Members Richard A. Merkt (R-Morris) and Michael Patrick Carroll (R-Morris).

S-1055, sponsored by Senator Leonard T. Connors, Jr. (R-Atlantic/Burlington/Ocean) and Gerald Cardinale (R-Bergen), prohibits charitable organizations from misleading contributors to believe their donations are to be used for charitable purposes when, in fact, the donations are used to fund legal costs and other administrative costs of the charitable organization. The bill also prohibits organizations from presenting truthful information, statements and communications in such a way that the contributor is misled into making a contribution.

AJR-21, sponsored by Assembly Member Alex DeCroce (R-Essex/Morris/Passaic), establishes an 18-member Regional Intergovernmental Transportation Coordinating Study Commission to increase regional transportation decision-making among various levels of government and to identify incentives to promote cooperation. The commission will consist of 12 public members to be appointed by the Governor; two members of both the Senate and the General Assembly; Commissioner of the Department of Transportation and the Director of the Office of State Planning.

AJR-30, sponsored by Assembly Members Marion Crecco (R-Essex/Passaic) and Gerald J. Luongo (R-Camden/Gloucester), designates November 20 of each year as "Bill of Rights Day" in New Jersey. The first ten amendments of the U. S. Constitution, known as the Bill of Rights, were ratified by the State of New Jersey on November 20, 1789.