

54:32B-3

LEGISLATIVE HISTORY CHECKLIST

NJSA 54:32B-3 (Prohibits sales tax on personal property serviced and delivered out of State)

Laws of 1977 Chapter 54

Bill No. A1787

Sponsor(s) Yates and Barbour

Date Introduced March 15, 1976

Committee: Assembly Taxation

Senate -----

Amended during passage Yes No

Date of passage: Assembly Nov. 22, 1976

Senate February 2, 1977

Date of approval April 5, 1977

Following statements are attached if available:

Sponsor statement Yes ~~No~~ Below

Committee Statement: Assembly Yes ~~No~~

Senate Yes No

Fiscal Note Yes No

Veto message Yes No

Message on signing Yes ~~No~~

Following were printed:

Reports Yes No

Hearings Yes No

Sponsor's Statement:

The purpose of this bill is to exempt a tax on tangible personal property which is serviced and delivered out of the State.

10/4/76

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CHAPTER 54 LAWS OF N. J. 19 77  
APPROVED 4-5-77

ASSEMBLY, No. 1787

STATE OF NEW JERSEY

INTRODUCED MARCH 15, 1976

By Assemblymen YATES and BARBOUR

Referred to Committee on Taxation

AN ACT to amend the "Sales and Use Tax Act," approved April 27, 1966 (P. L. 1966, c. 30).

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

1 1. Section 3 of P. L. 1966, c. 30 (C. 54:32B-3) is amended to  
2 read as follows:

3 3. Imposition of sales tax. On and after July 1, 1966 and con-  
4 tinuing through February 28, 1970 there is hereby imposed and  
5 there shall be paid a tax of 3%, and on and after March 1, 1970  
6 there is hereby imposed and there shall be paid a tax of 5% upon:

7 (a) The receipts from every retail sale of tangible personal  
8 property, except as otherwise provided in this act.

9 (b) The receipts from every sale, except for resale, of the fol-  
10 lowing services:

11 (1) Producing, fabricating, processing, printing or imprinting  
12 tangible personal property, performed for a person who directly  
13 or indirectly furnishes the tangible personal property, not pur-  
14 chased by him for resale, upon which such services are performed.

15 (2) Installing tangible personal property, or maintaining, ser-  
16 vicing, repairing tangible personal property not held for sale in  
17 the regular course of business, whether or not the services are  
18 performed directly or by means of coin-operated equipment or by  
19 any other means, and whether or not any tangible personal prop-  
20 erty is transferred in conjunction therewith, except (i) such ser-  
21 vices rendered by an individual who is engaged directly by a private  
22 homeowner or lessee in or about his residence and who is not in  
23 a regular trade or business offering his services to the public, (ii)  
24 such services rendered with respect to personal property exempt  
25 from taxation hereunder pursuant to subsection (a) of section 8,  
26 (iii) services rendered with respect to trucks, tractors, trailers or  
27 semitrailers by a person who is not engaged, directly or indirectly

28 through subsidiaries, parents, affiliates or otherwise, in a regular  
29 trade or business offering such services to the public, (iv) any  
30 receipts from laundering, dry cleaning, tailoring, weaving, press-  
31 ing, shoe repairing and shoe shining, and (v) services rendered  
32 in installing property which, when installed, will constitute an  
33 addition or capital improvement to real property, property or land.

34 (3) Storing all tangible personal property not held for sale in  
35 the regular course of business and the rental of safe deposit boxes  
36 or similar space.

37 (4) Maintaining, servicing or repairing real property, other  
38 than a residential heating system unit serving not more than three  
39 families living independently of each other and doing their cooking  
40 on the premises, whether the services are performed in or outside  
41 of a building, as distinguished from adding to or improving such  
42 real property, by a capital improvement, but excluding services  
43 rendered by an individual who is not in a regular trade or business  
44 offering his services to the public, and excluding interior cleaning  
45 and maintenance services, garbage removal and sewer services  
46 performed on a regular contractual basis for a term of not less  
47 than 30 days, other than window cleaning, and rodent and pest  
48 control.

49 (5) Advertising services except advertising services for use  
50 directly and primarily for publication in newspapers and maga-  
51 zines.

52 Wages, salaries and other compensation paid by an employer  
53 to an employee for performing as an employee the services de-  
54 scribed in this subsection are not receipts subject to the taxes  
55 imposed under this subsection (b).

56 *Services otherwise taxable under paragraph (1) or (2) of this*  
57 *subsection (b) are not subject to the taxes imposed under this*  
58 *subsection where the tangible personal property upon which the*  
59 *services were performed is delivered to the purchaser outside this*  
60 *State for use outside this State.*

61 (c) Receipts from the sale of food and drink except alcoholic  
62 beverages as defined in the Alcoholic Beverage Tax Law, in or by  
63 restaurants, taverns or other establishments in this State, or by  
64 caterers, including in the amount of such receipts any cover, mini-  
65 mum, entertainment or other charge made to patrons or customers:

66 (1) In all instances where the sale is for consumption on the  
67 premises where sold;

68 (2) In those instances where the vendor or any person whose  
69 services are arranged for by the vendor, after the delivery of the  
70 food or drink by or on behalf of the vendor for consumption off  
71 the premises of the vendor, serves or assists in serving, cooks,

72 heats or provides other services with respect to the food or drink,  
73 except for meals specially prepared for and delivered to homebound  
73A elderly, age 60 or older, and to disabled persons as all or part of  
73B any food service project funded in whole or in part by government  
73C or as part of a private nonprofit food service project available to  
73D all homebound elderly persons, age 60 or older, and to all the home-  
73E bound disabled residing within an area of service designated by the  
73F private nonprofit organization; and

74 (3) In those instances where the sale is for consumption off the  
75 premises of the vendor, and consists of a meal, or food prepared  
76 and ready to be eaten, of a kind obtainable in restaurants as the  
77 main course of a meal, including a sandwich, except where food  
78 other than sandwiches is sold in an unheated state and is of a type  
79 commonly sold in the same form and condition in food stores other  
80 than those which are principally engaged in selling prepared foods.

81 The tax imposed by this subsection (c) shall not apply to food or  
82 drink which is sold to an air line for consumption while in flight.

83 (d) The rent for every occupancy of a room or rooms in a hotel  
84 in this State, except that the tax shall not be imposed upon (1) a  
85 permanent resident, or (2) where the rent is not more than at the  
86 rate of \$2.00 per day.

87 (e) (1) Any admission charge where such admission charge is  
88 in excess of \$0.75 to or for the use of any place of amusement in  
89 the State, including charges for admission to race tracks, baseball,  
90 football, basketball or exhibitions, dramatic or musical arts per-  
91 formances, motion picture theatres, except charges to a patron for  
92 admission to, or use of, facilities for sporting activities in which  
93 such patron is to be a participant, such as bowling alleys and swim-  
94 ming pools. For any person having the permanent use or posses-  
95 sion of a box or seat or a lease or a license, other than a season  
96 ticket, for the use of a box or seat at place of amusement, the tax  
97 shall be upon the amount for which a similar box or seat is sold for  
98 each performance or exhibition at which the box or seat is used  
99 or reserved by the holder, license or lessee, and shall be paid by  
100 the holder, licensee or lessee.

101 (2) The amount paid as charge of a roof garden, cabaret or  
102 other similar place in this State, to the extent that a tax upon such  
103 charges has not been paid pursuant to subsection (c) hereof.

1 2. This act shall take effect immediately.

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#### STATEMENT

The purpose of this bill is to exempt a tax on tangible personal property which is serviced and delivered out of the State.

REFERENCE USE ONLY

ASSEMBLY COMMITTEE ON TAXATION

STATEMENT TO

ASSEMBLY, No. 1787

STATE OF NEW JERSEY

DATED: MAY 3, 1976

This bill was previously acted upon as Assembly Bill No. 1628 (Official Copy Reprint) of 1974, passed both houses but was vetoed by the Governor. The veto was based primarily upon revenue loss.

The bill proposes to exempt from the sales tax services provided by New Jersey companies on tangible personal property delivered out of state. Because New Jersey is the only State, with the possible exception of New Mexico, that imposes a sales tax on such transactions, it places New Jersey businesses at a considerable disadvantage in maintaining such operations.

The imposition of the tax is one which did not occur in the beginning years of the sales tax, but was imposed by interpretation later. Such taxes, when assessed against New Jersey businesses, in many instances incur a loss because they are unable to collect from customers after the fact.

For the above reasons, the committee reports the bill favorably for action by the General Assembly.