

13:1E-99.1

**LEGISLATIVE HISTORY CHECKLIST**  
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(Tax Sale--litter)

**NJSA:** 13:1E-99.1

**LAWS OF:** 1995 **CHAPTER:** 301

**BILL NO:** S2335

**SPONSOR(S):** Cafiero

**DATE INTRODUCED:** November 9, 1995

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

**SENATE:** Natural Resources

**AMENDED DURING PASSAGE:** Yes Amendments during passage  
First reprint enacted denoted by superscript  
numbers

**DATE OF PASSAGE:** **ASSEMBLY:** December 21, 1995

**SENATE:** December 18, 1995

**DATE OF APPROVAL:** January 3, 1995

**FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:**

**SPONSOR STATEMENT:** Yes

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

**SENATE:** Yes

**FISCAL NOTE:** No

**VETO MESSAGE:** No

**MESSAGE ON SIGNING:** Yes

**FOLLOWING WERE PRINTED:**

**REPORTS:** No

**HEARINGS:** No

See newspaper clipping--attached:

"Whitman signs bill extending State litter tax," 1-4-96, Atlantic City Press.

KBP:pp

[FIRST REPRINT]  
SENATE, No. 2335

STATE OF NEW JERSEY

INTRODUCED NOVEMBER 9, 1995

By Senators CAFIERO, CONNORS, Bubba, Kyrillos, Palaia,  
Ciesla and Matheussen

1 AN ACT concerning litter abatement and the taxation of  
2 litter-generating products, and amending P.L.1985, c.533 <sup>1</sup>and  
3 P.L.1986, c.187<sup>1</sup>.  
4

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

7 1. Section 6 of P.L.1985, c.533 (C.13:1E-99.1) is amended to  
8 read as follows:

9 6. a. There is levied upon each person engaged in business in  
10 the State as a manufacturer, wholesaler, or distributor of  
11 litter-generating products a tax of 3/100 of 1% (.0003) on sales of  
12 those products within the State, and each person engaged in  
13 business in the State as a retailer of litter-generating products a  
14 tax of 2.25/100 of 1% (.000225) on sales of those products within  
15 the State, except any retailer with less than \$250,000.00 in  
16 annual retail sales of litter-generating products is exempt from  
17 this tax. A sale by a wholesaler or distributor to another  
18 wholesaler or distributor, a sale by a company to another  
19 company owned wholly by the same individuals or companies, or a  
20 sale by a wholesaler or distributor owned cooperatively by  
21 retailers to those retailers is not subject to tax under this act.  
22 For the purposes of this act, "retailer" includes restaurants one  
23 of the principal activities of which consists of selling for  
24 consumption off the premises of the restaurant a meal or food  
25 prepared and ready to be eaten.

26 The tax on the sale of litter-generating products imposed by  
27 this subsection shall expire December 31, [1995] 2000. However,  
28 this expiration shall not affect any obligation, lien or duty to pay  
29 taxes which may be due with respect to the imposition of any  
30 levy, or interest or penalties which may accrue by virtue of any  
31 assessment, which may be made with respect to taxes levied for  
32 any taxable year or part of a taxable year, prior to January 1,  
33 [1996] 2001, nor shall this expiration affect the legal authority to  
34 assess and collect the taxes which may be due and payable under  
35 section 6 of P.L.1985, c.533 (C.13:1E-99.1), as the case may be,  
36 together with such interest and penalties as would accrue thereon  
37 under section 6 of P.L.1985, c.533 (C.13:1E-99.1), nor shall this  
38 expiration invalidate any assessment or affect any proceeding for  
39 the enforcement thereof.

40 b. Every person subject to the tax imposed pursuant to this act  
41 shall file with the director a certificate of registration on a form  
42 prescribed by the director. Any person who is registered under  
43 any law administered by the division or who is subject to and files

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 SNT committee amendments adopted December 7, 1995.

1 returns under any of these laws shall not be required to comply  
2 with the provisions of this subsection.

3 c. Every person subject to this tax shall, on or before March 15  
4 of each year, prepare and file a return, under oath, for the  
5 preceding calendar year with the director on forms and  
6 containing any information as the director shall prescribe. The  
7 return shall indicate the dollar value of the sales within the State  
8 of litter-generating products and at the same time the person  
9 shall pay the full amount of tax due.

10 d. If a return required by this act is not filed, or if a return  
11 when filed is incorrect or insufficient in the opinion of the  
12 director, the amount of tax due shall be determined by the  
13 director from whatever information may be available. Notice of  
14 the determination shall be given to the taxpayer liable for the  
15 payment of the tax. The determination shall finally and  
16 irrevocably fix the tax unless the person against whom it is  
17 assessed, within 30 days after receiving notice of the  
18 determination, shall apply to the director for a hearing, or unless  
19 the director on his own motion shall redetermine the same. After  
20 the hearing the director shall give notice of his determination to  
21 the person to whom the tax is assessed.

22 e. Any taxpayer who shall fail to file his return when due or to  
23 pay any tax when the tax becomes due, as herein provided, shall  
24 be subject to such penalties and interest as provided in the State  
25 Tax Uniform Procedure Law, R.S.54:48-1 et seq. If the director  
26 determines that the failure to comply with any provision of this  
27 section was excusable under the circumstances, he may remit any  
28 part of the penalty as shall be appropriate under the  
29 circumstances.

30 f. (1) (Deleted by amendment, P.L.1987, c.76.)

31 (2) (Deleted by amendment, P.L.1987, c.76.)

32 g. In addition to the other powers granted by this section, the  
33 director may:

34 (1) Delegate to any officer or employee of his division those  
35 powers and duties as he may deem necessary to carry out  
36 efficiently the provisions of this section, and the person or  
37 persons to whom the powers have been delegated shall possess  
38 and may exercise all of the powers and perform all of the duties  
39 delegated by the director;

40 (2) Prescribe and distribute all necessary forms for the  
41 implementation of this section; and

42 (3) Adopt any rules and regulations necessary for the  
43 implementation of this act.

44 h. The tax imposed by this section shall be governed in all  
45 respects by the provisions of the State Tax Uniform Procedure  
46 Law, R.S.54:48-1 et seq., unless otherwise provided by a specific  
47 provision of this section.

48 (cf: P.L.1992, c.150, s.1)

49 <sup>1</sup>2. Section 7 of P.L.1985, c.533 (C.13:1E-99.2) is amended to  
50 read as follows:

51 7. The Clean Communities Account is established as a  
52 nonlapsing, revolving fund in the Department of the Treasury to  
53 carry out the purposes of this act. The Clean Communities  
54 Account shall be administered by the Department of

1 Environmental Protection and credited, in addition to any  
2 appropriations made thereto, with all taxes and penalties levied  
3 or imposed pursuant to sections 6 and 10 of P.L.1985, c.533  
4 (C.13:1E-99.1 and 13:1E-99.5), and any sums received as  
5 voluntary contributions from private sources. Interest received on  
6 moneys in the account shall be credited to the account. Unless  
7 otherwise expressly provided by the specific appropriation  
8 thereof by the Legislature, which shall take the form of a  
9 discrete legislative appropriations act and shall not be included  
10 within the annual appropriations act, all available moneys in the  
11 Clean Communities Account shall be appropriated annually solely  
12 for the following purposes and no others:

13 a. 5% of the estimated annual balance of the account shall be  
14 used for a State program of litter pickup and removal, of public  
15 education and information relating to litter abatement and of  
16 enforcement of litter-related laws and ordinances in State owned  
17 places and areas that are accessible to the public;

18 b. 50% of the estimated annual balance of the account shall be  
19 distributed as State aid to eligible municipalities with total  
20 housing units of 200 or more for programs of litter pickup and  
21 removal, including establishing an "Adopt-A-Highway" program,  
22 of public education and information relating to litter abatement  
23 and of enforcement of litter-related laws and ordinances. The  
24 amount of State aid due each municipality shall be solely  
25 calculated based on the proportion which the housing units of a  
26 qualifying municipality bear to the total housing units in the  
27 State. Total housing units shall be determined using the most  
28 recent federal decennial population estimates for New Jersey and  
29 its municipalities, filed in the office of the Secretary of State;

30 c. 30% of the estimated annual balance of the account shall be  
31 distributed as State aid to eligible municipalities with total  
32 housing units of 200 or more for programs of litter pickup and  
33 removal, including establishing an "Adopt-A-Highway" program,  
34 of public education and information relating to litter abatement  
35 and of enforcement of litter-related laws and ordinances. The  
36 amount of State aid due each municipality shall be solely  
37 calculated based on the proportion which the municipal road  
38 mileage of a qualifying municipality bears to the total municipal  
39 road mileage within the State. For the purposes of this  
40 subsection, "municipal road mileage" means that road mileage  
41 under the jurisdiction of municipalities, as determined by the  
42 Department of Transportation;

43 d. 10% of the estimated annual balance of the account shall be  
44 distributed as State aid to eligible counties for programs of litter  
45 pickup and removal, including establishing an  
46 "Adopt-A-Highway" program, of public education and  
47 information relating to litter abatement and of enforcement of  
48 litter-related laws and ordinances. The amount of State aid due  
49 each county shall be solely calculated based on the proportion  
50 which the county road mileage of an eligible county bears to the  
51 total county road mileage within the State. For the purposes of  
52 this subsection, "county road mileage" means that road mileage  
53 under the jurisdiction of counties, as determined by the  
54 Department of Transportation;

1 e. The Department of Environmental Protection shall develop  
2 model municipal and county litter control programs. A model  
3 county or municipal litter control program shall provide that  
4 funds distributed from the Clean Communities Account to a  
5 county or municipality shall be used solely to supplement existing  
6 litter pickup and removal activities, and that that portion of the  
7 litter picked up with State aid made available pursuant to this  
8 subsection which is recyclable shall be recycled.

9 (1) To be eligible for State aid under this section, a  
10 municipality or county must certify to the Department of  
11 Environmental Protection the adoption of one of the programs.  
12 Upon certification by the municipality or county of the  
13 enactment of an ordinance or resolution or regional plan  
14 establishing one of the model programs, the department shall  
15 distribute the State aid based upon the percentage distribution  
16 specified in this section subject to the appropriation made  
17 therefor. [Failure by a municipality or county to certify to the  
18 department the adoption by resolution, ordinance, or regional  
19 plan, the required model program by a date to be determined by  
20 the department shall result in that municipality's or county's  
21 State aid being added to the total amount to be allocated among  
22 all eligible recipients during that year.]

23 (2) Every county and municipality shall submit an annual  
24 report to the Department of Environmental Protection on the  
25 implementation of the model program and the expenditure of  
26 funds. Failure to submit a report or submission of an  
27 unsatisfactory report shall result in a denial of future funds and  
28 an obligation to return the funds received.

29 (3) No eligible municipality shall receive less than \$4,000.00 in  
30 State aid as apportioned pursuant to subsections b. and c. of this  
31 section. A municipality or county may use up to 5% of its State  
32 aid for administrative expenses;

33 f. 5% of the estimated annual balance of the account shall be  
34 annually appropriated to and used by the department for State  
35 administrative expenses and a State public information and  
36 education program concerning antilittering activities and other  
37 aspects of responsible solid waste handling behavior;

38 g. The department shall annually submit a report to the  
39 Governor and the Legislature detailing the administration of and  
40 disbursements made from the Clean Communities Account during  
41 the previous calendar year, including the uses and expenditure of  
42 moneys appropriated to the department pursuant to subsections a.  
43 and f. of this section.

44 The department may carry forward any unexpended balances in  
45 the Clean Communities Account as of June 30 of each year.<sup>1</sup>

46 (cf: P.L.1992, c.150, s.2)

47 <sup>13.</sup> Section 8 of P.L.1986, c.187 (C.13:1E-99.9) is amended to  
48 read as follows:

49 8. The department shall report to the Governor and the  
50 Legislature on the success of the model county and municipal  
51 litter control programs in reducing litter in New Jersey not later  
52 than [May 31] August 30 of each year.<sup>1</sup>

53 (cf: P.L.1992, c.150, s.4)<sup>1</sup>

1       <sup>1</sup>[2.] 4.1 This act shall take effect immediately.

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6       Extends "sunset" provision of tax on sale of litter-generating  
7       products for additional five years.

1 returns under any of these laws shall not be required to comply  
2 with the provisions of this subsection.

3 c. Every person subject to this tax shall, on or before March 15  
4 of each year, prepare and file a return, under oath, for the  
5 preceding calendar year with the director on forms and  
6 containing any information as the director shall prescribe. The  
7 return shall indicate the dollar value of the sales within the State  
8 of litter-generating products and at the same time the person  
9 shall pay the full amount of tax due.

10 d. If a return required by this act is not filed, or if a return  
11 when filed is incorrect or insufficient in the opinion of the  
12 director, the amount of tax due shall be determined by the  
13 director from whatever information may be available. Notice of  
14 the determination shall be given to the taxpayer liable for the  
15 payment of the tax. The determination shall finally and  
16 irrevocably fix the tax unless the person against whom it is  
17 assessed, within 30 days after receiving notice of the  
18 determination, shall apply to the director for a hearing, or unless  
19 the director on his own motion shall redetermine the same. After  
20 the hearing the director shall give notice of his determination to  
21 the person to whom the tax is assessed.

22 e. Any taxpayer who shall fail to file his return when due or to  
23 pay any tax when the tax becomes due, as herein provided, shall  
24 be subject to such penalties and interest as provided in the State  
25 Tax Uniform Procedure Law, R.S.54:48-1 et seq. If the director  
26 determines that the failure to comply with any provision of this  
27 section was excusable under the circumstances, he may remit any  
28 part of the penalty as shall be appropriate under the  
29 circumstances.

30 f. (1) (Deleted by amendment, P.L.1987, c.76.)

31 (2) (Deleted by amendment, P.L.1987, c.76.)

32 g. In addition to the other powers granted by this section, the  
33 director may:

34 (1) Delegate to any officer or employee of his division those  
35 powers and duties as he may deem necessary to carry out  
36 efficiently the provisions of this section, and the person or  
37 persons to whom the powers have been delegated shall possess  
38 and may exercise all of the powers and perform all of the duties  
39 delegated by the director;

40 (2) Prescribe and distribute all necessary forms for the  
41 implementation of this section; and

42 (3) Adopt any rules and regulations necessary for the  
43 implementation of this act.

44 h. The tax imposed by this section shall be governed in all  
45 respects by the provisions of the State Tax Uniform Procedure  
46 Law, R.S.54:48-1 et seq., unless otherwise provided by a specific  
47 provision of this section.

48 (cf: P.L.1992, c.150, s.1)

49 2. This act shall take effect immediately.

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#### STATEMENT

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54 This bill would extend the expiration date of the tax on the

1 receipts from sales of litter-generating products imposed  
2 pursuant to P.L.1985, c.533 (C.13:1E-99.1 et seq.), an additional  
3 five years, from December 31, 1995 to December 31, 2000.

4 P.L.1985, c.533 imposed a tax on the sale of litter-generating  
5 products to provide funds to finance a Statewide anti-litter  
6 program. The manufacturers, wholesalers, and distributors of  
7 litter-generating products are taxed at the rate of \$300 per  
8 \$1,000,000 in sales per year; retailers, including restaurants, are  
9 taxed at the rate of \$225 per \$1,000,000 in annual sales. The  
10 fifteen categories of litter-generating products include alcoholic  
11 beverages, soft drinks, cigarettes, paper products, food and  
12 groceries, among others.

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17 Extends "sunset" provision of tax on sale of litter-generating  
18 products for additional five years.



SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[FIRST REPRINT]

SENATE, No. 2335

STATE OF NEW JERSEY

DATED: DECEMBER 11, 1995

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 2335 (1R).

Senate Bill No. 2335 (1R) would extend for an additional five years the expiration date of the tax imposed pursuant to P.L.1985, c. 533 (C.13:1E-99.1 et seq.) on the receipts from sales of litter-generating products. The tax will be extended from December 31, 1995 to December 31, 2000. This tax on the sale of litter-generating products is used to finance county and municipal anti-litter programs.

The manufacturers, wholesalers, and distributors of litter-generating products are taxed at the rate of \$300 per \$1,000,000 in sales per year; retailers, including restaurants, are taxed at the rate of \$225 per \$1,000,000 in annual sales. The tax proceeds are deposited into the Clean Communities Account administered by the Department of Environmental Protection. The fifteen categories of litter-generating products include alcoholic beverages, soft drinks, cigarettes, paper products, food and groceries, among others.

In addition, the bill amends current law to require any diversion of funds from the Clean Communities Account to take the form of a "discrete legislative appropriations act," to remove the ability of the Department of Environmental Protection to deny aid to a county or municipality that does not adopt the model litter control program by a certain date, and to permit the department to carry forward from one fiscal year to another any unexpected balances in the Clean Communities Account.

As reported, this bill is identical to Assembly Bill No. 3218 (1R) of 1995 (Gibson/Asselta).

FISCAL IMPACT

The tax on the sale of litter-generating products generated approximately \$10 million in fiscal years 1994 and 1995 and is expected to generate the same amount in fiscal year 1996.

According to information informally provided to the Office of Legislative Services by the DEP, revenues collected from the litter tax totaled \$10.3 million in FY 1994 and \$10.7 million in FY 1995. In addition, cash management investment earnings on Fund balances totaled \$474,000 in FY 1994 and \$375,000 in FY 1995. The estimated revenues and investment earnings for FY 1996 are \$10.5 million and \$350,000 respectively. In FY 1994, \$8.3 million from the Fund was distributed to 520 participating municipalities and \$1.1 million was given to all 21 counities. In FY 1995, \$7.2

million was distributed to 512 participating municipalities and \$900,000 to the counties. It should also be noted that in FY 1995, \$10.6 million was transferred from this Fund to the General Fund to help balance the FY 1995 State Budget. The opening Fund balance for FY 1996 was \$3.4 million.

The Office of Legislative Services estimates that the Clean Communities Program will continue uninterrupted if the bill is enacted. If not enacted, thus causing this tax to expire on December 31, 1995, the total FY 1996 revenue projection of \$10.5 million would still be realized because all of the tax assessments pertaining to calendar year 1995 are scheduled to be collected in March 1996. Under this scenario, however, once the total Fund balance is utilized for grant awards and administrative costs during calendar year 1996, the program would be terminated unless other funding sources can be found.

SENATE NATURAL RESOURCES, TRADE AND  
ECONOMIC DEVELOPMENT COMMITTEE

STATEMENT TO

**SENATE, No. 2335**

with committee amendments

**STATE OF NEW JERSEY**

DATED: DECEMBER 7, 1995

The Senate Natural Resources, Trade and Economic Development Committee favorably reports Senate Bill No. 2335 with committee amendments.

This bill would extend the expiration date of the tax on the receipts from sales of litter-generating products imposed pursuant to P.L.1985, c.533 (C.13:1E-99.1 et seq.), an additional five years, from December 31, 1995 to December 31, 2000.

P.L.1985, c.533 imposed a tax on the sale of litter-generating products to provide funds to finance a Statewide anti-litter program. The manufacturers, wholesalers, and distributors of litter-generating products are taxed at the rate of \$300 per \$1,000,000 in sales per year; retailers, including restaurants, are taxed at the rate of \$225 per \$1,000,000 in annual sales. The fifteen categories of litter-generating products include alcoholic beverages, soft drinks, cigarettes, paper products, food and groceries, among others.

The committee amendments: (1) prohibit the diversion of moneys in the Clean Communities Account unless expressly provided by the enactment of a discrete appropriations act by the Legislature, other than the annual appropriations act; (2) remove the requirement that unused moneys in the Clean Communities Account must be redistributed among all eligible recipients; (3) provide that the department may carry forward any unexpended balances in the Clean Communities Account as of June 30 of each year; and (4) provide that the annual report to be submitted by the department to the Governor and the Legislature on the success of the litter control program would be due by August 30 rather than by May 31 of each year.



## OFFICE OF THE GOVERNOR NEWS RELEASE

**CN-001**

**CONTACT: Becky Taylor**  
**609-777-2600**

**TRENTON, NJ 08625**

**RELEASE: Jan. 3, 1995**

Finances for the statewide anti-litter program which was first established in 1985 have been assured through legislation signed into law today by Gov. Christie Whitman.

The bill, **S-2335/A-3218**, extends the sunset provision of the tax on the sale of litter-generating products for another five years, to Dec. 31, 2000.

Sponsored by Senators James S. Cafiero (R-Cape May/Atlantic/Cumberland) and Leonard T. Connor Jr. (R-Atlantic/Burlington/Ocean) and Assemblymen John Gibson and Nicholas Asselta (R-Cape May/Atlantic/Cumberland), the bill raises approximately \$10 million annually.

Funds are deposited in the Clean Communities Account Fund managed by the N.J. Department of Environmental Protection. In 1995, DEP distributed \$7.2 million to 512 participating municipalities and \$900,000 to the 21 counties.

Manufacturers, wholesalers and distributors of litter-generating products are taxed at a rate of \$300 per \$1 million in sales per year. Retailers, including restaurants, are taxed at a rate of \$225 per \$1 million in annual sales.

The 15 categories of litter-generating products include alcoholic beverages, soft drinks, cigarettes, paper products, food and groceries, among others.

New Jersey will be reimbursed for costs associated with housing illegal aliens in state prisons under other legislation signed by Gov. Whitman which appropriates \$600,000 in federal funds to the Department of Corrections.

"New Jersey should not have to shoulder the financial burden for housing prisoners who are in this country illegally," said Gov. Whitman. "These funds will help the state offset the costs we incur in imprisoning illegal immigrants who commit crimes."

**A-3222/S-2241**, sponsored by Assemblymen Jeffrey Moran and Christopher Connors and Senators Leonard Connors (all R-Atlantic/Burlington/Ocean) and Senator Louis Kosco (R-Bergen), appropriates federal funding from the United States Department of Justice to the state Department of Corrections as reimbursement for the state's costs in incarcerating illegal aliens who are convicted of crimes in New Jersey.