

54:39A-8

LEGISLATIVE HISTORY CHECKLIST
Compiled by the NJ State Law Library

(Motor fuels use tax)

NJSA: 54:39A-8

LAWS OF: 1995 CHAPTER: 347

BILL NO: A971

SPONSOR(S): Collins and Stuhltrager

DATE INTRODUCED: Pre-filed

COMMITTEE: ASSEMBLY Appropriations

SENATE: ---

AMENDED DURING PASSAGE: No Assembly committee substitute enacted

DATE OF PASSAGE: ASSEMBLY: December 11, 1995

SENATE: December 18, 1995

DATE OF APPROVAL: January 5, 1996

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: Yes

SENATE: No

FISCAL NOTE: Yes

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

KBP:pp

ASSEMBLY COMMITTEE SUBSTITUTE FOR

ASSEMBLY, No. 971

STATE OF NEW JERSEY

ADOPTED NOVEMBER 30, 1995

Sponsored by Assemblymen COLLINS and STUHLTRAGER

1 AN ACT conforming the motor fuels use tax to the International
2 Fuel Tax Agreement to provide for entry therein, amending and
3 supplementing P.L.1963, c.44, and repealing sections 12, 13, 16,
4 17 and 18 of P.L.1963, c.44.

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

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

10 2. For the purpose of this act, unless inconsistent with the
11 context:

12 (a) "User" means every person [, firm or corporation who or
13 which] that operates or causes to be operated any qualified motor
14 vehicle on any highway in this State. The term shall include a
15 rental company in the case of a rental vehicle.

16 (b) "[Motor] Qualified motor vehicle" means [any omnibus that
17 has seats for more than 10 passengers in addition to the driver, or
18 road tractor, or any truck tractor, or any truck having a gross or
19 registered weight, whichever is greater, in excess of 18,000
20 pounds alone or in combination with a motor-drawn vehicle] a
21 motor vehicle that is not an exempt vehicle and that is used,
22 designed or maintained for transportation of persons or property;
23 and

24 (1) having two axles and a gross vehicle weight or registered
25 gross vehicle weight in excess of 26,000 pounds;

26 (2) having three or more axles, regardless of weight; or

27 (3) that is used in combination, when the weight of such
28 combination is in excess of 26,000 pounds gross vehicle weight or
29 registered gross vehicle weight.

30 Notwithstanding this definition of qualified motor vehicle, if
31 the director enters into the agreement authorized pursuant to
32 subsection b. of section 24 of P.L.1963, c.44 (C.54:39A-24), the
33 director shall, as may be required by the agreement, issue a card
34 and markers pursuant to this act to the user of an exempt vehicle
35 other than a recreational vehicle that is a New Jersey base
36 jurisdiction vehicle and that would be a qualified motor vehicle
37 but for being an exempt vehicle and the director shall administer
38 the reporting and collection of tax imposed by other member
39 jurisdictions with respect to such vehicle.

40 (c) "Exempt vehicle" means:

41 (1) Any vehicle owned or operated by an agency of this State
42 or any political subdivision thereof, or any quasi-governmental

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.

1 authority of which this State is a participating member, or any
2 agency of the federal government or the District of Columbia, or
3 of any state or province or political subdivision thereof.

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

5 (3) Vehicles operated under authority of dealer, manufacturer,
6 converter and transporter general registration plates such as
7 prescribed in R.S.39:3-18 and similar laws of other states.

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

10 (5) Vehicles operated not for profit by any religious or
11 charitable organization.

12 (6) Vehicles operated by a public utility as defined in
13 R.S.48:2-13, or under a contract with the New Jersey Transit
14 Corporation or under a contract with a county for special or rural
15 transportation bus service subject to the jurisdiction of the New
16 Jersey Transit Corporation pursuant to P.L.1979, c.150
17 (C.27:25-1 et seq.) whose operations are limited to the State of
18 New Jersey, or vehicles providing commuter bus service which
19 receive or discharge passengers in New Jersey.

20 (7) Vehicles operated, not for hire, by a farmer as defined in
21 R.S.39:3-25.

22 (8) Vehicles used to transport farm labor.

23 (9) Recreational vehicles such as motor homes, pickup trucks
24 with attached campers, and buses when used exclusively for
25 personal pleasure by an individual. A recreational vehicle is a
26 vehicle that is not used in connection with any business endeavor.

27 (d) "Operations" means operations of all qualified motor
28 vehicles, whether loaded or empty, whether for compensation or
29 not for compensation, and whether owned by, contracted for use
30 by, or leased by the user who operates or causes them to be
31 operated, except operations of an omnibus in a regular route bus
32 operation as defined in R.S.48:4-1 and under operating authority
33 conferred pursuant to R.S.48:4-3.

34 (e) The term "motor fuels" means any combustible liquid or
35 gaseous substance used, or suitable, for the generation of power
36 to propel motor vehicles.

37 (f) "Motor fuel tax " means a tax imposed at a rate equal to
38 the sum of:

39 (1) the tax rate per gallon on motor fuels imposed under
40 R.S.54:39-1 et seq.; and

41 (2) the tax rate per gallon on motor fuels imposed pursuant to
42 section 3 of P.L.1990, c.42 (C.54:15B-3).

43 (g) "Director" shall mean the Director of the Division of
44 Motor Vehicles in the Department of [Law and Public Safety]
45 Transportation.

46 (h) "Purchaser" means the person, firm or corporation who or
47 which purchased the fuel, and paid the motor [vehicle] fuel tax
48 thereon, used in the qualified motor vehicles of the user.

49 (i) ["Vendor" means any person, firm or corporation licensed,
50 or required by law to be licensed, by the Director of the Division
51 of Taxation to sell, distribute, import or transport motor fuels
52 within this State.] (Deleted by amendment, P.L. , c.)(now
53 pending before the Legislature as this bill)

54 (j) ["Bulk fuel" means fuel in quantities of not less than 500

1 gallons, delivered into storage tanks owned, or rented under lease
2 for a term of not less than one year, by the user for future
3 consumption. For the purposes of this act the term "storage
4 tanks" shall not apply to vehicle storage tanks used only to carry
5 motor fuels for use in propelling the vehicle carrying these
6 tanks.] (Deleted by amendment, P.L. , c.)(now pending before
7 the Legislature as this bill)

8 (k) "Rental vehicle" means a vehicle owned by a rental
9 company and rented to the general public on an hourly, daily,
10 trip, or other short-term basis.

11 (l) "Rental company" means a person engaged in the business
12 of renting vehicles to the general public, including motor
13 carriers, on an hourly, daily, trip, or other short term basis.

14 (m) "Commuter bus service" means regularly scheduled
15 passenger service provided by qualified motor vehicles within or
16 across the geographical boundaries of New Jersey and utilized by
17 passengers using reduced fare, multiple ride or commutation
18 tickets and shall not include charter bus operations or special bus
19 operations as defined in R.S.48:4-1 or buses operated for the
20 transportation of enrolled children and adults referred to in
21 subsection c. of R.S.48:4-1.

22 (cf: P.L.1987, c.445, s.6)

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

25 3. Every user shall pay a tax equivalent to the rate per gallon
26 of the motor [vehicle] fuel tax which is [currently] in effect for
27 the reporting period, calculated on the amount of motor fuels
28 used in its operations within this State.

29 (cf: P.L.1973, c.117, s.4).

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

32 4. Every user shall, on or before the last day of January, April,
33 July and October of each year, make to the director such
34 aggregate reports of [his] the user's entire operations during the
35 quarter ending on the last day of the preceding month as the
36 director may require.

37 If the director shall find that the administration and purpose of
38 this act would not be adversely affected thereby, [he] the
39 director may in [his] the director's discretion exempt any user
40 who [purchases in this State, and pays the motor vehicle fuel tax
41 thereon, all motor fuels used in his the user's entire operations
42 within and without this State, except for occasional emergency
43 purchases in other states] has insufficient liability to warrant
44 quarterly reporting, as determined by the director, from the
45 quarterly reporting requirements of this act. Said user may be
46 permitted to make an annual report of [his] the user's entire
47 operations [provided he has filed an affidavit to the effect that
48 he purchased in this State, and paid the motor fuels tax thereon,
49 all motor fuel used in entire operations] subject to such terms,
50 conditions or limitations as the director may prescribe.

51 (cf: P.L.1973, c.117, s.5).

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

54 6. The amount of motor fuels used in the operations of any

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

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

18 (cf: P.L.1973, c.117, s.7)

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

21 8. Every user subject to the tax hereby imposed shall be
22 entitled to a credit against such tax paid equivalent to the rate
23 per gallon of the motor fuel tax which is [currently] in effect for
24 the reporting period, for all motor fuels purchased within this
25 State by the user or a lessor of the user at the time of purchase
26 for use in the user's operations. Evidence of the purchase of
27 such fuel and the payment of such tax shall be maintained by the
28 user, as part of the records required by this act, in the form of a
29 fuel purchase receipt or invoice [supplied by the vendor] in such
30 form as [hereinafter prescribed] the director may prescribe.

31 (a) (1) When the amount of the credit herein provided to which
32 any user is entitled for any tax quarter exceeds the amount of the
33 tax for which such user is liable for the same tax quarter, such
34 excess shall be allowed as a credit [in the next succeeding tax
35 quarter]. Such credit, if not refunded, shall be allowed as an
36 offset of the liabilities of the user for the eight calendar quarters
37 following the reporting period from which the credit derived or
38 until the credit is exhausted, whichever occurs sooner.

39 (2) The user shall receive a refund of any accumulated credits
40 claimed, notwithstanding the provisions of R.S.54:49-14 to the
41 contrary, within the two year period commencing with the end of
42 the reporting period from which the credit derived; provided
43 however, that refunds shall be withheld if the user is delinquent
44 on any amounts due to be paid or collected under this act unless
45 the unpaid amount is under appeal pursuant to the requirements
46 of this act.

47 (3) Notwithstanding the provisions of section 7 of P.L.1992,
48 c.175 (C.54:49-15.1), to the contrary, interest shall be allowed on
49 a refund determined to be properly due at the rate of one percent
50 per month or part thereof, and interest shall commence to accrue
51 on the date of the filing by the taxpayer of a claim for refund of
52 an amount paid; provided however, that no interest shall be
53 allowed or paid on an amount refunded within 90 days after the
54 receipt of the claim for refund by a user.

1 (b) [When any user has established bulk motor fuel storage
2 facilities within this State and the required records of his entire
3 operations within and without this State are made available for
4 audit within this State, he shall be entitled to a refund of any
5 credit in excess of the tax due for the reporting period for those
6 bulk fuels pumped into service tanks of the vehicles; provided he
7 has submitted proof acceptable to the director that the motor
8 fuel on which motor fuel tax refund is claimed was not used
9 within this State and files an application for the refund on a form
10 provided by the division, or notifies the director in writing by
11 certified mail of his intention to file an application, within one
12 year following the end of the reporting quarter in which the fuel
13 was pumped into the service tanks of the vehicles. No refund
14 claim may be allowed when the amount claimed for a single tax
15 quarter does not exceed the tax on 2,000 gallons of motor fuel or
16 on 1% of the total fuel purchased by the user or a lessor of the
17 user in this State, whichever is greater. No refund shall be
18 allowed unless an audit of the user's records has been made by
19 the director or his employee. A refund may be allowed prior to
20 such audit if the user has given a bond issued by a surety company
21 authorized to do business within this State in an amount not less
22 than the total amount of all unaudited claims. The condition of
23 the bond shall be that if subsequent audit reveals the claim to be
24 partially or entirely unallowable the full amount of the
25 unallowable portion of the claim shall be repaid to the State
26 together with interest at the rate of 1 1/2% per month or
27 fraction thereof from the date the refund was paid to the user to
28 the date he repays the State. The bond shall remain in force until
29 the claim has been audited and approved.] (Deleted by
30 amendment, P.L. , c.)(now pending before the Legislature as
31 this bill)

32 (c) [No user shall be entitled to credit or refund for any motor
33 fuel tax otherwise lawfully paid except as herein provided and no
34 user exempt from filing quarterly reports shall be entitled to a
35 refund.] (Deleted by amendment, P.L. , c.)(now pending
36 before the Legislature as this bill)

37 (d) [Any vendor who shall deliver motor fuels into the fuel
38 tanks servicing the propulsion of any vehicle of a user or lessor of
39 the user shall provide the purchaser or his agent, at the time of
40 delivery of the fuel, with an original serially numbered receipt or
41 invoice on which is shown:

42 (1) The name and station address of the vendor, machine
43 printed or credit card imprinted.

44 (2) Date of delivery.

45 (3) Name of purchaser.

46 (4) Kind and number of gallons of fuel delivered and price per
47 gallon.

48 (5) (Deleted by amendment, P.L.1985, c.7.)

49 (6) Signature of person who received the fuel.

50 (7) Company unit number or motor vehicle license number of
51 the power unit.] (Deleted by amendment, P.L. , c.)(now
52 pending before the Legislature as this bill)

53 (e) [Any vendor who shall deliver motor fuels in bulk quantities
54 into a bulk storage or bulk transportation tank in the possession

1 of a user within this State or deliver motor fuels in bulk
2 quantities to a user in any manner within this State shall provide
3 said user with an original serially numbered receipt or invoice,
4 not later than 30 days following the end of the calendar quarter
5 during which the fuel was delivered, on which is shown:

6 (1) The name of the vendor and address from which the fuel
7 was delivered.

8 (2) The name of the purchaser and address to which the fuel
9 was delivered.

10 (3) The date of delivery.

11 (4) The kind and number of gallons of fuel delivered.

12 (5) The motor fuel tax rate per gallon charged unless the
13 purchaser is licensed to purchase said fuel without payment of
14 said tax.] (Deleted by amendment, P.L. , c.)(now pending
15 before the Legislature as this bill)

16 (f) [Any vendor, or his employee, who fails to supply a receipt
17 or invoice to the user, his agent, or lessor at the time of delivery,
18 and in the form prescribed herein shall be fined upon conviction
19 in an amount not less than \$25.00 nor more than \$100.00 for each
20 offense.] (Deleted by amendment, P.L. , c.)(now pending
21 before the Legislature as this bill)

22 (cf: P.L.1985, c.7, s.2).

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

25 9. Every user shall keep records, in such form as the director
26 reasonably may prescribe, as will enable the user to report and
27 enable the director to determine the total number of
28 over-the-road miles traveled by [his] the user's entire fleet of
29 qualified motor vehicles, the total number of over-the-road miles
30 traveled in New Jersey by said entire fleet [and], the total
31 number of gallons of motor fuel used by said entire fleet [and],
32 the total number of gallons of motor fuel purchased in New
33 Jersey for said entire fleet, and such additional information as
34 the director may prescribe as is required to determine the taxes
35 payable or collectable under this act. All such records shall be
36 safely preserved for a period of [3] 4 years in such manner as to
37 ensure their security and availability for inspection by the
38 director or any authorized assistant engaged in the administration
39 of this act. Upon application in writing, stating the reasons
40 therefor, the director may, in [his] the director's discretion,
41 consent to the destruction of any such records at any time within
42 said period. The director or [his] the director's authorized agents
43 and representatives may, at any reasonable time, inspect the
44 books and records of any user subject to the tax imposed by this
45 act. The director shall provide by regulation for any such
46 examination of books and records to be conducted at the office or
47 offices of the user where such books and records are maintained.

48 (cf: P.L.1973, c.117, s.9)

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

51 10. [The] Upon application to the director, in such form as the
52 director may prescribe, the director shall issue to every user a
53 motor fuels user identification card, which shall be safely
54 preserved in the user's offices for as long as the card is valid.

1 The user shall place a photographic copy of said card in the cab
2 of each qualified motor vehicle used in [his] the user's
3 operations. The director shall also issue for each qualified motor
4 vehicle operated by the user [an] one or more identification
5 [marker] markers, which shall be affixed to the vehicle in such
6 manner as shall be prescribed by the director. The fee for each
7 original such marker and any replacement marker shall be \$5.00.
8 Every identification card and marker shall remain the property of
9 the State and may be recalled for any violation of this act or of
10 the regulations promulgated hereunder, or for failure to pay any
11 monies due the State under this act or any other law administered
12 by the director. Identification cards and markers shall be issued
13 on an annual basis as of [April 1] January 1 of the year and shall
14 be valid through the next succeeding [March 31] December 31.
15 The form and content of the card and marker or markers shall be
16 as prescribed by the director. Any card and marker issued
17 pursuant to this act may be deemed by the director as satisfying
18 the equivalent requirements of any other law administered by
19 [him] the director, and any marker and card issued by [him] the
20 director pursuant to any other law, regulation, reciprocity
21 agreement or arrangement, or declaration may be deemed as
22 satisfying the equivalent requirements of this act. It shall be
23 illegal to operate or cause to be operated in this State any
24 qualified motor vehicle, unless the vehicle bears the
25 identification marker and carries the copy of the identification
26 card required by this section; provided, however, that upon the
27 request of a user the director may issue by mail or
28 telecommunication a permit valid for the operation of a qualified
29 motor vehicle for a period not exceeding [25] 30 days, pending the
30 application for and issuance of an identification card or marker,
31 or both. The fee for such permit shall be \$5.00, which may be
32 credited against the identification marker fee applicable to the
33 same vehicle. A user whose vehicles in the aggregate make not
34 more than six trips into or through this State in a 12-month
35 period may be issued single trip permits valid for 96 hours for
36 each round trip so made. The fee for such trip permit shall be
37 [~~\$2.50~~] \$25.00, which shall be in lieu of reports, fees and taxes
38 which may otherwise be applicable to said trip under this act.

39 b. No card or markers shall be issued to a user previously
40 issued a card or other license that is under revocation, or a user
41 whose application contains any misrepresentation, misstatement,
42 or omission of information required in the application.

43 c. A card may be suspended or revoked for failure to comply
44 with all applicable provisions of this act, including the improper
45 use of cards or markers.

46 (cf: P.L.1989, c.116, s.1)

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

49 11. a. The examination of returns and the assessment of
50 additional taxes, penalties and interest shall be as provided by the
51 State Tax Uniform Procedure Law, R.S.54:48-1 et seq., except as
52 specifically provided pursuant to P.L.1963, c.44 (C.54:39A-1 et
53 seq.).

54 b. Notwithstanding the provisions of R.S.54:49-1 to the

1 contrary, for the taxes imposed or collected pursuant to
2 P.L.1963, c.44 (C.54:39A-1 et seq.), no assessment of a
3 deficiency in tax and no levy or proceeding in court for its
4 collection shall be made or begun, except as otherwise provided
5 in R.S.54:49-5 and R.S.54:49-7, until 30 days after a notice of
6 deficiency has been mailed to the taxpayer and the time for the
7 filing of a protest with the director has expired, or, if a protest
8 with respect to the taxable period has been filed with the
9 director, until the decision of the director has become final.

10 c. Notwithstanding the provisions of subsection a. of
11 R.S.54:49-18 to the contrary, a taxpayer may appeal a finding or
12 assessment of the director within 30 days after the giving of the
13 notice of finding or assessment.

14 d. (1) Notwithstanding the provisions of R.S.54:49-4 or
15 R.S.54:49-9 to the contrary, there shall be assessed a penalty of
16 \$50 or 10% of the taxes due, whichever is greater, for the failure
17 to file a report, for the filing of a late report or for the
18 underpayment of taxes due.

19 (2) Notwithstanding the provisions of R.S.54:49-11 to the
20 contrary, the director may waive the penalties imposed pursuant
21 to paragraph (1) of this subsection if the director determines
22 there is reasonable cause for the failure to file a report, for the
23 filing of a late report or for the underpayment of taxes due.

24 e. (1) Notwithstanding the provisions of R.S.54:49-3 or
25 R.S.49-6 to the contrary, the director shall assess interest at the
26 rate of 1% per month or part thereof, from the date the tax was
27 due until the tax is paid.

28 (2) The director shall waive the payment of any part of any
29 interest attributable to the taxpayer's reasonable reliance on
30 erroneous advice furnished to the taxpayer in writing by an
31 employee of the Division of Motor Vehicles acting in the
32 employee's official capacity, provided that the interest did not
33 result from a failure of the taxpayer to provide adequate or
34 accurate information.

35 (cf: P.L.1992, c.175, s.36)

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

38 19. Except with respect to payment of a special assessment
39 imposed by the director pursuant to [sections] section 11 [, 12 and
40 13] of P.L.1963, c.44 (C.54:39A-11 [through 54:39-13]), or
41 R.S.54:49-5 or R.S.54:49-7, a user, at any time within four years
42 after payment of a tax, may file with the director a claim under
43 oath for refund, in such form as the director may prescribe,
44 stating the grounds therefor, but no claim for refund shall be
45 permitted to be filed after proceedings on appeal have been
46 commenced as provided in [section 17 of P.L.1963, c.44
47 (C.54:39A-17)] R.S.54:49-18. If, upon examination of such claim
48 for refund, it shall be determined by the director that there has
49 been an overpayment of tax, the amount of such overpayment
50 shall be credited against any liability of the user under this act
51 and if there be no such liability, the user shall be entitled to a
52 refund of the tax so overpaid. If the director shall reject the
53 claim for refund in whole or in part, [he] the director shall make
54 an order accordingly and serve a notice upon the user. This

1 section shall not apply to applications for refunds provided for
2 under section 8 of P.L.1963, c.44 (C.54:39A-8).

3 (cf: P.L.1992, c.175, s.37)

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

6 20. [(a)] a. (1) Any person who shall willfully and knowingly
7 make a false statement orally, or in writing, or in the form of a
8 receipt for the sale of motor fuel, for the purpose of obtaining or
9 attempting to obtain or to assist any other person, partnership or
10 corporation to obtain or attempt to obtain a credit or refund or
11 reduction of liability for taxes under this act, shall be guilty of a
12 misdemeanor.

13 [(b)] (2) Any person who willfully violates any other provision
14 of this act or any provision of the rules and regulations prescribed
15 under this act, except provisions of this act or of such rules and
16 regulations for the violation of which a penalty is otherwise
17 provided in this act, shall be subject to a fine of not more than
18 \$500.00 to be recovered in a summary proceeding pursuant to the
19 Penalty Enforcement Law (N.J.S. 2A:58-1 et seq.). For the
20 purposes of such proceeding, such violation shall be deemed an
21 act committed in part at the office of the director in Trenton.

22 b. In addition to the provisions and remedies contained in the
23 Penalty Enforcement Law, the following provisions and remedies
24 shall be applicable in any proceeding brought for a violation of
25 any of the provisions of this act:

26 [a.] (1) The several municipal courts shall have jurisdiction of
27 any such proceeding in addition to the courts prescribed in said
28 Penalty Enforcement Law, provided, however, that the maximum
29 fine which may be imposed by a municipal court in a proceeding
30 involving failure to exhibit an identification marker or a
31 registration card shall be \$50.00;

32 [b.] (2) The complaint in any such proceeding may be made on
33 information and belief by the director [, any motor vehicle
34 inspector] or by any member of the State Police;

35 [c.] (3) A warrant may be issued in lieu of summons;

36 [d.] (4) Any [motor vehicle inspector or any] police or peace
37 officer shall be empowered to serve and execute process in any
38 such proceeding;

39 [e.] (5) The hearing in any such proceeding shall be without a
40 jury;

41 [f.] (6) Any such proceeding may be brought in the name of the
42 Director of the Division of Motor Vehicles, in the Department of
43 [Law and Public Safety] Transportation or in the name of the
44 State of New Jersey;

45 [g.] (7) Any sums received in payment of any fines imposed in
46 any such proceeding shall be paid to the Director of the Division
47 of Motor Vehicles and shall be paid by [him] the director into the
48 State Treasury .

49 (cf: P.L.1973, c.117, s.19)

50 11. Section 24 of P.L.1963, c.44 (C.54:39A-24) is amended to
51 read as follows:

52 24. a. The director shall from time to time promulgate such
53 regulations as may be necessary for the effective enforcement of
54 this act.

1 b. The director is authorized to enter into the International
2 Fuel Tax Agreement for the reporting and payment of tax to a
3 single base state and the administration of motor fuel use taxes
4 and their distribution to member states. Notwithstanding any
5 provisions of this act to the contrary, in furtherance of the
6 International Fuel Tax Agreement the director is authorized to:

7 (1) prescribe uniform rules in compliance with the
8 International Fuel Tax Agreement to determine the base state for
9 users, user records requirements, audit procedures, exchange of
10 information, persons eligible for licensing with this State as their
11 base state, the form of licenses and markers issued to this
12 State's base licensees and the recognition of the licenses and
13 markers issued by other base states, to maintain base jurisdiction
14 accounting for such users, to require bonds to secure the payment
15 of taxes, to specify reporting periods, to determine the methods
16 for collecting and forwarding taxes and interest to other member
17 taxing jurisdictions and such other provisions as will facilitate the
18 administration of the agreement;

19 (2) forward to the proper officers of another member
20 jurisdiction or their agent any information in the director's
21 possession relating to the manufacture, distribution or sale of
22 motor fuels, the administration of taxes pursuant to the
23 agreement, or the location of the property or personnel of motor
24 fuel users in this State or another member jurisdiction;

25 (3) assume the base jurisdiction auditing responsibilities; and

26 (4) adopt such other regulations as may be required to
27 administer, enforce or maintain compliance with the agreement.

28 c. Notwithstanding the provisions of any other law to the
29 contrary, the director may, in connection with the administration
30 of taxes under an agreement entered into pursuant to subsection
31 b. of this section, enter into an agreement with other member
32 jurisdictions and any financial institutions with respect to the
33 payment of taxes or interest to such financial institutions and the
34 filing of tax reports with such financial institutions as agents of
35 the director and such other member jurisdictions.

36 (cf: P.L.1963, c.44, s.24)

37 12. (New section) There is created within the State General
38 Fund a special fund to be known as the "motor fuel use tax
39 distribution fund" into which there shall be deposited all fuel use
40 taxes, and interest thereon, collected for other member taxing
41 jurisdictions of the International Fuel Tax Agreement. Monies in
42 the "motor fuel use tax distribution fund" shall be held in trust by
43 the State on behalf of other member taxing jurisdictions until
44 distributed pursuant to the agreement, and shall not be
45 considered funds of the State and shall not be appropriated for
46 any purpose other than distribution pursuant to the agreement.

47 13. (New section) a. Notwithstanding the provisions of section
48 1 of P.L. , c. (now pending before the Legislature as this bill),
49 to the contrary, the change in definition of subject vehicles in
50 subsection (b) of section 2 of P.L.1963, c.44 (C.54:39A-2) made
51 by section 1 of P.L. , c. , shall not affect any obligation, lien
52 or duty to pay taxes, interest or penalties which have accrued or
53 may accrue by virtue of any taxes imposed pursuant to the
54 provisions of the law amended by this act, or which may be

1 imposed with respect to any redetermination, correction,
2 recomputation or deficiency assessment; and provided that all
3 taxes and returns which would have been due and payable under
4 the provisions of P.L.1963, c.44, prior to its amendment by
5 P.L. , c. (now pending before the Legislature as this bill) shall
6 be due and payable as if P.L. , c. , had not been enacted; and
7 provided that P.L. , c. , shall not affect the legal authority of
8 the State to audit records and assess and collect taxes due or
9 which may be due, together with such interest and penalties as
10 have accrued or would have accrued thereon pursuant to
11 P.L.1963, c.44, prior to its amendment by P.L. , c. ; and
12 provided that P.L. , c. , shall not affect any determination
13 of, or affect any proceeding for, the enforcement thereof.

14 b. Notwithstanding the provisions of section 1 of P.L. , c.
15 (now pending before the Legislature as this bill) to the contrary,
16 the change in definition of "motor fuel tax" in subsection (f) of
17 section 2 of P.L.1963, c.44 (C.54:39A-2) made by section 1 of
18 P.L. , c. , shall not affect taxes, interest or penalties,
19 continued pursuant to subsection a. of this section.

20 c. Notwithstanding the provisions of section 5 of P.L. , c.
21 (now pending before the Legislature as this bill), to the contrary,
22 the amount of credit against tax paid allowed pursuant to
23 subsection (a) of section 8 of P.L.1963, c.44 (C.54:39A-8), for a
24 tax quarter ending prior to July 1, 1996 shall not be refundable.
25 and shall be allowed as a credit in the next succeeding tax
26 quarter, except as provided in subsection d. of this section.

27 d. Amounts of credit in excess of the tax due for the reporting
28 period for bulk fuels pumped into the service tanks of vehicles for
29 tax quarters ending prior to July 1, 1996 and refundable pursuant
30 to subsection (b) of section of section 8 of P.L.1963, c.44
31 (C.54:39A-8), but for the amendments made thereto by section 5
32 of P.L. , c. (now pending before the Legislature as this bill)
33 shall be refunded if the user files an application for the refund
34 within one year following the end of the reporting quarter in
35 which the fuel was pumped into the service tanks of the vehicles,
36 and shall otherwise be subject to the provisions of subsection (a)
37 of section 8 of P.L.1963, c.44.

38 e. Notwithstanding the provisions of section 10 of P.L.1963,
39 c.44 (C.54:39A-10) to the contrary, cards and markers issued
40 prior to July 1, 1996, and still valid on that date shall remain
41 valid through December 31, 1996, except as provided in
42 subsection c. of section 10 of P.L.1963, c.44.

43 14. Sections 12, 13, 16, 17 and 18 of P.L.1963, c.44
44 (C.54:39A-12, 54:39A-13, 54:39A-16, 54:39A-17 and 54:39A-18)
45 are repealed.

46 15. This act shall take effect immediately and sections 1
47 through 9 and section 12 of this act shall remain inoperative until
48 July 1, 1996.

49

50

51

52

53 _____
54 Confirms the motor fuels use tax to the International Fuel Tax
Agreement to provide for entry therein.

1 was delivered.

2 (3) The date of delivery.

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

4 (5) The motor fuel tax rate per gallon charged unless the
5 purchaser is licensed to purchase said fuel without payment of
6 said tax.

7 (f) Any vendor, or [his] vendor's employee, who fails to supply
8 a receipt or invoice to the user, [his] the user's agent, or lessor
9 at the time of delivery, and in the form prescribed herein shall be
10 fined upon conviction in an amount not less than \$25.00 nor more
11 than \$100.00 for each offense.

12 (cf: P.L.1985, c.7, s.2)

13 2. This act shall take effect on the first day of the calendar
14 quarter next commencing after enactment.

15

16

17

STATEMENT

18

19 This bill permits certain motor fuel use tax filers to receive a
20 refund of any excess motor fuel use tax credits.

21 Under the "Motor Fuels Use Tax Act of 1963," P.L.1963, c.44
22 (C.54:39A-1 et seq.) a filer must pay a tax, equal to the rate in
23 effect under the motor fuels tax, R.S.54:39-1 et seq., on the
24 amount of fuel used in its operations in this State. The filer is
25 allowed a use tax credit for tax paid on motor fuels purchased in
26 this State. A refund is now available only to a person who has
27 established a bulk motor fuel storage facility in this State.

28 Under the bill refunds of excess credit will be granted to all
29 applicants under substantially the same conditions which now
30 apply for refunds to persons with bulk motor fuels storage
31 facilities. For all refund applicants the refund will no longer be
32 conditioned upon a prior audit of the applicant's records. An
33 audit of a refund applicant's records is still required within
34 twelve months after the refund has been approved, and applicants
35 must maintain a bond in the amount of all unaudited refund
36 claims to ensure that, if a refund is disallowed after an audit, the
37 refunded amount, together with interest, can be repaid to the
38 State.

39

40

41

42

43 Modifies refund provisions of motor fuels use tax.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR

ASSEMBLY, No. 971

STATE OF NEW JERSEY

DATED: NOVEMBER 27, 1995

The Assembly Appropriations Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 971.

This Assembly Committee Substitute for Assembly Bill No. 971 conforms the motor fuels use tax to the International Fuel Tax Agreement. Currently, New Jersey imposes a motor fuel tax to provide for maintenance of its highways. New Jersey also imposes a motor fuel use tax, to assure that large commercial motor vehicles that use New Jersey highways, but purchase their fuel outside of New Jersey, also pay their fair share of the costs of highway maintenance. The current system of assessing the use tax requires that every large commercial motor vehicle that uses New Jersey highways report its mileage within and outside of New Jersey and pay New Jersey a tax equal to the motor fuel tax on its proportional New Jersey fuel use.

Federal law forbids the imposition, maintenance or enforcement after September 30, 1996, of a fuel use tax that is not in conformity with the International Fuel Tax Agreement (IFTA). IFTA is a simpler system for administering fuel use taxes. Instead of every highway user reporting to each state in which it operates, a highway user registers with and reports to a single base state, which then cooperatively administers the highway use taxes of every state in which the highway user operates. A state can conform to IFTA without the state being a member of the agreement implementing the shared administrative responsibilities.

This substitute implements conforming changes effective July 1, 1996. By amending the current law to the extent necessary to conform it to the substantive requirements of IFTA and providing for the implementation of membership in the agreement, the substitute provides for the maintenance of a conforming motor fuel use tax while full IFTA implementation is pending.

To conform to IFTA requirements this substitute adopts the IFTA definition of "qualified motor vehicle." Recreational vehicles are added to the list of exempt vehicles, as required by IFTA. While IFTA permits a state to have its own exemptions, jurisdictions are required to collect taxes and enforce fuel tax reporting pursuant other jurisdictions' laws regarding vehicles taxed in their jurisdictions. Because under IFTA New Jersey must still administer the tax for other jurisdictions in which the vehicles might travel, the definition provides that if the Director of the Division of Motor Vehicles (DMV) enters into the agreement, the director shall issue cards and markers to the exempt vehicles and administer the reporting and collection of other jurisdictions' taxes on those vehicles.

The substitute redefines the tax rate collected to provide a composite rate equal to the sum of the motor fuel tax

(N.J.S.A.54:39-1 et seq.) and the petroleum products gross receipts tax (N.J.S.A.54:15B-1 et seq.). This change equalizes the effective motor fuel use tax rate to the rate that a purchaser in New Jersey would pay at the pump. The substitute also provides the director the maximum discretion under IFTA to allow annual reporting instead of quarterly reporting for taxpayers with minimal liability, and makes some IFTA required adjustments to reporting requirements.

Currently, certain bulk fuel purchasers are allowed refunds for fuel purchased in New Jersey and used elsewhere if a refund is claimed within one year of the end of the reporting quarter in which the fuel was used. All other users are allowed a credit for such tax-paid uses which may be applied only to the quarter following the quarter of use, and are denied any refunds. IFTA requires that all users be allowed credits for eight quarters succeeding the quarter of use, or refunds of excess credits (if the user is in good standing as to taxes paid) within two years of the quarter of the fuels' use. The substitute provides for the required credits and refunds for all taxpayers.

The substitute provides the director additional authority to require records, for example of non-New Jersey use where appropriate to administer other states' taxes that are collectable under IFTA but not imposed under New Jersey laws. IFTA requires that licensing and decals be issued on annual application, effective for a calendar year, with a withholding of a license renewal from a user not in good standing and the revocation of license if a user fails to comply with IFTA requirements. The substitute adds these provisions, and the license and marker period is changed from an April through March fiscal year to a calendar year as required by IFTA. IFTA allows for a 30 day temporary permit pending issuance of a license, and the substitute changes the current 25 day permit to a 30 day permit. The substitute also increases the fee for a trip permit, which acts as a substitute for the IFTA apportionment provisions, from \$2.50 to \$25.

Currently the motor fuel use tax is administered and enforced pursuant to the State Tax Uniform Procedure Law, 54:48-1 et seq. The uniform procedure law provides for the uniform administration of all State tax laws and the motor fuel use tax has some provisions which depart from the uniform law in ways appropriate to the administration of a tax imposed on vehicles in interstate transit. IFTA requires states to adopt certain uniform interest, penalty and appeal procedures. To implement these interstate uniformity procedures, the substitute overrides the New Jersey State tax uniform procedure law. The substitute provides for a 30 day delinquency before lien procedures may attach, imposes the greater of a \$50 or 10% penalty for failure to file, late filing or underpayment and interest on late payments and deficiencies of one percent per month, and makes conforming technical changes. The substitute repeals sections of law that duplicate provisions of the State tax uniform law or that were appropriate for taxpayers without a base of operations in New Jersey but will be inappropriate for the base jurisdiction system contemplated by IFTA.

The supplement gives the Director of the DMV the power to enter into IFTA and administer State responsibilities under the

agreement. The provisions allowing the director to apply for entry into the agreement are effective immediately.

Finally, the substitute provides transition rules for the change in tax approaches and administration. The substitute provides that those taxpayers who are excluded from taxation by the new standard for qualified motor vehicles will still have the rights and liabilities they accrued prior to July 1, 1996 and that credits and refunds for fuel use before July 1, 1996 will be administered pursuant to the rules in effect before July 1, 1996. The substitute shifts licensing from a fiscal year system to a calendar year system.

FISCAL IMPACT:

Minimal revenue impact is anticipated in State fiscal year 1997 with the implementation of new rules. With full implementation of all IFTA provisions for full fiscal years following 1997, the OLS expects that the net effect of the numerous changes could be a loss of up to \$10 million annually; however, under federal law a failure to enact legislation conforming to IFTA results in the inability to enforce a motor fuel use tax, with the potential loss of \$25 million to \$50 million annually beginning in fiscal year 1997.

LEGISLATIVE FISCAL ESTIMATE TO
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 971

STATE OF NEW JERSEY

DATED: December 22, 1995

Assembly Committee Substitute to Assembly Bill No. 971 of 1994 would amend and supplement the Motor Fuels Use Tax Act to enable the State to conform and apply for entry in the International Fuel Tax Agreement (IFTA). The following provisions have fiscal implications for the State.

1. Raises threshold for motor fuels use licensure from 18,000 pounds gross vehicle weight to 26,000 pounds. This category of trucks is the smallest number subject to fuel use licensure in New Jersey, according to U.S. Bureau of Census data for 1992. Truck producers make very few of these vehicles now. The OLS estimates the loss of decal fees will be less than \$100,000 per year for these mostly local service vehicles. Impacts FY 1997 and thereafter.

2. Makes the fuel use tax rate the same as the motor fuel tax rate. In-state truckers pay 17.5 cents per gallon for diesel purchased at the pump. Out-of-state truckers pay 13.5 cents per gallon on fuel imported and consumed in the State. The OLS estimates the State will gain \$1.9 million annually by establishing fuel tax equity between users. Impacts FY 1997 and thereafter.

3. Specifies methods of credit and refund of motor fuel taxes when purchases of fuel in New Jersey exceed fuel use taxes owed by carriers based on travel in New Jersey. Presently, New Jersey allows credits for excess tax payments but the credits lapse if they are not used. IFTA requires a refund system. There is strong evidence out-of-state truckers intentionally overpurchase fuel in New Jersey. The OLS estimate of refunds is combined with other tax loss estimates in item number 6 below. Impacts FY 1997 part year, FY 1998 full year.

4. Decal fee of \$5.00 is unchanged, however, IFTA requires every commercial truck to have two fuel tax decals. New Jersey has been charging \$5.00 for one decal. Decal sales have been increasing sharply over the last 18 to 24 months. This may be due to the start of IFTA in other states and the lack of New Jersey conformity. Under any circumstance the number of decals issued will drop significantly in fiscal year 1997. The estimate of net revenue loss is combined with other estimates in number 6 below.

5. Increases fee for trip permits from \$2.50 to \$25.00. New Jersey issues very few trip permits now. States are raising the fee to \$50.00 and more. If IFTA is administered the same in all states, few trip permit requests will occur. There is no revenue gain. There will be a nominal loss.

6. Base jurisdiction, single license system, tax refunds, strengthened auditing nationwide. The OLS believes these features will heighten the accuracy of taxpayer compliance eventually. Currently, some carriers purchase more fuel in New Jersey than they use. It appears others assign more miles of travel to the State than is actually travelled. In either case, New Jersey receives taxes it is not due legitimately. The excess tax payments will be refunded. It is reported some out-of-state carriers are expected to resume purchasing fuel again in the State with tax rate equalization. This will increase taxes paid at the pump and decrease use tax payments. The OLS estimates all of the factors associated with IFTA could cause a \$10 million loss of direct tax revenue on an annual basis.

Precise estimates by fiscal years of the net effect of all of the taxpayer behavior driven changes are problematical in the transition to the unified IFTA system. Three separate fuel tax structures are involved. The OLS does not foresee any noticeable impact on fiscal year 1996. The OLS estimates the impact in fiscal year 1997 could range from a net loss of revenue of \$5 million to \$7.5 million. The range for fiscal year 1998 rises to \$7.5 million to \$10.0 million.

The OLS notes that it has estimated that the State could lose \$25 million to \$50 million of direct tax payments per year if it does not conform with IFTA.

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

LEGISLATIVE FISCAL ESTIMATE TO
ASSEMBLY, No. 971
STATE OF NEW JERSEY

DATED: November 17, 1994

Assembly Bill No. 971 of 1994 would amend the Motor Fuels Use Tax Act to permit commercial vehicle operators who are required to file motor fuels use tax reports to apply for and receive a refund of an excess credit of taxes paid on motor fuel purchased in this state but consumed in another state. A refund is now available only to operators of large commercial vehicles in New Jersey who have established a bulk motor fuel storage facility in this State. Refunds of excess credits would be granted to applicants under substantially the same conditions that now apply for refunds to persons with bulk motor fuels storage facilities, except that approval and payment of the refund would not be conditioned upon the performance of an audit of the applicant's records. An audit of a refund applicant's records would still be required but it could be performed within twelve months after the refund was approved. Refund applicants would be required to maintain a bond in the amount of all unaudited refund claims to ensure that the refunded amount, together with interest, would be repaid to the State if a refund is disallowed after an audit.

Representatives of the Division of Motor Vehicles (DMV), administrator of the motor carrier registration system and the motor fuels use tax, testified before the Assembly Appropriations Committee in 1993 on a similar bill, A-1755 (1R) of 1992. The DMV estimated at that time that approximately \$11.5 million of unused excess motor fuels tax credits lapse each year after a 12 month grace period. These unused credits represent about 85 million gallons of diesel fuel apparently purchased intentionally in New Jersey for use in other states in a given year. According to the Division, over 90 percent of the 35,000 out-of-state motor carriers registered in New Jersey would become eligible for excess credit refunds. DMV believed in 1993 that the excess credit situation was due to the fact that New Jersey had (and still has) the lowest diesel fuel taxes in the Middle Atlantic-Northeast region and one of the lowest effective rates of tax in the nation. Besides the \$11.5 million cost projected by DMV, it was indicated in the testimony that at least 12 auditors would have to be hired to enforce the provisions of the prior bill at a cost of \$500,000 and out-of-state auditing would have to be resumed. Finally, the DMV noted that the concerns addressed by the bill would be resolved in 1996 when New Jersey must start enforcing the provisions of the International Fuel Tax Agreement (IFTA), a mandate contained in the federal Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA).

The Office of Legislative Services (OLS) accepted the cost estimate made public by the Division of Motor Vehicles in 1993 but noted the first year's refund expense alone could be at least \$23

million. This would occur because the tax statute permits motor carrier firms to carry unpaid refund claims forward for four quarters. The excess credits that lapse would be eligible for refunding in addition to the four quarterly returns being filed during the first year of the enactment of the legislation. The OLS notes the largest sum of net motor fuels use tax receipts recorded in the last five years was \$9.8 million in fiscal year 1994. Consequently, the State would have to use regular motor fuel tax receipts or other general fund revenues to finance the refunds. With respect to the increased administrative costs estimated by the Division of Motor Vehicles previously, the OLS notes the State probably will incur these costs anyway when the State joins IFTA and implements a companion motor carrier registration system known as the International Registration Plan (IRP) mandated in the federal ISTEA legislation. The State must join no later than September 30, 1996 or it will risk losing motor carrier registration fees and fuel use taxes. Motor carrier operators will be able to select a "base" state, file a single registration application for a vehicle and a single fuel use tax report. It will be the responsibility of the base state to apportion the registration fees and use taxes according to the interstate mileage data supplied by the carriers. The base state will transmit the appropriate fees and taxes to the IRP-IFTA member states on behalf of a carrier. Non-member state's motor carrier laws effectively will be unenforceable against vehicles registered in IRP-IFTA participating states after September 30, 1996.

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.

ASSEMBLY, No. 971
STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1994 SESSION

By Assemblymen COLLINS and STUHLTRAGER

1 AN ACT modifying the refund provisions of the motor fuels use
2 tax, and amending P.L.1963, c.44.

3

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

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

8 8. Every user subject to the tax hereby imposed shall be
9 entitled to a credit against such tax paid equivalent to the rate
10 per gallon of the motor fuel tax which is currently in effect, for
11 all motor fuels purchased within this State by the user or a lessor
12 of the user at the time of purchase for use in the user's
13 operations. Evidence of the purchase of such fuel and the
14 payment of such tax shall be maintained by the user, as part of
15 the records required by this act, in the form of a fuel purchase
16 receipt or invoice supplied by the vendor in such form as
17 hereinafter prescribed.

18 (a) When the amount of the credit herein provided to which
19 any user is entitled for any tax quarter exceeds the amount of the
20 tax for which such user is liable for the same tax quarter, such
21 excess shall be allowed as a credit in the next succeeding tax
22 quarter or the excess shall be refunded pursuant to the provisions
23 of subsection (b) of this section.

24 (b) [When any] A user [has], including a user with an
25 established bulk motor fuel storage [facilities] facility within this
26 State [and], that is in compliance with the requirements of
27 P.L.1963, c.44 (C.54:39A-1 et seq.), and makes the required
28 records of [his] its entire operations within and without this State
29 [are made] available for audit within this State[, he] shall be
30 entitled to a refund of any credit in excess of the tax due for
31 [the] a reporting period [for those bulk fuels pumped into service
32 tanks of the vehicles; provided he has submitted proof acceptable
33 to the director that the motor fuel on which motor fuel tax
34 refund is claimed was not used within this State and files]. The
35 user shall file an application for the refund on a form provided by
36 the division, or [notifies] shall notify the director in writing by
37 certified mail of [his] the user's intention to file an application,
38 within one year following the end of the reporting quarter [in
39 which the fuel was pumped into the service tanks of the vehicles]
40 for which a refund will be claimed. The director shall require an
41 application for refund to be supported by such documents and
42 information as the director deems necessary to substantiate the
43 refund claim.

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.

1 No refund claim may be allowed when the amount claimed for
2 a single tax quarter does not exceed the tax on 2,000 gallons of
3 motor fuel or on 1% of the total fuel purchased by the user or a
4 lessor of the user in this State, whichever is greater. [No refund
5 shall be allowed unless an audit of the user's records has been
6 made by the director or his employee.]

7 [A] If an application for a refund is approved, the refund [may]
8 shall be [allowed prior to such audit] paid if the user has given a
9 bond issued by a surety company authorized to do business within
10 this State in an amount not less than the total amount of all
11 unaudited claims. The condition of the bond shall be that if a
12 subsequent audit reveals the claim to be partially or entirely
13 unallowable the full amount of the unallowable portion of the
14 claim shall be repaid to the State together with interest at the
15 rate of 1 1/2% per month or fraction thereof from the date the
16 refund was paid to the user to the date [he] the user repays the
17 State. The bond shall remain in force until the claim has been
18 audited and approved.

19 The director shall audit the records of a user who receives a
20 refund pursuant to this section within twelve months following
21 the approval of the refund. However, the failure of the director
22 to perform an audit within the twelve-month period shall not be
23 grounds for denial of any future applications for refund by the
24 user.

25 (c) No user shall be entitled to credit or refund for any motor
26 fuel tax otherwise lawfully paid except as herein provided [and no
27 user exempt from filing quarterly reports shall be entitled to a
28 refund].

29 (d) Any vendor who shall deliver motor fuels into the fuel
30 tanks servicing the propulsion of any vehicle of a user or lessor of
31 the user shall provide the purchaser or [his] the purchaser's
32 agent, at the time of delivery of the fuel, with an original serially
33 numbered receipt or invoice on which is shown:

34 (1) The name and station address of the vendor, machine
35 printed or credit card imprinted.

36 (2) Date of delivery.

37 (3) Name of purchaser.

38 (4) Kind and number of gallons of fuel delivered and price per
39 gallon.

40 (5) (Deleted by amendment, P.L.1985, c.7)

41 (6) Signature of person who received the fuel.

42 (7) Company unit number or motor vehicle license number of
43 the power unit.

44 (8) Motor fuel tax rate charged per gallon.

45 (e) Any vendor who shall deliver motor fuels in bulk quantities
46 into a bulk storage or bulk transportation tank in the possession
47 of a user within this State or deliver motor fuels in bulk
48 quantities to a user in any manner within this State shall provide
49 said user with an original serially numbered receipt or invoice,
50 not later than 30 days following the end of the calendar quarter
51 during which the fuel was delivered, on which is shown:

52 (1) The name of the vendor and address from which the fuel
53 was delivered.

54 (2) The name of the purchaser and address to which the fuel