

27:26A-15

LEGISLATIVE HISTORY CHECKLIST
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(Ride-sharing)

NJSA: 27:26A-15

LAWS OF: 1993 **CHAPTER:** 150

BILL NO: S1320

SPONSOR(S) Rand and others

DATE INTRODUCED: November 9, 1992

COMMITTEE: **ASSEMBLY:** ---
SENATE: Transportation; Budget & Appropriation

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

DATE OF PASSAGE: **ASSEMBLY:** March 29, 1993 Re-enacted 6-21-93
SENATE: March 22, 1993 Re-enacted 6-10-93

DATE OF APPROVAL: June 24, 1993

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: **ASSEMBLY:** ~~Yes~~ No
SENATE: Yes 12-10-92 & 3-11-93

FISCAL NOTE: No

VETO MESSAGE: Yes

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

See newspaper clipping--attached:

"Ridesharing incentives, funeral bills among 4 measures signed into law,"
6-25-93, Star Ledger.

974.90 New Jersey. Legislature. Senate. Transportation Committee.
T764 Committee meeting on....S1320, held 12-10-92. Trenton, 1992.
1992f

[THIRD REPRINT]

SENATE, No. 1320

STATE OF NEW JERSEY

INTRODUCED NOVEMBER 9, 1992

By Senators RAND, Haines, Cowan, Giesla, Corman,
Adler, Brown, Assemblymen DeCroce and Catania

1 AN ACT providing for employer tax incentives for participation
2 in ride-sharing programs, and supplementing Chapter 26A of
3 Title 27 of the Revised Statutes.

4

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

7 1. a. ³[For accounting or privilege periods beginning on and
8 after January 1, ²[1993, but ending not later than December 31,
9 2004] 1994², an] An³ affected employer that is a taxpayer
10 subject to the provisions of the Corporation Business Tax Act
11 (1945), P.L.1945, c.162 (C.54:10A-1 et seq.), the "Financial
12 Business Tax Law (1946)," P.L.1946, c.174 (C.54:10B-1 et seq.),
13 "The Savings Institution Tax Act," P.L.1973, c.31 (C.54:10D-1 et
14 seq.), the tax imposed on marine insurance companies pursuant to
15 R.S.54:16-1 et seq., the tax imposed on fire insurance companies
16 pursuant to R.S.54:17-4 et al., the tax imposed on insurers
17 generally, pursuant to P.L.1945, c.132 (C.54:18A-1 et seq), the
18 public utility franchise tax, public utilities gross receipts tax and
19 public utility excise tax imposed pursuant to P.L.1940, c.4, and
20 P.L.1940, c.5 (C.54:30A-16 et seq. and C.54:30A-49 et seq.), or
21 that is a taxpayer in respect of a distributive share of partnership
22 income under the "New Jersey Gross Income Tax Act,"
23 N.J.S.54A:1-1 et seq., which provides commuter transportation
24 benefits as defined in section 3 of P.L.1992, c.32 (C.27:26A-3)
25 shall be allowed a credit against that tax equal to ²[10%] ²5%² of
26 the cost of commuter transportation benefits for the relevant
27 accounting or privilege period, as appropriate, subject to the
28 limitations of subsection b. of this section. ²For accounting or
29 privilege periods beginning on or after January 1, 1995, but
30 ending not later than December 31, 2004, the credit allowed
31 under this section shall be 10% of the cost of commuter
32 transportation benefits for the relevant accounting or privilege
33 period, as appropriate, subject to the limitations of subsection b.
34 of this section.² ³In the case of a taxpayer receiving partnership
35 income, an offset against that income subject to the limitations
36 in paragraph (5) of subsection b. of this section shall be
37 considered the credit.³

38 b. (1) The credit granted a taxpayer for an accounting or
39 privilege period shall not exceed the per employee limit
40 multiplied by the number of employees participating in

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:

¹ Senate STR committee amendments adopted December 10, 1992.

² Senate SBA committee amendments adopted March 11, 1993.

³ Senate amendments adopted in accordance with Governor's
recommendations May 13, 1993.

1 alternative means of commuting at the work location. The per
2 employee limit shall be ²[\$72] \$36² for the accounting or
3 privilege periods beginning on and after January 1, ²[1993 but
4 before January 1,]² 1994 ²but before January 1, 1995², and ²\$72²
5 for those periods thereafter². For those periods beginning on or
6 after January 1, 1995,² the Director of the Division of Taxation,
7 in the Department of the Treasury, shall adjust the limit, rounded
8 ¹[up] down¹ to the nearest dollar, in proportion to the change in
9 the average consumer price index for all urban consumers in the
10 New York and Northeastern New Jersey and the Philadelphia
11 areas, as reported by the United States Department of Labor,
12 from calendar year ¹[1993] 1994¹ to the calendar year ending
13 immediately before the appropriate period.

14 (2) The taxpayer may only claim a credit for providing
15 commuter transportation benefits based upon a direct
16 expenditure made after the taxpayer has registered with the
17 department as prescribed in subsection c. of section 5 of
18 P.L.1992, c.32 (C.27:26A-5); provided that a taxpayer shall
19 continue to be eligible for the credit as long as the taxpayer
20 remains in substantial compliance with subsections d., e., f. and
21 h. of section 5 of P.L.1992, c.32 (C.27:26A-5); and provided
22 further that the commissioner may allow additional time for the
23 taxpayer to comply with subsections d., e., f. and h. of section 5
24 of P.L.1992, c.32 (C.27:26A-5) before a credit amount is
25 disallowed for an affected employer; however, a credit amount
26 shall be disallowed if the taxpayer fails to comply with section 5
27 of P.L.1992, c.32 (C.27:26A-5) within three years from the due
28 date of the tax return reflecting a liability against which a credit
29 was claimed.

30 (3) The amount of the credit allowed under this section for an
31 accounting or privilege period shall not exceed 50% of the tax
32 liability which would be otherwise due ³for any one of the taxes
33 enumerated in subsection a. of this section³ after first applying
34 the credits, if any, allowed under any other law and shall not
35 reduce the amount of tax liability to less than the statutory
36 minimum provided in subsection (e) of section 5 of P.L.1945,
37 c.162 (C.54:10A-5), section 3 of P.L.1946, c.174 (C.54:10B-3) or
38 section 3 of P.L.1973, c.31 (C.54:10D-3), as may be applicable.

39 (4) A taxpayer having liability for more than one of the taxes
40 enumerated in subsection a. of this section for an accounting or
41 privilege period shall allocate the credit amount available for
42 that period to the liabilities for that period in the proportion that
43 each liability bears to the total of the liabilities for that period,
44 and each apportioned amount of credit shall be applied to only
45 one amount of liability.

46 (5) ³[A partnership shall not be allowed the credit under this
47 section directly, but the amount of credit of a taxpayer in
48 respect of a distributive share of partnership income under the
49 "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., shall
50 be determined by allocating to the taxpayer that proportion of
51 the credit acquired by the partnership that is equal to the
52 taxpayer's share, whether or not distributed, of the total
53 distributive income or gain of the partnership for its taxable year
54 ending within or with the taxpayer's taxable year. For the

1 purposes of paragraph (3) of this subsection, the tax liability
 2 which would be otherwise due of a taxpayer is that proportion of
 3 the total liability of the taxpayer that the taxpayer's share of
 4 the partnership income or gain included in gross income bears to
 5 the total gross income of the taxpayer.]³ ³A partnership shall
 6 not be allowed a credit under this section directly. A partnership
 7 shall be entitled to reduce total partnership income distributed to
 8 the partners and subject to tax under N.J.S.54A:5-1k by the
 9 lesser of 71.5 percent of the amount of commuter transportation
 10 benefits provided pursuant to law or \$515 for each employee
 11 receiving such benefits. For accounting and privilege periods
 12 beginning on or after January 1, 1995, but ending no later than
 13 December 31, 2004, the reduction to partnership income allowed
 14 under this section shall be the lesser of 143 percent of the cost of
 15 commuter transportation benefits provided or \$1,030 for each
 16 employee receiving such benefits for the relevant accounting or
 17 privilege period, as appropriate, subject to the limitations of
 18 subsection b. of this section.³

19 c. Each employee who receives money towards commuter
 20 transportation benefits from the employee's employer as an
 21 advance, a reimbursement, or both, shall furnish suitable proof to
 22 the employer, in the form of receipts, ticket stubs or the like,
 23 that the employee utilized monies provided by the employer for
 24 an alternative means of commuting, as defined pursuant to
 25 section 3 of P.L.1992, c.32 (C.27:26A-3).

26 d. For the purposes of verifying eligibility for the credit, the
 27 commissioner shall certify to the Director of the Division of
 28 Taxation a list of those employers which have registered with the
 29 department, or have an approved compliance plan or an approved
 30 amended compliance plan. The list shall be provided to the
 31 Director of the Division of Taxation within 90 days of
 32 registration and within 210 days of each submission of a
 33 compliance plan or each amended compliance plan.

34 e. The taxpayer shall file with the department a schedule of
 35 the expenditures for which the taxpayer has claimed a credit
 36 pursuant to this section on any tax return filed with the Director
 37 of the Division of Taxation, in such form and pursuant to such
 38 rules as shall be prescribed by the commissioner in consultation
 39 with the Director of the Division of Taxation. The department
 40 shall provide the Director of the Division of Taxation with the
 41 schedule and such other information as is required pursuant to
 42 subsection j. of section 5 of P.L.1992, c.32 (C.27:26A-5).

43 2. This act shall take effect immediately and ³[the gross
 44 income tax credits authorized pursuant to paragraph (5) of
 45 subsection b. of section 1 shall]³ be applicable to ³[taxable years]
 46 accounting and privilege periods³ beginning on and after
 47 January 1, ²[1993] 1994² ³and the provisions of this act shall not
 48 apply to accounting or privilege periods ending after
 49 December 31, 2004³.

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54 Provides employer tax incentives for ride-sharing programs.

1 Director of the Division of Taxation within 90 days of
2 registration and within 210 days of each submission of a
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8 rules as shall be prescribed by the commissioner in consultation
9 with the Director of the Division of Taxation. The department
10 shall provide the Director of the Division of Taxation with the
11 schedule and such other information as is required pursuant to
12 subsection j. of section 5 of P.L.1992, c.32 (C.27:26A-5).

13 2. This act shall take effect immediately and the gross income
14 tax credits authorized pursuant to paragraph (5) of subsection b.
15 of section 1 shall be applicable to taxable years beginning on and
16 after January 1, 1993.

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STATEMENT

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21 This bill provides employer tax incentives for participation in
22 the ride-sharing program to be instituted under the "New Jersey
23 Traffic Congestion and Air Pollution Control Act" (P.L.1992, c.32
24 (C.27:26A-1 et seq.). Specifically, the bill provides for an
25 employer tax credit of up to 10% of the employee commuter
26 benefits provided by the employer, with a dollar limit of \$72 per
27 employee per year. The dollar limit is keyed to allowances set
28 forth in the proposed "National Energy Policy Act."

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33 Provides employer tax incentives for ride-sharing programs.

SENATE TRANSPORTATION COMMITTEE

STATEMENT TO

SENATE, No. 1320

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 10, 1992

The Senate Transportation Committee favorably reports Senate Bill No. 1320 with committee amendments.

This bill, as amended by the committee, provides employer tax incentives for participation in the ride-sharing program to be instituted under the "New Jersey Traffic Congestion and Air Pollution Control Act," P.L.1992, c.32 (C.27:26A-1 et seq.). Specifically, the bill provides for an employer tax credit of up to 10% of the cost of commuter transportation benefits provided by an employer, with a dollar limit of \$72 per employee participating in alternative means of commuting per year. The dollar amount, which is subject to change because of inflation, is keyed to allowances set forth in the recently enacted "National Energy Policy Act," Pub.L. 102-486.

The amendments adopted by the committee provide for rounding off of increases in the credit because of inflation.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[FIRST REPRINT]

SENATE, No. 1320

with Senate committee amendments

STATE OF NEW JERSEY

DATED: MARCH 11, 1993

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 1320 (1R), with committee amendments.

Senate Bill No. 1320 (1R), as amended, provides employer tax credits as an incentive for compliance with the "New Jersey Traffic Congestion and Air Pollution Control Act," P.L.1992, c.32 (C.27:26A-1 et seq.). The bill provides for an employer tax credit of up to 5% for accounting or privilege periods beginning on or after January 1, 1994 and 10% for accounting or privilege periods beginning thereafter of the cost of commuter transportation benefits provided by an employer, with a maximum allowable credit of \$36 per employee for periods beginning on or after January 1, 1994 and \$72 per employee commuting for periods thereafter.

The tax credit applies to the liabilities of employers paying the corporation business tax, the financial business tax, the savings institution tax, the insurance premiums taxes, the public utility franchise and gross receipts and excise taxes, or gross income tax in respect of a partnership share. Commuter transportation benefits include employer provided alternative means of transportation such as public transportation, carpools, vanpools, buspools, ferries, bicycling, telecommuting and walking, which may be used in conjunction with such strategies as flextime, staggered work hours, compressed work weeks and like measures, employer provided services and facilities which would encourage or facilitate use of alternative means of transportation and include the costs of parking by employees at park-and-ride lots. The per employee dollar amount is annually adjusted for inflation.

The "New Jersey Traffic Congestion and Air Pollution Control Act," P.L.1992, c.32 (C.27:26A-1 et seq.), establishes a comprehensive program of transportation control measures to deal with traffic congestion and air pollution. The provisions of the act are to a large degree mandated by the federal Clean Air Act and constitute part of the effort of the State to comply with the federal act. The act requires all employers with 100 or more employees at one work location to increase average passenger occupancy per vehicle in commuting trips between home and the workplace during peak travel periods by not less than 25% above the average vehicle occupancy per vehicle in the region as defined by the State Department of Transportation. Each employer subject to the provisions of the act must submit a compliance plan to the Department of Transportation by November 15, 1994, and compliance must be achieved by November 15, 1996.

COMMITTEE AMENDMENTS

The committee amended the bill to provide an employer tax credit of up to 5% for accounting or privilege periods beginning on or after January 1, 1994 and 10% for accounting or privilege periods beginning thereafter of the cost of commuter transportation benefits provided by an employer, with a maximum allowable credit of \$36 per employee for periods beginning on or after January 1, 1994 and \$72 per employee commuting for periods thereafter.

Prior to being amended, the bill would have provided a 10% tax credit for accounting or privilege periods beginning on or after January 1, 1993, and a per employee limit of \$72.

FISCAL IMPACT

Based on Division of Taxation estimates for an employer tax credit in a similar bill, the annual cost to the State would be approximately in the range of \$12 million to \$16 million for the first full fiscal year and \$20 to \$30 million for each fiscal year thereafter. Revenue losses will depend on levels of activity and the provision of employee commuter transportation benefits at that time.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

May 6, 1993

SENATE BILL NO. 1320
(Second Reprint)

To the Senate:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Senate Bill No. 1320 (Second Reprint) with my recommendations for reconsideration.

This bill would provide certain tax incentives for businesses that undertake employee ride-sharing programs in accordance with the recently enacted amendments to the federal Clean Air Act. In particular, the bill would grant a tax credit to businesses to help offset part of the cost of commuter transportation benefits that they make available to employees. These tax credits would be available not only to corporations, but to the many thousands of partnerships in this State as well.

I want to take this opportunity to express my complete support for this important initiative. This bill represents yet another positive step in our steady efforts to clean up New Jersey's air by encouraging our citizens to commute to work in a manner that is not only economical for them, but makes environmental sense as well. In that spirit, I was happy to sign Senate Bill No. 35 last summer, which effectuated the new federal mandates requiring businesses to make further progress in promoting ride-sharing by employees. And, just a few weeks ago, I signed Assembly Bill No. 1996 into law, which will provide tax incentives to employees who participate in ride-sharing programs. This bill will complete the circle by making tax incentives available to employers as well. This bill will therefore put the finishing touches on an overall program that I am confident will distinguish this State once again as a leader in new and innovative methods of cleaning up our precious environment.

I am returning this bill to the Legislature, however, because I have been advised of certain technical flaws that would require the Division of Taxation to rewrite the State's individual income tax

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EXECUTIVE DEPARTMENT

return in a manner that would create needless confusion. It goes without saying that we ought to be simplifying our tax returns, not complicating them. Hence, I am recommending amendments that would eliminate these technical problems, so that this valuable program can be implemented without causing any undue confusion.

For these reasons, I herewith return Senate Bill No. 1320 (Second Reprint) and recommend that it be amended as follows:

- Page 1, Section 1, Lines 7-9: Delete "For accounting or privilege periods beginning on and after January 1, [1993, but ending not later than December 31, 2004] 1994, an" insert "An";
- Page 1, Section 1, Line 33: After "section." Insert "In the case of a taxpayer receiving partnership income, an offset against that income subject to the limitations in paragraph (5) of subsection b. of this section shall be considered the credit."
- Page 2, Section 1, Line 27: After "due" insert "for any one of the taxes enumerated in subsection a. of this section";
- Page 2, Section 1, Lines 40-53: After "(5)" delete in entirety, insert "A partnership shall not be allowed a credit under this section directly. A partnership shall be entitled to reduce total partnership income distributed to the partners and subject to tax under N.J.S. 54A:5-1k by the lesser of 71.5 percent of the amount of commuter transportation benefits provided pursuant to law or \$515 for each employee receiving such benefits. For accounting and privilege periods beginning on or after January 1, 1995, but ending no later than December 31, 2004, the reduction to partnership income allowed under this section shall be the lesser of 143 percent of the cost of commuter transportation benefits provided or \$1,030 for each employee receiving such benefits for the relevant accounting or privilege period, as appropriate, subject to the limitations of subsection b. of this section.";
- Page 3, Section 2, Lines 24-26: After "and" delete "the gross income tax credit authorized pursuant to paragraph (5) of subsection b. of section 1 shall";
- Page 3, Section 2, Line 26: After "applicable to" delete "taxable years" insert "accounting and privilege periods";

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Page 3, Section 2, Line 27:

After "1994" insert "and the provisions of this act shall not apply to accounting or privilege periods ending after December 31, 2004";

Respectfully

/s/ Jim Florio

GOVERNOR

[seal]

Attest:

/s/ M. Robert DeCotiis

Chief Counsel to the Governor