

13:1E-99.1

LEGISLATIVE HISTORY CHECKLIST
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(Litter abatement--
extend tax)

NJSA: 13:1E-99.1

LAWS OF: 1992 CHAPTER: 150

BILL NO: A805/764

SPONSOR(S) Shinn

DATE INTRODUCED: February 3, 1992

COMMITTEE: ASSEMBLY: Solid Waste; Appropriations
SENATE: ---

AMENDED DURING PASSAGE: No Assembly Committee
Substitute enacted

DATE OF PASSAGE: ASSEMBLY: June 29, 1992
SENATE: November 9, 1992

DATE OF APPROVAL: November 24, 1992

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: Yes 5-14-92 & 6-25-92
SENATE: No

FISCAL NOTE: Yes

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: Yes

HEARINGS: No

Annual report, mention in statements:
974.901 New Jersey. Department of Environmental Protection.
E81 Annual report. Trenton.
KEG:pp

ASSEMBLY COMMITTEE SUBSTITUTE FOR

ASSEMBLY, Nos. 805 and 764

STATE OF NEW JERSEY

ADOPTED MAY 14, 1992

Sponsored by Assemblymen SHINN, LoBiondo and Gibson

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

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, [1991] 1995. 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 [1992] 1996, 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. [On or before October 1, 1986, or in the case of a person
41 commencing or opening a new place of business after that date,
42 within 30 days after the commencement or opening, every] Every

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 person subject to the tax imposed pursuant to this act shall file
2 with the director a certificate of registration on a form
3 prescribed by the director. Any person who is registered under
4 any law administered by the division or who is subject to and files
5 returns under any of these laws shall not be required to comply
6 with the provisions of this subsection.

7 c. Every person subject to this tax shall, [on or before March
8 15, 1987, and] on or before March 15 of each year [thereafter],
9 prepare and file a return, under oath, for the preceding calendar
10 year with the director on forms and containing any information as
11 the director shall prescribe. The return shall indicate the dollar
12 value of the sales within the State of litter-generating products
13 and at the same time the person shall pay the full amount of tax
14 due.

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

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

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

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

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

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

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

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

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

53 (cf: P.L.1987, c.76, s.46)

54 2. Section 7 of P.L.1985, c.533 (C.13:1E-99.2) is amended to
55 read as follows:

1 7. The Clean Communities Account is established as a
2 nonlapsing, revolving fund in the Department of the Treasury to
3 carry out the purposes of this act. The Clean Communities
4 Account shall be administered by the Department of
5 Environmental Protection and credited, in addition to any
6 appropriations made thereto, with all taxes and penalties levied
7 or imposed pursuant to sections 6 and 10 of P.L.1985, c.533
8 (C.13:1E-99.1 and 13:1E-99.5), and any sums received as
9 voluntary contributions from private sources. Interest received on
10 moneys in the account shall be credited to the account. [Moneys]
11 Unless otherwise expressly provided by the specific appropriation
12 thereof by the Legislature, all available moneys in the Clean
13 Communities Account shall be appropriated annually solely for
14 the following purposes and no others:

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

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

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

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

1 under the jurisdiction of counties, as determined by the
2 Department of Transportation;

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

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

25 (2) Every county [,] and [each] municipality [receiving
26 \$30,000.00 or more in State aid,] shall submit an annual report to
27 the Department of Environmental Protection on the
28 implementation of the model program and the expenditure of
29 funds. Failure to submit a report or submission of an
30 unsatisfactory report [will] shall result in a denial of future funds
31 and an obligation to return the funds received. [A municipality
32 receiving less than \$30,000.00 in State aid shall not be required to
33 make an annual report, but shall maintain records of the use of
34 the funds.]

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

39 f. 5% of the estimated annual balance of the account shall be
40 used by the department for State administrative expenses and a
41 State public information and education program concerning
42 antilittering activities and other aspects of responsible solid
43 waste handling behavior[.];

44 g. The department shall annually submit a report to the
45 Governor and the Legislature detailing the administration of and
46 disbursements made from the Clean Communities Account during
47 the previous calendar year, including the uses and expenditure of
48 moneys appropriated to the department pursuant to subsections a.
49 and f. of this section.

50 (cf: P.L.1989, c.108, s.1)

51 3. Section 7 of P.L.1986, c.187 (C.13:1E-99.8) is amended to
52 read as follows:

53 7. In addition to the duties and responsibilities imposed
54 pursuant to P.L.1985, c.533 (C.13:1E-99.1 et al.) and P.L.1989,

1 c.108, the Department of Environmental Protection shall:

2 a. Coordinate the various industry and business organizations
3 seeking to aid in the antilitter effort;

4 b. [Recommend that local governing bodies adopt resolutions
5 or ordinances, as appropriate, in conformity with the purposes
6 and provisions of this amendatory and supplementary act and
7 assist these bodies in the preparation of these ordinances and
8 resolutions] Conduct periodic litter surveys or random inspections
9 in various parts of the State to ensure the satisfactory
10 implementation of the model county and municipal litter control
11 programs required pursuant to section 7 of P.L.1985, c.533
12 (C.13:1E-99.2);

13 c. Encourage and cooperate with all local voluntary and
14 government antilitter campaigns attempting to focus public
15 attention on the State litter pickup and removal program;

16 d. Investigate the availability of, and apply for, funds available
17 from any private or public source to be used in the model county
18 and municipal litter [pickup and removal program provided for in
19 this amendatory and supplementary act] control programs;

20 e. Investigate the successful methods of litter pickup and
21 removal programs in other states or jurisdictions, encourage the
22 use of litter receptacles, and evaluate their possible
23 incorporation into the New Jersey litter pickup and removal
24 program.

25 (cf: P.L.1986, c.187, s.7)

26 4. Section 8 of P.L.1986, c.187 (C.13:1E-99.9) is amended to
27 read as follows:

28 8. The department shall report to the Governor and the
29 Legislature on [its proposed plan of litter pickup and removal] the
30 success of the model county and municipal litter control
31 programs [not later than two years after the effective date of
32 this amendatory and supplementary act, and, every 18 months
33 thereafter, upon the success of the plan, and any
34 recommendations for improvement] in reducing litter in New
35 Jersey not later than May 31 of each year.

36 (cf: P.L.1986, c.187, s.8)

37 5. This act shall take effect immediately, and shall be
38 retroactive to December 30, 1991.

39

40

41

42

43 Extends "sunset" provision of tax on sale of litter-generating
44 products for additional four years.

ASSEMBLY, No. 805
STATE OF NEW JERSEY

INTRODUCED FEBRUARY 3, 1992

By Assemblyman SHINN

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

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, [1991] 1994. 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 [1992] 1995, 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. [On or before October 1, 1986, or in the case of a person
41 commencing or opening a new place of business after that date,
42 within 30 days after the commencement or opening, every] Every

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 person subject to the tax imposed pursuant to this act shall file
2 with the director a certificate of registration on a form
3 prescribed by the director. Any person who is registered under
4 any law administered by the division or who is subject to and files
5 returns under any of these laws shall not be required to comply
6 with the provisions of this subsection.

7 c. Every person subject to this tax shall, [on or before March
8 15, 1987, and] on or before March 15 of each year [thereafter],
9 prepare and file a return, under oath, for the preceding calendar
10 year with the director on forms and containing any information as
11 the director shall prescribe. The return shall indicate the dollar
12 value of the sales within the State of litter-generating products
13 and at the same time the person shall pay the full amount of tax
14 due.

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

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

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

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

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

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

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

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

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

53 (cf: P.L.1987, c.76, s.46)

54 2. Section 7 of P.L.1985, c.533 (C.13:1E-99.2) is amended to

1 read as follows:

2 7. The Clean Communities Account is established as a
3 nonlapsing, revolving fund in the Department of the Treasury to
4 carry out the purposes of this act. The Clean Communities
5 Account shall be administered by the Department of
6 Environmental Protection and credited, in addition to any
7 appropriations made thereto, with all taxes and penalties levied
8 or imposed pursuant to sections 6 and 10 of P.L.1985, c.533
9 (C.13:1E-99.1 and 13:1E-99.5), and any sums received as
10 voluntary contributions from private sources. Interest received on
11 moneys in the account shall be credited to the account. [Moneys]
12 Unless otherwise expressly provided by the specific appropriation
13 thereof by the Legislature, all available monies in the Clean
14 Communities Account shall be appropriated annually solely for
15 the following purposes and no others:

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

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

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

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

1 Transportation;

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

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

24 (2) Every county, and each municipality receiving \$30,000.00
25 or more in State aid, shall submit an annual report to the
26 Department of Environmental Protection on the implementation
27 of the model program and the expenditure of funds. Failure to
28 submit a report or submission of an unsatisfactory report [will]
29 shall result in a denial of future funds and an obligation to return
30 the funds received. A municipality receiving less than \$30,000.00
31 in State aid shall not be required to make an annual report, but
32 shall maintain records of the use of the funds.

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

37 f. 5% of the estimated annual balance of the account shall be
38 used by the department for State administrative expenses and a
39 State public information and education program concerning
40 antilittering activities and other aspects of responsible solid
41 waste handling behavior.

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

48 (cf: P.L.1989, c.108.s.1)

49 3. Section 7 of P.L.1986, c.187 (C.13:1E-99.8) is amended to
50 read as follows:

51 7. In addition to the duties and responsibilities imposed
52 pursuant to P.L.1985, c.533 (C.13:1E-99.1 et al.) and P.L.1989,
53 c.108, the Department of Environmental Protection shall:

54 a. Coordinate the various industry and business organizations

1 seeking to aid in the antilitter effort;

2 b. [Recommend that local governing bodies adopt resolutions
3 or ordinances, as appropriate, in conformity with the purposes
4 and provisions of this amendatory and supplementary act and
5 assist these bodies in the preparation of these ordinances and
6 resolutions] Conduct periodic litter surveys or random inspections
7 in various parts of the State to ensure the satisfactory
8 implementation of the model county and municipal litter control
9 programs required pursuant to section 7 of P.L.1985, c.533
10 (C.13:1E-99.2);

11 c. Encourage and cooperate with all local voluntary and
12 government antilitter campaigns attempting to focus public
13 attention on the State litter pickup and removal program;

14 d. Investigate the availability of, and apply for, funds available
15 from any private or public source to be used in the model county
16 and municipal litter [pickup and removal program provided for in
17 this amendatory and supplementary act] control programs;

18 e. Investigate the successful methods of litter pickup and
19 removal programs in other states or jurisdictions, encourage the
20 use of litter receptacles, and evaluate their possible
21 incorporation into the New Jersey litter pickup and removal
22 program.

23 (cf: P.L.1986, c.187, s.7)

24 4. Section 8 of P.L.1986, c.187 (C.13:1E-99.9) is amended to
25 read as follows:

26 8. The department shall report to the Governor and the
27 Legislature on [its proposed plan of litter pickup and removal] the
28 success of the model county and municipal litter control
29 programs [not later than two years after the effective date of
30 this amendatory and supplementary act, and, every 18 months
31 thereafter, upon the success of the plan, and any
32 recommendations for improvement] in reducing litter in New
33 Jersey not later than May 31 of each year.

34 (cf: P.L.1986, c.187, s.8)

35 5. This act shall take effect immediately.

36

37

38

STATEMENT

39

40 This bill would extend the "sunset" provision of the tax upon
41 litter-generating products imposed pursuant to P.L.1985, c.533
42 (C.13:1E-99.1 et seq.) an additional three years, from December
43 31, 1991 to December 31, 1994.

44 P.L.1985, c.533 imposed a tax on the sale of litter-generating
45 products to provide funds to finance a Statewide anti-litter
46 program. The manufacturers, wholesalers, and distributors of
47 litter-generating products are taxed at the rate of \$300.00 per
48 \$1,000,000.00 in sales per year; retailers, including restaurants,
49 are taxed at the rate of \$225.00 per \$1,000,000.00 in annual sales.
50 The fifteen categories of litter-generating products include
51 alcoholic beverages, soft drinks, cigarettes, paper products, food
52 and groceries, among others. The act also provided that the litter
53 tax would expire on December 31, 1989.

54 However, as enacted, P.L.1985, c.533 did not establish an

1 anti-litter program, nor provide for the distribution of the
2 revenues generated by the litter tax. In response to this problem,
3 implementing legislation to establish an anti-litter program, and
4 provide for the distribution of the litter tax revenues deposited in
5 the Clean Communities Account in the Department of the
6 Treasury commencing July 1, 1987, was enacted into law as
7 P.L.1986, c.187 (C.13:1E-99.8 et seq.).

8 P.L.1986, c.187 provided for the development of Statewide
9 standards for anti-litter programs. The act provided that the
10 Clean Communities Account is to be administered by the
11 Department of Environmental Protection, and that 90 percent of
12 the estimated annual balance of the account must be used for
13 grants to counties and municipalities for local litter control
14 programs and activities. The act also extended the "sunset"
15 provision of the litter tax from December 31, 1989 to December
16 31, 1991.

17 P.L.1989, c.108 changed the administration of the Clean
18 Communities Account. The act provided that the funds allocated
19 for municipalities and counties would be distributed as State aid,
20 as opposed to grants (which required individual contracts between
21 DEP and the municipality or county). The act provided that
22 contracts would not be required as a condition of receiving this
23 State aid. To qualify for State aid from the Clean Communities
24 Account, a county or municipality would be required to adopt one
25 of the model litter programs established by DEP.

26 P.L.1989, c.108 also provided that moneys to be distributed
27 from the Clean Communities Account must be distributed by May
28 31 of each year. Further, the act directed the DEP to submit an
29 annual report to the Governor and the Legislature detailing the
30 administration of the Clean Communities Account.

31 This bill would extend the "sunset" provision of the litter tax,
32 which expired on December 31, 1991, to December 31, 1994.

33 The bill would also require the Department of Environmental
34 Protection to: (1) include a detailed explanation of the uses and
35 expenditure of the moneys appropriated to the department from
36 the Clean Communities Account within its annual report to the
37 Governor and the Legislature; (2) conduct periodic litter surveys
38 or random inspections in various parts of the State to ensure the
39 satisfactory implementation of the model county and municipal
40 litter control programs; and (3) submit its report to the Governor
41 and the Legislature on the success of the model county and
42 municipal litter control programs in reducing litter in New Jersey
43 not later than May 31 of each year.

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48 Extends "sunset" provision of tax on sale of litter-generating
49 products for additional three years.

ASSEMBLY, No. 764

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1992 SESSION

By Assemblyman LoBIONDO

1 AN ACT concerning taxation imposed upon the sale of
2 litter-generating products and amending P.L.1985, c.533.

3

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

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

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

25 The tax on the sale of litter-generating products imposed by
26 this subsection shall expire December 31, [1991] 1996. However,
27 this expiration shall not affect any obligation, lien or duty to pay
28 taxes which may be due with respect to the imposition of any
29 levy, or interest or penalties which may accrue by virtue of any
30 assessment, which may be made with respect to taxes levied for
31 any taxable year or part of a taxable year, prior to January 1,
32 [1992] 1997, nor shall this expiration affect the legal authority to
33 assess and collect the taxes which may be due and payable under
34 section 6 of P.L.1985, c.533 (C.13:1E-99.1), as the case may be,
35 together with such interest and penalties as would accrue thereon
36 under section 6 of P.L.1985, c.533 (C.13:1E-99.1), nor shall this
37 expiration invalidate any assessment or affect any proceeding for
38 the enforcement thereof.

39 b. On or before October 1, 1986, or in the case of a person
40 commencing or opening a new place of business after that date,
41 within 30 days after the commencement or opening, every person
42 subject to the tax imposed pursuant to this act shall file

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.

STATEMENT

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This bill would extend for a period of five years the "sunset" provision of the tax upon litter-generating products imposed pursuant to the "Clean Communities and Recycling Act," P.L.1985, c.533 (C.13:1E-99.1 et seq.), which is used to promote Statewide anti-litter programs. Pursuant to this bill, the tax would expire on December 31, 1996.

The extension is made retroactive to December 30, 1991 -- the day before the expiration date established by P.L.1986, c.187 -- in order to provide for administrative continuity.

Extends "sunset" provision of taxation on sale of litter-generating products pursuant to "Clean Communities and Recycling Act" for additional five years.

ASSEMBLY SOLID WASTE COMMITTEE
STATEMENT TO
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, Nos. 805 and 764
STATE OF NEW JERSEY

DATED: MAY 14, 1992

The Assembly Solid Waste Committee favorably reports an Assembly Committee Substitute for Assembly Bill Nos. 805 and 764.

The Assembly Committee Substitute for Assembly Bill Nos. 805 and 764 would extend the "sunset" provision of the tax upon litter-generating products imposed pursuant to P.L.1985, c.533 (C.13:1E-99.1 et seq.) an additional four years, from December 31, 1991 to December 31, 1995.

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 act also provided that the litter tax would expire on December 31, 1989.

However, as enacted, P.L.1985, c.533 did not establish an anti-litter program, nor provide for the distribution of the revenues generated by the litter tax. In response to this problem, implementing legislation to establish an anti-litter program, and provide for the distribution of the litter tax revenues deposited in the Clean Communities Account in the Department of the Treasury commencing July 1, 1987, was enacted into law as P.L.1986, c.187 (C.13:1E-99.8 et seq.).

P.L.1986, c.187 provided for the development of Statewide standards for anti-litter programs. The act provided that the Clean Communities Account is to be administered by the Department of Environmental Protection, and that 90 percent of the estimated annual balance of the account must be used for grants to counties and municipalities for local litter control programs and activities. The act also extended the "sunset" provision of the litter tax from December 31, 1989 to December 31, 1991.

P.L.1989, c.108 changed the administration of the Clean Communities Account. The act provided that the funds allocated for municipalities and counties would be distributed as State aid, as opposed to grants (which required individual contracts between DEP and the municipality or county). The act provided that contracts would not be required as a condition of receiving this State aid. To qualify for State aid from the Clean Communities Account, a county or municipality would be required to adopt one of the model litter programs established by DEP.

P.L.1989, c.108 also provided that moneys to be distributed from the Clean Communities Account must be distributed by May 31 of

each year. Further, the act directed the DEP to submit an annual report to the Governor and the Legislature detailing the administration of the Clean Communities Account.

The substitute bill would extend the "sunset" provision of the litter tax, which expired on December 31, 1991, to December 31, 1995. The extension is made retroactive to December 30, 1991 in order to provide for administrative continuity.

The bill would also require the Department of Environmental Protection to: (1) include a detailed explanation of the uses and expenditure of the moneys appropriated to the department from the Clean Communities Account within its annual report to the Governor and the Legislature; (2) conduct periodic litter surveys or random inspections in various parts of the State to ensure the satisfactory implementation of the model county and municipal litter control programs; and (3) submit its report to the Governor and the Legislature on the success of the model county and municipal litter control programs in reducing litter in New Jersey not later than May 31 of each year.

Finally, the bill would remove the exemption municipalities that receive less than \$30,000 had from the requirement to submit an annual report to the department, and allow counties and municipalities to use monies received to establish an "Adopt-A-Highway" program.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR

ASSEMBLY, Nos. 805 and 764

STATE OF NEW JERSEY

DATED: JUNE 25, 1992

The Assembly Appropriations Committee reports favorably Assembly, Nos. 805 and 764 ACS.

Assembly Bill Nos. 805 and 764 ACS extends 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 four years, from December 31, 1991 to December 31, 1995.

The tax has been imposed on the sale of litter-generating products to provide funds to finance a Statewide anti-litter program. Manufacturers, wholesalers, and distributors of litter-generating products are taxed at the rate of \$300 per \$1,000,000 in sales per year; retailers with annual retail sales of litter generating products of \$250,000 or more 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.

Ninety percent of the estimated annual balance of the account must be used for State aid to counties and municipalities for local litter control programs based on model litter control programs established by the Department of Environmental Protection (DEP). The DEP submits an annual report to the Governor and the Legislature detailing the administration of the Clean Communities Account.

This bill extends the "sunset" provision of the litter tax, which ceased to be imposed on December 31, 1991, to December 31, 1995. The extension is made retroactive to December 30, 1991 in order to provide for administrative continuity. The previous two year extension of the tax was also retroactive. The substitute also requires the DEP to: (1) include a detailed explanation of the uses and expenditure of the moneys appropriated to the department from the Clean Communities Account within its annual report to the Governor and the Legislature; (2) conduct periodic litter surveys or random inspections in various parts of the State to ensure the satisfactory implementation of the model county and municipal litter control programs; and (3) submit its report to the Governor and the Legislature on the success of the model county and municipal litter control programs in reducing litter in New Jersey not later than May 31 of each year.

This bill deletes the exemption from the requirement to submit an annual report to the DEP for municipalities that receive less than \$30,000 and allows local governments to use monies received to establish an "Adopt-A-Highway" program.

FISCAL IMPACT:

The tax on the receipts from sales of litter-generating products generated \$9.26 million in fiscal year 1991, the most recent full fiscal year for which the tax was imposed.

FISCAL NOTE TO
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, Nos. 805 and 764
STATE OF NEW JERSEY

DATED: October 13, 1992

Assembly Committee Substitute for Assembly Bill Nos. 805 and 764 would extend the "sunset" provision of the tax upon litter-generating products. The tax, imposed under the Clean Communities and Recycling Act of 1985, would be extended an additional four years from December 1, 1991 to December 31, 1995. The tax would be collected retroactively for calendar year 1992.

Other sections of the bill affect the Department of Environmental Protection and Energy (DEPE). Changes are proposed to update the current statute with respect to litter control programs throughout the State, the filing of annual reports by municipalities and permitting counties and municipalities to use monies received to establish an "Adopt-A-Highway" program. Also, DEPE accountability requirements in the submission of annual reports on the administration of programs would be tightened.

The Division of Taxation has submitted revenue estimates to fiscal year 1994 using an average annual growth rate of 5 percent from the \$9.4 million collected for fiscal year 1992. The projections add \$.5 million of revenue each year.

The Office of Legislative Services notes the Litter Control Tax is imposed on manufacturers and wholesalers selling packaged products in New Jersey and retailers including restaurants selling food for on and off premises consumption. A history of the payments by the taxpayers shows the revenue received by the State closely tracks the extended recession in New Jersey. Growth of the tax has been below 2 percent per year since fiscal year 1990. Growth of receipts from the tax to fiscal years 1994 and 1995 may be less or greater than the Division's projections, depending on the course of the economy.

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