

54: 4-1.13

LEGISLATIVE HISTORY CHECKLIST
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(Motor fuels tax--revise)

NJSA: 54:4-1.13

LAWS OF: 1992 CHAPTER: 23

BILL NO: A44

SPONSOR(S): Kavanaugh and others

DATE INTRODUCED: April 13, 1992

COMMITTEE: ASSEMBLY: Appropriations
SENATE: Budget and Appropriations

AMENDED DURING PASSAGE: Yes Amendments during passage denoted
by asterisks

DATE OF PASSAGE: ASSEMBLY: June 4, 1992
SENATE: June 11, 1992

DATE OF APPROVAL: June 22, 1992

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: Yes
SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: Yes

FOLLOWING WERE PRINTED: No

REPORTS: No

HEARINGS: Yes

974.90 New Jersey. State Commission of Investigation.
T235 Motor fuel tax evasion. February, 1992. Trenton, 1992.
1992

See newspaper clippings--~~REDACTED~~

KBG:pp

[THIRD REPRINT]
ASSEMBLY, No. 44

STATE OF NEW JERSEY

INTRODUCED APRIL 13, 1992

By Assemblymen KAVANAUGH, GREEN, Gibson, Lance,
Bagger, Kamin, Shinn, Doria, Pascrell,
Assemblywoman Smith, Assemblymen Geist, Penn,
Kenny, Mattison, Watson and Baer

1 AN ACT to revise the statutory law pertaining to enforcement of
2 the motor fuels tax, amending and supplementing chapter 39 of
3 Title 54 of the Revised Statutes, amending P.L.1968, c.420 ²,
4 N.J.S.2C:64-1² and P.L.1983, c.264, amending and
5 supplementing P.L.1938, c.163, and repealing R.S.54:39-16 and
6 R.S.54:39-64.

7

8 BE IT ENACTED by the Senate and General Assembly of the
9 State of New Jersey:

10 1. R.S.54:39-2 is amended to read as follows:

11 54:39-2. "Fuels" means (1) any liquid or gaseous substance
12 commonly or commercially known or sold as gasoline, regardless
13 of its classification or use; and (2) any liquid or gaseous substance
14 used, offered for sale or sold for use, either alone or when mixed,
15 blended, or compounded, [for the purpose] which is capable of
16 generating power for the propulsion of motor vehicles upon the
17 public highways; and shall include:

18 (a) All grades of motor gasoline, natural gasoline, marine
19 gasoline, aviation gasoline, motor fuel blending naphthas, motor
20 grade benzol and motor grade toluol; and

21 (b) Any liquid prepared, advertised, offered for sale or sold for
22 use as or commonly and commercially used as a fuel in internal
23 combustion engines, which when subjected to distillation in
24 accordance with the latest revised standard method of test for
25 distillation of gasoline, naphtha, kerosene, and similar petroleum
26 products (American Society for testing materials Method D-86)
27 shows not less than 10% distilled (recovered) below 347 degrees
28 (347°) Fahrenheit and not less than 95% distilled (recovered)
29 below 464 degrees (464°) Fahrenheit; and

30 (c) All combustible gases which exist in a gaseous state at 60
31 degrees (60°) Fahrenheit and at 14 7/10 (14.7) pounds per square
32 inch absolute pressure, industrial naphthas and solvents, aromatic
33 distillates, diesel fuel, additives, and all other products not
34 included within the foregoing provisions of this section; provided,
35 however, that [only those quantities of said combustible gases and
36 said other products, which are used, offered for sale or sold for
37 use to propel motor vehicles upon the public highways shall be
38 subject to this act; and provided further that] any person dealing

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 Assembly AAP committee amendments adopted May 18, 1992.

² Assembly floor amendments adopted May 21, 1992.

³ Assembly floor amendments adopted May 28, 1992.

1 therein, shall at any time, and from time to time, upon written
2 request of the [commissioner] director, report his receipts, sales,
3 use and distribution of said combustible gases and said other
4 products in a manner prescribed by the [commissioner; and]
5 director; and any other liquids that are used or sold for use as a
6 quantity extender to motor gasoline; and

7 (d) ["Alcohol-blend motor fuel" means a liquid or gaseous
8 substance, sold or used to propel motor vehicles upon the public
9 highways, which is gasoline combined with a minimum of 10%
10 grain-derived ethyl alcohol, whose purity shall be at least 99%
11 alcohol, produced in the State from whole grain] (Deleted by
12 amendment, P.L. ..., c. ...).

13 (cf: P.L.1984, c.88, s.1)

14 2. R.S.54:39-3 is amended to read as follows:

15 54:39-3. "Distributor" means and includes every person,
16 wherever resident or located, [who imports into this State fuels
17 as herein defined, for use, distribution, storage or sale in this
18 State after the same shall reach this State; and also every person]
19 who produces, refines, manufactures, blends or compounds fuels
20 as herein defined and sells, uses, stores or distributes the same
21 within this State.

22 (cf: P.L.1950, c.144, s.2)

23 3. R.S.54:39-8 is amended to read as follows:

24 54:39-8. "Use" means and includes, in addition to its ordinary
25 meaning, the transfer of fuel by a distributor, importer or
26 gasoline jobber into a motor vehicle or into a receptacle from
27 which fuel is supplied by him to his own or other motor vehicles.

28 (cf: R.S.54:39-8)

29 4. R.S.54:39-10 is amended to read as follows:

30 54:39-10. The [commissioner] director is hereby authorized
31 and empowered to carry into effect and execute the provisions of
32 this chapter, and in pursuance thereof may make and enforce
33 such rules and regulations as he may deem necessary for the
34 administration and enforcement of the same. The director may
35 appoint, subject to the provisions of Title 11A of the New Jersey
36 Statutes, individuals to assist him in the administration of this
37 chapter. The director may appoint certain of such assistants as
38 agents and assign them to an office or branch within the division
39 which may be the Office of Criminal Investigation. The agents
40 assigned to the Office of Criminal Investigation or such other
41 office are empowered to investigate and detect criminal
42 violations of this chapter. He shall determine the amount of
43 every bond required to be filed with him by distributors and
44 importers, to secure the payment of taxes, penalties and interest
45 imposed by and payable under the provisions of this chapter, such
46 determinations to be made in accordance with the provisions of
47 this chapter relating to filing of bonds and the fixing of the
48 amounts of the same.

49 (cf: R.S.54:39-10)

50 5. R.S.54:39-11 is amended to read as follows:

51 54:39-11. The [commissioner] director shall, upon application,
52 issue all licenses required to be obtained pursuant to this chapter,
53 and he may refuse to issue a license to any person or to renew the
54 license of any person upon sufficient cause being shown. Any

1 person who makes application for a license or the renewal thereof
2 may within ten days after the refusal thereof by the
3 [commissioner] director make a written request for a hearing, and
4 shall then appear [at a time and place designated by the
5 commissioner and show cause why his application should not be
6 refused] for a hearing conducted pursuant to the terms of the
7 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1
8 et seq.).

9 (cf: R.S.54:39-11)

10 6. R.S.54:39-12 is amended to read as follows:

11 54:39-12. The license held by any distributor, importer,
12 retail dealer, wholesale dealer, gasoline jobber, seller of special
13 fuels, user of special fuels, storage facility operator, or special
14 licensee may be suspended or revoked by the [commissioner]
15 director for a violation of any of the provisions of this chapter, or
16 on other reasonable grounds, after five days' notice of and
17 hearing on such proposed revocation or suspension conducted
18 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
19 (C.52:14B-1 et seq.). Upon receipt of a written request from the
20 holder of any license issued pursuant to the provisions of this
21 chapter, the [commissioner] director shall have the power to
22 cancel such license effective as soon thereafter as it has been
23 determined that all tax, fines, penalties and interest properly
24 owing to the State have been paid. If the [commissioner]
25 director shall find that any person to whom a license has been
26 issued is no longer engaged in the business for which the license
27 was issued, the [commissioner] director shall have the power to
28 cancel such license by giving such person reasonable notice of
29 such intent to cancel by mail to the last known address of such
30 person. Whenever a license is canceled, the license certificate
31 theretofore issued shall be surrendered to the [commissioner]
32 director.

33 (cf: P.L.1950, c.144, s.4)

34 7. R.S.54:39-13 is amended to read as follows:

35 54:39-13. The [commissioner] director may personally or he
36 may designate any of his assistants to conduct hearings and to
37 administer oaths to, and to examine under oath, any person
38 engaged in the business of dealing in fuels as a distributor,
39 importer, gasoline jobber, retail dealer, wholesale dealer, storage
40 facility operator, seller of special fuels, user of special fuels, or
41 otherwise, and the directors, officers, agents and employees of
42 any such person and all other witnesses, relative to the motor
43 fuel business of such person, in respect to any matter incident to
44 the administration of this chapter.

45 (cf: R.S.54:39-13)

46 8. R.S.54:39-17 is amended to read as follows:

47 54:39-17. Every distributor[,] and importer before continuing
48 in or commencing to transact the business of a distributor[,] or
49 importer shall procure a license from the [State Tax
50 Commissioner] director, permitting him to engage in said business
51 within this State. The license shall be issued by the [commissioner]
52 without charge.] director for a three year period. The license fee
53 shall be \$450 for the three year period or part thereof.
54 Applications shall be made to the [commissioner] director for

1 each such license before the issuance thereof and such
2 application shall be in writing in the form prescribed by the
3 [commissioner] director. In the event that any application for a
4 license shall be filed by any person whose license shall at any
5 time theretofore have been revoked by the [commissioner]
6 director, or if the [commissioner] director is satisfied that such
7 application is filed by some person as a subterfuge for the real
8 person in interest whose license shall theretofore have been
9 revoked by the [commissioner] director, the [commissioner],
10 director after hearing pursuant to the "Administrative Procedure
11 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), may refuse such
12 person a license.

13 (cf: P.L.1950, c.144, s.5)

14 9. R.S.54:39-18 is amended to read as follows:

15 54:39-18. Before granting a license authorizing any person to
16 engage in business as a distributor, gasoline jobber or as an
17 importer [required by section 54:39-64 of the Revised Statutes to
18 obtain a special license A,] the [commissioner] director shall
19 require such person to file with him, in such form as he shall
20 prescribe, a bond duly executed by such person as principal, and
21 by a corporation approved by the [commissioner] director and
22 duly authorized to engage in business as a surety company by the
23 Commissioner of [Banking and] Insurance of this State, as surety,
24 payable to the State of New Jersey, conditioned upon faithful
25 performance of all the requirements of this chapter and expressly
26 providing for the payment of all taxes, penalties, and other
27 obligations of such person arising out of this chapter.

28 (cf: P.L.1968, c.420, s.3)

29 10. R.S.54:39-19 is amended to read as follows:

30 54:39-19. The total amount of the bond or bonds required to be
31 filed shall be fixed by the director and may be increased or
32 reduced by the director at any time subject to the limitations
33 herein provided. In fixing the total amount of the bond or bonds
34 required to be filed by any distributor, importer, or gasoline
35 jobber, the director may require a bond or bonds equivalent to an
36 amount no greater than [3] three times the tax on the greatest
37 amount of motor fuels handled during a monthly period of the
38 previous 12 month period in such manner as the director may
39 deem proper. The director shall take into account the
40 applicant's prior record as a New Jersey taxpayer and all such
41 other information as may be available to him which would
42 establish the applicant's financial responsibility. Where
43 application is made by any person who has theretofore never
44 engaged in business in this State as a distributor, importer or
45 gasoline jobber, prior to the filing of such application, the
46 director, after investigation, shall fix the total amount of such
47 bond or bonds from such information as he may obtain after such
48 investigation. The total amount of the bond or bonds required to
49 be filed by any distributor or gasoline jobber shall never be less
50 than [5,000.00] \$25,000 nor more than [500,000.00] \$1,000,000.
51 The total amount of the bond or bonds required to be filed by any
52 importer shall never be less than \$50,000 nor more than
53 \$1,000,000. No recoveries on any bond or any execution of any
54 new bond shall invalidate any bond and no revocation of any

1 license shall affect the validity of any bond.

2 (cf: P.L.1981, c.352, s.1)

3 11. R.S.54:39-20 is amended to read as follows:

4 54:39-20. Every bond hereafter filed with and approved by the
5 [commissioner] director shall, without the necessity of periodic
6 renewal, remain in force and effect until such time as the
7 distributor's license, importer's license, or gasoline jobber's
8 license [or special license A] of which it is a part is revoked for
9 cause or otherwise canceled, or in the case of a gasoline jobber's
10 license, has expired. No action on a bond shall be begun after
11 2 years from the date of revocation or cancellation of the license
12 of which it is a part or from the date of expiration [on] or
13 nonrenewal of a gasoline jobber's license. The surety on a bond,
14 as provided herein, shall be released and discharged from all
15 liability to the State accruing on such bond after the expiration
16 of 60 days from the date upon which such surety shall have lodged
17 with the [commissioner] director a written request to be released
18 and discharged, but this provision shall not operate to relieve,
19 release, or discharge the surety from any liability already
20 accrued or which shall accrue before the expiration of the 60-day
21 period. The [commissioner] director shall promptly, upon
22 receiving any such request, notify the principal who furnished the
23 bond; and unless the principal shall, on or before the expiration of
24 the 60-day period, file a new bond, the [commissioner] director
25 shall forthwith cancel the principal's license.

26 (cf: P.L.1968, c.420, s.5)

27 12. R.S.54:39-21 is amended to read as follows:

28 54:39-21. In lieu of any such bond or bonds in total amount as
29 fixed hereunder, any distributor, importer or gasoline jobber may
30 deposit with the State Treasurer, under such terms and conditions
31 as the [commissioner] director may prescribe, a like amount of
32 lawful money of the United States, or bonds or other obligations
33 of the United States, or the State of New Jersey, of an actual
34 market value not less than the amount fixed by the
35 [commissioner] director.

36 (cf: P.L.1968, c.420, s.6)

37 13. R.S.54:39-22 is amended to read as follows:

38 54:39-22. The application in proper form having been accepted
39 for filing, and the bond having been accepted and approved, the
40 [commissioner] director shall issue to [such] a distributor or
41 gasoline jobber, or importer, a license to transact business as a
42 distributor, or gasoline jobber, or importer, in the state of New
43 Jersey, as the case may be, subject to cancellation of such
44 license as provided by law.

45 (cf: R.S.54:39-22)

46 14. R.S.54:39-23 is amended to read as follows:

47 54:39-23. The license so issued by the [commissioner] director
48 shall not be assignable, and shall be valid only for the distributor,
49 gasoline jobber, or importer in whose name issued.

50 (cf: R.S.54:39-23)

51 15. R.S.54:39-24 is amended to read as follows:

52 54:39-24. No person shall be a distributor, importer or gasoline
53 jobber without first securing a license from the [commissioner]
54 director. Any person who shall violate this provision shall be

1 deemed guilty of a [misdemeanor] crime of the fourth degree.
2 (cf: P.L.1968, c.420, s.7)

3 16. R.S.54:39-25 is amended to read as follows:

4 54:39-25. Every distributor, importer and gasoline jobber shall
5 keep a record of all fuels sold or used which shall include the
6 name of the purchaser, the number of gallons used or sold and the
7 date of the sale or use. Every distributor, importer and gasoline
8 jobber shall also deliver with every consignment of such fuel to a
9 purchaser within this State a written statement containing the
10 date and number of gallons delivered and the names of the
11 purchaser and seller, and such statement shall show a separate
12 charge for the tax on every gallon; provided, however, that such
13 statement shall not be required to be delivered by such
14 distributor, importer or gasoline jobber where sales of fuels are
15 made at a service station and said fuels are delivered directly
16 into the tank of a vehicle from which said fuels are directly
17 supplied for the propulsion of said vehicle[s]. The records and
18 written statements shall be preserved by said distributor,
19 importer or gasoline jobber, and said purchaser respectively, for a
20 period of [1 year] four years and shall be offered for inspection
21 upon the verbal or written demand of the [commissioner] director
22 or any of his duly authorized assistants.

23 (cf: P.L.1968, c.420, s.8)

24 17. R.S.54:39-26 is amended to read as follows:

25 54:39-26. Every distributor, importer and gasoline jobber shall
26 take a physical inventory of fuels on hand on the first or last day
27 of every calendar month and shall have the record of such
28 inventory and of all other matters mentioned in this article
29 available at all times for the inspection of the [commissioner]
30 director or his assistants. Upon demand by the [commissioner]
31 director or his assistants every distributor, importer and gasoline
32 jobber shall furnish a statement under oath reflecting the
33 contents of any records to be kept under this article.

34 (cf: P.L.1968, c.420, s.9)

35 18. R.S.54:39-27 is amended to read as follows:

36 54:39-27. a. Every distributor, importer and gasoline jobber
37 shall, on or before the [22nd] 20th day of each month, render a
38 report to the Director of the Division of Taxation, in a manner
39 prescribed by the director, stating the number of gallons of fuel
40 sold or used in this State by him during the preceding calendar
41 month. ³Upon application to the director, the period within
42 which a report must be made may be extended by up to an
43 additional 10 days, if it shall be deemed advisable by the
44 director.³ A tax of \$0.105 per gallon on each gallon so reported,
45 [except diesel fuel and alcohol-blend motor fuel, and a tax of
46 \$0.135 per gallon on each gallon of diesel fuel so reported, used,
47 offered for sale, or sold for use to propel motor vehicles with
48 diesel type engines on the public highways] shall be paid by each
49 distributor, importer and gasoline jobber, such payment to
50 accompany the filing of the report. [The tax on each gallon of
51 alcohol-blend motor fuel shall be paid as provided in subsection b.
52 of this section.] Such report shall contain such further
53 information as the director may require. Under such regulations
54 as the director may prescribe, sales of fuel [and diesel fuel] may

1 be made by one licensed distributor, importer or gasoline jobber
2 to another licensed distributor or gasoline jobber free of such
3 tax. If any distributor, importer or gasoline jobber shall fail,
4 neglect or refuse to file the report within the time prescribed by
5 this section, the director shall note such failure, neglect or
6 refusal upon his records, and shall estimate the sales, distribution
7 and use of said distributor, importer or gasoline jobber, assessing
8 the tax thereon, adding to said tax a penalty of 20% thereof for
9 failure, neglect or refusal to report, and such estimate shall be
10 prima facie evidence of the true amount of tax due to the
11 director from such distributor, importer or gasoline jobber;
12 provided that if a good and sufficient cause or reason is shown for
13 such delinquency, the director may remit or waive the payment
14 of the whole or any part of the penalty, as provided in the State
15 Tax Uniform Procedure Law, subtitle 9 of Title 54 of the Revised
16 Statutes. Reports required by this section, exclusive of
17 schedules, itemized statements and other supporting evidence
18 annexed thereto, shall at all reasonable times be open to the
19 public, anything contained in R.S.54:50-8 to the contrary
20 notwithstanding.

21 b. [The tax per gallon on each gallon of alcohol-blend motor
22 fuel, as defined in subsection (d) of R.S.54:39-2, shall be imposed
23 as follows:

24 (1) On and after October 1, 1985, but before January 1, 1988,
25 the tax on alcohol-blend motor fuel shall be \$0.08 less than the
26 rate applicable and paid on the sale or use of other fuels taxed
27 under this section which do not contain such a blend.

28 (2) On and after January 1, 1988, but before January 1, 1990,
29 the tax on alcohol-blend motor fuel shall be \$0.06 less than the
30 rate applicable and paid on the sale or use of other fuels taxed
31 under this section which do not contain such a blend.

32 (3) On and after January 1, 1990, but prior to January 1, 1992,
33 the tax on alcohol-blend motor fuel shall be \$0.04 less than the
34 rate applicable and paid on the sale or use of other fuels taxed
35 under this section which do not contain such a blend.

36 (4) On and after January 1, 1992, the tax on alcohol-blend
37 motor fuel shall be at the same rate applicable and paid on the
38 sale or use of other fuels taxed under this section which do not
39 contain such a blend.

40 Any tax on alcohol-blend motor fuel imposed pursuant to this
41 subsection shall be paid at the same time and in the same manner
42 as the payment for the tax imposed on other fuels pursuant to
43 subsection a. of this section.] (Deleted by amendment, P.L.,
44 c. ...)

45 (cf: P.L.1987, c.460, s.7)

46 19. Section 7 of P.L.1983, c.264 (C.54:39-27a.) is amended to
47 read as follows:

48 7. Every distributor, importer and gasoline jobber who sells
49 fuel for distribution to general aviation airports shall, on or
50 before the [twenty-second] 20th day of each month [following the
51 calendar quarter], render a report to the Division of Taxation,
52 stating the number of gallons of fuel, except turbine fuels, sold in
53 this State by him for distribution to general aviation airports
54 during the preceding [calendar quarter] month. In addition to the

1 provisions of R.S.54:39-27 and except as otherwise provided in
2 R.S.54:39-65, a tax of \$0.02 per gallon on each gallon of fuel,
3 except turbine fuels, so reported shall be paid by each distributor,
4 importer or gasoline jobber, such payment to accompany the
5 filing of the report.

6 Every distributor, importer and gasoline jobber who sells
7 turbine fuels for distribution to general aviation airports shall, on
8 or before the [twenty-second] 20th day of each month [following
9 the calendar quarter], render a report to the Division of Taxation,
10 stating the number of gallons of turbine fuel sold by him for
11 distribution to general aviation airports during the preceding
12 [calendar quarter] month. Except as otherwise provided in
13 R.S.54:39-65, a tax of \$0.02 per gallon on each gallon of turbine
14 fuels so reported shall be paid by each distributor, importer or
15 gasoline jobber, such payment to accompany the filing of the
16 report.

17 If any distributor, importer or gasoline jobber shall fail, neglect
18 or refuse to file the report within the time prescribed by this
19 section, the Director of the Division of Taxation shall note such
20 failure, neglect or refusal upon his records, and shall estimate the
21 sales, distribution and use of said distributor, importer or gasoline
22 jobber, assessing the tax thereon, adding to said tax a penalty of
23 20 percent thereof for failure, neglect or refusal to report, and
24 such estimate shall be prima facie evidence of the true amount of
25 tax due to the director from such distributor, importer or
26 gasoline jobber; provided that if a good and sufficient cause or
27 reason is shown for such delinquency, the director may remit or
28 waive the payment of the whole or any part of the penalty as
29 provided in the State Tax Uniform Procedure Law, subtitle 9 of
30 Title 54 of the Revised Statutes (R.S.54:48-1 et seq.). Reports
31 required by this section, exclusive of schedules, itemized
32 statements and other supporting evidence annexed thereto, shall
33 at all reasonable times be open to the public, anything contained
34 in R.S.54:50-8 to the contrary notwithstanding.

35 The [quarterly] monthly filing provisions of this section
36 notwithstanding, in the event it is determined by the director
37 that the period for filing reports should be changed from a
38 [quarterly] monthly to a [monthly] quarterly filing period, he may
39 do so upon the promulgation of regulations pursuant to the
40 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1
41 et seq.)."

42 The refund provisions of R.S.54:39-66 shall not apply to this
43 section. However, users of general aviation aircraft shall be
44 entitled to a refund or credit of the tax imposed under
45 R.S.54:39-27, provided they comply with the provisions of
46 R.S.54:39-66.

47 (cf: P.L.1983, c.264, s.7)

48 20. R.S.54:39-28 is amended to read as follows:

49 54:39-28. a. Neither this chapter nor any of the provisions
50 hereof shall apply to fuels when exported [or sold for exportation]
51 by a distributor, importer or gasoline jobber from the State of
52 New Jersey into any other State or country, but every such
53 person exporting [or selling for export] shall be required to report
54 such exports [and sales] to the [commissioner] director in such

1 detail as the [commissioner] director shall require, otherwise the
2 exemption herein granted shall be null and void, and it shall be
3 prima facie evidence that all such fuel was distributed in this
4 State subject to the tax provided for in this chapter.

5 b. Any person not licensed pursuant to this chapter, who
6 acquires title or takes delivery of any fuels within New Jersey
7 and subsequently exports such fuels from the State of New Jersey
8 into any other state or country, shall apply for an exporter's
9 license on forms prescribed by the director and pay a \$450 fee
10 seven days or more before the day of exportation. The license
11 shall have a three year duration. The exportation of untaxed
12 fuels in an amount in excess of 100 gallons per day without first
13 obtaining a license under this chapter shall be a crime of the
14 fourth degree.

15 c. The director shall issue or deny issuance of such license
16 pursuant to the terms of article 2 of this chapter. On or before
17 the 20th day of each month, each licensed exporter shall render a
18 report to the director, in a manner prescribed by the director,
19 stating the number of gallons of fuel exported or used by the
20 exporter during the preceding calendar month.

21 d. The filing of an erroneous report by an exporter with intent
22 to evade tax shall be a crime of the fourth degree.

23 (cf: P.L.1950, c.144, s.7)

24 21. R.S.54:39-29 is amended to read as follows:

25 54:39-29. When the [commissioner] director shall determine
26 that any moneys received under this chapter were paid in error,
27 he [may] shall cause the same to be refunded in accordance with
28 such rules and regulations as he may prescribe, but [may] shall
29 refuse to authorize a refund [in case] if more than one year has
30 elapsed from the time the erroneous payment was made. Refunds
31 authorized by the [commissioner] director shall be paid from
32 revenues collected under this article and deposited with the state
33 treasurer.

34 (cf: R.S.54:39-29)

35 22. R.S.54:39-30 is amended to read as follows:

36 54:39-30. Every person engaged in the retail sale of fuels, as
37 herein defined, shall be known as a retail dealer, and shall, before
38 engaging in said business, apply to the director for a license for
39 each establishment operated by such person. A license fee of
40 [\$10.00] \$150 shall be paid for the issuing of such license for a
41 three year period and the director shall supply a license plate or
42 suitable substitute containing the number assigned to the
43 licensee, and words denoting the type of license, which the
44 licensee shall publicly display at each establishment in a manner
45 to be regulated by the director. No applicant shall continue in
46 business after the end of the fourteenth day following the date of
47 application unless the license applied for has been procured and is
48 publicly displayed at the establishment being operated. All
49 moneys received by the director for such license fees shall be
50 accounted for and forwarded by him to the State Treasurer.

51 (cf: P.L.1971, c.69, s.1)

52 23. R.S.54:39-31 is amended to read as follows:

53 54:39-31. Every wholesale dealer shall, before engaging in said
54 business, procure from the [commissioner] director a license for

1 each establishment, wherever located, operated by such person
2 out of which wholesale sales in New Jersey are made. If such
3 sales are made by a person not having any such establishment, the
4 license shall be secured for the location at which the records of
5 such business are kept. Applicants with out-of-State
6 establishments or locations shall furnish the [commissioner]
7 director with the name and address of their New Jersey
8 registered agent. A license fee of [~~\$5.00~~] \$450 shall be paid for
9 the issuance of each license for a three year period. Every
10 wholesale dealer shall submit such reports as the director may
11 require.

12 (cf: P.L.1971, c.69, s.2)

13 24. Section 2 of P.L.1968, c.420 (C.54:39-31.1) is amended to
14 read as follows:

15 2. Any gasoline jobber, in lieu of or in addition to obtaining a
16 wholesale license pursuant to Revised Statutes 54:39-31, may
17 apply for and obtain a gasoline jobber's license on forms to be
18 prescribed by the [commissioner] director, by payment of [an
19 annual] a license fee of [~~\$50.00~~] \$450 for a three year period and
20 the filing of a bond in such form and amount as provided by law.
21 A gasoline jobber's license shall not be assignable, and shall be
22 valid only for the gasoline jobber in whose name issued. A
23 gasoline jobber licensed pursuant to this section shall also be
24 required to be licensed as a wholesale dealer or seller of special
25 fuels to engage in the sale at wholesale of [motor] fuels other
26 than gasoline.

27 (cf: P.L.1968, c.420, s.2)

28 25. R.S.54:39-32 is amended to read as follows:

29 54:39-32. Every license and permit required by the provisions
30 of this chapter, except a [distributor's license, a special license
31 A and a special license B] transporter's and storage facility
32 license shall be issued for a [fiscal] three year period, or
33 unexpired portion thereof, commencing on April 1 and ending on
34 the third succeeding March 31 and shall be void thereafter, and
35 said license or permit may be suspended or revoked by the
36 director in accordance with the provisions of article 2 of this
37 chapter (54:39-10 et seq.). Every [distributor's license, special
38 license A and special license B] transporter's license and storage
39 facility license once issued, shall remain in force until March 31
40 of the year following issuance and shall be void thereafter unless
41 renewed. A license, once issued, shall remain in force during the
42 period of issuance unless suspended or revoked for cause or
43 otherwise canceled.

44 (cf: P.L.1963, c.70, s.3)

45 26. R.S.54:39-33 is amended to read as follows:

46 54:39-33. a. Every wholesale dealer, seller of special fuels,
47 user of special fuels, and retail dealer purchasing fuels[, taxable
48 under this chapter,] shall maintain and keep for a period of
49 [2] four years, a record of fuels received and sold, the amount of
50 tax paid [to the distributor as part of the purchase price],
51 together with delivery tickets, totalizer readings, invoices, [and]
52 bills of lading, monthly physical inventories, and such other
53 records as the director may require. Such records shall be
54 offered for inspection upon the verbal or written demand of the

1 director or any of his duly authorized assistants.

2 b. Every person selling diesel fuel, No. 2 fuel oil, kerosene, or
3 any other special fuel, shall furnish an invoice with each sale,
4 which invoice shall show the name, address, and applicable motor
5 fuels license number of the seller, the date of the sale, the kind
6 of fuel sold, the number of gallons sold, the amount of tax
7 charged, if applicable, the total price and the name, address, and
8 current applicable motor fuels license number of the purchaser.
9 In the event that the sale is made to a person not required to hold
10 a license under this chapter, the invoice shall state the purpose
11 for which the fuel will be used. In every case where an invoice
12 does not meet all of these requirements, the fuels sold shall be
13 subject to the motor fuels tax pursuant to this chapter.

14 (cf: P.L.1963, c.70, s.4)

15 27. R.S.54:39-34 is amended to read as follows:

16 54:39-34. Every retail dealer shall keep a daily record showing
17 the total amount of fuels sold on each business day, daily
18 dispensing pump totalizer readings, and monthly physical
19 inventories, such records to be preserved for a period of [one
20 year] four years, and to be open for inspection by the
21 [commissioner] director or any of his assistants at all times.

22 (cf: R.S.54:39-34)

23 28. R.S.54:39-35 is amended to read as follows:

24 54:39-35. The terms "distributor," "importer," "gasoline
25 jobber," "retail dealer," "wholesale dealer," "storage facility
26 operator," "seller of special fuels," "user of special fuels," and
27 "person," as used in this chapter, shall include an officer,
28 director, stockholder or employee of a corporation, or a member
29 of a partnership, who as such officer, director, stockholder,
30 employee or member is under the duty to perform the act in
31 respect of which the violation occurs. Such person or persons,
32 individual or individuals shall be personally liable for the tax
33 imposed, collected or required to be paid, collected or remitted
34 under this chapter.

35 (cf: P.L.1968, c.420, s.11)

36 29. R.S.54:39-36 is amended to read as follows:

37 54:39-36. Where the [commissioner] director has reason to
38 believe that any corporation has been formed for the purpose of
39 evasion of the provisions of this chapter, he may require such
40 corporation to show cause [before him or any of his assistants
41 deputized by him to conduct hearings] pursuant to the provisions
42 of this chapter why an application for a license by such
43 corporation should not be denied or why the license of such
44 corporation should not be revoked. The hearing to be held
45 pursuant to this section shall be conducted in accordance with the
46 provisions of article two of this chapter (£ 54:39-10 et seq.).

47 (cf: R.S.54:39-36)

48 30. R.S.54:39-37 is amended to read as follows:

49 54:39-37. No corporation shall be entitled to hold a license as
50 a distributor, importer, gasoline jobber, wholesale dealer, retail
51 dealer, seller of special fuels, user of special fuels, [or special
52 licensee,] carrier or storage facility operator when it shall appear
53 that any officer, director or employee of such corporation has
54 heretofore been convicted of violating any of the provisions of

1 this chapter, or where a license issued pursuant to the provisions
2 of this chapter and held by such officer, director, or employee
3 has been heretofore revoked by the [commissioner] director for
4 cause.

5 (cf: P.L.1968, c.420, s.12)

6 31. R.S.54:39-38 is amended to read as follows:

7 54:39-38. Every railway or railroad company, water
8 transportation company, and every [carrier] person transporting
9 fuels, as herein defined, in bulk, between points within the State,
10 and every railway or railroad company, water transportation
11 company, and every [carrier] person transporting fuel in bulk to a
12 point outside the State from any point within the State, or to a
13 point within the State from a point outside of the State, shall, (at
14 any time, and from time to time, upon written request of the
15 [commissioner] director) report, in a manner prescribed by the
16 [commissioner] director, all deliveries of fuel in bulk so made to
17 points within or without the State.

18 (cf: P.L.1950, c.144, s.12)

19 32. R.S.54:39-41 is amended to read as follows:

20 54:39-41. Every person engaged in the business of hauling,
21 transporting or delivering fuel, shall, before entering upon the
22 highways or waterways of this State with any conveyance used
23 therein, apply for the registration thereof to the [commissioner]
24 director on forms prescribed by the [commissioner] director.
25 Upon receipt of any application, the [commissioner] director shall
26 issue a license certificate and license plate for each conveyance
27 which shall show the license number assigned and which shall be
28 displayed on the conveyance at all times in such a manner as the
29 [commissioner] director may regulate. An annual license fee of
30 [\$5.00] \$50 shall be paid for the licensing of each such
31 conveyance. Nothing contained in this section shall in any
32 manner relieve or discharge persons obtaining licenses thereunder
33 from complying with any or all provisions of other laws.

34 (cf: P.L.1971, c.69, s.3)

35 33. R.S.54:39-43 is amended to read as follows:

36 54:39-43. Limit on fuel supply imported in transient vehicles.

37 Every person coming into this state in a motor vehicle may
38 transport in the fuel tanks of such vehicle, for the propulsion
39 thereof, not more than [thirty] 150 gallons of fuel without paying
40 the tax, securing the license or making any report herein provided.

41 (cf: R.S.54:39-43)

42 34. R.S.54:39-44 is amended to read as follows:

43 54:39-44. Vessels and vehicles carrying fuel to carry invoices;
44 inspection; fuel carriers marked; [misdemeanor] crime.

45 ¹[a.]¹ The master or other person in charge of any barge,
46 tanker or other vessel in which fuel is being transported, or of a
47 tank truck, truck tractor, semitrailer, trailer, or other vehicle
48 used in transporting fuels other than fuel being transported for
49 use in operating the engine which propels such vessel or vehicle,
50 must have in his possession an invoice, bill of sale or other
51 evidence showing the name and address of the consignor or person
52 from whom such fuel was received by him and the name and
53 address of the consignee or person to whom he is to make
54 delivery of the same, together with the number of gallons to be

1 delivered to each such person, and shall at the request of any
2 agent of the [commissioner] director produce such invoice, bill of
3 sale or other record evidence for inspection. Every barge, tanker
4 or other vessel so used for the transportation of fuel must be
5 plainly and visibly marked on both sides thereof and above the
6 water line with the word "gasoline", or other name of the fuel
7 being transported, in letters at least eight inches high and of
8 corresponding appropriate width. Any [person] owner or lessee
9 violating any of the provisions of this section shall be guilty of a
10 [misdemeanor] crime of the fourth degree.

11 ¹[b. A tank truck, truck tractor, semitrailer, or trailer used in
12 transporting fuels as herein defined shall affix to the rear of the
13 truck or trailer a sign which shall indicate in letters not less than
14 four inches high and of corresponding appropriate width, the type
15 of fuel being transported. Any owner or lessee violating any of
16 the provisions of this section shall be punished by imprisonment
17 for not more than six months, or by a fine of not more than \$500
18 or by both.]¹

19 (cf: R.S.54:39-44)

20 35. R.S.54:39-47 is amended to read as follows:

21 54:39-47. As an additional or alternative remedy, the Director
22 of the Division of Taxation may issue a certificate to the clerk of
23 the Superior Court or to any county clerk that any person is
24 indebted under this chapter in an amount named in such
25 certificate and thereupon the clerk to whom such certificate
26 shall have been issued shall immediately enter upon his record of
27 docketed judgments the name of such person, the amount of the
28 debt so certified and the date of making such entries, and the
29 making of such entries shall have the same force and effect as
30 the entry of a docketed judgment in the office of such clerk, and
31 the Director of the Division of Taxation shall have all of the
32 remedies and may take all of the proceedings for the collection
33 thereof which may be had or taken upon the recovery of a
34 judgment in an action at law upon contract. Every person who
35 shall be licensed under this chapter, and every refund claimant
36 who has applied for and received benefits under article 11
37 (R.S.54:39-65 et seq.) shall, by the acceptance of such license and
38 benefits, be deemed to have consented to the procedure set forth
39 in this section. Such person may, within a period of 90 days from
40 the date of the issuance of such certificate, appeal to the tax
41 court for a review of the assessment included in such
42 certificate[, and all proceedings taken for the collection of such
43 judgment shall be stayed during the time that the appeal shall be
44 pending]. Every person required to collect any tax imposed by
45 this chapter shall be personally liable for the tax imposed,
46 collected or required to be paid, collected or remitted under this
47 chapter and be the subject of a certificate issued under this
48 section.

49 (cf: P.L.1983, c.36, s.40)

50 36. R.S.54:39-48 is amended to read as follows:

51 54:39-48. The [commissioner] director, upon application made
52 to him and upon the payment of a fee of [one dollar] \$25, may
53 release any property from the lien of any judgment or levy
54 procured by him. provided payment be made to the

1 [commissioner] director of such sum as he shall deem adequate
2 consideration for such release, or a deposit be made with the
3 [commissioner] director of such bond or other security as he shall
4 deem adequate to secure the payment of any judgment, the lien
5 of which is sought to be released.

6 (cf: R.S.54:39-48)

7 37. R.S.54:39-51 is amended to read as follows:

8 54:39-51. Every person who engages in business as a wholesale
9 dealer without first procuring a license from the director and
10 every person who engages in business as a retail dealer without
11 first applying to the director for a license, as required under
12 R.S.54:39-30, as amended, or who shall continue in business as a
13 retail dealer after the end of the fourteenth day following the
14 date of such application without having procured such license and
15 displayed it at the establishment being operated, shall be subject
16 for the first offense to a penalty of [~~\$25.00~~] \$250 and for the
17 second offense and thereafter shall be subject to a penalty of
18 [~~\$200.00~~] \$500, and for failure to forthwith pay such penalty after
19 conviction, he shall be imprisoned for a period of not less than [5]
20 five nor more than 30 days.

21 (cf: P.L.1963, c.70, s.6)

22 38. R.S.54:39-52 is amended to read as follows:

23 54:39-52. [~~Every retail dealer or wholesale dealer~~] Any
24 person, as herein defined who shall fail to furnish an invoice or
25 who shall fail to keep the records required to be kept by virtue of
26 sections 54:39-33 and 54:39-34 of this [Title] chapter, or who
27 shall refuse or fail to permit inspection of such records by the
28 [commissioner] director or any of his agents shall be subject for
29 the first offense to a penalty of [twenty-five dollars (\$25.00)]
30 \$250 and for the second offense and thereafter shall be subject to
31 a penalty of [two hundred dollars (\$200.00)] \$500, and for failure
32 to forthwith pay such penalty after conviction, he shall be
33 imprisoned for a period of not less than five nor more than
34 [thirty] 30 days.

35 (cf: P.L.1950, c.144, s.17)

36 39. R.S.54:39-53 is amended to read as follows:

37 54:39-53. Any person engaged in the business of hauling,
38 transporting or delivering fuel who shall cause to be operated any
39 conveyance without having a license certificate and license plate
40 displayed thereon, as provided in section 54:39-41 of this [Title]
41 chapter shall be subject for the first offense to a penalty of
42 [twenty-five dollars (\$25.00)] \$250 and for the second offense and
43 thereafter shall be subject to a penalty of [two hundred dollars
44 (\$200.00)] \$500, and for failure to forthwith pay such penalty
45 after conviction, shall be imprisoned for a period of not less than
46 five nor more than [thirty] 30 days.

47 (cf: P.L.1950, c.144, s.18)

48 40. R.S.54:39-54 is amended to read as follows:

49 54:39-54. The driver of any conveyance used for the
50 transportation or hauling of fuels who shall fail to have and
51 possess at all times while hauling or transporting fuels a delivery
52 ticket containing the information provided for in sections
53 54:39-42 and 54:39-44 of this [Title] chapter, shall be subject for
54 the first offense to a penalty of [twenty-five dollars (\$25.00)]

1 \$100 and for the second offense and thereafter shall be subject to
2 a penalty of [two hundred dollars (\$200.00)], \$500 and for failure
3 to forthwith pay such penalty after conviction, shall be
4 imprisoned for a period of not less than five nor more than
5 [thirty] 30 days .

6 (cf: P.L.1950, c.144, s.19)

7 41. (New section) Any person who fails to file any report
8 required by this chapter, and for which a penalty is not otherwise
9 set forth in this chapter, shall be subject to the penalties
10 contained in R.S.54:49-4.

11 42. R.S.54:39-56 is amended to read as follows:

12 54:39-56. Any person, firm, partnership, association or
13 corporation or any officer or agent thereof who, [through false
14 statement, trick or device, or otherwise,] obtains fuel for export
15 and fails to export the same or any portion thereof, or causes said
16 fuel or any portion thereof not to be exported, or who diverts said
17 fuel or any portion thereof, or who causes to be diverted from
18 interstate or foreign transit begun in this state, or who unlawfully
19 returns said fuel or any part thereof to this state and sells or uses
20 said fuel or any part thereof in this state, or causes said fuel or
21 any part thereof to be used or sold in this state, and fails to
22 forthwith notify the [commissioner] director of this act, and any
23 distributor or other person who conspires with any person, firm,
24 partnership, association or corporation, or any officer or agent
25 thereof, to do the things hereinabove mentioned with intent to
26 avoid any taxes imposed by this chapter, shall be guilty of a
27 [misdemeanor] crime of the fourth degree.

28 (cf: R.S.54:39-56)

29 43. R.S.54:39-58 is amended to read as follows:

30 54:39-58. The procedure to be followed in actions for the
31 collection of penalties and fines set forth in article 8 of this
32 chapter (R.S. 54:39-50 et seq.), shall, except where the offense is
33 punishable as a [misdemeanor] crime, be as hereinafter in this
34 article provided.

35 (cf: R.S.54:39-58)

36 44. R.S.54:39-65 is amended to read as follows:

37 54:39-65. The provisions of this chapter requiring the payment
38 of taxes shall not be construed to apply to fuel sold to the
39 Government of the United States, to the Government of this
40 State or of any political subdivision of this State, or to any
41 department or agency of any of the said governments for official
42 use of such governments in motor vehicles, motor boats, or other
43 implements owned or leased by this State or any political
44 subdivision or agency thereof, or to fuel sold at retail to
45 diplomatic missions and diplomatic personnel under a program
46 administered by the director and predicated upon the United
47 States Department of State, Office of Foreign Missions' (or
48 successor office's) national tax exemption program, but every
49 distributor shall report such sales to the [commissioner] director
50 at such times and in such detail as the [commissioner] director
51 may require. Any claim for exemption under this section may be
52 made by the distributor at any time within [2] two years after the
53 date of sale, but no claim made after the expiration of said [2]
54 two years will be recognized for any purpose by the State or any

1 agency thereof. Any person who shall purchase or otherwise
2 acquire fuel as herein defined upon which the tax has not been
3 paid, from any of the aforesaid governments, or any of their
4 agents or officers, for use not specifically associated with any
5 governmental function or operation shall pay to the State of New
6 Jersey the tax herein provided upon the fuel so acquired. It shall
7 be unlawful for any person to use or to conspire with any
8 governmental official, agent or employee for the use of any
9 requisition, purchase order, or any card or any authority to which
10 he is not specifically entitled by government regulations, for the
11 purpose of obtaining any such fuel, upon which the tax has not
12 been paid.

13 (cf: P.L.1975, c.314, s.1)

14 45. R.S.54:39-66 is amended to read as follows:

15 54:39-66. Any person:

16 (1) Who shall use any fuels as herein defined for any of the
17 following purposes:

18 (a) (Deleted by amendment.)

19 (b) Buses while being operated over the highways of this
20 State in those municipalities to which the operator has paid a
21 monthly franchise tax for the use of the streets therein under the
22 provisions of R.S.48:16-25 and buses while being operated
23 over the highways of this State in a regular route bus operation as
24 defined in R.S.48:4-1 and under operating authority conferred
25 pursuant to R.S.48:4-3, or while providing bus service under a
26 contract with the New Jersey Transit Corporation or under a
27 contract with a county for special or rural transportation bus
28 service subject to the jurisdiction of the New Jersey Transit
29 Corporation pursuant to P.L.1979, c.150 (C.27:25-1 et seq.), and
30 buses providing commuter bus service which receive or
31 discharge passengers in New Jersey. For the purpose of this
32 paragraph "commuter bus service" means regularly scheduled
33 passenger service provided by motor vehicles whether within or
34 across the geographical boundaries of New Jersey and utilized by
35 passengers using reduced fare, multiple ride or commutation
36 tickets and shall not include charter bus operations or special bus
37 operations as defined in R.S.48:4-1 or buses operated for the
38 transportation of enrolled children and adults referred to in
39 subsection c. of R.S.48:4-1,

40 (c) Agricultural tractors not operated on a public highway,

41 (d) Farm machinery,

42 (e) Aircraft,

43 (f) Ambulances,

44 (g) Rural free delivery carriers in the dispatch of their official
45 business,

46 (h) Such vehicles as run only on rails or tracks, and such
47 vehicles as run in substitution therefor,

48 (i) Such highway motor vehicles as are operated exclusively on
49 private property,

50 (j) Motor boats or motor vessels used exclusively for or in the
51 propagation, planting, preservation and gathering of oysters and
52 clams in the tidal waters of this State,

53 (k) Motor boats or motor vessels used exclusively for
54 commercial fishing,

1 (l) Motor boats or motor vessels, while being used for hire for
2 fishing parties or being used for sightseeing or excursion parties,

3 (m) Cleaning,

4 (n) Fire engines and fire-fighting apparatus,

5 (o) Stationary machinery and vehicles or implements not
6 designed for the use of transporting persons or property on the
7 public highways,

8 (p) Heating and lighting devices,

9 (q) Fuels previously taxed under this chapter and later
10 exported [or sold for exportation] from the State of New Jersey
11 to any other state or country; provided, proof satisfactory to the
12 director of such exportation is submitted,

13 (r) Motor boats or motor vessels used exclusively for Sea Scout
14 training by a duly chartered unit of the Boy Scouts of America,

15 (s) Emergency vehicles used exclusively by volunteer first-aid
16 or rescue squads, and

17 (t) Diesel fuel, the increase in the tax thereof as imposed by
18 P.L.1984, c.73, as used by passenger automobiles and motor
19 vehicles of less than 5,000 pounds gross weight; and

20 (2) Who shall have paid the tax for such fuels, hereby required
21 to be paid, shall be reimbursed and repaid the amount of tax so
22 paid upon presenting to the director an application for such
23 reimbursement or repayment, in form prescribed by the director,
24 which application shall be verified by a declaration of the
25 applicant that the statements contained therein are true. Such
26 application for reimbursement or repayment shall be supported by
27 an invoice, or invoices, showing the name and address of the
28 person from whom purchased, the name of the purchaser, the
29 date of purchase, the number of gallons purchased, the price paid
30 per gallon, and an acknowledgment by the seller that payment of
31 the cost of the fuel, including the tax thereon, has been made.
32 Such invoice, or invoices, shall be legibly written and shall be
33 void if any corrections or erasures shall appear on the face
34 thereof.

35 The director may, in his discretion, permit a distributor
36 entitled to a refund under the provisions of this section to take
37 credit therefor, in lieu of such refund, in such manner as the
38 director may require, on a report filed pursuant to R.S.54:39-27.

39 Any refund granted to a person under subsection (1)(e), for fuel
40 used in aircraft, shall be paid from the moneys deposited in the
41 Airport Safety Fund established by section 4 of the "New Jersey
42 Airport Safety Act of 1983," P.L.1983, c.264 (C.6:1-92). Such
43 refunds shall be granted on an annual basis.

44 (cf: P.L.1987, c.445, s.5)

45 46. R.S.54:39-67 is amended to read as follows:

46 54:39-67. Upon approval by the director of such application a
47 warrant shall be drawn upon the State Treasurer for the amount
48 of such claim in favor of such claimant and such warrant shall be
49 paid from the tax collected on motor fuel. The application for
50 reimbursements and repayments shall be filed with the director
51 on or before the last business day of the sixth month following
52 that in which the fuels in question were purchased. Any person or
53 the member of any firm or the officer or agent of any
54 corporation who shall make false statement in any application

1 required for the reimbursement and repayment of any taxes, or
2 who shall collect or cause to be repaid to him or to any other
3 person any such reimbursement or refund without being entitled
4 to the same shall be guilty of a [misdemeanor] crime.

5 (cf: P.L.1963, c.70, s.8)

6 47. R.S.54:39-68 is amended to read as follows:

7 54:39-68. In order to establish the validity of claims filed, the
8 claimant shall be required to maintain and preserve for a period
9 of at least [two] four years such fuel consumption records as may
10 be prescribed by the [commissioner] director. The [commissioner]
11 director shall have the right to require a claimant to furnish such
12 additional proof of the validity of a claim as the [commissioner]
13 director may determine, and to examine the books and records of
14 the claimant for such purpose. Failure of the claimant to
15 maintain and preserve such records, furnish such additional proof
16 or to accede to the demand for such examination by the
17 [commissioner] director, or any of his representatives, shall
18 constitute a waiver of all rights to the claim or claims questioned
19 and such subsequent claims as the [commissioner] director may
20 determine.

21 (cf: P.L.1950, c.144, s.22)

22 48. R.S.54:39-70 is amended to read as follows:

23 54:39-70. The [commissioner] director shall [make] adopt rules
24 [and regulations] relating to the tax on the purchase of fuel from
25 [distributors] any person which is to be used for the purpose of
26 blending with other fuels by the purchaser thereof.

27 (cf: R.S.54:39-70)

28 49. (New section) "Importer" means a person, wherever
29 resident or located, who imports into this State fuels, as herein
30 defined, for use, distribution, storage or sale in this State.

31 50. (New section) "Seller of special fuels" means any person,
32 who sells any fuel capable of generating power in a diesel type
33 engine which will include, without limitation, diesel fuel, No. 2
34 fuel oil, and kerosene.

35 51. (New section) "User of special fuels" means any person,
36 except the State of New Jersey and any political subdivision
37 thereof, who maintains a storage tank or tanks of any type,
38 including a conveyance, equipped with a dispensing device and
39 being used for storage and dispensing diesel fuel, No. 2 fuel oil,
40 and kerosene, for his own use. "Storage tanks" as used in this
41 section shall not apply to a vehicle service tank used to carry
42 motor fuels for use exclusively in propelling the vehicle carrying
43 the tank.

44 52. (New section) Every seller of special fuels and every user
45 of special fuels, except a distributor, importer, gasoline jobber,
46 and wholesale dealer, shall apply for and obtain a seller of special
47 fuels license or user of special fuels license on forms to be
48 prescribed by the director. The license, unless cancelled or
49 revoked, shall remain in effect for three years and may be
50 renewed. A license fee of \$150.00 shall be paid for the three
51 year term of the license except that persons holding valid retail
52 dealer's licenses shall pay no fee for their seller of special fuels
53 license other than the amount prescribed by R.S.54:39-30. The
54 license shall not be assignable and shall be valid only for the

1 person, as herein defined, in whose name the license is issued.
2 The license of the user of special fuels shall indicate that the
3 licensee shall purchase diesel fuel, No. 2 fuel oil, and kerosene,
4 tax-free.

5 53. (New section) A seller of special fuels and user of special
6 fuels, may, at the discretion of the director based upon prior
7 filing history or other relevant criteria, ²including other licenses
8 held, or bonding required, under R.S.39-1 et seq.,² be required to
9 file a bond with the director in an amount not greater than three
10 times the tax on the greatest amount of motor fuels handled
11 during any one month of the previous 12 months, provided that in
12 no case shall the bond be less than \$1,000 nor greater than
13 \$1,000,000. Such bond shall be in such form as approved by the
14 director, shall be executed by a surety company duly licensed to
15 do business under the laws of the State of New Jersey, and be
16 conditioned upon the prompt filing of true reports and the
17 payment by the licensee to the director of all motor fuels taxes
18 which are now or which hereafter may be levied or imposed by
19 the State of New Jersey, together with any and all penalties and
20 interest thereon, and generally upon faithful compliance with the
21 provisions of this chapter. Bonds of the United States or the
22 State of New Jersey, having an actual market value not less than
23 an amount fixed by the director, may be filed in lieu of the surety
24 bond as required by this section.

25 54. (New section) An excise tax at the rate of \$0.135 per
26 gallon or fractional part thereof is imposed upon any seller of
27 special fuels^{1,1} and any user of special fuels^{1,1} who delivers or
28 places fuels into the fuel supply tank or other fueling receptacle
29 or device of a motor vehicle for use to propel the vehicle over
30 the public highways, or who, uses special fuels within the meaning
31 assigned by this chapter, or who makes sales of special fuels to
32 unlicensed buyers. If a seller of special fuel fails to collect a tax
33 ¹[, in the case where the buyer falsely claims to be a licensee,]¹
34 the seller is liable for the tax due on the transaction ¹unless the
35 seller shall have taken from the buyer a certification in such
36 form as shall be determined by the director¹. The tax herein
37 imposed shall not apply to fuels not within the taxing power of
38 this State under the Constitution of the United States. The tax
39 shall be paid to the State but once in respect to any fuels used
40 within the State. No tax is imposed upon (a.) any fuel that is used
41 by or sold and delivered to the United States government, when
42 such sales and deliveries are supported by documentary evidence
43 satisfactory to the division, or (b.) upon any fuel not in excess of
44 150 gallons brought into this State in the fuel supply tanks or
45 other fueling receptacles or devices of a motor vehicle, or (c.)
46 upon any fuel used by, or sold or delivered to, the State of New
47 Jersey or its political subdivisions when such sales and deliveries
48 are supported by documentary evidence satisfactory to the
49 division, or (d.) to fuel sold to diplomatic missions and diplomatic
50 personnel under a program administered by the director and
51 predicated upon the United States Department of State, Office of
52 Foreign Missions'; or successor office's, national tax exemption
53 program. The tax shall be paid to the seller of special fuels as a
54 trustee for and on account of the State. The user or seller of

1 special fuels shall maintain a separate trustee account to be
2 credited daily with taxes due on amounts of fuels used on that
3 day. The account shall be maintained for and on account of the
4 State of New Jersey.

5 55. (New section) Each seller of special fuels and each user of
6 special fuels upon whom a tax is imposed by this act shall, on or
7 before the 20th day of each month, render a report to the
8 Director of the Division of Taxation on forms prescribed,
9 prepared and furnished by the director stating the number of
10 gallons of fuel sold or used in this State by that seller or user
11 during the preceding calendar month. ³Upon application to the
12 director, the period within which a report must be rendered may
13 be extended by up to an additional 10 days, if it shall be deemed
14 advisable by the director. The payment of the tax imposed
15 pursuant to section 54 of P.L. , c. (C.)(now pending before
16 the Legislature as this bill) for the number of gallons of fuel sold
17 or used in this State by that seller or user during the preceding
18 calendar month shall accompany the filing of the report.³ It shall
19 be the duty of each seller of special fuels or user of special fuels
20 to furnish to the division such information concerning such sale or
21 use as the division may require.

22 56. (New section) The director or his authorized agents shall
23 have the right at any time during normal business hours to inspect
24 the books of any seller of special fuels or user of special fuels to
25 determine if the requirements of this chapter are being properly
26 observed.

27 57. (New section) Every person who engages in business as a
28 seller of special fuels or as a user of special fuels without first
29 procuring a license from the director shall be subject for the first
30 offense to a penalty of \$250 and for the second offense and
31 thereafter to a penalty of \$500, and for failure forthwith to pay
32 such penalty after conviction, he shall be imprisoned for a period
33 of not less than five nor more than 30 days.

34 58. (New section) A person who engages in the operation of a
35 storage facility or stores fuel in a storage facility without first
36 obtaining a storage facility operator's license from the director
37 as required by law, shall be subject to a penalty of \$250 and for
38 the second offense and thereafter shall be subject to a penalty of
39 \$500, and for failure to pay such penalty forthwith after
40 conviction, he shall be imprisoned for a period of not less than
41 five nor more than 30 days.

42 "Storage facility operator" means a person owning, renting or
43 leasing multiple bulk storage facilities in this State with a
44 capacity of 100,000 gallons or more and any person leasing or
45 subleasing space in such facility and storing fuels therein. A
46 person storing or keeping fuel within a storage facility shall,
47 before receiving fuel, apply to the director for a storage facility
48 operator's license for each storage facility location on forms
49 prescribed by the director. Upon receipt of a satisfactory
50 application, the director shall issue a license certificate for each
51 storage facility operator with an assigned license number printed
52 thereon, which license certificate shall be displayed at the
53 facility in such manner as the director may direct. A license fee
54 of \$150 shall be paid for each license. The license, unless

1 cancelled or revoked, shall remain in effect for one year and is
2 subject to renewal. Nothing contained herein shall in any manner
3 relieve or discharge a licensed storage facility operator from
4 complying with the provisions of other laws.

5 59. (New section) A storage facility operator who fails to
6 keep the records required to be kept, or refuses or fails to permit
7 inspection of such records, by the director or any of his assistants
8 shall be subject for the first offense to a penalty of \$250 and for
9 the second offense and thereafter shall be subject to a penalty of
10 \$500, and for failure to pay such penalty forthwith after
11 conviction, he shall be imprisoned for a period of not less than
12 five nor more than 30 days.

13 60. (New section) a. The director is authorized to conduct
14 joint audits, subject to specific agreements with any agency of
15 the United States of America, with another state, or through
16 national or regional tax associations, of the obligations of any
17 distributor, importer, gasoline jobber, retail dealer, wholesale
18 dealer, seller of special fuels, user of special fuels, carrier or
19 storage facility operator arising out of this chapter.
20 Notwithstanding the provisions of R.S.54:50-8 to the contrary,
21 the agreements may provide for the exchange of the records and
22 files of the director respecting the administration of chapter 39
23 of Title 54 of the Revised Statutes or of any other State tax law.

24 b. The director is authorized to arrange for the institution of
25 programs of cooperation with other departments, divisions, and
26 agencies of the State of New Jersey, such as but not limited to
27 Weights and Measures, the Energy Office, Motor Carriers and the
28 Board of Regulatory Commissioners, where a program may be
29 necessary to ensure effective and efficient administration and
30 enforcement of this chapter.

31 61. (New section) A storage facility operator shall, on or
32 before the 20th day of each month, render a report to the
33 director, on forms prescribed by him, stating the quantities of
34 fuel received at the storage facility in the State or sold from it
35 during the preceding month. The report shall include the name
36 and address of any person leasing or subleasing storage in the
37 facility and the quantities of fuel stored by each such person.

38 62. (New section) The director or his authorized agents shall
39 have the right at any time during normal business hours to inspect
40 the books of a storage facility operator to determine if the
41 requirements of this chapter are being properly observed.

42 63. Section 507 of P.L.1938, c.163 (C.56:6-12) is amended to
43 read as follows:

44 507. Every retail dealer shall keep such records as may be
45 prescribed by orders, rules or regulations of the [commissioner]
46 director and as may be necessary to the determination of whether
47 or not such retail dealer has observed the provisions of this act.
48 All such records shall be safely preserved for a period of [one
49 year] four years in such manner as to insure their security and
50 accessibility for inspection by the [commissioner] director or any
51 employee of the [State Tax Department] Division of Taxation
52 engaged in the administration of this act. The [commissioner]
53 director may consent to the destruction of any such records at
54 any time within said period.

55 (cf: P.L.1938, c.163, s.507)

1 64. Section 509 of P.L.1938, c.163 (C.56:6-14) is amended to
2 read as follows:

3 509. The [commissioner] director may suspend or revoke the
4 license held by any retail dealer for a violation of any of the
5 provisions of this chapter, or on other reasonable ground or
6 grounds, after five (5) days notice of such proposed revocation or
7 suspension, and the ground or grounds thereof to such retail
8 dealer. Said notice shall be served personally or by registered
9 mail upon the retail dealer and shall set forth the date, time, and
10 place of a hearing to be conducted [by the commissioner, or his
11 designated agent,] under the provisions of the "Administrative
12 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), for that
13 purpose.

14 (cf: P.L.1939, c.163, s.1)

15 65. (New section) All above ground pumps connected to
16 storage tanks which are used to dispense fuels by a retail dealer
17 or a seller of special fuels or a user of special fuels, as defined in
18 chapter 39 of Title 54 of the Revised Statutes who delivers or
19 places fuels into the fuel supply tank or other fueling receptacles
20 or devices of a motor vehicle, or who uses fuels within the
21 meaning of the word "use" as defined in that chapter, or who
22 makes sales to unlicensed buyers, shall have in operation at all
23 times the pump is in use, a working, sealed, gallons totalizer of at
24 least six digits.

25 66. (New section) The director or his assistants may, by the
26 use of seals or sealing devices, ensure that totalizers or seals
27 cannot be removed, altered, or manipulated.

28 67. (New section) Any person who, without permission or
29 authority and for the purpose of evading or circumventing any
30 law of this State, alters, manipulates, replaces, or in any other
31 manner tampers or interferes with or causes to be altered,
32 manipulated, replaced, tampered or interfered with, a totalizer,
33 or who operates a pump not equipped with a sealed totalizer
34 required by this act, is guilty of a crime of the fourth degree.

35 68. (New section) The director or his designated assistant, and
36 such members of his staff as may be necessary and convenient,
37 shall meet at the offices of the director in Trenton not less than
38 once annually with a council of advisors composed of not more
39 than 10 persons representing various segments of the petroleum
40 industry in New Jersey. The industry delegates to the council
41 meeting shall be chosen by agreement of the representatives of
42 the industry itself. The purpose of the meeting shall be to review
43 and monitor the processes of collection and enforcement of all
44 excise taxes dealing with motor fuels or petroleum products in
45 this State.

46 69. R.S.54:39-16 and R.S.54:39-64 are repealed.

47 ²70. N.J.S.2C:64-1 is amended to read as follows:

48 2C:64-1. Property Subject to Forfeiture.

49 a. Any interest in the following shall be subject to forfeiture
50 and no property right shall exist in them:

51 (1) Controlled dangerous substances, firearms which are
52 unlawfully possessed, carried, acquired or used, illegally
53 possessed gambling devices [and] untaxed cigarettes and untaxed
54 special fuel. These shall be designated prima facie contraband.

1 (2) All property which has been, or is intended to be, utilized
 2 in furtherance of an unlawful activity, including, but not limited
 3 to, conveyances intended to facilitate the perpetration of illegal
 4 acts, or buildings or premises maintained for the purpose of
 5 committing offenses against the State.

6 (3) Property which has become or is intended to become an
 7 integral part of illegal activity, including, but not limited to,
 8 money which is earmarked for use as financing for an illegal
 9 gambling enterprise.

10 (4) Proceeds of illegal activities, including, but not limited to,
 11 property or money obtained as a result of the sale of prima facie
 12 contraband as defined by subsection a. (1), proceeds of illegal
 13 gambling, prostitution, bribery and extortion.

14 b. Any article subject to forfeiture under this chapter may be
 15 seized by the State or any law enforcement officer as evidence
 16 pending a criminal prosecution pursuant to section 2C:64-4 or,
 17 when no criminal proceeding is instituted, upon process issued by
 18 any court of competent jurisdiction over the property, except
 19 that seizure without such process may be made when not
 20 inconsistent with the Constitution of this State or the United
 21 States, and when

22 (1) The article is prima facie contraband; or,

23 (2) The property subject to seizure poses an immediate threat
 24 to the public health, safety or welfare.

25 c. For the purposes of this section:

26 "Untaxed special fuel" means diesel fuel, No. 2 fuel oil and
 27 kerosene on which the motor fuel tax imposed pursuant to
 28 R.S.54:39-1 et seq. is not paid that is delivered, possessed, sold or
 29 transferred in this State in a manner not authorized pursuant to
 30 R.S.54:39-1 et seq. or P.L.1938, c.163 (C.56:6-1 et seq.).²

31 (cf: P.L.1981, c.290, s.46)

32 ²[70.] 71.² ¹[(New section) There are hereby appropriated out
 33 of receipts generated by chapter 39 of Title 54 of the Revised
 34 Statutes, such funds as are necessary to administer this act, in an
 35 amount not to exceed \$1,000,000 per fiscal year, subject to the
 36 approval of the Director of the Office of Management and
 37 Budget.]

38 Section 1 of P.L.1968, c.420 (C.54:39-7.1) is amended to read as
 39 follows:

40 1. As used in this act "gasoline jobber" means a motor fuels
 41 wholesale dealer who regularly makes 95% or more of his gasoline
 42 sales to not less than 25 retail dealers, fleet operators or other
 43 large consumers, including farm accounts [and who maintains
 44 fixed gasoline storage facilities having a capacity of 50,000
 45 gallons or more either owned or rented under a lease for a term
 46 of not less than 1 year].¹

47 (cf: P.L.1968, c.420, s.1)

48 ²[71.] 72.² This act shall take effect on July 1, 1992.

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53 Revises motor fuels tax law.

LEGISLATIVE FISCAL ESTIMATE TO

[SECOND REPRINT]

ASSEMBLY, No. 44

STATE OF NEW JERSEY

DATED: June 2, 1992

Assembly Bill No. 44 [2R] revises and extends the licensing, regulatory and enforcement provisions of the motor fuels tax statute. It introduces new licenses and fees, increases existing license fees and increases existing bonding requirements associated with the licensure of sellers and resellers of motor fuels. The bill upgrades penalties, making it a criminal offense rather than a misdemeanor to mishandle or otherwise fail to collect and remit taxes to the State of the sale of motor fuels. The bill does not increase the current tax rates on gasoline or diesel fuels.

The purpose of the bill is to increase penalties for the evasion of motor fuel taxes and to make it more difficult to move No. 2 fuel oil, an untaxed product, into the diesel fuel market. Diesel fuel is identical chemically to No. 2 fuel oil. The combined federal and state tax rate on diesel fuel in New Jersey is 37.5 cents per gallon. The combined per gallon tax rate on gasoline is 28.5 cents.

The Department of Treasury has not responded to a request for a fiscal note on Assembly Bill No. 44. The Division of Taxation in the Department of Treasury has testified before the appropriations committees of the Legislature that the bill would produce \$50 million of additional revenue in fiscal year 1993 from the improved enforcement of the motor fuel taxes. The improvement is contingent, however, on the expenditure of an estimated \$1 million in the upcoming fiscal year for the cost of hiring additional investigators, auditors, support staff and equipment for the implementation of the proposed heightened enforcement effort.

The Office of Legislative Services (OLS) agrees that an enforcement problem exists with respect to the transfer and sale of motor fuels, especially with untaxed No. 2 fuel oil being sold in the diesel fuel marketplace. The OLS estimates, however, that the direct gain from the enhanced enforcement effort will more likely approximate \$20 million in fiscal year 1993. This added revenue would be over and above an expected increase in motor fuel tax revenues due to the economic recovery anticipated in the State during the course of fiscal year 1993. Diesel fuel consumption is especially sensitive to the business cycle, particularly the heavy construction sector of the economy. To illustrate, reported diesel fuel sales by the Division of Taxation for fiscal year 1980 and 1981, a recessionary period, averaged 346.5 million gallons per year. By fiscal year 1985, the last year the Division officially reported gallonage data, diesel fuel sales had risen to 480.5 million gallons. The 39 percent increase reflected the economic expansion that was well underway in New Jersey at that time. Petroleum industry data show there was a decline in diesel fuel sales in New Jersey in recent

years consistent with the well documented recession New Jersey has experienced over the last four years.

Economic recovery in New Jersey coupled with the start of planned public infrastructure projects and other construction in fiscal year 1993 will produce gains in motor fuels tax receipts. Distinguishing between added revenue from normal growth, a decline in untaxed motor fuel sales in anticipation of the enactment of Assembly Bill No. 44 [2R] and actual receipts from enhanced auditing and enforcement is difficult to accomplish and quantify for the short period of a single fiscal year. The \$50 million undocumented estimate of added revenue by the Division of Taxation due to enhanced enforcement implies that the State will recapture unpaid taxes or cause the reduction of untaxed future sales equal to 370 million gallons of diesel fuel or a much greater volume from a combination of all motor fuels. The OLS believes the State might obtain the Division's estimate of added revenue but it will occur over several fiscal years and the precise reason will not be determinable.

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.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[THIRD REPRINT]

ASSEMBLY, No. 44

STATE OF NEW JERSEY

DATED: JUNE 8, 1992

The Senate Budget and Appropriations Committee reports favorably Assembly Bill No. 44 (3R), with committee amendments.

Assembly Bill No. 44 (3R) extensively revises the motor fuels tax, R.S.54:39-1 et seq., to provide for accountability for the payment of the taxes on diesel fuel. Home heating oils are not subject to motor fuel tax; however, diesel fuel is chemically identical to home heating oil mixed with a small amount of detergent additive. The great difference in the cost between fuel subject to State and federal motor fuel tax and the heating fuel exempt from tax has encouraged tax evasion. This bill introduces a system of licensing, reporting requirements, bonding and other steps to address the problem of substitution of tax exempt No. 2 fuel oil for taxable diesel fuel. The approach is similar to that which is in place in Maryland and Pennsylvania.

The bill introduces a more extensive system of licensing requirements, providing special licenses for those who deal in fuels that can be used both for heating purposes, an untaxed use, and for motor vehicle propulsion purposes, a taxed use. License fees are increased, but the term of licenses is extended, to discourage the casual acquisition of licenses by tax evaders. Reporting is made more frequent and records of sales must be retained longer so that investigators will be better able to track the movement of taxable fuels and tax liabilities. Minimum bonding requirements are increased from \$5,000 to \$25,000 for distributors and jobbers and \$50,000 for importers. Violations of record keeping and sales offenses are upgraded from misdemeanors to crimes; corporate officers are made personally liable for their corporations' compliance with the provisions of the motor fuel tax. The bill also eliminates the "sale for export" exemption for motor fuels by requiring the licensing of exporters who are required to make detailed reports on exported taxable fuels.

The bill also amends and supplements the act regulating the sale of motor fuels, N.J.S.A.56:6-1 et seq, requiring retail sellers of fuel to have working tamper proof meters to measure their total fuel sales, assisting in the total accountability required to enforce the motor fuels tax law.

FISCAL IMPACT:

The Division of Taxation in the Department of Treasury estimates that the improved enforcement of the motor fuel taxes will result in increased revenues of motor fuel and other taxes totaling \$50,000,000 in fiscal year 1993. The Division of Taxation has estimated the cost of additional investigators, auditors, support staff and equipment for implementation of that heightened enforcement to be an \$1,000,000 for fiscal year 1993.

In a fiscal estimate the Office of Legislative Services projects that the fiscal year 1993 direct gain from enhanced enforcement activities would be approximately \$20,000,000.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 44

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: MAY 18, 1992

The Assembly Appropriations Committee reports favorably Assembly Bill No. 44, with committee amendments.

Assembly Bill No. 44, as amended, extensively revises the motor fuels tax, R.S.54:39-1 et seq., to provide for accountability for the payment of the taxes on diesel fuel. Home heating oils are not subject to motor fuel tax; however, diesel fuel is chemically identical to home heating oil mixed with a small amount of detergent additive. The great difference in the cost between fuel subject to State and federal motor fuel tax and the heating fuel exempt from tax has encouraged tax evasion. This bill introduces a system of licensing, reporting requirements, bonding and other steps to address the problem of substitution of tax exempt No. 2 fuel oil for taxable diesel fuel. The approach is similar to that which is in place in Maryland and Pennsylvania.

The bill introduces a more extensive system of licensing requirements, providing special licenses for those who deal in fuels that can be used both for heating purposes, an untaxed use, and for motor vehicle propulsion purposes, a taxed use. License fees are increased, but the term of licenses is extended, to discourage the casual acquisition of licenses by tax evaders. Reporting is made more frequent and records of sales must be retained longer so that investigators will be better able to track the movement of taxable fuels and tax liabilities. Minimum bonding requirements are increased from \$5,000 to \$25,000 distributors and jobbers and \$50,000 for importers. Violations of record keeping and sales offenses are upgraded from misdemeanors to crimes; corporate officers are made personally liable for their corporations' compliance with the provisions of the motor fuel tax. The bill also eliminates the "sale for export" exemption for motor fuels by requiring the licensing of exporters who are required to make detailed reports on exported taxable fuels.

The bill also amends and supplements the act regulating the sale of motor fuels, N.J.S.A.56:6-1 et seq, requiring retail sellers of fuel to have working tamper proof meters to measure their total fuel sales, assisting in the total accountability required to enforce the motor fuels tax law.

FISCAL IMPACT:

The Division of Taxation in the Department of Treasury estimates that the improved enforcement of the motor fuel taxes will result in increased revenues of motor fuel and other taxes totaling \$50,000,000 in fiscal year 1993. The Division of Taxation has estimated the cost of additional investigators, auditors, support staff and equipment for implementation of that heightened enforcement to be an \$1,000,000 for fiscal year 1993.

COMMITTEE AMENDMENTS:

The amendments delete a provision that would have required fuel trucks to carry rear markers identifying the fuel type transported and also redefine a "jobber" of fuels to remove the requirement that a jobber have control of a 50,000 gallon storage facility. The liability of a seller of "special fuels," such as diesel fuels, for taxes in situations where sales are made to a person purchasing with a fraudulent license was clarified to protect persons selling to the holders of apparently valid documentation. Technical amendments clarifying the party responsible for tax payments were also made.

1 storage tanks which are used to dispense fuels by a retail dealer
2 or a seller of special fuels or a user of special fuels, as defined in
3 chapter 39 of Title 54 of the Revised Statutes who delivers or
4 places fuels into the fuel supply tank or other fueling receptacles
5 or devices of a motor vehicle, or who uses fuels within the
6 meaning of the word "use" as defined in that chapter, or who
7 makes sales to unlicensed buyers, shall have in operation at all
8 times the pump is in use, a working, sealed, gallons totalizer of at
9 least six digits.

10 66. (New section) The director or his assistants may, by the
11 use of seals or sealing devices, ensure that totalizers or seals
12 cannot be removed, altered, or manipulated.

13 67. (New section) Any person who, without permission or
14 authority and for the purpose of evading or circumventing any
15 law of this State, alters, manipulates, replaces, or in any other
16 manner tampers or interferes with or causes to be altered,
17 manipulated, replaced, tampered or interfered with, a totalizer,
18 or who operates a pump not equipped with a sealed totalizer
19 required by this act, is guilty of a crime of the fourth degree.

20 68. (New section) The director or his designated assistant, and
21 such members of his staff as may be necessary and convenient,
22 shall meet at the offices of the director in Trenton not less than
23 once annually with a council of advisors composed of not more
24 than 10 persons representing various segments of the petroleum
25 industry in New Jersey. The industry delegates to the council
26 meeting shall be chosen by agreement of the representatives of
27 the industry itself. The purpose of the meeting shall be to review
28 and monitor the processes of collection and enforcement of all
29 excise taxes dealing with motor fuels or petroleum products in
30 this State.

31 69. R.S.54:39-16 and R.S.54:39-64 are repealed.

32 70. (New section) There are hereby appropriated out of
33 receipts generated by chapter 39 of Title 54 of the Revised
34 Statutes, such funds as are necessary to administer this act, in an
35 amount not to exceed \$1,000,000 per fiscal year, subject to the
36 approval of the Director of the Office of Management and Budget.

37 71. This act shall take effect on July 1, 1992.

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STATEMENT

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42 The bill revises the Motor Fuels Tax Act (R.S.54:39-1 et seq.).
43 It introduces a system of licensing, reporting requirements,
44 bonding and other steps which are intended to address the
45 problem of substitution of tax exempt No. 2 fuel oil for taxable
46 diesel fuel. The approach is similar to that which is in place in
47 Maryland and Pennsylvania. In addition, the bill eliminates the
48 sale for export concept and provides for licensing of exporters of
49 fuels, thus addressing the difficulties illustrated by the opinion
50 Flexx Petroleum v. Director, 12 N.J. Tax 1 (1991).

51 The bill also amends and supplements "An act to regulate the
52 retail sale of motor fuels" (C.56:6-1 et seq.). At present there is
53 no requirement that a pump dispensing gasoline or diesel fuels
54 have a working totalizer. A requirement for the use of properly

1 sealed totalizers will greatly assist enforcement of the motor
2 fuels tax law.

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7 Revises motor fuels tax law.



OFFICE OF THE GOVERNOR NEWS RELEASE

CN-001

Contact:

Jon Shure
Jo Astrid Glading
609-777-2600

TRENTON, N.J. 08625

Release:

Monday,
June 22, 1992

GOVERNOR SIGNS LAW CRACKING DOWN ON DIESEL FUEL CHEATS; TAXPAYERS WILL SAVE \$50 MILLION

Governor Jim Florio today signed into law a measure that will protect honest motor fuel dealers and save the taxpayers of New Jersey some \$50 million a year.

A-44 will bring about comprehensive reforms in the procedures for collecting and enforcing the state's diesel fuel tax. It follows recommendations pursued by the State Treasurer at the order of Gov. Jim Florio.

"We had a system full of loopholes that cheated the taxpayer and hurt honest fuel dealers because if they played by the rules, they were the losers," Gov. Florio said. "Today, more than ever, there's a need to give taxpayers their moneysworth and throw the book at corporate cheaters who seek an edge by injuring someone else. I want to point out that in this effort we had the full cooperation of the New Jersey Petroleum Council and other groups representing the fuel industry. We thank them for their help and their being willing to see the 'big picture' in the public interest."

The legislation, sponsored by Assemblymen Kavanaugh and Green and Senators Inverso and Sinagra, determines that the point of collection for the diesel fuel tax will be at the pump. This will effectively end a loophole created by the previous system, in which the point of collection was not fixed. Under the old system, unscrupulous dealers could purchase the fuel tax-free and then sell it while saying the tax already had been paid.

It is estimated that this practice cost the state Treasury about \$50 million a year in lost revenues. Dealers engaging in this illegal deceit were able to underprice honest competitors who paid the tax and reflected it in their fuel price.

The new law, which takes effect July 1, requires all participants in the diesel market to file monthly reports with the Division of Taxation. It increases criminal penalties for violating the law. Failure to comply with motor fuels regulations would carry a maximum fine of \$7500 and a maximum jail term of 18 months. This is an upgrade from previous law, which carried maximum penalties of \$1000 and 6 months. The law also creates a new offense -- with the same stiffer penalties -- for tampering with diesel pump meters and knowingly filing false reports.

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