



LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 1998

CHAPTER: 51

NJSA:54:39A-11

"Motor fuel tax -- eliminates late filing penalty"

BILL NO: S351

SPONSOR(S): Bassano

DATE INTRODUCED: January 20, 1998

COMMITTEE:

ASSEMBLY: Appropriations

SENATE:Budget

AMENDED DURING PASSAGE:Yes

DATE OF PASSAGE:

ASSEMBLY:May 28, 1998

SENATE:March 19, 1998

DATE OF APPROVAL: July 10, 1998

THE FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL: Senate Committee Substitute
(Amendments during passage denoted by superscript numbers)

S351

SPONSORS STATEMENT: *Yes* (Begins on page 3 of original bill)

COMMITTEE STATEMENT:

ASSEMBLY:*Yes*

SENATE:*Yes*

FLOOR AMENDMENT STATEMENTS: *No*

LEGISLATIVE FISCAL ESTIMATE: *Yes*

VETO MESSAGE: *No*

GOVERNOR'S PRESS RELEASE ON SIGNING: *Yes*

THE FOLLOWING WERE PRINTED:

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REPORTS: *No*

HEARINGS: *No*

NEWSPAPER ARTICLES: *No*

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 351

STATE OF NEW JERSEY
208th LEGISLATURE

ADOPTED MARCH 5, 1998

Sponsored by:
Senator C. LOUIS BASSANO
District 21 (Essex and Union)

SYNOPSIS

Eliminates late filing penalty for certain motor fuel use tax returns showing no liability.

CURRENT VERSION OF TEXT

Substitute as adopted by the Senate Budget and Appropriations Committee.



1 AN ACT eliminating certain penalties for the late filing of motor fuels
2 use tax returns, amending P.L.1963, c.44.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Section 11 of P.L.1963, c.44 (C.54:39A-11) is amended to read
8 as follows:

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

13 b. Notwithstanding the provisions of R.S.54:49-1 to the contrary,
14 for the taxes imposed or collected pursuant to P.L.1963, c.44
15 (C.54:39A-1 et seq.), no assessment of a deficiency in tax and no levy
16 or proceeding in court for its collection shall be made or begun, except
17 as otherwise provided in R.S.54:49-5 and R.S.54:49-7, until 30 days
18 after a notice of deficiency has been mailed to the **[taxpayer]** user and
19 the time for the filing of a protest with the director has expired, or, if
20 a protest with respect to the taxable period has been filed with the
21 director, until the decision of the director has become final.

22 c. Notwithstanding the provisions of subsection a. of R.S.54:49-18
23 to the contrary, a **[taxpayer]** user may appeal a finding or assessment
24 of the director within 30 days after the giving of the notice of finding
25 or assessment.

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

31 (2) Notwithstanding the provisions of R.S.54:49-11 to the
32 contrary, the director **[may]** : (a) shall waive the penalties imposed
33 pursuant to paragraph (1) of this subsection if the user is not licensed
34 under the International Fuel Tax Agreement and is not liable for tax
35 with respect to that period; and (b) may waive those penalties in any
36 other case if the director determines there is reasonable cause for the
37 failure to file a report, for the filing of a late report or for the
38 underpayment of taxes due.

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

43 (2) The director shall waive the payment of any part of any interest

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 attributable to the **【taxpayer's】** user's reasonable reliance on erroneous
2 advice furnished to the **【taxpayer】** user in writing by an employee of
3 the Division of Motor Vehicles acting in the employee's official
4 capacity, provided that the interest did not result from a failure of the
5 **【taxpayer】** user to provide adequate or accurate information.

6 (cf: P.L.1995, c.347, s.8)

7

8 2. This act shall take effect immediately and apply to returns due
9 after the thirtieth day following enactment.

SENATE, No. 351

STATE OF NEW JERSEY
208th LEGISLATURE

INTRODUCED JANUARY 20, 1998

Sponsored by:

Senator C. LOUIS BASSANO

District 21 (Essex and Union)

SYNOPSIS

Eliminates late filing penalty for motor fuel use tax returns showing no liability.

CURRENT VERSION OF TEXT

As introduced.



S351 BASSANO

2

1 AN ACT eliminating certain penalties for the late filing of motor fuels
2 use tax returns, amending P.L.1963, c.44.

3

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

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

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

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

22 c. Notwithstanding the provisions of subsection a. of R.S.54:49-18
23 to the contrary, a taxpayer may appeal a finding or assessment of the
24 director within 30 days after the giving of the notice of finding or
25 assessment.

26 d. (1) Notwithstanding the provisions of R.S.54:49-4 or
27 R.S.54:49-9 to the contrary, there shall be assessed a penalty of \$50
28 or 10% of the taxes due, whichever is greater, for the failure to file a
29 report for a reporting period for which tax is due, for the filing of a
30 late report for a reporting period for which tax is due or for the
31 underpayment of taxes due.

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

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

41 (2) The director shall waive the payment of any part of any interest
42 attributable to the taxpayer's reasonable reliance on erroneous advice
43 furnished to the taxpayer in writing by an employee of the Division of

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 Motor Vehicles acting in the employee's official capacity, provided
2 that the interest did not result from a failure of the taxpayer to provide
3 adequate or accurate information.

4 (cf: P.L.1995, c.347, s.8)

5

6 2. This act shall take effect immediately and apply to returns due
7 after the later of September 30, 1996, or the thirtieth day following
8 enactment.

9

10

11

STATEMENT

12

13 This bill eliminates the motor fuels use tax late filing penalty for
14 taxpayers that have no liability.

15 New Jersey provides for the maintenance of its highways through
16 the imposition of a motor fuel tax on all fuel sold in the State. To
17 ensure that large commercial motor vehicles that use New Jersey
18 highways but purchase their fuel outside of New Jersey also pay their
19 fair share of the costs of highway maintenance, New Jersey also
20 imposes a highway use tax equivalent to the motor fuel tax, called the
21 motor fuels use tax, on commercial vehicles that operate in New Jersey
22 on fuel purchased outside of New Jersey. Correctly proportionalizing
23 a vehicle operator's New Jersey road use with New Jersey fuel
24 purchases requires each operator of large commercial vehicles on New
25 Jersey highways to report its mileage within and outside of New Jersey
26 and its fuel purchases made inside and outside of New Jersey.

27 Motor fuels use tax liability is reported quarterly. Road users who
28 have no motor fuels use tax liability (because they purchase all their
29 fuel in New Jersey, and pay for their road usage "at the pump") are
30 still required to make regular quarterly reports. If they make late
31 reports of their zero liability they are subject to a fixed statutory late
32 filing penalty. This bill eliminates that late reporting penalty for
33 taxpayers that have no liability.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 351**

STATE OF NEW JERSEY

DATED: MAY 4, 1998

The Assembly Appropriations Committee reports favorably Senate Bill No. 351 (SCS).

Senate Bill No. 351 (SCS) eliminates the motor fuels use tax late filing penalty for certain taxpayers that have no liability.

New Jersey provides for the maintenance of its highways through the imposition of a motor fuel tax on all fuel sold in the State. To ensure that large commercial motor vehicles that use New Jersey highways but purchase their fuel outside of the State also pay their fair share of the costs of highway maintenance, New Jersey also imposes a highway use tax equivalent to the motor fuels tax, called the motor fuels use tax, on commercial vehicles that operate in the State on fuel purchased outside of the State. Correctly proportionalizing a vehicle operator's New Jersey road use with New Jersey fuel purchases requires each operator of large commercial vehicles on the State's highways to report its mileage within and outside of New Jersey and its fuel purchases made inside and outside of New Jersey. Users of the State's roads who have purchased all their fuel within the State have no motor fuels use tax liability to New Jersey because they have paid for their New Jersey road usage through the motor fuels tax collected "at the pump".

Motor fuels use tax liability is reported quarterly. In the case of interstate motor vehicle fleet operators, the statutory mandate that these reports be made is required under the International Fuel Tax Agreement (IFTA), which New Jersey signed in 1996. The purpose of the agreement is to enable the signatory jurisdictions to monitor more effectively commercial motor vehicle operators' fuel purchases and road use within each jurisdiction. However, not all commercial motor vehicle operators are required to be licensed under the agreement. The bill provides that, if a commercial motor vehicle operator is not licensed under IFTA and has no liability for motor fuels use tax for a particular quarterly period, no penalty shall be imposed upon the operator for failure to file a quarterly report for that period.

FISCAL IMPACT:

The Office of Legislative Services has no data on the annual value of the penalties assessed for late filing, but believes that this bill is likely to have little or no impact on State revenues.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 351**

STATE OF NEW JERSEY

DATED: MARCH 5, 1997

The Senate Budget and Appropriations Committee reports favorably a committee substitute for Senate Bill No. 351.

This substitute bill eliminates the motor fuels use tax late filing penalty for certain taxpayers that have no liability.

New Jersey provides for the maintenance of its highways through the imposition of a motor fuel tax on all fuel sold in the State. To ensure that large commercial motor vehicles that use New Jersey highways but purchase their fuel outside of New Jersey also pay their fair share of the costs of highway maintenance, New Jersey also imposes a highway use tax equivalent to the motor fuel tax, called the motor fuels use tax, on commercial vehicles that operate in New Jersey on fuel purchased outside of New Jersey. Correctly proportionalizing a vehicle operator's New Jersey road use with New Jersey fuel purchases requires each operator of large commercial vehicles on New Jersey highways to report its mileage within and outside of New Jersey and its fuel purchases made inside and outside of New Jersey. Users of New Jersey roads who have purchased all their fuel within the State have no motor fuels use tax liability to New Jersey because they have paid for their New Jersey road usage through the motor fuel tax collected "at the pump".

Motor fuels use tax liability is reported quarterly. In the case of interstate motor vehicle fleet operators, the statutory mandate that these reports be made is required under the International Fuel Tax Agreement (IFTA), which New Jersey signed in 1996. The purpose of the agreement is to enable the signatory jurisdictions to monitor more effectively commercial motor vehicle operators' fuel purchases and road use within each jurisdiction. However, not all commercial motor vehicle operators are required to be licensed under the agreement. The committee substitute provides that, if a commercial motor vehicle operator is not licensed under IFTA and has no liability for motor fuels use tax for a particular quarterly period, no penalty shall be imposed upon the operator for failure to file a quarterly report for that period.

FISCAL IMPACT:

The Office of Legislative Services has no data on the annual value of the penalties assessed for late filing, but believes that this bill likely to have little or no impact on State revenues.

LEGISLATIVE FISCAL ESTIMATE

SENATE, No. 351

STATE OF NEW JERSEY

208th LEGISLATURE

DATED: MARCH 4, 1998

Senate Bill, No. 351 of 1998 eliminates the motor fuels use tax late filing penalty for taxpayers that have no liability.

New Jersey provides for the maintenance of its highways through the imposition of a motor fuel tax on all fuel sold in the State. To ensure that large commercial motor vehicles that use New Jersey highways but purchase their fuel outside of New Jersey also pay their fair share of the costs of highway maintenance, New Jersey also imposes a highway use tax equivalent to the motor fuel tax, called the motor fuels use tax, on commercial vehicles that operate in New Jersey on fuel purchased outside of New Jersey. Correctly proportionalizing a vehicle operator's New Jersey road use with New Jersey fuel purchases requires each operator of large commercial vehicles on New Jersey highways to report its mileage within and outside of New Jersey and its fuel purchases made inside and outside of New Jersey.

Motor fuels use tax liability is reported quarterly. Road users who have no motor fuels use tax liability (because they purchase all their fuel in New Jersey, and pay for their road usage "at the pump") are still required to make regular quarterly reports. If they make late reports of their zero liability they are subject to a fixed statutory late filing penalty. This bill eliminates that late reporting penalty for taxpayers that have no liability.

While the Department of the Treasury has not provided any data on the annual value of the penalties assessed for late filing, this bill is likely to have little or no impact on State revenues.

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

Office of the Governor
NEWS RELEASE

PO BOX 004
TRENTON, NJ 08625

CONTACT: Jayne O'Connor
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RELEASE: July 10, 1998

Gov. Christie Whitman today signed the following pieces of legislation:

A-726, sponsored by Assembly members Paul Kramer (R- Mercer/Middlesex) and Alex De Croce (R-Essex/Morris/Passaic) and Senator Peter Inverso (R-Mercer/Middlesex), increases penalties for stealing or damaging airport, traffic, or railroad crossing signs or equipment. The bill which originated in response to a rash of incidents at Robbinsville Airport, is intended to appropriately punish acts that have potentially dangerous consequences. The bill will make it a crime of the fourth degree to deface, injure or remove an official traffic sign, light or safety device at any airport, landing field or similar facility. If the actor recklessly causes bodily injury or property damage, the offense would be a crime of the third degree. If the actor recklessly causes death, it would be a crime of the second degree. Previous law provided that such criminal mischief was punishable based upon the cost of property damage, with punishment ranging from disorderly conduct to a third-degree charge for the most severe offense.

The bill also upgrades penalties for vandalism of railroad warning signals to crimes of the fourth degree. The bill also makes such actions a crime of the third degree in cases causing bodily injury or property damage and a crime of the second degree for cases causing death.

The bill shifts the violation of tampering with a traffic signal or sign from the jurisdiction of motor vehicle law to the criminal code, and makes the offense punishable as a disorderly persons offense.

SCS-351, sponsored by Senator Louis Bassano (R-Essex/Union), eliminates late filing penalty for motor fuel use tax returns showing no liability. The bill is intended to ensure that individuals who are not liable for any tax during the stated period are exempted from penalties imposed for late filings. Additionally, the bill gives the Director of the Division of Motor Vehicles the ability to waive late fees in cases where there is reasonable cause for a late filing or underpayment.

A-2065, sponsored by Assembly Members David Wolfe (R- Monmouth/Ocean) and Joseph Doria (D-Hudson) and Senators Joseph Palaia (R-Monmouth) and Robert Martin (R-Essex/Morris/Passaic), authorizes boards of education to enter into sale and lease-back contracts on certain instructional materials. The bill will apply to textbooks and non-consumable instructional materials. The bill is intended to provide boards of education with more contractual and fiscal flexibility to ensure the efficient management of school resources.

S-652, sponsored by Senators Norm Robertson (R-Essex/Passaic) and Henry McNamara (R-Bergen/Passaic) and Assembly Members Gerald Zecker (R-

Essex/Passaic) and Nelli Pou (D-Passaic), allows members of the Passaic County Employees' Retirement System who elect to participate in Social Security to remain in the retirement system.

A-176, sponsored by Assembly Members George Geist (R- Camden/Gloucester) and Gerald Luongo (R-Camden/Gloucester), transfers a small, unpopulated parcel of land from the Township of Washington in Gloucester County to the Township of Gloucester in Camden County. The transfer of the land, owned by the New Jersey Water Company, clears the way for the historical preservation and recreational use of Blackwood Lake. Under an agreement between the two municipalities, Gloucester Township will take control of the lake in order to clean and restore it for recreational use.

S-233, sponsored by Senator James Cafiero, (R-Cape May/Atlantic/Cumberland), Assembly Members John Gibson (R-Cape May/Atlantic/Cumberland), and Assemblyman Nicholas Asselta (R-Cape May/Atlantic/Cumberland), requires the Uniform Crime Report to include, in addition to the regular statistics, an alternative calculation that takes into account the seasonal population of resort municipalities. The law was proposed by several beach communities which feel their per capita crime statistics are superficially high because only year-round residents were considered when calculating statistics in the Uniform Crime Report. The alternative calculation will be published in addition to the normal per capita crime statistics.

A-2294, sponsored by Assembly members Kip Bateman (R- Morris/Somerset) and Pete Biondi (R-Morris/ Somerset) and Senators Walter Kavanaugh (R- Morris/Somerset) and Diane Allen (R- Burlington/Camden), authorizes the sale of certain surplus state real property in Montgomery Township, Somerset County. The bill will allow for the sale of the state's interest in land and improvements known as the North Princeton Developmental Center. A 12- acre portion of the property, including four buildings, will be purchased by the Montgomery Township Department of Education. The remaining property will be sold by the Department of Treasury. The Department of Treasury will work with Montgomery Township to identify appropriate uses and purchasers.