

LEGISLATIVE HISTORY CHECKLIST

(Sales tax--alcoholic beverages--
exempt retail sales)

WJSA 54:32B-2; 54:32B-3; 54:32B-8

LAWS OF 1980

CHAPTER 61

Bill No. A1526

Sponsor(s) Cowan and Kern

Date Introduced April 17, 1980

Committee: Assembly Revenue, Finance & Appropriations

Senate

Amended during passage Yes

Amendments during passage
denoted by asterisks

Date of Passage: Assembly June 23, 1980

Senate June 26, 1980

Date of approval July 7, 1980

Following statements are attached if available:

Sponsor statement	Yes	xxx
Committee Statement:	Assembly	Yes xxx
	Senate	Yes no
Fiscal Note	Yes	no
Veto message	Yes	no
Message on signing	Yes	xxx
Following were printed:		
Reports	Yes	xxx
Hearings	Yes	xxx

Recommendations cited in sponsor's statement:

- 974.90 New Jersey. Alcoholic Beverage Control Study Commission.
- L767 Public hearing on deregulation of the alcoholic
- 1980 beverage industry, held 1-29-80. Trenton, 1980.

(over)

9/1/78
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see also:

974.90 New Jersey, Division of Criminal Justice,
L767 Antitrust Task Force,
1978 Report...to study the alcoholic beverage
industry, Trenton, 1978.

(See pp.61-62)

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ASSEMBLY, No. 1526

STATE OF NEW JERSEY

INTRODUCED APRIL 17, 1980

By Assemblymen COWAN and KERN

Referred to Committee on Revenue, Finance and Appropriations

AN ACT to amend the "Sales and Use Tax Act," approved April 27,
1966 (P. L. 1966, c. 30).

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. Section 2 of P. L. 1966, c. 30 (C. 54:32B-2) is amended to read
2 as follows:

3 2. Definitions. Unless the context in which they occur requires
4 otherwise, the following terms when used in this act shall mean:

5 (a) Person. Person includes an individual, partnership, society,
6 association, joint stock company, corporation, public corporation
7 or public authority, estate, receiver, trustee, assignee, referee, and
8 any other person acting in a fiduciary or representative capacity,
9 whether appointed by a court or otherwise, and any combination of
10 the foregoing.

11 (b) Purchase at retail. A purchase by any person at a retail sale.

12 (c) Purchaser A person who purchases property or who re-
13 ceives services.

14 (d) Receipt. The amount of the sales price of any property and
15 the charge for any service taxable under this act, valued in money,
16 whether received in money or otherwise, including any amount for
17 which credit is allowed by the vendor to the purchaser, without any
18 deduction for expenses or early payment discounts, but excluding
19 any credit for property of the same kind accepted in part payment
20 and intended for resale and excluding the cost of transportation
21 where such cost is separately stated in the written contract, if any,
22 and on the bill rendered to the purchaser. **[For the purposes of this**
23 **act, receipts from the sale of alcoholic beverages, as defined in the**
24 **Alcoholic Beverage Tax Law, shall be deemed to be the minimum**
25 **consumer resale price as filed with the New Jersey Division of**
26 **Alcoholic Beverage Control pursuant to N. J. A. C. 13:2-286 et seq.,**
27 **as amended.]**

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

28 (e) Retail sale. (1) A sale of tangible personal property to any
 29 person for any purpose, other than (A) for resale either as such
 30 or as converted into or as a component part of a product produced
 31 for sale by the purchaser, or (B) for use by that person in perform-
 32 ing the services subject to tax under subsection (b) of section 3
 33 where the property so sold becomes a physical component part of
 34 the property upon which the services are performed or where the
 34A property so sold is later actually transferred to the purchaser
 35 of the service in conjunction with the performance of the service
 36 subject to tax.

37 (2) For the purposes of this act, the term retail sales includes:

38 **[(A)]** Sales of tangible personal property to all contrac-
 39 tors, subcontractors or repairmen of materials and supplies
 40 for use by them in erecting structures for others, or building
 41 on, or otherwise improving, altering, or repairing real
 42 property of others.

43 **[(B)]** Sales of alcoholic beverage as defined in the Alcoholic
 44 Beverage Tax Law, except draught beer sold by the barrel, to
 45 any "retail licensee" by any person who is a taxpayer pur-
 46 suant to the said Alcoholic Beverage Tax Law. For the purpose
 47 of this act, "retail licensee" means any person holding a valid
 48 and unrevoked Plenary Retail Consumption, Plenary Retail
 49 Distribution, Limited Retail Distribution, Seasonal Retail
 50 Consumption or Club License issued by a municipality or the
 51 Director of the Division of Alcoholic Beverage Control or
 52 Special Permit to sell at retail.]

53 (3) The term retail sales does not include:

54 (A) Professional, insurance, or personal service transac-
 55 tions which involve the transfer of tangible personal property
 56 as an inconsequential element, for which no separate charges
 57 are made.

58 (B) The transfer of tangible personal property to a corpora-
 59 tion, solely in consideration for the issuance of its stock, pursu-
 60 ant to a merger or consolidation effected under the laws of New
 61 Jersey or any other jurisdiction.

62 (C) The distribution of property by a corporation to its
 63 stockholders as a liquidating dividend.

64 (D) The distribution of property by a partnership to its
 65 partners in whole or partial liquidation.

66 (E) The transfer of property to a corporation upon its
 67 organization in consideration for the issuance of its stock.

68 (F) The contribution of property to a partnership in con-
 69 sideration for a partnership interest therein.

70 (G) The sale of tangible personal property where the pur-
71 pose of the vendee is to hold the thing transferred as security
72 for the performance of an obligation of the vendor.

73 (f) Sale, selling or purchase. Any transfer of title or possession
74 or both, exchange or barter, rental, lease or license to use or con-
75 sume, conditional or otherwise, in any manner or by any means
76 whatsoever for a consideration, or any agreement therefor, includ-
77 ing the rendering of any service, taxable under this act, for a
78 consideration or any agreement therefor.

79 (g) Tangible personal property. Corporeal personal property
80 of any nature.

81 (h) Use. The exercise of any right or power over tangible per-
82 sonal property by the purchaser thereof and includes, but is not
83 limited to, the receiving, storage or any keeping or retention for any
84 length of time, withdrawal from storage, any installation, any
85 affixation to real or personal property, or any consumption of such
86 property.

87 (i) Vendor. (1) The term "vendor" includes:

88 (A) A person making sales of tangible personal property
89 or services, the receipts from which are taxed by this act;

90 (B) A person maintaining a place of business in the State
91-92 and making sales, whether at such place of business or
93 elsewhere, to persons within the State of tangible personal
94 property or services, the use of which is taxed by this act;

95 (C) A person who solicits business either by employees,
96 independent contractors, agents or other representatives or
97 by distribution of catalogs or other advertising matter and by
98 reason thereof makes sales to persons within the State of
99 tangible personal property or services, the use of which is
100 taxed by this act; and

101 (D) Any other person making sales to persons within the
102 State of tangible personal property or services, the use of
103 which is taxed by this act, who may be authorized by the
104 director to collect the tax imposed by this act;

105 (E) The State of New Jersey, any of its agencies, instru-
106 mentalities, public authorities, public corporations (including
107 a public corporation created pursuant to agreement or compact
108 with another state) or political subdivisions when such entity
109 sells services or property of a kind ordinarily sold by private
110 persons.

111 (2) In addition, when in the opinion of the director it is neces-
112 sary for the efficient administration of this act to treat any sales-
113 man, representative, peddler or canvasser as the agent of the

114 vendor, distributor, supervisor or employer under whom he oper-
115 ates or from whom he obtains tangible personal property sold
116 by him or for whom he solicits business, the director may, in his
117 discretion, treat such agent as the vendor jointly responsible with
118 his principal, distributor, supervisor or employer for the collection
119 and payment over of the tax.

120 (j) Hotel. A building or portion of it which is regularly used
121 and kept open as such for the lodging of guests. The term "hotel"
122 includes an apartment hotel, a motel, boarding house or club,
123 whether or not meals are served.

124 (k) Occupancy. The use or possession or the right to the use
125 or possession, of any room in a hotel.

126 (l) Occupant. A person who, for a consideration, uses, pos-
127 sesses, or has the right to use or possess, any room in a hotel under
128 any lease, concession, permit, right of access, license to use or other
129 agreement, or otherwise.

130 (m) Permanent resident. Any occupant of any room or rooms
131 in a hotel for at least 90 consecutive days shall be considered a
132 permanent resident with regard to the period of such occupancy.

133 (n) Room. Any room or rooms of any kind in any part or
134 portion of a hotel, which is available for or let out for any purpose
135 other than a place of assembly.

136 (o) Admission charge. The amount paid for admission, includ-
137 ing any service charge and any charge for entertainment or amuse-
138 ment or for the use of facilities therefor.

139 (p) Amusement charge. Any admission charge, dues or charge
140 of roof garden, cabaret or other similar place.

141 (q) Charge of a roof garden, cabaret or other similar place. Any
142 charge made for admission, refreshment, service, or merchandise
143 at a roof garden, cabaret or other similar place.

144 (r) Dramatic or musical arts admission charge. Any admission
145 charge paid for admission to a theatre, opera house, concert hall
146 or other hall or place of assembly for a live, dramatic, choreo-
147 graphic or musical performance.

148 (s) Lessor. Any person who is the owner, licensee, or lessee
149 of any premises or tangible personal property which he leases,
150 subleases, or grants a license to use to other persons.

151 (t) Place of amusement. Any place where any facilities for
152 entertainment, amusement, or sports are provided.

153 (u) Casual sale. Casual sale means an isolated or occasional
154 sale of an item of tangible personal property by a person who is
155 not regularly engaged in the business of making sales at retail

156 where such property was obtained by the person making the sale,
157 through purchase or otherwise, for his own use in this State.

158 (v) Motor vehicle. Motor vehicle shall include all vehicles pro-
159 pelled otherwise than by muscular power (excepting such vehicles
160 as run only upon rails or tracks), trailers, semitrailers, house-
161 trailers, or any other type of vehicle drawn by a motordriven
162 vehicle, and motorcycles, designed for operation on the public
163 highways.

164 (w) "Persons required to collect tax" or "persons required to
165 collect any tax imposed by this act" shall include: every vendor
166 of tangible personal property or services; every recipient of
167 amusement charges; and every operator of a hotel. Said terms
168 shall also include any officer or employee of a corporation or of a
169 dissolved corporation who as such officer or employee is under
170 a duty to act for such corporation in complying with any require-
171 ment of this act and any member of a partnership. Provided, how-
172 ever, the vendor of tangible personal property to all contractors,
173 subcontractors or repairmen, consisting of materials and supplies
174 for use by them in erecting structures for others, or building on, or
175 otherwise improving, altering or repairing real property of others,
176 shall not be deemed a person required to collect tax, and the tax
177 imposed by any section of this act shall be paid directly to the
178 director by such contractors, subcontractors or repairmen.

179 (x) "Customer" shall include: every purchaser of tangible per-
180 sonal property or services; every patron paying or liable for the
181 payment of any amusement charge; and every occupant of a room
182 or rooms in a hotel.

183 (y) "Property and services the use of which is subject to tax"
184 shall include: (a) all property sold to a person within the State,
185 whether or not the sale is made within the State, the use of which
186 property is subject to tax under section 6 or will become subject
187 to tax when such property is received by or comes into the posses-
188 sion or control of such person within the State; and (b) all services
189 rendered to a person within the State, whether or not such services
190 are performed within the State, upon tangible personal property
191 the use of which is subject to tax under section 6 or will become
192 subject to tax when such property is received by or comes into
193 possession or control of such person within the State.

194 (z) Director. Director means the Director of the Division of
195 Taxation of the State Department of the Treasury, or any officer,
196 employee or agency of the Division of Taxation in the Department
197 of the Treasury duly authorized by the director (directly, or

198 indirectly by one or more redelegations of authority) to perform
199 the functions mentioned or described in this act.

1 2. Section 3 of P. L. 1966, c. 30 (C. 54:32B-3) is amended to
2 read as follows:

3 3. Imposition of sales tax. On and after July 1, 1966 and con-
4 tinuing through February 28, 1970 there is hereby imposed and
5 there shall be paid a tax of 3%, and on and after March 1, 1970
6 there is hereby imposed and there shall be paid a tax of 5% upon:

7 (a) The receipts from every retail sale of tangible personal
8 property, except as otherwise provided in this act.

9 (b) The receipts from every sale, except for resale, of the follow-
10 ing services:

11 (1) Producing, fabricating, processing, printing or imprinting
12 tangible personal property, performed for a person who directly
13 or indirectly furnishes the tangible personal property, not pur-
14 chased by him for resale, upon which such services are performed.

15 (2) Installing tangible personal property, or maintaining, ser-
16 vicing, repairing tangible personal property not held for sale in
17 the regular course of business, whether or not the services are
18 performed directly or by means of coin-operated equipment or by
19 any other means, and whether or not any tangible personal prop-
20 erty is transferred in conjunction therewith, except (i) such ser-
21 vices rendered by an individual who is engaged directly by a
22 private homeowner or lessee in or about his residence and who is
23 not in a regular trade or business offering his services to the public,
24 (ii) such services rendered with respect to personal property
25 exempt from taxation hereunder pursuant to subsection (a) of
26 section 8, (iii) services rendered with respect to trucks, tractors,
27 trailers or semitrailers by a person who is not engaged, directly
28 or indirectly through subsidiaries, parents, affiliates or otherwise,
29 in a regular trade or business offering such services to the public,
30 (iv) any receipts from laundering, dry cleaning, tailoring, weaving,
31 pressing, shoe repairing and shoeshining, and (v) services rendered
32 in installing property which, when installed, will constitute an
33 addition or capital improvement to real property, property or land.

34 (3) Storing all tangible personal property not held for sale in
35 the regular course of business and the rental of safe deposit boxes
36 or similar space.

37 (4) Maintaining, servicing or repairing real property, other than
38 a residential heating system unit serving not more than three
39 families living independently of each other and doing their cooking
40 on the premises, whether the services are performed in or outside
41 of a building, as distinguished from adding to or improving such

42 real property, by a capital improvement, but excluding services
43 rendered by an individual who is not in a regular trade or business
44 offering his services to the public, and excluding interior cleaning
45 and maintenance services, garbage removal and sewer services per-
46 formed on a regular contractual basis for a term not less than
47 30 days, other than window cleaning, and rodent and pest control.

48 (5) Advertising services except advertising services for use
49 directly and primarily for publication in newspapers and maga-
50 zines.

51 Wages, salaries and other compensation paid by an employer
52 to an employee for performing as an employee the services
53 described in this subsection are not receipts subject to the taxes
54 imposed under this subsection (b).

55 Services otherwise taxable under paragraph (1) or (2) of this
56 subsection (b) are not subject to the taxes imposed under this
57 subsection where the tangible personal property upon which the
58 services were performed is delivered to the purchaser outside this
59 State for use outside this State.

60 (c) Receipts from the sale of food and drink [except alcoholic
61 beverages as defined in the Alcoholic Beverage Tax Law,] in or by
62 restaurants, taverns, vending machines or other establishments in
63 this State, or by caterers, including in the amount of such receipts
64 any cover, minimum, entertainment or other charge made to
65 patrons or customers:

66 (1) In all instances where the sale is for consumption on the
67 premises where sold[.];

68 (2) In those instances where the vendor or any person whose
69 services are arranged for by the vendor, after the delivery of the
70 food or drink by or on behalf of the vendor for consumption off
71 the premises of the vendor, serves or assists in serving, cooks, heats
72 or provides other services with respect to the food or drink, except
73 for meals especially prepared for and delivered to homebound
74 elderly, age 60 or older, and to disabled persons, or meals pre-
75 pared and served at a group-sitting at a location outside of the
76 home to otherwise homebound elderly persons, age 60 or older,
77 and otherwise homebound disabled persons, as all or part of any
78 food service project funded in whole or in part by government or
79 as part of a private nonprofit food service project available to all
80 such elderly or disabled persons residing within an area of service
81 designated by the private nonprofit organization; and

82 (3) In those instances where the sale is for consumption off
83 the premises of the vendor, and consists of a meal, or food prepared
84 and ready to be eaten, of a kind obtainable in restaurants as the

85 main course of a meal, including a sandwich, except where food
 86 other than sandwiches is sold in an unheated state and is of a type
 87 commonly sold in the same form and condition in food stores other
 88 than those which are principally engaged in selling prepared foods.

89 (4) Sales of food and beverage sold through coin-operated vend-
 90 ing machines, at the wholesale price of such sale, which shall be
 91 defined as 70% of the retail vending machine selling price, except
 92 sales of milk which shall not be taxed. Nothing herein contained
 93 shall effect other sales through coin-operated vending machines
 94 taxable pursuant to subsection (a) above or the exemption thereto
 95 provided by subsection (i) of section 8.

96 The tax imposed by this subsection (c) shall not apply to food or
 97 drink which is sold to an airline for consumption while in flight.

98 (d) The rent for every occupancy of a room or rooms in a hotel
 99 in this State, except that the tax shall not be imposed upon (1) a
 100 permanent resident, or (2) where the rent is not more than at the
 101 rate of \$2.00 per day.

102 (e) (1) Any admission charge where such admission charge is
 103 in excess of \$0.75 to or for the use of any place of amusement in
 104 the State, including charges for admission to race tracks, baseball,
 105 football, basketball or exhibitions, dramatic or musical arts per-
 106 formances, motion picture theatres, *except charges for admission*
 107 *to boxing, sparring, or wrestling matches or exhibitions which*
 108 *charges are taxed under any other law of this State or under R. S.*
 109 *5:2-12, and*, except charges to a patron for admission to, or use of,
 110 facilities for sporting activities in which such patron is to be a
 111 participant, such as bowling alleys and swimming pools. For any
 112 person having the permanent use or possession of a box or seat
 113 or a lease or a license, other than a season ticket, for the use of
 114 a box or seat at a place of amusement, the tax shall be upon the
 115 amount for which a similar box or seat is sold for each performance
 116 or exhibition at which the box or seat is used or reserved by the
 117 holder, licensee or lessee, and shall be paid by the holder, licensee
 118 or lessee.

119 (2) The amount paid as charge of a roof garden, cabaret or
 120 other similar place in this State, to the extent that a tax upon such
 121 charges has not been paid pursuant to subsection (c) hereof.

1 3. Section 8 of P. L. 1966, c. 30 (C. 54:32B-8) is amended to read
 2 as follows:

3 8. Exempt sales. Receipts from the following shall be exempt
 4 from the tax on retail sales imposed under subsection (a) of section
 5 3 and the use tax imposed under section 6:

6 (a) Sales of medicines and drugs sold pursuant to a doctor's
7 prescription for human use; crutches, artificial limbs, artificial
8 eyes, artificial hearing devices, corrective eyeglasses, prosthetic
9 aids, artificial teeth or dentures, braces, tampons or like products,
10 orthopedic appliances and artificial devices designed to correct or
11 alleviate physical incapacity, medical oxygen, human blood and its
12 derivative when sold for human use, wheelchairs, and replacement
13 parts for any of the foregoing;

14 (b) Sales of food, food products, beverages [except alcoholic
15 beverages, excluding draft beer sold by the barrel, as defined in
16 the Alcoholic Beverage Tax Law], dietary foods and health supple-
17 ments, sold for human consumption off the premises where sold
18 but not including (i) candy and confectionery, and (ii) carbonated
19 soft drinks and beverages all of which shall be subject to the retail
20 sales and compensating use taxes, whether or not the item is sold
21 in liquid form. Nothing herein shall be construed as exempting
22 food or drink from the tax imposed under subsection (c) of
23 section 3;

24 (c) Sales of food sold in an elementary or secondary school
25 cafeteria, sales of food sold in an institution of higher education
26 or in a fraternity, sorority or eating club operated in connection
27 therewith, to students of such an institution;

28 (d) Sales of articles of clothing and footwear for human use
29 except articles made of fur on the hide or pelt of an animal or
30 animals where such fur is the component material of chief value of
31 the article. "Clothing" as used herein, shall also mean and include
32 sales to noncommercial purchasers of common wearing apparel
33 materials intended to be incorporated into wearing apparel as a
34 constituent part thereof, such as fabrics, thread, knitting yarn,
35 buttons and zippers. The director shall prescribe regulations to
36 carry out the provisions of this subsection;

37 (e) Sales of newspapers, magazines and periodicals;

38 (f) Casual sales except as to sales of motor vehicles, whether
39 for use on the highways or otherwise, and except as to sales of boats
40 or vessels registered or subject to registration under the New
41 Jersey Boat Act of 1962 (P. L. 1962, c. 73, and all amendments
42 thereto);

43 (g) Sales of gas, water, steam, fuel, electricity, telephone or
44 telegraph services delivered to consumers through mains, lines,
45 pipe, or in containers or bulk;

46 (h) Sales of motor fuels as motor fuels are defined for purposes
47 of the New Jersey Motor Fuel Tax Law; and sale of fuel to an
48 airline for use in its airplanes or to a railroad for use in its
49 locomotives;

- 50 (i) Tangible personal property sold through coin-operated vend-
51 ing machines at \$0.10 or less, provided the retailer is primarily
52 engaged in making such sales and maintains records satisfactory
53 to the director;
- 54 (j) Sales not within the taxing power of this State under the
55 Constitution of the United States;
- 56 (k) The transportation of persons or property;
- 57 (l) Sales, repairs, alterations or conversion of commercial ships
58 or any component thereof including cargo containers of any type
59 whatsoever, barges and other vessels of 50-ton burden or over,
60 primarily engaged in interstate or foreign commerce, and of govern-
61 mentally-owned ships, barges and other vessels and property used
62 by or purchased for the use of such vessels for fuel, provisions,
63 supplies, maintenance and repairs (other than articles purchased
64 for the original equipping of a new ship);
- 65 (m) (1) Sales of machinery, apparatus or equipment for use or
66 consumption directly and primarily in the production of tangible
67 personal property by manufacturing, processing, assembling or
68 refining;
- 69 (2) Sales of machinery, apparatus or equipment for use or
70 consumption directly and primarily in the production, generation,
71 transmission or distribution of gas, electricity, refrigeration, steam
72 or water for sale or in the operation of sewerage systems;
- 73 (3) Sales of telephone lines, cables, central office equipment or
74 station apparatus, or other machinery, equipment or apparatus,
75 or comparable telegraph equipment, for use directly and primarily
76 in receiving at destination or initiating, transmitting and switching
77 telephone or telegraph communication;
- 78 (4) The exemptions granted under this subsection shall not be
79 construed to apply to sales, otherwise taxable, of machinery, equip-
80 ment or apparatus whose use is incidental to the activities described
81 in paragraphs (1), (2) and (3) of this subsection;
- 82 (5) The exemptions granted in this subsection (m) shall not
83 apply to motor vehicles or to parts with a useful life of 1 year or
84 less or tools or supplies used in connection with the machinery,
85 equipment or apparatus described in this subsection;
- 86 (n) Sales of tangible personal property purchased for use or
87 consumption directly and exclusively in research and development
88 in the experimental or laboratory sense. Such research and de-
89 velopment shall not be deemed to include the ordinary testing or
90 inspection of materials or products for quality control, efficiency
91 surveys, management studies, consumer surveys, advertising, pro-

92 motions or research in connection with literary, historical or
93 similar projects;

94 (o) Sales or use of wrapping paper, wrapping twine, bags, car-
95 tons, tape, rope, labels, nonreturnable containers, reusable milk
96 containers and all other wrapping supplies when such use is in-
97 cidental to the delivery of any personal property;

98 (p) Sales of tangible personal property (except automobiles,
99 and except property incorporated in a building or structure) for
100 use and consumption directly and exclusively in the production for
101 sale of tangible personal property on farms, including stock, dairy,
102 poultry, fruit, fur-bearing animals, and truck farms, ranches,
103 nurseries, greenhouses or other similar structures used primarily
104 for the raising of agricultural or horticultural commodities, and
105 orchards;

106 (q) Sales of tangible personal property sold by a mortician,
107 undertaker or funeral director. However, all tangible personal
108 property sold to a mortician, undertaker or funeral director for
108A use in the conducting of funerals shall not be deemed a sale for
109 resale and shall not be exempt from the tax imposed by this act;

110 (r) Sales of films, records, tapes or any type of visual or sound
111 transcriptions to, or produced for exhibition in or use through the
112 medium of, theaters and radio and television broadcasting stations
113 or networks, and not used for advertising purposes;

114 (s) Sales of tangible personal property and services taxable
115 under any municipal ordinance heretofore adopted pursuant to
116 P. L. 1947, c. 71, which is in effect on April 27, 1966, but only to
117 the extent such sales are taxable under said ordinance and subject
118 to the following:

119 (1) To the extent that the tax that is or would be imposed under
120 section 3 of P. L. 1966, c. 30 (C. 54:32B-3) is greater than the tax
121 imposed by such ordinance, such sales shall not be exempt under
122 this subsection; and

123 (2) To the extent permitted in the following schedule, irrespec-
124 tive of the rate of tax imposed by such ordinance: (i) Through
125 June 30, 1980, such sales shall be exempt only to the extent that they
126 are subject to taxation under such ordinance at a rate not exceed-
127 ing 5%;

128 (ii) From July 1, 1980 through June 30, 1981, such sales shall be
129 exempt only to the extent that they are subject to taxation under
130 such ordinance at a rate not exceeding 4%;

131 (iii) On and after July 1, 1981, such sales shall not be exempt
132 under this subsection;

- 133 (t) Sales of materials, such as chemicals and catalysts, used to
134 induce or cause a refining or chemical process, where such materials
135 are an integral or essential part of the processing operation, but
136 do not become a component part of the finished product;
- 137 (u) Sales of school textbooks for use by students in a school,
138 college, university or other educational institution, approved as
139 such by the Department of Education or by the Department of
140 Higher Education, when the educational institution, upon forms
141 and pursuant to regulations prescribed by the director, has declared
142 the books are required for school purposes and the purchaser has
143 supplied the vendor with the form at the time of the sale;
- 144 (v) (Deleted by amendment.) P. L. 1970, c. 7, s. 5.
- 145 (w) Sales made to contractors, subcontractors or repairmen of
146 materials, supplies or services for exclusive use in erecting struc-
147 tures or building on, or otherwise improving, altering or repairing
148 real property of organizations described in subsections (a) and
149 (b) of section 9 of this act, provided any person seeking to qualify
150 for this exemption shall do so pursuant to such rules and regula-
151 tions and upon such forms as shall be prescribed by the director;
- 152 (x) The renting, leasing, licensing or interchanging of trucks,
153 tractors, trailers or semitrailers by persons not engaged in a reg-
154 ular trade or business offering such renting, leasing, licensing or
155 interchanging to the public, provided, that such renting, leasing,
156 licensing or interchanging is carried on with persons engaged in
157 a regular trade or business involving carriage of freight by such
158 vehicles;
- 159 (y) Sales of cigarettes subject to tax under the Cigarette Tax
160 Act;
- 161 (z) Sales of the Bible or similar sacred scripture of a bona fide
162 church or religious denomination;
- 163 (aa) Sales of the flag of the United States of America and of the
164 flag of the State of New Jersey;
- 165 (bb) Sales of locomotives, railroad cars and other railroad roll-
166 ing stock, including repair and replacement parts therefor, track
167 materials, and communication, signal and power transmission
168 equipment, to a railroad whose rates are regulated by the Inter-
169 state Commerce Commission or by the Board of Public Utilities;
- 170 (cc) Sales of buses for public passenger transportation, includ-
171 ing repair and replacement parts therefor, to bus companies whose
172 rates are regulated by the Interstate Commerce Commission or the
173 Board of Public Utilities or to an affiliate of said bus companies or
174 to common or contract carriers for their use in the transportation
175 of children to and from school. For the purposes of this subsection

176 "affiliate" shall mean a corporation whose stock is wholly owned
177 by the regulated bus company or whose stock is wholly owned by the
178 same persons who own all the stock of the regulated bus company.

179 (dd) Sales of newspaper production machinery, apparatus and
180 equipment for use and consumption directly and primarily in the
181 publication of newspapers in the production departments of a news-
182 paper plant, including, but not limited to: engraving, enlarging
183 and development equipment, internal process cameras and news
184 transmission equipment, composing and pressroom apparatus and
185 equipment, type fonts, lead, mats, ink, plates, conveyors, stackers,
186 sorting, bundling, stuffing, labeling and wrapping equipment and
187 supplies for any of the foregoing except that sales of motor vehicles,
188 typewriters, and other equipment and supplies otherwise taxable
189 under this act are not exempt.

190 (ee) The sale of advertising to be published in a newspaper.

191 (ff) Sales, renting or leasing of: commercial motor vehicles,
192 and vehicles used in combination therewith, as defined in R. S.
193 39:1-1 and registered in New Jersey for more than 18,000 pounds;
194 or which are registered in New Jersey and operated pursuant to
195 a certificate or permit issued by the Interstate Commerce Com-
196 mission; and repair and replacement parts therefor.

197 (gg) The sale of gold or silver and storage thereof, in the form
198 traded on any contract market or other board of trade or exchange
199 licensed by the Federal Commodity Futures Trading Commission
200 as defined in the Commodity Exchange Act, as amended; provided
201 that the sale shall have been in fulfillment of the obligations of a
202 contract for future delivery of gold or silver, or an option to
203 purchase or sell such commodity, entered into on and in accordance
204 with the rules of such licensed contract or options market; pro-
205 vided, further that this exemption shall not apply with respect to
206 any gold or silver subsequently converted to use by a purchaser
207 and in such event such purchaser shall be liable for the sales and
208 use tax imposed hereunder.

209 (hh) Sales of solar energy devices or systems designed to pro-
210 vide heating or cooling, or electrical or mechanical power by collect-
211 ing and transferring solar-generated energy and including
212 mechanical or chemical devices for storing solar-generated energy.
213 The Director of the Division of Energy Planning and Conservation
214 in the Department of Energy shall establish standards with respect
215 to the technical sufficiency of solar energy systems for purposes
216 of qualification for exemption.

217 (ii) *Sales at retail of alcoholic beverages as defined in the*
218 *Alcoholic Beverage Tax Law.*

1 4. This act shall take effect ***[July]*** *August* 1, 1980.

STATEMENT

This bill is one of a package of three measures recommended by the Alcoholic Beverage Control Study Commission to revise the structure of taxation of alcoholic beverages. When the New Jersey Supreme Court upheld the power of the Director of the Division of Alcoholic Beverage Control to deregulate prices it also ruled that he had gone "beyond the limits" of his regulatory authority in establishing an interim method for the continued collection of the sales tax on alcoholic beverages. The Court ordered that this interim method could continue only until August 11, during which time the Legislature could enact appropriate measures to maintain these tax revenues.

Alcoholic beverages are currently subject to two taxes: an excise tax on gallonage and the sales tax. Each of these taxes raises approximately \$55 million annually, for a total of \$110 million. The three bills recommended in this package would (1) increase excise taxes on beer and wine, (2) impose a sales tax at the wholesale level and (3) exempt alcoholic beverages from the present retail sales tax. The net impact of these changes would provide for tax revenues equal to or slightly more than the current yield of \$110 million. All three bills would be effective for sales occurring after June 30, 1980.

This bill exempts retail sales of alcoholic beverages from the Sales and Use Tax Act. Revenues currently derived from this tax will be made up by the tax imposed under a new sales tax at the wholesale level. Because the sales tax on alcoholic beverages is actually collected at the wholesale level, the technical substitution of the wholesale tax for the sales tax represents no change in the manner of collection, which totals about \$55 million annually.

This bill also contains technical changes not related to the taxation of alcoholic beverages. These amendments are necessary to bring the bill into conformity with other recent amendments to the Sales and Use Tax Act.

A 1526 (1980)

ASSEMBLY REVENUE, FINANCE AND APPROPRIATIONS
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1526

with committee amendments

—•—
STATE OF NEW JERSEY
—•—

DATED: JUNE 16, 1980

Assembly Bill No. 1526 exempts retail sales of alcoholic beverages from the Sales and Use Tax Act.

COMMITTEE AMENDMENTS:

Committee amendments change the effective date of the act from July 1, 1980 to August 1, 1980.

FOR IMMEDIATE RELEASE

FOR IMMEDIATE INFORMATION

JULY 8, 1980

JOSEPH P. BARTALONELO

Governor Brendan Byrne has signed the following bills:

A-1526, sponsored by Assemblyman Thomas F. Cowan (D-Hudson) which amends the Sales and Use Tax, to exempt retail sales of alcoholic beverages from the sales tax. The bill will take effect August 1. It is a companion bill to A-1529, which imposes a tax on wholesale sales of alcoholic beverages.

The two bills are a necessary technical response to the deregulation of liquor prices undertaken by the Attorney General and approved by the State Supreme Court.

Under the previous system a 5 percent sales tax was imposed on retail prices but was collected at the time of wholesale sales; which was possible only because the retail price was fixed. Under the new system, a 6.25 percent tax will be collected directly from wholesale sales.

This bill and A-1529 maintain the same effective rate and general system of tax collection, but make the necessary technical amendments to reflect the deregulation of alcoholic beverage prices. About \$55 million is collected annually from liquor sales taxes.

A-1529, also sponsored by Assemblyman Cowan, which imposes a tax of 6.25 percent on sales of alcoholic beverages at the wholesale level, replacing the previous 5 percent tax on retail sales.

The bill will take effect on all deliveries after July 31, 1980. Under the bill, wholesalers will be able to retain ½ percent of tax revenues as compensation for acting as trustees for the State in collecting the tax.