

54:32B-1 ET SEQ.

LEGISLATIVE HISTORY CHECKLIST
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NJSA: 54:32B-1 et seq. (Sales tax on heavy trucks-- repeal)
LAWS OF: 1990 CHAPTER: 115
BILL NO: 5 3125
SPONSOR(S): Lynch and others
DATE INTRODUCED: November 19, 1990
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SENATE: -----
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FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:
SPONSOR STATEMENT: Yes
COMMITTEE STATEMENT: ASSEMBLY: No
SENATE: No
FISCAL NOTE: No
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MESSAGE ON SIGNING: No
FOLLOWING WERE PRINTED:
REPORTS: No
HEARINGS: No

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See newspaper clippings attached:

"NJ ends sales tax on big trucks," 11-20-1990, Philadelphia Inquirer.
"Legislature repeals tax on heavy trucks," 11-20-1990, Home News.
"part of Florio tax package repealed," The Record.
"NJ votes to repeal truck sales tax," 11-20-1990, New York Times.
"Florio slams brakes on new truck tax," 11-20-1990, Asbury Park press.

KBP:pp

P.L.1990, CHAPTER 115, approved November 19, 1990
1990 Senate No. 3125

1 **AN ACT** providing an exemption from taxation under the sales
2 and use tax for certain sales, rentals, leases, parts and services
3 for certain commercial vehicles, amending chapter 10 of Title
4 39 of the Revised Statutes and supplementing P.L.1966, c.30
5 (C.54:32B-1 et seq.).
6

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

9 1. (New section) Receipts from installing tangible personal
10 property in, maintaining, servicing or repairing trucks, tractors,
11 trailers or semitrailers by a person who is not engaged, directly
12 or indirectly through subsidiaries, parents, affiliates or otherwise,
13 in a regular trade or business offering such services to the public,
14 are exempt from the tax imposed under the "Sales and Use Tax
15 Act."

16 2. (New section) Receipts from the renting, leasing, licensing
17 or interchanging of trucks, tractors, trailers or semitrailers by
18 persons not engaged in a regular trade or business offering such
19 renting, leasing, licensing or interchanging to the public, are
20 exempt from the tax imposed under the "Sales and Use Tax Act,"
21 provided that such renting, leasing, licensing or interchanging is
22 carried on with persons engaged in a regular trade or business
23 involving carriage of freight by such vehicles.

24 3. (New section) Receipts from: (a) sales, renting or leasing
25 of commercial trucks, truck tractors, tractors, semitrailers, and
26 vehicles used in combination therewith, as defined in R.S.39:1-1,
27 which are registered in New Jersey and (1) have a gross vehicle
28 weight rating in excess of 26,000 pounds, (2) are operated
29 actively and exclusively for the carriage of interstate freight
30 pursuant to a certificate or permit issued by the Interstate
31 Commerce Commission, or (3) are registered pursuant to
32 R.S.39:3-24 or R.S.39:3-25 and have a gross vehicle weight rating
33 in excess of 18,000 pounds; and (b) repair and replacement parts
34 for such vehicles, are exempt from the tax imposed under the
35 "Sales and Use Tax Act." "Gross vehicle weight rating" means
36 the value specified by the manufacturer as the loaded weight 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 the single or combination vehicle and, if the manufacturer has
2 not specified a value for a towed vehicle, means the value
3 specified for the towing vehicle plus the loaded weight of the
4 towed unit.

5 4. R.S.39:10-2 is amended to read as follows:

6 39:10-2. As used in this chapter unless other meaning is
7 clearly apparent from the language or context, or unless
8 inconsistent with the manifest intention of the Legislature:

9 "New motor vehicle" means only a newly manufactured motor
10 vehicle, except a nonconventional type motor vehicle, and
11 includes all such vehicles propelled otherwise than by muscular
12 power, and motorcycles, motorized bicycles, trailers and
13 tractors, and manufactured homes not subject to real property
14 taxation pursuant to P.L.1983, c.400 (C.54:4-1.2 et seq.),
15 excepting such vehicles as run only upon rails or tracks and
16 manufactured homes subject to real property taxation.

17 "Used motor vehicle" means every motor vehicle and
18 motorized bicycle, except a nonconventional type motor vehicle,
19 title to, or possession of, which has been transferred from the
20 person who first acquired it from the manufacturer or dealer, and
21 so used as to become what is commonly known as "secondhand"
22 within the ordinary meaning thereof, and includes every motor
23 vehicle and motorized bicycle other than a "new motor vehicle,"
24 a "nonconventional type motor vehicle" or a manufactured home
25 subject to real property taxation.

26 "Any motor vehicle," "every motor vehicle," or similar term,
27 means both new and used motor vehicles, except a
28 "nonconventional type motor vehicle."

29 "Nonconventional type motor vehicle" means every vehicle not
30 designed or used primarily for the transportation of persons or
31 property and only incidentally operated or moved over a highway,
32 including, but not limited to, ditch-digging apparatus, well-boring
33 apparatus, road and general purpose construction and
34 maintenance machinery, asphalt spreaders, bituminous mixers,
35 bucket loaders, ditchers, leveling graders, finishing machines,
36 motor graders, road rollers, scarifiers, earth-moving carryalls,
37 scrapers, power shovels, drag lines, self-propelled cranes,
38 earth-moving equipment, trailers and semitrailers which weigh
39 less than 2,500 pounds, except that no mobile or manufactured
40 home or travel trailer shall be classified as a nonconventional
41 type motor vehicle, motorized wheelchairs, motorized lawn
42 mowers, bogies, farm equipment having a factory shipping weight
43 of less than 1,500 pounds, whether or not motorized, including
44 farm tractors within said weight limitation, industrial tractors,
45 scooters, go-carts, gas buggies and golf carts. The Director of
46 the Division of Motor Vehicles shall have power to make, amend
47 and repeal regulations, not inconsistent with the provisions of this
48 paragraph, prescribing what further vehicles or types of vehicles,
49 not specified in this paragraph, shall be included in the category

- 1 of nonconventional type motor vehicles.
- 2 "Motor vehicles which constitute inventory held for sale"
3 means new motor vehicles and used motor vehicles held for the
4 purpose of sale by dealers and used motor vehicles held for the
5 purpose of sale by used motor vehicle dealers, and excludes motor
6 vehicles held for the purpose of lease or rental by a person
7 engaged in the motor vehicle leasing or rental business.
- 8 "Manufacturer's or importer's certificate of origin" means the
9 original written instrument or document required to be executed
10 and delivered by the manufacturer to his agent or a dealer, or a
11 person purchasing direct from the manufacturer, certifying the
12 origin of the vehicle.
- 13 "Certificate of ownership" means the document issued in
14 conformance with this chapter, certifying ownership of a motor
15 vehicle, other than manufacturer's or importer's certificate of
16 origin.
- 17 "Assignment" means the execution of a prescribed form
18 transferring ownership of a motor vehicle from the person named
19 therein to the purchaser.
- 20 "Contract" means conditional sale agreement, bailment, lease,
21 chattel mortgage, trust receipt or any other form of security or
22 possession agreement executed prior to January 1, 1963, wherein
23 and whereby possession of a motor vehicle is delivered to the
24 buyer and title therein is to vest in the buyer at a subsequent
25 time upon the payment of part or all of the price, or upon the
26 performance of any other condition or happening of any
27 contingency, or upon the payment of a sum substantially
28 equivalent to the value of the motor vehicle, by which contract it
29 is agreed that the buyer is bound to become, or has the option of
30 becoming, the owner of the motor vehicle upon full compliance
31 with the terms of the contract.
- 32 "Abstract" means the duplicate copy of the original certificate
33 of ownership recording any encumbrance or upon which the
34 existence of a security interest is noted.
- 35 "Title papers" means any instrument or document that is
36 evidence of ownership of a vehicle.
- 37 "Director" means the Director of Motor Vehicles, his deputy or
38 duly authorized agent.
- 39 "Manufacturer" means the person who originally manufactured
40 the motor vehicle.
- 41 "Dealer" means the agent, distributor or authorized dealer of
42 the manufacturer of the new motor vehicle, and who has an
43 established place of business.
- 44 "Used motor vehicle dealer" means a person engaged in the
45 business of selling, buying or dealing in used motor vehicles, and
46 who has an established place of business.
- 47 "Person" includes natural persons, firms or copartnerships,
48 corporations, associations, or other artificial bodies, receivers,
49 trustees, common law or statutory assignees, executors,

1 administrators, sheriffs, constables, marshals, or other persons in
2 representative or official capacity, and members, officers,
3 agents, employees, or other representatives of those hereinbefore
4 enumerated.

5 "Buyer" includes purchaser, debtor, lessee, bailee, transferee,
6 and any person buying, attempting to buy, or receiving a motor
7 vehicle subject to a security interest, lease, bailment or transfer
8 agreement, and their legal successors in interest.

9 "Seller" means manufacturer, dealer, lessor, bailor, transferor
10 with or without a security interest, and any other person selling,
11 attempting to sell, or delivering a motor vehicle, and their legal
12 successors in interest.

13 The terms "sell" or "sale" or "purchase" and any form thereof
14 include absolute or voluntary sales and purchases, agreements to
15 sell and purchase, bailments, leases, security agreements whereby
16 any motor vehicles are sold and purchased, or agreed to be sold
17 and purchased, involuntary, statutory and judicial sales,
18 inheritance, devise, or bequest, gift or any other form or manner
19 of sale or agreement of sale thereof, or the giving or transferring
20 possession of a motor vehicle to a person for a permanent use;
21 continued possession for 60 days or more is to be construed as
22 permanent use.

23 "Manufacturer's number" means the original manufacturer's
24 vehicle identification number die stamped upon the body, or
25 frame, or either or both of them, of a motor vehicle or the
26 original manufacturer's number die stamped upon the engine or
27 motor of a motor vehicle.

28 "Purchaser" means a person who takes possession of a motor
29 vehicle by transfer of ownership, either for use or resale, except
30 a dealer when he takes possession through a certificate of origin.

31 "Debtor" means the person who owes payment or other
32 performance of the obligation secured by a security interest in a
33 motor vehicle.

34 "Security interest" means an interest in a motor vehicle which
35 secures payment or other performance of an obligation.

36 "Security agreement" means an agreement which creates or
37 provides for a security interest in a motor vehicle.

38 "Secured party" means a lender, seller or other person in whose
39 favor there is a security interest.

40 "Gross vehicle weight rating" means the value specified by the
41 manufacturer as the loaded weight of the single or combination
42 vehicle and, if the manufacturer has not specified a value for a
43 towed vehicle, means the value specified for the towing vehicle
44 plus the loaded weight of the towed unit.

45 (cf: P.L.1983, c.387, s.1)

46 5. R.S.39:10-6 is amended to read as follows:

47 39:10-6. Every person shall have for each motor vehicle in his
48 possession in this State: (a) certificate of ownership therefor in
49 conformity with this chapter, and (b) the registration certificate

1 for the motor vehicle, if it is registered by the director and a
2 registration certificate has been issued therefor. He shall
3 produce either the certificate of ownership or registration
4 certificate, at the discretion of the director, upon demand for
5 production [of certificate of ownership] thereof by the director.
6 If he fails to do so, the director may seize and take possession of
7 the motor vehicle and hold and dispose of it in accordance with
8 R.S.39:10-21.

9 If a motor vehicle is registered in or bears the registration
10 plates of another state or country and is being used or operated in
11 this State, the person in possession of it or using or operating it in
12 this State must be entitled to ownership or possession in
13 accordance with the laws of the state or country where it is
14 registered or the registration plates of which it bears, and shall
15 produce to the director documents showing title to, or right of
16 possession in, the motor vehicle in that person or in the person
17 who has authorized him to use and operate it, or registration
18 certificate or other evidence of registration, besides plates,
19 issued by the state or country or department thereof to that
20 person, or to the person who has authorized him to use and
21 operate the motor vehicle, evidencing the registration of the
22 motor vehicle in that state or country.

23 When a motor vehicle is in the possession of a garage keeper,
24 motor vehicle dealer, both new and used, or motor vehicle service
25 station in this State, the production of a writing signed by the
26 person delivering possession of the motor vehicle to the garage
27 keeper, dealer or service station, stating that the person is the
28 owner or entitled to the possession of the motor vehicle and has
29 title papers or the registration certificate therefor, shall be
30 deemed a compliance with this section insofar as the garage
31 keeper, dealer and service station are concerned.

32 (cf: P.L.1983, c.403, s.30)

33 6. R.S.39:10-8 is amended to read as follows:

34 39:10-8. When a new motor vehicle is delivered in this State
35 by the manufacturer to his agent or a dealer, or a person
36 purchasing directly from the manufacturer, the manufacturer
37 shall execute and deliver to his agent or a dealer, or a person
38 purchasing directly from the manufacturer, a certificate of origin
39 in the form prescribed by the director of motor vehicles, and no
40 person shall bring into this State any new motor vehicle unless he
41 has in his possession the certificate of origin as prescribed by the
42 director. The certificate of origin shall contain the
43 manufacturer's vehicle identification number and the motor
44 number when used of the motor vehicle sold, name of the
45 manufacturer, the manufacturer's shipping weight, a general
46 description of the body, if any, the type and model and the gross
47 vehicle weight rating.

48 When a new motor vehicle is sold in this State, the
49 manufacturer, his agent or a dealer shall execute and deliver to

1 the purchaser an assignment of the certificate of origin, with the
2 genuine names and business or residence addresses of both stated
3 thereon, and certified to have been executed with full knowledge
4 of the contents and with the consent of both purchaser and
5 seller. If, in connection with such sale, a security interest is
6 taken or retained by the seller to secure all or a part of the
7 purchase price of the motor vehicle, or is taken by a person who
8 by making an advance or incurring an obligation gives value to
9 enable the purchaser to acquire rights in the motor vehicle, the
10 name and the business or residence address of the secured party
11 or his assignee shall be noted on the manufacturer's certificate
12 of origin. Nothing in this section shall apply to security interests
13 in motor vehicles which constitute inventory held for sale, but
14 such interests shall be subject to chapter 9 of Title 12A of the
15 New Jersey Statutes.

16 (cf: P.L.1962, c.193, s.1)

17 7. This act shall take effect immediately and sections 1, 2 and
18 3 shall be retroactive to July 1, 1990.

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STATEMENT

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23 This bill reinstates, with modifications, certain exemptions
24 from the sales and use tax previously allowed for sales, rentals,
25 leasing, parts and services to heavy trucks and certain other
26 commercial vehicles. These exemptions were repealed in
27 P.L.1990, c.40, an omnibus sales tax law that made many changes
28 to the "Sales and Use Tax Act."

29 The particular exemptions contained in this bill will apply to:

30 1. Sales, rentals and leasing of, and repair and replacement
31 parts for, heavy trucks and trailers having a manufacturer's gross
32 vehicle weight rating of over 26,000 pounds. This is a tighter and
33 more limited exemption than the former one, which covered all
34 commercial vehicles registered in New Jersey at over 18,000
35 pounds. The same sales are also exempted from taxation as they
36 apply to other commercial vehicles operating pursuant to a
37 certificate or permit issued by the Interstate Commerce
38 Commission (ICC), provided that the vehicle is actively and
39 exclusively used for the carriage of interstate freight. This
40 provision is designed to correct certain prior abuses of the
41 exemption by ordinary vehicles carrying an ICC registration.
42 Also, excluded are farm vehicles in excess of 18,000 pounds.

43 2. Other truck, tractor and trailer rentals and leases to a
44 common carrier freight operation if made by a person not
45 engaged in renting or leasing to the public.

46 3. Certain truck, tractor and trailer repair services.

47 The reinstatement of these exemptions, with corrective
48 limitations, will help to sustain the economic viability of a
49 trucking industry already depressed as a result of the State's
50 economic slowdown.

STATE TAXATION

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Exempts sales, rentals, leasing, repair and replacement parts for heavy trucks and certain other commercial vehicles from sales and use tax, retroactive to July 1, 1990.

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SPONSORS' STATEMENT

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