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FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

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end

P.L.2015, CHAPTER 101, *approved August 10, 2015*
Senate, No. 2599 (*First Reprint*)

1 AN ACT concerning the definition of certain fuels and amending
2 ¹【sections 2 and 12 of】¹ P.L.2010, c.22 ¹【(C.54:39-102 and
3 54:39-112)】¹.
4

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

8 1. Section 2 of P.L.2010, c.22 ¹【(C.54:39-101 et al.)】
9 (C.54:39-102)¹ is amended to read as follows:

10 2. For the purposes of P.L.2010, c.22 (C.54:39-101 et al.) **【**,
11 the following terms have the following meanings **】** :

12 "Aviation fuel" means aviation gasoline or aviation grade
13 kerosene or any other fuel that is used in aircraft.

14 "Aviation fuel dealer" means a person that acquires aviation fuel
15 from a supplier or from another aviation fuel dealer for subsequent
16 sale.

17 "Aviation gasoline" means fuel specifically compounded for use
18 in reciprocating aircraft engines.

19 "Aviation grade kerosene" means any kerosene type jet fuel
20 covered by ASTM Specification D 1655 or meeting specification
21 MIL-DTL-5624T (Grade JP-5) or MIL-DTL-83133E (Grade JP-8).

22 "Biobased liquid fuel" means a liquid fuel that is derived
23 principally from renewable biomass and meets the specifications or
24 quality certification standards for use in residential, commercial, or
25 industrial heating applications established under ASTM D6751, or
26 the appropriate successor standard, as the case may be.

27 "Biodiesel fuel" means the monoalkyl esters of long chain fatty
28 acids derived from plant or animals matters which meet the
29 registration requirements for fuels and fuel additives established by
30 the United States Environmental Protection Agency under section
31 211 of the Clean Air Act, 42 U.S.C. s.7545, and the requirements of
32 ASTM D6751.

33 "Blend stock" means a petroleum product component of motor
34 fuel, such as naphtha, reformate, toluene or kerosene, that can be
35 blended for use in a motor fuel without further processing. The term
36 includes those petroleum products defined by regulations issued
37 pursuant to sections 4081 and 4082 of the federal Internal Revenue
38 Code of 1986 (26 U.S.C. ss. 4081 and 4082), but does not include
39 any substance that:

40 a. will be ultimately used for consumer nonmotor fuel use; and

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:

¹Senate SEN committee amendments adopted January 29, 2015.

1 b. is sold or removed in fifty-five gallon drum quantities or less
2 at the time of the sale or removal.

3 "Blended fuel" means a mixture composed of motor fuel and
4 another liquid, including blend stock other than a de minimis
5 amount of a product such as carburetor detergent or oxidation
6 inhibitor, that can be used as a fuel in a highway vehicle. "Blended
7 fuel" includes but is not limited to gasohol, biobased liquid fuel,
8 biodiesel fuel, ethanol, methanol, fuel grade alcohol, diesel fuel
9 enhancers and resulting blends.

10 "Blender" means a person that produces blended motor fuel
11 outside the terminal transfer system.

12 "Blending" means the mixing of one or more petroleum products,
13 with or without another product, regardless of the original character
14 of the product blended, if the product obtained by the blending is
15 capable of use or otherwise sold for use in the generation of power
16 for the propulsion of a motor vehicle, an airplane, or a motorboat.
17 The term does not include the blending that occurs in the process of
18 refining by the original refiner of crude petroleum or the blending
19 of products known as lubricating oil and greases, or the
20 commingling of products during transportation in a pipeline.

21 "Blocked pump" means a pump that, because of the pump's
22 physical limitations, for example, a short hose, cannot be used to
23 fuel a vehicle, or a pump that is locked by the vendor after each sale
24 and unlocked by the vendor in response to a request by a buyer for
25 undyed kerosene for use other than as a fuel in a diesel-powered
26 highway vehicle or train.

27 **["Biodiesel" means any motor fuel or mixture of motor fuels that**
28 **is derived, in whole or in part, from agricultural products or animal**
29 **fats, or the wastes of such products or fats, and is advertised as,**
30 **offered for sale as, suitable for use or used as motor fuel in an**
31 **internal combustion engine.]**

32 "Bulk plant" means a bulk fuel storage and distribution facility
33 that is not a terminal within the terminal transfer system and from
34 which fuel may be removed by truck or rail car.

35 "Bulk transfer" means a transfer of motor fuel from one location
36 to another by pipeline tender, marine delivery, or any other
37 conveyance within the terminal transfer system and includes a
38 transfer within a terminal.

39 "Consumer" means the ultimate user of fuel.

40 "Delivery" means the placing of fuel into the fuel tank of a motor
41 vehicle or into a bulk fuel storage and distribution facility.

42 "Diesel fuel" means a liquid that is commonly or commercially
43 known or sold as a fuel that is suitable for use in a diesel-powered
44 highway vehicle. A liquid meets this requirement if, without
45 further processing or blending, the liquid has practical and
46 commercial fitness for use in the propulsion engine of a diesel-
47 powered highway vehicle. "Diesel fuel" includes biobased liquid
48 fuel, biodiesel fuel, number 1 and number 2 diesel.

1 "Diesel-powered motor vehicle" means a motor vehicle that is
2 propelled by a diesel-powered engine.

3 "Director" means the Director of the Division of Taxation in the
4 Department of the Treasury.

5 "Distributor" means a person who acquires motor fuel from a
6 supplier, permissive supplier or from another distributor for
7 subsequent sale.

8 "Dyed fuel" means dyed diesel fuel or dyed kerosene that is
9 required to be dyed pursuant to United States Environmental
10 Protection Agency rules or is dyed pursuant to Internal Revenue
11 Service rules or pursuant to any other requirements subsequently set
12 by the United States Environmental Protection Agency or Internal
13 Revenue Service including any invisible marker requirements.

14 "Export" means to obtain fuel in this State for sale or other
15 distribution outside of this State. In applying this definition, fuel
16 delivered out-of-State by or for the seller constitutes an export by
17 the seller, and fuel delivered out-of-State by or for the purchaser
18 constitutes an export by the purchaser.

19 "Exporter" means any person, other than a supplier, who
20 purchases fuel in this State for the purpose of transporting or
21 delivering the fuel outside of this State.

22 "Fuel" means:

23 a. a liquid or gaseous substance commonly or commercially
24 known or sold as gasoline, regardless of its classification or use;
25 and

26 b. a liquid or gaseous substance used, offered for sale or sold
27 for use, either alone or when mixed, blended, or compounded,
28 which is capable of generating power for the propulsion of motor
29 vehicles upon the public highways.

30 "Fuel grade alcohol" means a methanol or ethanol with a proof of
31 not less than one hundred ninety degrees (determined without
32 regard to denaturants) and products derived from that methanol and
33 ethanol for blending with motor fuel.

34 "Fuel transportation vehicle" means any vehicle designed for
35 highway use which is also designed or used to transport fuel.

36 "Gasoline" means all products commonly or commercially
37 known or sold as gasoline that are suitable for use as a motor fuel.
38 Gasoline does not include products that have an ASTM octane
39 number of less than seventy-five as determined by the "motor
40 method," ASTM D2700-92. The term does not include racing
41 gasoline or aviation gasoline, but for administrative purposes does
42 include fuel grade alcohol.

43 "General aviation airport" means a civil airport located in this
44 State other than the international airports located in Newark and
45 Atlantic City.

46 "Gross gallons" means the total measured volume of fuel,
47 measured in U.S. gallons, exclusive of any temperature or pressure
48 adjustments.

1 ¹["Heating oil" means heating fuel or fuel oil for heating
2 residential, commercial, or industrial properties, including No. 1
3 distillate, No. 2 distillate, No. 6 distillate, a liquid blended with No.
4 1 distillate, No. 2 distillate, or No. 6 distillate, a liquid blended with
5 No. 1 distillate, No. 2 distillate, or No. 6 distillate with a 3% sulfate
6 level, or a 5% biobased liquid fuel that meets the specifications or
7 quality certification standards for use in residential, commercial, or
8 industrial heating applications established by ASTM
9 International.]¹

10 "Import" means to bring fuel into this State by any means of
11 conveyance other than in the fuel supply tank of a motor vehicle. In
12 applying this definition, fuel delivered into this State from out-of-
13 State by or for the seller constitutes an import by the seller, and fuel
14 delivered into this State from out-of-State by or for the purchaser
15 constitutes an import by the purchaser.

16 "Import verification number" means the number assigned by the
17 director with respect to a single fuel transportation vehicle delivery
18 into this State from another state upon request for an assigned
19 number by an importer or the transporter carrying fuel into this
20 State for the account of an importer.

21 "Importer" includes any person who is the importer of record,
22 pursuant to federal customs law, with respect to fuel. If the
23 importer of record is acting as an agent, the person for whom the
24 agent is acting is the importer. If there is no importer of record of
25 fuel imported into this State, the owner of the fuel at the time it is
26 brought into this State from another state or foreign country is the
27 importer.

28 "Invoiced gallons" means the gallons actually billed on an
29 invoice for payment to a supplier which shall be either gross gallons
30 or net gallons on the original manifest or bill of lading.

31 "Kerosene" means the petroleum fraction containing
32 hydrocarbons that are slightly heavier than those found in gasoline
33 and naphtha, with a boiling range of one hundred forty-nine to three
34 hundred degrees Celsius.

35 "Liquefied petroleum gas dealer" means a person who acquires
36 liquefied petroleum gas for subsequent sale to a consumer and
37 delivery into the vehicle fuel supply tank.

38 "Liquid" means any substance that is liquid in excess of sixty
39 degrees Fahrenheit and at a pressure of fourteen and seven-tenths
40 pounds per square inch absolute.

41 "Motor fuel" means gasoline, diesel fuel, kerosene and blended
42 fuel.

43 "Motor vehicle" means an automobile, truck, truck-tractor or any
44 motor bus or self-propelled vehicle not exclusively operated or
45 driven upon fixed rails or tracks. "Motor vehicle" does not include
46 tractor-type, motorized farm implements and equipment but does
47 include motor vehicles of the truck-type, pickup truck-type,
48 automobiles, and other vehicles required to be registered and

1 licensed each year pursuant to the provisions of the motor vehicle
2 license and registration laws of this State. "Motor vehicle" does not
3 include tractors and machinery designed for off-road use but
4 capable of movement on roads at low speeds.

5 "Net gallons" means the total measured volume of fuel,
6 measured in U.S. gallons, when corrected to a temperature of sixty
7 degrees Fahrenheit and a pressure of fourteen and seven-tenths
8 pounds per square inch absolute.

9 "Permissive supplier" means an out-of-State supplier that elects,
10 but is not required, to have a supplier's license pursuant to
11 P.L.2010, c.22 (C.54:39-101 et al.).

12 "Person" means an individual, a partnership, a limited liability
13 company, a firm, an association, a corporation, estate, trustee,
14 business trust, syndicate, this State, a county, city, municipality,
15 school district or other political subdivision of this State, or any
16 corporation or combination acting as a unit or any receiver
17 appointed by any state or federal court.

18 "Position holder" means the person who holds the inventory
19 position in fuel in a terminal, as reflected on the records of the
20 terminal operator. A person holds the inventory position in fuel
21 when that person has a contract with the terminal operator for the
22 use of storage facilities and terminating services for fuel at the
23 terminal. The term includes a terminal operator who owns fuel in
24 the terminal.

25 "Propel" means operate the drive engine of a motor vehicle,
26 whether the vehicle is in motion or at rest.

27 "Qualified terminal" means a terminal which has been assigned a
28 terminal control number by the federal Internal Revenue Service.

29 "Rack" means a mechanism for delivering fuel from a refinery or
30 terminal into a railroad tank car, a fuel transportation vehicle or
31 other means of transfer outside of the terminal transfer system.

32 "Racing gasoline" means gasoline that contains lead, has an
33 octane rating of 110 or higher, does not have detergent additives,
34 and is not suitable for use as a motor fuel in a motor vehicle used on
35 public highways.

36 "Refiner" means a person that owns, operates, or otherwise
37 controls a refinery.

38 "Refinery" means a facility used to produce fuel from crude oil,
39 unfinished oils, natural gas liquids, or other hydrocarbons and from
40 which fuel may be removed by pipeline, by ship or barge, or at a
41 rack.

42 "Removal" means any physical transfer of fuel from a terminal,
43 manufacturing plant, pipeline, ship or barge, refinery, from customs
44 custody, or from a facility that stores fuel.

45 "Renewable biomass" means a material, including crops and
46 crop residues, trees and tree residues, organic portions of municipal
47 solid waste, organic portions of construction and demolition debris,

1 grease trap waste, and algae, that can be used for fuel but does not
2 have a petroleum or other fossil fuel base.

3 ¹["Renewable diesel fuel" means diesel fuel derived from
4 biomass using a thermal depolymerization process which meets the
5 registration requirements for fuels and fuel additives established by
6 the United States Environmental Protection Agency under section
7 211 of the Clean Air Act, 42 U.S.C. s.7545, and the requirements of
8 ASTM International – ASTM D975 or D396.]¹

9 "Retail dealer" means a person that engages in the business of
10 selling or dispensing motor fuel to the consumer within this State.

11 "Supplier" means a person that is:

12 a. registered or required to be registered pursuant to section
13 4101 of the federal Internal Revenue Code of 1986 (26 U.S.C.
14 s.4101) for transactions in fuels in the terminal transfer system; and

15 b. satisfies one or more of the following:

16 (1) is the position holder in a terminal or refinery in this State;

17 (2) imports fuel into this State from a foreign country;

18 (3) acquires fuel from a terminal or refinery in this State from a
19 position holder pursuant to either a two-party exchange or a
20 qualified buy-sell arrangement which is treated as an exchange and
21 appears on the records of the terminal operator; or

22 (4) is the position holder in a terminal or refinery outside this
23 State with respect to fuel which that person imports into this State.
24 A terminal operator shall not be considered a supplier based solely
25 on the fact that the terminal operator handles fuel consigned to it
26 within a terminal.

27 "Supplier" also means a person that produces fuel grade alcohol
28 or alcohol-derivative substances in this State, produces fuel grade
29 alcohol or alcohol-derivative substances for import to this State into
30 a terminal, or acquires upon import by truck, rail car or barge into a
31 terminal, fuel grade alcohol or alcohol-derivative substances.

32 "Supplier" includes a permissive supplier unless the "Motor Fuel
33 Tax Act," P.L.2010, c.22 (C.54:39-101 et seq.) specifically provides
34 otherwise.

35 "Terminal" means a bulk fuel storage and distribution facility:

36 a. which is a qualified terminal,

37 b. to which fuel is supplied by pipeline or marine vessel, or, for
38 the purposes of fuel grade alcohol, is supplied by truck or railcar,
39 and

40 c. from which fuel may be removed at a rack.

41 "Terminal bulk transfer" includes but is not limited to the
42 following:

43 a. a boat or barge movement of fuel from a refinery or terminal
44 to a terminal;

45 b. a pipeline movement of fuel from a refinery or terminal to a
46 terminal;

47 c. a book transfer of product within a terminal between
48 suppliers prior to completion of removal across the rack; and

- 1 d. a two-party exchange within a terminal between licensed
2 suppliers.
- 3 "Terminal operator" means a person that owns, operates, or
4 otherwise controls a terminal. A terminal operator may own the
5 fuel that is transferred through, or stored in, the terminal.
- 6 "Terminal transfer system" means the fuel distribution system
7 consisting of refineries, pipelines, vessels, and terminals. Fuel in a
8 refinery, pipeline, vessel, barge or terminal is in the terminal
9 transfer system. Fuel in the fuel supply tank of an engine, or in a
10 tank car, rail car, trailer, truck, or other equipment suitable for
11 ground transportation is not in the terminal transfer system.
- 12 "Transmix" means the buffer or interface between two different
13 products in a pipeline shipment, or a mix of two or more different
14 products within a refinery or terminal that results in an off-grade
15 mixture.
- 16 "Transporter" means an operator of a pipeline, barge, railroad or
17 fuel transportation vehicle engaged in the business of transporting
18 fuel.
- 19 "Two-party exchange" means a transaction in which:
- 20 a. the fuel is transferred from one licensed supplier or licensed
21 permissive supplier to another licensed supplier or licensed
22 permissive supplier;
- 23 b. the transaction includes a transfer from the person that holds
24 the original inventory position for fuel in the terminal as reflected
25 on the records of the terminal operator;
- 26 c. the exchange transaction is simultaneous with removal from
27 the terminal by the receiving exchange partner; and
- 28 d. the terminal operator in its books and records treats the
29 receiving exchange party as the supplier which removes the product
30 across a terminal rack for purposes of reporting such events to this
31 State.
- 32 "Ultimate vendor - blocked pumps" means a person that sells
33 clear kerosene at a retail site through a blocked pump and who is
34 registered with both the Division of Taxation in the Department of
35 the Treasury and the federal Internal Revenue Service as an
36 ultimate vendor - blocked pumps.
- 37 "Undyed diesel fuel" means diesel fuel that is not subject to the
38 federal Environmental Protection Agency dyeing requirements, or
39 has not been dyed in accordance with federal Internal Revenue
40 Service fuel dyeing provisions.
- 41 "Undyed kerosene" means kerosene that is not subject to the
42 federal Environmental Protection Agency dyeing requirements, or
43 has not been dyed in accordance with federal Internal Revenue
44 Service fuel dyeing provisions.
- 45 "Vehicle fuel supply tank" means any receptacle on a motor
46 vehicle from which fuel is supplied to propel the motor vehicle.
47 (cf: P.L.2010, c.79, s.1)

1 2. Section 12 of P.L.2010, ¹**[c.79]** c.22¹ (C.54:39-112) is
2 amended to read as follows:

3 12. a. Fuel used for the following purposes is exempt from the
4 tax imposed by the "Motor Fuel Tax Act," P.L.2010, c.22 (C.54:39-
5 101 et seq.), and a refund of the tax imposed by subsection a. of
6 section 3 of P.L.2010, c.22 (C.54:39-103) may be claimed by the
7 consumer providing proof the tax has been paid and no refund has
8 been previously issued:

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

30 (2) agricultural tractors not operated on a public highway,

31 (3) farm machinery,

32 (4) aircraft,

33 (5) ambulances,

34 (6) rural free delivery carriers in the dispatch of their official
35 business,

36 (7) vehicles that run only on rails or tracks, and such vehicles as
37 run in substitution therefor,

38 (8) highway motor vehicles that are operated exclusively on
39 private property,

40 (9) motor boats or motor vessels used exclusively for or in the
41 propagation, planting, preservation and gathering of oysters and
42 clams in the tidal waters of this State,

43 (10) motor boats or motor vessels used exclusively for
44 commercial fishing,

45 (11) motor boats or motor vessels, while being used for hire for
46 fishing parties or being used for sightseeing or excursion parties,

47 (12) cleaning,

48 (13) fire engines and fire-fighting apparatus,

1 (14) stationary machinery and vehicles or implements not
2 designed for the use of transporting persons or property on the
3 public highways,

4 (15) heating and lighting devices,

5 (16) motor boats or motor vessels used exclusively for Sea Scout
6 training by a duly chartered unit of the Boy Scouts of America,

7 (17) emergency vehicles used exclusively by volunteer first-aid
8 or rescue squads, and

9 (18) three cents per gallon, the difference between the rate of tax
10 on diesel fuel and the rate of tax on gasoline, for diesel fuel used by
11 passenger automobiles and motor vehicles of less than 5,000 pounds
12 gross weight.

13 b. Subject to the procedural requirements and conditions set
14 out in the "Motor Fuel Tax Act," P.L.2010, c.22 (C.54:39-101 et
15 seq.), the following uses are exempt from the tax imposed by
16 section 3 of P.L.2010, c.22 (C.54:39-103) on fuel, and a deduction
17 or a refund may be claimed by the supplier, permissive supplier or
18 licensed distributor:

19 (1) fuel for which proof of export, satisfactory to the director, is
20 available and is either:

21 (a) removed by a licensed supplier for immediate export to a
22 state in which the supplier has a valid license;

23 (b) removed from a terminal by a licensed distributor for
24 immediate export as evidenced by the terminal issued shipping
25 papers; or

26 (c) acquired by a licensed distributor and which the tax imposed
27 by P.L.2010, c.22 (C.54:39-101 et al.) has previously been paid or
28 accrued either as a result of being stored outside of the terminal
29 transfer system immediately prior to loading or as a diversion
30 across state boundaries properly reported in conformity with
31 P.L.2010, c.22 (C.54:39-101 et al.) and was subsequently exported
32 from this State on behalf of the distributor.

33 The exemption pursuant to subparagraphs (a) and (b) of this
34 paragraph shall be claimed by a deduction on the report of the
35 supplier which is otherwise responsible for remitting the tax upon
36 removal of the product from a terminal or refinery in this State. The
37 exemption pursuant to subparagraph (c) of this paragraph shall be
38 claimed by the distributor, upon a refund application made to the
39 director within six months of the licensed distributor's acquisition of
40 the fuel;

41 (2) undyed kerosene sold to a licensed ultimate vendor - blocked
42 pumps; if the licensed ultimate vendor - blocked pumps does not
43 sell the kerosene through dispensers that have been designed and
44 constructed to prevent delivery directly from the dispenser into a
45 motor vehicle fuel supply tank, the ultimate vendor - blocked
46 pumps shall be responsible for the tax imposed by section 3 of
47 P.L.2010, c.22 (C.54:39-103) at the diesel fuel rate. Exempt use of
48 undyed kerosene shall be governed by rules and regulations of the

1 director. If rules or regulations are not promulgated by the director,
2 then the exempt use of undyed kerosene shall be governed by rules
3 and regulations of the Internal Revenue Service. An ultimate
4 vendor-blocked pumps who obtained undyed kerosene upon which
5 the tax levied by section 3 of P.L.2010, c.22 (C.54:39-103) had
6 been paid and makes sales qualifying pursuant to this subsection
7 may apply for a refund of the tax pursuant to an application, as
8 provided by section 14 of P.L.2010, c.22 (C.54:39-114), to the
9 director provided the ultimate vendor-blocked pumps did not charge
10 that tax to the consumer;

11 (3) fuel sold to the United States or any agency or
12 instrumentality thereof, and to the State of New Jersey and its
13 political subdivisions, departments and agencies;

14 (4) aviation fuel sold to a licensed aviation fuel dealer;

15 (5) liquefied petroleum gas except when delivered to the tank of
16 a highway vehicle;

17 (6) motor fuel on which tax has been paid under this act that is
18 later contaminated in a manner making it unsuitable for taxable use.
19 This credit or refund is limited to the remaining portion of taxed
20 fuel in the contaminated mixture and is conditioned upon
21 submitting to the director adequate documentation that the
22 contaminated mixture was subsequently used in an exempt manner;

23 (7) fuel on which tax has been paid pursuant to P.L.2010,
24 c.22 (C.54:39-101 et al.) that is either subsequently delivered back
25 into the terminal transfer system for further distribution or delivered
26 to a refinery for further processing;

27 (8) fuel on which tax has been previously imposed and paid
28 pursuant to section 3 of P.L.2010, c.22 (C.54:39-103) and which is
29 either subsequently exported, sold or distributed in this State in a
30 manner which would result in a second tax being owed. If there is a
31 second taxable distribution or sale, the party responsible for
32 remittance of the second tax shall be the party eligible for claiming
33 the refund or deduction;

34 (9) Fuel grade alcohol **【or】** , biobased liquid fuel, or biodiesel
35 fuel when sold to a licensed supplier and delivered to a qualified
36 terminal.

37 (cf: P.L.2010, c.79, s.11)

38

39 3. This act shall take effect immediately.

40

41

42

43

44 Provides certain definitions for biofuels under “Motor Fuel Tax
45 Act.”

SENATE, No. 2599

STATE OF NEW JERSEY 216th LEGISLATURE

INTRODUCED DECEMBER 8, 2014

Sponsored by:

Senator CHRISTOPHER "KIP" BATEMAN

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

SYNOPSIS

Provides certain definitions for biofuels under the “Motor Fuels Tax Act.”

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the definition of certain fuels and amending
2 sections 2 and 12 of P.L.2010, c.22 (C.54:39-102 and 54:39-
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4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

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9 to read as follows:

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11 following terms have the following meanings **]** :

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45 amount of a product such as carburetor detergent or oxidation
46 inhibitor, that can be used as a fuel in a highway vehicle. "Blended

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 fuel" includes but is not limited to gasohol, biobased liquid fuel,
2 biodiesel fuel, ethanol, methanol, fuel grade alcohol, diesel fuel
3 enhancers and resulting blends.

4 "Blender" means a person that produces blended motor fuel
5 outside the terminal transfer system.

6 "Blending" means the mixing of one or more petroleum products,
7 with or without another product, regardless of the original character
8 of the product blended, if the product obtained by the blending is
9 capable of use or otherwise sold for use in the generation of power
10 for the propulsion of a motor vehicle, an airplane, or a motorboat.
11 The term does not include the blending that occurs in the process of
12 refining by the original refiner of crude petroleum or the blending
13 of products known as lubricating oil and greases, or the
14 commingling of products during transportation in a pipeline.

15 "Blocked pump" means a pump that, because of the pump's
16 physical limitations, for example, a short hose, cannot be used to
17 fuel a vehicle, or a pump that is locked by the vendor after each sale
18 and unlocked by the vendor in response to a request by a buyer for
19 undyed kerosene for use other than as a fuel in a diesel-powered
20 highway vehicle or train.

21 **["Biodiesel" means any motor fuel or mixture of motor fuels that**
22 **is derived, in whole or in part, from agricultural products or animal**
23 **fats, or the wastes of such products or fats, and is advertised as,**
24 **offered for sale as, suitable for use or used as motor fuel in an**
25 **internal combustion engine.]**

26 "Bulk plant" means a bulk fuel storage and distribution facility
27 that is not a terminal within the terminal transfer system and from
28 which fuel may be removed by truck or rail car.

29 "Bulk transfer" means a transfer of motor fuel from one location
30 to another by pipeline tender, marine delivery, or any other
31 conveyance within the terminal transfer system and includes a
32 transfer within a terminal.

33 "Consumer" means the ultimate user of fuel.

34 "Delivery" means the placing of fuel into the fuel tank of a motor
35 vehicle or into a bulk fuel storage and distribution facility.

36 "Diesel fuel" means a liquid that is commonly or commercially
37 known or sold as a fuel that is suitable for use in a diesel-powered
38 highway vehicle. A liquid meets this requirement if, without
39 further processing or blending, the liquid has practical and
40 commercial fitness for use in the propulsion engine of a diesel-
41 powered highway vehicle. "Diesel fuel" includes biobased liquid
42 fuel, biodiesel fuel, number 1 and number 2 diesel.

43 "Diesel-powered motor vehicle" means a motor vehicle that is
44 propelled by a diesel-powered engine.

45 "Director" means the Director of the Division of Taxation in the
46 Department of the Treasury.

1 "Distributor" means a person who acquires motor fuel from a
2 supplier, permissive supplier or from another distributor for
3 subsequent sale.

4 "Dyed fuel" means dyed diesel fuel or dyed kerosene that is
5 required to be dyed pursuant to United States Environmental
6 Protection Agency rules or is dyed pursuant to Internal Revenue
7 Service rules or pursuant to any other requirements subsequently set
8 by the United States Environmental Protection Agency or Internal
9 Revenue Service including any invisible marker requirements.

10 "Export" means to obtain fuel in this State for sale or other
11 distribution outside of this State. In applying this definition, fuel
12 delivered out-of-State by or for the seller constitutes an export by
13 the seller, and fuel delivered out-of-State by or for the purchaser
14 constitutes an export by the purchaser.

15 "Exporter" means any person, other than a supplier, who
16 purchases fuel in this State for the purpose of transporting or
17 delivering the fuel outside of this State.

18 "Fuel" means:

19 a. a liquid or gaseous substance commonly or commercially
20 known or sold as gasoline, regardless of its classification or use;
21 and

22 b. a liquid or gaseous substance used, offered for sale or sold
23 for use, either alone or when mixed, blended, or compounded,
24 which is capable of generating power for the propulsion of motor
25 vehicles upon the public highways.

26 "Fuel grade alcohol" means a methanol or ethanol with a proof of
27 not less than one hundred ninety degrees (determined without
28 regard to denaturants) and products derived from that methanol and
29 ethanol for blending with motor fuel.

30 "Fuel transportation vehicle" means any vehicle designed for
31 highway use which is also designed or used to transport fuel.

32 "Gasoline" means all products commonly or commercially
33 known or sold as gasoline that are suitable for use as a motor fuel.
34 Gasoline does not include products that have an ASTM octane
35 number of less than seventy-five as determined by the "motor
36 method," ASTM D2700-92. The term does not include racing
37 gasoline or aviation gasoline, but for administrative purposes does
38 include fuel grade alcohol.

39 "General aviation airport" means a civil airport located in this
40 State other than the international airports located in Newark and
41 Atlantic City.

42 "Gross gallons" means the total measured volume of fuel,
43 measured in U.S. gallons, exclusive of any temperature or pressure
44 adjustments.

45 "Heating oil" means heating fuel or fuel oil for heating
46 residential, commercial, or industrial properties, including No. 1
47 distillate, No. 2 distillate, No. 6 distillate, a liquid blended with No.
48 1 distillate, No. 2 distillate, or No. 6 distillate, a liquid blended with

1 No. 1 distillate, No. 2 distillate, or No. 6 distillate with a 3% sulfate
2 level, or a 5% biobased liquid fuel that meets the specifications or
3 quality certification standards for use in residential, commercial, or
4 industrial heating applications established by ASTM International.

5 "Import" means to bring fuel into this State by any means of
6 conveyance other than in the fuel supply tank of a motor vehicle. In
7 applying this definition, fuel delivered into this State from out-of-
8 State by or for the seller constitutes an import by the seller, and fuel
9 delivered into this State from out-of-State by or for the purchaser
10 constitutes an import by the purchaser.

11 "Import verification number" means the number assigned by the
12 director with respect to a single fuel transportation vehicle delivery
13 into this State from another state upon request for an assigned
14 number by an importer or the transporter carrying fuel into this
15 State for the account of an importer.

16 "Importer" includes any person who is the importer of record,
17 pursuant to federal customs law, with respect to fuel. If the
18 importer of record is acting as an agent, the person for whom the
19 agent is acting is the importer. If there is no importer of record of
20 fuel imported into this State, the owner of the fuel at the time it is
21 brought into this State from another state or foreign country is the
22 importer.

23 "Invoiced gallons" means the gallons actually billed on an
24 invoice for payment to a supplier which shall be either gross gallons
25 or net gallons on the original manifest or bill of lading.

26 "Kerosene" means the petroleum fraction containing
27 hydrocarbons that are slightly heavier than those found in gasoline
28 and naphtha, with a boiling range of one hundred forty-nine to three
29 hundred degrees Celsius.

30 "Liquefied petroleum gas dealer" means a person who acquires
31 liquefied petroleum gas for subsequent sale to a consumer and
32 delivery into the vehicle fuel supply tank.

33 "Liquid" means any substance that is liquid in excess of sixty
34 degrees Fahrenheit and at a pressure of fourteen and seven-tenths
35 pounds per square inch absolute.

36 "Motor fuel" means gasoline, diesel fuel, kerosene and blended
37 fuel.

38 "Motor vehicle" means an automobile, truck, truck-tractor or any
39 motor bus or self-propelled vehicle not exclusively operated or
40 driven upon fixed rails or tracks. "Motor vehicle" does not include
41 tractor-type, motorized farm implements and equipment but does
42 include motor vehicles of the truck-type, pickup truck-type,
43 automobiles, and other vehicles required to be registered and
44 licensed each year pursuant to the provisions of the motor vehicle
45 license and registration laws of this State. "Motor vehicle" does not
46 include tractors and machinery designed for off-road use but
47 capable of movement on roads at low speeds.

1 "Net gallons" means the total measured volume of fuel,
2 measured in U.S. gallons, when corrected to a temperature of sixty
3 degrees Fahrenheit and a pressure of fourteen and seven-tenths
4 pounds per square inch absolute.

5 "Permissive supplier" means an out-of-State supplier that elects,
6 but is not required, to have a supplier's license pursuant to
7 P.L.2010, c.22 (C.54:39-101 et al.).

8 "Person" means an individual, a partnership, a limited liability
9 company, a firm, an association, a corporation, estate, trustee,
10 business trust, syndicate, this State, a county, city, municipality,
11 school district or other political subdivision of this State, or any
12 corporation or combination acting as a unit or any receiver
13 appointed by any state or federal court.

14 "Position holder" means the person who holds the inventory
15 position in fuel in a terminal, as reflected on the records of the
16 terminal operator. A person holds the inventory position in fuel
17 when that person has a contract with the terminal operator for the
18 use of storage facilities and terminating services for fuel at the
19 terminal. The term includes a terminal operator who owns fuel in
20 the terminal.

21 "Propel" means operate the drive engine of a motor vehicle,
22 whether the vehicle is in motion or at rest.

23 "Qualified terminal" means a terminal which has been assigned a
24 terminal control number by the federal Internal Revenue Service.

25 "Rack" means a mechanism for delivering fuel from a refinery or
26 terminal into a railroad tank car, a fuel transportation vehicle or
27 other means of transfer outside of the terminal transfer system.

28 "Racing gasoline" means gasoline that contains lead, has an
29 octane rating of 110 or higher, does not have detergent additives,
30 and is not suitable for use as a motor fuel in a motor vehicle used on
31 public highways.

32 "Refiner" means a person that owns, operates, or otherwise
33 controls a refinery.

34 "Refinery" means a facility used to produce fuel from crude oil,
35 unfinished oils, natural gas liquids, or other hydrocarbons and from
36 which fuel may be removed by pipeline, by ship or barge, or at a
37 rack.

38 "Removal" means any physical transfer of fuel from a terminal,
39 manufacturing plant, pipeline, ship or barge, refinery, from customs
40 custody, or from a facility that stores fuel.

41 "Renewable biomass" means a material, including crops and
42 crop residues, trees and tree residues, organic portions of municipal
43 solid waste, organic portions of construction and demolition debris,
44 grease trap waste, and algae, that can be used for fuel but does not
45 have a petroleum or other fossil fuel base.

46 "Renewable diesel fuel" means diesel fuel derived from biomass
47 using a thermal depolymerization process which meets the
48 registration requirements for fuels and fuel additives established by

1 the United States Environmental Protection Agency under section
2 211 of the Clean Air Act, 42 U.S.C. s.7545, and the requirements of
3 ASTM International – ASTM D975 or D396.

4 "Retail dealer" means a person that engages in the business of
5 selling or dispensing motor fuel to the consumer within this State.

6 "Supplier" means a person that is:

7 a. registered or required to be registered pursuant to section
8 4101 of the federal Internal Revenue Code of 1986 (26 U.S.C.
9 s.4101) for transactions in fuels in the terminal transfer system; and

10 b. satisfies one or more of the following:

11 (1) is the position holder in a terminal or refinery in this State;

12 (2) imports fuel into this State from a foreign country;

13 (3) acquires fuel from a terminal or refinery in this State from a
14 position holder pursuant to either a two-party exchange or a
15 qualified buy-sell arrangement which is treated as an exchange and
16 appears on the records of the terminal operator; or

17 (4) is the position holder in a terminal or refinery outside this
18 State with respect to fuel which that person imports into this State.

19 A terminal operator shall not be considered a supplier based solely
20 on the fact that the terminal operator handles fuel consigned to it
21 within a terminal.

22 "Supplier" also means a person that produces fuel grade alcohol
23 or alcohol-derivative substances in this State, produces fuel grade
24 alcohol or alcohol-derivative substances for import to this State into
25 a terminal, or acquires upon import by truck, rail car or barge into a
26 terminal, fuel grade alcohol or alcohol-derivative substances.

27 "Supplier" includes a permissive supplier unless the "Motor Fuel
28 Tax Act," P.L.2010, c.22 (C.54:39-101 et seq.) specifically provides
29 otherwise.

30 "Terminal" means a bulk fuel storage and distribution facility:

31 a. which is a qualified terminal,

32 b. to which fuel is supplied by pipeline or marine vessel, or, for
33 the purposes of fuel grade alcohol, is supplied by truck or railcar,
34 and

35 c. from which fuel may be removed at a rack.

36 "Terminal bulk transfer" includes but is not limited to the
37 following:

38 a. a boat or barge movement of fuel from a refinery or terminal
39 to a terminal;

40 b. a pipeline movement of fuel from a refinery or terminal to a
41 terminal;

42 c. a book transfer of product within a terminal between
43 suppliers prior to completion of removal across the rack; and

44 d. a two-party exchange within a terminal between licensed
45 suppliers.

46 "Terminal operator" means a person that owns, operates, or
47 otherwise controls a terminal. A terminal operator may own the
48 fuel that is transferred through, or stored in, the terminal.

1 "Terminal transfer system" means the fuel distribution system
2 consisting of refineries, pipelines, vessels, and terminals. Fuel in a
3 refinery, pipeline, vessel, barge or terminal is in the terminal
4 transfer system. Fuel in the fuel supply tank of an engine, or in a
5 tank car, rail car, trailer, truck, or other equipment suitable for
6 ground transportation is not in the terminal transfer system.

7 "Transmix" means the buffer or interface between two different
8 products in a pipeline shipment, or a mix of two or more different
9 products within a refinery or terminal that results in an off-grade
10 mixture.

11 "Transporter" means an operator of a pipeline, barge, railroad or
12 fuel transportation vehicle engaged in the business of transporting
13 fuel.

14 "Two-party exchange" means a transaction in which:

15 a. the fuel is transferred from one licensed supplier or licensed
16 permissive supplier to another licensed supplier or licensed
17 permissive supplier;

18 b. the transaction includes a transfer from the person that holds
19 the original inventory position for fuel in the terminal as reflected
20 on the records of the terminal operator;

21 c. the exchange transaction is simultaneous with removal from
22 the terminal by the receiving exchange partner; and

23 d. the terminal operator in its books and records treats the
24 receiving exchange party as the supplier which removes the product
25 across a terminal rack for purposes of reporting such events to this
26 State.

27 "Ultimate vendor - blocked pumps" means a person that sells
28 clear kerosene at a retail site through a blocked pump and who is
29 registered with both the Division of Taxation in the Department of
30 the Treasury and the federal Internal Revenue Service as an
31 ultimate vendor - blocked pumps.

32 "Undyed diesel fuel" means diesel fuel that is not subject to the
33 federal Environmental Protection Agency dyeing requirements, or
34 has not been dyed in accordance with federal Internal Revenue
35 Service fuel dyeing provisions.

36 "Undyed kerosene" means kerosene that is not subject to the
37 federal Environmental Protection Agency dyeing requirements, or
38 has not been dyed in accordance with federal Internal Revenue
39 Service fuel dyeing provisions.

40 "Vehicle fuel supply tank" means any receptacle on a motor
41 vehicle from which fuel is supplied to propel the motor vehicle.

42 (cf: P.L.2010, c.79, s.1)

43

44 2. Section 12 of P.L.2010, c.79 (C.54:39-112) is amended to
45 read as follows:

46 12. a. Fuel used for the following purposes is exempt from the
47 tax imposed by the "Motor Fuel Tax Act," P.L.2010, c.22 (C.54:39-
48 101 et seq.), and a refund of the tax imposed by subsection a. of

1 section 3 of P.L.2010, c.22 (C.54:39-103) may be claimed by the
2 consumer providing proof the tax has been paid and no refund has
3 been previously issued:

4 (1) Buses while being operated over the highways of this
5 State in those municipalities to which the operator has paid a
6 monthly franchise tax for the use of the streets therein under the
7 provisions of R.S.48:16-25 and buses while being operated over
8 the highways of this State in a regular route bus operation as
9 defined in R.S.48:4-1 and under operating authority conferred
10 pursuant to R.S.48:4-3, or while providing bus service under a
11 contract with the New Jersey Transit Corporation or under a
12 contract with a county for special or rural transportation bus service
13 subject to the jurisdiction of the New Jersey Transit Corporation
14 pursuant to P.L.1979, c.150 (C.27:25-1 et seq.), and buses
15 providing commuter bus service which receive or discharge
16 passengers in New Jersey. For the purpose of this paragraph
17 "commuter bus service" means regularly scheduled passenger
18 service provided by motor vehicles whether within or across the
19 geographical boundaries of New Jersey and utilized by passengers
20 using reduced fare, multiple ride or commutation tickets and shall
21 not include charter bus operations for the transportation of enrolled
22 children and adults referred to in subsection c. of R.S.48:4-1 and
23 "regular route service" does not mean a regular route in the nature
24 of special bus operation or a casino bus operation,

25 (2) agricultural tractors not operated on a public highway,

26 (3) farm machinery,

27 (4) aircraft,

28 (5) ambulances,

29 (6) rural free delivery carriers in the dispatch of their official
30 business,

31 (7) vehicles that run only on rails or tracks, and such vehicles as
32 run in substitution therefor,

33 (8) highway motor vehicles that are operated exclusively on
34 private property,

35 (9) motor boats or motor vessels used exclusively for or in the
36 propagation, planting, preservation and gathering of oysters and
37 clams in the tidal waters of this State,

38 (10) motor boats or motor vessels used exclusively for
39 commercial fishing,

40 (11) motor boats or motor vessels, while being used for hire for
41 fishing parties or being used for sightseeing or excursion parties,

42 (12) cleaning,

43 (13) fire engines and fire-fighting apparatus,

44 (14) stationary machinery and vehicles or implements not
45 designed for the use of transporting persons or property on the
46 public highways,

47 (15) heating and lighting devices,

1 (16) motor boats or motor vessels used exclusively for Sea
2 Scout training by a duly chartered unit of the Boy Scouts of
3 America,

4 (17) emergency vehicles used exclusively by volunteer first-aid
5 or rescue squads, and

6 (18) three cents per gallon, the difference between the rate of tax
7 on diesel fuel and the rate of tax on gasoline, for diesel fuel used by
8 passenger automobiles and motor vehicles of less than 5,000 pounds
9 gross weight.

10 b. Subject to the procedural requirements and conditions set
11 out in the "Motor Fuel Tax Act," P.L.2010, c.22 (C.54:39-101 et
12 seq.), the following uses are exempt from the tax imposed by
13 section 3 of P.L.2010, c.22 (C.54:39-103) on fuel, and a deduction
14 or a refund may be claimed by the supplier, permissive supplier or
15 licensed distributor:

16 (1) fuel for which proof of export, satisfactory to the director, is
17 available and is either:

18 (a) removed by a licensed supplier for immediate export to a
19 state in which the supplier has a valid license;

20 (b) removed from a terminal by a licensed distributor for
21 immediate export as evidenced by the terminal issued shipping
22 papers; or

23 (c) acquired by a licensed distributor and which the tax imposed
24 by P.L.2010, c.22 (C.54:39-101 et al.) has previously been paid or
25 accrued either as a result of being stored outside of the terminal
26 transfer system immediately prior to loading or as a diversion
27 across state boundaries properly reported in conformity with
28 P.L.2010, c.22 (C.54:39-101 et al.) and was subsequently exported
29 from this State on behalf of the distributor.

30 The exemption pursuant to subparagraphs (a) and (b) of this
31 paragraph shall be claimed by a deduction on the report of the
32 supplier which is otherwise responsible for remitting the tax upon
33 removal of the product from a terminal or refinery in this State. The
34 exemption pursuant to subparagraph (c) of this paragraph shall be
35 claimed by the distributor, upon a refund application made to the
36 director within six months of the licensed distributor's acquisition of
37 the fuel;

38 (2) undyed kerosene sold to a licensed ultimate vendor - blocked
39 pumps; if the licensed ultimate vendor - blocked pumps does not
40 sell the kerosene through dispensers that have been designed and
41 constructed to prevent delivery directly from the dispenser into a
42 motor vehicle fuel supply tank, the ultimate vendor - blocked
43 pumps shall be responsible for the tax imposed by section 3 of
44 P.L.2010, c.22 (C.54:39-103) at the diesel fuel rate. Exempt use of
45 undyed kerosene shall be governed by rules and regulations of the
46 director. If rules or regulations are not promulgated by the director,
47 then the exempt use of undyed kerosene shall be governed by rules
48 and regulations of the Internal Revenue Service. An ultimate

1 vendor-blocked pumps who obtained undyed kerosene upon which
2 the tax levied by section 3 of P.L.2010, c.22 (C.54:39-103) had
3 been paid and makes sales qualifying pursuant to this subsection
4 may apply for a refund of the tax pursuant to an application, as
5 provided by section 14 of P.L.2010, c.22 (C.54:39-114), to the
6 director provided the ultimate vendor-blocked pumps did not charge
7 that tax to the consumer;

8 (3) fuel sold to the United States or any agency or
9 instrumentality thereof, and to the State of New Jersey and its
10 political subdivisions, departments and agencies;

11 (4) aviation fuel sold to a licensed aviation fuel dealer;

12 (5) liquefied petroleum gas except when delivered to the tank of
13 a highway vehicle;

14 (6) motor fuel on which tax has been paid under this act that is
15 later contaminated in a manner making it unsuitable for taxable use.
16 This credit or refund is limited to the remaining portion of taxed
17 fuel in the contaminated mixture and is conditioned upon
18 submitting to the director adequate documentation that the
19 contaminated mixture was subsequently used in an exempt manner;

20 (7) fuel on which tax has been paid pursuant to P.L.2010,
21 c.22 (C.54:39-101 et al.) that is either subsequently delivered back
22 into the terminal transfer system for further distribution or delivered
23 to a refinery for further processing;

24 (8) fuel on which tax has been previously imposed and paid
25 pursuant to section 3 of P.L.2010, c.22 (C.54:39-103) and which is
26 either subsequently exported, sold or distributed in this State in a
27 manner which would result in a second tax being owed. If there is a
28 second taxable distribution or sale, the party responsible for
29 remittance of the second tax shall be the party eligible for claiming
30 the refund or deduction;

31 (9) Fuel grade alcohol **[or]** , biobased liquid fuel, or biodiesel
32 fuel when sold to a licensed supplier and delivered to a qualified
33 terminal.

34 (cf: P.L.2010, c.79, s.11)

35

36 3. This act shall take effect immediately.

37

38

39

STATEMENT

40

41 This bill provides and revises certain definitions concerning
42 biofuels to be used in the State motor fuels tax law. Currently
43 biobased liquid fuel, biodiesel fuel, heating oil, renewable biomass,
44 and renewable diesel fuel are not defined under the Motor Fuels
45 Tax Act.

SENATE ENVIRONMENT AND ENERGY COMMITTEE

STATEMENT TO

SENATE, No. 2599

with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 26, 2015

The Senate Environment and Energy Committee favorably reports Senate Bill No. 2599 with committee amendments.

This bill, as amended, provides and revises certain definitions concerning biofuels to clarify the biofuels that are exempt pursuant to the "Motor Fuel Tax Act," P.L.2010, c.22 (C.54:39-101 et al.). The bill, as amended, defines biobased liquid fuel, biodiesel fuel, and renewable biomass.

The committee amendments would delete certain definitions that are not used in the bill, and would make technical corrections to the bill.

ASSEMBLY BUDGET COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 2599

STATE OF NEW JERSEY

DATED: JUNE 23, 2015

The Assembly Budget Committee reports favorably Senate Bill No. 2599 (1R).

This bill provides and revises certain definitions concerning biofuels for purposes of a use exemption under the State's motor fuel tax. Currently, the biodiesel fuel exemption is generally limited to any motor fuel that is derived from agricultural products or animal fats. Under the bill, the biodiesel fuel exemption is redefined to more specifically apply to biobased liquid fuel and biodiesel fuel.

Generally, the bill defines:

- "Biobased liquid fuel" as a liquid fuel that is derived principally from renewable biomass meeting the standards for use in residential, commercial, or industrial heating applications established under commercial standard specifications for biodiesel fuel blend stock; and
- "Biodiesel fuel" as monoalkyl esters of long chain fatty acids derived from plant or animal matters which meet the registration requirements for fuels and fuel additives established by the United States Environmental Protection Agency and commercial standard specifications for biodiesel fuel blend stock.

As reported, this bill is identical to Assembly Bill No. A-4121, as also reported by the committee.

FISCAL IMPACT:

The bill is not certified as requiring a fiscal note.

ASSEMBLY, No. 4121

STATE OF NEW JERSEY 216th LEGISLATURE

INTRODUCED FEBRUARY 5, 2015

Sponsored by:

Assemblywoman L. GRACE SPENCER

District 29 (Essex)

Assemblywoman HOLLY SCHEPISI

District 39 (Bergen and Passaic)

SYNOPSIS

Provides certain definitions for biofuels under “Motor Fuel Tax Act.”

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the definition of certain fuels and amending
2 P.L.2010, c.22.

3

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

6

7 1. Section 2 of P.L.2010, c.22 (C.54:39-102) is amended to
8 read as follows:

9 2. For the purposes of P.L.2010, c.22 (C.54:39-101 et al.) **[**, the
10 following terms have the following meanings **]** :

11 "Aviation fuel" means aviation gasoline or aviation grade
12 kerosene or any other fuel that is used in aircraft.

13 "Aviation fuel dealer" means a person that acquires aviation fuel
14 from a supplier or from another aviation fuel dealer for subsequent
15 sale.

16 "Aviation gasoline" means fuel specifically compounded for use
17 in reciprocating aircraft engines.

18 "Aviation grade kerosene" means any kerosene type jet fuel
19 covered by ASTM Specification D 1655 or meeting specification
20 MIL-DTL-5624T (Grade JP-5) or MIL-DTL-83133E (Grade JP-8).

21 "Biobased liquid fuel" means a liquid fuel that is derived
22 principally from renewable biomass and meets the specifications or
23 quality certification standards for use in residential, commercial, or
24 industrial heating applications established under ASTM D6751, or
25 the appropriate successor standard, as the case may be.

26 "Biodiesel fuel" means the monoalkyl esters of long chain fatty
27 acids derived from plant or animals matters which meet the
28 registration requirements for fuels and fuel additives established by
29 the United States Environmental Protection Agency under section
30 211 of the Clean Air Act, 42 U.S.C. s.7545, and the requirements of
31 ASTM D6751.

32 "Blend stock" means a petroleum product component of motor
33 fuel, such as naphtha, reformat, toluene or kerosene, that can be
34 blended for use in a motor fuel without further processing. The term
35 includes those petroleum products defined by regulations issued
36 pursuant to sections 4081 and 4082 of the federal Internal Revenue
37 Code of 1986 (26 U.S.C. ss. 4081 and 4082), but does not include
38 any substance that:

- 39 a. will be ultimately used for consumer nonmotor fuel use; and
40 b. is sold or removed in fifty-five gallon drum quantities or less
41 at the time of the sale or removal.

42 "Blended fuel" means a mixture composed of motor fuel and
43 another liquid, including blend stock other than a de minimis
44 amount of a product such as carburetor detergent or oxidation
45 inhibitor, that can be used as a fuel in a highway vehicle. "Blended

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 fuel" includes but is not limited to gasohol, biobased liquid fuel,
2 biodiesel fuel, ethanol, methanol, fuel grade alcohol, diesel fuel
3 enhancers and resulting blends.

4 "Blender" means a person that produces blended motor fuel
5 outside the terminal transfer system.

6 "Blending" means the mixing of one or more petroleum products,
7 with or without another product, regardless of the original character
8 of the product blended, if the product obtained by the blending is
9 capable of use or otherwise sold for use in the generation of power
10 for the propulsion of a motor vehicle, an airplane, or a motorboat.
11 The term does not include the blending that occurs in the process of
12 refining by the original refiner of crude petroleum or the blending
13 of products known as lubricating oil and greases, or the
14 commingling of products during transportation in a pipeline.

15 "Blocked pump" means a pump that, because of the pump's
16 physical limitations, for example, a short hose, cannot be used to
17 fuel a vehicle, or a pump that is locked by the vendor after each sale
18 and unlocked by the vendor in response to a request by a buyer for
19 undyed kerosene for use other than as a fuel in a diesel-powered
20 highway vehicle or train.

21 **["Biodiesel" means any motor fuel or mixture of motor fuels that**
22 **is derived, in whole or in part, from agricultural products or animal**
23 **fats, or the wastes of such products or fats, and is advertised as,**
24 **offered for sale as, suitable for use or used as motor fuel in an**
25 **internal combustion engine.]**

26 "Bulk plant" means a bulk fuel storage and distribution facility
27 that is not a terminal within the terminal transfer system and from
28 which fuel may be removed by truck or rail car.

29 "Bulk transfer" means a transfer of motor fuel from one location
30 to another by pipeline tender, marine delivery, or any other
31 conveyance within the terminal transfer system and includes a
32 transfer within a terminal.

33 "Consumer" means the ultimate user of fuel.

34 "Delivery" means the placing of fuel into the fuel tank of a motor
35 vehicle or into a bulk fuel storage and distribution facility.

36 "Diesel fuel" means a liquid that is commonly or commercially
37 known or sold as a fuel that is suitable for use in a diesel-powered
38 highway vehicle. A liquid meets this requirement if, without
39 further processing or blending, the liquid has practical and
40 commercial fitness for use in the propulsion engine of a diesel-
41 powered highway vehicle. "Diesel fuel" includes biobased liquid
42 fuel, biodiesel fuel, number 1 and number 2 diesel.

43 "Diesel-powered motor vehicle" means a motor vehicle that is
44 propelled by a diesel-powered engine.

45 "Director" means the Director of the Division of Taxation in the
46 Department of the Treasury.

1 "Distributor" means a person who acquires motor fuel from a
2 supplier, permissive supplier or from another distributor for
3 subsequent sale.

4 "Dyed fuel" means dyed diesel fuel or dyed kerosene that is
5 required to be dyed pursuant to United States Environmental
6 Protection Agency rules or is dyed pursuant to Internal Revenue
7 Service rules or pursuant to any other requirements subsequently set
8 by the United States Environmental Protection Agency or Internal
9 Revenue Service including any invisible marker requirements.

10 "Export" means to obtain fuel in this State for sale or other
11 distribution outside of this State. In applying this definition, fuel
12 delivered out-of-State by or for the seller constitutes an export by
13 the seller, and fuel delivered out-of-State by or for the purchaser
14 constitutes an export by the purchaser.

15 "Exporter" means any person, other than a supplier, who
16 purchases fuel in this State for the purpose of transporting or
17 delivering the fuel outside of this State.

18 "Fuel" means:

19 a. a liquid or gaseous substance commonly or commercially
20 known or sold as gasoline, regardless of its classification or use;
21 and

22 b. a liquid or gaseous substance used, offered for sale or sold
23 for use, either alone or when mixed, blended, or compounded,
24 which is capable of generating power for the propulsion of motor
25 vehicles upon the public highways.

26 "Fuel grade alcohol" means a methanol or ethanol with a proof of
27 not less than one hundred ninety degrees (determined without
28 regard to denaturants) and products derived from that methanol and
29 ethanol for blending with motor fuel.

30 "Fuel transportation vehicle" means any vehicle designed for
31 highway use which is also designed or used to transport fuel.

32 "Gasoline" means all products commonly or commercially
33 known or sold as gasoline that are suitable for use as a motor fuel.
34 Gasoline does not include products that have an ASTM octane
35 number of less than seventy-five as determined by the "motor
36 method," ASTM D2700-92. The term does not include racing
37 gasoline or aviation gasoline, but for administrative purposes does
38 include fuel grade alcohol.

39 "General aviation airport" means a civil airport located in this
40 State other than the international airports located in Newark and
41 Atlantic City.

42 "Gross gallons" means the total measured volume of fuel,
43 measured in U.S. gallons, exclusive of any temperature or pressure
44 adjustments.

45 "Import" means to bring fuel into this State by any means of
46 conveyance other than in the fuel supply tank of a motor vehicle. In
47 applying this definition, fuel delivered into this State from out-of-
48 State by or for the seller constitutes an import by the seller, and fuel

1 delivered into this State from out-of-State by or for the purchaser
2 constitutes an import by the purchaser.

3 "Import verification number" means the number assigned by the
4 director with respect to a single fuel transportation vehicle delivery
5 into this State from another state upon request for an assigned
6 number by an importer or the transporter carrying fuel into this
7 State for the account of an importer.

8 "Importer" includes any person who is the importer of record,
9 pursuant to federal customs law, with respect to fuel. If the
10 importer of record is acting as an agent, the person for whom the
11 agent is acting is the importer. If there is no importer of record of
12 fuel imported into this State, the owner of the fuel at the time it is
13 brought into this State from another state or foreign country is the
14 importer.

15 "Invoiced gallons" means the gallons actually billed on an
16 invoice for payment to a supplier which shall be either gross gallons
17 or net gallons on the original manifest or bill of lading.

18 "Kerosene" means the petroleum fraction containing
19 hydrocarbons that are slightly heavier than those found in gasoline
20 and naphtha, with a boiling range of one hundred forty-nine to three
21 hundred degrees Celsius.

22 "Liquefied petroleum gas dealer" means a person who acquires
23 liquefied petroleum gas for subsequent sale to a consumer and
24 delivery into the vehicle fuel supply tank.

25 "Liquid" means any substance that is liquid in excess of sixty
26 degrees Fahrenheit and at a pressure of fourteen and seven-tenths
27 pounds per square inch absolute.

28 "Motor fuel" means gasoline, diesel fuel, kerosene and blended
29 fuel.

30 "Motor vehicle" means an automobile, truck, truck-tractor or any
31 motor bus or self-propelled vehicle not exclusively operated or
32 driven upon fixed rails or tracks. "Motor vehicle" does not include
33 tractor-type, motorized farm implements and equipment but does
34 include motor vehicles of the truck-type, pickup truck-type,
35 automobiles, and other vehicles required to be registered and
36 licensed each year pursuant to the provisions of the motor vehicle
37 license and registration laws of this State. "Motor vehicle" does not
38 include tractors and machinery designed for off-road use but
39 capable of movement on roads at low speeds.

40 "Net gallons" means the total measured volume of fuel,
41 measured in U.S. gallons, when corrected to a temperature of sixty
42 degrees Fahrenheit and a pressure of fourteen and seven-tenths
43 pounds per square inch absolute.

44 "Permissive supplier" means an out-of-State supplier that elects,
45 but is not required, to have a supplier's license pursuant to
46 P.L.2010, c.22 (C.54:39-101 et al.).

47 "Person" means an individual, a partnership, a limited liability
48 company, a firm, an association, a corporation, estate, trustee,

1 business trust, syndicate, this State, a county, city, municipality,
2 school district or other political subdivision of this State, or any
3 corporation or combination acting as a unit or any receiver
4 appointed by any state or federal court.

5 "Position holder" means the person who holds the inventory
6 position in fuel in a terminal, as reflected on the records of the
7 terminal operator. A person holds the inventory position in fuel
8 when that person has a contract with the terminal operator for the
9 use of storage facilities and terminating services for fuel at the
10 terminal. The term includes a terminal operator who owns fuel in
11 the terminal.

12 "Propel" means operate the drive engine of a motor vehicle,
13 whether the vehicle is in motion or at rest.

14 "Qualified terminal" means a terminal which has been assigned a
15 terminal control number by the federal Internal Revenue Service.

16 "Rack" means a mechanism for delivering fuel from a refinery or
17 terminal into a railroad tank car, a fuel transportation vehicle or
18 other means of transfer outside of the terminal transfer system.

19 "Racing gasoline" means gasoline that contains lead, has an
20 octane rating of 110 or higher, does not have detergent additives,
21 and is not suitable for use as a motor fuel in a motor vehicle used on
22 public highways.

23 "Refiner" means a person that owns, operates, or otherwise
24 controls a refinery.

25 "Refinery" means a facility used to produce fuel from crude oil,
26 unfinished oils, natural gas liquids, or other hydrocarbons and from
27 which fuel may be removed by pipeline, by ship or barge, or at a
28 rack.

29 "Removal" means any physical transfer of fuel from a terminal,
30 manufacturing plant, pipeline, ship or barge, refinery, from customs
31 custody, or from a facility that stores fuel.

32 "Renewable biomass" means a material, including crops and
33 crop residues, trees and tree residues, organic portions of municipal
34 solid waste, organic portions of construction and demolition debris,
35 grease trap waste, and algae, that can be used for fuel but does not
36 have a petroleum or other fossil fuel base.

37 "Retail dealer" means a person that engages in the business of
38 selling or dispensing motor fuel to the consumer within this State.

39 "Supplier" means a person that is:

- 40 a. registered or required to be registered pursuant to section
41 4101 of the federal Internal Revenue Code of 1986 (26 U.S.C.
42 s.4101) for transactions in fuels in the terminal transfer system; and
43 b. satisfies one or more of the following:
44 (1) is the position holder in a terminal or refinery in this State;
45 (2) imports fuel into this State from a foreign country;
46 (3) acquires fuel from a terminal or refinery in this State from a
47 position holder pursuant to either a two-party exchange or a

1 qualified buy-sell arrangement which is treated as an exchange and
2 appears on the records of the terminal operator; or

3 (4) is the position holder in a terminal or refinery outside this
4 State with respect to fuel which that person imports into this State.
5 A terminal operator shall not be considered a supplier based solely
6 on the fact that the terminal operator handles fuel consigned to it
7 within a terminal.

8 "Supplier" also means a person that produces fuel grade alcohol
9 or alcohol-derivative substances in this State, produces fuel grade
10 alcohol or alcohol-derivative substances for import to this State into
11 a terminal, or acquires upon import by truck, rail car or barge into a
12 terminal, fuel grade alcohol or alcohol-derivative substances.

13 "Supplier" includes a permissive supplier unless the "Motor Fuel
14 Tax Act," P.L.2010, c.22 (C.54:39-101 et seq.) specifically provides
15 otherwise.

16 "Terminal" means a bulk fuel storage and distribution facility:

- 17 a. which is a qualified terminal,
18 b. to which fuel is supplied by pipeline or marine vessel, or, for
19 the purposes of fuel grade alcohol, is supplied by truck or railcar,
20 and

21 c. from which fuel may be removed at a rack.

22 "Terminal bulk transfer" includes but is not limited to the
23 following:

- 24 a. a boat or barge movement of fuel from a refinery or terminal
25 to a terminal;
26 b. a pipeline movement of fuel from a refinery or terminal to a
27 terminal;
28 c. a book transfer of product within a terminal between
29 suppliers prior to completion of removal across the rack; and
30 d. a two-party exchange within a terminal between licensed
31 suppliers.

32 "Terminal operator" means a person that owns, operates, or
33 otherwise controls a terminal. A terminal operator may own the
34 fuel that is transferred through, or stored in, the terminal.

35 "Terminal transfer system" means the fuel distribution system
36 consisting of refineries, pipelines, vessels, and terminals. Fuel in a
37 refinery, pipeline, vessel, barge or terminal is in the terminal
38 transfer system. Fuel in the fuel supply tank of an engine, or in a
39 tank car, rail car, trailer, truck, or other equipment suitable for
40 ground transportation is not in the terminal transfer system.

41 "Transmix" means the buffer or interface between two different
42 products in a pipeline shipment, or a mix of two or more different
43 products within a refinery or terminal that results in an off-grade
44 mixture.

45 "Transporter" means an operator of a pipeline, barge, railroad or
46 fuel transportation vehicle engaged in the business of transporting
47 fuel.

48 "Two-party exchange" means a transaction in which:

1 a. the fuel is transferred from one licensed supplier or licensed
2 permissive supplier to another licensed supplier or licensed
3 permissive supplier;

4 b. the transaction includes a transfer from the person that holds
5 the original inventory position for fuel in the terminal as reflected
6 on the records of the terminal operator;

7 c. the exchange transaction is simultaneous with removal from
8 the terminal by the receiving exchange partner; and

9 d. the terminal operator in its books and records treats the
10 receiving exchange party as the supplier which removes the product
11 across a terminal rack for purposes of reporting such events to this
12 State.

13 "Ultimate vendor - blocked pumps" means a person that sells
14 clear kerosene at a retail site through a blocked pump and who is
15 registered with both the Division of Taxation in the Department of
16 the Treasury and the federal Internal Revenue Service as an
17 ultimate vendor - blocked pumps.

18 "Undyed diesel fuel" means diesel fuel that is not subject to the
19 federal Environmental Protection Agency dyeing requirements, or
20 has not been dyed in accordance with federal Internal Revenue
21 Service fuel dyeing provisions.

22 "Undyed kerosene" means kerosene that is not subject to the
23 federal Environmental Protection Agency dyeing requirements, or
24 has not been dyed in accordance with federal Internal Revenue
25 Service fuel dyeing provisions.

26 "Vehicle fuel supply tank" means any receptacle on a motor
27 vehicle from which fuel is supplied to propel the motor vehicle.

28 (cf: P.L.2010, c.79, s.1)

29

30 2. Section 12 of P.L.2010, c.22 (C.54:39-112) is amended to
31 read as follows:

32 12. a. Fuel used for the following purposes is exempt from the
33 tax imposed by the "Motor Fuel Tax Act," P.L.2010, c.22 (C.54:39-
34 101 et seq.), and a refund of the tax imposed by subsection a. of
35 section 3 of P.L.2010, c.22 (C.54:39-103) may be claimed by the
36 consumer providing proof the tax has been paid and no refund has
37 been previously issued:

38 (1) Buses while being operated over the highways of this
39 State in those municipalities to which the operator has paid a
40 monthly franchise tax for the use of the streets therein under the
41 provisions of R.S.48:16-25 and buses while being operated over
42 the highways of this State in a regular route bus operation as
43 defined in R.S.48:4-1 and under operating authority conferred
44 pursuant to R.S.48:4-3, or while providing bus service under a
45 contract with the New Jersey Transit Corporation or under a
46 contract with a county for special or rural transportation bus service
47 subject to the jurisdiction of the New Jersey Transit Corporation
48 pursuant to P.L.1979, c.150 (C.27:25-1 et seq.), and buses

1 providing commuter bus service which receive or discharge
2 passengers in New Jersey. For the purpose of this paragraph
3 "commuter bus service" means regularly scheduled passenger
4 service provided by motor vehicles whether within or across the
5 geographical boundaries of New Jersey and utilized by passengers
6 using reduced fare, multiple ride or commutation tickets and shall
7 not include charter bus operations for the transportation of enrolled
8 children and adults referred to in subsection c. of R.S.48:4-1 and
9 "regular route service" does not mean a regular route in the nature
10 of special bus operation or a casino bus operation,

11 (2) agricultural tractors not operated on a public highway,

12 (3) farm machinery,

13 (4) aircraft,

14 (5) ambulances,

15 (6) rural free delivery carriers in the dispatch of their official
16 business,

17 (7) vehicles that run only on rails or tracks, and such vehicles as
18 run in substitution therefor,

19 (8) highway motor vehicles that are operated exclusively on
20 private property,

21 (9) motor boats or motor vessels used exclusively for or in the
22 propagation, planting, preservation and gathering of oysters and
23 clams in the tidal waters of this State,

24 (10) motor boats or motor vessels used exclusively for
25 commercial fishing,

26 (11) motor boats or motor vessels, while being used for hire for
27 fishing parties or being used for sightseeing or excursion parties,

28 (12) cleaning,

29 (13) fire engines and fire-fighting apparatus,

30 (14) stationary machinery and vehicles or implements not
31 designed for the use of transporting persons or property on the
32 public highways,

33 (15) heating and lighting devices,

34 (16) motor boats or motor vessels used exclusively for Sea Scout
35 training by a duly chartered unit of the Boy Scouts of America,

36 (17) emergency vehicles used exclusively by volunteer first-aid
37 or rescue squads, and

38 (18) three cents per gallon, the difference between the rate of tax
39 on diesel fuel and the rate of tax on gasoline, for diesel fuel used by
40 passenger automobiles and motor vehicles of less than 5,000 pounds
41 gross weight.

42 b. Subject to the procedural requirements and conditions set
43 out in the "Motor Fuel Tax Act," P.L.2010, c.22 (C.54:39-101 et
44 seq.), the following uses are exempt from the tax imposed by
45 section 3 of P.L.2010, c.22 (C.54:39-103) on fuel, and a deduction
46 or a refund may be claimed by the supplier, permissive supplier or
47 licensed distributor:

1 (1) fuel for which proof of export, satisfactory to the director, is
2 available and is either:

3 (a) removed by a licensed supplier for immediate export to a
4 state in which the supplier has a valid license;

5 (b) removed from a terminal by a licensed distributor for
6 immediate export as evidenced by the terminal issued shipping
7 papers; or

8 (c) acquired by a licensed distributor and which the tax imposed
9 by P.L.2010, c.22 (C.54:39-101 et al.) has previously been paid or
10 accrued either as a result of being stored outside of the terminal
11 transfer system immediately prior to loading or as a diversion
12 across state boundaries properly reported in conformity with
13 P.L.2010, c.22 (C.54:39-101 et al.) and was subsequently exported
14 from this State on behalf of the distributor.

15 The exemption pursuant to subparagraphs (a) and (b) of this
16 paragraph shall be claimed by a deduction on the report of the
17 supplier which is otherwise responsible for remitting the tax upon
18 removal of the product from a terminal or refinery in this State. The
19 exemption pursuant to subparagraph (c) of this paragraph shall be
20 claimed by the distributor, upon a refund application made to the
21 director within six months of the licensed distributor's acquisition of
22 the fuel;

23 (2) undyed kerosene sold to a licensed ultimate vendor - blocked
24 pumps; if the licensed ultimate vendor - blocked pumps does not
25 sell the kerosene through dispensers that have been designed and
26 constructed to prevent delivery directly from the dispenser into a
27 motor vehicle fuel supply tank, the ultimate vendor - blocked
28 pumps shall be responsible for the tax imposed by section 3 of
29 P.L.2010, c.22 (C.54:39-103) at the diesel fuel rate. Exempt use of
30 undyed kerosene shall be governed by rules and regulations of the
31 director. If rules or regulations are not promulgated by the director,
32 then the exempt use of undyed kerosene shall be governed by rules
33 and regulations of the Internal Revenue Service. An ultimate
34 vendor-blocked pumps who obtained undyed kerosene upon which
35 the tax levied by section 3 of P.L.2010, c.22 (C.54:39-103) had
36 been paid and makes sales qualifying pursuant to this subsection
37 may apply for a refund of the tax pursuant to an application, as
38 provided by section 14 of P.L.2010, c.22 (C.54:39-114), to the
39 director provided the ultimate vendor-blocked pumps did not charge
40 that tax to the consumer;

41 (3) fuel sold to the United States or any agency or
42 instrumentality thereof, and to the State of New Jersey and its
43 political subdivisions, departments and agencies;

44 (4) aviation fuel sold to a licensed aviation fuel dealer;

45 (5) liquefied petroleum gas except when delivered to the tank of
46 a highway vehicle;

47 (6) motor fuel on which tax has been paid under this act that is
48 later contaminated in a manner making it unsuitable for taxable use.

1 This credit or refund is limited to the remaining portion of taxed
2 fuel in the contaminated mixture and is conditioned upon
3 submitting to the director adequate documentation that the
4 contaminated mixture was subsequently used in an exempt manner;

5 (7) fuel on which tax has been paid pursuant to P.L.2010,
6 c.22 (C.54:39-101 et al.) that is either subsequently delivered back
7 into the terminal transfer system for further distribution or delivered
8 to a refinery for further processing;

9 (8) fuel on which tax has been previously imposed and paid
10 pursuant to section 3 of P.L.2010, c.22 (C.54:39-103) and which is
11 either subsequently exported, sold or distributed in this State in a
12 manner which would result in a second tax being owed. If there is a
13 second taxable distribution or sale, the party responsible for
14 remittance of the second tax shall be the party eligible for claiming
15 the refund or deduction;

16 (9) Fuel grade alcohol **[or]** biobased liquid fuel, or biodiesel
17 fuel when sold to a licensed supplier and delivered to a qualified
18 terminal.

19 (cf: P.L.2010, c.79, s.11)

20

21 3. This act shall take effect immediately.

22

23

24

STATEMENT

25

26 This bill provides and revises certain definitions concerning
27 biofuels to be used in the State motor fuel tax law. Currently
28 biobased liquid fuel, biodiesel fuel, and renewable biomass are not
29 defined under the Motor Fuel Tax Act.

ASSEMBLY BUDGET COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4121

STATE OF NEW JERSEY

DATED: JUNE 23, 2015

The Assembly Budget Committee reports favorably Assembly Bill No. 4121.

This bill provides and revises certain definitions concerning biofuels for purposes of a use exemption under the State's motor fuel tax. Currently, the biodiesel fuel exemption is generally limited to any motor fuel that is derived from agricultural products or animal fats. Under the bill, the biodiesel fuel exemption is redefined to more specifically apply to biobased liquid fuel and biodiesel fuel.

Generally, the bill defines:

- "Biobased liquid fuel" as a liquid fuel that is derived principally from renewable biomass meeting the standards for use in residential, commercial, or industrial heating applications established under commercial standard specifications for biodiesel fuel blend stock; and
- "Biodiesel fuel" as monoalkyl esters of long chain fatty acids derived from plant or animal matters which meet the registration requirements for fuels and fuel additives established by the United States Environmental Protection Agency and commercial standard specifications for biodiesel fuel blend stock.

As reported, this bill is identical to Senate Bill No. S-2599 (1R), as also reported by the committee.

FISCAL IMPACT:

The bill is not certified as requiring a fiscal note.

Governor Chris Christie Signs Bills To Expand Substance Abuse Recovery Efforts

Monday, August 10, 2015

Tags: [Addiction Taskforce](#)

Governor Christie Also Takes Action On Other Pending Legislation

Trenton, NJ – Affirming the administration's commitment to helping those impacted by drug abuse and addiction reclaim their lives, Governor Chris Christie has signed measures to further assist the treatment and recovery process.

"We remain firmly committed to confronting the stigma of drug abuse and addiction in the Garden State," said Governor Christie. "The legislation I have signed continues our efforts on these important fronts by providing a substance abuse housing recovery program for impacted students at our public colleges and universities as well as allowing medication-assisted treatment as part of our larger drug court treatment programs. These measures are another bold step to help people reclaim their lives and I want to thank Senator Vitale for his advocacy on these issues."

S-2377/A-3719 (Senators Barnes, Vitale/Assemblymembers Pinkin, Mukherji) requires four-year public colleges and universities to establish a substance abuse recovery housing program within four years. The college may designate a floor, wing, or other area within a dormitory for the program, rather than an entire dorm. The legislation applies to Rutgers New Brunswick, Ramapo College, The College of New Jersey, Montclair State University, Rowan University, and Richard Stockton College of New Jersey. The Rutgers New Brunswick campus already has implemented a similar policy. Additionally, in December, the College of New Jersey received grant funding to establish a recovery housing program.

"New Jersey created the nation's first college-based recovery housing programs and they have been a great success. Now, with the Governor's signature, many more New Jersey college students in recovery will have a much greater opportunity to maintain their sobriety and to succeed in school and in life," said Senator Joseph F. Vitale.

The second bill, S-2381/A-3723 (Senators Lesniak, Vitale/Assemblymembers Conaway, Mukherjee, Sumter, and Jimenez), allows for the completion of a special probation drug court program with use of medication-assisted treatment (MAT). The legislation further clarifies that any urine test for drug or alcohol use conducted in the course of the drug court program that shows a positive result for an individual using medication-assisted treatment would not constitute a program violation unless the positive test result is for substances unrelated to the individual's MAT. Through this bill, the treatment provider rather than a judge can now decide whether narcotic-based treatment should be permitted for convicted offenders who have been admitted to the Drug Court program for drug abuse.

"Medication assisted treatment for Drug Court attendees, like all other clinical decisions made by a provider for their patient, is a critical component in a person's treatment and recovery plan. I thank the Governor for his support of this legislation and his continued leadership and support of Drug Court programs," Vitale added.

The Governor also took the following action on other pending legislation:

BILL SIGNINGS:

S-122/A-4149 (A.R. Bucco, Addiego/Angelini, Simon, Vainieri Huttle, Wimberly) – Expands number of safe havens for leaving newborn infants

SCS for S-573/ACS for A-2443 (Smith, Sweeney/Burzichelli, Space, McHose) – Establishes apprentice firearm hunting license and apprentice bow and arrow license

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S-685/A-4306 (Lesniak, Whelan/Burzichelli, O'Scanlon) – Reduces number of voters for whom person can serve as messenger; limits to three number of voted mail-in ballots transmittable by bearer; modifies conviction standard under vote by mail law

S-736/ACS for A-3037, 2547, 3596, 2422 (T. Kean, Lesniak/Andrzejczak, Mukherji, Munoz, Lagana, Garcia, Jimenez, Dancer, Webber) – Establishes crimes of dog fighting and leader of a dog fighting network, and updates crime of animal fighting; amends RICO concerning dog fighting

S-756/A-3151 (Sarlo/Prieto, Jimenez) – Creates sporting facility license governing sale of alcoholic beverages under certain circumstances

S-1760/A-4212 (Allen, Ruiz, Turner/Vainieri Huttle, Angelini, Jasey) – Recognizes American Sign Language as a world language for meeting high school graduation requirements

S-1813/A-3123 (Whelan, Oroho/Burzichelli, Eustace, Andrzejczak, Mazzeo, Webber) – Requires each State agency to review permits issued by agency and make necessary changes to expedite and facilitate permitting

S-2003/ACS for A-4299 (Pou/Sumter, Mainor, Wimberly, Rodriguez-Gregg) – Makes certain reforms to juvenile justice system

S-2109/A-3344 (Oroho, O'Toole/McHose, Space) – Clarifies that county sheriff may simultaneously hold position of emergency management coordinator

S-2165/A-4374 (Cunningham, Pou/Sumter, Jasey) – Requires Secretary of Higher Education to adopt new comprehensive master plan within six months and every seven years thereafter

S-2377/A-3719 (Barnes, Vitale/Pinkin, Mukherji) – Directs certain four-year public institutions of higher education to establish substance abuse recovery housing program

SCS for S-2381/ACS for A-3723 (Lesniak, Vitale/Conaway, Mukherji, Sumter, Jimenez) – Permits successful completion of special probation drug court program notwithstanding use of medication-assisted treatment

S-2420/A-3838 (Smith, Bateman/McKeon, Eustace, Gusciora, Benson) – Increases electric power net metering capacity threshold to 2.9 percent of total annual kilowatt-hours sold in State

S-2454/A-3791 (Van Drew, Oroho/Stender, Auth, Andrzejczak, Clifton, Eustace, Garcia) – Streamlines responsibilities of Division of Local Government Services and local governments; designated as the Division of Local Government Services Modernization and Local Mandate Relief Act of 2015

S-2484/A-3845 (Codey, Turner/Jasey, Benson, Vainieri Huttle, McKeon) – Requires DOE to conduct study on options and benefits of instituting later school start time in middle school and high school

S-2508/A-3798 (Oroho, Whelan/McHose, Space) – Authorizes certain county veteran identification cards to serve as proof of status for veteran designation on driver's license or identification card

S-2559/A-4016 (Sweeney, Weinberg, O'Toole/Lagana, Mazzeo, Mosquera, Vainieri Huttle) – Removes presumption of nonimprisonment in certain assault cases involving domestic violence victims; expands criminal coercion statute; revises Pretrial Intervention procedures in certain criminal cases

SCS for S-2567/AS for A-4025 (Sweeney, Oroho, Smith, Greenstein, Thompson/Mazzeo, Andrzejczak, Space, McHose, Pinkin) – Creates "Fishing Buddy License"

S-2583/A-3836 (Allen, Bateman/Coughlin, Webber, Pinkin, Wilson, A.M. Bucco, Mukherji) – Upgrades simple assault to aggravated assault if committed against certain law enforcement officers and employees because of job status

S-2599/A-4121 (Bateman, Smith/Spencer, Schepisi) – Provides certain definitions for biofuels under "Motor Fuel Tax Act"

S-2825/A-4316 (Sweeney, Greenstein/Mazzeo) – Increases efficiency and transparency in distribution of Superstorm Sandy aid money

S-2995/A-3959 (Gordon/Eustace, Johnson, Caride, Vainieri Huttle) – Revises requirements for establishment of central municipal courts

S-3023/A-4558 (Ruiz, Oroho/McKeon, Spencer, Wimberly) – Appropriates \$4,750,000 from various Green Acres funds for grants to certain nonprofit entities to acquire or develop lands for recreation and conservation purposes

SJR-17/AJR-79 (Beck, T. Kean/Angelini, Vainieri Huttle, McKeon, Mosquera, Pinkin, Coughlin, Wimberly) – Designates September of each year as "Hunger Action Month" in New Jersey

SJR-40/AJR-44 (Beach, Doherty/Wilson, McHose, Mazzeo, Tucker, DeAngelo) – Designates September as "Gold Star Mothers Appreciation Month"

SJR-60/AJR-83 (Beach/DeAngelo, Space) – Designates October of each year as "Lineman Appreciation Month"

A-4559/S-3022 (McKeon, Spencer, Wimberly/Codey, Doherty) – Appropriates \$88,592,361 from "Garden State Green Acres Preservation Trust Fund" and various Green Acres bond funds for local government open space acquisition and park development projects

BILLS VETOED:

S-300/A-4119 (Rice, Greenstein/Jasey, Quijano, DeCroce, Sumter, Wimberly) – CONDITIONAL – Establishes "New Jersey Out-of-School Time Advisory Commission" to review before-school, after-school, and summer programs

S-1195/A-2659 (Vitale, Allen, Weinberg/Vainieri Huttie, Gusciora, Jasey, Mosquera, McKeon) – ABSOLUTE - Revises procedure for issuance of amended birth certificate for person who has undergone change in sex

S-1593/A-213 (Turner, Ruiz/Gusciora, Eustace, Jasey, Quijano, Wimberly, Muoio) – ABSOLUTE – Establishes "Police Officer, Firefighter, Public School Teacher, Corrections Officer, and Sanitation Worker Home-buyer Assistance Act"; appropriates \$5 million

S-1621/A-2926 (Sweeney, Barnes/Lagana, Coughlin, Mosquera, Webber, Pinkin, Danielsen) – CONDITIONAL – Gives priority in training programs to long-term unemployed

S-1857/A-2699 (Codey, Turner/Vainieri Huttie, Jasey, Caputo, Wimberly) – CONDITIONAL – Establishes measures to deter steroid use among students; appropriates \$45,000 to DOE for New Jersey State Interscholastic Athletic Association testing of student-athletes for steroids and other performance enhancing substances

S-2049/A-3635 (Rice/Tucker, Caputo) – ABSOLUTE – Requires chairs of certain ward political party committees to have same rights and responsibilities as chairs of municipal political party committees; specifies certain cities not required to have municipal chairs

S-2058/A-3738 (Lesniak/Diegnan, Sumter) – CONDITIONAL – Authorizes establishment of three pilot recovery alternative high schools that provide high school education and substance dependency plan of recovery to test the effectiveness of this model

S-2360/A-3593 (Madden, Holzapfel/Johnson, Lagana, Bramnick, Danielsen, Wimberly, Jimenez) – CONDITIONAL – Requires notification of local law enforcement prior to expungement of certain mental health records of prospective firearms purchasers

S-2489/ACS for A-3859 (Sweeney, Whelan, Oroho/Greenwald, Coughlin, Bramnick, Singleton, Rible, Lagana) - CONDITIONAL – Permits public-private partnership agreements for certain building and highway infrastructure projects; provides for EDA oversight

S-2784/A-3856 (Van Drew, Whelan/Andrzejczak, Johnson) – CONDITIONAL – Provides maximum sales and use tax imposition amount for sales and uses of boats and vessels; establishes grace period for imposition of use tax on certain boats and vessels used by resident purchasers

S-2787/A-4273 (Sweeney/Singleton, Burzichelli, Giblin, Wilson, Prieto, Wimberly) – CONDITIONAL – Establishes vocational training pilot program in DOC; provides for inmate compensation for education and workforce training participation

S-3100/A-4605 (Gordon, Greenstein/Wimberly, Lagana, Singleton, Mazzeo) – ABSOLUTE – Requires State to pay its pension contributions on quarterly basis by August 1, November 1, February 1 and May 1 of each year

S-3107/A-4606 (Sweeney, Greenstein/Prieto, Singleton) – ABSOLUTE – Makes FY 2015 supplemental State appropriations totaling \$300,000,000 for prepayment of portion of FY 2016 employer contributions to State-administered public employee defined benefit retirement systems

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