

58:10-23.11h

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LAWS OF: 1999 **CHAPTER:** 342

NJSA: 58:10-23.11h (Transfers of hazardous substances—availability of cap)

BILL NO: A2461

SPONSOR(S): Stuhltrager

DATE INTRODUCED: September 28, 1998

COMMITTEE: **ASSEMBLY:** Appropriations

SENATE: Budget and Appropriations

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** December 13, 1999

SENATE: December 6, 1999

DATE OF APPROVAL: January 10, 1999

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL: 3rd Reprint
(Amendments during passage denoted by superscript numbers)

SPONSORS STATEMENT: (Begins on page 5 of original bill) [Yes](#)

COMMITTEE STATEMENT: **ASSEMBLY:** [Yes](#)

SENATE: [Yes](#)

FLOOR AMENDMENT STATEMENTS: [Yes](#)

LEGISLATIVE FISCAL ESTIMATE: [Yes](#)

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: [Yes](#)

FOLLOWING WERE PRINTED:

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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

P.L. 1999, CHAPTER 342, *approved January 10, 2000*
Assembly, No. 2461 (*Third Reprint*)

1 **AN ACT** concerning taxes on hazardous substances and amending
2 P.L.1976, c.141.

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

6
7 1. Section 9 of P.L.1976, c.141 (C.58:10-23.11h) is amended to
8 read as follows:

9 9. a. There is hereby levied upon each owner or operator of one
10 or more major facilities a tax to insure compensation for cleanup costs
11 and damages associated with any discharge of hazardous substances
12 to be paid by the transferee; provided, however, that in the case of a
13 major facility which operates as a public storage terminal for
14 hazardous substances owned by others, the owner of the hazardous
15 substance transferred to such major facility or his authorized agent
16 shall be considered to be the transferee or transferor, as the case may
17 be, for the purposes of this section and shall be deemed to be a
18 taxpayer for purposes of this act. Where such person has failed to file
19 a return or pay the tax imposed by this act within 60 days after the due
20 date thereof, the director shall forthwith take appropriate steps to
21 collect same from the owner of the hazardous substance. In the event
22 the director is not successful in collecting said tax, then on notice to
23 the owner or operator of the public storage terminal of said fact said
24 owner or operator shall not release any hazardous substance owned by
25 the taxpayer. The director may forthwith proceed to satisfy any tax
26 liability of the taxpayer by seizing, selling or otherwise disposing of
27 said hazardous substance to satisfy the taxpayer's tax liability and to
28 take any further steps permitted by law for its collection. For the
29 purposes of this act, public storage terminal shall mean a public or
30 privately owned major facility operated for public use which is used
31 for the storage or transfer of hazardous substances. The tax shall be
32 measured by the number of barrels or the fair market value, as the case
33 may be, of hazardous substances transferred to the major facility;
34 provided, however, that the same barrel, including any products
35 derived therefrom, subject to multiple transfers from or between major
36 facilities shall be taxed only once at the point of the first transfer.

37 When a hazardous substance other than petroleum which has not
38 been previously taxed is transferred from a major in-State facility to a
39 facility which is not a major facility, the transferor shall be liable for

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AAP committee amendments adopted October 5, 1998.

² Senate SBA committee amendments adopted October 18, 1999.

³ Senate floor amendments adopted November 15, 1999.

1 tax payment for said transfer.

2 b. (1) The tax shall be \$0.0150 per barrel transferred and in the
3 case of the transfer of hazardous substances other than petroleum or
4 petroleum products, the tax shall be the greater of \$0.0150 per barrel
5 or 1.0% of the fair market value of the product plus \$0.0025 per
6 barrel; provided, however, that with respect to transfers of hazardous
7 substances other than petroleum or petroleum products which are or
8 contain any precious metals to be recycled, refined, or rerefined in this
9 State, which are transferred into this State subsequent to being
10 recycled, refined or rerefined, or which are or contain elemental
11 phosphorus, the tax shall be \$0.0150 per barrel of the hazardous
12 substance; and provided further, however, that the total aggregate tax
13 due for any individual taxpayer which has paid the tax in the 1986 tax
14 year shall not exceed 125% of the tax due and payable by that taxpayer
15 during the 1986 tax year plus an additional \$0.0025 per barrel; except
16 that for a hazardous substance which is directly converted to, and
17 comprises more than 90% by weight of, a non-hazardous final product,
18 the taxpayer shall pay no more than 100% of the tax due and payable
19 in the 1986 tax year plus an additional \$0.0025 per barrel. For the
20 purposes of applying the 125% of tax due limitation, a successor in
21 interest pursuant to a reorganization¹, as¹ defined pursuant to section
22 368(a)(1)(D) of the Internal Revenue Code of 1986, 26 U.S.C. s.368
23 ¹, on or before October 1, 1997¹ shall be entitled to the predecessor
24 taxpayer's limitation. In computing 125% of the tax due and payable
25 by the taxpayer during the 1986 tax year, for taxes due after January
26 1, 1996 from an owner or operator ³[or] including³ the successor
27 ³[to the owner or operator] in interest pursuant to a reorganization
28 as defined in this paragraph³ of one or more major facilities who has
29 continuously since 1986 filed a combined tax return for more than one
30 major facility but who prior to January 1, 1996 has entirely closed and
31 decommissioned one or more of those major facilities, a taxpayer shall
32 include 1986 taxes arising from major facilities which (1) caused the
33 taxpayer to incur a tax liability in 1986, and (2) continue to cause the
34 taxpayer to incur a tax liability during the current tax year. For
35 transfers which are or contain elemental phosphorus, in computing the
36 125% of the taxes due and payable by the taxpayer during the 1986 tax
37 year, a taxpayer² which shall include any subsequent owner or
38 operator of a major facility which³ [utilizes] transfers³ elemental
39 phosphorus.² shall calculate the tax at \$0.015 per barrel. For the
40 purposes of this section, "precious metals" means gold, silver, osmium,
41 platinum, palladium, iridium, rhodium, ruthenium and copper. In the
42 event of a major discharge or series of discharges of petroleum or
43 petroleum products resulting in reasonable claims against the fund
44 exceeding the existing balance of the fund, the tax shall be levied at the
45 rate of \$0.04 per barrel of petroleum or petroleum products
46 transferred, until the revenue produced by such increased rate equals

1 150% of the total dollar amount of all pending reasonable claims
2 resulting from the discharge of petroleum or petroleum products;
3 provided, however, that such rate may be set at less than \$0.04 per
4 barrel transferred if the administrator determines that the revenue
5 produced by such lower rate will be sufficient to pay outstanding
6 reasonable claims against the fund within one year of such levy. For
7 the purposes of determining the existing balance of the fund, the
8 administrator shall not include any amount in the fund collected from
9 the \$0.0025 per barrel increase in the tax imposed pursuant to
10 P.L.1990, c.78 and dedicated for hazardous substance discharge
11 prevention in accordance with paragraph (2) of this subsection.

12 Interest received on moneys in the fund shall be credited to the
13 fund.

14 (2) An amount of \$0.0025 per barrel collected from the proceeds
15 of the tax imposed pursuant to this subsection shall be deposited into
16 the New Jersey Spill Compensation Fund and dedicated for the
17 purposes of P.L.1990, c.78 and for other authorized purposes
18 designed to prevent the discharge of a hazardous substance.

19 c. (1) Every taxpayer and owner or operator of a public storage
20 terminal for hazardous substances shall on or before the 20th day of
21 the month following the close of each tax period render a return under
22 oath to the director on such forms as may be prescribed by the director
23 indicating the number of barrels of hazardous substances transferred
24 and where appropriate, the fair market value of the hazardous
25 substances transferred to or from the major facility, and at said time
26 the taxpayer shall pay the full amount of the tax due.

27 (2) Every taxpayer or owner or operator of a major facility or
28 vessel which transfers a hazardous substance, as defined in this act,
29 and who is subject to the tax under subsection a. shall within 20 days
30 after the first such transfer in any fiscal year register with the director
31 on such form as shall be prescribed by him.

32 d. If a return required by this act is not filed, or if a return when
33 filed is incorrect or insufficient in the opinion of the director, the
34 amount of tax due shall be determined by the director from such
35 information as may be available. Notice of such determination shall be
36 given to the taxpayer liable for the payment of the tax. Such
37 determination shall finally and irrevocably fix the tax unless the person
38 against whom it is assessed, within 30 days after receiving notice of
39 such determination, shall apply to the director for a hearing, or unless
40 the director on his own motion shall redetermine the same. After such
41 hearing the director shall give notice of his determination to the person
42 to whom the tax is assessed.

43 e. Any taxpayer who shall fail to file his return when due or to pay
44 any tax when the same becomes due, as herein provided, shall be
45 subject to such penalties and interest as provided in the "State Tax
46 Uniform Procedure Law," R.S.54:48-1 et seq. If the Division of

1 Taxation determines that the failure to comply with any provision of
2 this section was excusable under the circumstances, it may remit such
3 part or all of the penalty as shall be appropriate under such
4 circumstances.

5 f. (1) (Deleted by amendment, P.L.1987, c.76.)

6 (2) (Deleted by amendment, P.L.1987, c.76.)

7 g. In addition to the other powers granted to the director in this
8 section, he is hereby authorized and empowered:

9 (1) To delegate to any officer or employee of his division such of
10 his powers and duties as he may deem necessary to carry out
11 efficiently the provisions of this section, and the person or persons to
12 whom such power has been delegated shall possess and may exercise
13 all of said powers and perform all of the duties delegated by the
14 director;

15 (2) To prescribe and distribute all necessary forms for the
16 implementation of this section.

17 h. The tax imposed by this act shall be governed in all respects by
18 the provisions of the "State Tax Uniform Procedure Law,"
19 R.S.54:48-1 et seq., except only to the extent that a specific provision
20 of this act may be in conflict therewith.

21 i. (Deleted by amendment, P.L.1986, c.143.)

22 (cf: P.L.1997, c.134, s.1)

23

24 2. This act shall take effect immediately.

25

26

27

28

29 Clarifies availability of cap on tax on transfers of hazardous
30 substances.

ASSEMBLY, No. 2461

STATE OF NEW JERSEY 208th LEGISLATURE

INTRODUCED SEPTEMBER 28, 1998

Sponsored by:

Assemblyman GARY W. STUHLTRAGER

District 3 (Salem, Cumberland and Gloucester)

SYNOPSIS

Clarifies availability of cap on tax on transfers of hazardous substances.

CURRENT VERSION OF TEXT

As introduced.



A2461 STUHLTRAGER

2

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2 P.L.1976, c.141.

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7 1. Section 9 of P.L.1976, c.141 (C.58:10-23.1111h) is amended to
8 read as follows:

9 9. a. There is hereby levied upon each owner or operator of one or
10 more major facilities a tax to insure compensation for cleanup costs
11 and damages associated with any discharge of hazardous substances
12 to be paid by the transferee; provided, however, that in the case of a
13 major facility which operates as a public storage terminal for
14 hazardous substances owned by others, the owner of the hazardous
15 substance transferred to such major facility or his authorized agent
16 shall be considered to be the transferee or transferor, as the case may
17 be, for the purposes of this section and shall be deemed to be a
18 taxpayer for purposes of this act. Where such person has failed to file
19 a return or pay the tax imposed by this act within 60 days after the due
20 date thereof, the director shall forthwith take appropriate steps to
21 collect same from the owner of the hazardous substance. In the event
22 the director is not successful in collecting said tax, then on notice to
23 the owner or operator of the public storage terminal of said fact said
24 owner or operator shall not release any hazardous substance owned by
25 the taxpayer. The director may forthwith proceed to satisfy any tax
26 liability of the taxpayer by seizing, selling or otherwise disposing of
27 said hazardous substance to satisfy the taxpayer's tax liability and to
28 take any further steps permitted by law for its collection. For the
29 purposes of this act, public storage terminal shall mean a public or
30 privately owned major facility operated for public use which is used
31 for the storage or transfer of hazardous substances. The tax shall be
32 measured by the number of barrels or the fair market value, as the case
33 may be, of hazardous substances transferred to the major facility;
34 provided, however, that the same barrel, including any products
35 derived therefrom, subject to multiple transfers from or between major
36 facilities shall be taxed only once at the point of the first transfer.

37 When a hazardous substance other than petroleum which has not
38 been previously taxed is transferred from a major in-State facility to a
39 facility which is not a major facility, the transferor shall be liable for
40 tax payment for said transfer.

41 b. (1) The tax shall be \$0.0150 per barrel transferred and in the case
42 of the transfer of hazardous substances other than petroleum or
43 petroleum products, the tax shall be the greater of \$0.0150 per barrel

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A2461 STUHLTRAGER

1 or 1.0% of the fair market value of the product plus \$0.0025 per
2 barrel; provided, however, that with respect to transfers of hazardous
3 substances other than petroleum or petroleum products which are or
4 contain any precious metals to be recycled, refined, or rerefined in this
5 State, which are transferred into this State subsequent to being
6 recycled, refined or rerefined, or which are or contain elemental
7 phosphorus, the tax shall be \$0.0150 per barrel of the hazardous
8 substance; and provided further, however, that the total aggregate tax
9 due for any individual taxpayer which has paid the tax in the 1986 tax
10 year shall not exceed 125% of the tax due and payable by that taxpayer
11 during the 1986 tax year plus an additional \$0.0025 per barrel; except
12 that for a hazardous substance which is directly converted to, and
13 comprises more than 90% by weight of, a non-hazardous final product,
14 the taxpayer shall pay no more than 100% of the tax due and payable
15 in the 1986 tax year plus an additional \$0.0025 per barrel. For the
16 purposes of applying the 125% of tax due limitation, a successor in
17 interest pursuant to a reorganization defined pursuant to section
18 368(a)(1)(D) of the Internal Revenue Code of 1986, 26 U.S.C. s.368
19 shall be entitled to the predecessor taxpayer's limitation. In computing
20 125% of the tax due and payable by the taxpayer during the 1986 tax
21 year, for taxes due after January 1, 1996 from an owner or operator
22 or the successor to the owner or operator of one or more major
23 facilities who has continuously since 1986 filed a combined tax return
24 for more than one major facility but who prior to January 1, 1996 has
25 entirely closed and decommissioned one or more of those major
26 facilities, a taxpayer shall include 1986 taxes arising from major
27 facilities which (1) caused the taxpayer to incur a tax liability in 1986,
28 and (2) continue to cause the taxpayer to incur a tax liability during
29 the current tax year. For transfers which are or contain elemental
30 phosphorus, in computing the 125% of the taxes due and payable by
31 the taxpayer during the 1986 tax year, a taxpayer shall calculate the
32 tax at \$0.015 per barrel. For the purposes of this section, "precious
33 metals" means gold, silver, osmium, platinum, palladium, iridium,
34 rhodium, ruthenium and copper. In the event of a major discharge or
35 series of discharges of petroleum or petroleum products resulting in
36 reasonable claims against the fund exceeding the existing balance of
37 the fund, the tax shall be levied at the rate of \$0.04 per barrel of
38 petroleum or petroleum products transferred, until the revenue
39 produced by such increased rate equals 150% of the total dollar
40 amount of all pending reasonable claims resulting from the discharge
41 of petroleum or petroleum products; provided, however, that such rate
42 may be set at less than \$0.04 per barrel transferred if the administrator
43 determines that the revenue produced by such lower rate will be
44 sufficient to pay outstanding reasonable claims against the fund within
45 one year of such levy. For the purposes of determining the existing
46 balance of the fund, the administrator shall not include any amount in

A2461 STUHLTRAGER

1 the fund collected from the \$0.0025 per barrel increase in the tax
2 imposed pursuant to P.L.1990, c.78 and dedicated for hazardous
3 substance discharge prevention in accordance with paragraph (2) of
4 this subsection.

5 Interest received on moneys in the fund shall be credited to the
6 fund.

7 (2) An amount of \$0.0025 per barrel collected from the proceeds
8 of the tax imposed pursuant to this subsection shall be deposited into
9 the New Jersey Spill Compensation Fund and dedicated for the
10 purposes of P.L.1990, c.78 and for other authorized purposes
11 designed to prevent the discharge of a hazardous substance.

12 c. (1) Every taxpayer and owner or operator of a public storage
13 terminal for hazardous substances shall on or before the 20th day of
14 the month following the close of each tax period render a return under
15 oath to the director on such forms as may be prescribed by the director
16 indicating the number of barrels of hazardous substances transferred
17 and where appropriate, the fair market value of the hazardous
18 substances transferred to or from the major facility, and at said time
19 the taxpayer shall pay the full amount of the tax due.

20 (2) Every taxpayer or owner or operator of a major facility or
21 vessel which transfers a hazardous substance, as defined in this act,
22 and who is subject to the tax under subsection a. shall within 20 days
23 after the first such transfer in any fiscal year register with the director
24 on such form as shall be prescribed by him.

25 d. If a return required by this act is not filed, or if a return when
26 filed is incorrect or insufficient in the opinion of the director, the
27 amount of tax due shall be determined by the director from such
28 information as may be available. Notice of such determination shall be
29 given to the taxpayer liable for the payment of the tax. Such
30 determination shall finally and irrevocably fix the tax unless the person
31 against whom it is assessed, within 30 days after receiving notice of
32 such determination, shall apply to the director for a hearing, or unless
33 the director on his own motion shall redetermine the same. After such
34 hearing the director shall give notice of his determination to the person
35 to whom the tax is assessed.

36 e. Any taxpayer who shall fail to file his return when due or to pay
37 any tax when the same becomes due, as herein provided, shall be
38 subject to such penalties and interest as provided in the "State Tax
39 Uniform Procedure Law," R.S.54:48-1 et seq. If the Division of
40 Taxation determines that the failure to comply with any provision of
41 this section was excusable under the circumstances, it may remit such
42 part or all of the penalty as shall be appropriate under such
43 circumstances.

44 f. (1) (Deleted by amendment, P.L.1987, c.76.)

45 (2) (Deleted by amendment, P.L.1987, c.76.)

46 g. In addition to the other powers granted to the director in this

1 section, he is hereby authorized and empowered:

2 (1) To delegate to any officer or employee of his division such of
3 his powers and duties as he may deem necessary to carry out
4 efficiently the provisions of this section, and the person or persons to
5 whom such power has been delegated shall possess and may exercise
6 all of said powers and perform all of the duties delegated by the
7 director;

8 (2) To prescribe and distribute all necessary forms for the
9 implementation of this section.

10 h. The tax imposed by this act shall be governed in all respects by
11 the provisions of the "State Tax Uniform Procedure Law,"
12 R.S.54:48-1 et seq., except only to the extent that a specific provision
13 of this act may be in conflict therewith.

14 i. (Deleted by amendment, P.L.1986, c.143.)
15 (cf: P.L.1997, c.134, s.1)

16

17 2. This act shall take effect immediately.

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19

20

STATEMENT

21

22 This bill would provide that a corporation's successor in interest
23 pursuant to a reorganization defined pursuant to section 368(a)(1)(D)
24 of the Internal Revenue Code of 1986, 26 U.S.C. s.368, would be
25 eligible for the limitation on the tax due pursuant to the "Spill
26 Compensation and Control Act" for which the predecessor corporation
27 would have otherwise been eligible. The bill would also clarify that in
28 computing the cap of 125% of taxes due and payable by the taxpayer
29 during the 1986 tax year, the taxes not included in the 1986 base
30 would only be for those major facilities that prior to January 1, 1996
31 were entirely closed and decommissioned.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2461

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: OCTOBER 5, 1998

The Assembly Appropriations Committee reports favorably Assembly Bill No. 2461, with committee amendments.

Assembly Bill No. 2461, as amended, concerns the "cap" limitations on the tax due pursuant to the "Spill Compensation and Control Act."

The spill compensation and control tax is imposed on owners or operators of any "major facility:" a refinery, storage or transfer terminal, pipeline, deep-water port, drilling platform used to refine, produce, store, handle, transfer, process or transport hazardous substances. The tax is assessed at various rates, depending on the volume and nature of the hazardous substance being handled, for deposit to the Spill Compensation Fund to assure compensation for cleanup costs and damages associated with any discharge of hazardous substances. The tax for an individual taxpayer that paid the tax in 1986 is capped at 125% of that taxpayer's 1986 liability. The bill concerns the application and calculation of that capped liability.

The bill provides for continuation of the capped liability to a successor in certain corporate reorganizations. The bill makes a corporation's successor in interest pursuant to a reorganization, as defined pursuant to section 368(a)(1)(D) of the Internal Revenue Code of 1986, 26 U.S.C. s.368, on or before October 1, 1997 eligible for the same capped liability amount on the tax due for which the predecessor corporation would have otherwise been eligible.

The bill also clarifies that in computing the cap of 125% of taxes due and payable by the taxpayer during the 1986 tax year, the taxes included in the 1986 base are for all of the major facilities except those that, prior to January 1, 1996, were entirely closed and decommissioned.

FISCAL IMPACT:

Revenue from the spill compensation and control tax was approximately \$16.9 million in State fiscal year 1997.

The bill extends a liability cap to corporate successor taxpayers that currently are not clearly eligible for having liability capped: this change has the potential to decrease revenue to the Spill

Compensation Fund. The bill also clarifies the 1986 cap liability base, restricting the 1986 liabilities that can be deleted from the cap base: this change has the potential to increase revenue to the Spill Compensation Fund. Information on specific liabilities, cap amounts, major facility decommissions and asset transfers in reorganizations are not available to determine the revenue impact of the bill.

COMMITTEE AMENDMENTS:

The amendments limit those successors in interest eligible for the same capped liability amount on the tax due for which the predecessor corporation would have otherwise been eligible to successors from reorganizations on or before October 1, 1997.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 2461

with committee amendments

STATE OF NEW JERSEY

DATED: OCTOBER 18, 1999

The Senate Budget and Appropriations Committee reports favorably Assembly Bill No. 2461 (1R) with committee amendments.

This bill concerns the "cap" limitations on the tax imposed by the "Spill Compensation and Control Act."

The spill compensation and control tax is imposed on owners or operators of any "major facility", i.e., a refinery, storage or transfer terminal, pipeline, deep-water port, drilling platform, or any appurtenance of the foregoing that is used to refine, produce, store, handle, transfer, process or transport hazardous substances. The tax is assessed at various rates, depending on the volume and nature of the hazardous substance being handled. Revenue from the tax is deposited into the Spill Compensation Fund to assure compensation for cleanup costs and damages associated with any discharge of hazardous substances. The tax for an individual taxpayer that paid the tax in 1986 is capped at 125% of that taxpayer's 1986 liability (or 100% of such liability in the case of hazardous substances that have largely been converted into a non-hazardous final product), plus a small per-barrel charge.

This bill revises the application of the 125% liability cap by extending applicability of the cap to a successor in interest under certain corporate reorganizations. Currently, no provision is made for extending availability of the cap to such an entity; under the bill, a corporation's successor under a reorganization as defined pursuant to section 368(a)(1)(D) of the Internal Revenue Code of 1986 on or before October 1, 1997 would be eligible for the same capped liability amount on the tax as that for which the predecessor corporation would have otherwise been eligible. (A section 368(a)(1)(D) reorganization is one in which a corporation transfers all or some of its assets to another corporation that the transferor corporation controls.)

In addition, the bill clarifies that in computing the cap of 125% of taxes due and payable by the taxpayer during the 1986 tax year, the taxes included in the 1986 base are for all of the major facilities except those that, prior to January 1, 1996, were entirely closed and decommissioned. The bill also clarifies that a subsequent owner or

operator of a major facility which utilizes elemental phosphorus is a taxpayer that may be under the 125% liability cap.

COMMITTEE AMENDMENTS

The committee amendments clarify that any subsequent owner or operator of a major facility which utilizes elemental phosphorus is a taxpayer that may be under the 125% liability cap.

FISCAL IMPACT

Revenue from the spill compensation and control tax was approximately \$16.9 million in State fiscal year 1997.

The bill extends a liability cap to corporate successor taxpayers and certain subsequent owners of certain major facilities that currently are not clearly eligible for having liability capped: this change has the potential to decrease revenue to the Spill Compensation Fund. The bill also clarifies the 1986 cap liability base, restricting the 1986 liabilities that can be deleted from the cap base: this change has the potential to increase revenue to the Spill Compensation Fund. Information on specific liabilities, cap amounts, major facility decommissions and asset transfers in reorganizations are not available to determine the revenue impact of the bill.

STATEMENT TO
[Second Reprint]
ASSEMBLY, No. 2461

with Senate Floor Amendments
(Proposed By Senator BENNETT)

ADOPTED: NOVEMBER 15, 1999

This amendment limits eligibility for the capped liability amount on the tax due pursuant to the "Spill Compensation and Control Act" to certain successors from reorganizations.

LEGISLATIVE FISCAL ESTIMATE

ASSEMBLY, No. 2461

STATE OF NEW JERSEY

208th LEGISLATURE

DATED: OCTOBER 27, 1998

Assembly Bill No. 2461 of 1998 provides that a corporation's successor in interest pursuant to a reorganization would be eligible for the limitation on the tax due pursuant to the "Spill Compensation and Control Act" for which the predecessor corporation would have otherwise been eligible. The bill also clarifies that in computing the cap of 125% of taxes due and payable by the taxpayer during the 1986 tax year, the taxes not included in the 1986 base would only be for those major facilities that, prior to January 1, 1996, were entirely closed and decommissioned.

The Office of Legislative Services estimates that the bill's enactment will have no fiscal impact on the General Fund. It may, however, lower the amount of tax revenues generated under the "Spill Compensation and Control Act" if certain owners or operators of facilities taxed under the act benefit from lower tax assessments as a result of the bill's amendments.

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

Office of the Governor
NEWS RELEASE

CONTACT: Gene Herman
609-777-2600

RELEASE: January 10, 2000

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

S-436, sponsored by Senators C. Louis Bassano (R-Essex/Union) and Diane B. Allen (R-Burlington/Camden), requires the Department of Health and Senior Services (DHSS) to prepare an informational pamphlet on the nature and causes of osteoporosis and methods used to treat and prevent osteoporosis. The bill appropriates \$25,000 from the General Fund to DHSS to fund the printing and distribution of the pamphlets.

S-1735, sponsored by Senators William L. Gormley (R-Atlantic) and John A. Girgenti (D-Passaic) and Assembly Members Kenneth C. LeFevre (R-Atlantic) and Francis J. Blee (R-Atlantic), amends the reckless endangerment statute to clarify that adulteration of a drink or other substance constitutes the fourth degree offense of reckless endangerment. Specifically, the bill clarifies that this offense is committed when a person purposely or knowingly gives another person a drink or other substance that is intoxicating, tranquilizing or disorienting, when that other person does not know the identity and effect of the drink or substance.

A-2775, sponsored by Assembly Members John V. Kelly (R-Bergen/Essex/Passaic) and Paul DiGaetano (R-Bergen/Essex/Passaic) and Senator Garry J. Furnari (D-Bergen/Essex/Passaic), provides a grant of \$75,000 to create a study skills program in the East Rutherford Boro School District to address the needs of at-risk pupils. Pupils who are at-risk will be determined by using multiple indicators, including test scores, writing portfolios, teacher recommendations, and parental input. Funding will be utilized for staffing, teaching materials and other supplies. The bill makes a supplemental appropriation to the Fiscal Year 2000 budget.

A-1019, sponsored by Assembly Members Charles Zisa (D-Bergen) and Alan M. Augustine (R-Middlesex/Morris/Somerset/Union), and Senator Joseph A. Palaia (R-Monmouth), provides that commencing on September 1, 2002, any buildings and grounds supervisor employed by a school district must be a certified educational facilities manager. The bill directs the State Board of Education to issue rules and regulations to administer the program. The bill provides that a certified educational facilities manager must meet specific requirements, including having two years of experience in the field of buildings and grounds supervision and graduate as a certified educational facilities manager from the New Jersey Educational Facility Management Program at Rutgers University, or an equivalent program at an accredited institution of higher learning.

A-2993, sponsored by Assembly Members Gerald J. Luongo (R-Camden/Gloucester) and Senator Robert E. Littell (R-Sussex/Hunterdon/Morris), excludes bonds supported by open space, recreation, farmland or historic preservation taxes from calculation of gross debt of a county or municipality. Gross debt is a measure used under the Local Bond Law to derive the net debt of a county or municipality for purposes of establishing a county or municipal debt limit.

A-1445, sponsored by Assembly Members Jack Collins (R- Salem/Cumberland/Gloucester) and Marion Crecco (R-Essex/Passaic) and Senators Norman Robertson (R-Essex/Passaic) and Anthony R. Bucco (R- Morris), permits a police officer enrolled in the Police and Firemen's Retirement System to purchase up to three years of service credit based on inactive time between a point of no-fault layoff and the point of rehiring the employee.

A-2133, sponsored by Assembly Members John V. Kelly (R- Bergen/Essex/Passaic) and Joseph V. Doria, Jr. (D-Hudson), requires health insurers, including hospital service corporations, medical service corporations, health service corporations, commercial insurers and health maintenance organizations to provide health benefits coverage for annual mammograms for women aged 40 and over. Previous law provided for annual mammogram coverage for women 50 and over; women who are at least 40, but less than 50, were provided coverage for biannual examinations.

S-1503, sponsored by Senator Richard J. Codey (D-Essex) and Assembly Members John V. Kelly (R-Bergen/Essex/Passaic) and Paul DiGaetano (R-Bergen/Essex/Passaic), revises pension benefits and employee contribution rates for members of certain board of education pension funds.

A-2943, sponsored by Assembly Members Jack Collins (R-Cumberland/Gloucester/Salem) and Christopher Bateman (R-Morris/Somerset) and Senators Robert W. Singer (R-Burlington/Monmouth/Ocean) and Diane B. Allen (R-Burlington/Camden), requires the return of unearned premiums on a pro rata basis for canceled automobile insurance policies. Previous law only required an insurer to return unpaid premiums on a short rate basis, which is an amount less than the pro rata basis because a percentage of administrative costs are charged to the insured.

A-1706, sponsored by Assembly Member John V. Kelly (R-Bergen/Essex/Passaic) and Senators Robert W. Singer (R-Burlington/Monmouth/Ocean) and Louis F. Kosco (R-Bergen), establishes a procedure to be followed by landlords of commercial or residential property when disposing of tangible property left behind in premises that had been vacated by a tenant.

S-1062, sponsored by Senators William L. Gormley (R-Atlantic) and Edward T. O'Connor, Jr. (D-Hudson) and Assembly Members Richard A. Merkt (R-Morris) and Michael Patrick Carroll (R-Morris), establishes a procedure for dealing with lost or abandoned property.

A-3298, sponsored by Assembly Members John S. Wisniewski (D-Middlesex) and Gerald J. Luongo (R-Camden/Gloucester) and Senators Joseph F. Vitale (D-Middlesex) and Nicholas J. Sacco (D-Bergen/Hudson), allows for re-certification of the special district tax for school districts if the school district's surplus account is higher than estimated at the school election in certain circumstances.

S-1697, sponsored by Senators William L. Gormley (R-Atlantic) and Wayne R. Bryant (D-Camden/Gloucester) and Assembly Members James W. Holzapfel (R- Monmouth/Ocean) and Kenneth C. LeFevre (R-Atlantic), authorizes a court to issue a restraining order prohibiting a person charged with, convicted of or adjudicated delinquent for any drug distribution offense or any offense involving the use or possession of an assault weapon from returning to the place where the offense occurred.

A-960, sponsored by Assembly Member Alan M. Augustine (R- Middlesex/Morris/Somerset /Union), requires pet shops to refund the purchase price, reimburse any veterinary fees, or provide replacement for sick cats or dogs under certain circumstances.

S-1273, sponsored by Senators Robert W. Singer (R- Burlington/Monmouth/Ocean) and Robert W. Littell (R-Sussex/Hunterdon/Morris) and Assembly Members Charlotte Vandervalk (R- Bergen) and Nicholas R. Felice (R-Bergen/Passaic), permits HMO enrollees residing in certain retirement communities with nursing homes to continue to receive care at that nursing facility under certain circumstances.

A-1653, sponsored by Assembly Members John V. Kelly (R- Bergen/Essex/Passaic) and Neil M. Cohen (D-Union) and Senator Gerald Cardinale (R-Bergen), requires health insurers, including hospital service corporations, medical service corporation, health service corporations, commercial insurers and health maintenance organizations to provide insurance coverage benefits for health wellness examinations and counseling. The bill appropriates \$95,000 to the Department of Health and Senior Services for allocation to the Health Wellness Promotion Advisory Board to evaluate implementation of the provisions of the bill and to ensure awareness and utilization of the health promotion program by covered persons and health care providers.

A-2461, sponsored by Assembly Member Gary W. Stuhltrager (R-Salem/Cumberland/ Gloucester), extends the cap on tax liability on transfers of hazardous substances to certain successors in interest.