

54:39-101 to 54:39-149
LEGISLATIVE HISTORY CHECKLIST
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LAWS OF: 2010 **CHAPTER:** 22

NJSA: 54:39-101 to 54:39-149 (Concerns method of collection of tax on motor fuel, repeals former motor fuels tax)

BILL NO: A3014 (Substituted for S2136)

SPONSOR(S) DeCroce and others

DATE INTRODUCED: June 24, 2010

COMMITTEE: **ASSEMBLY:** Budget

SENATE: ---

AMENDED DURING PASSAGE: No

DATE OF PASSAGE: **ASSEMBLY:** June 28, 2010

SENATE: June 28, 2010

DATE OF APPROVAL: June 29, 2010

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (Introduced version of bill enacted)

A3014

SPONSOR'S STATEMENT: (Begins on page 50 of introduced bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes

SENATE: No

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL NOTE: Yes

S2136/A3072

SPONSOR'S STATEMENTS**S2136:** (Begins on page 50 of introduced bill) Yes

SPONSOR'S STATEMENT**A3072:** (Begins on page 50 of introduced bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: Yes

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL NOTE: Yes

(continued)

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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

OTHER Yes

974.90 T235, 1992

New Jersey State Commission of Investigation. Motor fuel tax evasion/State of New Jersey, Commission of Investigation. [Trenton, N.J.] : The Commission, [1992]

LAW/RWH

ASSEMBLY, No. 3014

STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED JUNE 24, 2010

Sponsored by:

Assemblyman ALEX DECROCE

District 26 (Morris and Passaic)

Assemblyman DAVID P. RIBLE

District 11 (Monmouth)

Co-Sponsored by:

Senator Oroho

SYNOPSIS

Concerns method of collection of tax on motor fuel; repeals former motor fuels tax.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/29/2010)

1 AN ACT concerning the taxation of motor fuels, supplementing
2 Chapter 39 of Title 54 of the Revised Statutes, amending
3 P.L.1990, c.42, P.L.1980, c.105, and P.L.1963, c.44, and
4 repealing parts of the statutory law.

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

8
9 1. (New section) Sections 1 through 49 of this act shall be
10 known and may be cited as the "Motor Fuel Tax Act."

11
12 2. (New section) For the purposes of P.L. , c. (C.)
13 (pending before the Legislature as this bill), the following terms
14 have the following meanings:

15 "Aviation fuel" means aviation gasoline or aviation grade
16 kerosene;

17 "Aviation fuel dealer" means a person that acquires aviation fuel
18 from a supplier or from another aviation fuel dealer for subsequent
19 sale;

20 "Aviation gasoline" means fuel specifically compounded for use
21 in reciprocating aircraft engines;

22 "Aviation grade kerosene" means any kerosene type jet fuel
23 covered by ASTM Specification D 1655 or meeting specification
24 MIL-DTL-5624T (Grade JP-5) or MIL-DTL-83133E (Grade JP-8);

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

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

35 "Blended fuel" means a mixture composed of motor fuel and
36 another liquid, including blend stock other than a de minimis
37 amount of a product such as carburetor detergent or oxidation
38 inhibitor, that can be used as a fuel in a highway vehicle. "Blended
39 fuel" includes but is not limited to gasohol, biodiesel, ethanol,
40 methanol, fuel grade alcohol, diesel fuel enhancers and resulting
41 blends;

42 "Blender" means a person that produces blended motor fuel
43 outside the terminal transfer system;

44 "Blending" means the mixing of one or more petroleum products,
45 with or without another product, regardless of the original character

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 of the product blended, if the product obtained by the blending is
2 capable of use or otherwise sold for use in the generation of power
3 for the propulsion of a motor vehicle, an airplane, or a motorboat.
4 The term does not include the blending that occurs in the process of
5 refining by the original refiner of crude petroleum or the blending
6 of products known as lubricating oil and greases, or the
7 commingling of products during transportation in a pipeline;

8 "Blocked pump" means a pump that, because of the pump's
9 physical limitations, for example, a short hose, cannot be used to
10 fuel a vehicle, or a pump that is locked by the vendor after each sale
11 and unlocked by the vendor in response to a request by a buyer for
12 undyed kerosene for use other than as a fuel in a diesel-powered
13 highway vehicle or train;

14 "Biodiesel" means any motor fuel or mixture of motor fuels that
15 is derived, in whole or in part, from agricultural products or animal
16 fats, or the wastes of such products or fats, and is advertised as,
17 offered for sale as, suitable for use or used as motor fuel in an
18 internal combustion engine;

19 "Bulk plant" means a bulk fuel storage and distribution facility
20 that is not a terminal within the terminal transfer system and from
21 which fuel may be removed by truck or rail car;

22 "Bulk transfer" means a transfer of fuel from one location to
23 another by pipeline tender or marine delivery within the terminal
24 transfer system;

25 "Consumer" means the ultimate user of fuel;

26 "Delivery" means the placing of fuel into the fuel tank of a motor
27 vehicle or into a bulk fuel storage and distribution facility;

28 "Diesel fuel" means a liquid that is commonly or commercially
29 known or sold as a fuel that is suitable for use in a diesel-powered
30 highway vehicle. A liquid meets this requirement if, without
31 further processing or blending, the liquid has practical and
32 commercial fitness for use in the propulsion engine of a
33 diesel-powered highway vehicle. "Diesel fuel" includes biodiesel,
34 number 1 and number 2 diesel;

35 "Diesel-powered motor vehicle" means a motor vehicle that is
36 propelled by a diesel-powered engine.

37 "Director" means the Director of the Division of Taxation in the
38 Department of the Treasury;

39 "Distributor" means a person who acquires fuel from a supplier,
40 permissive supplier or from another distributor for subsequent sale;

41 "Dyed fuel" means dyed diesel fuel or dyed kerosene that is
42 required to be dyed pursuant to United States Environmental
43 Protection Agency rules or is dyed pursuant to Internal Revenue
44 Service rules or pursuant to any other requirements subsequently set
45 by the United States Environmental Protection Agency or Internal
46 Revenue Service including any invisible marker requirements;

47 "Export" means to obtain fuel in this State for sale or other
48 distribution outside of this State. In applying this definition, fuel

1 delivered out-of-State by or for the seller constitutes an export by
2 the seller, and fuel delivered out-of-State by or for the purchaser
3 constitutes an export by the purchaser;

4 "Exporter" means any person, other than a supplier, who
5 purchases fuel in this State for the purpose of transporting or
6 delivering the fuel outside of this State;

7 "Fuel" means:

8 a. a liquid or gaseous substance commonly or commercially
9 known or sold as gasoline, regardless of its classification or use;
10 and

11 b. a liquid or gaseous substance used, offered for sale or sold
12 for use, either alone or when mixed, blended, or compounded,
13 which is capable of generating power for the propulsion of motor
14 vehicles upon the public highways;

15 "Fuel grade alcohol" means a methanol or ethanol with a proof of
16 not less than one hundred ninety degrees (determined without
17 regard to denaturants) and products derived from that methanol and
18 ethanol for blending with motor fuel;

19 "Fuel transportation vehicle" means any vehicle designed for
20 highway use which is also designed or used to transport fuel;

21 "Gasoline" means all products commonly or commercially
22 known or sold as gasoline that are suitable for use as a motor fuel.
23 Gasoline does not include products that have an ASTM octane
24 number of less than seventy-five as determined by the "motor
25 method," ASTM D2700-92. The term does not include racing
26 gasoline or aviation gasoline, but for administrative purposes does
27 include fuel grade alcohol;

28 "General aviation airport" means a civil airport located in this
29 State other than the international airports located in Newark and
30 Atlantic City;

31 "Gross gallons" means the total measured volume of fuel,
32 measured in U.S. gallons, exclusive of any temperature or pressure
33 adjustments;

34 "Import" means to bring fuel into this State by any means of
35 conveyance other than in the fuel supply tank of a motor vehicle. In
36 applying this definition, fuel delivered into this State from
37 out-of-State by or for the seller constitutes an import by the seller,
38 and fuel delivered into this State from out-of-State by or for the
39 purchaser constitutes an import by the purchaser;

40 "Import verification number" means the number assigned by the
41 director with respect to a single fuel transportation vehicle delivery
42 into this State from another state upon request for an assigned
43 number by an importer or the transporter carrying fuel into this
44 State for the account of an importer;

45 "Importer" includes any person who is the importer of record,
46 pursuant to federal customs law, with respect to fuel. If the
47 importer of record is acting as an agent, the person for whom the
48 agent is acting is the importer. If there is no importer of record of

1 fuel imported into this State, the owner of the fuel at the time it is
2 brought into this State from another state or foreign country is the
3 importer;

4 "Invoiced gallons" means the gallons actually billed on an
5 invoice for payment to a supplier which shall be either gross gallons
6 or net gallons on the original manifest or bill of lading;

7 "Kerosene" means the petroleum fraction containing
8 hydrocarbons that are slightly heavier than those found in gasoline
9 and naphtha, with a boiling range of one hundred forty-nine to three
10 hundred degrees Celsius;

11 "Liquefied petroleum gas dealer" means a person who acquires
12 liquefied petroleum gas for subsequent sale to a consumer and
13 delivery into the vehicle fuel supply tank;

14 "Liquid" means any substance that is liquid in excess of sixty
15 degrees Fahrenheit and at a pressure of fourteen and seven-tenths
16 pounds per square inch absolute;

17 "Motor fuel" means gasoline, diesel fuel, kerosene and blended
18 fuel;

19 "Motor vehicle" means an automobile, truck, truck-tractor or any
20 motor bus or self-propelled vehicle not exclusively operated or
21 driven upon fixed rails or tracks. "Motor vehicle" does not include
22 tractor-type, motorized farm implements and equipment but does
23 include motor vehicles of the truck-type, pickup truck-type,
24 automobiles, and other vehicles required to be registered and
25 licensed each year pursuant to the provisions of the motor vehicle
26 license and registration laws of this State. "Motor vehicle" does not
27 include tractors and machinery designed for off-road use but
28 capable of movement on roads at low speeds;

29 "Net gallons" means the total measured volume of fuel,
30 measured in U.S. gallons, when corrected to a temperature of sixty
31 degrees Fahrenheit and a pressure of fourteen and seven-tenths
32 pounds per square inch absolute;

33 "Permissive supplier" means an out-of-State supplier that elects,
34 but is not required, to have a supplier's license pursuant to
35 P.L. , c. (C.)(pending before the Legislature as this bill);

36 "Person" means an individual, a partnership, a limited liability
37 company, a firm, an association, a corporation, estate, trustee,
38 business trust, syndicate, this State, a county, city, municipality,
39 school district or other political subdivision of this State, or any
40 corporation or combination acting as a unit or any receiver
41 appointed by any state or federal court;

42 "Position holder" means the person who holds the inventory
43 position in fuel in a terminal, as reflected on the records of the
44 terminal operator. A person holds the inventory position in fuel
45 when that person has a contract with the terminal operator for the
46 use of storage facilities and terminating services for fuel at the
47 terminal. The term includes a terminal operator who owns fuel in
48 the terminal;

1 "Propel" means operate the drive engine of a motor vehicle,
2 whether the vehicle is in motion or at rest;

3 "Qualified terminal" means a terminal which has been assigned a
4 terminal control number by the federal Internal Revenue Service;

5 "Rack" means a mechanism for delivering fuel from a refinery or
6 terminal into a railroad tank car, a fuel transportation vehicle or
7 other means of transfer outside of the terminal transfer system;

8 "Racing gasoline" means gasoline that contains lead, has an
9 octane rating of 110 or higher, does not have detergent additives,
10 and is not suitable for use as a motor fuel in a motor vehicle used on
11 public highways;

12 "Refiner" means a person that owns, operates, or otherwise
13 controls a refinery;

14 "Refinery" means a facility used to produce fuel from crude oil,
15 unfinished oils, natural gas liquids, or other hydrocarbons and from
16 which fuel may be removed by pipeline, by ship or barge, or at a
17 rack;

18 "Removal" means any physical transfer of fuel from a terminal,
19 manufacturing plant, pipeline, ship or barge, refinery, from customs
20 custody, or from a facility that stores fuel;

21 "Retail dealer" means a person that engages in the business of
22 selling or dispensing motor fuel to the consumer within this State;

23 "Supplier" means a person that is:

24 a. registered or required to be registered pursuant to section
25 4101 of the federal Internal Revenue Code of 1986 (26 U.S.C.
26 s.4101) for transactions in fuels in the terminal transfer system; and

27 b. satisfies one or more of the following:

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

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

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

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

39 "Supplier" also means a person that produces fuel grade alcohol
40 or alcohol-derivative substances in this State, produces fuel grade
41 alcohol or alcohol-derivative substances for import to this State into
42 a terminal, or acquires upon import by truck, rail car or barge into a
43 terminal, fuel grade alcohol or alcohol-derivative substances.

44 "Supplier" includes a permissive supplier unless the "Motor Fuel
45 Tax Act," P.L. , c. (C.) (pending before the Legislature as
46 this bill) specifically provides otherwise;

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

48 a. which is a qualified terminal,

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

1 "Undyed diesel fuel" means diesel fuel that is not subject to the
2 federal Environmental Protection Agency dyeing requirements, or
3 has not been dyed in accordance with federal Internal Revenue
4 Service fuel dyeing provisions;

5 "Undyed kerosene" means kerosene that is not subject to the
6 federal Environmental Protection Agency dyeing requirements, or
7 has not been dyed in accordance with federal Internal Revenue
8 Service fuel dyeing provisions; and

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

11

12 3. (New section) a. A tax is imposed on fuel used or
13 consumed in this State as follows:

14 (1) Motor fuel:

15 (a) at the rate of 10.5 cents per gallon for:

16 gasoline and

17 blended fuel that contains gasoline or that is intended for use
18 as gasoline;

19 (b) at the rate of 13.5 cents per gallon for:

20 diesel fuel,

21 blended fuel that contains diesel fuel or that is intended for
22 use as diesel fuel, and

23 kerosene other than aviation grade kerosene;

24 (2) Liquefied Petroleum Gas:

25 at the rate of one-half of the tax imposed under subsection a.
26 of this section on gasoline, or 5.25 cents per gallon;

27 (3) Aviation gasoline:

28 at the rate of 10.5 cents per gallon.

29 b. In addition to the tax, if any, imposed pursuant to subsection
30 a. of this section a tax is imposed on aviation fuel distributed to a
31 general aviation airport at the rate of 2 cents per gallon.

32 c. The taxes imposed by this section are imposed on the
33 consumer, but shall be precollected pursuant to the terms of the
34 "Motor Fuel Tax Act," P.L. , c. (C.) (pending before the
35 Legislature as this bill), for the facility and convenience of the
36 consumer.

37

38 4. (New section) a. The tax imposed by section 3 of
39 P.L. , c. (C.) (pending before the Legislature as this bill) on
40 the use of motor fuel and aviation gasoline shall be measured by
41 invoiced gallons of fuel removed, other than by a bulk transfer:

42 (1) From the terminal transfer system within this State;

43 (2) From the terminal transfer system outside this State for
44 delivery to a location in this State as represented on the shipping
45 papers, provided that the supplier imports the motor fuel or aviation
46 gasoline for the account of the supplier, or the supplier has made a
47 tax precollection election pursuant to section 18 of

1 P.L. , c. (C.) (pending before the Legislature as this bill);
2 and
3 (3) Upon sale in a terminal or refinery in this State to a person
4 not holding a supplier's or permissive supplier's license.
5 b. Except as provided in paragraph (2) of subsection a. of this
6 section, the tax imposed by section 3 of P.L. , c. (C.)
7 (pending before the Legislature as this bill) on the use of motor fuel
8 and aviation gasoline which is imported into this State, other than
9 by a bulk transfer, is payable at the time the product is imported
10 into the State and shall be measured by invoiced gallons received
11 outside this State at a refinery, terminal or at a bulk plant for
12 delivery to a destination in this State.
13 c. The tax imposed by section 3 of P.L. , c. (C.)
14 (pending before the Legislature as this bill) on blended fuel made in
15 this State is payable by the blender at the point the blended fuel is
16 made in this State outside of the terminal transfer system. The tax
17 imposed by section 3 of P.L. , c. (C.) (pending before the
18 Legislature as this bill) on blended fuel imported into this State is
19 payable by the importer of that blended fuel, provided the tax
20 imposed section 3 of P.L. , c. (C.) (pending before the
21 Legislature as this bill) has not already been paid to a permissive
22 supplier through a precollection agreement. The number of gallons
23 of blended fuel on which the tax shall be imposed shall be equal to
24 the difference between the number of gallons of blended fuel made
25 and the number of gallons of motor fuel that was previously taxed
26 by section 3 of P.L. , c. (C.) (pending before the Legislature
27 as this bill) and used to make the blended fuel.
28 d. The tax imposed on aviation fuel by subsection b. of section
29 3 of P.L. , c. (C.) (pending before the Legislature as this
30 bill) is payable by the person purchasing or acquiring the aviation
31 fuel within this State and shall be precollected by the Aviation Fuel
32 Dealer or Supplier making the sale. A person, whether or not
33 licensed under P.L. , c. (C.), who uses, acquires for use,
34 sells or delivers for use in motor vehicles any aviation fuel taxable
35 pursuant to P.L. , c. (C.) shall be liable for the tax imposed
36 by subsection a. of section 3 of P.L. , c. (C.) (pending before
37 the Legislature as this bill) as if the aviation fuel were gasoline or
38 kerosene defined as motor fuel
39 e. The tax imposed by section 3 of P.L. , c. (C.)
40 (pending before the Legislature as this bill) on liquefied petroleum
41 gas is payable by the person purchasing or acquiring the liquefied
42 petroleum gas within this State for use in a motor vehicle and shall
43 be precollected by the liquefied petroleum gas dealer making the
44 sale. A person, whether or not licensed under P.L. , c. (C.),
45 who uses, acquires for use, sells or delivers for use in motor
46 vehicles any liquefied petroleum gas taxable pursuant to
47 P.L. , c. (C.) shall be liable for the tax imposed by

1 subsection a. of section 3 of P.L. , c. (C.) along with
2 applicable penalties.

3
4 5. (New section) a. A supplier, permissive supplier, importer,
5 exporter, blender, distributor, liquefied petroleum gas dealer, or
6 aviation fuel dealer shall keep a record of all fuel received, sold or
7 used which shall include the name of the purchaser, the number of
8 gallons used or sold and the date of the use or sale. A supplier,
9 permissive supplier, importer, exporter, blender, distributor,
10 liquefied petroleum gas dealer, or aviation fuel dealer shall also
11 deliver with each consignment of fuel to a purchaser within this
12 State a written statement containing the date and number of gallons
13 delivered and the names of the purchaser and seller, and that
14 statement shall show a separate charge for the tax imposed by
15 section 3 of P.L. , c. (C.)(pending before the Legislature as this
16 bill) tax on each gallon; provided however, that a statement shall
17 not be required to be delivered by the supplier, permissive supplier,
18 importer, exporter, blender, distributor, liquefied petroleum gas
19 dealer, or aviation fuel dealer if a sale of fuel is made at a service
20 station and the fuel is delivered directly into a vehicle fuel supply
21 tank. The records and written statements shall be preserved by a
22 supplier, permissive supplier, importer, exporter, blender,
23 distributor, liquefied petroleum gas dealer, or aviation fuel dealer
24 and the purchaser respectively, for a period of four years and shall
25 be offered for inspection at the request of the director.

26 b. A supplier, permissive supplier, importer, exporter, blender,
27 distributor, liquefied petroleum gas dealer, or aviation fuel dealer
28 shall take a physical inventory of fuel on hand on the first or last
29 day of each month and shall have the record of that inventory and of
30 all other matters enumerated in this section available at all times for
31 inspection by the director. Upon demand by the director each
32 supplier, permissive supplier, importer, exporter, blender,
33 distributor, liquefied petroleum gas dealer, and aviation fuel dealer
34 shall furnish a statement under oath reflecting the contents of any
35 records required to be kept by this section.

36 c. Each supplier, permissive supplier, importer, exporter,
37 blender, distributor, liquefied petroleum gas dealer, or aviation fuel
38 dealer shall, on or before the 22nd day of each month, render a
39 report to the director, in the form and manner prescribed by the
40 director, stating the number of gallons of fuel sold or used in this
41 State by that person during the preceding calendar month. Upon
42 application to the director, the period within which a report must be
43 made may be extended up to an additional 10 days, if deemed
44 advisable by the director. A tax at the rate imposed by section 3 of
45 P.L. , c. (C.) (pending before the Legislature as this bill)
46 shall be paid by each supplier, permissive supplier, importer,
47 exporter, blender, distributor, liquefied petroleum gas dealer, or
48 aviation fuel dealer, on the number of gallons of fuel sold or used in

1 this State by that person during the preceding calendar month and
2 not exempted from taxation, the payment to accompany the filing of
3 the report. The report shall contain further information as the
4 director may prescribe or determine.

5 d. If a supplier, permissive supplier, importer, exporter,
6 blender, distributor, liquefied petroleum gas dealer, or aviation fuel
7 dealer shall fail, neglect or refuse to file the report within the time
8 prescribed by this section, the director shall note that failure,
9 neglect or refusal upon the director's records, and may estimate the
10 sales, distribution and use of that supplier, permissive supplier,
11 importer, exporter, blender, distributor, liquefied petroleum gas
12 dealer, or aviation fuel dealer, assessing the tax thereon, and adding
13 to that assessed tax a penalty of 20% thereof for failure, neglect or
14 refusal to report, and that estimate shall be prima facie evidence of
15 the true amount of tax due to the director from the supplier,
16 permissive supplier, importer, exporter, blender, distributor,
17 liquefied petroleum gas dealer, or aviation fuel dealer; provided that
18 if a good and sufficient cause or reason is shown for a delinquency,
19 the director may remit or waive the payment of the whole or any
20 part of the penalty, as allowed by the State Uniform Tax Procedure
21 Law, R.S.54:48-1 et seq. Reports required by this section,
22 exclusive of schedules, itemized statements and other supporting
23 evidence annexed to those reports, shall at all reasonable times be
24 open to the public, notwithstanding any provision of R.S.54:50-8 to
25 the contrary.

26

27 6. (New section) a. Each supplier, permissive supplier,
28 importer, exporter, blender, distributor, liquefied petroleum gas
29 dealer, or aviation fuel dealer who sells aviation fuel for distribution
30 to general aviation airports shall, on or before the 22nd day of each
31 month, render a report to the director, stating the number of gallons
32 of aviation gasoline, sold in this State by that person for distribution
33 to general aviation airports during the preceding month. In addition
34 to the provisions of section 4 of P.L. , c. (C.) (pending
35 before the Legislature as this bill) and except as otherwise provided
36 in section 12 of P.L. , c. (C.) (pending before the Legislature
37 as this bill), the tax of 2 cents per gallon as imposed by subsection
38 b. of section 3 of P.L. , c. (C.) (pending before the
39 Legislature as this bill) on each gallon of aviation gasoline so
40 reported shall be paid by each supplier, permissive supplier,
41 importer, exporter, blender, distributor, liquefied petroleum gas
42 dealer, or aviation fuel dealer, the payment to accompany the filing
43 of the report.

44 b. Each supplier, permissive supplier, importer, exporter,
45 blender, distributor, liquefied petroleum gas dealer, or aviation fuel
46 dealer who sells turbine fuels for distribution to general aviation
47 airports shall, on or before the 22nd day of each month, render a
48 report to the director, stating the number of gallons of aviation

1 grade kerosene sold by that person for distribution to general
2 aviation airports during the preceding month. Except as otherwise
3 provided by section 12 of P.L. , c. (C.) (pending before the
4 Legislature as this bill), the tax of 2 cents per gallon imposed under
5 subsection b. of section 3 of P.L. , c. (C.) (pending before
6 the Legislature as this bill) on each gallon of aviation grade
7 kerosene so reported shall be paid by each supplier, permissive
8 supplier, importer, exporter, blender, distributor, liquefied
9 petroleum gas dealer, or aviation fuel dealer, the payment to
10 accompany the filing of the report.

11 c. If a supplier, permissive supplier, importer, exporter,
12 blender, distributor, liquefied petroleum gas dealer, or aviation fuel
13 dealer shall fail, neglect or refuse to file the report within the time
14 prescribed by this section, the director shall note such failure,
15 neglect or refusal upon the director's records, and may estimate the
16 sales, distribution and use of that supplier, permissive supplier,
17 importer, exporter, blender, distributor, liquefied petroleum gas
18 dealer, or aviation fuel dealer, assessing the tax thereon, and adding
19 to that assessed tax a penalty of 20% thereof for failure, neglect or
20 refusal to report, and that estimate shall be prima facie evidence of
21 the true amount of tax due to the director from the supplier,
22 permissive supplier, importer, exporter, blender, distributor,
23 liquefied petroleum gas dealer, or aviation fuel dealer provided that
24 if a good and sufficient cause or reason is shown for a delinquency,
25 the director may remit or waive the payment of the whole or any
26 part of the penalty, as allowed by the State Uniform Tax Procedure
27 Law, R.S.54:48-1 et seq. Reports required by this section,
28 exclusive of schedules, itemized statements and other supporting
29 evidence annexed to those reports, shall at all reasonable times be
30 open to the public, notwithstanding any provision of R.S.54:50-8 to
31 the contrary.

32 d. The monthly filing provisions of this section
33 notwithstanding, the director may require payments of tax liability
34 at intervals and based upon those classifications as the director may
35 prescribe by regulation. In prescribing those other periods to be
36 covered by the return or intervals or classifications for payment of
37 tax liability, the director may take into account the dollar volume of
38 tax involved and the need for assuring the prompt and orderly
39 collection of the taxes imposed.

40 e. The refund provisions of section 12 of P.L. ,c.
41 (C.)(pending before the Legislature as this bill) shall not apply to
42 amounts paid pursuant to this section. However, a user of general
43 aviation aircraft shall be allowed a refund or credit of the tax
44 imposed by subsection a. of section 3 of P.L. , c. (C.)(pending
45 before the Legislature as this bill), provided the user complies with
46 the provisions of section 12 of P.L. , c. (C.)(pending before
47 the Legislature as this bill).

1 7. (New section) a. (1) Transporter reports shall cover monthly
2 periods and shall be submitted within 30 days after the close of the
3 month covered by the reports. The transporter reports shall show
4 all quantities of fuel delivered at points in the State or from points
5 inside the State to points outside of the State during the month,
6 giving the name and address of the consignor, the name and address
7 of the consignee, place at which delivered, the date of shipment, the
8 date of delivery, the numbers and initials of the car if shipped by
9 rail, the name of the boat or barge, if shipped by water, or if
10 delivery by other means, the method of delivery and the number of
11 gallons in each shipment.

12 (2) The director shall have the right at any time during normal
13 business hours to inspect the books of a transporter to determine if
14 the requirements of this section are being properly complied with.

15 (3) Each person engaged in the business of hauling, transporting
16 or delivering fuel shall, before entering upon the highways or
17 waterways of this State with any conveyance used therein, apply to
18 the director for the registration of a fuel conveyance on forms as the
19 director shall prescribe. Upon receipt of an application, the director
20 shall issue a license certificate and license plate for each
21 conveyance which shall show the license number assigned and
22 which shall be displayed on the conveyance at all times in such a
23 manner as the director may regulate. An annual license fee of \$50
24 shall be paid for the licensing of each such conveyance. Nothing in
25 this section shall in any manner relieve or discharge persons
26 obtaining licenses pursuant to this section from complying with
27 provisions of other laws.

28 (4) A person coming into this State in a motor vehicle may
29 transport in the vehicle fuel supply tank, for the propulsion thereof,
30 fuel without paying the tax, securing the license, or making any
31 report required under P.L. , c. (C.)(pending before the
32 Legislature as this bill).

33 b. (1) The driver of a conveyance shall have in the driver's
34 possession at all times while hauling, distributing or transporting
35 fuel, a delivery ticket or other form approved by the director, which
36 shall show the true names of the consignor and consignee and such
37 information as the director may prescribe by regulation. The
38 director or any police officer may stop a conveyance to determine if
39 the provisions of this section are being complied with.

40 (2) The person in charge of any barge, tanker or other vessel in
41 which fuel is being transported, or of a tank truck, truck tractor,
42 semitrailer, trailer, or other vehicle used in transporting fuels other
43 than fuel being transported for use in operating the engine which
44 propels the vessel or vehicle, shall have in that person's possession
45 an invoice, bill of sale or other evidence showing the name and
46 address of the consignor or person from whom that fuel was
47 received by the person in charge and the name and address of the
48 consignee or person to whom the person in charge is to make

1 delivery of the fuel, together with the number of gallons to be
2 delivered to that person, and shall at the request of the director
3 produce that invoice, bill of sale or other record evidence for
4 inspection.

5 c. (1) A barge, tanker, or other vessel so used for the
6 transportation of fuel shall be plainly and visibly marked on both
7 sides thereof and above the water line with the word "gasoline," or
8 other name of the fuel being transported, in letters at least eight
9 inches high and of corresponding appropriate width. An owner or
10 lessee violating the provisions of this paragraph shall be guilty of a
11 crime of the fourth degree.

12 (2) A tank truck, truck tractor, semitrailer, or trailer used in
13 transporting fuels shall affix to the rear of the truck or trailers a sign
14 which shall indicate in letters not less than four inches high and of
15 corresponding appropriate width, the type of fuel being transported.
16 An owner or lessee violating the provisions of this section shall be
17 punished by imprisonment for not more than six months, or by a
18 fine of not more than \$500, or by both.

19 d. The license cards issued for the operation over the highways
20 or waterways of this State of any conveyance used for the
21 transportation or hauling of fuels may be suspended or revoked
22 upon reasonable grounds by the director in the same manner as
23 other licenses may be suspended or revoked by the director under
24 the provisions of P.L. , c. (C.)(pending before the Legislature
25 as this bill).

26

27 8. (New section) a. A retail dealer, an aviation fuel dealer and
28 a liquefied petroleum gas dealer shall, before engaging in the retail
29 sale of fuel, apply to the director for a license for each
30 establishment operated by that person. A license fee of \$150 shall
31 be paid for the issuance of a retail license, which shall be valid for
32 a three-year period, and the director shall supply a license plate or
33 suitable substitute containing the number assigned to the licensee,
34 and words denoting whether the license is a retail dealer's license,
35 an aviation fuel dealer's license or a liquefied petroleum gas
36 dealer's license, which the licensee shall publicly display at each
37 establishment in the manner as the director shall prescribe. No
38 applicant shall continue in business after the end of the 14th day
39 following the date of application unless the license applied for has
40 been procured and is publicly displayed at the establishment being
41 operated.

42 (2) A retail dealer, liquefied petroleum gas dealer and an
43 aviation fuel dealer shall keep a daily record showing the total
44 amount of fuels sold on each business day, daily dispensing pump
45 totalizer readings, and monthly physical inventories, such records to
46 be preserved for a period of four years, and to be open for
47 inspection by the director at all times.

1 9. (New section) a. A person shall, before engaging in the
2 business of a terminal operator, obtain a terminal operator's license
3 from the director.

4 b. A terminal operator shall, on or before the last day of each
5 month, render a report to the director, in such form as the director
6 may prescribe, stating the quantities of fuel received at the terminal
7 in the State or sold from it during the preceding month.

8 At the discretion of the director, a terminal operator's report as
9 submitted under the federal ExSTARS reporting system may be
10 accepting in lieu of the terminal operator's report required under
11 this subsection.

12 c. The director shall have the right at any time during normal
13 business hours to inspect the books of a terminal operator to
14 determine if the requirements of this act are being properly
15 observed.

16 d. The director may require those returns to be filed, in the
17 form and manner, and at the intervals, that the director may
18 prescribe by regulation.

19

20 10. (New section) a. Except as otherwise provided in this act,
21 all fuel delivered in this State in a vehicle fuel supply tank is
22 presumed to be used or consumed on the highways in this State in
23 producing or generating power for propelling motor vehicles.

24 b. Subject to proof of exemption pursuant to section 13 of
25 P.L. , c. (C.) (pending before the Legislature as this bill), all
26 motor fuel is presumed to be used or consumed on the highways of
27 this State to propel motor vehicles if the fuel is:

28 (1) removed from a terminal in this State; or

29 (2) imported into this State other than by a bulk transfer within
30 the terminal transfer system; or

31 (3) delivered into a consumer's bulk storage tank from which
32 motor vehicles can be fueled.

33

34 11. (New section) a. An excise tax at the applicable rate
35 determined pursuant to section 3 of P.L. , c. (C.) (pending
36 before the Legislature as this bill) is imposed for a calendar year on
37 unaccounted-for fuel losses at a terminal that exceed one-half of
38 one percent of the total number of net gallons removed from the
39 terminal during the calendar year by a system transfer or at a rack.
40 To determine liability for the excise tax, the terminal operator shall
41 determine the terminal loss as the difference between :

42 (1) the total amount of all fuel in inventory at the applicable
43 terminal at the beginning of the year plus the total amount of all
44 fuel received at the terminal during the year; and

45 (2) the total amount of all fuel in inventory at the terminal at the
46 end of the year plus the total amount of all fuel removed from the
47 terminal during the year.

1 b. The terminal operator whose fuel is unaccounted for is liable
2 for the tax imposed by this section. Fuel received by a terminal
3 operator and not shown on a report as having been removed from
4 the terminal is presumed to be unaccounted for if not part of the
5 physical inventory of the terminal. A terminal operator may
6 provide documentation to substantiate otherwise unaccountable
7 losses and at the discretion of the director may be relieved of all or
8 a portion of the tax liability.

9 c. The tax at the applicable rate determined pursuant to section
10 3 of P.L. , c. (C.) (pending before the Legislature as this
11 bill) shall be reported, and the tax shall be due and payable, on or
12 before the 22nd day of the second month following the end of the
13 year.

14

15 12. (New section) a. Fuel used for the following purposes is
16 exempt from the tax imposed by the "Motor Fuels Tax Act,"
17 P.L. , c. (C....) (pending before the Legislature as this bill), and
18 a refund may be claimed by the consumer providing proof the tax
19 has been paid and no refund has been previously issued:

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

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

42 (3) farm machinery,

43 (4) aircraft,

44 (5) ambulances,

45 (6) rural free delivery carriers in the dispatch of their official
46 business,

47 (7) vehicles that run only on rails or tracks, and such vehicles as
48 run in substitution therefore,

- 1 (8) highway motor vehicles that are operated exclusively on
- 2 private property,
- 3 (9) motor boats or motor vessels used exclusively for or in the
- 4 propagation, planting, preservation and gathering of oysters and
- 5 clams in the tidal waters of this State,
- 6 (10) motor boats or motor vessels used exclusively for
- 7 commercial fishing,
- 8 (11) motor boats or motor vessels, while being used for hire for
- 9 fishing parties or being used for sightseeing or excursion parties,
- 10 (12) cleaning,
- 11 (13) fire engines and fire-fighting apparatus,
- 12 (14) stationary machinery and vehicles or implements not
- 13 designed for the use of transporting persons or property on the
- 14 public highways,
- 15 (15) heating and lighting devices,
- 16 (16) motor boats or motor vessels used exclusively for Sea Scout
- 17 training by a duly chartered unit of the Boy Scouts of America,
- 18 (17) emergency vehicles used exclusively by volunteer first-aid
- 19 or rescue squads, and
- 20 (18) three cents per gallon, the difference between the rate of tax
- 21 on diesel fuel and the rate of tax on gasoline, for diesel fuel used by
- 22 passenger automobiles and motor vehicles of less than 5,000 pounds
- 23 gross weight.
- 24 b. Subject to the procedural requirements and conditions set
- 25 out in the "Motor Fuels Tax Act," P.L. , c. (C.), the
- 26 following uses are exempt from the tax imposed by section 3 of
- 27 P.L. , c. (C.) (pending before the Legislature as this bill) on
- 28 fuel, and a deduction or a refund may be claimed by the supplier,
- 29 permissive supplier or licensed distributor:
- 30 (1) fuel for which proof of export, satisfactory to the director, is
- 31 available and is either:
- 32 (a) removed by a licensed supplier for immediate export to a
- 33 state in which the supplier has a valid license;
- 34 (b) removed from a terminal by a licensed exporter for
- 35 immediate export as evidenced by the terminal issued shipping
- 36 papers; or
- 37 (c) acquired by a licensed distributor and which the tax imposed
- 38 by P.L. , c. (C.) (pending before the Legislature as this bill)
- 39 has previously been paid or accrued either as a result of being
- 40 stored outside of the bulk transfer system immediately prior to
- 41 loading or as a diversion across state boundaries properly reported
- 42 in conformity with P.L. , c. (C.) (pending before the
- 43 Legislature as this bill) and was subsequently exported from this
- 44 State on behalf of the distributor;
- 45 The exemption pursuant to subparagraphs (a) and (b) of this
- 46 paragraph shall be claimed by a deduction on the report of the
- 47 supplier which is otherwise responsible for remitting the tax upon
- 48 removal of the product from a terminal or refinery in this State. The

- 1 exemption pursuant to subparagraph (c) of this paragraph shall be
2 claimed by the distributor, upon a refund application made to the
3 director within six months of the licensed distributor's acquisition
4 of the fuel;
- 5 (2) undyed kerosene sold to a licensed ultimate vendor - blocked
6 pumps if the licensed ultimate vendor - blocked pumps does not sell
7 the kerosene through dispensers that have been designed and
8 constructed to prevent delivery directly from the dispenser into a
9 motor vehicle fuel supply tank, the ultimate vendor - blocked
10 pumps shall be responsible for the tax imposed by section 3 of
11 P.L. , c. (C.) (pending before the Legislature as this bill) at
12 the diesel fuel rate. Exempt use of undyed kerosene shall be
13 governed by rules and regulations of the director. If rules or
14 regulations are not promulgated by the director, then the exempt use
15 of undyed kerosene shall be governed by rules and regulations of
16 the Internal Revenue Service. An ultimate vendor-blocked pumps
17 who obtained undyed kerosene upon which the tax levied by section
18 3 of P.L. , c. (C.) (pending before the Legislature as this bill)
19 had been paid and makes sales qualifying pursuant to this
20 subsection may apply for a refund of the tax pursuant to an
21 application, as provided by section 14 of P.L. , c. (C.)
22 (pending before the Legislature as this bill), to the director provided
23 the ultimate vendor-blocked pumps did not charge that tax to the
24 consumer;
- 25 (3) fuel sold to the United States or any agency or
26 instrumentality thereof, and to the State of New Jersey and its
27 political subdivisions, departments and agencies;.
- 28 (4) aviation fuel sold to a licensed aviation fuel dealer;
- 29 (5) liquefied petroleum gas except when sold by a liquefied
30 petroleum gas dealer to someone who is not licensed as a liquefied
31 petroleum gas dealer;
- 32 (6) motor fuel on which tax has been paid under this act that is
33 later contaminated with dyed fuel making it unsuitable for taxable
34 use. This credit or refund is limited to the remaining portion of
35 taxed fuel in the contaminated mixture and is conditioned upon
36 submitting to the director adequate documentation that the
37 contaminated mixture was subsequently used in an exempt manner;
- 38 (7) fuel on which tax has been paid pursuant to
39 P.L. , c. (C.) (pending before the Legislature as this bill) that
40 is either subsequently delivered back into the terminal transfer
41 system for further distribution or delivered to a refinery for further
42 processing;
- 43 (8) fuel on which tax has been previously imposed and paid
44 pursuant to section 3 of P.L. , c. (C.) (pending before the
45 Legislature as this bill) and which is either subsequently exported,
46 sold or distributed in this State in a manner which would result in a
47 second tax being owed. If there is a second taxable distribution or

1 sale, the party responsible for remittance of the second tax shall be
2 the party eligible for claiming the refund or deduction.

3
4 13. (New section). The exemption under section 12 of
5 P.L. , c. (C.) (pending before the Legislature as this bill) for
6 sales of fuel sold for use by the United States or any agency or
7 instrumentality thereof and fuel sold for use by the Government of
8 this State, or of any political subdivision of this State or to any
9 department or agency of any of the those governments for official
10 use of those governments in motor vehicles, motor boats, or other
11 implements owned or leased by this State or any political
12 subdivision or agency thereof, or to fuels sold at retail to diplomatic
13 missions and diplomatic personnel under a program administered by
14 the director and predicated upon the United States Department of
15 State, Office of Foreign Missions (or its successor office), national
16 tax exemption program shall be claimed as follows:

17 a. The seller shall obtain from the purchasing entity a
18 certificate in such form as the director may by regulation prescribe
19 signed by the purchasing entity listed in this section setting forth:

20 (1) The name and address of the purchasing entity;

21 (2) The quantity of fuel, or if the certificate is for all the fuel
22 purchased by the purchasing entity, the certificate shall be for a
23 period as the director may by regulation prescribe, but not to exceed
24 four years;

25 (3) The exempt use of the fuel;

26 (4) The name and address of the seller from whom the fuel was
27 purchased;

28 (5) The federal employer identification number of the
29 purchasing entity; and

30 (6) A statement that the purchasing entity understands that the
31 fraudulent use of the certificate to obtain fuel without paying the tax
32 levied pursuant to P.L. , c. (C.) (pending before the
33 Legislature as this bill) shall result in the purchaser paying the tax,
34 with penalties and interest, as well as such other penalties provided
35 by P.L. , c. (C.) (pending before the Legislature as this bill);

36 b. The seller, having obtained from the purchasing entity the
37 certificate, which the seller shall retain for a period of not less than
38 four years, shall be eligible for a deduction or to claim a refund of
39 any taxes paid pursuant to P.L. , c. (C.) (pending before the
40 Legislature as this bill); and

41 c. If the sale of fuel to the purchasing entity occurs at a fixed
42 retail pump available to the general public, the seller, having made
43 the sale to the purchasing entity without the tax, may apply for a
44 refund from the director by submitting the application and
45 supporting documentation as the director shall reasonably prescribe.
46 However, if the purchase is charged to a fleet or government fueling
47 credit card, or to an oil company credit card issued to the
48 purchasing entity, the party extending the credit shall be deemed the

1 seller and may bill the purchasing entity without the tax and seek a
2 refund, or use the provisions of this section.

3
4 14. (New section) a. To claim a refund in accordance with
5 section 12 of P.L. , c. (C.) (pending before the Legislature
6 as this bill), a person shall present to the director a statement
7 containing a written verification that the claim is made under
8 penalties of perjury and listing the total amount of fuel purchased
9 and used for exempt purposes. A claim shall not be transferred or
10 assigned and shall be filed not more than four years after the date
11 the fuel was imported, removed or sold if the claimant is a supplier,
12 importer, exporter or distributor. If the claim is filed by the
13 consumer, the consumer shall file the claim within six months of
14 the date of purchase. The claim statement shall be supported by the
15 original sales slip, invoice or other documentation as approved by
16 the director and shall include the following information:

- 17 (1) Date of sale;
18 (2) Name and address of purchaser;
19 (3) Name and address of seller;
20 (4) Number of gallons purchased and base price per gallon;
21 (5) Number of gallons purchased and charged New Jersey fuel
22 tax, as a separate item;
23 (6) Number of gallons purchased and charged sales tax, if
24 applicable, as a separate item; and
25 (7) Marked "paid" by the seller.

26 b. If the original sales slip or invoice is lost or destroyed, a
27 statement to that effect shall accompany the claim for refund, and
28 the claim statement shall also set forth the serial number of the
29 invoice. If the director finds the claim is otherwise regular, the
30 director may allow such claim for refund.

31 c. The director may make any investigation necessary before
32 refunding the fuel tax to a person and may investigate a refund after
33 the refund has been issued and within the period in which a
34 deficiency may be assessed pursuant to R.S.54:49-6.

35 d. In the case of a refund payable to a supplier pursuant to
36 section 12 of P.L. , c. (C.) (pending before the Legislature as
37 this bill), the supplier may claim a credit in lieu of the the refund
38 for a period not to exceed four years from the date the fuel was
39 imported, removed or sold.

40 e. (1) To establish the validity of claims filed, the claimant
41 shall maintain and preserve for a period of at least four years such
42 fuel consumption records as may be prescribed by the director. The
43 director may require a claimant to furnish such additional proof of
44 the validity of a claim as the director may determine, and may
45 examine the books and records of the claimant for such purpose.
46 Failure of the claimant to maintain and preserve such records,
47 furnish such additional proof or to accede to the demand for such
48 examination by the director shall constitute a waiver of all rights to

1 the claim or claims questioned and such subsequent claims as the
2 director may determine.

3 f. Motor fuel tax that has been paid more than once with
4 respect to the same gallon of fuel shall be refunded by the director
5 to the person who last paid the tax after the subsequent taxable
6 event upon submitting proof satisfactory to the director.

7 g. Fuel tax that has otherwise been erroneously paid by a
8 person shall be refunded by the director upon proof shown
9 satisfactory to the director.

10 h. A refund granted pursuant to section 12 of
11 P.L. , c. (C.) (pending before the Legislature as this bill) to a
12 person for fuel used in aircraft, shall be paid from the moneys
13 deposited in the Airport Safety Fund established by section 4 of
14 P.L.1983, c.264 (C.6:1-92). Those refunds shall be granted on an
15 annual basis.

16 i. Upon approval by the director of an application, a warrant
17 shall be drawn upon the State Treasurer for the amount of the claim
18 in favor of the claimant and the warrant shall be paid from the tax
19 collected on fuel.

20 j. If the State or any political subdivision of the State
21 heretofore shall have been reimbursed and repaid for the tax paid on
22 fuel used for operating or propelling motor vehicles, motor boats or
23 other implements, whether owned or leased by the State or any
24 political subdivision of the State, the State or that political
25 subdivision shall be entitled to retain such reimbursement and
26 repayment, and further claim therefore shall not be required.

27 k. If fuel is sold to a person who claims to be allowed a refund
28 of the tax imposed by the "Motor Fuel Tax Act," P.L. , c. (C.)
29 (pending before the Legislature as this bill) the seller of that fuel
30 shall furnish the purchaser with an invoice, or invoices, in
31 conformity with the requirements of this section.

32
33 15. (New section) A person who is required to precollect or pay
34 a tax imposed pursuant to P.L. , c. (C.)(pending before the
35 Legislature as this bill) shall be personally liable for the tax
36 imposed, precollected or paid. For purposes of assessment and
37 collection, any amount required to be precollected and paid over to
38 the director, and any additions to tax, penalties and interest with
39 respect to that amount, shall be considered the tax of the person
40 required to precollect the tax. A person required to precollect tax
41 shall have the same right in respect to collecting the tax from a
42 purchaser or in respect to non-payment of the tax by the purchaser
43 as if the tax were a part of the purchase price of the fuel and
44 payable at the same time; provided, however, that the director shall
45 be joined as a party in any action or proceeding brought to collect
46 the tax. Any amount of tax actually precollected or paid pursuant to
47 P.L. , c. (C.)(pending before the Legislature as this bill) shall
48 be held to be a special fund in trust for the director.

1 A person required to precollect tax who fails to precollect or
2 remit the tax or any part thereof is fully responsible for the unpaid
3 tax. The director may recover any unpaid taxes pursuant to P.L. ,
4 c. (C.)(pending before the Legislature as this bill) from any
5 party who was under a duty to precollect or pay the tax. That
6 person remains liable for the taxes even if, for whatever reason, the
7 person failed to precollect or pay the taxes due. The liability to
8 precollect and remit tax shall be separate from any duty that the
9 consumer may have pursuant to P.L. , c. (C.)(pending before
10 the Legislature as this bill) to pay upon consumption, and the
11 existence of such overlapping duties shall not be a defense for a
12 failure to precollect and remit, although it may give rise to a refund
13 claim in accordance with section 12 of P.L. , c. (C.)(pending
14 before the Legislature as this bill) if both parties pay the tax.
15

16 16. (New section) Except as otherwise provided by the “Motor
17 Fuel Tax Act,” P.L. , c. (C.) (pending before the Legislature
18 as this bill), the tax imposed by section 3 of
19 P.L. , c. (C.)(pending before the Legislature as this bill) on
20 fuel imported from another state shall be precollected on behalf of
21 the consumers and remitted to the director by the:

22 a. Importer who has imported the nonexempt fuel. The
23 precollection shall be made and remitted when the tax return is due.
24 If the importer was not subject to a precollection agreement with
25 the supplier or permissive supplier, the precollection shall be
26 remitted in the manner specified by the director; or

27 b. Importer who has imported the nonexempt fuel which is
28 subject to a precollection agreement with the supplier or permissive
29 supplier. If the importer is a licensed distributor, the precollection
30 shall be made and remitted to the supplier or permissive supplier no
31 later than two business days prior to the date on which the tax is
32 required to be remitted by the supplier or permissive supplier
33 pursuant to section 19 of P.L. , c. (C.)(pending before the
34 Legislature as this bill). The importer shall remit the tax to the
35 supplier or permissive supplier, acting as trustee who shall remit to
36 the director on behalf of the distributor under the same terms as a
37 supplier payment pursuant to section 19 of
38 P.L. , c. (C.)(pending before the Legislature as this bill); or

39 c. Unlicensed importer at the time the fuel is entered into this
40 State. However, if the supplier of the fuel, as shown on the records
41 of the terminal operator, has made a blanket election to precollect
42 tax in accordance with section 18 of P.L. , c. (C.)(pending
43 before the Legislature as this bill), then the importer shall remit the
44 tax to the supplier, acting as trustee, who shall remit to the director
45 on behalf of the importer under the same terms as a supplier
46 payment pursuant to section 19 of P.L. , c. (C.)(pending
47 before the Legislature as this bill), and no import verification
48 number shall be required.

1 17. (New section) An importer that acquires fuel for import by
2 fuel transportation vehicle from a supplier that is not an elective
3 supplier or a permissive supplier, and therefore will not be acting as
4 trustee for the remittance of tax to the State on behalf of the
5 importer, shall first obtain an import verification number from the
6 director before importing the fuel. The importer shall write the
7 import verification number on the shipping document issued for the
8 fuel. The importer shall obtain a separate import verification
9 number for each fuel transportation vehicle delivery of fuel into this
10 State.

11
12 18. (New section) a. A licensed supplier or licensed permissive
13 supplier may make a blanket election with the director to treat all
14 removals of fuel from all of its out-of-State terminals with a
15 destination in this State as shown on the terminal-issued shipping
16 paper as if the removals were removed across the rack by the
17 supplier or permissive supplier from a terminal in this State for all
18 purposes.

19 b. The election allowed by this section shall be made by filing
20 a "notice of election" with the director, in the form and manner as
21 the director by regulation may prescribe.

22 c. The director shall publish a list of suppliers electing
23 pursuant to this section.

24 d. The absence of an election by a supplier in accordance with
25 this section shall in no way relieve the supplier of responsibility for
26 remitting the tax imposed by the "Motor Fuel Tax Act,"
27 P.L. , c. (C.) (pending before the Legislature as this bill) upon
28 the removal from an out-of-State terminal for import into this State
29 by the supplier.

30 e. A supplier that makes the election allowed by this section
31 shall precollect the tax imposed by P.L. , c. (C.) (pending
32 before the Legislature as this bill) on all removals from a qualified
33 terminal on its account as a position holder, or as a person receiving
34 fuel from a position holder pursuant to a terminal bulk transfer,
35 without regard to the license status of the person acquiring the fuel
36 from the supplier, the point or terms of sale, or the character of
37 delivery.

38 f. Each supplier who elects to precollect the tax imposed by
39 P.L. , c. (C.) (pending before the Legislature as this bill)
40 agrees to waive any defense that this State lacks jurisdiction to
41 require collection on all out-of-State sales by such person as to
42 which the person had knowledge that the shipments were destined
43 for this State and that this State imposes the requirement pursuant to
44 this subsection under its general police powers to regulate the
45 movement of fuels.

46
47 19. (New section) a. The tax imposed by section 3 of
48 P.L. , c. (C.)(pending before the Legislature as this bill),

1 measured by fuel removed from a terminal or refinery in this State,
2 other than a terminal bulk transfer, shall be precollected and
3 remitted on behalf of the consumers to the State by the transporter
4 removing the fuel from the facility through the supplier or
5 permissive supplier of the fuel, as shown in the records of the
6 terminal operator, acting as a trustee.

7 b. The supplier, permissive supplier and each reseller shall list
8 the amount of tax as a separate line item on all invoices or billings.

9 c. All tax to be paid by a supplier or permissive supplier with
10 respect to gallons removed on the account of the supplier or
11 permissive supplier during a calendar month shall be due and
12 payable on or before the 22nd day of the following month unless
13 that day falls upon a weekend or State holiday in which case the
14 liability shall be due the next succeeding business day.

15 d. A supplier or permissive supplier shall remit any late taxes
16 remitted to the supplier or permissive supplier by a licensed
17 distributor and shall notify the director within the twenty business
18 day limit provided by section 24 of P.L. , c. (C.)(pending
19 before the Legislature as this bill) of any late remittances if that
20 supplier or permissive supplier has previously given notice to the
21 director that the tax amount was not received pursuant to subsection
22 a. of section 24 of P.L. , c. (C.)(pending before the
23 Legislature as this bill).

24 e. The remittance of all amounts of tax due shall be paid on the
25 basis of the amount invoiced.

26

27 20. (New section) a. The terminal operator of a terminal in this
28 State is jointly and severally liable for the tax imposed by section 3
29 of P.L. , c. (C.) (pending before the Legislature as this bill)
30 and shall remit payment to this State at the same time and on the
31 same basis as a supplier in accordance with section 19 of
32 P.L. , c. (C.)(pending before the Legislature as this bill) upon:

33 (1) The removal of fuel from the terminal on account of any
34 supplier who is not licensed in this State; or

35 (2) The removal of motor fuel that is not dyed and marked in
36 accordance with Internal Revenue Service requirements, if the
37 terminal operator provides any person with any bill of lading,
38 shipping paper, or similar document indicating that the motor fuel is
39 dyed and marked in accordance with Internal Revenue Service
40 requirements.

41 b. However, the terminal operator shall be relieved of liability
42 for a removal of fuel from the terminal on account of a supplier who
43 is not licensed in this State if the terminal operator establishes all of
44 the following:

45 (1) the terminal operator has a valid terminal operator's license
46 issued for the facility from which the fuel is withdrawn;

47 (2) the terminal operator has a copy of a valid license from the
48 supplier as required by the director; and

1 (3) The terminal operator has no reason to believe that any
2 information is false.

3
4 21. (New section) A licensed distributor who removes fuel from
5 a terminal or refinery operated by a supplier or permissive supplier
6 and who remits the tax through the supplier or permissive supplier,
7 acting as a trustee, may make an election as to the timing of the
8 remittance. At the election of a licensed distributor, which notice
9 shall be evidenced by a written statement from the director as to the
10 purchaser's eligibility status as determined pursuant to section 22 of
11 P.L. , c. (C.)(pending before the Legislature as this bill), the
12 supplier or permissive supplier shall not require a payment of motor
13 fuel tax on fuel transportation vehicle loads from the licensed
14 distributor sooner than two business days prior to the date on which
15 the tax is required to be remitted by the supplier pursuant to section
16 19 of P.L. , c. (C.)(pending before the Legislature as this bill).
17 This election shall be subject to a condition that the remittances by
18 the licensed distributor of tax due the supplier or permissive
19 supplier shall be paid by electronic funds transfer.

20
21 22. (New section) a. A purchaser desiring to make an election
22 under section 21 of P.L. , c. (C.)(pending before the
23 Legislature as this bill) shall present evidence to the director that:

24 (1) The applicant was a licensee in good standing under
25 R.S.54:39-1 et seq. as to which the applicant remitted tax to the
26 director; or

27 (2) The applicant meets the financial responsibility and bonding
28 requirements imposed by P.L. , c. (C.)(pending before the
29 Legislature as this bill), which bond shall conform to the specific
30 requirements of this section.

31 b. The director shall require a purchaser who pays the tax to a
32 supplier to file with the director a surety bond payable to the State,
33 upon which the purchaser is the obligor, or other financial security,
34 in an amount satisfactory to the director, calculated based on three
35 times the potential monthly tax payments for gasoline and diesel
36 fuel separately. The director shall require that the bond indemnify
37 the director against the tax credits claimed by the suppliers pursuant
38 to section 23 of P.L. , c. (C.)(pending before the Legislature
39 as this bill).

40 c. A purchaser desiring to make an election in accordance with
41 section 21 of P.L. , c. (C.)(pending before the Legislature as
42 this bill) shall not be subject to the provisions of subsection b. of
43 this section if the purchaser holds a valid distributor's license and
44 meets the bonding requirements according to the law on the day
45 prior to October 1, 2010. On and after October 1, 2010 each
46 purchaser holding a valid distributor's license issued prior to
47 October 1, 2010, may elect to become an eligible purchaser. An
48 eligible purchaser shall have the option to provide bonding as

1 provided for distributors in section 34 of P.L. , c. (C.)(pending
2 before the Legislature as this bill).

3 d. The director may rescind a purchaser's eligibility and
4 election to defer fuel tax remittances for the purchaser's failure to
5 make timely tax-deferred payment of tax to a supplier pursuant to
6 21 of P.L. , c. (C.)(pending before the Legislature as this bill),
7 by sending written notice to all suppliers and publishing notice of
8 the revocation on the website of the Division of Taxation in the
9 Department of the Treasury. As a condition of restoring a
10 purchaser's eligibility, the director may require further assurance of
11 the financial responsibility of the purchaser, including an increase
12 in the amount of the bond or any other action that the director may
13 reasonably require to ensure remittance of the tax imposed by
14 P.L. , c. (C.)(pending before the Legislature as this bill). The
15 refusal of an application or the cancelation of eligibility shall be an
16 action of the director subject to review pursuant to R.S.54:51A-14;
17 provided however that, notwithstanding any other provision of law
18 to the contrary, appeal shall not act as a stay.

19 e. The director shall publish a list of licensed distributors and
20 make it available to all suppliers on at least a quarterly basis. The
21 director may, at the director's discretion, provide more timely
22 publication via the website of the Division of Taxation in the
23 Department of the Treasury.

24

25 23. (New section) A supplier has a fiduciary duty to remit to
26 the director the amount of tax imposed by P.L. , c. (C.)
27 (pending before the Legislature as this bill) paid to the supplier, in
28 its role as a trustee, by any purchaser, importer, exporter or licensed
29 distributor. In computing the amount of tax due, the supplier shall
30 be allowed a credit against the tax payable in the amount of tax paid
31 by the supplier that was accrued and remitted to a state, but not
32 received from a licensed distributor. The director may recover any
33 unpaid tax directly from the licensed distributor.

34

35 24. (New section) For a supplier to be eligible for the credit
36 provided by section 23 of P.L. , c. (C.)(pending before the
37 Legislature as this bill) the supplier shall provide notice to the
38 director of a failure to collect the tax within 20 business days
39 following the earliest date on which the supplier was entitled to
40 collect the tax from the licensed distributor pursuant to section 21
41 of P.L. , c. (C.)(pending before the Legislature as this bill).

42 A supplier shall supply with the claim for credit such
43 information as the director may prescribe by regulation. The claim
44 for credit shall identify the defaulting licensed distributor and any
45 tax liability that remains unpaid. The credit of the supplier shall be
46 limited to the amount due from the purchaser, plus any tax that
47 accrues from that purchaser from the period from the date of the
48 failure to pay to the date of notification to the director, not to

1 exceed 20 days. Additional credit shall not be allowed to a supplier
2 pursuant to this section with respect to that purchaser until the
3 director has notified the supplier that the purchaser's eligibility to
4 make deferrals in accordance with section 22 of P.L. , c. (C.)
5 (pending before the Legislature as this bill) has been restored.
6

7 25. (New section) If required by the director, all suppliers and
8 other persons required to pay tax pursuant to P.L. , c. (C.)
9 (pending before the Legislature as this bill) shall remit tax by
10 electronic fund transfer. The transfer shall be made on or before the
11 date the tax is due.
12

13 26. (New section) a. If the tax imposed by section 3 of P.L. ,
14 c. (C.)(pending before the Legislature as this bill) is not
15 otherwise precollected, the consumer shall be liable, unless the
16 consumer is otherwise exempt pursuant to section 12 of P.L. ,
17 c. (C.)(pending before the Legislature as this bill), for the tax
18 upon the delivery into a motor vehicle fuel supply tank for the use
19 of motor fuel on the highways including, but not limited to:

20 (1) Any dyed fuel; or

21 (2) Any motor fuel on which a claim for refund has been made.

22 b. A retail dealer, an aviation fuel dealer or liquefied petroleum
23 gas dealer that sells fuel shall be jointly and severally liable for the
24 tax precollected pursuant to subsection a. of this section if the retail
25 dealer, aviation fuel dealer or liquefied petroleum gas dealer knows
26 or has reason to know that the fuel, as to which tax imposed by
27 P.L. , c. (C.)(pending before the Legislature as this bill) has
28 not been paid, is or will be consumed in a nonexempt use.
29

30 27. (New section) a. A licensee shall, upon the discontinuance,
31 sale, or transfer of the business or upon the cancellation, revocation
32 or termination by law of a license pursuant to section 35 of P.L. ,
33 c. (C.)(pending before the Legislature as this bill), or as
34 otherwise provided, within thirty days, make a report as required
35 pursuant to P.L. , c. (C.)(pending before the Legislature as
36 this bill) marked "Final Report," and shall pay all taxes, penalties
37 and interest that may be due the State except as may otherwise be
38 provided by law.

39 b. The final report required by this section shall be
40 accompanied by payment of the liability of the final month.
41

42 28. (New section) a. An applicant for a license issued pursuant
43 to P.L. , c. (C.)(pending before the Legislature as this bill)
44 shall apply in the form and manner as the director shall prescribe by
45 regulation. The application shall be subscribed to by the applicant
46 and shall provide such information as the director may require,
47 including the applicant's federal identification number.

1 b. A license issued pursuant to P.L. , c. (C.)(pending
2 before the Legislature as this bill) shall be issued for a three-year
3 period, or the unexpired portion thereof, commencing on April 1
4 and ending on the third succeeding March 31 and shall be void
5 thereafter, and that license may be suspended, revoked or canceled
6 by the director. A license fee of \$450 shall be paid for the issuance
7 of that license.

8 c. The director shall investigate each applicant for a license
9 issued pursuant to P.L. , c. (C.)(pending before the Legislature
10 as this bill). A license shall not be issued if the director determines
11 that any one of the following conditions exists:

12 (1) The application is not filed in good faith;

13 (2) The applicant is not the real party in interest;

14 (3) The license of the real party in interest has been revoked for
15 cause;

16 (4) The applicant managed, operated, owned or controlled,
17 directly or indirectly, a business which held a license issued
18 pursuant to P.L. , c. (C.)(pending before the Legislature as
19 this bill) which business is indebted to this State for any tax,
20 penalties or interest accruing hereunder;

21 (5) The applicant is managed, operated or controlled, directly or
22 indirectly, by a person who held a license issued pursuant to P.L. ,
23 c. (C.)(pending before the Legislature as this bill) who is
24 indebted to this State for any tax, penalties, or interest accruing
25 hereunder;

26 (6) The applicant is managed, operated, owned, or controlled,
27 directly or indirectly, by a person who managed, operated, owned or
28 controlled, directly or indirectly, a business that held a license
29 issued pursuant to P.L. , c. (C.)(pending before the Legislature
30 as this bill) and which is indebted to this State for any tax,
31 penalties, or interest accruing hereunder;

32 (7) Any good cause as the director may determine; or

33 (8) With respect to a distributor's license, the applicant
34 intending to export is not licensed in the intended specific state or
35 states of destination.

36 d. A person shall not be entitled to hold a license if it shall
37 appear to the director that an officer, director or employee of that
38 person has been convicted of violating any of the provisions of
39 P.L. , c. (C.)(pending before the Legislature as this bill) or of
40 R.S.54:39-1 et seq. or if a license issued pursuant to the provisions
41 of P.L. , c. (C.)(pending before the Legislature as this bill) or
42 of R.S.54:39-1 et seq. and held by an officer, director or employee
43 of that person has been revoked by the director for cause.

44 e. Applicants, including corporate officers, partners, and
45 individuals, for a license issued by the director may be required to
46 submit their fingerprints to the director at the time of application.
47 Officers of a "publicly traded corporation," as that term is defined
48 by section of 39 of P.L.1977, c.110 (C.5:12-39), and its subsidiaries

1 shall be exempt from this fingerprinting requirement. Persons,
2 other than applicants for a distributor's license, who possessed
3 licenses issued pursuant to R.S.54:39-1 et seq. continuously for
4 three years prior to October 1, 2010, shall also be exempt from this
5 provision. Fingerprints required by this section shall be submitted
6 on forms prescribed by the director. The director may forward to
7 the Federal Bureau of Investigation or any other agency for
8 processing all fingerprints submitted by license applicants. The
9 receiving agency shall issue its findings to the director. The
10 director or another State agency may maintain a file of fingerprints.
11

12 29 (New section) a. In lieu of any of the bonds required by
13 P.L. , c. (C.)(pending before the Legislature as this bill), a
14 licensee may deposit with the director cash, a certificate of deposit
15 or an irrevocable letter of credit. If the applicant files a bond or
16 letter of credit it shall:

17 (1) Be with a surety company or bank approved by the director
18 which may be an affiliate in the business of assuring such
19 obligations;

20 (2) Name the applicant as the principal obligor and the State as
21 the obligee; and

22 (3) Be on forms prescribed by the director.

23 b. The director may, at the discretion of the director, require a
24 licensee or an applicant to furnish current verified financial
25 statements. The director may make independent inquiry into the
26 financial condition of the applicant and, in any case, shall not be
27 required to accept as accurate financial statements which have not
28 been certified or independently audited. If the director determines
29 that the financial condition of a licensee warrants an increase in the
30 bond, the director may require the licensee to furnish an increased
31 bond.

32 c. The director may require a licensee to file a new bond with a
33 satisfactory surety in the same form and amount if:

34 (1) Liability upon the previous bond is discharged or reduced by
35 a judgment rendered, payment made, or otherwise disposed of; or

36 (2) In the opinion of the director, any surety on the previous
37 bond becomes unsatisfactory. If the new bond is unsatisfactory, the
38 director shall cancel the license. If the new bond is satisfactorily
39 furnished, the director shall release in writing the surety on the
40 previous bond from any liability accruing after the effective date of
41 the new bond.

42 d. If a licensee has cash, a certificate of deposit or a letter of
43 credit with the director and it is reduced by a judgment rendered,
44 payment made, or otherwise disposed of, the director may require
45 the licensee to make a new deposit equal to the amount of the
46 reduction.

47 e. If the director determines that the amount of the existing
48 bond is insufficient to ensure payment to the State of the tax, fee,

1 and any penalty and interest for which a licensee is or may become
2 liable, the licensee shall, upon written demand of the director, file a
3 new or increased bond. The director shall allow the licensee at least
4 30 days to secure the increased bond or cash deposit.

5 f. A new or increased bond shall meet the requirements set
6 forth in P.L. , c. (C.)(pending before the Legislature as this
7 bill); if the new or increased bond required pursuant to this section
8 is unsatisfactory, the director shall cancel the license.

9 g. Sixty days after making a written request for release to the
10 director, the surety of a bond furnished by a licensee shall be
11 released from any liability to the State accruing on the bond after
12 the 60-day period. The release shall not affect any liability accruing
13 before the expiration of the sixty-day period.

14 h. The director shall promptly notify the licensee furnishing the
15 bond that a release has been requested. Unless the licensee obtains
16 a new bond that meets the requirements of P.L. ,
17 c. (C.)(pending before the Legislature as this bill) and files with
18 the director the new bond within the sixty-day period, the director
19 shall cancel the license.

20 i. Sixty days after the licensee makes a written request for
21 release to the director, the cash deposit, letter of credit or certificate
22 of deposit provided by a licensee shall be canceled as security for
23 any obligation accruing after the expiration of the sixty-day period.
24 However, the director may retain all or part of the bond for up to
25 three years and one day as security for any obligations accruing
26 before the effective date of the cancellation. Any part not retained
27 by the director shall be released to the licensee. Before the
28 expiration of the 60-day period, the licensee shall provide the
29 director with a bond that satisfies the requirements of P.L. ,
30 c. (C.)(pending before the Legislature as this bill) or the director
31 shall cancel the license.

32

33 30. (New section) a. Before becoming a position holder in a
34 terminal in this State or engaging in a terminal bulk transfer a
35 person shall first obtain a supplier's license. A valid supplier's
36 license allows the holder of the license to engage in all other
37 activities without having to obtain any other license.

38 b. A person who desires to precollect the tax imposed by
39 P.L. , c. (C.)(pending before the Legislature as this bill) as a
40 supplier and who meets the definition of a permissive supplier may
41 obtain a permissive supplier's license. Application for or
42 possession of a permissive supplier's license shall not in itself
43 subject the applicant or licensee to the jurisdiction of this State for
44 any other purpose than administration and enforcement of P.L. ,
45 c. (C.)(pending before the Legislature as this bill).

46 c. A supplier or a permissive supplier shall be required to post
47 a bond of not less than three months' potential tax liability based on
48 the number of taxable gallons handled as estimated by the director,

1 but in no event shall the bond be less than \$25,000 or more than
2 \$2,000,000. An applicant who is a "publicly traded corporation," as
3 that term is defined by section of 39 of P.L.1977, c.110 (C.5:12-39)
4 and has assets within the State having a book value of \$5 million or
5 more may, at the discretion of the director, be exempted from
6 having to post a bond under this section.

7 d. For the purpose of determining the amount of precollected
8 tax due, a supplier shall file with the director, on forms prescribed
9 and furnished by the director, a verified statement. The director
10 may require the reporting of any information necessary to determine
11 the amount of precollected tax due.

12 e. The director may require each licensed supplier or licensed
13 permissive supplier to separately disclose and identify, in a written
14 statement to the director with the supplier or permissive supplier
15 report, any removal and sale from the terminal transfer system in
16 another state by that supplier to a person, other than a licensed
17 supplier, permissive supplier or distributor, of gallons of fuel, other
18 than dyed fuel, and which gallons are destined for this State, as
19 shown by the terminal-issued shipping paper, and as to which
20 gallons the tax imposed by P.L. , c. (C.)(pending before the
21 Legislature as this bill) has not been collected or accrued by the
22 supplier upon the removal.

23 f. The reports required by this section shall be filed on or
24 before the 22nd day of the current month with respect to
25 information for the preceding calendar month.

26

27 31. (New section) a. a person, other than a supplier licensed
28 under section 30 of P.L. , c. (C.)(pending before the
29 Legislature as this bill), engaged in business in this State as a
30 terminal operator shall first obtain a terminal operator's license for
31 each terminal site in this State.

32 b. A terminal operator shall be required to post a bond of not
33 less than three months' potential tax liability based on the number of
34 gallons handled as estimated by the director.

35 c. A person operating a terminal in this State shall file with the
36 director by the 25th day of the next month a sworn statement of
37 operations within this State for each of the operator's terminals
38 within this State, including information as the director may
39 prescribe, on forms prescribed and furnished by the director.

40 d. For purposes of reporting and determining tax liability under
41 P.L. , c. (C.)(pending before the Legislature as this bill), a
42 licensee shall maintain inventory records as the director by
43 regulation shall require.

44

45 32. (New section) Every railway or railroad company, water
46 transportation company, and every person transporting fuels in
47 bulk, between points within the State, and every railway or railroad
48 company, water transportation company, and every person

1 transporting fuel in bulk to a point outside the State from any point
2 within the State, or to a point within the State from a point outside
3 of the State, shall, (at any time, and from time to time, upon written
4 request of the director) report, in a manner prescribed by the
5 director, all deliveries of fuel in bulk so made to points within or
6 without the State.

7
8 33. (New section) a. A person other than a supplier desiring to
9 export fuel to a destination outside of this State shall first obtain a
10 distributor's license. Issuance of a distributor's license shall be
11 conditioned upon the applicant holding an appropriate license to
12 import the fuel into the destination state or states.

13 b. A person desiring to deliver dyed fuel or undyed fuel into
14 this State on the person's own behalf, for the person's own the
15 account, or for resale to a purchaser in this State, from another state
16 in a fuel transportation vehicle or in a pipeline or barge shipment
17 into storage facilities other than a qualified terminal, shall first
18 make application for and obtain a distributor's license.

19 c. A person desiring to import fuel to a destination in this State
20 from another state, and who has not entered into an agreement to
21 remit the tax imposed by section 3 of P.L. , c. (C.) (pending
22 before the Legislature as this bill) to the supplier or permissive
23 supplier as trustee with respect to the imports shall do the
24 following:

- 25 (1) apply for and obtain a distributor's license; and
26 (2) comply with the payment requirements of section 12 of
27 P.L. , c. (C.)(pending before the Legislature as this bill).

28 d. A person blending any motor fuel for sale shall apply for and
29 obtain a distributor's license.

30 e. A distributor's license is a prerequisite to making the
31 election permitted in section 21 of P.L. , c. (C.)(pending
32 before the Legislature as this bill).

33
34 34. (New section) A distributor shall post a bond of not less
35 than three months' total liability for the tax imposed by section 3 of
36 P.L. , c. (C.) (pending before the Legislature as this bill),
37 based on the number of gallons handled as estimated by the director
38 for gasoline and diesel fuel separately. The tax on fuel exported
39 from this State by a licensed distributor shall not be considered part
40 of potential liability for calculation of the bond required of a
41 distributor's license.

42
43 35. (New section) a. If the license applicant and bond are
44 approved, the director shall issue a license for the applicant's
45 principal place of business and the applicant shall make copies for
46 each other business location.

47 b. A license is valid until suspended, revoked for cause,
48 canceled or the license expires.

1 c. A license is not transferable to another person or to another
2 place of business. For purposes of this section, a transfer of a
3 majority interest in a business association, including corporations,
4 partnerships, trusts, joint ventures and any other business
5 association, shall be deemed to be a transfer of any license held by
6 the business association to another person. Any change in
7 ownership of a business association, other than a "publicly traded
8 corporation," as that term is defined by section of 39 of P.L.1977,
9 c.110 (C.5:12-39), shall be reported to the director.

10 d. A license shall be preserved and conspicuously displayed at
11 the principal place of business for which it is issued.

12 e. A person licensed under P.L. , c. (C.)(pending before
13 the Legislature as this bill) shall display the person's conveyance
14 number on the back of any conveyance of fuel.

15 f. Upon the discontinuance, sale, transfer or change of
16 ownership of the business, the license shall be immediately
17 surrendered to the director. Any relocation of the business shall be
18 immediately reported to the director.

19 g. If a person licensed to do business pursuant to P.L. ,
20 c. (C.) (pending before the Legislature as this bill)
21 discontinues, sells, or transfers the business, the licensee shall
22 immediately notify the director in writing of the discontinuance,
23 sale, or transfer. The notice shall give the date of discontinuance,
24 sale, or transfer and if the business is sold or transferred, the name
25 and address of the purchaser or transferee. The licensee shall be
26 liable for all taxes, interest, and penalties that accrue or may be
27 owing and any criminal liability for misuse of the license that
28 occurs prior to cancellation of the license.

29 h. The director shall publish without charge a list of updates of
30 all licensees, by category.

31 i. A licensee shall maintain and keep for a period of four years
32 records of all transactions by which fuel is received, used, sold,
33 delivered, or otherwise disposed of, together with invoices, bills of
34 lading, and other pertinent records and papers as may be required
35 by the director for reasonable administration of P.L. , c. (C.)
36 (pending before the Legislature as this bill).

37
38 36. (New section) a. A license required by P.L. , c. (C.)
39 (pending before the Legislature as this bill) may be suspended or
40 revoked by the director for a violation of any of the provisions of
41 P.L. , c. (C.) (pending before the Legislature as this bill), or
42 on other reasonable grounds, after five days' notice of and hearing
43 on such proposed revocation or suspension conducted pursuant to
44 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
45 seq.). Upon receipt of a written request from the holder of any
46 license issued pursuant to the provisions of P.L. ,
47 c. (C.)(pending before the Legislature as this bill), the director
48 may cancel a license effective as soon thereafter as it has been

1 determined that all tax, fines, penalties and interest properly owing
2 to the State have been paid. If the director finds that a person to
3 whom a license has been issued is no longer engaged in the business
4 for which the license was issued, the director may cancel that
5 license by providing reasonable notice of the intent to cancel by
6 mail to the last known address of such person. If a license is
7 canceled, the license certificate previously issued shall be
8 surrendered to the director.

9 b. A person who fails to file any report required by P.L. ,
10 c. (C.) (pending before the Legislature as this bill) and for
11 which a penalty is not otherwise set forth in P.L. , c. (C.)
12 (pending before the Legislature as this bill), shall be liable for the
13 penalties determined pursuant to R.S.54:49-4.

14 c. A person shall not engage in any business activity in this
15 State for which a license is required by P.L. , c. (C.)
16 (pending before the Legislature as this bill) unless the person first
17 obtains the license. A person who negligently violates this section
18 is subject to a civil penalty in the amount of \$1,000.

19 d. A supplier, permissive supplier, or distributor who
20 knowingly fails to precollect or timely remit tax otherwise required
21 to be paid over to the director pursuant to P.L. ,
22 c. (C.)(pending before the Legislature as this bill), or pursuant
23 to a tax precollection agreement pursuant to P.L. ,
24 c. (C.)(pending before the Legislature as this bill), shall be
25 liable for the uncollected tax plus any penalties determined pursuant
26 to R.S.54:49-4.

27
28 37. (New section) a. If the tax imposed by P.L. , c. (C.)
29 (pending before the Legislature as this bill) is not precollected and
30 must be paid by the consumer in accordance with section 26 of
31 P.L. , c. (C.) (pending before the Legislature as this bill), the
32 tax is due and payable by the consumer on the 20th day of each
33 month for the purchases made in the preceding calendar month.
34 The consumer shall file with the director, on forms furnished by the
35 director, a return showing in detail the total purchase price of the
36 fuel, the number of gallons purchased or blended, the location of
37 the purchase, the blend stocks and motor fuel components, if any,
38 and other information as the director may prescribe. With each
39 return, the consumer shall remit to the director the amount of tax
40 shown on the return to be due.

41
42 38. (New section) a. A terminal operator and a refiner with a
43 facility in this State shall prepare and provide to the driver of every
44 fuel transportation vehicle receiving fuel into the vehicle storage
45 tank at the facility a shipping document setting out on its face:

46 (1) Identification by city and state of the terminal or refinery
47 from which the fuel was removed;

48 (2) The date the fuel was removed;

1 (3) The amount of fuel removed, gross gallons and net gallons;

2 (4) The state of destination as represented to the terminal
3 operator or refiner by the transporter, the shipper or the agent of the
4 shipper. A refinery or terminal operator may load fuel if a portion
5 of the fuel is destined for sale or use in this State and a portion of
6 the fuel is destined for sale or use in another state or states.
7 However, such split loads removed shall be documented by the
8 terminal operator or refiner by issuing shipping papers designating
9 the state of destination for each portion of the fuel;

10 (5) The supplier, consignee and transporter of the fuel; and

11 (6) Any other information required by the director for the
12 enforcement of P.L. , c. (C.)(pending before the Legislature as
13 this bill),.

14 b. A terminal operator or refiner may manually prepare
15 shipping papers if the terminal does not have the ability to prepare
16 automated shipping papers or as a result of extraordinary
17 unforeseen circumstances, including acts of God, which temporarily
18 interfere with the ability of the terminal operator or refiner to issue
19 automated machine-generated shipping papers.

20 c. No terminal operator or refiner shall imprint, and no supplier
21 shall knowingly permit a terminal operator to imprint on behalf of
22 the supplier, any false statement on a shipping paper relating to fuel
23 to be delivered to this State or to a state having substantially the
24 same shipping paper requirements with respect to the supplier of the
25 fuel, whether or not it was dyed for the intended destination.

26 d. A terminal operator or refiner who shall knowingly imprint
27 any false statement in violation of this section shall be jointly and
28 severally liable for all the taxes imposed by P.L. , c. (C.)
29 (pending before the Legislature as this bill) which are not otherwise
30 collected by this State as a result of that action.

31 e. A supplier who knowingly violates this section shall be
32 jointly and severally liable with the terminal operator.

33 f. The director may impose a civil penalty of \$500 for the first
34 occurrence against a terminal operator or refiner that fails to meet
35 shipping paper issuance requirements pursuant to P.L. ,
36 c. (C.)(pending before the Legislature as this bill), Each
37 subsequent occurrence described in this subsection against that
38 terminal operator is subject to a civil penalty of \$5,000.

39

40 39. (New section) a. A person transporting fuel in a fuel
41 transportation vehicle upon the public highways of this State shall:

42 (1) Carry on board the shipping document issued by the terminal
43 operator or the bulk plant operator of the facility where the fuel was
44 obtained, whether within or without this State. The shipping paper
45 shall set out on its face the state of destination of the fuel
46 transported in the vehicle as represented to the terminal operator at
47 the time the fuel transportation vehicle was loaded;

1 (2) Show, and permit duplication of, the shipping document by a
2 law enforcement officer or the director, upon request, when
3 transporting, holding or off-loading the fuel described in the
4 shipping document;

5 (3) Provide a copy of the shipping document to the distributor or
6 other person who controls the facility to which the fuel is delivered;
7 and

8 (4) Meet such other conditions as the director may require for
9 the enforcement of P.L. , c. (C.) (pending before the
10 Legislature as this bill).

11 b. A person transporting fuel in fuel transportation vehicles
12 upon the public highways of this State shall provide the original or
13 a copy of the terminal-issued shipping document accompanying the
14 shipment to the operator of the retail outlet, bulk plant or bulk end
15 user bulk storage facility to which delivery of the shipment was
16 made. However, a delivery ticket created by the person
17 transporting the fuel may be provided in lieu of the terminal-issued
18 shipping paper for deliveries into bulk end user bulk storage.

19 c. The operator of a fuel retail outlet, bulk plant or bulk end
20 user bulk storage facility shall receive, examine, and retain for a
21 period of 30 days at the delivery location the terminal-issued
22 shipping document received from the transporter for every shipment
23 of fuel that is delivered to that location with record retention of the
24 shipping paper of three years required off-site. If the delivery
25 location is an unattended location, the operator may retain the
26 shipping documents at the normal billing address of the operator.

27 d. A retail dealer, liquefied petroleum gas dealer, aviation fuel
28 dealer, bulk plant operator, wholesale distributor or bulk end user
29 shall not knowingly accept delivery of fuel into bulk storage
30 facilities in this State if that delivery is not accompanied by a
31 shipping paper issued by the terminal operator, or bulk plant
32 operator as provided by regulations, that sets out on its face this
33 State as the state of destination of the fuel.

34 e. A person who knowingly violates or knowingly aids and
35 abets another to violate this section shall be jointly and severally
36 liable for the tax on the fuel transported or delivered.

37 f. A person owning or operating a motor vehicle in violation of
38 this section and sections 42 and 43 of P.L. , c. (C.) (pending
39 before the Legislature as this bill) is guilty of a crime of the fourth
40 degree for the first offense. For the second and each subsequent
41 offense, a violator is guilty of a crime of the third degree.

42 g. The director shall impose a civil penalty of \$500 on a person
43 transporting fuel for the first occurrence of transporting fuel without
44 adequate shipping papers annotated as required under this section
45 and sections 42 and 43 of P.L. , c. (C.) (pending before the
46 Legislature as this bill). Each of that person's subsequent
47 occurrences described in this subsection is subject to a civil penalty
48 of \$5,000.

1 40. (New section) The supplier and the terminal operator may
2 rely for all purposes of P.L. , c. (C.) (pending before the
3 Legislature as this bill) on the representation by the transporter, the
4 shipper or the agent of the shipper as to the intended state of
5 destination and tax-exempt use by the shipper or the purchaser. The
6 shipper, importer, transporter, agent of the shipper and any
7 purchaser, not the supplier or terminal operator, shall be jointly
8 liable for any tax otherwise due to the State as a result of a
9 diversion of the fuel from the represented destination state. A
10 terminal operator may rely on the representation of a licensed
11 supplier with respect to the obligation of the supplier to precollect
12 tax and the related shipping paper representation to be as shown on
13 the shipping paper as provided by subsection a. of section 40 of
14 P.L. , c. (C.) (pending before the Legislature as this bill).

15

16 41. (New section). a. A person shall not sell, use, deliver, or
17 store in this State, or import for sale, use, delivery or storage in this
18 State, fuel as to which the tax imposed by section 3 of P.L. ,
19 c. (C.) (pending before the Legislature as this bill) has not
20 been previously paid to or accrued by either a licensed supplier, or
21 permissive supplier, at the time of removal from a terminal, or a
22 licensed distributor provided all the conditions of section 44 of
23 P.L. , c. (C.) (pending before the Legislature as this bill)
24 applicable to lawful import by the distributor shall have been met.

25 b. The provisions of subsection a. of this section shall not
26 apply to:

27 (1) A supplier with respect to fuel held within the terminal
28 transfer system in this State which was manufactured in this State
29 or imported into this State in a bulk transfer;

30 (2) A consumer with respect to fuel placed in the vehicle fuel
31 supply tank of that person's motor vehicle outside of this State;

32 (3) Dyed fuel, dyed in accordance with P.L. , c. (C.)
33 (pending before the Legislature as this bill);

34 (4) Fuel in the process of exportation by a supplier or a
35 distributor in accordance with the shipping papers required by
36 section 39 of P.L. , c. (C.) (pending before the Legislature
37 as this bill) and with a statement meeting the requirements of
38 section 42 of P.L. , c. (C.) (pending before the Legislature
39 as this bill) shown on the shipping papers;

40 (5) Kerosene used in aircraft subject to the conditions and
41 exceptions in subsection a. of section 12 of P.L. , c. (C.)
42 (pending before the Legislature as this bill);

43 (6) Fuel in possession of a consumer as to which a refund has
44 been issued;

45 (7) Government and other exempt fuel under paragraphs (3) and
46 (4) of subsection b. of section 12 of P.L. , c. (C.) (pending
47 before the Legislature as this bill);; or

1 (8) A distributor who has met the conditions of section 44 of
2 P.L. , c. (C.) (pending before the Legislature as this bill).

3
4 42. (New section) a. Except as provided in subsection c. of this
5 section, a person shall not operate a fuel transportation vehicle that
6 is engaged in the shipment of fuel on the public highways of this
7 State without having on board a terminal-issued shipping paper
8 bearing, in addition to the requirements of subsection a. of section
9 41 of P.L. , c. (C.) (pending before the Legislature as this
10 bill), a notation indicating that, with respect to diesel fuel acquired
11 under claim of exempt use, a statement indicating the fuel is
12 "DYED DIESEL FUEL, NONTAXABLE USE ONLY, PENALTY
13 FOR TAXABLE USE" for the load or the appropriate portion of the
14 load. With respect to kerosene acquired under claim of exempt use,
15 a statement shall indicate the fuel is "DYED KEROSENE,
16 NONTAXABLE USE ONLY, PENALTY FOR TAXABLE USE"
17 for the load or the appropriate portion of the load.

18 b. A person is in violation of subsection a. of this section upon
19 boarding the vehicle with a shipping paper which does not meet the
20 requirements set forth in this section.

21 c. The director may in the director's discretion provide an
22 advance notification procedure with respect to documentation for
23 imported fuel as to which the importer is unable to obtain
24 terminal-issued shipping papers which comply with this section.

25 d. Any person who knowingly violates any part of this section
26 is guilty of a crime of the fourth degree.

27 e. The director, the Office of Weights and Measures of the
28 Division of Consumer Affairs in the Department of Law and Public
29 Safety, and the State Police, and its officers shall have full authority
30 in enforcing the provisions of this section.

31
32 43. (New section) a. If a distributor acquires fuel destined for
33 this State which has neither been dyed in accordance with the
34 Internal Revenue Code and the regulations issued thereunder, nor
35 tax paid to or accrued by the supplier at the time of removal from
36 the out-of-State terminal, a licensed distributor and transporter
37 operating on behalf of the licensed importer shall meet all of the
38 following conditions prior to entering fuel onto the highways of this
39 State by loaded fuel transportation vehicle:

40 (1) The terminal origin and the name and address of the
41 importer shall also be set out prominently on the face of each copy
42 of the terminal-issued shipping paper;

43 (2) The terminal-issued shipping paper data otherwise required
44 by P.L. , c. (C.) (pending before the Legislature as this bill),
45 shall be present; and

46 (3) All tax imposed by P.L. , c. (C.) (pending before the
47 Legislature as this bill) with respect to previously requested import

1 verification number activity on the account of the distributor or the
2 transporter shall have been timely precollected or remitted.

3 b. A person who knowingly violates or knowingly aids and
4 abets another to violate this section is guilty of a crime of the fourth
5 degree, provided that a first offense related to a good faith belief
6 that the distributor could import under the conditions will be
7 punishable only by a fine not to exceed \$1,000.

8 c. The director, the Office of Weights and Measures of the
9 Division of Consumer Affairs in the Department of Law and Public
10 Safety, and the Superintendent of State Police and the members of
11 the State Police shall have full authority in enforcing the provisions
12 of this section.

13

14 44. (New section) a. A person shall not operate or maintain a
15 motor vehicle on any public highway in this State with dyed fuel
16 contained in the vehicle fuel supply tank except for uses of dyed
17 fuel on the highway which are lawful under the federal Internal
18 Revenue Code and the regulations thereunder unless otherwise
19 prohibited by P.L. , c. (C.)(pending before the Legislature as
20 this bill).

21 b. A person shall not sell or hold for sale dyed fuel for any use
22 that the person knows or has reason to know is a taxable use of the
23 dyed fuel.

24 c. A person shall not use or hold for use any dyed fuel for a
25 taxable use when the person knows or has reason to know that the
26 fuel is dyed fuel.

27 d. A person shall not willfully, with intent to evade tax, alter or
28 attempt to alter the strength or composition of any dye or marker in
29 any dyed fuel.

30 e. A person who knowingly violates or knowingly aids and
31 abets another to violate the provisions of this section with the intent
32 to evade the tax imposed by P.L. , c. (C.) (pending before
33 the Legislature as this bill) is guilty of a crime of the fourth degree.

34 f. A person, and an officer, employee, or agent of that person
35 entity who willfully participates in any act in violation of this
36 section shall be jointly and severally liable with the person for the
37 tax and penalty which shall be the same as imposed pursuant to
38 section 6715 of the federal Internal Revenue Code of 1986 (26
39 U.S.C. s.6715).

40 g. A person or business entity, and each officer, employee, or
41 agent of the entity who willfully participates in any act in violation
42 of this section shall be jointly and severally liable with the entity for
43 the tax and penalty which shall be the same as that imposed
44 pursuant to section 6715 of the federal Internal Revenue Code of
45 1986 (26 U.S.C. s.6715).

46

47 45. (New section) A notice stating "DYED DIESEL FUEL,
48 NONTAXABLE USE ONLY, PENALTY FOR TAXABLE USE"

1 or "DYED KEROSENE, NONTAXABLE USE ONLY, PENALTY
2 FOR TAXABLE USE" shall be:

3 a. Provided by the terminal operator to any person that receives
4 dyed diesel fuel or dyed kerosene at a terminal rack of that terminal
5 operator; and

6 b. Posted by a retail dealer on any pump where it sells dyed
7 diesel fuel or dyed kerosene for use by its consumer. The form of
8 notice required by this section shall be provided by the time of the
9 removal or sale of the dyed fuel and shall appear on shipping
10 papers, bills of lading, and invoices accompanying the sale or
11 removal of the dyed fuel.

12

13 46. (New section) a. The director, upon presenting appropriate
14 credentials may conduct inspections and remove samples of fuel to
15 determine the coloration of diesel fuel and kerosene, or to identify
16 shipping paper violations at any place where fuel is or may be
17 produced, stored or loaded into fuel transportation vehicles.
18 Inspections shall be performed in a reasonable manner consistent
19 with the circumstances, but in no event is prior notice required.
20 Inspectors may physically inspect, examine or otherwise search any
21 tank, reservoir, or other container that can or might be used for the
22 production, storage, or transportation of fuel. Inspections may be
23 made of any equipment used for, or in connection with, the
24 production, storage, or transportation of fuel. Upon demand by the
25 inspectors all shipping papers, documents and records required to
26 be kept by a person transporting fuel shall be produced for
27 immediate inspection. The places where inspections may occur
28 include, but are not limited to:

- 29 (1) A terminal;
30 (2) A fuel storage facility that is not a terminal;
31 (3) A retail fuel facility;
32 (4) Highway rest stops; or
33 (5) A designated inspection site.

34 For purposes of this section, a "designated inspection site" means
35 any state highway or waterway inspection station, weigh station,
36 agricultural inspection station, mobile station, or other location
37 designated by the director, either fixed or mobile.

38 b. Inspections to determine violations under P.L. ,

39 c. (C.) (pending before the Legislature as this bill) may be
40 conducted by the director, the Chief Administrator of the New
41 Jersey Department of Law and Public Safety, and any other law
42 enforcement officer through procedures established by the director.

43 c. Inspectors may reasonably detain any person or equipment
44 transporting fuel in or through this State for the purpose of
45 determining whether the person is operating in compliance with the
46 provisions of P.L. , c. (C.) (pending before the Legislature
47 as this bill) and any rules and regulations promulgated pursuant
48 thereto. Detainment may continue for such time only as is

1 necessary to determine whether the person is in compliance with
2 P.L. , c. (C.) (pending before the Legislature as this bill).

3
4 47. (New section) a. The director is authorized to audit and
5 examine the records, books, papers, and equipment of a licensee or
6 other person selling, transporting, storing or using fuel to verify the
7 completeness, truth and accuracy of any statement or report and
8 ascertain whether or not the tax imposed by P.L. , c. (C.)
9 (pending before the Legislature as this bill) has been paid.

10 b. Records shall be made available to the director during
11 normal business hours at the physical location of the person in this
12 State, or at the offices of the director within three business days
13 after the director's request if the location at which records are
14 located is outside of this State.

15 c. The director, may, upon showing credentials, inspect, and
16 each fuel vendor, fuel transporter or bulk purchaser shall disclose,
17 immediately upon request any shipping paper required by P.L. ,
18 c. (C.) (pending before the Legislature as this bill) to be
19 maintained at the physical location where the request is made which
20 may include any place fuel is stored or held for sale or
21 transportation.

22 d. A person who shall refuse to permit any inspection or audit
23 authorized by P.L. , c. (C.) (pending before the Legislature
24 as this bill) shall be subject to a civil penalty of \$5,000 in addition
25 to any penalty imposed by any other provision of P.L. ,
26 c. (C.) (pending before the Legislature as this bill),.

27 e. A person who refuses, for the purpose of evading tax, to
28 allow an inspection shall, in addition to being liable for any other
29 penalties imposed by P.L. , c. (C.) (pending before the
30 Legislature as this bill), be guilty of a crime of the third degree.

31
32 48. (New section) In addition to the powers granted to the
33 director by P.L. , c. (C.) (pending before the Legislature as this
34 bill), the director is authorized and empowered:

35 a. to make, adopt and amend rules and regulations appropriate
36 to carrying out P.L. , c. (C.) (pending before the Legislature as
37 this bill) and accomplishing its purposes;

38 b. to delegate the director's functions hereunder to any officer
39 or employee of the director's division, or to federal government
40 employees or persons operating under contract with this State, such
41 of the director's powers as the director may deem necessary to carry
42 out efficiently the provisions of P.L. , c. (C.) (pending before
43 the Legislature as this bill), and the person or persons to whom such
44 power has been delegated shall possess and may exercise all of the
45 power and perform all of the duties herein conferred and imposed
46 upon the director;

47 c. to arrange for the institution of programs of cooperation with
48 other departments, divisions, and agencies of the State of New

1 Jersey such as but not limited to the Office of Weights and
2 Measures of the Division of Consumer Affairs in the Department of
3 Law and Public Safety, Motor Carrier Services in the Motor
4 Vehicle Commission, or the Board of Regulatory Commissioners, if
5 a program may be necessary to ensure effective administration and
6 enforcement of P.L. , c. (C.)(pending before the Legislature as
7 this bill);

8 d. to conduct investigations as necessary to enforce the
9 provisions of P.L. , c. (C.)(pending before the Legislature as
10 this bill);

11 e. to prescribe forms upon which reports are made to the
12 director and all other forms and information the director deems
13 necessary to enforce the provisions of P.L. , c. (C.)(pending
14 before the Legislature as this bill), and may require periodic
15 submission of information from any person dealing in, transporting
16 or storing fuel;

17 f. to conduct joint audits, subject to specific agreements with
18 any agency of the United States of America, with another state, or
19 through National or Regional Tax Associations, of the obligations
20 of any license holder, arising out of P.L. , c. (C.)(pending
21 before the Legislature as this bill). Notwithstanding the provisions
22 of R.S.54:50-8 to the contrary, if any, the agreements may provide
23 for exchange of the records and files of the director respecting the
24 administration of P.L. , c. (C.)(pending before the Legislature
25 as this bill) or of any other State tax law;

26 g. to require the licensure of any person not otherwise required
27 to be licensed pursuant to P.L. , c. (C.)(pending before the
28 Legislature as this bill) dealing in, transporting or storing fuel, and
29 to issue licenses for the terms and for the fees, as the director may
30 prescribe; the director may decline to issue a license, or revoke a
31 license issued, for good cause including, but not limited to, the
32 standards provided by subsections c. and d. of section 28 of P.L. ,
33 c. (C.)(pending before the Legislature as this bill)

34 h. to co-collect with the tax imposed pursuant to P.L. ,
35 c. (C.)(pending before the Legislature as this bill), the tax
36 imposed pursuant to the "Petroleum Products Gross Receipts Tax
37 Act," P.L.1990, c.42 (C.54:15B-1 et seq.) pursuant to such
38 procedures as the director may prescribe.

39

40 49. (New section) Moneys received from taxes on fuel used in
41 aircraft, pursuant to subsection b. of section 3 of P.L. ,
42 c. (C.)(pending before the Legislature as this bill), shall be
43 accounted for and forwarded by the director to the State Treasurer,
44 who shall credit these payments to the Airport Safety Fund
45 established by section 4 of the "New Jersey Airport Safety Act of
46 1983," P.L.1983, c.264 (C.6:1-92).

1 50. (New section) a. There is levied a tax on fuel held in storage
2 as of the close of the business day preceding October 1, 2010. For
3 the purpose of this section, "close of the business day" means the
4 time at which the last transaction has occurred for that day. The tax
5 on fuel shall be the tax rate specified by subsection a. of section 3
6 of P.L. , c. (C.)(pending before the Legislature as this bill) for
7 the type of fuel, multiplied by the gallons in storage of that type of
8 fuel as of the close of business day preceding October 1, 2010.

9 b. Persons in possession of fuel in storage as of the close of the
10 business day immediately preceding October 1, 2010 shall:

11 (1) take an inventory at the close of the business day
12 immediately preceding October 1, 2010;

13 (2) report the gallons listed in paragraph (1) of this subsection
14 on forms provided by the director, not later than October 31, 2010;
15 and

16 (3) Remit the tax levied under this section no later than April 1,
17 2011.

18 c. If tax due pursuant to subsection b. of this section is paid to
19 the director on or before October 31, 2010, the person remitting the
20 tax may deduct from that person's tax liability 10% of the tax
21 liability otherwise due.

22 d. In determining the amount of tax due under this section, a
23 person may exclude the amount of fuel in dead storage in each
24 storage tank. For the purposes of this section, "dead storage" means
25 the amount of fuel that cannot be pumped out of a fuel storage tank
26 because the motor fuel is below the mouth of the draw pipe. The
27 amount of motor fuel in dead storage is 200 gallons for a tank with
28 a capacity of less than 10,000 gallons and 400 gallons for a tank
29 with a capacity of 10,000 gallons or more.

30
31 51. (New section) a. A person who is licensed as a distributor
32 pursuant to R.S.54:39-17 prior to October 1, 2010 shall be deemed
33 a supplier licensed pursuant to the "Motor Fuel Tax Act," P.L. ,
34 c. (C.) (pending before the Legislature as this bill) as of October
35 1, 2010 and subject to P.L. , c. (C.) (pending before the
36 Legislature as this bill) regarding licensed suppliers unless the person
37 licensed as a distributor pursuant to R.S.54:39-17 provides notice
38 prior to October 1, 2010 that the person does not desire the status of
39 licensee as a supplier pursuant to P.L. , c. (C.) (pending before
40 the Legislature as this bill). A person who is licensed as a
41 distributor pursuant to R.S.54:39-17 prior to October 1, 2010 who
42 declines licensure pursuant to the "Motor Fuel Tax Act," P.L. ,
43 c. (C.) (pending before the Legislature as this bill) shall be
44 deemed to have terminated its license as of the end of September
45 30, 2010, shall cease in-State activities covered by P.L. ,
46 c. (C.) (pending before the Legislature as this bill), and shall be
47 subject to final report requirements of section 27 of P.L. ,
48 c. (C.) (pending before the Legislature as this bill). If no notice

1 is received by the director prior to October 1, 2010 declining licensure,
2 then that shall be deemed acceptance of the new license and
3 responsibilities pursuant to the “Motor Fuel Tax Act,” P.L. ,
4 c. (C.) (pending before the Legislature as this bill), and the
5 person may continue in operation except as provided by subsection
6 f. of this section.

7 Notice may be given to a person who is licensed as a distributor
8 pursuant to R.S.54:39-17 prior to October 1, 2010 that the person
9 will not be granted a license pursuant to the “Motor Fuel Tax Act,”
10 P.L. , c. (C.) (pending before the Legislature as this bill). A
11 person given that notice shall cease activities covered by the license on
12 or before October 1, 2010, shall be deemed to have terminated its
13 license as of the end of September 30, 2010, and shall be subject to
14 final report requirements of section 27 of P.L. , c. (C.)
15 (pending before the Legislature as this bill).

16 b. A person who is licensed as a retail dealer pursuant to
17 R.S.54:39-30 prior to October 1, 2010 shall be deemed a retail
18 dealer licensed pursuant to the “Motor Fuel Tax Act,” P.L. ,
19 c. (C.) (pending before the Legislature as this bill) as of October
20 1, 2010 and subject to P.L. , c. (C.) (pending before the
21 Legislature as this bill) regarding retail dealers unless the person
22 licensed as a retail dealer pursuant to R.S.54:39-30 provides notice
23 prior to October 1, 2010 that the person does not desire the status of
24 licensee as a retail dealer pursuant to P.L. , c. (C.) (pending
25 before the Legislature as this bill). A person who is licensed as a
26 retail dealer pursuant to R.S.54:39-17 prior to October 1, 2010 who
27 declines licensure pursuant to the “Motor Fuel Tax Act,” P.L. ,
28 c. (C.) (pending before the Legislature as this bill) shall be
29 deemed to have terminated its license as of the end of September
30 30, 2010, shall cease in-State activities covered by P.L. , c. (C.)
31 (pending before the Legislature as this bill), and shall be subject to
32 final report requirements of section 27 of P.L. , c. (C.)
33 (pending before the Legislature as this bill). If no notice is received
34 by the director prior to October 1, 2010 declining licensure, then that
35 shall be deemed acceptance of the new license and responsibilities
36 pursuant to the “Motor Fuel Tax Act,” P.L. , c. (C.) (pending
37 before the Legislature as this bill), and the person may continue in
38 operation except as provided by subsection f. of this section.

39 Notice may be given to a person who is licensed as a retail dealer
40 pursuant to R.S.54:39-17 prior to October 1, 2010 that the person
41 will not be granted a license pursuant to the “Motor Fuel Tax Act,”
42 P.L. , c. (C.) (pending before the Legislature as this bill). A
43 person given that notice shall cease activities covered by the license on
44 or before October 1, 2010, shall be deemed to have terminated its
45 license as of the end of September 30, 2010, and shall be subject to
46 final report requirements of section 27 of P.L. , c. (C.)
47 (pending before the Legislature as this bill).

1 c. A person who is licensed as an importer, exporter,
2 wholesaler, or jobber pursuant to R.S.54:39-30 prior to October 1,
3 2010 shall be deemed a distributor licensed pursuant to the “Motor
4 Fuel Tax Act,” P.L. , c. (C.) (pending before the Legislature
5 as this bill) as of October 1, 2010 and subject to P.L. , c. (C.)
6 (pending before the Legislature as this bill) regarding licensed
7 suppliers unless the person licensed as an importer, exporter,
8 wholesaler, or jobber pursuant to R.S.54:39-30 provides notice prior
9 to October 1, 2010 that the person does not desire the status of licensee
10 as a distributor pursuant to P.L. , c. (C.) (pending before the
11 Legislature as this bill). A person who is licensed as an importer,
12 exporter, wholesaler, or jobber pursuant to R.S.54:39-17 prior to
13 October 1, 2010 who declines licensure pursuant to the “Motor Fuel
14 Tax Act,” P.L. , c. (C.) (pending before the Legislature as this
15 bill) shall be deemed to have terminated its license as of the end of
16 September 30, 2010, shall cease in-State activities covered by P.L. ,
17 c. (C.) (pending before the Legislature as this bill), and shall be
18 subject to final report requirements of section 27 of P.L. ,
19 c. (C.) (pending before the Legislature as this bill). If no notice
20 is received by the director prior to October 1, 2010 declining licensure,
21 then that shall be deemed acceptance of the new license and
22 responsibilities pursuant to the “Motor Fuel Tax Act,” P.L. ,
23 c. (C.) (pending before the Legislature as this bill), and the
24 person may continue in operation except as provided by subsection
25 f. of this section.

26 Notice may be given to a person who is licensed as an importer,
27 exporter, wholesaler, or jobber pursuant to R.S.54:39-17 prior to
28 October 1, 2010 that the person will not be granted a license pursuant
29 to the “Motor Fuel Tax Act,” P.L. , c. (C.) (pending before the
30 Legislature as this bill). A person given that notice shall cease
31 activities covered by the license on or before October 1, 2010, shall be
32 deemed to have terminated its license as of September 30, 2010,
33 and shall be subject to final report requirements of section 27 of
34 P.L. , c. (C.) (pending before the Legislature as this bill).

35 d. A person engaged in the business of hauling, transporting or
36 delivering fuel who is a motor fuel transport licensee pursuant to
37 R.S.54:39-1 or who has registered a conveyance for transporting
38 fuel pursuant to R.S.54:39-41 prior to October 1, 2010 shall be
39 deemed a transporter and the conveyance shall be deemed
40 registered as a fuel conveyance pursuant to the “Motor Fuel Tax
41 Act,” P.L. , c. (C.) (pending before the Legislature as this bill)
42 as of October 1, 2010 and subject to P.L. , c. (C.) (pending
43 before the Legislature as this bill) regarding transporters and fuel
44 conveyances unless the motor fuel transport licensee or having a
45 registered conveyance provides notice prior to October 1, 2010 that
46 the person does not desire the status of transporter or does not desire to
47 have a registered fuel conveyance pursuant to P.L. , c. (C.)
48 (pending before the Legislature as this bill). A person who is a

1 motor fuel transport licensee or who has a conveyance registered
2 pursuant to R.S.54:39-41 prior to October 1, 2010 who declines
3 status pursuant to the "Motor Fuel Tax Act," P.L. , c. (C.)
4 (pending before the Legislature as this bill) shall be deemed to have
5 terminated its motor fuel transport license and its conveyance
6 registration, as applicable, as of the end of September 30, 2010, and
7 shall cease in-State activities covered by P.L. , c. (C.) (pending
8 before the Legislature as this bill). If no notice is received by the
9 director prior to October 1, 2010 declining licensure, or registration as
10 applicable, then that shall be deemed acceptance of the new license, or
11 registration as applicable, and acceptance of transporter
12 responsibilities pursuant to the "Motor Fuel Tax Act," P.L. ,
13 c. (C.) (pending before the Legislature as this bill).

14 e. All other persons licensed pursuant to R.S.54:39-1 et seq.
15 shall apply to the director for an appropriate license, as determined
16 by the director and subject to such rules as the director may
17 prescribe, pursuant to this section on or before October 1, 2010 or
18 cease activities requiring a license under this section. If a person
19 accepts a new license and responsibilities that license entails
20 pursuant to the "Motor Fuel Tax Act," P.L. , c. (C.) (pending
21 before the Legislature as this bill), the person may continue in
22 operation except as provided by subsection e. of this section

23 f. A person required to file a bond or other surety with the
24 director pursuant to the "Motor Fuel Tax Act," P.L. , c. (C.)
25 (pending before the Legislature as this bill) shall have until October
26 31, 2010, to establish, reestablish or transfer that surety to the
27 person's new license status pursuant to P.L. , c. (C.) (pending
28 before the Legislature as this bill). A person who does not meet
29 those bonding requirements by October 31, 2010 shall cease
30 activities covered by the license on October 31, 2010.

31 g. Licenses issued pursuant to R.S.54:39-1 et seq. and not
32 continued pursuant to this section shall be invalid as of October 1,
33 2010. Licenses accepted pursuant to this section in place of the
34 license issued pursuant to R.S.54:39-1 et seq. shall be valid until the
35 expiration date of the license originally issued pursuant to
36 R.S.54:39-1 et seq.

37
38 52. (New section) Notwithstanding any provision of the
39 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
40 seq.) to the contrary, the director may adopt immediately upon
41 filing with the Office of Administrative Law such regulations as the
42 director deems necessary to implement the provisions of P.L. ,
43 c. (pending before the Legislature as this bill), which regulations
44 shall be effective for a period not to exceed 360 days following the
45 date of enactment of P.L. , c. (pending before the Legislature as
46 this bill) and may thereafter be amended, adopted, or readopted by
47 the director in accordance with the "Administrative Procedure Act,"
48 P.L.1968, c.410 (C.52:14B-1 et seq.).

1 53. Section 7 of P.L.1990, c.42 (C.54:15B-7) is amended to read
2 as follows:

3 7. a. A company subject to tax under **[this act]** P.L.1990, c.42
4 (C.54:15B-1 et seq.) shall, on or before the 25th day of a month,
5 file a remittance to the director on such forms as may be prescribed
6 by the director and pay the full amount of the tax due on gross
7 receipts subject to tax derived from the first sale of petroleum
8 products within this State and the consideration given or contracted
9 to be given for all deliveries of petroleum products for use or
10 consumption by it within this State for the preceding month.

11 b. On or before the 25th day following the end of a quarterly
12 period, a company subject to tax under **[this act]** P.L.1990, c.42
13 (C.54:15B-1 et seq.) shall file a reconciliation return under oath to
14 the director on such forms as may be prescribed by the director
15 reflecting such information and payments from the preceding
16 quarterly period as the director shall deem necessary.

17 c. The tax payments of a company subject to tax under
18 P.L.1990, c.42 (C.54:15B-1 et seq.) whose tax on sales is co-
19 collected with the tax imposed by section 3 of P.L. _____,
20 c. (C. _____)(pending before the Legislature as this bill) pursuant to
21 regulations of the director shall pay the tax under P.L.1990, c.42
22 (C.54:15B-1 et seq.) at such times and on the returns for the tax
23 imposed under P.L. _____, c. (C. _____)(pending before the Legislature as
24 this bill), and omit those sales from the returns required under this
25 section.

26 (cf: P.L.1991, c.181, s.4)

27

28 54. Section 20 of P.L.1980, c.105 (C.54:32B-8.8) is amended to
29 read as follows:

30 20. Receipts from sales of motor **[fuels]** fuel, racing gasoline,
31 liquefied petroleum gas, and aviation fuel as **[motor]** those fuels
32 are defined **[for purposes of the New Jersey Motor Fuel Tax Law**
33 **(R.S. 54:39-1 et seq.)]** by section 2 of P.L. _____, c. _____ (C. _____)
34 (pending before the Legislature as this bill); and sales of fuel to an
35 airline for use in its airplanes or to a railroad for use in its
36 locomotives are exempt from the tax imposed under the Sales and
37 Use Tax Act.

38 (cf: P.L.1980, c.105, s.20)

39

40 55. Section 2 of P.L.1963, c.44 (C.54:39A-2) is amended to read
41 as follows:

42 2. For the purpose of this act, unless inconsistent with the
43 context:

44 (a) "User" means every person who operates or causes to be
45 operated any qualified motor vehicle on any highway in this State.
46 The term shall include a rental company in the case of a rental
47 vehicle.

1 (b) "Qualified motor vehicle" means a motor vehicle that is not
2 an exempt vehicle and that is used, designed or maintained for
3 transportation of persons or property; and

4 (1) having two axles and a gross vehicle weight or registered
5 gross vehicle weight in excess of 26,000 pounds;

6 (2) having three or more axles, regardless of weight; or

7 (3) that is used in combination, when the weight of such
8 combination is in excess of 26,000 pounds gross vehicle weight or
9 registered gross vehicle weight.

10 Notwithstanding this definition of qualified motor vehicle, if the
11 director enters into the agreement authorized pursuant to subsection
12 b. of section 24 of P.L.1963, c.44 (C.54:39A-24), the director shall,
13 as may be required by the agreement, issue a card and markers
14 pursuant to P.L. , c. (C.)(pending before the Legislature as
15 this bill) to the user of an exempt vehicle other than a recreational
16 vehicle that is a New Jersey base jurisdiction vehicle and that would
17 be a qualified motor vehicle but for being an exempt vehicle and the
18 director shall administer the reporting and collection of tax imposed
19 by other member jurisdictions with respect to such vehicle.

20 (c) "Exempt vehicle" means:

21 (1) Any vehicle owned or operated by an agency of this State or
22 any political subdivision thereof, or any quasi-governmental
23 authority of which this State is a participating member, or any
24 agency of the federal government or the District of Columbia, or of
25 any state or province or political subdivision thereof.

26 (2) School bus as defined in R.S.39:1-1.

27 (3) Vehicles operated under authority of dealer, manufacturer,
28 converter and transporter general registration plates such as
29 prescribed in R.S.39:3-18 and similar laws of other states.

30 (4) Special mobile equipment not designed or used primarily for
31 the transportation of persons or property.

32 (5) Vehicles operated not for profit by any religious or
33 charitable organization.

34 (6) Vehicles operated by a public utility as defined in R.S.48:2-
35 13, or under a contract with the New Jersey Transit Corporation or
36 under a contract with a county for special or rural transportation bus
37 service subject to the jurisdiction of the New Jersey Transit
38 Corporation pursuant to P.L.1979, c.150 (C.27:25-1 et seq.) whose
39 operations are limited to the State of New Jersey, or vehicles
40 providing commuter bus service which receive or discharge
41 passengers in New Jersey.

42 (7) Vehicles operated, not for hire, by a farmer as defined in
43 R.S.39:3-25.

44 (8) Vehicles used to transport farm labor.

45 (9) Recreational vehicles such as motor homes, pickup trucks
46 with attached campers, and buses when used exclusively for
47 personal pleasure by an individual. A recreational vehicle is a
48 vehicle that is not used in connection with any business endeavor.

1 (d) "Operations" means operations of all qualified motor
2 vehicles, whether loaded or empty, whether for compensation or not
3 for compensation, and whether owned by, contracted for use by, or
4 leased by the user who operates or causes them to be operated,
5 except operations of an omnibus in a regular route bus operation as
6 defined in R.S.48:4-1 and under operating authority conferred
7 pursuant to R.S.48:4-3.

8 (e) The term "motor fuels" means any combustible liquid or
9 gaseous substance used, or suitable, for the generation of power to
10 propel motor vehicles.

11 (f) "Motor fuel tax " means a tax imposed at a rate equal to the
12 sum of:

13 (1) the tax rate per gallon on motor fuels imposed [under
14 R.S.54:39-1 et seq.] by section 3 of P.L. _____, c. (C. _____)(pending
15 before the Legislature as this bill); and

16 (2) the tax rate per gallon on motor fuels imposed pursuant to
17 section 3 of P.L.1990, c.42 (C.54:15B-3).

18 (g) "Director" shall mean the Director of the Division of Motor
19 Vehicles in the Department of Transportation.

20 (h) "Purchaser" means the person, firm or corporation who or
21 which purchased the fuel, and paid the motor fuel tax thereon, used
22 in the qualified motor vehicles of the user.

23 (i) (Deleted by amendment, P.L.1995, c.347).

24 (j) (Deleted by amendment, P.L.1995, c.347).

25 (k) "Rental vehicle" means a vehicle owned by a rental company
26 and rented to the general public on an hourly, daily, trip, or other
27 short-term basis.

28 (l) "Rental company" means a person engaged in the business
29 of renting vehicles to the general public, including motor carriers,
30 on an hourly, daily, trip, or other short-term basis.

31 (m) "Commuter bus service" means regularly scheduled
32 passenger service provided by qualified motor vehicles within or
33 across the geographical boundaries of New Jersey and utilized by
34 passengers using reduced fare, multiple ride or commutation tickets
35 and shall not include charter bus operations or special bus
36 operations as defined in R.S.48:4-1 or buses operated for the
37 transportation of enrolled children and adults referred to in
38 subsection c. of R.S.48:4-1.

39 (cf: P.L.1995, c.347, s.1)

40

41 56. The following sections are repealed:

42 R.S.54:39-1 through R.S.54:39-15;

43 R.S.54:39-17 through R.S.54:39-49;

44 R.S.54:39-51 through R.S.54:39-54;

45 R.S.54:39-56;

46 R.S.54:39-58 through R.S.54:39-60;

47 R.S.54:39-65 through R.S.54:39-75;

1 Sections 2 and 3 of P.L.1955, c.90 (C.54:39-66.1 and 54:39-
2 67.1);
3 Sections 1 and 2 of P.L.1968, c.420 (C.54:39-6.1 and 54:39-
4 31.1);
5 Section 1 of P.L.1971, c.52 (C.54:39-27.1);
6 Section 7 of P.L.1983, c.264 (C.54:39-27a); and
7 Sections 41, 49, 50 through 62, and 68 of P.L.1992, c.23
8 (C.54:39-57.1, 54:39-6.2, 54:39-6.3, 54:39-6.4, 54:39-64.1,
9 through 54:39-64.8, 54:39-10.1, 54:39-64.9, 54:39-64.10, and
10 54:39-10.2).
11 provided, however, that this repeal shall not affect any obligation,
12 lien or duty to pay taxes, interest or penalties which have accrued or
13 may accrue by virtue of any taxes imposed pursuant to the
14 provisions of the law repealed by this act, or which may be imposed
15 with respect to any redetermination, correction, recomputation or
16 deficiency assessment; and provided that all taxes and returns which
17 would have been due and payable under the provisions of the law
18 repealed shall be due and payable as if the law was in effect; and
19 provided that this repeal shall not affect the legal authority of the
20 State to audit records and assess and collect taxes due or which may
21 be due, together with the interest and penalties as have accrued or
22 would have accrued on those taxes under the provisions of the law
23 repealed; and provided that this repeal shall not affect any
24 determination of, or affect any proceeding for, the enforcement
25 thereof.

26
27 57. This act shall take effect immediately, provided however
28 that sections 1 through 27, 29 through 49, and 53 through 56 shall
29 remain inoperative until October 1, 2010.

30
31
32 STATEMENT

33
34 This bill provides the "Motor Fuel Tax Act," a bill that
35 modernizes the system for assessing the taxes on highway motor
36 vehicles that is principally dedicated by the New Jersey
37 Constitution to the costs of the State transportation system.

38 The current system for collecting the taxes on motor fuels is the
39 result of revisions to the system made in 1992. Taxable diesel fuel
40 is virtually the same product as tax exempt home heating oil. In
41 response to a number of reports on fuel tax evasion based on the
42 difficulty of distinguishing taxable from nontaxable products and
43 corporate manipulation of fuel tax records, including a report by the
44 State Commission of Investigation, a new set of procedures was
45 introduced that emphasized the tracking of the fuel through the
46 chain of distribution.

47 The 1992 system emphasized the licensing of each party in the
48 distribution chain, and regular reporting of purchases and sales by

1 each party, reporting requirements, bonding and other steps to
2 address the problem of substitution of tax exempt No. 2 fuel oil for
3 taxable diesel fuel. The new system circumvented the problem of
4 manipulation of falsified corporate records of putatively taxed fuel
5 by imposing the tax on diesel fuel at retail consumer level.

6 Much has changed since 1992, including the introduction of the
7 federal dyed fuel system, under which fuel for exempt purposes is
8 dyed while fuel for taxable purposes is undyed or “clear.” Although
9 New Jersey was one of the two test states that cooperated with the
10 federal Internal Revenue Service in the initial testing of the federal
11 dyed fuel system, it is one of the last of the industrialized states to
12 use the dyed fuel system in its own motor fuels tax administration.

13 This bill changes the point of taxation of diesel fuel from the
14 retail level to the level at which it is removed from the bulk fuel
15 storage and distribution system of refineries, pipelines, ships and
16 barges, at a terminal. The bill also changes the point of taxation of
17 gasoline from the distributor level to the terminal level.

18 This change in the point of taxation will decrease the number of
19 taxpayers and decrease the volume of paperwork. This will save
20 administrative costs for both taxpayers and the tax administrators,
21 and will allow audit staff to focus on fewer taxpayers, which should
22 result in a more comprehensive and productive audit program and a
23 more rapid identification of problem areas.

24 The bill includes requirements for transporting and labeling dyed
25 fuel, and penalties for mishandling dyed (tax-exempt) fuel and for
26 using dyed fuel in highway vehicles. The bill also authorizes the
27 co-collection of petroleum products gross receipts tax with the
28 motor fuel taxes, when that is feasible.

ASSEMBLY BUDGET COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3014

STATE OF NEW JERSEY

DATED: JUNE 24, 2010

The Assembly Budget Committee reports favorably Assembly Bill No. 3014.

The bill provides the “Motor Fuel Tax Act,” a bill that modernizes the system for assessing the taxes on highway motor vehicles that are principally dedicated by the New Jersey Constitution to the costs of the State transportation system.

The current system for collecting the taxes on motor fuels is the result of revisions to the system made in 1992. Taxable diesel fuel is virtually the same product as tax exempt home heating oil. In response to a number of reports on fuel-tax evasion based on the difficulty of distinguishing taxable from nontaxable products and corporate manipulation of fuel tax records, including a report by the State Commission of Investigation, a new set of procedures was introduced that emphasized the tracking of the fuel through the chain of distribution.

The 1992 system emphasized the licensing of each party in the distribution chain, and regular reporting of purchases and sales by each party, bonding, and other steps to address the problem of substitution of tax-exempt No. 2 fuel oil for taxable diesel fuel. The new system circumvented the problem of manipulation of falsified corporate records of putatively taxed fuel by imposing the tax on diesel fuel at retail consumer level.

Much has changed since 1992, including the introduction of the federal dyed fuel system, under which fuel for exempt purposes is dyed while fuel for taxable purposes is undyed or “clear.” Although New Jersey was one of the two test states that cooperated with the federal Internal Revenue Service in the initial testing of the federal dyed fuel system, it is one of the last of the industrialized states to use the dyed fuel system in its own motor fuels tax administration.

This bill changes the point of taxation of diesel fuel from the retail level to the level at which it is removed from the bulk fuel storage and distribution system of refineries, pipelines, ships and barges, at a terminal. The bill also changes the point of taxation of gasoline from the distributor level to the terminal level.

The bill includes requirements for transporting and labeling dyed fuel, and penalties for mishandling dyed (tax-exempt) fuel and for using dyed fuel in highway vehicles. The bill also authorizes the co-

collection of petroleum products gross receipts tax with the motor fuel taxes, when that is feasible.

FISCAL IMPACT:

The change in the point of taxation will decrease the number of taxpayers and decrease the volume of paperwork, potentially by more than 80% based on information supplied by the Division of Taxation. This will save substantial compliance costs for the industry, and a lesser amount of savings for the administration of tax. Although the Division of Taxation will have less need to process and store tax returns, the actual advantage for the division staff will be its ability to direct more of its attention at fewer taxpayers. With more attention focused on each taxpayer, the taxpayers who remain will be better screened and more skilled at maintaining compliance. The division has estimated that the combination of reduced compliance costs and improved audit and review focus will result in cost savings and increased compliance revenue totaling \$18 million annually.

FISCAL NOTE
ASSEMBLY, No. 3014
STATE OF NEW JERSEY
214th LEGISLATURE

DATED: JULY 28, 2010

SUMMARY

Synopsis: Concerns method of collection of tax on motor fuel; repeals former motor fuels tax.

Type of Impact: Annual increase in revenues in the General Fund.

Agencies Affected: Department of the Treasury.

Executive Estimate

Fiscal Impact	<u>FY 2011 and Annually Thereafter</u>
State Revenue Increase	\$18,000,000 – See comments below

- The Office of Legislative Services (OLS) has no independent means by which to evaluate the revenue impact of this bill. The Executive estimate may be plausible.

BILL DESCRIPTION

Assembly Bill No. 3014 of 2010 changes the point of taxation of diesel fuel from the retail level to the level at which it is removed from the bulk fuel storage and distribution system of refineries, pipelines, ships and barges, at a terminal. The bill also changes the point of taxation of gasoline from the distributor level to the terminal level.

The bill includes requirements for transporting and labeling dyed fuel, and penalties for mishandling dyed (tax-exempt) fuel and for using dyed fuel in highway vehicles. The bill also authorizes the co-collection of petroleum products gross receipts tax with the motor fuel taxes, when that is feasible.

FISCAL ANALYSIS

EXECUTIVE BRANCH

The Executive's Budget-in-Brief for FY 2011 indicated that the changes in the point of taxation of diesel fuel and gasoline, subsequently incorporated in this bill, would increase motor fuels tax revenues by \$18,000,000 annually beginning in FY 2011.

OFFICE OF LEGISLATIVE SERVICES

The OLS has no independent means by which to evaluate the revenue impact of this bill. The Executive estimate may be plausible. New Jersey diesel fuel tax collections typically yield just over \$100 million annually (out of over \$530 million in total annual motor fuels revenue collections), suggesting that the Executive's \$18.0 million revenue estimate would result in a collections improvement of between 15 percent and 20 percent annually.

Section: Revenue, Finance and Appropriations

*Analyst: Martin Poethke
Lead Fiscal Analyst*

*Approved: David J. Rosen
Legislative Budget and Finance Officer*

This fiscal note has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

SENATE, No. 2136

STATE OF NEW JERSEY
214th LEGISLATURE

INTRODUCED JUNE 21, 2010

Sponsored by:

Senator STEVEN V. OROHO

District 24 (Sussex, Hunterdon and Morris)

SYNOPSIS

Concerns method of collection of tax on motor fuel; repeals former motor fuels tax.

CURRENT VERSION OF TEXT

As introduced.



S2136 OROHO

2

1 AN ACT concerning the taxation of motor fuels, supplementing
2 Chapter 39 of Title 54 of the Revised Statutes, amending
3 P.L.1990, c.42, P.L.1980, c.105, and P.L.1963, c.44, and
4 repealing parts of the statutory law.

5

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

8

9 1. (New section) Sections 1 through 49 of this act shall be
10 known and may be cited as the "Motor Fuel Tax Act."

11

12 2. (New section) For the purposes of P.L. , c. (C.)
13 (pending before the Legislature as this bill), the following terms
14 have the following meanings:

15 "Aviation fuel" means aviation gasoline or aviation grade
16 kerosene;

17 "Aviation fuel dealer" means a person that acquires aviation fuel
18 from a supplier or from another aviation fuel dealer for subsequent
19 sale;

20 "Aviation gasoline" means fuel specifically compounded for use
21 in reciprocating aircraft engines;

22 "Aviation grade kerosene" means any kerosene type jet fuel
23 covered by ASTM Specification D 1655 or meeting specification
24 MIL-DTL-5624T (Grade JP-5) or MIL-DTL-83133E (Grade JP-8);

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

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

35 "Blended fuel" means a mixture composed of motor fuel and
36 another liquid, including blend stock other than a de minimis
37 amount of a product such as carburetor detergent or oxidation
38 inhibitor, that can be used as a fuel in a highway vehicle. "Blended
39 fuel" includes but is not limited to gasohol, biodiesel, ethanol,
40 methanol, fuel grade alcohol, diesel fuel enhancers and resulting
41 blends;

42 "Blender" means a person that produces blended motor fuel
43 outside the terminal transfer system;

44 "Blending" means the mixing of one or more petroleum products,
45 with or without another product, regardless of the original character

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.

S2136 OROHO

1 of the product blended, if the product obtained by the blending is
2 capable of use or otherwise sold for use in the generation of power
3 for the propulsion of a motor vehicle, an airplane, or a motorboat.
4 The term does not include the blending that occurs in the process of
5 refining by the original refiner of crude petroleum or the blending
6 of products known as lubricating oil and greases, or the
7 commingling of products during transportation in a pipeline;

8 "Blocked pump" means a pump that, because of the pump's
9 physical limitations, for example, a short hose, cannot be used to
10 fuel a vehicle, or a pump that is locked by the vendor after each sale
11 and unlocked by the vendor in response to a request by a buyer for
12 undyed kerosene for use other than as a fuel in a diesel-powered
13 highway vehicle or train;

14 "Biodiesel" means any motor fuel or mixture of motor fuels that
15 is derived, in whole or in part, from agricultural products or animal
16 fats, or the wastes of such products or fats, and is advertised as,
17 offered for sale as, suitable for use or used as motor fuel in an
18 internal combustion engine;

19 "Bulk plant" means a bulk fuel storage and distribution facility
20 that is not a terminal within the terminal transfer system and from
21 which fuel may be removed by truck or rail car;

22 "Bulk transfer" means a transfer of fuel from one location to
23 another by pipeline tender or marine delivery within the terminal
24 transfer system;

25 "Consumer" means the ultimate user of fuel;

26 "Delivery" means the placing of fuel into the fuel tank of a motor
27 vehicle or into a bulk fuel storage and distribution facility;

28 "Diesel fuel" means a liquid that is commonly or commercially
29 known or sold as a fuel that is suitable for use in a diesel-powered
30 highway vehicle. A liquid meets this requirement if, without
31 further processing or blending, the liquid has practical and
32 commercial fitness for use in the propulsion engine of a
33 diesel-powered highway vehicle. "Diesel fuel" includes biodiesel,
34 number 1 and number 2 diesel;

35 "Diesel-powered motor vehicle" means a motor vehicle that is
36 propelled by a diesel-powered engine.

37 "Director" means the Director of the Division of Taxation in the
38 Department of the Treasury;

39 "Distributor" means a person who acquires fuel from a supplier,
40 permissive supplier or from another distributor for subsequent sale;

41 "Dyed fuel" means dyed diesel fuel or dyed kerosene that is
42 required to be dyed pursuant to United States Environmental
43 Protection Agency rules or is dyed pursuant to Internal Revenue
44 Service rules or pursuant to any other requirements subsequently set
45 by the United States Environmental Protection Agency or Internal
46 Revenue Service including any invisible marker requirements;

47 "Export" means to obtain fuel in this State for sale or other
48 distribution outside of this State. In applying this definition, fuel

S2136 OROHO

1 delivered out-of-State by or for the seller constitutes an export by
2 the seller, and fuel delivered out-of-State by or for the purchaser
3 constitutes an export by the purchaser;

4 "Exporter" means any person, other than a supplier, who
5 purchases fuel in this State for the purpose of transporting or
6 delivering the fuel outside of this State;

7 "Fuel" means:

8 a. a liquid or gaseous substance commonly or commercially
9 known or sold as gasoline, regardless of its classification or use;
10 and

11 b. a liquid or gaseous substance used, offered for sale or sold
12 for use, either alone or when mixed, blended, or compounded,
13 which is capable of generating power for the propulsion of motor
14 vehicles upon the public highways;

15 "Fuel grade alcohol" means a methanol or ethanol with a proof of
16 not less than one hundred ninety degrees (determined without
17 regard to denaturants) and products derived from that methanol and
18 ethanol for blending with motor fuel;

19 "Fuel transportation vehicle" means any vehicle designed for
20 highway use which is also designed or used to transport fuel;

21 "Gasoline" means all products commonly or commercially
22 known or sold as gasoline that are suitable for use as a motor fuel.
23 Gasoline does not include products that have an ASTM octane
24 number of less than seventy-five as determined by the "motor
25 method," ASTM D2700-92. The term does not include racing
26 gasoline or aviation gasoline, but for administrative purposes does
27 include fuel grade alcohol;

28 "General aviation airport" means a civil airport located in this
29 State other than the international airports located in Newark and
30 Atlantic City;

31 "Gross gallons" means the total measured volume of fuel,
32 measured in U.S. gallons, exclusive of any temperature or pressure
33 adjustments;

34 "Import" means to bring fuel into this State by any means of
35 conveyance other than in the fuel supply tank of a motor vehicle. In
36 applying this definition, fuel delivered into this State from
37 out-of-State by or for the seller constitutes an import by the seller,
38 and fuel delivered into this State from out-of-State by or for the
39 purchaser constitutes an import by the purchaser;

40 "Import verification number" means the number assigned by the
41 director with respect to a single fuel transportation vehicle delivery
42 into this State from another state upon request for an assigned
43 number by an importer or the transporter carrying fuel into this
44 State for the account of an importer;

45 "Importer" includes any person who is the importer of record,
46 pursuant to federal customs law, with respect to fuel. If the
47 importer of record is acting as an agent, the person for whom the
48 agent is acting is the importer. If there is no importer of record of

S2136 OROHO

1 fuel imported into this State, the owner of the fuel at the time it is
2 brought into this State from another state or foreign country is the
3 importer;

4 "Invoiced gallons" means the gallons actually billed on an
5 invoice for payment to a supplier which shall be either gross gallons
6 or net gallons on the original manifest or bill of lading;

7 "Kerosene" means the petroleum fraction containing
8 hydrocarbons that are slightly heavier than those found in gasoline
9 and naphtha, with a boiling range of one hundred forty-nine to three
10 hundred degrees Celsius;

11 "Liquefied petroleum gas dealer" means a person who acquires
12 liquefied petroleum gas for subsequent sale to a consumer and
13 delivery into the vehicle fuel supply tank;

14 "Liquid" means any substance that is liquid in excess of sixty
15 degrees Fahrenheit and at a pressure of fourteen and seven-tenths
16 pounds per square inch absolute;

17 "Motor fuel" means gasoline, diesel fuel, kerosene and blended
18 fuel;

19 "Motor vehicle" means an automobile, truck, truck-tractor or any
20 motor bus or self-propelled vehicle not exclusively operated or
21 driven upon fixed rails or tracks. "Motor vehicle" does not include
22 tractor-type, motorized farm implements and equipment but does
23 include motor vehicles of the truck-type, pickup truck-type,
24 automobiles, and other vehicles required to be registered and
25 licensed each year pursuant to the provisions of the motor vehicle
26 license and registration laws of this State. "Motor vehicle" does not
27 include tractors and machinery designed for off-road use but
28 capable of movement on roads at low speeds;

29 "Net gallons" means the total measured volume of fuel,
30 measured in U.S. gallons, when corrected to a temperature of sixty
31 degrees Fahrenheit and a pressure of fourteen and seven-tenths
32 pounds per square inch absolute;

33 "Permissive supplier" means an out-of-State supplier that elects,
34 but is not required, to have a supplier's license pursuant to P.L. ,
35 c. (C.)(pending before the Legislature as this bill);

36 "Person" means an individual, a partnership, a limited liability
37 company, a firm, an association, a corporation, estate, trustee,
38 business trust, syndicate, this State, a county, city, municipality,
39 school district or other political subdivision of this State, or any
40 corporation or combination acting as a unit or any receiver
41 appointed by any state or federal court;

42 "Position holder" means the person who holds the inventory
43 position in fuel in a terminal, as reflected on the records of the
44 terminal operator. A person holds the inventory position in fuel
45 when that person has a contract with the terminal operator for the
46 use of storage facilities and terminating services for fuel at the
47 terminal. The term includes a terminal operator who owns fuel in
48 the terminal;

S2136 OROHO

6

1 "Propel" means operate the drive engine of a motor vehicle,
2 whether the vehicle is in motion or at rest;

3 "Qualified terminal" means a terminal which has been assigned a
4 terminal control number by the federal Internal Revenue Service;

5 "Rack" means a mechanism for delivering fuel from a refinery or
6 terminal into a railroad tank car, a fuel transportation vehicle or
7 other means of transfer outside of the terminal transfer system;

8 "Racing gasoline" means gasoline that contains lead, has an
9 octane rating of 110 or higher, does not have detergent additives,
10 and is not suitable for use as a motor fuel in a motor vehicle used on
11 public highways;

12 "Refiner" means a person that owns, operates, or otherwise
13 controls a refinery;

14 "Refinery" means a facility used to produce fuel from crude oil,
15 unfinished oils, natural gas liquids, or other hydrocarbons and from
16 which fuel may be removed by pipeline, by ship or barge, or at a
17 rack;

18 "Removal" means any physical transfer of fuel from a terminal,
19 manufacturing plant, pipeline, ship or barge, refinery, from customs
20 custody, or from a facility that stores fuel;

21 "Retail dealer means a person that engages in the business of
22 selling or dispensing motor fuel to the consumer within this State;

23 "Supplier" means a person that is:

24 a. registered or required to be registered pursuant to section
25 4101 of the federal Internal Revenue Code of 1986 (26 U.S.C.
26 s.4101) for transactions in fuels in the terminal transfer system; and

27 b. satisfies one or more of the following:

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

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

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

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

39 "Supplier" also means a person that produces fuel grade alcohol
40 or alcohol-derivative substances in this State, produces fuel grade
41 alcohol or alcohol-derivative substances for import to this State into
42 a terminal, or acquires upon import by truck, rail car or barge into a
43 terminal, fuel grade alcohol or alcohol-derivative substances.

44 "Supplier" includes a permissive supplier unless the "Motor Fuel
45 Tax Act," P.L. , c. (C.) (pending before the Legislature as
46 this bill) specifically provides otherwise;

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

48 a. which is a qualified terminal,

S2136 OROHO

7

1 b. to which fuel is supplied by pipeline or marine vessel, or, for
2 the purposes of fuel grade alcohol, is supplied by truck or railcar,
3 and

4 c. from which fuel may be removed at a rack;

5 "Terminal bulk transfer" includes but is not limited to the
6 following:

7 a. a boat or barge movement of fuel from a refinery or terminal
8 to a terminal;

9 b. a pipeline movement of fuel from a refinery or terminal to a
10 terminal;

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

13 d. a two-party exchange within a terminal between licensed
14 suppliers;

15 "Terminal operator" means a person that owns, operates, or
16 otherwise controls a terminal. A terminal operator may own the
17 fuel that is transferred through, or stored in, the terminal;

18 "Terminal transfer system" means the fuel distribution system
19 consisting of refineries, pipelines, vessels, and terminals. Fuel in a
20 refinery, pipeline, vessel, barge or terminal is in the terminal
21 transfer system. Fuel in the fuel supply tank of an engine, or in a
22 tank car, rail car, trailer, truck, or other equipment suitable for
23 ground transportation is not in the terminal transfer system;

24 "Transmix" means the buffer or interface between two different
25 products in a pipeline shipment, or a mix of two or more different
26 products within a refinery or terminal that results in an off-grade
27 mixture;

28 "Transporter" means an operator of a pipeline, barge, railroad or
29 fuel transportation vehicle engaged in the business of transporting
30 fuel;

31 "Two-party exchange" means a transaction in which

32 a. the fuel is transferred from one licensed supplier or licensed
33 permissive supplier to another licensed supplier or licensed
34 permissive supplier;

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

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

40 d. the terminal operator in its books and records treats the
41 receiving exchange party as the supplier which removes the product
42 across a terminal rack for purposes of reporting such events to this
43 State;

44 "Ultimate vendor - blocked pumps" means a person that sells
45 clear kerosene at a retail site through a blocked pump and who is
46 registered with both the Division of Taxation in the Department of
47 the Treasury and the federal Internal Revenue Service as an
48 Ultimate vendor - blocked pumps;

S2136 OROHO

8

1 "Undyed diesel fuel" means diesel fuel that is not subject to the
2 federal Environmental Protection Agency dyeing requirements, or
3 has not been dyed in accordance with federal Internal Revenue
4 Service fuel dyeing provisions;

5 "Undyed kerosene" means kerosene that is not subject to the
6 federal Environmental Protection Agency dyeing requirements, or
7 has not been dyed in accordance with federal Internal Revenue
8 Service fuel dyeing provisions; and

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

11

12 3. (New section) a. A tax is imposed on fuel used or
13 consumed in this State as follows:

14 (1) Motor fuel:

15 (a) at the rate of 10.5 cents per gallon for:

16 gasoline and

17 blended fuel that contains gasoline or that is intended for use
18 as gasoline;

19 (b) at the rate of 13.5 cents per gallon for:

20 diesel fuel,

21 blended fuel that contains diesel fuel or that is intended for
22 use as diesel fuel, and

23 kerosene other than aviation grade kerosene;

24 (2) Liquefied Petroleum Gas:

25 at the rate of one-half of the tax imposed under subsection a.
26 of this section on gasoline, or 5.25 cents per gallon;

27 (3) Aviation gasoline:

28 at the rate of 10.5 cents per gallon.

29 b. In addition to the tax, if any, imposed pursuant to subsection
30 a. of this section a tax is imposed on aviation fuel distributed to a
31 general aviation airport at the rate of 2 cents per gallon.

32 c. The taxes imposed by this section are imposed on the
33 consumer, but shall be precollected pursuant to the terms of the
34 "Motor Fuel Tax Act," P.L. , c. (C.) (pending before the
35 Legislature as this bill), for the facility and convenience of the
36 consumer.

37

38 4. (New section) a. The tax imposed by section 3 of P.L. ,
39 c. (C.) (pending before the Legislature as this bill) on the use
40 of motor fuel and aviation gasoline shall be measured by invoiced
41 gallons of fuel removed, other than by a bulk transfer:

42 (1) From the terminal transfer system within this State;

43 (2) From the terminal transfer system outside this State for
44 delivery to a location in this State as represented on the shipping
45 papers, provided that the supplier imports the motor fuel or aviation
46 gasoline for the account of the supplier, or the supplier has made a
47 tax precollection election pursuant to section 18 of P.L. ,

48 c. (C.) (pending before the Legislature as this bill); and

S2136 OROHO

1 (3) Upon sale in a terminal or refinery in this State to a person
2 not holding a supplier's or permissive supplier's license.

3 b. Except as provided in paragraph (2) of subsection a. of this
4 section, the tax imposed by section 3 of P.L. , c. (C.)
5 (pending before the Legislature as this bill) on the use of motor fuel
6 and aviation gasoline which is imported into this State, other than
7 by a bulk transfer, is payable at the time the product is imported
8 into the State and shall be measured by invoiced gallons received
9 outside this State at a refinery, terminal or at a bulk plant for
10 delivery to a destination in this State.

11 c. The tax imposed by section 3 of P.L. , c. (C.)
12 (pending before the Legislature as this bill) on blended fuel made in
13 this State is payable by the blender at the point the blended fuel is
14 made in this State outside of the terminal transfer system. The tax
15 imposed by section 3 of P.L. , c. (C.) (pending before the
16 Legislature as this bill) on blended fuel imported into this State is
17 payable by the importer of that blended fuel, provided the tax
18 imposed section 3 of P.L. , c. (C.) (pending before the
19 Legislature as this bill) has not already been paid to a permissive
20 supplier through a precollection agreement. The number of gallons
21 of blended fuel on which the tax shall be imposed shall be equal to
22 the difference between the number of gallons of blended fuel made
23 and the number of gallons of motor fuel that was previously taxed
24 by section 3 of P.L. , c. (C.) (pending before the Legislature
25 as this bill) and used to make the blended fuel.

26 d. The tax imposed on aviation fuel by subsection b. of section
27 3 of P.L. , c. (C.) (pending before the Legislature as this
28 bill) is payable by the person purchasing or acquiring the aviation
29 fuel within this State and shall be precollected by the Aviation Fuel
30 Dealer or Supplier making the sale. A person, whether or not
31 licensed under P.L. , c. (C.), who uses, acquires for use,
32 sells or delivers for use in motor vehicles any aviation fuel taxable
33 pursuant to P.L. , c. (C.) shall be liable for the tax imposed
34 by subsection a. of section 3 of P.L. , c. (C.) (pending before
35 the Legislature as this bill) as if the aviation fuel were gasoline or
36 kerosene defined as motor fuel

37 e. The tax imposed by section 3 of P.L. , c. (C.)
38 (pending before the Legislature as this bill) on liquefied petroleum
39 gas is payable by the person purchasing or acquiring the liquefied
40 petroleum gas within this State for use in a motor vehicle and shall
41 be precollected by the liquefied petroleum gas dealer making the
42 sale. A person, whether or not licensed under P.L. , c. (C.),
43 who uses, acquires for use, sells or delivers for use in motor
44 vehicles any liquefied petroleum gas taxable pursuant to P.L. ,
45 c. (C.) shall be liable for the tax imposed by subsection a. of
46 section 3 of P.L. , c. (C.) along with applicable penalties.

47 5. (New section) a. A supplier, permissive supplier, importer,
48 exporter, blender, distributor, liquefied petroleum gas dealer, or

1 aviation fuel dealer shall keep a record of all fuel received, sold or
2 used which shall include the name of the purchaser, the number of
3 gallons used or sold and the date of the use or sale. A supplier,
4 permissive supplier, importer, exporter, blender, distributor,
5 liquefied petroleum gas dealer, or aviation fuel dealer shall also
6 deliver with each consignment of fuel to a purchaser within this
7 State a written statement containing the date and number of gallons
8 delivered and the names of the purchaser and seller, and that
9 statement shall show a separate charge for the tax imposed by
10 section 3 of P.L. , c. (C.)(pending before the Legislature as this
11 bill) tax on each gallon; provided however, that a statement shall
12 not be required to be delivered by the supplier, permissive supplier,
13 importer, exporter, blender, distributor, liquefied petroleum gas
14 dealer, or aviation fuel dealer if a sale of fuel is made at a service
15 station and the fuel is delivered directly into a vehicle fuel supply
16 tank. The records and written statements shall be preserved by a
17 supplier, permissive supplier, importer, exporter, blender,
18 distributor, liquefied petroleum gas dealer, or aviation fuel dealer
19 and the purchaser respectively, for a period of four years and shall
20 be offered for inspection at the request of the director.

21 b. A supplier, permissive supplier, importer, exporter, blender,
22 distributor, liquefied petroleum gas dealer, or aviation fuel dealer
23 shall take a physical inventory of fuel on hand on the first or last
24 day of each month and shall have the record of that inventory and of
25 all other matters enumerated in this section available at all times for
26 inspection by the director. Upon demand by the director each
27 supplier, permissive supplier, importer, exporter, blender,
28 distributor, liquefied petroleum gas dealer, and aviation fuel dealer
29 shall furnish a statement under oath reflecting the contents of any
30 records required to be kept by this section.

31 c. Each supplier, permissive supplier, importer, exporter,
32 blender, distributor, liquefied petroleum gas dealer, or aviation fuel
33 dealer shall, on or before the 22nd day of each month, render a
34 report to the director, in the form and manner prescribed by the
35 director, stating the number of gallons of fuel sold or used in this
36 State by that person during the preceding calendar month. Upon
37 application to the director, the period within which a report must be
38 made may be extended up to an additional 10 days, if deemed
39 advisable by the director. A tax at the rate imposed by section 3 of
40 P.L. , c. (C.) (pending before the Legislature as this bill)
41 shall be paid by each supplier, permissive supplier, importer,
42 exporter, blender, distributor, liquefied petroleum gas dealer, or
43 aviation fuel dealer, on the number of gallons of fuel sold or used in
44 this State by that person during the preceding calendar month and
45 not exempted from taxation, the payment to accompany the filing of
46 the report. The report shall contain further information as the
47 director may prescribe or determine.

S2136 OROHO

1 d. If a supplier, permissive supplier, importer, exporter,
2 blender, distributor, liquefied petroleum gas dealer, or aviation fuel
3 dealer shall fail, neglect or refuse to file the report within the time
4 prescribed by this section, the director shall note that failure,
5 neglect or refusal upon the director's records, and may estimate the
6 sales, distribution and use of that supplier, permissive supplier,
7 importer, exporter, blender, distributor, liquefied petroleum gas
8 dealer, or aviation fuel dealer, assessing the tax thereon, and adding
9 to that assessed tax a penalty of 20% thereof for failure, neglect or
10 refusal to report, and that estimate shall be prima facie evidence of
11 the true amount of tax due to the director from the supplier,
12 permissive supplier, importer, exporter, blender, distributor,
13 liquefied petroleum gas dealer, or aviation fuel dealer; provided that
14 if a good and sufficient cause or reason is shown for a delinquency,
15 the director may remit or waive the payment of the whole or any
16 part of the penalty, as allowed by the State Uniform Tax Procedure
17 Law, R.S.54:48-1 et seq. Reports required by this section,
18 exclusive of schedules, itemized statements and other supporting
19 evidence annexed to those reports, shall at all reasonable times be
20 open to the public, notwithstanding any provision of R.S.54:50-8 to
21 the contrary.

22
23 6. (New section) a. Each supplier, permissive supplier,
24 importer, exporter, blender, distributor, liquefied petroleum gas
25 dealer, or aviation fuel dealer who sells aviation fuel for distribution
26 to general aviation airports shall, on or before the 22nd day of each
27 month, render a report to the director, stating the number of gallons
28 of aviation gasoline, sold in this State by that person for distribution
29 to general aviation airports during the preceding month. In addition
30 to the provisions of section 4 of P.L. , c. (C.) (pending before
31 the Legislature as this bill) and except as otherwise provided in
32 section 12 of P.L. , c. (C.) (pending before the Legislature as
33 this bill), the tax of 2 cents per gallon as imposed by subsection b.
34 of section 3 of P.L. , c. (C.) (pending before the Legislature
35 as this bill) on each gallon of aviation gasoline so reported shall be
36 paid by each supplier, permissive supplier, importer, exporter,
37 blender, distributor, liquefied petroleum gas dealer, or aviation fuel
38 dealer, the payment to accompany the filing of the report.

39 b. Each supplier, permissive supplier, importer, exporter,
40 blender, distributor, liquefied petroleum gas dealer, or aviation fuel
41 dealer who sells turbine fuels for distribution to general aviation
42 airports shall, on or before the 22nd day of each month, render a
43 report to the director, stating the number of gallons of aviation
44 grade kerosene sold by that person for distribution to general
45 aviation airports during the preceding month. Except as otherwise
46 provided by section 12 of P.L. , c. (C.) (pending before the
47 Legislature as this bill), the tax of 2 cents per gallon imposed under
48 subsection b. of section 3 of P.L. , c. (C.) (pending before the

1 Legislature as this bill) on each gallon of aviation grade kerosene so
2 reported shall be paid by each supplier, permissive supplier,
3 importer, exporter, blender, distributor, liquefied petroleum gas
4 dealer, or aviation fuel dealer, the payment to accompany the filing
5 of the report.

6 c. If a supplier, permissive supplier, importer, exporter,
7 blender, distributor, liquefied petroleum gas dealer, or aviation fuel
8 dealer shall fail, neglect or refuse to file the report within the time
9 prescribed by this section, the director shall note such failure,
10 neglect or refusal upon the director's records, and may estimate the
11 sales, distribution and use of that supplier, permissive supplier,
12 importer, exporter, blender, distributor, liquefied petroleum gas
13 dealer, or aviation fuel dealer, assessing the tax thereon, and adding
14 to that assessed tax a penalty of 20% thereof for failure, neglect or
15 refusal to report, and that estimate shall be prima facie evidence of
16 the true amount of tax due to the director from the supplier,
17 permissive supplier, importer, exporter, blender, distributor,
18 liquefied petroleum gas dealer, or aviation fuel dealer provided that
19 if a good and sufficient cause or reason is shown for a delinquency,
20 the director may remit or waive the payment of the whole or any
21 part of the penalty, as allowed by the State Uniform Tax Procedure
22 Law, R.S.54:48-1 et seq. Reports required by this section,
23 exclusive of schedules, itemized statements and other supporting
24 evidence annexed to those reports, shall at all reasonable times be
25 open to the public, notwithstanding any provision of R.S.54:50-8 to
26 the contrary.

27 d. The monthly filing provisions of this section
28 notwithstanding, the director may require payments of tax liability
29 at intervals and based upon those classifications as the director may
30 prescribe by regulation. In prescribing those other periods to be
31 covered by the return or intervals or classifications for payment of
32 tax liability, the director may take into account the dollar volume of
33 tax involved and the need for assuring the prompt and orderly
34 collection of the taxes imposed.

35 e. The refund provisions of section 12 of P.L. , c. (C.)
36 (pending before the Legislature as this bill) shall not apply to
37 amounts paid pursuant to this section. However, a user of general
38 aviation aircraft shall be allowed a refund or credit of the tax
39 imposed by subsection a. of section 3 of P.L. , c. (C.)(pending
40 before the Legislature as this bill), provided the user complies with
41 the provisions of section 12 of P.L. , c. (C.)(pending before
42 the Legislature as this bill).

43

44 7. (New section) a. (1) Transporter reports shall cover monthly
45 periods and shall be submitted within 30 days after the close of the
46 month covered by the reports. The transporter reports shall show
47 all quantities of fuel delivered at points in the State or from points
48 inside the State to points outside of the State during the month,

S2136 OROHO

13

1 giving the name and address of the consignor, the name and address
2 of the consignee, place at which delivered, the date of shipment, the
3 date of delivery, the numbers and initials of the car if shipped by
4 rail, the name of the boat or barge, if shipped by water, or if
5 delivery by other means, the method of delivery and the number of
6 gallons in each shipment.

7 (2) The director shall have the right at any time during normal
8 business hours to inspect the books of a transporter to determine if
9 the requirements of this section are being properly complied with.

10 (3) Each person engaged in the business of hauling, transporting
11 or delivering fuel shall, before entering upon the highways or
12 waterways of this State with any conveyance used therein, apply to
13 the director for the registration of a fuel conveyance on forms as the
14 director shall prescribe. Upon receipt of an application, the director
15 shall issue a license certificate and license plate for each
16 conveyance which shall show the license number assigned and
17 which shall be displayed on the conveyance at all times in such a
18 manner as the director may regulate. An annual license fee of \$50
19 shall be paid for the licensing of each such conveyance. Nothing in
20 this section shall in any manner relieve or discharge persons
21 obtaining licenses pursuant to this section from complying with
22 provisions of other laws.

23 (4) A person coming into this State in a motor vehicle may
24 transport in the vehicle fuel supply tank, for the propulsion thereof,
25 fuel without paying the tax, securing the license, or making any
26 report required under P.L. , c. (C.)(pending before the
27 Legislature as this bill).

28 b. (1) The driver of a conveyance shall have in the driver's
29 possession at all times while hauling, distributing or transporting
30 fuel, a delivery ticket or other form approved by the director, which
31 shall show the true names of the consignor and consignee and such
32 information as the director may prescribe by regulation. The
33 director or any police officer may stop a conveyance to determine if
34 the provisions of this section are being complied with.

35 (2) The person in charge of any barge, tanker or other vessel in
36 which fuel is being transported, or of a tank truck, truck tractor,
37 semitrailer, trailer, or other vehicle used in transporting fuels other
38 than fuel being transported for use in operating the engine which
39 propels the vessel or vehicle, shall have in that person's possession
40 an invoice, bill of sale or other evidence showing the name and
41 address of the consignor or person from whom that fuel was
42 received by the person in charge and the name and address of the
43 consignee or person to whom the person in charge is to make
44 delivery of the fuel, together with the number of gallons to be
45 delivered to that person, and shall at the request of the director
46 produce that invoice, bill of sale or other record evidence for
47 inspection.

S2136 OROHO

14

1 c. (1) A barge, tanker, or other vessel so used for the
2 transportation of fuel shall be plainly and visibly marked on both
3 sides thereof and above the water line with the word "gasoline," or
4 other name of the fuel being transported, in letters at least eight
5 inches high and of corresponding appropriate width. An owner or
6 lessee violating the provisions of this paragraph shall be guilty of a
7 crime of the fourth degree.

8 (2) A tank truck, truck tractor, semitrailer, or trailer used in
9 transporting fuels shall affix to the rear of the truck or trailers a sign
10 which shall indicate in letters not less than four inches high and of
11 corresponding appropriate width, the type of fuel being transported.
12 An owner or lessee violating the provisions of this section shall be
13 punished by imprisonment for not more than six months, or by a
14 fine of not more than \$500, or by both.

15 d. The license cards issued for the operation over the highways
16 or waterways of this State of any conveyance used for the
17 transportation or hauling of fuels may be suspended or revoked
18 upon reasonable grounds by the director in the same manner as
19 other licenses may be suspended or revoked by the director under
20 the provisions of P.L. , c. (C.)(pending before the Legislature
21 as this bill).

22
23 8. (New section) a. A retail dealer, an aviation fuel dealer and
24 a liquefied petroleum gas dealer shall, before engaging in the retail
25 sale of fuel, apply to the director for a license for each
26 establishment operated by that person. A license fee of \$150 shall
27 be paid for the issuance of a retail license, which shall be valid for
28 a three-year period, and the director shall supply a license plate or
29 suitable substitute containing the number assigned to the licensee,
30 and words denoting whether the license is a retail dealer's license,
31 an aviation fuel dealer's license or a liquefied petroleum gas
32 dealer's license, which the licensee shall publicly display at each
33 establishment in the manner as the director shall prescribe. No
34 applicant shall continue in business after the end of the 14th day
35 following the date of application unless the license applied for has
36 been procured and is publicly displayed at the establishment being
37 operated.

38 (2) A retail dealer, liquefied petroleum gas dealer and an
39 aviation fuel dealer shall keep a daily record showing the total
40 amount of fuels sold on each business day, daily dispensing pump
41 totalizer readings, and monthly physical inventories, such records to
42 be preserved for a period of four years, and to be open for
43 inspection by the director at all times.

44
45 9. (New section) a. A person shall, before engaging in the
46 business of a terminal operator, obtain a terminal operator's license
47 from the director.

1 b. A terminal operator shall, on or before the last day of each
2 month, render a report to the director, in such form as the director
3 may prescribe, stating the quantities of fuel received at the terminal
4 in the State or sold from it during the preceding month.

5 At the discretion of the director, a terminal operator's report as
6 submitted under the federal ExSTARS reporting system may be
7 accepting in lieu of the terminal operator's report required under
8 this subsection.

9 c. The director shall have the right at any time during normal
10 business hours to inspect the books of a terminal operator to
11 determine if the requirements of this act are being properly
12 observed.

13 d. The director may require those returns to be filed, in the
14 form and manner, and at the intervals, that the director may
15 prescribe by regulation.

16

17 10. (New section) a. Except as otherwise provided in this act,
18 all fuel delivered in this State in a vehicle fuel supply tank is
19 presumed to be used or consumed on the highways in this State in
20 producing or generating power for propelling motor vehicles.

21 b. Subject to proof of exemption pursuant to section 13 of
22 P.L. , c. (C.) (pending before the Legislature as this bill), all
23 motor fuel is presumed to be used or consumed on the highways of
24 this State to propel motor vehicles if the fuel is:

25 (1) removed from a terminal in this State; or

26 (2) imported into this State other than by a bulk transfer within
27 the terminal transfer system; or

28 (3) delivered into a consumer's bulk storage tank from which
29 motor vehicles can be fueled.

30

31 11. (New section) a. An excise tax at the applicable rate
32 determined pursuant to section 3 of P.L. , c. (C.) (pending
33 before the Legislature as this bill) is imposed for a calendar year on
34 unaccounted-for fuel losses at a terminal that exceed one-half of
35 one percent of the total number of net gallons removed from the
36 terminal during the calendar year by a system transfer or at a rack.
37 To determine liability for the excise tax, the terminal operator shall
38 determine the terminal loss as the difference between :

39 (1) the total amount of all fuel in inventory at the applicable
40 terminal at the beginning of the year plus the total amount of all
41 fuel received at the terminal during the year; and

42 (2) the total amount of all fuel in inventory at the terminal at the
43 end of the year plus the total amount of all fuel removed from the
44 terminal during the year.

45 b. The terminal operator whose fuel is unaccounted for is liable
46 for the tax imposed by this section. Fuel received by a terminal
47 operator and not shown on a report as having been removed from
48 the terminal is presumed to be unaccounted for if not part of the

S2136 OROHO

16

1 physical inventory of the terminal. A terminal operator may
2 provide documentation to substantiate otherwise unaccountable
3 losses and at the discretion of the director may be relieved of all or
4 a portion of the tax liability.

5 c. The tax at the applicable rate determined pursuant to section
6 3 of P.L. , c. (C.) (pending before the Legislature as this
7 bill) shall be reported, and the tax shall be due and payable, on or
8 before the 22nd day of the second month following the end of the
9 year.

10

11 12. (New section) a. Fuel used for the following purposes is
12 exempt from the tax imposed by the "Motor Fuels Tax Act,"
13 P.L. , c. (C.) (pending before the Legislature as this bill), and
14 a refund may be claimed by the consumer providing proof the tax
15 has been paid and no refund has been previously issued:

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

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

38 (3) farm machinery,

39 (4) aircraft,

40 (5) ambulances,

41 (6) rural free delivery carriers in the dispatch of their official
42 business,

43 (7) vehicles that run only on rails or tracks, and such vehicles as
44 run in substitution therefore,

45 (8) highway motor vehicles that are operated exclusively on
46 private property,

S2136 OROHO

17

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

4 (10) motor boats or motor vessels used exclusively for
5 commercial fishing,

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

8 (12) cleaning,

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

10 (14) stationary machinery and vehicles or implements not
11 designed for the use of transporting persons or property on the
12 public highways,

13 (15) heating and lighting devices,

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

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

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

22 b. Subject to the procedural requirements and conditions set
23 out in the "Motor Fuels Tax Act," P.L. , c. (C.), the
24 following uses are exempt from the tax imposed by section 3 of
25 P.L. , c. (C.) (pending before the Legislature as this bill) on
26 fuel, and a deduction or a refund may be claimed by the supplier,
27 permissive supplier or licensed distributor:

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

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

32 (b) removed from a terminal by a licensed exporter for
33 immediate export as evidenced by the terminal issued shipping
34 papers; or

35 (c) acquired by a licensed distributor and which the tax imposed
36 by P.L. , c. (C.) (pending before the Legislature as this bill)
37 has previously been paid or accrued either as a result of being
38 stored outside of the bulk transfer system immediately prior to
39 loading or as a diversion across state boundaries properly reported
40 in conformity with P.L. , c. (C.) (pending before the
41 Legislature as this bill) and was subsequently exported from this
42 State on behalf of the distributor;

43 The exemption pursuant to subparagraphs (a) and (b) of this
44 paragraph shall be claimed by a deduction on the report of the
45 supplier which is otherwise responsible for remitting the tax upon
46 removal of the product from a terminal or refinery in this State. The
47 exemption pursuant to subparagraph (c) of this paragraph shall be
48 claimed by the distributor, upon a refund application made to the

- 1 director within six months of the licensed distributor's acquisition
2 of the fuel;
- 3 (2) undyed kerosene sold to a licensed ultimate
4 vendor - blocked pumps if the licensed ultimate vendor - blocked
5 pumps does not sell the kerosene through dispensers that have been
6 designed and constructed to prevent delivery directly from the
7 dispenser into a motor vehicle fuel supply tank, the ultimate
8 vendor - blocked pumps shall be responsible for the tax imposed by
9 section 3 of P.L. , c. (C.) (pending before the Legislature as
10 this bill) at the diesel fuel rate. Exempt use of undyed kerosene
11 shall be governed by rules and regulations of the director. If rules
12 or regulations are not promulgated by the director, then the exempt
13 use of undyed kerosene shall be governed by rules and regulations
14 of the Internal Revenue Service. An ultimate vendor-blocked
15 pumps who obtained undyed kerosene upon which the tax levied by
16 section 3 of P.L. , c. (C.) (pending before the Legislature as
17 this bill) had been paid and makes sales qualifying pursuant to this
18 subsection may apply for a refund of the tax pursuant to an
19 application, as provided by section 14 of P.L. , c. (C.)
20 (pending before the Legislature as this bill), to the director provided
21 the ultimate vendor-blocked pumps did not charge that tax to the
22 consumer;
- 23 (3) fuel sold to the United States or any agency or
24 instrumentality thereof, and to the State of New Jersey and its
25 political subdivisions, departments and agencies;.
- 26 (4) aviation fuel sold to a licensed aviation fuel dealer;
- 27 (5) liquefied petroleum gas except when sold by a liquefied
28 petroleum gas dealer to someone who is not licensed as a liquefied
29 petroleum gas dealer;
- 30 (6) motor fuel on which tax has been paid under this act that is
31 later contaminated with dyed fuel making it unsuitable for taxable
32 use. This credit or refund is limited to the remaining portion of
33 taxed fuel in the contaminated mixture and is conditioned upon
34 submitting to the director adequate documentation that the
35 contaminated mixture was subsequently used in an exempt manner;
- 36 (7) fuel on which tax has been paid pursuant to P.L. ,
37 c. (C.) (pending before the Legislature as this bill) that is
38 either subsequently delivered back into the terminal transfer system
39 for further distribution or delivered to a refinery for further
40 processing;
- 41 (8) fuel on which tax has been previously imposed and paid
42 pursuant to section 3 of P.L. , c. (C.) (pending before the
43 Legislature as this bill) and which is either subsequently exported,
44 sold or distributed in this State in a manner which would result in a
45 second tax being owed. If there is a second taxable distribution or
46 sale, the party responsible for remittance of the second tax shall be
47 the party eligible for claiming the refund or deduction.

1 13. (New section). The exemption under section 12 of P.L. ,
2 c. (C.) (pending before the Legislature as this bill) for sales of
3 fuel sold for use by the United States or any agency or
4 instrumentality thereof and fuel sold for use by the Government of
5 this State, or of any political subdivision of this State or to any
6 department or agency of any of the those governments for official
7 use of those governments in motor vehicles, motor boats, or other
8 implements owned or leased by this State or any political
9 subdivision or agency thereof, or to fuels sold at retail to diplomatic
10 missions and diplomatic personnel under a program administered by
11 the director and predicated upon the United States Department of
12 State, Office of Foreign Missions (or its successor office), national
13 tax exemption program shall be claimed as follows:

14 a. The seller shall obtain from the purchasing entity a
15 certificate in such form as the director may by regulation prescribe
16 signed by the purchasing entity listed in this section setting forth:

17 (1) The name and address of the purchasing entity;

18 (2) The quantity of fuel, or if the certificate is for all the fuel
19 purchased by the purchasing entity, the certificate shall be for a
20 period as the director may by regulation prescribe, but not to exceed
21 four years;

22 (3) The exempt use of the fuel;

23 (4) The name and address of the seller from whom the fuel was
24 purchased;

25 (5) The federal employer identification number of the purchasing
26 entity; and

27 (6) A statement that the purchasing entity understands that the
28 fraudulent use of the certificate to obtain fuel without paying the tax
29 levied pursuant to P.L. , c. (C.) (pending before the
30 Legislature as this bill) shall result in the purchaser paying the tax,
31 with penalties and interest, as well as such other penalties provided
32 by P.L. , c. (C.) (pending before the Legislature as this bill);

33 b. The seller, having obtained from the purchasing entity the
34 certificate, which the seller shall retain for a period of not less than
35 four years, shall be eligible for a deduction or to claim a refund of
36 any taxes paid pursuant to P.L. , c. (C.) (pending before the
37 Legislature as this bill); and

38 c. If the sale of fuel to the purchasing entity occurs at a fixed
39 retail pump available to the general public, the seller, having made
40 the sale to the purchasing entity without the tax, may apply for a
41 refund from the director by submitting the application and
42 supporting documentation as the director shall reasonably prescribe.
43 However, if the purchase is charged to a fleet or government fueling
44 credit card, or to an oil company credit card issued to the
45 purchasing entity, the party extending the credit shall be deemed the
46 seller and may bill the purchasing entity without the tax and seek a
47 refund, or use the provisions of this section.

1 14. (New section) a. To claim a refund in accordance with
2 section 12 of P.L. , c. (C.) (pending before the Legislature as
3 this bill), a person shall present to the director a statement
4 containing a written verification that the claim is made under
5 penalties of perjury and listing the total amount of fuel purchased
6 and used for exempt purposes. A claim shall not be transferred or
7 assigned and shall be filed not more than four years after the date
8 the fuel was imported, removed or sold if the claimant is a supplier,
9 importer, exporter or distributor. If the claim is filed by the
10 consumer, the consumer shall file the claim within six months of
11 the date of purchase. The claim statement shall be supported by the
12 original sales slip, invoice or other documentation as approved by
13 the director and shall include the following information:

- 14 (1) Date of sale;
15 (2) Name and address of purchaser;
16 (3) Name and address of seller;
17 (4) Number of gallons purchased and base price per gallon;
18 (5) Number of gallons purchased and charged New Jersey fuel
19 tax, as a separate item;
20 (6) Number of gallons purchased and charged sales tax, if
21 applicable, as a separate item; and
22 (7) Marked "paid" by the seller.

23 b. If the original sales slip or invoice is lost or destroyed, a
24 statement to that effect shall accompany the claim for refund, and
25 the claim statement shall also set forth the serial number of the
26 invoice. If the director finds the claim is otherwise regular, the
27 director may allow such claim for refund.

28 c. The director may make any investigation necessary before
29 refunding the fuel tax to a person and may investigate a refund after
30 the refund has been issued and within the period in which a
31 deficiency may be assessed pursuant to R.S.54:49-6.

32 d. In the case of a refund payable to a supplier pursuant to
33 section 12 of P.L. , c. (C.) (pending before the Legislature as
34 this bill), the supplier may claim a credit in lieu of the the refund
35 for a period not to exceed four years from the date the fuel was
36 imported, removed or sold.

37 e. (1) To establish the validity of claims filed, the claimant
38 shall maintain and preserve for a period of at least four years such
39 fuel consumption records as may be prescribed by the director. The
40 director may require a claimant to furnish such additional proof of
41 the validity of a claim as the director may determine, and may
42 examine the books and records of the claimant for such purpose.
43 Failure of the claimant to maintain and preserve such records,
44 furnish such additional proof or to accede to the demand for such
45 examination by the director shall constitute a waiver of all rights to
46 the claim or claims questioned and such subsequent claims as the
47 director may determine.

S2136 OROHO

1 f. Motor fuel tax that has been paid more than once with
2 respect to the same gallon of fuel shall be refunded by the director
3 to the person who last paid the tax after the subsequent taxable
4 event upon submitting proof satisfactory to the director.

5 g. Fuel tax that has otherwise been erroneously paid by a
6 person shall be refunded by the director upon proof shown
7 satisfactory to the director.

8 h. A refund granted pursuant to section 12 of P.L. ,
9 c. (C.) (pending before the Legislature as this bill) to a person
10 for fuel used in aircraft, shall be paid from the moneys deposited in
11 the Airport Safety Fund established by section 4 of P.L.1983, c.264
12 (C.6:1-92). Those refunds shall be granted on an annual basis.

13 i. Upon approval by the director of an application, a warrant
14 shall be drawn upon the State Treasurer for the amount of the claim
15 in favor of the claimant and the warrant shall be paid from the tax
16 collected on fuel.

17 j. If the State or any political subdivision of the State
18 heretofore shall have been reimbursed and repaid for the tax paid on
19 fuel used for operating or propelling motor vehicles, motor boats or
20 other implements, whether owned or leased by the State or any
21 political subdivision of the State, the State or that political
22 subdivision shall be entitled to retain such reimbursement and
23 repayment, and further claim therefore shall not be required.

24 k. If fuel is sold to a person who claims to be allowed a refund
25 of the tax imposed by the "Motor Fuel Tax Act," P.L. , c. (C.)
26 (pending before the Legislature as this bill) the seller of that fuel
27 shall furnish the purchaser with an invoice, or invoices, in
28 conformity with the requirements of this section.

29
30 15. (New section) A person who is required to precollect or pay
31 a tax imposed pursuant to P.L. , c. (C.)(pending before the
32 Legislature as this bill) shall be personally liable for the tax
33 imposed, precollected or paid. For purposes of assessment and
34 collection, any amount required to be precollected and paid over to
35 the director, and any additions to tax, penalties and interest with
36 respect to that amount, shall be considered the tax of the person
37 required to precollect the tax. A person required to precollect tax
38 shall have the same right in respect to collecting the tax from a
39 purchaser or in respect to non-payment of the tax by the purchaser
40 as if the tax were a part of the purchase price of the fuel and
41 payable at the same time; provided, however, that the director shall
42 be joined as a party in any action or proceeding brought to collect
43 the tax. Any amount of tax actually precollected or paid pursuant to
44 P.L. , c. (C.)(pending before the Legislature as this bill) shall
45 be held to be a special fund in trust for the director.

46 A person required to precollect tax who fails to precollect or
47 remit the tax or any part thereof is fully responsible for the unpaid
48 tax. The director may recover any unpaid taxes pursuant to P.L. ,

1 c. (C.) (pending before the Legislature as this bill) from any
2 party who was under a duty to precollect or pay the tax. That
3 person remains liable for the taxes even if, for whatever reason, the
4 person failed to precollect or pay the taxes due. The liability to
5 precollect and remit tax shall be separate from any duty that the
6 consumer may have pursuant to P.L. , c. (C.) (pending before
7 the Legislature as this bill) to pay upon consumption, and the
8 existence of such overlapping duties shall not be a defense for a
9 failure to precollect and remit, although it may give rise to a refund
10 claim in accordance with section 12 of P.L. , c. (C.) (pending
11 before the Legislature as this bill) if both parties pay the tax.
12

13 16. (New section) Except as otherwise provided by the “Motor
14 Fuel Tax Act,” P.L. , c. (C.) (pending before the Legislature
15 as this bill), the tax imposed by section 3 of P.L. , c. (C.)
16 (pending before the Legislature as this bill) on fuel imported from
17 another state shall be precollected on behalf of the consumers and
18 remitted to the director by the:

19 a. Importer who has imported the nonexempt fuel. The
20 precollection shall be made and remitted when the tax return is due.
21 If the importer was not subject to a precollection agreement with
22 the supplier or permissive supplier, the precollection shall be
23 remitted in the manner specified by the director; or

24 b. Importer who has imported the nonexempt fuel which is
25 subject to a precollection agreement with the supplier or permissive
26 supplier. If the importer is a licensed distributor, the precollection
27 shall be made and remitted to the supplier or permissive supplier no
28 later than two business days prior to the date on which the tax is
29 required to be remitted by the supplier or permissive supplier
30 pursuant to section 19 of P.L. , c. (C.) (pending before the
31 Legislature as this bill). The importer shall remit the tax to the
32 supplier or permissive supplier, acting as trustee who shall remit to
33 the director on behalf of the distributor under the same terms as a
34 supplier payment pursuant to section 19 of P.L. , c. (C.)
35 (pending before the Legislature as this bill); or

36 c. Unlicensed importer at the time the fuel is entered into this
37 State. However, if the supplier of the fuel, as shown on the records
38 of the terminal operator, has made a blanket election to precollect
39 tax in accordance with section 18 of P.L. , c. (C.) (pending
40 before the Legislature as this bill), then the importer shall remit the
41 tax to the supplier, acting as trustee, who shall remit to the director
42 on behalf of the importer under the same terms as a supplier
43 payment pursuant to section 19 of P.L. , c. (C.) (pending
44 before the Legislature as this bill), and no import verification
45 number shall be required.
46

47 17. (New section) An importer that acquires fuel for import by
48 fuel transportation vehicle from a supplier that is not an elective

1 supplier or a permissive supplier, and therefore will not be acting as
2 trustee for the remittance of tax to the State on behalf of the
3 importer, shall first obtain an import verification number from the
4 director before importing the fuel. The importer shall write the
5 import verification number on the shipping document issued for the
6 fuel. The importer shall obtain a separate import verification
7 number for each fuel transportation vehicle delivery of fuel into this
8 State.

9
10 18. (New section) a. A licensed supplier or licensed permissive
11 supplier may make a blanket election with the director to treat all
12 removals of fuel from all of its out-of-State terminals with a
13 destination in this State as shown on the terminal-issued shipping
14 paper as if the removals were removed across the rack by the
15 supplier or permissive supplier from a terminal in this State for all
16 purposes.

17 b. The election allowed by this section shall be made by filing
18 a "notice of election" with the director, in the form and manner as
19 the director by regulation may prescribe.

20 c. The director shall publish a list of suppliers electing
21 pursuant to this section.

22 d. The absence of an election by a supplier in accordance with
23 this section shall in no way relieve the supplier of responsibility for
24 remitting the tax imposed by the "Motor Fuel Tax Act," P.L. ,
25 c. (C.) (pending before the Legislature as this bill) upon the
26 removal from an out-of-State terminal for import into this State by
27 the supplier.

28 e. A supplier that makes the election allowed by this section
29 shall precollect the tax imposed by P.L. , c. (C.) (pending
30 before the Legislature as this bill) on all removals from a qualified
31 terminal on its account as a position holder, or as a person receiving
32 fuel from a position holder pursuant to a terminal bulk transfer,
33 without regard to the license status of the person acquiring the fuel
34 from the supplier, the point or terms of sale, or the character of
35 delivery.

36 f. Each supplier who elects to precollect the tax imposed by
37 P.L. , c. (C.) (pending before the Legislature as this bill)
38 agrees to waive any defense that this State lacks jurisdiction to
39 require collection on all out-of-State sales by such person as to
40 which the person had knowledge that the shipments were destined
41 for this State and that this State imposes the requirement pursuant to
42 this subsection under its general police powers to regulate the
43 movement of fuels.

44
45 19. (New section) a. The tax imposed by section 3 of P.L. ,
46 c. (C.) (pending before the Legislature as this bill), measured by
47 fuel removed from a terminal or refinery in this State, other than a
48 terminal bulk transfer, shall be precollected and remitted on behalf

1 of the consumers to the State by the transporter removing the fuel
2 from the facility through the supplier or permissive supplier of the
3 fuel, as shown in the records of the terminal operator, acting as a
4 trustee.

5 b. The supplier, permissive supplier and each reseller shall list
6 the amount of tax as a separate line item on all invoices or billings.

7 c. All tax to be paid by a supplier or permissive supplier with
8 respect to gallons removed on the account of the supplier or
9 permissive supplier during a calendar month shall be due and
10 payable on or before the 22nd day of the following month unless
11 that day falls upon a weekend or State holiday in which case the
12 liability shall be due the next succeeding business day.

13 d. A supplier or permissive supplier shall remit any late taxes
14 remitted to the supplier or permissive supplier by a licensed
15 distributor and shall notify the director within the twenty business
16 day limit provided by section 24 of P.L. , c. (C.)(pending
17 before the Legislature as this bill) of any late remittances if that
18 supplier or permissive supplier has previously given notice to the
19 director that the tax amount was not received pursuant to subsection
20 a. of section 24 of P.L. , c. (C.)(pending before the Legislature
21 as this bill).

22 e. The remittance of all amounts of tax due shall be paid on the
23 basis of the amount invoiced.

24

25 20. (New section) a. The terminal operator of a terminal in this
26 State is jointly and severally liable for the tax imposed by section 3
27 of P.L. , c. (C.) (pending before the Legislature as this bill)
28 and shall remit payment to this State at the same time and on the
29 same basis as a supplier in accordance with section 19 of P.L. ,
30 c. (C.)(pending before the Legislature as this bill) upon:

31 (1) The removal of fuel from the terminal on account of any
32 supplier who is not licensed in this State; or

33 (2) The removal of motor fuel that is not dyed and marked in
34 accordance with Internal Revenue Service requirements, if the
35 terminal operator provides any person with any bill of lading,
36 shipping paper, or similar document indicating that the motor fuel is
37 dyed and marked in accordance with Internal Revenue Service
38 requirements.

39 b. However, the terminal operator shall be relieved of liability
40 for a removal of fuel from the terminal on account of a supplier who
41 is not licensed in this State if the terminal operator establishes all of
42 the following:

43 (1) the terminal operator has a valid terminal operator's license
44 issued for the facility from which the fuel is withdrawn;

45 (2) the terminal operator has a copy of a valid license from the
46 supplier as required by the director; and

47 (3) the terminal operator has no reason to believe that any
48 information is false.

1 21. New section) A licensed distributor who removes fuel from
2 a terminal or refinery operated by a supplier or permissive supplier
3 and who remits the tax through the supplier or permissive supplier,
4 acting as a trustee, may make an election as to the timing of the
5 remittance. At the election of a licensed distributor, which notice
6 shall be evidenced by a written statement from the director as to the
7 purchaser's eligibility status as determined pursuant to section 22 of
8 P.L. , c. (C.)(pending before the Legislature as this bill), the
9 supplier or permissive supplier shall not require a payment of motor
10 fuel tax on fuel transportation vehicle loads from the licensed
11 distributor sooner than two business days prior to the date on which
12 the tax is required to be remitted by the supplier pursuant to section
13 19 of P.L. , c. (C.)(pending before the Legislature as this bill).
14 This election shall be subject to a condition that the remittances by
15 the licensed distributor of tax due the supplier or permissive
16 supplier shall be paid by electronic funds transfer.

17

18 22. (New section) a. A purchaser desiring to make an election
19 under section 21 of P.L. , c. (C.)(pending before the
20 Legislature as this bill) shall present evidence to the director that:

21 (1) The applicant was a licensee in good standing under
22 R.S.54:39-1 et seq. as to which the applicant remitted tax to the
23 director; or

24 (2) The applicant meets the financial responsibility and bonding
25 requirements imposed by P.L. , c. (C.)(pending before the
26 Legislature as this bill), which bond shall conform to the specific
27 requirements of this section.

28 b. The director shall require a purchaser who pays the tax to a
29 supplier to file with the director a surety bond payable to the State,
30 upon which the purchaser is the obligor, or other financial security,
31 in an amount satisfactory to the director, calculated based on three
32 times the potential monthly tax payments for gasoline and diesel
33 fuel separately. The director shall require that the bond indemnify
34 the director against the tax credits claimed by the suppliers pursuant
35 to section 23 of P.L. , c. (C.)(pending before the Legislature
36 as this bill).

37 c. A purchaser desiring to make an election in accordance with
38 section 21 of P.L. , c. (C.)(pending before the Legislature as
39 this bill) shall not be subject to the provisions of subsection b. of
40 this section if the purchaser holds a valid distributor's license and
41 meets the bonding requirements according to the law on the day
42 prior to October 1, 2010. On and after October 1, 2010 each
43 purchaser holding a valid distributor's license issued prior to
44 October 1, 2010, may elect to become an eligible purchaser. An
45 eligible purchaser shall have the option to provide bonding as
46 provided for distributors in section 34 of P.L. , c. (C.)(pending
47 before the Legislature as this bill).

1 d. The director may rescind a purchaser's eligibility and
2 election to defer fuel tax remittances for the purchaser's failure to
3 make timely tax-deferred payment of tax to a supplier pursuant to
4 21 of P.L. , c. (C.)(pending before the Legislature as this bill),
5 by sending written notice to all suppliers and publishing notice of
6 the revocation on the website of the Division of Taxation in the
7 Department of the Treasury. As a condition of restoring a
8 purchaser's eligibility, the director may require further assurance of
9 the financial responsibility of the purchaser, including an increase
10 in the amount of the bond or any other action that the director may
11 reasonably require to ensure remittance of the tax imposed by
12 P.L. , c. (C.)(pending before the Legislature as this bill). The
13 refusal of an application or the cancelation of eligibility shall be an
14 action of the director subject to review pursuant to R.S.54:51A-14;
15 provided however that, notwithstanding any other provision of law
16 to the contrary, appeal shall not act as a stay.

17 e. The director shall publish a list of licensed distributors and
18 make it available to all suppliers on at least a quarterly basis. The
19 director may, at the director's discretion, provide more timely
20 publication via the website of the Division of Taxation in the
21 Department of the Treasury.

22
23 23. (New section) A supplier has a fiduciary duty to remit to the
24 director the amount of tax imposed by P.L. , c. (C.)(pending
25 before the Legislature as this bill) paid to the supplier, in its role as
26 a trustee, by any purchaser, importer, exporter or licensed
27 distributor. In computing the amount of tax due, the supplier shall
28 be allowed a credit against the tax payable in the amount of tax paid
29 by the supplier that was accrued and remitted to a state, but not
30 received from a licensed distributor. The director may recover any
31 unpaid tax directly from the licensed distributor.

32
33 24. (New section) For a supplier to be eligible for the credit
34 provided by section 23 of P.L. , c. (C.)(pending before the
35 Legislature as this bill) the supplier shall provide notice to the
36 director of a failure to collect the tax within 20 business days
37 following the earliest date on which the supplier was entitled to
38 collect the tax from the licensed distributor pursuant to section 21
39 of P.L. , c. (C.)(pending before the Legislature as this bill).

40 A supplier shall supply with the claim for credit such
41 information as the director may prescribe by regulation. The claim
42 for credit shall identify the defaulting licensed distributor and any
43 tax liability that remains unpaid. The credit of the supplier shall be
44 limited to the amount due from the purchaser, plus any tax that
45 accrues from that purchaser from the period from the date of the
46 failure to pay to the date of notification to the director, not to
47 exceed 20 days. Additional credit shall not be allowed to a supplier
48 pursuant to this section with respect to that purchaser until the

1 director has notified the supplier that the purchaser's eligibility to
2 make deferrals in accordance with section 22 of P.L. , c. (C.)
3 (pending before the Legislature as this bill) has been restored.

4
5 25. (New section) If required by the director, all suppliers and
6 other persons required to pay tax pursuant to P.L. , c. (C.)
7 (pending before the Legislature as this bill) shall remit tax by
8 electronic fund transfer. The transfer shall be made on or before the
9 date the tax is due.

10
11 26. (New section) a. If the tax imposed by section 3 of P.L. ,
12 c. (C.)(pending before the Legislature as this bill) is not
13 otherwise precollected, the consumer shall be liable, unless the
14 consumer is otherwise exempt pursuant to section 12 of P.L. ,
15 c. (C.) (pending before the Legislature as this bill), for the tax
16 upon the delivery into a motor vehicle fuel supply tank for the use
17 of motor fuel on the highways including, but not limited to:

- 18 (1) Any dyed fuel; or
19 (2) Any motor fuel on which a claim for refund has been made.
20 b. A retail dealer, an aviation fuel dealer or liquefied petroleum
21 gas dealer that sells fuel shall be jointly and severally liable for the
22 tax precollected pursuant to subsection a. of this section if the retail
23 dealer, aviation fuel dealer or liquefied petroleum gas dealer knows
24 or has reason to know that the fuel, as to which tax imposed by
25 P.L. , c. (C.) (pending before the Legislature as this bill) has
26 not been paid, is or will be consumed in a nonexempt use.

27
28 27. (New section) a. A licensee shall, upon the discontinuance,
29 sale, or transfer of the business or upon the cancellation, revocation
30 or termination by law of a license pursuant to section 35 of P.L. ,
31 c. (C.)(pending before the Legislature as this bill), or as
32 otherwise provided, within thirty days, make a report as required
33 pursuant to P.L. , c. (C.)(pending before the Legislature as
34 this bill) marked "Final Report," and shall pay all taxes, penalties
35 and interest that may be due the State except as may otherwise be
36 provided by law.

37 b. The final report required by this section shall be
38 accompanied by payment of the liability of the final month.

39
40 28. (New section) a. An applicant for a license issued pursuant
41 to P.L. , c. (C.)(pending before the Legislature as this bill)
42 shall apply in the form and manner as the director shall prescribe by
43 regulation. The application shall be subscribed to by the applicant
44 and shall provide such information as the director may require,
45 including the applicant's federal identification number.

46 b. A license issued pursuant to P.L. , c. (C.)(pending
47 before the Legislature as this bill) shall be issued for a three-year
48 period, or the unexpired portion thereof, commencing on April 1

1 and ending on the third succeeding March 31 and shall be void
2 thereafter, and that license may be suspended, revoked or canceled
3 by the director. A license fee of \$450 shall be paid for the issuance
4 of that license.

5 c. The director shall investigate each applicant for a license
6 issued pursuant to P.L. , c. (C.)(pending before the Legislature
7 as this bill). A license shall not be issued if the director determines
8 that any one of the following conditions exists:

9 (1) The application is not filed in good faith;

10 (2) The applicant is not the real party in interest;

11 (3) The license of the real party in interest has been revoked for
12 cause;

13 (4) The applicant managed, operated, owned or controlled,
14 directly or indirectly, a business which held a license issued
15 pursuant to P.L. , c. (C.)(pending before the Legislature as
16 this bill) which business is indebted to this State for any tax,
17 penalties or interest accruing hereunder;

18 (5) The applicant is managed, operated or controlled, directly or
19 indirectly, by a person who held a license issued pursuant to P.L. ,
20 c. (C.)(pending before the Legislature as this bill) who is
21 indebted to this State for any tax, penalties, or interest accruing
22 hereunder;

23 (6) The applicant is managed, operated, owned, or controlled,
24 directly or indirectly, by a person who managed, operated, owned or
25 controlled, directly or indirectly, a business that held a license
26 issued pursuant to P.L. , c. (C.)(pending before the Legislature
27 as this bill) and which is indebted to this State for any tax,
28 penalties, or interest accruing hereunder;

29 (7) Any good cause as the director may determine; or

30 (8) With respect to a distributor's license, the applicant
31 intending to export is not licensed in the intended specific state or
32 states of destination.

33 d. A person shall not be entitled to hold a license if it shall
34 appear to the director that an officer, director or employee of that
35 person has been convicted of violating any of the provisions of
36 P.L. , c. (C.)(pending before the Legislature as this bill) or of
37 R.S.54:39-1 et seq. or if a license issued pursuant to the provisions
38 of P.L. , c. (C.)(pending before the Legislature as this bill) or
39 of R.S.54:39-1 et seq. and held by an officer, director or employee
40 of that person has been revoked by the director for cause.

41 e. Applicants, including corporate officers, partners, and
42 individuals, for a license issued by the director may be required to
43 submit their fingerprints to the director at the time of application.
44 Officers of a "publicly traded corporation," as that term is defined
45 by section of 39 of P.L.1977, c.110 (C.5:12-39), and its subsidiaries
46 shall be exempt from this fingerprinting requirement. Persons,
47 other than applicants for a distributor's license, who possessed
48 licenses issued pursuant to R.S.54:39-1 et seq. continuously for

1 three years prior to October 1, 2010, shall also be exempt from this
2 provision. Fingerprints required by this section shall be submitted
3 on forms prescribed by the director. The director may forward to
4 the Federal Bureau of Investigation or any other agency for
5 processing all fingerprints submitted by license applicants. The
6 receiving agency shall issue its findings to the director. The
7 director or another State agency may maintain a file of fingerprints.

8
9 29. (New section) a. In lieu of any of the bonds required by
10 P.L. , c. (C.)(pending before the Legislature as this bill), a
11 licensee may deposit with the director cash, a certificate of deposit
12 or an irrevocable letter of credit. If the applicant files a bond or
13 letter of credit it shall:

14 (1) Be with a surety company or bank approved by the director
15 which may be an affiliate in the business of assuring such
16 obligations;

17 (2) Name the applicant as the principal obligor and the State as
18 the obligee; and

19 (3) Be on forms prescribed by the director.

20 b. The director may, at the discretion of the director, require a
21 licensee or an applicant to furnish current verified financial
22 statements. The director may make independent inquiry into the
23 financial condition of the applicant and, in any case, shall not be
24 required to accept as accurate financial statements which have not
25 been certified or independently audited. If the director determines
26 that the financial condition of a licensee warrants an increase in the
27 bond, the director may require the licensee to furnish an increased
28 bond.

29 c. The director may require a licensee to file a new bond with a
30 satisfactory surety in the same form and amount if:

31 (1) Liability upon the previous bond is discharged or reduced by
32 a judgment rendered, payment made, or otherwise disposed of; or

33 (2) In the opinion of the director, any surety on the previous
34 bond becomes unsatisfactory. If the new bond is unsatisfactory, the
35 director shall cancel the license. If the new bond is satisfactorily
36 furnished, the director shall release in writing the surety on the
37 previous bond from any liability accruing after the effective date of
38 the new bond.

39 d. If a licensee has cash, a certificate of deposit or a letter of
40 credit with the director and it is reduced by a judgment rendered,
41 payment made, or otherwise disposed of, the director may require
42 the licensee to make a new deposit equal to the amount of the
43 reduction.

44 e. If the director determines that the amount of the existing bond
45 is insufficient to ensure payment to the State of the tax, fee, and any
46 penalty and interest for which a licensee is or may become liable,
47 the licensee shall, upon written demand of the director, file a new or

1 increased bond. The director shall allow the licensee at least 30
2 days to secure the increased bond or cash deposit.

3 f. A new or increased bond shall meet the requirements set forth
4 in P.L. , c. (C.)(pending before the Legislature as this bill); if
5 the new or increased bond required pursuant to this section is
6 unsatisfactory, the director shall cancel the license.

7 g. Sixty days after making a written request for release to the
8 director, the surety of a bond furnished by a licensee shall be
9 released from any liability to the State accruing on the bond after
10 the 60-day period. The release shall not affect any liability accruing
11 before the expiration of the sixty-day period.

12 h. The director shall promptly notify the licensee furnishing the
13 bond that a release has been requested. Unless the licensee obtains
14 a new bond that meets the requirements of P.L. , c. (C.)
15 (pending before the Legislature as this bill) and files with the
16 director the new bond within the sixty-day period, the director shall
17 cancel the license.

18 i. Sixty days after the licensee makes a written request for
19 release to the director, the cash deposit, letter of credit or certificate
20 of deposit provided by a licensee shall be canceled as security for
21 any obligation accruing after the expiration of the sixty-day period.
22 However, the director may retain all or part of the bond for up to
23 three years and one day as security for any obligations accruing
24 before the effective date of the cancellation. Any part not retained
25 by the director shall be released to the licensee. Before the
26 expiration of the 60-day period, the licensee shall provide the
27 director with a bond that satisfies the requirements of P.L. ,
28 c. (C.) (pending before the Legislature as this bill) or the
29 director shall cancel the license.

30

31 30. (New section) a. Before becoming a position holder in a
32 terminal in this State or engaging in a terminal bulk transfer a
33 person shall first obtain a supplier's license. A valid supplier's
34 license allows the holder of the license to engage in all other
35 activities without having to obtain any other license.

36 b. A person who desires to precollect the tax imposed by
37 P.L. , c. (C.)(pending before the Legislature as this bill) as a
38 supplier and who meets the definition of a permissive supplier may
39 obtain a permissive supplier's license. Application for or
40 possession of a permissive supplier's license shall not in itself
41 subject the applicant or licensee to the jurisdiction of this State for
42 any other purpose than administration and enforcement of P.L. ,
43 c. (C.) (pending before the Legislature as this bill).

44 c. A supplier or a permissive supplier shall be required to post
45 a bond of not less than three months' potential tax liability based on
46 the number of taxable gallons handled as estimated by the director,
47 but in no event shall the bond be less than \$25,000 or more than
48 \$2,000,000. An applicant who is a "publicly traded corporation," as

S2136 OROHO

1 that term is defined by section of 39 of P.L.1977, c.110 (C.5:12-39)
2 and has assets within the State having a book value of \$5 million or
3 more may, at the discretion of the director, be exempted from
4 having to post a bond under this section.

5 d. For the purpose of determining the amount of precollected tax
6 due, a supplier shall file with the director, on forms prescribed and
7 furnished by the director, a verified statement. The director may
8 require the reporting of any information necessary to determine the
9 amount of precollected tax due.

10 e. The director may require each licensed supplier or licensed
11 permissive supplier to separately disclose and identify, in a written
12 statement to the director with the supplier or permissive supplier
13 report, any removal and sale from the terminal transfer system in
14 another state by that supplier to a person, other than a licensed
15 supplier, permissive supplier or distributor, of gallons of fuel, other
16 than dyed fuel, and which gallons are destined for this State, as
17 shown by the terminal-issued shipping paper, and as to which
18 gallons the tax imposed by P.L. , c. (C.) (pending before the
19 Legislature as this bill) has not been collected or accrued by the
20 supplier upon the removal.

21 f. The reports required by this section shall be filed on or before
22 the 22nd day of the current month with respect to information for
23 the preceding calendar month.

24

25 31. (New section) a. a person, other than a supplier licensed
26 under section 30 of P.L. , c. (C.)(pending before the
27 Legislature as this bill), engaged in business in this State as a
28 terminal operator shall first obtain a terminal operator's license for
29 each terminal site in this State.

30 b. A terminal operator shall be required to post a bond of not
31 less than three months' potential tax liability based on the number of
32 gallons handled as estimated by the director.

33 c. A person operating a terminal in this State shall file with the
34 director by the 25th day of the next month a sworn statement of
35 operations within this State for each of the operator's terminals
36 within this State, including information as the director may
37 prescribe, on forms prescribed and furnished by the director.

38 d. For purposes of reporting and determining tax liability under
39 P.L. , c. (C.)(pending before the Legislature as this bill), a
40 licensee shall maintain inventory records as the director by
41 regulation shall require.

42

43 32. (New section) Every railway or railroad company, water
44 transportation company, and every person transporting fuels in
45 bulk, between points within the State, and every railway or railroad
46 company, water transportation company, and every person
47 transporting fuel in bulk to a point outside the State from any point
48 within the State, or to a point within the State from a point outside

1 of the State, shall, (at any time, and from time to time, upon written
2 request of the director) report, in a manner prescribed by the
3 director, all deliveries of fuel in bulk so made to points within or
4 without the State.

5
6 33. (New section) a. A person other than a supplier desiring to
7 export fuel to a destination outside of this State shall first obtain a
8 distributor's license. Issuance of a distributor's license shall be
9 conditioned upon the applicant holding an appropriate license to
10 import the fuel into the destination state or states.

11 b. A person desiring to deliver dyed fuel or undyed fuel into
12 this State on the person's own behalf, for the person's own the
13 account, or for resale to a purchaser in this State, from another state
14 in a fuel transportation vehicle or in a pipeline or barge shipment
15 into storage facilities other than a qualified terminal, shall first
16 make application for and obtain a distributor's license.

17 c. A person desiring to import fuel to a destination in this State
18 from another state, and who has not entered into an agreement to
19 remit the tax imposed by section 3 of P.L. , c. (C.) (pending
20 before the Legislature as this bill) to the supplier or permissive
21 supplier as trustee with respect to the imports shall do the
22 following:

- 23 (1) apply for and obtain a distributor's license; and
24 (2) comply with the payment requirements of section 12 of
25 P.L. , c. (C.)(pending before the Legislature as this bill).

26 d. A person blending any motor fuel for sale shall apply for and
27 obtain a distributor's license.

28 e. A distributor's license is a prerequisite to making the
29 election permitted in section 21 of P.L. , c. (C.) (pending
30 before the Legislature as this bill).

31
32 34. (New section) A distributor shall post a bond of not less
33 than three months' total liability for the tax imposed by section 3 of
34 P.L. , c. (C.) (pending before the Legislature as this bill),
35 based on the number of gallons handled as estimated by the director
36 for gasoline and diesel fuel separately. The tax on fuel exported
37 from this State by a licensed distributor shall not be considered part
38 of potential liability for calculation of the bond required of a
39 distributor's license.

40
41 35. (New section) a. If the license applicant and bond are
42 approved, the director shall issue a license for the applicant's
43 principal place of business and the applicant shall make copies for
44 each other business location.

45 b. A license is valid until suspended, revoked for cause,
46 canceled or the license expires.

47 c. A license is not transferable to another person or to another
48 place of business. For purposes of this section, a transfer of a

1 majority interest in a business association, including corporations,
2 partnerships, trusts, joint ventures and any other business
3 association, shall be deemed to be a transfer of any license held by
4 the business association to another person. Any change in
5 ownership of a business association, other than a "publicly traded
6 corporation," as that term is defined by section of 39 of P.L.1977,
7 c.110 (C.5:12-39), shall be reported to the director.

8 d. A license shall be preserved and conspicuously displayed at
9 the principal place of business for which it is issued.

10 e. A person licensed under P.L. , c. (C.)(pending before
11 the Legislature as this bill) shall display the person's conveyance
12 number on the back of any conveyance of fuel.

13 f. Upon the discontinuance, sale, transfer or change of
14 ownership of the business, the license shall be immediately
15 surrendered to the director. Any relocation of the business shall be
16 immediately reported to the director.

17 g. If a person licensed to do business pursuant to P.L. ,
18 c. (C.) (pending before the Legislature as this bill)
19 discontinues, sells, or transfers the business, the licensee shall
20 immediately notify the director in writing of the discontinuance,
21 sale, or transfer. The notice shall give the date of discontinuance,
22 sale, or transfer and if the business is sold or transferred, the name
23 and address of the purchaser or transferee. The licensee shall be
24 liable for all taxes, interest, and penalties that accrue or may be
25 owing and any criminal liability for misuse of the license that
26 occurs prior to cancellation of the license.

27 h. The director shall publish without charge a list of updates of
28 all licensees, by category.

29 i. A licensee shall maintain and keep for a period of four years
30 records of all transactions by which fuel is received, used, sold,
31 delivered, or otherwise disposed of, together with invoices, bills of
32 lading, and other pertinent records and papers as may be required
33 by the director for reasonable administration of P.L. , c. (C.)
34 (pending before the Legislature as this bill).

35
36 36. (New section) a. A license required by P.L. , c. (C.)
37 (pending before the Legislature as this bill) may be suspended or
38 revoked by the director for a violation of any of the provisions of
39 P.L. , c. (C.) (pending before the Legislature as this bill), or
40 on other reasonable grounds, after five days' notice of and hearing
41 on such proposed revocation or suspension conducted pursuant to
42 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
43 seq.). Upon receipt of a written request from the holder of any
44 license issued pursuant to the provisions of P.L. , c. (C.)
45 (pending before the Legislature as this bill), the director may cancel
46 a license effective as soon thereafter as it has been determined that
47 all tax, fines, penalties and interest properly owing to the State have
48 been paid. If the director finds that a person to whom a license has

1 been issued is no longer engaged in the business for which the
2 license was issued, the director may cancel that license by
3 providing reasonable notice of the intent to cancel by mail to the
4 last known address of such person. If a license is canceled, the
5 license certificate previously issued shall be surrendered to the
6 director.

7 b. A person who fails to file any report required by P.L. ,
8 c. (C.) (pending before the Legislature as this bill) and for
9 which a penalty is not otherwise set forth in P.L. , c. (C.)
10 (pending before the Legislature as this bill), shall be liable for the
11 penalties determined pursuant to R.S.54:49-4

12 c. A person shall not engage in any business activity in this
13 State for which a license is required by P.L. , c. (C.) (pending
14 before the Legislature as this bill) unless the person first obtains the
15 license. A person who negligently violates this section is subject to
16 a civil penalty in the amount of \$1,000.

17 d. A supplier, permissive supplier, or distributor who knowingly
18 fails to precollect or timely remit tax otherwise required to be paid
19 over to the director pursuant to P.L. , c. (C.)(pending before
20 the Legislature as this bill), or pursuant to a tax precollection
21 agreement pursuant to P.L. , c. (C.)(pending before the
22 Legislature as this bill), shall be liable for the uncollected tax plus
23 any penalties determined pursuant to R.S.54:49-4.

24
25 37. (New section) a. If the tax imposed by P.L. , c. (C.)
26 (pending before the Legislature as this bill) is not precollected and
27 must be paid by the consumer in accordance with section 26 of
28 P.L. , c. (C.) (pending before the Legislature as this bill), the
29 tax is due and payable by the consumer on the 20th day of each
30 month for the purchases made in the preceding calendar month.
31 The consumer shall file with the director, on forms furnished by the
32 director, a return showing in detail the total purchase price of the
33 fuel, the number of gallons purchased or blended, the location of
34 the purchase, the blend stocks and motor fuel components, if any,
35 and other information as the director may prescribe. With each
36 return, the consumer shall remit to the director the amount of tax
37 shown on the return to be due.

38
39 38. (New section) a. A terminal operator and a refiner with a
40 facility in this State shall prepare and provide to the driver of every
41 fuel transportation vehicle receiving fuel into the vehicle storage
42 tank at the facility a shipping document setting out on its face:

- 43 (1) Identification by city and state of the terminal or refinery
44 from which the fuel was removed;
45 (2) The date the fuel was removed;
46 (3) The amount of fuel removed, gross gallons and net gallons;
47 (4) The state of destination as represented to the terminal
48 operator or refiner by the transporter, the shipper or the agent of the

1 shipper. A refinery or terminal operator may load fuel if a portion
2 of the fuel is destined for sale or use in this State and a portion of
3 the fuel is destined for sale or use in another state or states.
4 However, such split loads removed shall be documented by the
5 terminal operator or refiner by issuing shipping papers designating
6 the state of destination for each portion of the fuel;

7 (5) The supplier, consignee and transporter of the fuel; and

8 (6) Any other information required by the director for the
9 enforcement of P.L. , c. (C.)(pending before the Legislature
10 as this bill),.

11 b. A terminal operator or refiner may manually prepare shipping
12 papers if the terminal does not have the ability to prepare automated
13 shipping papers or as a result of extraordinary unforeseen
14 circumstances, including acts of God, which temporarily interfere
15 with the ability of the terminal operator or refiner to issue
16 automated machine-generated shipping papers.

17 c. No terminal operator or refiner shall imprint, and no supplier
18 shall knowingly permit a terminal operator to imprint on behalf of
19 the supplier, any false statement on a shipping paper relating to fuel
20 to be delivered to this State or to a state having substantially the
21 same shipping paper requirements with respect to the supplier of the
22 fuel, whether or not it was dyed for the intended destination.

23 d. A terminal operator or refiner who shall knowingly imprint
24 any false statement in violation of this section shall be jointly and
25 severally liable for all the taxes imposed by P.L. , c. (C.)
26 (pending before the Legislature as this bill) which are not otherwise
27 collected by this State as a result of that action.

28 e. A supplier who knowingly violates this section shall be
29 jointly and severally liable with the terminal operator.

30 f. The director may impose a civil penalty of \$500 for the first
31 occurrence against a terminal operator or refiner that fails to meet
32 shipping paper issuance requirements pursuant to P.L. , c. (C.)
33 (pending before the Legislature as this bill), Each subsequent
34 occurrence described in this subsection against that terminal
35 operator is subject to a civil penalty of \$5,000.

36

37 39. (New section) a. A person transporting fuel in a fuel
38 transportation vehicle upon the public highways of this State shall:

39 (1) Carry on board the shipping document issued by the terminal
40 operator or the bulk plant operator of the facility where the fuel was
41 obtained, whether within or without this State. The shipping paper
42 shall set out on its face the state of destination of the fuel
43 transported in the vehicle as represented to the terminal operator at
44 the time the fuel transportation vehicle was loaded;

45 (2) Show, and permit duplication of, the shipping document by a
46 law enforcement officer or the director, upon request, when
47 transporting, holding or off-loading the fuel described in the
48 shipping document;

1 (3) Provide a copy of the shipping document to the distributor or
2 other person who controls the facility to which the fuel is delivered;
3 and

4 (4) Meet such other conditions as the director may require for
5 the enforcement of P.L. , c. (C.) (pending before the
6 Legislature as this bill).

7 b. A person transporting fuel in fuel transportation vehicles
8 upon the public highways of this State shall provide the original or
9 a copy of the terminal-issued shipping document accompanying the
10 shipment to the operator of the retail outlet, bulk plant or bulk end
11 user bulk storage facility to which delivery of the shipment was
12 made. However, a delivery ticket created by the person
13 transporting the fuel may be provided in lieu of the terminal-issued
14 shipping paper for deliveries into bulk end user bulk storage.

15 c. The operator of a fuel retail outlet, bulk plant or bulk end user
16 bulk storage facility shall receive, examine, and retain for a period
17 of 30 days at the delivery location the terminal-issued shipping
18 document received from the transporter for every shipment of fuel
19 that is delivered to that location with record retention of the
20 shipping paper of three years required off-site. If the delivery
21 location is an unattended location, the operator may retain the
22 shipping documents at the normal billing address of the operator.

23 d. A retail dealer, liquefied petroleum gas dealer, aviation fuel
24 dealer, bulk plant operator, wholesale distributor or bulk end user
25 shall not knowingly accept delivery of fuel into bulk storage
26 facilities in this State if that delivery is not accompanied by a
27 shipping paper issued by the terminal operator, or bulk plant
28 operator as provided by regulations, that sets out on its face this
29 State as the state of destination of the fuel.

30 e. A person who knowingly violates or knowingly aids and abets
31 another to violate this section shall be jointly and severally liable
32 for the tax on the fuel transported or delivered.

33 f. A person owning or operating a motor vehicle in violation of
34 this section and sections 42 and 43 of P.L. , c. (C.) (pending
35 before the Legislature as this bill) is guilty of a crime of the fourth
36 degree for the first offense. For the second and each subsequent
37 offense, a violator is guilty of a crime of the third degree.

38 g. The director shall impose a civil penalty of \$500 on a person
39 transporting fuel for the first occurrence of transporting fuel without
40 adequate shipping papers annotated as required under this section
41 and sections 42 and 43 of P.L. , c. (C.) (pending before the
42 Legislature as this bill). Each of that person's subsequent
43 occurrences described in this subsection is subject to a civil penalty
44 of \$5,000.

45
46 40. (New section) The supplier and the terminal operator may
47 rely for all purposes of P.L. , c. (C.) (pending before the
48 Legislature as this bill) on the representation by the transporter, the

1 shipper or the agent of the shipper as to the intended state of
2 destination and tax-exempt use by the shipper or the purchaser. The
3 shipper, importer, transporter, agent of the shipper and any
4 purchaser, not the supplier or terminal operator, shall be jointly
5 liable for any tax otherwise due to the State as a result of a
6 diversion of the fuel from the represented destination state. A
7 terminal operator may rely on the representation of a licensed
8 supplier with respect to the obligation of the supplier to precollect
9 tax and the related shipping paper representation to be as shown on
10 the shipping paper as provided by subsection a. of section 40 of
11 P.L. , c. (C.) (pending before the Legislature as this bill).

12

13 41. (New section). a. A person shall not sell, use, deliver, or
14 store in this State, or import for sale, use, delivery or storage in this
15 State, fuel as to which the tax imposed by section 3 of P.L. ,
16 c. (C.) (pending before the Legislature as this bill) has not
17 been previously paid to or accrued by either a licensed supplier, or
18 permissive supplier, at the time of removal from a terminal, or a
19 licensed distributor provided all the conditions of section 44 of
20 P.L. , c. (C.) (pending before the Legislature as this bill)
21 applicable to lawful import by the distributor shall have been met.

22 b. The provisions of subsection a. of this section shall not
23 apply to:

24 (1) A supplier with respect to fuel held within the terminal
25 transfer system in this State which was manufactured in this State
26 or imported into this State in a bulk transfer;

27 (2) A consumer with respect to fuel placed in the vehicle fuel
28 supply tank of that person's motor vehicle outside of this State;

29 (3) Dyed fuel, dyed in accordance with P.L. , c. (C.)
30 (pending before the Legislature as this bill);

31 (4) Fuel in the process of exportation by a supplier or a
32 distributor in accordance with the shipping papers required by
33 section 39 of P.L. , c. (C.) (pending before the Legislature as
34 this bill) and with a statement meeting the requirements of section
35 42 of P.L. , c. (C.) (pending before the Legislature as this
36 bill) shown on the shipping papers;

37 (5) Kerosene used in aircraft subject to the conditions and
38 exceptions in subsection a. of section 12 of P.L. , c. (C.)
39 (pending before the Legislature as this bill);

40 (6) Fuel in possession of a consumer as to which a refund has
41 been issued;

42 (7) Government and other exempt fuel under paragraphs (3) and
43 (4) of subsection b. of section 12 of P.L. , c. (C.) (pending
44 before the Legislature as this bill);; or

45 (8) A distributor who has met the conditions of section 44 of
46 P.L. , c. (C.) (pending before the Legislature as this bill).

1 42. (New section) a. Except as provided in subsection c. of this
2 section, a person shall not operate a fuel transportation vehicle that
3 is engaged in the shipment of fuel on the public highways of this
4 State without having on board a terminal-issued shipping paper
5 bearing, in addition to the requirements of subsection a. of section
6 41 of P.L. , c. (C.) (pending before the Legislature as this
7 bill), a notation indicating that, with respect to diesel fuel acquired
8 under claim of exempt use, a statement indicating the fuel is
9 "DYED DIESEL FUEL, NONTAXABLE USE ONLY, PENALTY
10 FOR TAXABLE USE" for the load or the appropriate portion of the
11 load. With respect to kerosene acquired under claim of exempt use,
12 a statement shall indicate the fuel is "DYED KEROSENE,
13 NONTAXABLE USE ONLY, PENALTY FOR TAXABLE USE"
14 for the load or the appropriate portion of the load.

15 b. A person is in violation of subsection a. of this section upon
16 boarding the vehicle with a shipping paper which does not meet the
17 requirements set forth in this section.

18 c. The director may in the director's discretion provide an
19 advance notification procedure with respect to documentation for
20 imported fuel as to which the importer is unable to obtain
21 terminal-issued shipping papers which comply with this section.

22 d. Any person who knowingly violates any part of this section
23 is guilty of a crime of the fourth degree.

24 e. The director, the Office of Weights and Measures of the
25 Division of Consumer Affairs in the Department of Law and Public
26 Safety, and the State Police, and its officers shall have full authority
27 in enforcing the provisions of this section.

28

29 43. (New section) a. If a distributor acquires fuel destined for
30 this State which has neither been dyed in accordance with the
31 Internal Revenue Code and the regulations issued thereunder, nor
32 tax paid to or accrued by the supplier at the time of removal from
33 the out-of-State terminal, a licensed distributor and transporter
34 operating on behalf of the licensed importer shall meet all of the
35 following conditions prior to entering fuel onto the highways of this
36 State by loaded fuel transportation vehicle:

37 (1) The terminal origin and the name and address of the
38 importer shall also be set out prominently on the face of each copy
39 of the terminal-issued shipping paper;

40 (2) The terminal-issued shipping paper data otherwise required
41 by P.L. , c. (C.)(pending before the Legislature as this bill),
42 shall be present; and

43 (3) All tax imposed by P.L. , c. (C.) (pending before the
44 Legislature as this bill) with respect to previously requested import
45 verification number activity on the account of the distributor or the
46 transporter shall have been timely precollected or remitted.

47 b. A person who knowingly violates or knowingly aids and
48 abets another to violate this section is guilty of a crime of the fourth

1 degree, provided that a first offense related to a good faith belief
2 that the distributor could import under the conditions will be
3 punishable only by a fine not to exceed \$1,000.

4 c. The director, the Office of Weights and Measures of the
5 Division of Consumer Affairs in the Department of Law and Public
6 Safety, and the Superintendent of State Police and the members of
7 the State Police shall have full authority in enforcing the provisions
8 of this section.

9
10 44. (New section) a. A person shall not operate or maintain a
11 motor vehicle on any public highway in this State with dyed fuel
12 contained in the vehicle fuel supply tank except for uses of dyed
13 fuel on the highway which are lawful under the federal Internal
14 Revenue Code and the regulations thereunder unless otherwise
15 prohibited by P.L. , c. (C.)(pending before the Legislature as
16 this bill).

17 b. A person shall not sell or hold for sale dyed fuel for any use
18 that the person knows or has reason to know is a taxable use of the
19 dyed fuel.

20 c. A person shall not use or hold for use any dyed fuel for a
21 taxable use when the person knows or has reason to know that the
22 fuel is dyed fuel.

23 d. A person shall not willfully, with intent to evade tax, alter or
24 attempt to alter the strength or composition of any dye or marker in
25 any dyed fuel.

26 e. A person who knowingly violates or knowingly aids and
27 abets another to violate the provisions of this section with the intent
28 to evade the tax imposed by P.L. , c. (C.) (pending before
29 the Legislature as this bill) is guilty of a crime of the fourth degree.

30 f. A person, and an officer, employee, or agent of that person
31 entity who willfully participates in any act in violation of this
32 section shall be jointly and severally liable with the person for the
33 tax and penalty which shall be the same as imposed pursuant to
34 section 6715 of the federal Internal Revenue Code of 1986 (26
35 U.S.C. s.6715).

36 g. A person or business entity, and each officer, employee, or
37 agent of the entity who willfully participates in any act in violation
38 of this section shall be jointly and severally liable with the entity for
39 the tax and penalty which shall be the same as that imposed
40 pursuant to section 6715 of the federal Internal Revenue Code of
41 1986 (26 U.S.C. s.6715).

42
43 45. (New section) A notice stating "DYED DIESEL FUEL,
44 NONTAXABLE USE ONLY, PENALTY FOR TAXABLE USE"
45 or "DYED KEROSENE, NONTAXABLE USE ONLY, PENALTY
46 FOR TAXABLE USE" shall be:

1 a. Provided by the terminal operator to any person that receives
2 dyed diesel fuel or dyed kerosene at a terminal rack of that terminal
3 operator; and

4 b. Posted by a retail dealer on any pump where it sells dyed
5 diesel fuel or dyed kerosene for use by its consumer. The form of
6 notice required by this section shall be provided by the time of the
7 removal or sale of the dyed fuel and shall appear on shipping
8 papers, bills of lading, and invoices accompanying the sale or
9 removal of the dyed fuel.

10

11 46. (New section) a. The director, upon presenting appropriate
12 credentials may conduct inspections and remove samples of fuel to
13 determine the coloration of diesel fuel and kerosene, or to identify
14 shipping paper violations at any place where fuel is or may be
15 produced, stored or loaded into fuel transportation vehicles.
16 Inspections shall be performed in a reasonable manner consistent
17 with the circumstances, but in no event is prior notice required.
18 Inspectors may physically inspect, examine or otherwise search any
19 tank, reservoir, or other container that can or might be used for the
20 production, storage, or transportation of fuel. Inspections may be
21 made of any equipment used for, or in connection with, the
22 production, storage, or transportation of fuel. Upon demand by the
23 inspectors all shipping papers, documents and records required to
24 be kept by a person transporting fuel shall be produced for
25 immediate inspection. The places where inspections may occur
26 include, but are not limited to:

- 27 (1) A terminal;
28 (2) A fuel storage facility that is not a terminal;
29 (3) A retail fuel facility;
30 (4) Highway rest stops; or
31 (5) A designated inspection site.

32 For purposes of this section, a "designated inspection site" means
33 any state highway or waterway inspection station, weigh station,
34 agricultural inspection station, mobile station, or other location
35 designated by the director, either fixed or mobile.

36 b. Inspections to determine violations under P.L. , c. (C.)
37 (pending before the Legislature as this bill) may be conducted by
38 the director, the Chief Administrator of the New Jersey Department
39 of Law and Public Safety, and any other law enforcement officer
40 through procedures established by the director.

41 c. Inspectors may reasonably detain any person or equipment
42 transporting fuel in or through this State for the purpose of
43 determining whether the person is operating in compliance with the
44 provisions of P.L. , c. (C.) (pending before the Legislature as
45 this bill) and any rules and regulations promulgated pursuant
46 thereto. Detainment may continue for such time only as is
47 necessary to determine whether the person is in compliance with
48 P.L. , c. (C.) (pending before the Legislature as this bill).

1 47. (New section) a. The director is authorized to audit and
2 examine the records, books, papers, and equipment of a licensee or
3 other person selling, transporting, storing or using fuel to verify the
4 completeness, truth and accuracy of any statement or report and
5 ascertain whether or not the tax imposed by P.L. , c. (C.)
6 (pending before the Legislature as this bill) has been paid.

7 b. Records shall be made available to the director during
8 normal business hours at the physical location of the person in this
9 State, or at the offices of the director within three business days
10 after the director's request if the location at which records are
11 located is outside of this State.

12 c. The director, may, upon showing credentials, inspect, and
13 each fuel vendor, fuel transporter or bulk purchaser shall disclose,
14 immediately upon request any shipping paper required by P.L. ,
15 c. (C.) (pending before the Legislature as this bill) to be
16 maintained at the physical location where the request is made which
17 may include any place fuel is stored or held for sale or
18 transportation.

19 d. A person who shall refuse to permit any inspection or audit
20 authorized by P.L. , c. (C.) (pending before the Legislature
21 as this bill) shall be subject to a civil penalty of \$5,000 in addition
22 to any penalty imposed by any other provision of P.L. , c. (C.)
23 (pending before the Legislature as this bill),.

24 e. A person who refuses, for the purpose of evading tax, to
25 allow an inspection shall, in addition to being liable for any other
26 penalties imposed by P.L. , c. (C.) (pending before the
27 Legislature as this bill), be guilty of a crime of the third degree.

28

29 48. (New section) In addition to the powers granted to the
30 director by P.L. , c. (C.)(pending before the Legislature as
31 this bill), the director is authorized and empowered:

32 a. to make, adopt and amend rules and regulations appropriate
33 to carrying out P.L. , c. (C.)(pending before the Legislature
34 as this bill) and accomplishing its purposes;

35 b. to delegate the director's functions hereunder to any officer
36 or employee of the director's division, or to federal government
37 employees or persons operating under contract with this State, such
38 of the director's powers as the director may deem necessary to carry
39 out efficiently the provisions of P.L. , c. (C.)(pending before
40 the Legislature as this bill), and the person or persons to whom such
41 power has been delegated shall possess and may exercise all of the
42 power and perform all of the duties herein conferred and imposed
43 upon the director;

44 c. to arrange for the institution of programs of cooperation with
45 other departments, divisions, and agencies of the State of New
46 Jersey such as but not limited to the Office of Weights and
47 Measures of the Division of Consumer Affairs in the Department of
48 Law and Public Safety, Motor Carrier Services in the Motor

1 Vehicle Commission, or the Board of Regulatory Commissioners, if
2 a program may be necessary to ensure effective administration and
3 enforcement of P.L. , c. (C.)(pending before the Legislature as
4 this bill);

5 d. to conduct investigations as necessary to enforce the
6 provisions of P.L. , c. (C.)(pending before the Legislature as
7 this bill);

8 e. to prescribe forms upon which reports are made to the director
9 and all other forms and information the director deems necessary to
10 enforce the provisions of P.L. , c. (C.)(pending before the
11 Legislature as this bill), and may require periodic submission of
12 information from any person dealing in, transporting or storing fuel;

13 f. to conduct joint audits, subject to specific agreements with
14 any agency of the United States of America, with another state, or
15 through National or Regional Tax Associations, of the obligations
16 of any license holder, arising out of P.L. , c. (C.)(pending
17 before the Legislature as this bill). Notwithstanding the provisions
18 of R.S.54:50-8 to the contrary, if any, the agreements may provide
19 for exchange of the records and files of the director respecting the
20 administration of P.L. , c. (C.)(pending before the Legislature
21 as this bill) or of any other State tax law;

22 g. to require the licensure of any person not otherwise required
23 to be licensed pursuant to P.L. , c. (C.)(pending before the
24 Legislature as this bill) dealing in, transporting or storing fuel, and
25 to issue licenses for the terms and for the fees, as the director may
26 prescribe; the director may decline to issue a license, or revoke a
27 license issued, for good cause including, but not limited to, the
28 standards provided by subsections c. and d. of section 28 of P.L. ,
29 c. (C.)(pending before the Legislature as this bill)

30 h. to co-collect with the tax imposed pursuant to P.L. ,
31 c. (C.) (pending before the Legislature as this bill), the tax
32 imposed pursuant to the "Petroleum Products Gross Receipts Tax
33 Act," P.L.1990, c.42 (C.54:15B-1 et seq.) pursuant to such
34 procedures as the director may prescribe.

35
36 49. (New section) Moneys received from taxes on fuel used in
37 aircraft, pursuant to subsection b. of section 3 of P.L. , c. (C.)
38 (pending before the Legislature as this bill), shall be accounted for
39 and forwarded by the director to the State Treasurer, who shall
40 credit these payments to the Airport Safety Fund established by
41 section 4 of the "New Jersey Airport Safety Act of 1983," P.L.1983,
42 c.264 (C.6:1-92).

43
44 50. (New section) a. There is levied a tax on fuel held in storage
45 as of the close of the business day preceding October 1, 2010. For
46 the purpose of this section, "close of the business day" means the
47 time at which the last transaction has occurred for that day. The tax
48 on fuel shall be the tax rate specified by subsection a. of section 3

S2136 OROHO

43

1 of P.L. , c. (C.)(pending before the Legislature as this bill) for
2 the type of fuel, multiplied by the gallons in storage of that type of
3 fuel as of the close of business day preceding October 1, 2010.

4 b. Persons in possession of fuel in storage as of the close of the
5 business day immediately preceding October 1, 2010 shall:

6 (1) take an inventory at the close of the business day
7 immediately preceding October 1, 2010;

8 (2) report the gallons listed in paragraph (1) of this subsection
9 on forms provided by the director, not later than October 31, 2010;
10 and

11 (3) Remit the tax levied under this section no later than April 1,
12 2011.

13 c. If tax due pursuant to subsection b. of this section is paid to
14 the director on or before October 31, 2010, the person remitting the
15 tax may deduct from that person's tax liability 10% of the tax
16 liability otherwise due.

17 d. In determining the amount of tax due under this section, a
18 person may exclude the amount of fuel in dead storage in each
19 storage tank. For the purposes of this section, "dead storage" means
20 the amount of fuel that cannot be pumped out of a fuel storage tank
21 because the motor fuel is below the mouth of the draw pipe. The
22 amount of motor fuel in dead storage is 200 gallons for a tank with
23 a capacity of less than 10,000 gallons and 400 gallons for a tank
24 with a capacity of 10,000 gallons or more.

25
26 51. (New section) a. A person who is licensed as a distributor
27 pursuant to R.S.54:39-17 prior to October 1, 2010 shall be deemed
28 a supplier licensed pursuant to the "Motor Fuel Tax Act," P.L. ,
29 c. (C.) (pending before the Legislature as this bill) as of October
30 1, 2010 and subject to P.L. , c. (C.) (pending before the
31 Legislature as this bill) regarding licensed suppliers unless the person
32 licensed as a distributor pursuant to R.S.54:39-17 provides notice
33 prior to October 1, 2010 that the person does not desire the status of
34 licensee as a supplier pursuant to P.L. , c. (C.) (pending before
35 the Legislature as this bill). A person who is licensed as a
36 distributor pursuant to R.S.54:39-17 prior to October 1, 2010 who
37 declines licensure pursuant to the "Motor Fuel Tax Act," P.L. ,
38 c. (C.) (pending before the Legislature as this bill) shall be
39 deemed to have terminated its license as of the end of September
40 30, 2010, shall cease in-State activities covered by P.L. ,
41 c. (C.) (pending before the Legislature as this bill), and shall be
42 subject to final report requirements of section 27 of P.L. ,
43 c. (C.) (pending before the Legislature as this bill). If no notice
44 is received by the director prior to October 1, 2010 declining licensure,
45 then that shall be deemed acceptance of the new license and
46 responsibilities pursuant to the "Motor Fuel Tax Act," P.L. ,
47 c. (C.) (pending before the Legislature as this bill), and the

1 person may continue in operation except as provided by subsection
2 f. of this section.

3 Notice may be given to a person who is licensed as a distributor
4 pursuant to R.S.54:39-17 prior to October 1, 2010 that the person
5 will not be granted a license pursuant to the "Motor Fuel Tax Act,"
6 P.L. , c. (C.) (pending before the Legislature as this bill). A
7 person given that notice shall cease activities covered by the license on
8 or before October 1, 2010, shall be deemed to have terminated its
9 license as of the end of September 30, 2010, and shall be subject to
10 final report requirements of section 27 of P.L. , c. (C.)
11 (pending before the Legislature as this bill).

12 b. A person who is licensed as a retail dealer pursuant to
13 R.S.54:39-30 prior to October 1, 2010 shall be deemed a retail
14 dealer licensed pursuant to the "Motor Fuel Tax Act," P.L. ,
15 c. (C.) (pending before the Legislature as this bill) as of
16 October 1, 2010 and subject to P.L. , c. (C.) (pending before
17 the Legislature as this bill) regarding retail dealers unless the person
18 licensed as a retail dealer pursuant to R.S.54:39-30 provides notice
19 prior to October 1, 2010 that the person does not desire the status of
20 licensee as a retail dealer pursuant to P.L. , c. (C.) (pending
21 before the Legislature as this bill). A person who is licensed as a
22 retail dealer pursuant to R.S.54:39-17 prior to October 1, 2010 who
23 declines licensure pursuant to the "Motor Fuel Tax Act," P.L. ,
24 c. (C.) (pending before the Legislature as this bill) shall be
25 deemed to have terminated its license as of the end of September
26 30, 2010, shall cease in-State activities covered by P.L. ,
27 c. (C.) (pending before the Legislature as this bill), and shall be
28 subject to final report requirements of section 27 of P.L. ,
29 c. (C.) (pending before the Legislature as this bill). If no notice
30 is received by the director prior to October 1, 2010 declining licensure,
31 then that shall be deemed acceptance of the new license and
32 responsibilities pursuant to the "Motor Fuel Tax Act," P.L. ,
33 c. (C.) (pending before the Legislature as this bill), and the
34 person may continue in operation except as provided by subsection
35 f. of this section.

36 Notice may be given to a person who is licensed as a retail dealer
37 pursuant to R.S.54:39-17 prior to October 1, 2010 that the person
38 will not be granted a license pursuant to the "Motor Fuel Tax Act,"
39 P.L. , c. (C.) (pending before the Legislature as this bill). A
40 person given that notice shall cease activities covered by the license on
41 or before October 1, 2010, shall be deemed to have terminated its
42 license as of the end of September 30, 2010, and shall be subject to
43 final report requirements of section 27 of P.L. , c. (C.)
44 (pending before the Legislature as this bill).

45 c. A person who is licensed as an importer, exporter,
46 wholesaler, or jobber pursuant to R.S.54:39-30 prior to October 1,
47 2010 shall be deemed a distributor licensed pursuant to the "Motor
48 Fuel Tax Act," P.L. , c. (C.) (pending before the Legislature

1 as this bill) as of October 1, 2010 and subject to P.L. , c. (C.)
2 (pending before the Legislature as this bill) regarding licensed
3 suppliers unless the person licensed as an importer, exporter,
4 wholesaler, or jobber pursuant to R.S.54:39-30 provides notice prior
5 to October 1, 2010 that the person does not desire the status of licensee
6 as a distributor pursuant to P.L. , c. (C.) (pending before the
7 Legislature as this bill). A person who is licensed as an importer,
8 exporter, wholesaler, or jobber pursuant to R.S.54:39-17 prior to
9 October 1, 2010 who declines licensure pursuant to the “Motor Fuel
10 Tax Act,” P.L. , c. (C.) (pending before the Legislature as
11 this bill) shall be deemed to have terminated its license as of the end
12 of September 30, 2010, shall cease in-State activities covered by
13 P.L. , c. (C.) (pending before the Legislature as this bill), and
14 shall be subject to final report requirements of section 27 of P.L. ,
15 c. (C.) (pending before the Legislature as this bill). If no
16 notice is received by the director prior to October 1, 2010 declining
17 licensure, then that shall be deemed acceptance of the new license and
18 responsibilities pursuant to the “Motor Fuel Tax Act,” P.L. ,
19 c. (C.) (pending before the Legislature as this bill), and the
20 person may continue in operation except as provided by subsection
21 f. of this section.

22 Notice may be given to a person who is licensed as an importer,
23 exporter, wholesaler, or jobber pursuant to R.S.54:39-17 prior to
24 October 1, 2010 that the person will not be granted a license pursuant
25 to the “Motor Fuel Tax Act,” P.L. , c. (C.) (pending before
26 the Legislature as this bill). A person given that notice shall cease
27 activities covered by the license on or before October 1, 2010, shall be
28 deemed to have terminated its license as of September 30, 2010,
29 and shall be subject to final report requirements of section 27 of
30 P.L. , c. (C.) (pending before the Legislature as this bill).

31 d. A person engaged in the business of hauling, transporting or
32 delivering fuel who is a motor fuel transport licensee pursuant to
33 R.S.54:39-1 or who has registered a conveyance for transporting
34 fuel pursuant to R.S.54:39-41 prior to October 1, 2010 shall be
35 deemed a transporter and the conveyance shall be deemed
36 registered as a fuel conveyance pursuant to the “Motor Fuel Tax
37 Act,” P.L. , c. (C.) (pending before the Legislature as this
38 bill) as of October 1, 2010 and subject to P.L. , c. (C.)
39 (pending before the Legislature as this bill) regarding transporters
40 and fuel conveyances unless the motor fuel transport licensee or
41 having a registered conveyance provides notice prior to October 1,
42 2010 that the person does not desire the status of transporter or does
43 not desire to have a registered fuel conveyance pursuant to P.L. ,
44 c. (C.) (pending before the Legislature as this bill). A person
45 who is a motor fuel transport licensee or who has a conveyance
46 registered pursuant to R.S.54:39-41 prior to October 1, 2010 who
47 declines status pursuant to the “Motor Fuel Tax Act,” P.L. ,
48 c. (C.) (pending before the Legislature as this bill) shall be

1 deemed to have terminated its motor fuel transport license and its
2 conveyance registration, as applicable, as of the end of September
3 30, 2010, and shall cease in-State activities covered by P.L. ,
4 c. (C.) (pending before the Legislature as this bill). If no
5 notice is received by the director prior to October 1, 2010 declining
6 licensure, or registration as applicable, then that shall be deemed
7 acceptance of the new license, or registration as applicable, and
8 acceptance of transporter responsibilities pursuant to the "Motor Fuel
9 Tax Act," P.L. , c. (C.) (pending before the Legislature as
10 this bill).

11 e. All other persons licensed pursuant to R.S.54:39-1 et seq.
12 shall apply to the director for an appropriate license, as determined
13 by the director and subject to such rules as the director may
14 prescribe, pursuant to this section on or before October 1, 2010 or
15 cease activities requiring a license under this section. If a person
16 accepts a new license and responsibilities that license entails
17 pursuant to the "Motor Fuel Tax Act," P.L. , c. (C.)
18 (pending before the Legislature as this bill), the person may
19 continue in operation except as provided by subsection e. of this
20 section

21 f. A person required to file a bond or other surety with the
22 director pursuant to the "Motor Fuel Tax Act," P.L. , c. (C.)
23 (pending before the Legislature as this bill) shall have until October
24 31, 2010, to establish, reestablish or transfer that surety to the
25 person's new license status pursuant to P.L. , c. (C.) (pending
26 before the Legislature as this bill). A person who does not meet
27 those bonding requirements by October 31, 2010 shall cease
28 activities covered by the license on October 31, 2010.

29 g. Licenses issued pursuant to R.S.54:39-1 et seq. and not
30 continued pursuant to this section shall be invalid as of October 1,
31 2010. Licenses accepted pursuant to this section in place of the
32 license issued pursuant to R.S.54:39-1 et seq. shall be valid until the
33 expiration date of the license originally issued pursuant to
34 R.S.54:39-1 et seq.

35
36 52. (New section) Notwithstanding any provision of the
37 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
38 seq.) to the contrary, the director may adopt immediately upon
39 filing with the Office of Administrative Law such regulations as the
40 director deems necessary to implement the provisions of P.L. ,
41 c. (pending before the Legislature as this bill), which regulations
42 shall be effective for a period not to exceed 360 days following the
43 date of enactment of P.L. , c. (pending before the Legislature as
44 this bill) and may thereafter be amended, adopted, or readopted by
45 the director in accordance with the "Administrative Procedure Act,"
46 P.L.1968, c.410 (C.52:14B-1 et seq.).

S2136 OROHO

47

1 53. Section 7 of P.L.1990, c.42 (C.54:15B-7) is amended to read
2 as follows:

3 7. a. A company subject to tax under **[this act]** P.L.1990, c.42
4 (C.54:15B-1 et seq.) shall, on or before the 25th day of a month, file
5 a remittance to the director on such forms as may be prescribed by
6 the director and pay the full amount of the tax due on gross receipts
7 subject to tax derived from the first sale of petroleum products
8 within this State and the consideration given or contracted to be
9 given for all deliveries of petroleum products for use or
10 consumption by it within this State for the preceding month.

11 b. On or before the 25th day following the end of a quarterly
12 period, a company subject to tax under **[this act]** P.L.1990, c.42
13 (C.54:15B-1 et seq.) shall file a reconciliation return under oath to
14 the director on such forms as may be prescribed by the director
15 reflecting such information and payments from the preceding
16 quarterly period as the director shall deem necessary.

17 c. The tax payments of a company subject to tax under
18 P.L.1990, c.42 (C.54:15B-1 et seq.) whose tax on sales is co-
19 collected with the tax imposed by section 3 of P.L. , c. (C.)
20 (pending before the Legislature as this bill) pursuant to regulations
21 of the director shall pay the tax under P.L.1990, c.42 (C.54:15B-1 et
22 seq.) at such times and on the returns for the tax imposed under
23 P.L. , c. (C.)(pending before the Legislature as this bill), and
24 omit those sales from the returns required under this section.

25 (cf: P.L.1991, c.181, s.4)

26

27 54. Section 20 of P.L.1980, c.105 (C.54:32B-8.8) is amended to
28 read as follows:

29 20. Receipts from sales of motor **[fuels]** fuel, racing gasoline,
30 liquefied petroleum gas, and aviation fuel as [motor] those fuels
31 are defined [for purposes of the New Jersey Motor Fuel Tax Law
32 (R.S.54:39-1 et seq.)] by section 2 of P.L. . c. (C.) (pending
33 before the Legislature as this bill); and sales of fuel to an airline for
34 use in its airplanes or to a railroad for use in its locomotives are
35 exempt from the tax imposed under the Sales and Use Tax Act.

36 (cf: P.L.1980, c.105, s.20)

37

38 55. Section 2 of P.L.1963, c.44 (C.54:39A-2) is amended to read
39 as follows:

40 2. For the purpose of this act, unless inconsistent with the
41 context:

42 (a) "User" means every person who operates or causes to be
43 operated any qualified motor vehicle on any highway in this State.
44 The term shall include a rental company in the case of a rental
45 vehicle.

1 (b) "Qualified motor vehicle" means a motor vehicle that is not
2 an exempt vehicle and that is used, designed or maintained for
3 transportation of persons or property; and

4 (1) having two axles and a gross vehicle weight or registered
5 gross vehicle weight in excess of 26,000 pounds;

6 (2) having three or more axles, regardless of weight; or

7 (3) that is used in combination, when the weight of such
8 combination is in excess of 26,000 pounds gross vehicle weight or
9 registered gross vehicle weight.

10 Notwithstanding this definition of qualified motor vehicle, if the
11 director enters into the agreement authorized pursuant to subsection
12 b. of section 24 of P.L.1963, c.44 (C.54:39A-24), the director shall,
13 as may be required by the agreement, issue a card and markers
14 pursuant to P.L. , c. (C.)(pending before the Legislature as
15 this bill) to the user of an exempt vehicle other than a recreational
16 vehicle that is a New Jersey base jurisdiction vehicle and that would
17 be a qualified motor vehicle but for being an exempt vehicle and the
18 director shall administer the reporting and collection of tax imposed
19 by other member jurisdictions with respect to such vehicle.

20 (c) "Exempt vehicle" means:

21 (1) Any vehicle owned or operated by an agency of this State or
22 any political subdivision thereof, or any quasi-governmental
23 authority of which this State is a participating member, or any
24 agency of the federal government or the District of Columbia, or of
25 any state or province or political subdivision thereof.

26 (2) School bus as defined in R.S.39:1-1.

27 (3) Vehicles operated under authority of dealer, manufacturer,
28 converter and transporter general registration plates such as
29 prescribed in R.S.39:3-18 and similar laws of other states.

30 (4) Special mobile equipment not designed or used primarily for
31 the transportation of persons or property.

32 (5) Vehicles operated not for profit by any religious or
33 charitable organization.

34 (6) Vehicles operated by a public utility as defined in R.S.48:2-
35 13, or under a contract with the New Jersey Transit Corporation or
36 under a contract with a county for special or rural transportation bus
37 service subject to the jurisdiction of the New Jersey Transit
38 Corporation pursuant to P.L.1979, c.150 (C.27:25-1 et seq.) whose
39 operations are limited to the State of New Jersey, or vehicles
40 providing commuter bus service which receive or discharge
41 passengers in New Jersey.

42 (7) Vehicles operated, not for hire, by a farmer as defined in
43 R.S.39:3-25.

44 (8) Vehicles used to transport farm labor.

45 (9) Recreational vehicles such as motor homes, pickup trucks
46 with attached campers, and buses when used exclusively for
47 personal pleasure by an individual. A recreational vehicle is a
48 vehicle that is not used in connection with any business endeavor.

S2136 OROHO

49

1 (d) "Operations" means operations of all qualified motor
2 vehicles, whether loaded or empty, whether for compensation or not
3 for compensation, and whether owned by, contracted for use by, or
4 leased by the user who operates or causes them to be operated,
5 except operations of an omnibus in a regular route bus operation as
6 defined in R.S.48:4-1 and under operating authority conferred
7 pursuant to R.S.48:4-3.

8 (e) The term "motor fuels" means any combustible liquid or
9 gaseous substance used, or suitable, for the generation of power to
10 propel motor vehicles.

11 (f) "Motor fuel tax " means a tax imposed at a rate equal to the
12 sum of:

13 (1) the tax rate per gallon on motor fuels imposed [under
14 R.S.54:39-1 et seq.] by section 3 of P.L. , c. (C.)(pending
15 before the Legislature as this bill); and

16 (2) the tax rate per gallon on motor fuels imposed pursuant to
17 section 3 of P.L.1990, c.42 (C.54:15B-3).

18 (g) "Director" shall mean the Director of the Division of Motor
19 Vehicles in the Department of Transportation.

20 (h) "Purchaser" means the person, firm or corporation who or
21 which purchased the fuel, and paid the motor fuel tax thereon, used
22 in the qualified motor vehicles of the user.

23 (i) (Deleted by amendment, P.L.1995, c.347).

24 (j) (Deleted by amendment, P.L.1995, c.347).

25 (k) "Rental vehicle" means a vehicle owned by a rental company
26 and rented to the general public on an hourly, daily, trip, or other
27 short-term basis.

28 (l) "Rental company" means a person engaged in the business
29 of renting vehicles to the general public, including motor carriers,
30 on an hourly, daily, trip, or other short-term basis.

31 (m) "Commuter bus service" means regularly scheduled
32 passenger service provided by qualified motor vehicles within or
33 across the geographical boundaries of New Jersey and utilized by
34 passengers using reduced fare, multiple ride or commutation tickets
35 and shall not include charter bus operations or special bus
36 operations as defined in R.S.48:4-1 or buses operated for the
37 transportation of enrolled children and adults referred to in
38 subsection c. of R.S.48:4-1.

39 (cf: P.L.1995, c.347, s.1)

40

41 56. The following sections are repealed:

42 R.S.54:39-1 through R.S.54:39-15;

43 R.S.54:39-17 through R.S.54:39-49;

44 R.S.54:39-51 through R.S.54:39-54;

45 R.S.54:39-56;

46 R.S.54:39-58 through R.S.54:39-60;

47 R.S.54:39-65 through R.S.54:39-75;

S2136 OROHO

50

1 Sections 2 and 3 of P.L.1955, c.90 (C.54:39-66.1 and 54:39-
2 67.1);
3 Sections 1 and 2 of P.L.1968, c.420 (C.54:39-6.1 and 54:39-
4 31.1);
5 Section 1 of P.L.1971, c.52 (C.54:39-27.1);
6 Section 7 of P.L.1983, c.264 (C.54:39-27a); and
7 Sections 41, 49, 50 through 62, and 68 of P.L.1992, c.23
8 (C.54:39-57.1, 54:39-6.2, 54:39-6.3, 54:39-6.4, 54:39-64.1,
9 through 54:39-64.8, 54:39-10.1, 54:39-64.9, 54:39-64.10, and
10 54:39-10.2).

11 provided, however, that this repeal shall not affect any obligation,
12 lien or duty to pay taxes, interest or penalties which have accrued or
13 may accrue by virtue of any taxes imposed pursuant to the
14 provisions of the law repealed by this act, or which may be imposed
15 with respect to any redetermination, correction, recomputation or
16 deficiency assessment; and provided that all taxes and returns which
17 would have been due and payable under the provisions of the law
18 repealed shall be due and payable as if the law was in effect; and
19 provided that this repeal shall not affect the legal authority of the
20 State to audit records and assess and collect taxes due or which may
21 be due, together with the interest and penalties as have accrued or
22 would have accrued on those taxes under the provisions of the law
23 repealed; and provided that this repeal shall not affect any
24 determination of, or affect any proceeding for, the enforcement
25 thereof.

26

27 57. This act shall take effect immediately, provided however
28 that sections 1 through 27, 29 through 49, and 53 through 56 shall
29 remain inoperative until October 1, 2010.

30

31

32

STATEMENT

33

34 This bill provides the "Motor Fuel Tax Act," a bill that
35 modernizes the system for assessing the taxes on highway motor
36 vehicles that is principally dedicated by the New Jersey
37 Constitution to the costs of the State transportation system.

38 The current system for collecting the taxes on motor fuels is the
39 result of revisions to the system made in 1992. Taxable diesel fuel
40 is virtually the same product as tax exempt home heating oil. In
41 response to a number of reports on fuel tax evasion based on the
42 difficulty of distinguishing taxable from nontaxable products and
43 corporate manipulation of fuel tax records, including a report by the
44 State Commission of Investigation, a new set of procedures was
45 introduced that emphasized the tracking of the fuel through the
46 chain of distribution.

47 The 1992 system emphasized the licensing of each party in the
48 distribution chain, and regular reporting of purchases and sales by

1 each party, reporting requirements, bonding and other steps to
2 address the problem of substitution of tax exempt No. 2 fuel oil for
3 taxable diesel fuel. The new system circumvented the problem of
4 manipulation of falsified corporate records of putatively taxed fuel
5 by imposing the tax on diesel fuel at retail consumer level.

6 Much has changed since 1992, including the introduction of the
7 federal dyed fuel system, under which fuel for exempt purposes is
8 dyed while fuel for taxable purposes is undyed or "clear."
9 Although New Jersey was one of the two test states that cooperated
10 with the federal Internal Revenue Service in the initial testing of the
11 federal dyed fuel system, it is one of the last of the industrialized
12 states to use the dyed fuel system in its own motor fuels tax
13 administration.

14 This bill changes the point of taxation of diesel fuel from the
15 retail level to the level at which it is removed from the bulk fuel
16 storage and distribution system of refineries, pipelines, ships and
17 barges, at a terminal. The bill also changes the point of taxation of
18 gasoline from the distributor level to the terminal level.

19 This change in the point of taxation will decrease the number of
20 taxpayers and decrease the volume of paperwork. This will save
21 administrative costs for both taxpayers and the tax administrators,
22 and will allow audit staff to focus on fewer taxpayers, which should
23 result in a more comprehensive and productive audit program and a
24 more rapid identification of problem areas.

25 The bill includes requirements for transporting and labeling dyed
26 fuel, and penalties for mishandling dyed (tax-exempt) fuel and for
27 using dyed fuel in highway vehicles. The bill also authorizes the
28 co-collection of petroleum products gross receipts tax with the
29 motor fuel taxes, when that is feasible.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 2136

STATE OF NEW JERSEY

DATED: JUNE 23, 2010

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 2136.

The bill provides the “Motor Fuel Tax Act,” a bill that modernizes the system for assessing the taxes on highway motor vehicles that are principally dedicated by the New Jersey Constitution to the costs of the State transportation system.

The current system for collecting the taxes on motor fuels is the result of revisions to the system made in 1992. Taxable diesel fuel is virtually the same product as tax exempt home heating oil. In response to a number of reports on fuel-tax evasion based on the difficulty of distinguishing taxable from nontaxable products and corporate manipulation of fuel tax records, including a report by the State Commission of Investigation, a new set of procedures was introduced that emphasized the tracking of the fuel through the chain of distribution.

The 1992 system emphasized the licensing of each party in the distribution chain, and regular reporting of purchases and sales by each party, bonding, and other steps to address the problem of substitution of tax-exempt No. 2 fuel oil for taxable diesel fuel. The new system circumvented the problem of manipulation of falsified corporate records of putatively taxed fuel by imposing the tax on diesel fuel at retail consumer level.

Much has changed since 1992, including the introduction of the federal dyed fuel system, under which fuel for exempt purposes is dyed while fuel for taxable purposes is undyed or “clear.” Although New Jersey was one of the two test states that cooperated with the federal Internal Revenue Service in the initial testing of the federal dyed fuel system, it is one of the last of the industrialized states to use the dyed fuel system in its own motor fuels tax administration.

This bill changes the point of taxation of diesel fuel from the retail level to the level at which it is removed from the bulk fuel storage and distribution system of refineries, pipelines, ships and barges, at a terminal. The bill also changes the point of taxation of gasoline from the distributor level to the terminal level.

The bill includes requirements for transporting and labeling dyed fuel, and penalties for mishandling dyed (tax-exempt) fuel and for using dyed fuel in highway vehicles. The bill also authorizes the co-

collection of petroleum products gross receipts tax with the motor fuel taxes, when that is feasible.

FISCAL IMPACT:

The change in the point of taxation will decrease the number of taxpayers and decrease the volume of paperwork, potentially by more than 80% based on information supplied by the Division of Taxation. This will save substantial compliance costs for the industry, and a lesser amount of savings for the administration of tax. Although the Division of Taxation will have less need to process and store tax returns, the actual advantage for the division staff will be its ability to direct more of its attention at fewer taxpayers. With more attention focused on each taxpayer, the taxpayers who remain will be better screened and more skilled at maintaining compliance. The division has estimated that the combination of reduced compliance costs and improved audit and review focus will result in cost savings and increased compliance revenue totaling \$18 million annually.

FISCAL NOTE
SENATE, No. 2136
STATE OF NEW JERSEY
214th LEGISLATURE

DATED: JULY 28, 2010

SUMMARY

Synopsis: Concerns method of collection of tax on motor fuel; repeals former motor fuels tax.

Type of Impact: Annual increase in revenues in the General Fund.

Agencies Affected: Department of the Treasury.

Executive Estimate

Fiscal Impact	<u>FY 2011 and Annually Thereafter</u>
State Revenue Increase	\$18,000,000 – See comments below

- The Office of Legislative Services (OLS) has no independent means by which to evaluate the revenue impact of this bill. The Executive estimate may be plausible.

BILL DESCRIPTION

Senate Bill No. 2136 of 2010 changes the point of taxation of diesel fuel from the retail level to the level at which it is removed from the bulk fuel storage and distribution system of refineries, pipelines, ships and barges, at a terminal. The bill also changes the point of taxation of gasoline from the distributor level to the terminal level.

The bill includes requirements for transporting and labeling dyed fuel, and penalties for mishandling dyed (tax-exempt) fuel and for using dyed fuel in highway vehicles. The bill also authorizes the co-collection of petroleum products gross receipts tax with the motor fuel taxes, when that is feasible.

FISCAL ANALYSIS

EXECUTIVE BRANCH

The Executive's Budget-in-Brief for FY 2011 indicated that the changes in the point of taxation of diesel fuel and gasoline, subsequently incorporated in this bill, would increase motor fuels tax revenues by \$18,000,000 annually beginning in FY 2011.

OFFICE OF LEGISLATIVE SERVICES

The OLS has no independent means by which to evaluate the revenue impact of this bill. The Executive estimate may be plausible. New Jersey diesel fuel tax collections typically yield just over \$100 million annually (out of over \$530 million in total annual motor fuels revenue collections), suggesting that the Executive's \$18.0 million revenue estimate would result in a collections improvement of between 15 percent and 20 percent annually.

Section: Revenue, Finance and Appropriations

Analyst: Martin Poethke
Lead Fiscal Analyst

Approved: David J. Rosen
Legislative Budget and Finance Officer

This fiscal note has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

ASSEMBLY, No. 3072

STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED JUNE 24, 2010

Sponsored by:
Assemblyman ALEX DECROCE
District 26 (Morris and Passaic)

SYNOPSIS

Concerns method of collection of tax on motor fuel; repeals former motor fuels tax.

CURRENT VERSION OF TEXT

As introduced.



A3072 DECROCE

2

1 AN ACT concerning the taxation of motor fuels, supplementing
2 Chapter 39 of Title 54 of the Revised Statutes, amending
3 P.L.1990, c.42, P.L.1980, c.105, and P.L.1963, c.44, and
4 repealing parts of the statutory law.

5

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

8

9 1. (New section) Sections 1 through 49 of this act shall be
10 known and may be cited as the "Motor Fuel Tax Act."

11

12 2. (New section) For the purposes of P.L. , c. (C.)
13 (pending before the Legislature as this bill), the following terms
14 have the following meanings:

15 "Aviation fuel" means aviation gasoline or aviation grade
16 kerosene;

17 "Aviation fuel dealer" means a person that acquires aviation fuel
18 from a supplier or from another aviation fuel dealer for subsequent
19 sale;

20 "Aviation gasoline" means fuel specifically compounded for use
21 in reciprocating aircraft engines;

22 "Aviation grade kerosene" means any kerosene type jet fuel
23 covered by ASTM Specification D 1655 or meeting specification
24 MIL-DTL-5624T (Grade JP-5) or MIL-DTL-83133E (Grade JP-8);

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

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

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

35 "Blended fuel" means a mixture composed of motor fuel and
36 another liquid, including blend stock other than a de minimis
37 amount of a product such as carburetor detergent or oxidation
38 inhibitor, that can be used as a fuel in a highway vehicle. "Blended
39 fuel" includes but is not limited to gasohol, biodiesel, ethanol,
40 methanol, fuel grade alcohol, diesel fuel enhancers and resulting
41 blends;

42 "Blender" means a person that produces blended motor fuel
43 outside the terminal transfer system;

44 "Blending" means the mixing of one or more petroleum products,

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.

A3072 DECROCE

1 with or without another product, regardless of the original character
2 of the product blended, if the product obtained by the blending is
3 capable of use or otherwise sold for use in the generation of power
4 for the propulsion of a motor vehicle, an airplane, or a motorboat.
5 The term does not include the blending that occurs in the process of
6 refining by the original refiner of crude petroleum or the blending
7 of products known as lubricating oil and greases, or the
8 commingling of products during transportation in a pipeline;

9 "Blocked pump" means a pump that, because of the pump's
10 physical limitations, for example, a short hose, cannot be used to
11 fuel a vehicle, or a pump that is locked by the vendor after each sale
12 and unlocked by the vendor in response to a request by a buyer for
13 undyed kerosene for use other than as a fuel in a diesel-powered
14 highway vehicle or train;

15 "Biodiesel" means any motor fuel or mixture of motor fuels that
16 is derived, in whole or in part, from agricultural products or animal
17 fats, or the wastes of such products or fats, and is advertised as,
18 offered for sale as, suitable for use or used as motor fuel in an
19 internal combustion engine;

20 "Bulk plant" means a bulk fuel storage and distribution facility
21 that is not a terminal within the terminal transfer system and from
22 which fuel may be removed by truck or rail car;

23 "Bulk transfer" means a transfer of fuel from one location to
24 another by pipeline tender or marine delivery within the terminal
25 transfer system;

26 "Consumer" means the ultimate user of fuel;

27 "Delivery" means the placing of fuel into the fuel tank of a motor
28 vehicle or into a bulk fuel storage and distribution facility;

29 "Diesel fuel" means a liquid that is commonly or commercially
30 known or sold as a fuel that is suitable for use in a diesel-powered
31 highway vehicle. A liquid meets this requirement if, without
32 further processing or blending, the liquid has practical and
33 commercial fitness for use in the propulsion engine of a
34 diesel-powered highway vehicle. "Diesel fuel" includes biodiesel,
35 number 1 and number 2 diesel;

36 "Diesel-powered motor vehicle" means a motor vehicle that is
37 propelled by a diesel-powered engine;

38 "Director" means the Director of the Division of Taxation in the
39 Department of the Treasury;

40 "Distributor" means a person who acquires fuel from a supplier,
41 permissive supplier or from another distributor for subsequent sale;

42 "Dyed fuel" means dyed diesel fuel or dyed kerosene that is
43 required to be dyed pursuant to United States Environmental
44 Protection Agency rules or is dyed pursuant to Internal Revenue
45 Service rules or pursuant to any other requirements subsequently set
46 by the United States Environmental Protection Agency or Internal
47 Revenue Service including any invisible marker requirements;

A3072 DECROCE

4

1 "Export" means to obtain fuel in this State for sale or other
2 distribution outside of this State. In applying this definition, fuel
3 delivered out-of-State by or for the seller constitutes an export by
4 the seller, and fuel delivered out-of-State by or for the purchaser
5 constitutes an export by the purchaser;

6 "Exporter" means any person, other than a supplier, who
7 purchases fuel in this State for the purpose of transporting or
8 delivering the fuel outside of this State;

9 "Fuel" means:

10 a. a liquid or gaseous substance commonly or commercially
11 known or sold as gasoline, regardless of its classification or use;
12 and

13 b. a liquid or gaseous substance used, offered for sale or sold
14 for use, either alone or when mixed, blended, or compounded,
15 which is capable of generating power for the propulsion of motor
16 vehicles upon the public highways;

17 "Fuel grade alcohol" means a methanol or ethanol with a proof of
18 not less than one hundred ninety degrees (determined without
19 regard to denaturants) and products derived from that methanol and
20 ethanol for blending with motor fuel;

21 "Fuel transportation vehicle" means any vehicle designed for
22 highway use which is also designed or used to transport fuel;

23 "Gasoline" means all products commonly or commercially
24 known or sold as gasoline that are suitable for use as a motor fuel.
25 Gasoline does not include products that have an ASTM octane
26 number of less than seventy-five as determined by the "motor
27 method," ASTM D2700-92. The term does not include racing
28 gasoline or aviation gasoline, but for administrative purposes does
29 include fuel grade alcohol;

30 "General aviation airport" means a civil airport located in this
31 State other than the international airports located in Newark and
32 Atlantic City;

33 "Gross gallons" means the total measured volume of fuel,
34 measured in U.S. gallons, exclusive of any temperature or pressure
35 adjustments;

36 "Import" means to bring fuel into this State by any means of
37 conveyance other than in the fuel supply tank of a motor vehicle. In
38 applying this definition, fuel delivered into this State from
39 out-of-State by or for the seller constitutes an import by the seller,
40 and fuel delivered into this State from out-of-State by or for the
41 purchaser constitutes an import by the purchaser;

42 "Import verification number" means the number assigned by the
43 director with respect to a single fuel transportation vehicle delivery
44 into this State from another state upon request for an assigned
45 number by an importer or the transporter carrying fuel into this
46 State for the account of an importer;

47 "Importer" includes any person who is the importer of record,
48 pursuant to federal customs law, with respect to fuel. If the

A3072 DECROCE

1 importer of record is acting as an agent, the person for whom the
2 agent is acting is the importer. If there is no importer of record of
3 fuel imported into this State, the owner of the fuel at the time it is
4 brought into this State from another state or foreign country is the
5 importer;

6 "Invoiced gallons" means the gallons actually billed on an
7 invoice for payment to a supplier which shall be either gross gallons
8 or net gallons on the original manifest or bill of lading;

9 "Kerosene" means the petroleum fraction containing
10 hydrocarbons that are slightly heavier than those found in gasoline
11 and naphtha, with a boiling range of one hundred forty-nine to three
12 hundred degrees Celsius;

13 "Liquefied petroleum gas dealer" means a person who acquires
14 liquefied petroleum gas for subsequent sale to a consumer and
15 delivery into the vehicle fuel supply tank;

16 "Liquid" means any substance that is liquid in excess of sixty
17 degrees Fahrenheit and at a pressure of fourteen and seven-tenths
18 pounds per square inch absolute;

19 "Motor fuel" means gasoline, diesel fuel, kerosene and blended
20 fuel;

21 "Motor vehicle" means an automobile, truck, truck-tractor or any
22 motor bus or self-propelled vehicle not exclusively operated or
23 driven upon fixed rails or tracks. "Motor vehicle" does not include
24 tractor-type, motorized farm implements and equipment but does
25 include motor vehicles of the truck-type, pickup truck-type,
26 automobiles, and other vehicles required to be registered and
27 licensed each year pursuant to the provisions of the motor vehicle
28 license and registration laws of this State. "Motor vehicle" does not
29 include tractors and machinery designed for off-road use but
30 capable of movement on roads at low speeds;

31 "Net gallons" means the total measured volume of fuel,
32 measured in U.S. gallons, when corrected to a temperature of sixty
33 degrees Fahrenheit and a pressure of fourteen and seven-tenths
34 pounds per square inch absolute;

35 "Permissive supplier" means an out-of-State supplier that elects,
36 but is not required, to have a supplier's license pursuant to P.L. ,
37 c. (C.)(pending before the Legislature as this bill);

38 "Person" means an individual, a partnership, a limited liability
39 company, a firm, an association, a corporation, estate, trustee,
40 business trust, syndicate, this State, a county, city, municipality,
41 school district or other political subdivision of this State, or any
42 corporation or combination acting as a unit or any receiver
43 appointed by any state or federal court;

44 "Position holder" means the person who holds the inventory
45 position in fuel in a terminal, as reflected on the records of the
46 terminal operator. A person holds the inventory position in fuel
47 when that person has a contract with the terminal operator for the
48 use of storage facilities and terminating services for fuel at the

1 terminal. The term includes a terminal operator who owns fuel in
2 the terminal;

3 "Propel" means operate the drive engine of a motor vehicle,
4 whether the vehicle is in motion or at rest;

5 "Qualified terminal" means a terminal which has been assigned a
6 terminal control number by the federal Internal Revenue Service;

7 "Rack" means a mechanism for delivering fuel from a refinery or
8 terminal into a railroad tank car, a fuel transportation vehicle or
9 other means of transfer outside of the terminal transfer system;

10 "Racing gasoline" means gasoline that contains lead, has an
11 octane rating of 110 or higher, does not have detergent additives,
12 and is not suitable for use as a motor fuel in a motor vehicle used on
13 public highways;

14 "Refiner" means a person that owns, operates, or otherwise
15 controls a refinery;

16 "Refinery" means a facility used to produce fuel from crude oil,
17 unfinished oils, natural gas liquids, or other hydrocarbons and from
18 which fuel may be removed by pipeline, by ship or barge, or at a
19 rack;

20 "Removal" means any physical transfer of fuel from a terminal,
21 manufacturing plant, pipeline, ship or barge, refinery, from customs
22 custody, or from a facility that stores fuel;

23 "Retail dealer means a person that engages in the business of
24 selling or dispensing motor fuel to the consumer within this State;

25 "Supplier" means a person that is:

26 a. registered or required to be registered pursuant to section
27 4101 of the federal Internal Revenue Code of 1986 (26U.S.C.
28 s.4101) for transactions in fuels in the terminal transfer system; and

29 b. satisfies one or more of the following:

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

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

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

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

41 "Supplier" also means a person that produces fuel grade alcohol
42 or alcohol-derivative substances in this State, produces fuel grade
43 alcohol or alcohol-derivative substances for import to this State into
44 a terminal, or acquires upon import by truck, rail car or barge into a
45 terminal, fuel grade alcohol or alcohol-derivative substances.

46 "Supplier" includes a permissive supplier unless the "Motor Fuel
47 Tax Act," P.L. , c. (C.) (pending before the Legislature as
48 this bill) specifically provides otherwise;

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

- 2 a. which is a qualified terminal,
- 3 b. to which fuel is supplied by pipeline or marine vessel, or, for
4 the purposes of fuel grade alcohol, is supplied by truck or railcar,
5 and
- 6 c. from which fuel may be removed at a rack;

7 "Terminal bulk transfer" includes but is not limited to the
8 following:

- 9 a. a boat or barge movement of fuel from a refinery or terminal
10 to a terminal;
- 11 b. a pipeline movement of fuel from a refinery or terminal to a
12 terminal;
- 13 c. a book transfer of product within a terminal between
14 suppliers prior to completion of removal across the rack; and
- 15 d. a two-party exchange within a terminal between licensed
16 suppliers;

17 "Terminal operator" means a person that owns, operates, or
18 otherwise controls a terminal. A terminal operator may own the
19 fuel that is transferred through, or stored in, the terminal;

20 "Terminal transfer system" means the fuel distribution system
21 consisting of refineries, pipelines, vessels, and terminals. Fuel in a
22 refinery, pipeline, vessel, barge or terminal is in the terminal
23 transfer system. Fuel in the fuel supply tank of an engine, or in a
24 tank car, rail car, trailer, truck, or other equipment suitable for
25 ground transportation is not in the terminal transfer system;

26 "Transmix" means the buffer or interface between two different
27 products in a pipeline shipment, or a mix of two or more different
28 products within a refinery or terminal that results in an off-grade
29 mixture;

30 "Transporter" means an operator of a pipeline, barge, railroad or
31 fuel transportation vehicle engaged in the business of transporting
32 fuel;

33 "Two-party exchange" means a transaction in which

- 34 a. the fuel is transferred from one licensed supplier or licensed
35 permissive supplier to another licensed supplier or licensed
36 permissive supplier;
- 37 b. the transaction includes a transfer from the person that holds
38 the original inventory position for fuel in the terminal as reflected
39 on the records of the terminal operator;
- 40 c. the exchange transaction is simultaneous with removal from
41 the terminal by the receiving exchange partner; and
- 42 d. the terminal operator in its books and records treats the
43 receiving exchange party as the supplier which removes the product
44 across a terminal rack for purposes of reporting such events to this
45 State;

46 "Ultimate vendor - blocked pumps" means a person that sells
47 clear kerosene at a retail site through a blocked pump and who is
48 registered with both the Division of Taxation in the Department of

1 the Treasury and the federal Internal Revenue Service as an
2 Ultimate vendor - blocked pumps;

3 "Undyed diesel fuel" means diesel fuel that is not subject to the
4 federal Environmental Protection Agency dyeing requirements, or
5 has not been dyed in accordance with federal Internal Revenue
6 Service fuel dyeing provisions;

7 "Undyed kerosene" means kerosene that is not subject to the
8 federal Environmental Protection Agency dyeing requirements, or
9 has not been dyed in accordance with federal Internal Revenue
10 Service fuel dyeing provisions; and

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

13

14 3. (New section) a. A tax is imposed on fuel used or
15 consumed in this State as follows:

16 (1) Motor fuel:

17 (a) at the rate of 10.5 cents per gallon for:

18 gasoline and

19 blended fuel that contains gasoline or that is intended for use
20 as gasoline;

21 (b) at the rate of 13.5 cents per gallon for:

22 diesel fuel,

23 blended fuel that contains diesel fuel or that is intended for
24 use as diesel fuel, and

25 kerosene other than aviation grade kerosene;

26 (2) Liquefied Petroleum Gas:

27 at the rate of one-half of the tax imposed under subsection a.
28 of this section on gasoline, or 5.25 cents per gallon;

29 (3) Aviation gasoline:

30 at the rate of 10.5 cents per gallon.

31 b. In addition to the tax, if any, imposed pursuant to subsection
32 a. of this section a tax is imposed on aviation fuel distributed to a
33 general aviation airport at the rate of 2 cents per gallon.

34 c. The taxes imposed by this section are imposed on the
35 consumer, but shall be precollected pursuant to the terms of the
36 "Motor Fuel Tax Act," P.L. , c. (C.) (pending before the
37 Legislature as this bill), for the facility and convenience of the
38 consumer.

39

40 4. (New section) a. The tax imposed by section 3 of P.L. ,

41 c. (C.) (pending before the Legislature as this bill) on the use
42 of motor fuel and aviation gasoline shall be measured by invoiced
43 gallons of fuel removed, other than by a bulk transfer:

44 (1) From the terminal transfer system within this State;

45 (2) From the terminal transfer system outside this State for
46 delivery to a location in this State as represented on the shipping
47 papers, provided that the supplier imports the motor fuel or aviation
48 gasoline for the account of the supplier, or the supplier has made a

A3072 DECROCE

1 tax precollection election pursuant to section 18 of P.L. ,
2 c. (C.) (pending before the Legislature as this bill); and
3 (3) Upon sale in a terminal or refinery in this State to a person
4 not holding a supplier's or permissive supplier's license.
5 b. Except as provided in paragraph (2) of subsection a. of this
6 section, the tax imposed by section 3 of P.L. , c. (C.)
7 (pending before the Legislature as this bill) on the use of motor fuel
8 and aviation gasoline which is imported into this State, other than
9 by a bulk transfer, is payable at the time the product is imported
10 into the State and shall be measured by invoiced gallons received
11 outside this State at a refinery, terminal or at a bulk plant for
12 delivery to a destination in this State.
13 c. The tax imposed by section 3 of P.L. , c. (C.)
14 (pending before the Legislature as this bill) on blended fuel made in
15 this State is payable by the blender at the point the blended fuel is
16 made in this State outside of the terminal transfer system. The tax
17 imposed by section 3 of P.L. , c. (C.) (pending before the
18 Legislature as this bill) on blended fuel imported into this State is
19 payable by the importer of that blended fuel, provided the tax
20 imposed section 3 of P.L. , c. (C.) (pending before the
21 Legislature as this bill) has not already been paid to a permissive
22 supplier through a precollection agreement. The number of gallons
23 of blended fuel on which the tax shall be imposed shall be equal to
24 the difference between the number of gallons of blended fuel made
25 and the number of gallons of motor fuel that was previously taxed
26 by section 3 of P.L. , c. (C.) (pending before the Legislature
27 as this bill) and used to make the blended fuel.
28 d. The tax imposed on aviation fuel by subsection b. of section
29 3 of P.L. , c. (C.) (pending before the Legislature as this
30 bill) is payable by the person purchasing or acquiring the aviation
31 fuel within this State and shall be precollected by the Aviation Fuel
32 Dealer or Supplier making the sale. A person, whether or not
33 licensed under P.L. , c. (C.), who uses, acquires for use,
34 sells or delivers for use in motor vehicles any aviation fuel taxable
35 pursuant to P.L. , c. (C.) shall be liable for the tax imposed
36 by subsection a. of section 3 of P.L. , c. (C.) (pending before
37 the Legislature as this bill) as if the aviation fuel were gasoline or
38 kerosene defined as motor fuel.
39 e. The tax imposed by section 3 of P.L. , c. (C.)
40 (pending before the Legislature as this bill) on liquefied petroleum
41 gas is payable by the person purchasing or acquiring the liquefied
42 petroleum gas within this State for use in a motor vehicle and shall
43 be precollected by the liquefied petroleum gas dealer making the
44 sale. A person, whether or not licensed under P.L. , c. (C.),
45 who uses, acquires for use, sells or delivers for use in motor
46 vehicles any liquefied petroleum gas taxable pursuant to P.L. ,
47 c. (C.) shall be liable for the tax imposed by subsection a. of
48 section 3 of P.L. , c. (C.) along with applicable penalties.

1 5. (New section) a. A supplier, permissive supplier, importer,
2 exporter, blender, distributor, liquefied petroleum gas dealer, or
3 aviation fuel dealer shall keep a record of all fuel received, sold or
4 used which shall include the name of the purchaser, the number of
5 gallons used or sold and the date of the use or sale. A supplier,
6 permissive supplier, importer, exporter, blender, distributor,
7 liquefied petroleum gas dealer, or aviation fuel dealer shall also
8 deliver with each consignment of fuel to a purchaser within this
9 State a written statement containing the date and number of gallons
10 delivered and the names of the purchaser and seller, and that
11 statement shall show a separate charge for the tax imposed by
12 section 3 of P.L. , c. (C.)(pending before the Legislature as this
13 bill) tax on each gallon; provided however, that a statement shall
14 not be required to be delivered by the supplier, permissive supplier,
15 importer, exporter, blender, distributor, liquefied petroleum gas
16 dealer, or aviation fuel dealer if a sale of fuel is made at a service
17 station and the fuel is delivered directly into a vehicle fuel supply
18 tank. The records and written statements shall be preserved by a
19 supplier, permissive supplier, importer, exporter, blender,
20 distributor, liquefied petroleum gas dealer, or aviation fuel dealer
21 and the purchaser respectively, for a period of four years and shall
22 be offered for inspection at the request of the director.

23 b. A supplier, permissive supplier, importer, exporter, blender,
24 distributor, liquefied petroleum gas dealer, or aviation fuel dealer
25 shall take a physical inventory of fuel on hand on the first or last
26 day of each month and shall have the record of that inventory and of
27 all other matters enumerated in this section available at all times for
28 inspection by the director. Upon demand by the director each
29 supplier, permissive supplier, importer, exporter, blender,
30 distributor, liquefied petroleum gas dealer, and aviation fuel dealer
31 shall furnish a statement under oath reflecting the contents of any
32 records required to be kept by this section.

33 c. Each supplier, permissive supplier, importer, exporter,
34 blender, distributor, liquefied petroleum gas dealer, or aviation fuel
35 dealer shall, on or before the 22nd day of each month, render a
36 report to the director, in the form and manner prescribed by the
37 director, stating the number of gallons of fuel sold or used in this
38 State by that person during the preceding calendar month. Upon
39 application to the director, the period within which a report must be
40 made may be extended up to an additional 10 days, if deemed
41 advisable by the director. A tax at the rate imposed by section 3 of
42 P.L. , c. (C.) (pending before the Legislature as this bill)
43 shall be paid by each supplier, permissive supplier, importer,
44 exporter, blender, distributor, liquefied petroleum gas dealer, or
45 aviation fuel dealer, on the number of gallons of fuel sold or used in
46 this State by that person during the preceding calendar month and
47 not exempted from taxation, the payment to accompany the filing of

1 the report. The report shall contain further information as the
2 director may prescribe or determine.

3 d. If a supplier, permissive supplier, importer, exporter,
4 blender, distributor, liquefied petroleum gas dealer, or aviation fuel
5 dealer shall fail, neglect or refuse to file the report within the time
6 prescribed by this section, the director shall note that failure,
7 neglect or refusal upon the director's records, and may estimate the
8 sales, distribution and use of that supplier, permissive supplier,
9 importer, exporter, blender, distributor, liquefied petroleum gas
10 dealer, or aviation fuel dealer, assessing the tax thereon, and adding
11 to that assessed tax a penalty of 20% thereof for failure, neglect or
12 refusal to report, and that estimate shall be prima facie evidence of
13 the true amount of tax due to the director from the supplier,
14 permissive supplier, importer, exporter, blender, distributor,
15 liquefied petroleum gas dealer, or aviation fuel dealer; provided that
16 if a good and sufficient cause or reason is shown for a delinquency,
17 the director may remit or waive the payment of the whole or any
18 part of the penalty, as allowed by the State Uniform Tax Procedure
19 Law, R.S.54:48-1 et seq. Reports required by this section,
20 exclusive of schedules, itemized statements and other supporting
21 evidence annexed to those reports, shall at all reasonable times be
22 open to the public, notwithstanding any provision of R.S.54:50-8 to
23 the contrary.

24
25 6. (New section) a. Each supplier, permissive supplier,
26 importer, exporter, blender, distributor, liquefied petroleum gas
27 dealer, or aviation fuel dealer who sells aviation fuel for distribution
28 to general aviation airports shall, on or before the 22nd day of each
29 month, render a report to the director, stating the number of gallons
30 of aviation gasoline, sold in this State by that person for distribution
31 to general aviation airports during the preceding month. In addition
32 to the provisions of section 4 of P.L. , c. (C.) (pending
33 before the Legislature as this bill) and except as otherwise provided
34 in section 12 of P.L. , c. (C.) (pending before the Legislature
35 as this bill), the tax of 2 cents per gallon as imposed by subsection
36 b. of section 3 of P.L. , c. (C.) (pending before the
37 Legislature as this bill) on each gallon of aviation gasoline so
38 reported shall be paid by each supplier, permissive supplier,
39 importer, exporter, blender, distributor, liquefied petroleum gas
40 dealer, or aviation fuel dealer, the payment to accompany the filing
41 of the report.

42 b. Each supplier, permissive supplier, importer, exporter,
43 blender, distributor, liquefied petroleum gas dealer, or aviation fuel
44 dealer who sells turbine fuels for distribution to general aviation
45 airports shall, on or before the 22nd day of each month, render a
46 report to the director, stating the number of gallons of aviation
47 grade kerosene sold by that person for distribution to general
48 aviation airports during the preceding month. Except as otherwise

1 provided by section 12 of P.L. , c. (C.) (pending before the
2 Legislature as this bill), the tax of 2 cents per gallon imposed under
3 subsection b. of section 3 of P.L. , c. (C.) (pending before
4 the Legislature as this bill) on each gallon of aviation grade
5 kerosene so reported shall be paid by each supplier, permissive
6 supplier, importer, exporter, blender, distributor, liquefied
7 petroleum gas dealer, or aviation fuel dealer, the payment to
8 accompany the filing of the report.

9 c. If a supplier, permissive supplier, importer, exporter,
10 blender, distributor, liquefied petroleum gas dealer, or aviation fuel
11 dealer shall fail, neglect or refuse to file the report within the time
12 prescribed by this section, the director shall note such failure,
13 neglect or refusal upon the director's records, and may estimate the
14 sales, distribution and use of that supplier, permissive supplier,
15 importer, exporter, blender, distributor, liquefied petroleum gas
16 dealer, or aviation fuel dealer, assessing the tax thereon, and adding
17 to that assessed tax a penalty of 20% thereof for failure, neglect or
18 refusal to report, and that estimate shall be prima facie evidence of
19 the true amount of tax due to the director from the supplier,
20 permissive supplier, importer, exporter, blender, distributor,
21 liquefied petroleum gas dealer, or aviation fuel dealer provided that
22 if a good and sufficient cause or reason is shown for a delinquency,
23 the director may remit or waive the payment of the whole or any
24 part of the penalty, as allowed by the State Uniform Tax Procedure
25 Law, R.S.54:48-1 et seq. Reports required by this section,
26 exclusive of schedules, itemized statements and other supporting
27 evidence annexed to those reports, shall at all reasonable times be
28 open to the public, notwithstanding any provision of R.S.54:50-8 to
29 the contrary.

30 d. The monthly filing provisions of this section
31 notwithstanding, the director may require payments of tax liability
32 at intervals and based upon those classifications as the director may
33 prescribe by regulation. In prescribing those other periods to be
34 covered by the return or intervals or classifications for payment of
35 tax liability, the director may take into account the dollar volume of
36 tax involved and the need for assuring the prompt and orderly
37 collection of the taxes imposed.

38 e. The refund provisions of section 12 of P.L. , c. (C.)
39 (pending before the Legislature as this bill) shall not apply to
40 amounts paid pursuant to this section. However, a user of general
41 aviation aircraft shall be allowed a refund or credit of the tax
42 imposed by subsection a. of section 3 of P.L. , c. (C.)(pending
43 before the Legislature as this bill), provided the user complies with
44 the provisions of section 12 of P.L. , c. (C.)(pending before
45 the Legislature as this bill).

46

47 7 (New section) a. (1) Transporter reports shall cover
48 monthly periods and shall be submitted within 30 days after the

1 close of the month covered by the reports. The transporter reports
2 shall show all quantities of fuel delivered at points in the State or
3 from points inside the State to points outside of the State during the
4 month, giving the name and address of the consignor, the name and
5 address of the consignee, place at which delivered, the date of
6 shipment, the date of delivery, the numbers and initials of the car if
7 shipped by rail, the name of the boat or barge, if shipped by water,
8 or if delivery by other means, the method of delivery and the
9 number of gallons in each shipment.

10 (2) The director shall have the right at any time during normal
11 business hours to inspect the books of a transporter to determine if
12 the requirements of this section are being properly complied with.

13 (3) Each person engaged in the business of hauling, transporting
14 or delivering fuel shall, before entering upon the highways or
15 waterways of this State with any conveyance used therein, apply to
16 the director for the registration of a fuel conveyance on forms as the
17 director shall prescribe. Upon receipt of an application, the director
18 shall issue a license certificate and license plate for each
19 conveyance which shall show the license number assigned and
20 which shall be displayed on the conveyance at all times in such a
21 manner as the director may regulate. An annual license fee of \$50
22 shall be paid for the licensing of each such conveyance. Nothing in
23 this section shall in any manner relieve or discharge persons
24 obtaining licenses pursuant to this section from complying with
25 provisions of other laws.

26 (4) A person coming into this State in a motor vehicle may
27 transport in the vehicle fuel supply tank, for the propulsion thereof,
28 fuel without paying the tax, securing the license, or making any
29 report required under P.L. , c. (C.)(pending before the
30 Legislature as this bill).

31 b. (1) The driver of a conveyance shall have in the driver's
32 possession at all times while hauling, distributing or transporting
33 fuel, a delivery ticket or other form approved by the director, which
34 shall show the true names of the consignor and consignee and such
35 information as the director may prescribe by regulation. The
36 director or any police officer may stop a conveyance to determine if
37 the provisions of this section are being complied with.

38 (2) The person in charge of any barge, tanker or other vessel in
39 which fuel is being transported, or of a tank truck, truck tractor,
40 semitrailer, trailer, or other vehicle used in transporting fuels other
41 than fuel being transported for use in operating the engine which
42 propels the vessel or vehicle, shall have in that person's possession
43 an invoice, bill of sale or other evidence showing the name and
44 address of the consignor or person from whom that fuel was
45 received by the person in charge and the name and address of the
46 consignee or person to whom the person in charge is to make
47 delivery of the fuel, together with the number of gallons to be
48 delivered to that person, and shall at the request of the director

1 produce that invoice, bill of sale or other record evidence for
2 inspection.

3 c. (1) A barge, tanker, or other vessel so used for the
4 transportation of fuel shall be plainly and visibly marked on both
5 sides thereof and above the water line with the word "gasoline," or
6 other name of the fuel being transported, in letters at least eight
7 inches high and of corresponding appropriate width. An owner or
8 lessee violating the provisions of this paragraph shall be guilty of a
9 crime of the fourth degree.

10 (2) A tank truck, truck tractor, semitrailer, or trailer used in
11 transporting fuels shall affix to the rear of the truck or trailers a sign
12 which shall indicate in letters not less than four inches high and of
13 corresponding appropriate width, the type of fuel being transported.
14 An owner or lessee violating the provisions of this section shall be
15 punished by imprisonment for not more than six months, or by a
16 fine of not more than \$500, or by both.

17 d. The license cards issued for the operation over the highways
18 or waterways of this State of any conveyance used for the
19 transportation or hauling of fuels may be suspended or revoked
20 upon reasonable grounds by the director in the same manner as
21 other licenses may be suspended or revoked by the director under
22 the provisions of P.L. , c. (C.)(pending before the Legislature
23 as this bill).

24
25 8. (New section) a. A retail dealer, an aviation fuel dealer and
26 a liquefied petroleum gas dealer shall, before engaging in the retail
27 sale of fuel, apply to the director for a license for each
28 establishment operated by that person. A license fee of \$150 shall
29 be paid for the issuance of a retail license, which shall be valid for
30 a three-year period, and the director shall supply a license plate or
31 suitable substitute containing the number assigned to the licensee,
32 and words denoting whether the license is a retail dealer's license,
33 an aviation fuel dealer's license or a liquefied petroleum gas
34 dealer's license, which the licensee shall publicly display at each
35 establishment in the manner as the director shall prescribe. No
36 applicant shall continue in business after the end of the 14th day
37 following the date of application unless the license applied for has
38 been procured and is publicly displayed at the establishment being
39 operated.

40 b. A retail dealer, liquefied petroleum gas dealer and an
41 aviation fuel dealer shall keep a daily record showing the total
42 amount of fuels sold on each business day, daily dispensing pump
43 totalizer readings, and monthly physical inventories, such records to
44 be preserved for a period of four years, and to be open for
45 inspection by the director at all times.

1 9. (New section) a. A person shall, before engaging in the
2 business of a terminal operator, obtain a terminal operator's license
3 from the director.

4 b. A terminal operator shall, on or before the last day of each
5 month, render a report to the director, in such form as the director
6 may prescribe, stating the quantities of fuel received at the terminal
7 in the State or sold from it during the preceding month.

8 At the discretion of the director, a terminal operator's report as
9 submitted under the federal ExSTARS reporting system may be
10 accepting in lieu of the terminal operator's report required under
11 this subsection.

12 c. The director shall have the right at any time during normal
13 business hours to inspect the books of a terminal operator to
14 determine if the requirements of this act are being properly
15 observed.

16 d. The director may require those returns to be filed, in the
17 form and manner, and at the intervals, that the director may
18 prescribe by regulation.

19

20 10. (New section) a. Except as otherwise provided in this act,
21 all fuel delivered in this State in a vehicle fuel supply tank is
22 presumed to be used or consumed on the highways in this State in
23 producing or generating power for propelling motor vehicles.

24 b. Subject to proof of exemption pursuant to section 13 of
25 P.L. , c. (C.) (pending before the Legislature as this bill), all
26 motor fuel is presumed to be used or consumed on the highways of
27 this State to propel motor vehicles if the fuel is:

28 (1) removed from a terminal in this State; or

29 (2) imported into this State other than by a bulk transfer within
30 the terminal transfer system; or

31 (3) delivered into a consumer's bulk storage tank from which
32 motor vehicles can be fueled.

33

34 11. (New section) a. An excise tax at the applicable rate
35 determined pursuant to section 3 of P.L. , c. (C.) (pending
36 before the Legislature as this bill) is imposed for a calendar year on
37 unaccounted-for fuel losses at a terminal that exceed one-half of
38 one percent of the total number of net gallons removed from the
39 terminal during the calendar year by a system transfer or at a rack.
40 To determine liability for the excise tax, the terminal operator shall
41 determine the terminal loss as the difference between:

42 (1) the total amount of all fuel in inventory at the applicable
43 terminal at the beginning of the year plus the total amount of all
44 fuel received at the terminal during the year; and

45 (2) the total amount of all fuel in inventory at the terminal at the
46 end of the year plus the total amount of all fuel removed from the
47 terminal during the year.

1 b. The terminal operator whose fuel is unaccounted for is liable
2 for the tax imposed by this section. Fuel received by a terminal
3 operator and not shown on a report as having been removed from
4 the terminal is presumed to be unaccounted for if not part of the
5 physical inventory of the terminal. A terminal operator may
6 provide documentation to substantiate otherwise unaccountable
7 losses and at the discretion of the director may be relieved of all or
8 a portion of the tax liability.

9 c. The tax at the applicable rate determined pursuant to section
10 3 of P.L. , c. (C.) (pending before the Legislature as this
11 bill) shall be reported, and the tax shall be due and payable, on or
12 before the 22nd day of the second month following the end of the
13 year.

14

15 12. (New section) a. Fuel used for the following purposes is
16 exempt from the tax imposed by the “Motor Fuels Tax Act,”
17 P.L. , c. (C....) (pending before the Legislature as this bill), and
18 a refund may be claimed by the consumer providing proof the tax
19 has been paid and no refund has been previously issued:

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

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

42 (3) farm machinery,

43 (4) aircraft,

44 (5) ambulances,

45 (6) rural free delivery carriers in the dispatch of their official
46 business,

47 (7) vehicles that run only on rails or tracks, and such vehicles as
48 run in substitution therefore,

- 1 (8) highway motor vehicles that are operated exclusively on
- 2 private property,
- 3 (9) motor boats or motor vessels used exclusively for or in the
- 4 propagation, planting, preservation and gathering of oysters and
- 5 clams in the tidal waters of this State,
- 6 (10) motor boats or motor vessels used exclusively for
- 7 commercial fishing,
- 8 (11) motor boats or motor vessels, while being used for hire for
- 9 fishing parties or being used for sightseeing or excursion parties,
- 10 (12) cleaning,
- 11 (13) fire engines and fire-fighting apparatus,
- 12 (14) stationary machinery and vehicles or implements not
- 13 designed for the use of transporting persons or property on the
- 14 public highways,
- 15 (15) heating and lighting devices,
- 16 (16) motor boats or motor vessels used exclusively for Sea Scout
- 17 training by a duly chartered unit of the Boy Scouts of America,
- 18 (17) emergency vehicles used exclusively by volunteer first-aid
- 19 or rescue squads, and
- 20 (18) three cents per gallon, the difference between the rate of tax
- 21 on diesel fuel and the rate of tax on gasoline, for diesel fuel used by
- 22 passenger automobiles and motor vehicles of less than 5,000 pounds
- 23 gross weight.
- 24 b. Subject to the procedural requirements and conditions set
- 25 out in the "Motor Fuels Tax Act," P.L. , c. (C.), the
- 26 following uses are exempt from the tax imposed by section 3 of
- 27 P.L. , c. (C.) (pending before the Legislature as this bill) on
- 28 fuel, and a deduction or a refund may be claimed by the supplier,
- 29 permissive supplier or licensed distributor:
- 30 (1) fuel for which proof of export, satisfactory to the director, is
- 31 available and is either:
- 32 (a) removed by a licensed supplier for immediate export to a
- 33 state in which the supplier has a valid license;
- 34 (b) removed from a terminal by a licensed exporter for
- 35 immediate export as evidenced by the terminal issued shipping
- 36 papers; or
- 37 (c) acquired by a licensed distributor and which the tax imposed
- 38 by P.L. , c. (C.) (pending before the Legislature as this bill)
- 39 has previously been paid or accrued either as a result of being
- 40 stored outside of the bulk transfer system immediately prior to
- 41 loading or as a diversion across state boundaries properly reported
- 42 in conformity with P.L. , c. (C.) (pending before the
- 43 Legislature as this bill) and was subsequently exported from this
- 44 State on behalf of the distributor;
- 45 The exemption pursuant to subparagraphs (a) and (b) of this
- 46 paragraph shall be claimed by a deduction on the report of the
- 47 supplier which is otherwise responsible for remitting the tax upon
- 48 removal of the product from a terminal or refinery in this State. The

- 1 exemption pursuant to subparagraph (c) of this paragraph shall be
2 claimed by the distributor, upon a refund application made to the
3 director within six months of the licensed distributor's acquisition
4 of the fuel;
- 5 (2) undyed kerosene sold to a licensed ultimate vendor - blocked
6 pumps if the licensed ultimate vendor - blocked pumps does not sell
7 the kerosene through dispensers that have been designed and
8 constructed to prevent delivery directly from the dispenser into a
9 motor vehicle fuel supply tank, the ultimate vendor - blocked
10 pumps shall be responsible for the tax imposed by section 3 of
11 P.L. , c. (C.) (pending before the Legislature as this bill) at
12 the diesel fuel rate. Exempt use of undyed kerosene shall be
13 governed by rules and regulations of the director. If rules or
14 regulations are not promulgated by the director, then the exempt use
15 of undyed kerosene shall be governed by rules and regulations of
16 the Internal Revenue Service. An ultimate vendor-blocked pumps
17 who obtained undyed kerosene upon which the tax levied by section
18 3 of P.L. , c. (C.) (pending before the Legislature as this bill)
19 had been paid and makes sales qualifying pursuant to this
20 subsection may apply for a refund of the tax pursuant to an
21 application, as provided by section 14 of P.L. , c. (C.)
22 (pending before the Legislature as this bill), to the director provided
23 the ultimate vendor-blocked pumps did not charge that tax to the
24 consumer;
- 25 (3) fuel sold to the United States or any agency or
26 instrumentality thereof, and to the State of New Jersey and its
27 political subdivisions, departments and agencies;.
- 28 (4) aviation fuel sold to a licensed aviation fuel dealer;
- 29 (5) liquefied petroleum gas except when sold by a liquefied
30 petroleum gas dealer to someone who is not licensed as a liquefied
31 petroleum gas dealer;
- 32 (6) motor fuel on which tax has been paid under this act that is
33 later contaminated with dyed fuel making it unsuitable for taxable
34 use. This credit or refund is limited to the remaining portion of
35 taxed fuel in the contaminated mixture and is conditioned upon
36 submitting to the director adequate documentation that the
37 contaminated mixture was subsequently used in an exempt manner;
- 38 (7) fuel on which tax has been paid pursuant to P.L. ,
39 c. (C.) (pending before the Legislature as this bill) that is
40 either subsequently delivered back into the terminal transfer system
41 for further distribution or delivered to a refinery for further
42 processing;
- 43 (8) fuel on which tax has been previously imposed and paid
44 pursuant to section 3 of P.L. , c. (C.) (pending before the
45 Legislature as this bill) and which is either subsequently exported,
46 sold or distributed in this State in a manner which would result in a
47 second tax being owed. If there is a second taxable distribution or

1 sale, the party responsible for remittance of the second tax shall be
2 the party eligible for claiming the refund or deduction.

3
4 13. (New section). The exemption under section 12 of P.L. ,
5 c. (C.) (pending before the Legislature as this bill) for sales of
6 fuel sold for use by the United States or any agency or
7 instrumentality thereof and fuel sold for use by the Government of
8 this State, or of any political subdivision of this State or to any
9 department or agency of any of the those governments for official
10 use of those governments in motor vehicles, motor boats, or other
11 implements owned or leased by this State or any political
12 subdivision or agency thereof, or to fuels sold at retail to diplomatic
13 missions and diplomatic personnel under a program administered by
14 the director and predicated upon the United States Department of
15 State, Office of Foreign Missions (or its successor office), national
16 tax exemption program shall be claimed as follows:

17 a. The seller shall obtain from the purchasing entity a
18 certificate in such form as the director may by regulation prescribe
19 signed by the purchasing entity listed in this section setting forth:

20 (1) The name and address of the purchasing entity;

21 (2) The quantity of fuel, or if the certificate is for all the fuel
22 purchased by the purchasing entity, the certificate shall be for a
23 period as the director may by regulation prescribe, but not to exceed
24 four years;

25 (3) The exempt use of the fuel;

26 (4) The name and address of the seller from whom the fuel was
27 purchased;

28 (5) The federal employer identification number of the
29 purchasing entity; and

30 (6) A statement that the purchasing entity understands that the
31 fraudulent use of the certificate to obtain fuel without paying the tax
32 levied pursuant to P.L. , c. (C.) (pending before the
33 Legislature as this bill) shall result in the purchaser paying the tax,
34 with penalties and interest, as well as such other penalties provided
35 by P.L. , c. (C.) (pending before the Legislature as this bill);

36 b. The seller, having obtained from the purchasing entity the
37 certificate, which the seller shall retain for a period of not less than
38 four years, shall be eligible for a deduction or to claim a refund of
39 any taxes paid pursuant to P.L. , c. (C.) (pending before the
40 Legislature as this bill); and

41 c. If the sale of fuel to the purchasing entity occurs at a fixed
42 retail pump available to the general public, the seller, having made
43 the sale to the purchasing entity without the tax, may apply for a
44 refund from the director by submitting the application and
45 supporting documentation as the director shall reasonably prescribe.
46 However, if the purchase is charged to a fleet or government fueling
47 credit card, or to an oil company credit card issued to the
48 purchasing entity, the party extending the credit shall be deemed the

1 seller and may bill the purchasing entity without the tax and seek a
2 refund, or use the provisions of this section.

3
4 14. (New section) a. To claim a refund in accordance with
5 section 12 of P.L. , c. (C.) (pending before the Legislature
6 as this bill), a person shall present to the director a statement
7 containing a written verification that the claim is made under
8 penalties of perjury and listing the total amount of fuel purchased
9 and used for exempt purposes. A claim shall not be transferred or
10 assigned and shall be filed not more than four years after the date
11 the fuel was imported, removed or sold if the claimant is a supplier,
12 importer, exporter or distributor. If the claim is filed by the
13 consumer, the consumer shall file the claim within six months of
14 the date of purchase. The claim statement shall be supported by the
15 original sales slip, invoice or other documentation as approved by
16 the director and shall include the following information:

- 17 (1) Date of sale;
18 (2) Name and address of purchaser;
19 (3) Name and address of seller;
20 (4) Number of gallons purchased and base price per gallon;
21 (5) Number of gallons purchased and charged New Jersey fuel
22 tax, as a separate item;
23 (6) Number of gallons purchased and charged sales tax, if
24 applicable, as a separate item; and
25 (7) Marked "paid" by the seller.

26 b. If the original sales slip or invoice is lost or destroyed, a
27 statement to that effect shall accompany the claim for refund, and
28 the claim statement shall also set forth the serial number of the
29 invoice. If the director finds the claim is otherwise regular, the
30 director may allow such claim for refund.

31 c. The director may make any investigation necessary before
32 refunding the fuel tax to a person and may investigate a refund after
33 the refund has been issued and within the period in which a
34 deficiency may be assessed pursuant to R.S.54:49-6.

35 d. In the case of a refund payable to a supplier pursuant to
36 section 12 of P.L. , c. (C.) (pending before the Legislature as
37 this bill), the supplier may claim a credit in lieu of the the refund
38 for a period not to exceed four years from the date the fuel was
39 imported, removed or sold.

40 e. (1) To establish the validity of claims filed, the claimant
41 shall maintain and preserve for a period of at least four years such
42 fuel consumption records as may be prescribed by the director. The
43 director may require a claimant to furnish such additional proof of
44 the validity of a claim as the director may determine, and may
45 examine the books and records of the claimant for such purpose.
46 Failure of the claimant to maintain and preserve such records,
47 furnish such additional proof or to accede to the demand for such
48 examination by the director shall constitute a waiver of all rights to

1 the claim or claims questioned and such subsequent claims as the
2 director may determine.

3 f. Motor fuel tax that has been paid more than once with
4 respect to the same gallon of fuel shall be refunded by the director
5 to the person who last paid the tax after the subsequent taxable
6 event upon submitting proof satisfactory to the director.

7 g. Fuel tax that has otherwise been erroneously paid by a
8 person shall be refunded by the director upon proof shown
9 satisfactory to the director.

10 h. A refund granted pursuant to section 12 of P.L. ,
11 c. (C.) (pending before the Legislature as this bill) to a person
12 for fuel used in aircraft, shall be paid from the moneys deposited in
13 the Airport Safety Fund established by section 4 of P.L.1983, c.264
14 (C.6:1-92). Those refunds shall be granted on an annual basis.

15 i. Upon approval by the director of an application, a warrant
16 shall be drawn upon the State Treasurer for the amount of the claim
17 in favor of the claimant and the warrant shall be paid from the tax
18 collected on fuel.

19 j. If the State or any political subdivision of the State
20 heretofore shall have been reimbursed and repaid for the tax paid on
21 fuel used for operating or propelling motor vehicles, motor boats or
22 other implements, whether owned or leased by the State or any
23 political subdivision of the State, the State or that political
24 subdivision shall be entitled to retain such reimbursement and
25 repayment, and further claim therefore shall not be required.

26 k. If fuel is sold to a person who claims to be allowed a refund
27 of the tax imposed by the "Motor Fuel Tax Act," P.L. , c. (C.)
28 (pending before the Legislature as this bill) the seller of that fuel
29 shall furnish the purchaser with an invoice, or invoices, in
30 conformity with the requirements of this section.

31
32 15. (New section) A person who is required to precollect or pay
33 a tax imposed pursuant to P.L. , c. (C.) (pending before the
34 Legislature as this bill) shall be personally liable for the tax
35 imposed, precollected or paid. For purposes of assessment and
36 collection, any amount required to be precollected and paid over to
37 the director, and any additions to tax, penalties and interest with
38 respect to that amount, shall be considered the tax of the person
39 required to precollect the tax. A person required to precollect tax
40 shall have the same right in respect to collecting the tax from a
41 purchaser or in respect to non-payment of the tax by the purchaser
42 as if the tax were a part of the purchase price of the fuel and
43 payable at the same time; provided, however, that the director shall
44 be joined as a party in any action or proceeding brought to collect
45 the tax. Any amount of tax actually precollected or paid pursuant to
46 P.L. , c. (C.) (pending before the Legislature as this bill) shall
47 be held to be a special fund in trust for the director.

1 A person required to precollect tax who fails to precollect or
2 remit the tax or any part thereof is fully responsible for the unpaid
3 tax. The director may recover any unpaid taxes pursuant to P.L. ,
4 c. (C.)(pending before the Legislature as this bill) from any
5 party who was under a duty to precollect or pay the tax. That
6 person remains liable for the taxes even if, for whatever reason, the
7 person failed to precollect or pay the taxes due. The liability to
8 precollect and remit tax shall be separate from any duty that the
9 consumer may have pursuant to P.L. , c. (C.)(pending before
10 the Legislature as this bill) to pay upon consumption, and the
11 existence of such overlapping duties shall not be a defense for a
12 failure to precollect and remit, although it may give rise to a refund
13 claim in accordance with section 12 of P.L. , c. (C.)(pending
14 before the Legislature as this bill) if both parties pay the tax.
15

16 16. (New section) Except as otherwise provided by the “Motor
17 Fuel Tax Act,” P.L. , c. (C.) (pending before the Legislature
18 as this bill), the tax imposed by section 3 of P.L. ,
19 c. (C.)(pending before the Legislature as this bill) on fuel
20 imported from another state shall be precollected on behalf of the
21 consumers and remitted to the director by the:

22 a. Importer who has imported the nonexempt fuel. The
23 precollection shall be made and remitted when the tax return is due.
24 If the importer was not subject to a precollection agreement with
25 the supplier or permissive supplier, the precollection shall be
26 remitted in the manner specified by the director; or

27 b. Importer who has imported the nonexempt fuel which is
28 subject to a precollection agreement with the supplier or permissive
29 supplier. If the importer is a licensed distributor, the precollection
30 shall be made and remitted to the supplier or permissive supplier no
31 later than two business days prior to the date on which the tax is
32 required to be remitted by the supplier or permissive supplier
33 pursuant to section 19 of P.L. , c. (C.)(pending before the
34 Legislature as this bill). The importer shall remit the tax to the
35 supplier or permissive supplier, acting as trustee who shall remit to
36 the director on behalf of the distributor under the same terms as a
37 supplier payment pursuant to section 19 of P.L. ,
38 c. (C.)(pending before the Legislature as this bill); or

39 c. Unlicensed importer at the time the fuel is entered into this
40 State. However, if the supplier of the fuel, as shown on the records
41 of the terminal operator, has made a blanket election to precollect
42 tax in accordance with section 18 of P.L. , c. (C.)(pending
43 before the Legislature as this bill), then the importer shall remit the
44 tax to the supplier, acting as trustee, who shall remit to the director
45 on behalf of the importer under the same terms as a supplier
46 payment pursuant to section 19 of P.L. , c. (C.)(pending
47 before the Legislature as this bill), and no import verification
48 number shall be required.

1 17. (New section) An importer that acquires fuel for import by
2 fuel transportation vehicle from a supplier that is not an elective
3 supplier or a permissive supplier, and therefore will not be acting as
4 trustee for the remittance of tax to the State on behalf of the
5 importer, shall first obtain an import verification number from the
6 director before importing the fuel. The importer shall write the
7 import verification number on the shipping document issued for the
8 fuel. The importer shall obtain a separate import verification
9 number for each fuel transportation vehicle delivery of fuel into this
10 State.

11
12 18. (New section) a. A licensed supplier or licensed permissive
13 supplier may make a blanket election with the director to treat all
14 removals of fuel from all of its out-of-State terminals with a
15 destination in this State as shown on the terminal-issued shipping
16 paper as if the removals were removed across the rack by the
17 supplier or permissive supplier from a terminal in this State for all
18 purposes.

19 b. The election allowed by this section shall be made by filing
20 a "notice of election" with the director, in the form and manner as
21 the director by regulation may prescribe.

22 c. The director shall publish a list of suppliers electing
23 pursuant to this section.

24 d. The absence of an election by a supplier in accordance with
25 this section shall in no way relieve the supplier of responsibility for
26 remitting the tax imposed by the "Motor Fuel Tax Act," P.L. ,
27 c. (C.) (pending before the Legislature as this bill) upon the
28 removal from an out-of-State terminal for import into this State by
29 the supplier.

30 e. A supplier that makes the election allowed by this section
31 shall precollect the tax imposed by P.L. , c. (C.) (pending
32 before the Legislature as this bill) on all removals from a qualified
33 terminal on its account as a position holder, or as a person receiving
34 fuel from a position holder pursuant to a terminal bulk transfer,
35 without regard to the license status of the person acquiring the fuel
36 from the supplier, the point or terms of sale, or the character of
37 delivery.

38 f. Each supplier who elects to precollect the tax imposed by
39 P.L. , c. (C.) (pending before the Legislature as this bill)
40 agrees to waive any defense that this State lacks jurisdiction to
41 require collection on all out-of-State sales by such person as to
42 which the person had knowledge that the shipments were destined
43 for this State and that this State imposes the requirement pursuant to
44 this subsection under its general police powers to regulate the
45 movement of fuels.

46
47 19. (New section) a. The tax imposed by section 3 of P.L. ,
48 c. (C.) (pending before the Legislature as this bill), measured by

1 fuel removed from a terminal or refinery in this State, other than a
2 terminal bulk transfer, shall be precollected and remitted on behalf
3 of the consumers to the State by the transporter removing the fuel
4 from the facility through the supplier or permissive supplier of the
5 fuel, as shown in the records of the terminal operator, acting as a
6 trustee.

7 b. The supplier, permissive supplier and each reseller shall list
8 the amount of tax as a separate line item on all invoices or billings.

9 c. All tax to be paid by a supplier or permissive supplier with
10 respect to gallons removed on the account of the supplier or
11 permissive supplier during a calendar month shall be due and
12 payable on or before the 22nd day of the following month unless
13 that day falls upon a weekend or State holiday in which case the
14 liability shall be due the next succeeding business day.

15 d. A supplier or permissive supplier shall remit any late taxes
16 remitted to the supplier or permissive supplier by a licensed
17 distributor and shall notify the director within the twenty business
18 day limit provided by section 24 of P.L. , c. (C.)(pending
19 before the Legislature as this bill) of any late remittances if that
20 supplier or permissive supplier has previously given notice to the
21 director that the tax amount was not received pursuant to subsection
22 a. of section 24 of P.L. , c. (C.)(pending before the Legislature
23 as this bill).

24 e. The remittance of all amounts of tax due shall be paid on the
25 basis of the amount invoiced.

26

27 20. (New section) a. The terminal operator of a terminal in this
28 State is jointly and severally liable for the tax imposed by section 3
29 of P.L. , c. (C.) (pending before the Legislature as this bill)
30 and shall remit payment to this State at the same time and on the
31 same basis as a supplier in accordance with section 19 of P.L. ,
32 c. (C.) (pending before the Legislature as this bill) upon:

33 (1) The removal of fuel from the terminal on account of any
34 supplier who is not licensed in this State; or

35 (2) The removal of motor fuel that is not dyed and marked in
36 accordance with Internal Revenue Service requirements, if the
37 terminal operator provides any person with any bill of lading,
38 shipping paper, or similar document indicating that the motor fuel is
39 dyed and marked in accordance with Internal Revenue Service
40 requirements.

41 b. However, the terminal operator shall be relieved of liability
42 for a removal of fuel from the terminal on account of a supplier who
43 is not licensed in this State if the terminal operator establishes all of
44 the following:

45 (1) the terminal operator has a valid terminal operator's license
46 issued for the facility from which the fuel is withdrawn;

47 (2) the terminal operator has a copy of a valid license from the
48 supplier as required by the director; and

1 (3) The terminal operator has no reason to believe that any
2 information is false.

3
4 21. (New section) A licensed distributor who removes fuel from
5 a terminal or refinery operated by a supplier or permissive supplier
6 and who remits the tax through the supplier or permissive supplier,
7 acting as a trustee, may make an election as to the timing of the
8 remittance. At the election of a licensed distributor, which notice
9 shall be evidenced by a written statement from the director as to the
10 purchaser's eligibility status as determined pursuant to section 22 of
11 P.L. , c. (C.)(pending before the Legislature as this bill), the
12 supplier or permissive supplier shall not require a payment of motor
13 fuel tax on fuel transportation vehicle loads from the licensed
14 distributor sooner than two business days prior to the date on which
15 the tax is required to be remitted by the supplier pursuant to section
16 19 of P.L. , c. (C.)(pending before the Legislature as this bill).
17 This election shall be subject to a condition that the remittances by
18 the licensed distributor of tax due the supplier or permissive
19 supplier shall be paid by electronic funds transfer.

20
21 22. (New section) a. A purchaser desiring to make an election
22 under section 21 of P.L. , c. (C.)(pending before the
23 Legislature as this bill) shall present evidence to the director that:

24 (1) The applicant was a licensee in good standing under
25 R.S.54:39-1 et seq. as to which the applicant remitted tax to the
26 director; or

27 (2) The applicant meets the financial responsibility and bonding
28 requirements imposed by P.L. , c. (C.)(pending before the
29 Legislature as this bill), which bond shall conform to the specific
30 requirements of this section.

31 b. The director shall require a purchaser who pays the tax to a
32 supplier to file with the director a surety bond payable to the State,
33 upon which the purchaser is the obligor, or other financial security,
34 in an amount satisfactory to the director, calculated based on three
35 times the potential monthly tax payments for gasoline and diesel
36 fuel separately. The director shall require that the bond indemnify
37 the director against the tax credits claimed by the suppliers pursuant
38 to section 23 of P.L. , c. (C.)(pending before the Legislature
39 as this bill).

40 c. A purchaser desiring to make an election in accordance with
41 section 21 of P.L. , c. (C.)(pending before the Legislature as
42 this bill) shall not be subject to the provisions of subsection b. of
43 this section if the purchaser holds a valid distributor's license and
44 meets the bonding requirements according to the law on the day
45 prior to October 1, 2010. On and after October 1, 2010 each
46 purchaser holding a valid distributor's license issued prior to
47 October 1, 2010, may elect to become an eligible purchaser. An
48 eligible purchaser shall have the option to provide bonding as

1 provided for distributors in section 34 of P.L. , c. (C.)(pending
2 before the Legislature as this bill).

3 d. The director may rescind a purchaser's eligibility and
4 election to defer fuel tax remittances for the purchaser's failure to
5 make timely tax-deferred payment of tax to a supplier pursuant to
6 21 of P.L. , c. (C.)(pending before the Legislature as this bill),
7 by sending written notice to all suppliers and publishing notice of
8 the revocation on the website of the Division of Taxation in the
9 Department of the Treasury. As a condition of restoring a
10 purchaser's eligibility, the director may require further assurance of
11 the financial responsibility of the purchaser, including an increase
12 in the amount of the bond or any other action that the director may
13 reasonably require to ensure remittance of the tax imposed by
14 P.L. , c. (C.) (pending before the Legislature as this bill). The
15 refusal of an application or the cancelation of eligibility shall be an
16 action of the director subject to review pursuant to R.S.54:51A-14;
17 provided however that, notwithstanding any other provision of law
18 to the contrary, appeal shall not act as a stay.

19 e. The director shall publish a list of licensed distributors and
20 make it available to all suppliers on at least a quarterly basis. The
21 director may, at the director's discretion, provide more timely
22 publication via the website of the Division of Taxation in the
23 Department of the Treasury.

24

25 23. (New section) A supplier has a fiduciary duty to remit to the
26 director the amount of tax imposed by P.L. , c. (C.)(pending
27 before the Legislature as this bill) paid to the supplier, in its role as
28 a trustee, by any purchaser, importer, exporter or licensed
29 distributor. In computing the amount of tax due, the supplier shall
30 be allowed a credit against the tax payable in the amount of tax paid
31 by the supplier that was accrued and remitted to a state, but not
32 received from a licensed distributor. The director may recover any
33 unpaid tax directly from the licensed distributor.

34

35 24 (New section) For a supplier to be eligible for the credit
36 provided by section 23 of P.L. , c. (C.) (pending before the
37 Legislature as this bill) the supplier shall provide notice to the
38 director of a failure to collect the tax within 20 business days
39 following the earliest date on which the supplier was entitled to
40 collect the tax from the licensed distributor pursuant to section 21
41 of P.L. , c. (C.) (pending before the Legislature as this bill).

42 A supplier shall supply with the claim for credit such
43 information as the director may prescribe by regulation. The claim
44 for credit shall identify the defaulting licensed distributor and any
45 tax liability that remains unpaid. The credit of the supplier shall be
46 limited to the amount due from the purchaser, plus any tax that
47 accrues from that purchaser from the period from the date of the
48 failure to pay to the date of notification to the director, not to

1 exceed 20 days. Additional credit shall not be allowed to a supplier
2 pursuant to this section with respect to that purchaser until the
3 director has notified the supplier that the purchaser's eligibility to
4 make deferrals in accordance with section 22 of P.L. , c. (C.)
5 (pending before the Legislature as this bill) has been restored.
6

7 25. (New section) If required by the director, all suppliers and
8 other persons required to pay tax pursuant to P.L. , c. (C.)
9 (pending before the Legislature as this bill) shall remit tax by
10 electronic fund transfer. The transfer shall be made on or before the
11 date the tax is due.
12

13 26. (New section) a. If the tax imposed by section 3 of P.L. ,
14 c. (C.) (pending before the Legislature as this bill) is not
15 otherwise precollected, the consumer shall be liable, unless the
16 consumer is otherwise exempt pursuant to section 12 of P.L. ,
17 c. (C.) (pending before the Legislature as this bill), for the tax
18 upon the delivery into a motor vehicle fuel supply tank for the use
19 of motor fuel on the highways including, but not limited to:

20 (1) Any dyed fuel; or

21 (2) Any motor fuel on which a claim for refund has been made.

22 b. A retail dealer, an aviation fuel dealer or liquefied petroleum
23 gas dealer that sells fuel shall be jointly and severally liable for the
24 tax precollected pursuant to subsection a. of this section if the retail
25 dealer, aviation fuel dealer or liquefied petroleum gas dealer knows
26 or has reason to know that the fuel, as to which tax imposed by
27 P.L. , c. (C.) (pending before the Legislature as this bill) has
28 not been paid, is or will be consumed in a nonexempt use.
29

30 27. (New section) a. A licensee shall, upon the discontinuance,
31 sale, or transfer of the business or upon the cancellation, revocation
32 or termination by law of a license pursuant to section 35 of P.L. ,
33 c. (C.) (pending before the Legislature as this bill), or as
34 otherwise provided, within thirty days, make a report as required
35 pursuant to P.L. , c. (C.) (pending before the Legislature as
36 this bill) marked "Final Report," and shall pay all taxes, penalties
37 and interest that may be due the State except as may otherwise be
38 provided by law.

39 b. The final report required by this section shall be
40 accompanied by payment of the liability of the final month.
41

42 28. (New section) a. An applicant for a license issued pursuant
43 to P.L. , c. (C.) (pending before the Legislature as this bill)
44 shall apply in the form and manner as the director shall prescribe by
45 regulation. The application shall be subscribed to by the applicant
46 and shall provide such information as the director may require,
47 including the applicant's federal identification number.

1 b. A license issued pursuant to P.L. , c. (C.) (pending
2 before the Legislature as this bill) shall be issued for a three-year
3 period, or the unexpired portion thereof, commencing on April 1
4 and ending on the third succeeding March 31 and shall be void
5 thereafter, and that license may be suspended, revoked or canceled
6 by the director. A license fee of \$450 shall be paid for the issuance
7 of that license.

8 c. The director shall investigate each applicant for a license
9 issued pursuant to P.L. , c. (C.) (pending before the
10 Legislature as this bill). A license shall not be issued if the director
11 determines that any one of the following conditions exists:

12 (1) The application is not filed in good faith;

13 (2) The applicant is not the real party in interest;

14 (3) The license of the real party in interest has been revoked for
15 cause;

16 (4) The applicant managed, operated, owned or controlled,
17 directly or indirectly, a business which held a license issued
18 pursuant to P.L. , c. (C.) (pending before the Legislature as
19 this bill) which business is indebted to this State for any tax,
20 penalties or interest accruing hereunder;

21 (5) The applicant is managed, operated or controlled, directly or
22 indirectly, by a person who held a license issued pursuant to P.L. ,
23 c. (C.) (pending before the Legislature as this bill) who is
24 indebted to this State for any tax, penalties, or interest accruing
25 hereunder;

26 (6) The applicant is managed, operated, owned, or controlled,
27 directly or indirectly, by a person who managed, operated, owned or
28 controlled, directly or indirectly, a business that held a license
29 issued pursuant to P.L. , c. (C.) (pending before the
30 Legislature as this bill) and which is indebted to this State for any
31 tax, penalties, or interest accruing hereunder;

32 (7) Any good cause as the director may determine; or

33 (8) With respect to a distributor's license, the applicant
34 intending to export is not licensed in the intended specific state or
35 states of destination.

36 d. A person shall not be entitled to hold a license if it shall
37 appear to the director that an officer, director or employee of that
38 person has been convicted of violating any of the provisions of
39 P.L. , c. (C.) (pending before the Legislature as this bill) or of
40 R.S.54:39-1 et seq. or if a license issued pursuant to the provisions
41 of P.L. , c. (C.) (pending before the Legislature as this bill) or
42 of R.S.54:39-1 et seq. and held by an officer, director or employee
43 of that person has been revoked by the director for cause.

44 e. Applicants, including corporate officers, partners, and
45 individuals, for a license issued by the director may be required to
46 submit their fingerprints to the director at the time of application.
47 Officers of a "publicly traded corporation," as that term is defined
48 by section of 39 of P.L.1977, c.110 (C.5:12-39), and its subsidiaries

1 shall be exempt from this fingerprinting requirement. Persons,
2 other than applicants for a distributor's license, who possessed
3 licenses issued pursuant to R.S.54:39-1 et seq. continuously for
4 three years prior to October 1, 2010, shall also be exempt from this
5 provision. Fingerprints required by this section shall be submitted
6 on forms prescribed by the director. The director may forward to
7 the Federal Bureau of Investigation or any other agency for
8 processing all fingerprints submitted by license applicants. The
9 receiving agency shall issue its findings to the director. The
10 director or another State agency may maintain a file of fingerprints.
11

12 29 (New section) a. In lieu of any of the bonds required by
13 P.L. , c. (C.) (pending before the Legislature as this bill), a
14 licensee may deposit with the director cash, a certificate of deposit
15 or an irrevocable letter of credit. If the applicant files a bond or
16 letter of credit it shall:

17 (1) Be with a surety company or bank approved by the director
18 which may be an affiliate in the business of assuring such
19 obligations;

20 (2) Name the applicant as the principal obligor and the State as
21 the obligee; and

22 (3) Be on forms prescribed by the director.

23 b. The director may, at the discretion of the director, require a
24 licensee or an applicant to furnish current verified financial
25 statements. The director may make independent inquiry into the
26 financial condition of the applicant and, in any case, shall not be
27 required to accept as accurate financial statements which have not
28 been certified or independently audited. If the director determines
29 that the financial condition of a licensee warrants an increase in the
30 bond, the director may require the licensee to furnish an increased
31 bond.

32 c. The director may require a licensee to file a new bond with a
33 satisfactory surety in the same form and amount if:

34 (1) Liability upon the previous bond is discharged or reduced by
35 a judgment rendered, payment made, or otherwise disposed of; or

36 (2) In the opinion of the director, any surety on the previous
37 bond becomes unsatisfactory. If the new bond is unsatisfactory, the
38 director shall cancel the license. If the new bond is satisfactorily
39 furnished, the director shall release in writing the surety on the
40 previous bond from any liability accruing after the effective date of
41 the new bond.

42 d. If a licensee has cash, a certificate of deposit or a letter of
43 credit with the director and it is reduced by a judgment rendered,
44 payment made, or otherwise disposed of, the director may require
45 the licensee to make a new deposit equal to the amount of the
46 reduction.

47 e. If the director determines that the amount of the existing
48 bond is insufficient to ensure payment to the State of the tax, fee,

1 and any penalty and interest for which a licensee is or may become
2 liable, the licensee shall, upon written demand of the director, file a
3 new or increased bond. The director shall allow the licensee at least
4 30 days to secure the increased bond or cash deposit.

5 f. A new or increased bond shall meet the requirements set
6 forth in P.L. , c. (C.)(pending before the Legislature as this
7 bill); if the new or increased bond required pursuant to this section
8 is unsatisfactory, the director shall cancel the license.

9 g. Sixty days after making a written request for release to the
10 director, the surety of a bond furnished by a licensee shall be
11 released from any liability to the State accruing on the bond after
12 the 60-day period. The release shall not affect any liability accruing
13 before the expiration of the sixty-day period.

14 h. The director shall promptly notify the licensee furnishing the
15 bond that a release has been requested. Unless the licensee obtains
16 a new bond that meets the requirements of P.L. , c. (C.)
17 (pending before the Legislature as this bill) and files with the
18 director the new bond within the sixty-day period, the director shall
19 cancel the license.

20 i. Sixty days after the licensee makes a written request for
21 release to the director, the cash deposit, letter of credit or certificate
22 of deposit provided by a licensee shall be canceled as security for
23 any obligation accruing after the expiration of the sixty-day period.
24 However, the director may retain all or part of the bond for up to
25 three years and one day as security for any obligations accruing
26 before the effective date of the cancellation. Any part not retained
27 by the director shall be released to the licensee. Before the
28 expiration of the 60-day period, the licensee shall provide the
29 director with a bond that satisfies the requirements of P.L. ,
30 c. (C.) (pending before the Legislature as this bill) or the
31 director shall cancel the license.

32

33 30. (New section) a. Before becoming a position holder in a
34 terminal in this State or engaging in a terminal bulk transfer a
35 person shall first obtain a supplier's license. A valid supplier's
36 license allows the holder of the license to engage in all other
37 activities without having to obtain any other license.

38 b. A person who desires to precollect the tax imposed by
39 P.L. , c. (C.) (pending before the Legislature as this bill) as a
40 supplier and who meets the definition of a permissive supplier may
41 obtain a permissive supplier's license. Application for or
42 possession of a permissive supplier's license shall not in itself
43 subject the applicant or licensee to the jurisdiction of this State for
44 any other purpose than administration and enforcement of P.L. ,
45 c. (C.) (pending before the Legislature as this bill).

46 c. A supplier or a permissive supplier shall be required to post
47 a bond of not less than three months' potential tax liability based on
48 the number of taxable gallons handled as estimated by the director,

1 but in no event shall the bond be less than \$25,000 or more than
2 \$2,000,000. An applicant who is a "publicly traded corporation," as
3 that term is defined by section of 39 of P.L.1977, c.110 (C.5:12-39)
4 and has assets within the State having a book value of \$5 million or
5 more may, at the discretion of the director, be exempted from
6 having to post a bond under this section.

7 d. For the purpose of determining the amount of precollected
8 tax due, a supplier shall file with the director, on forms prescribed
9 and furnished by the director, a verified statement. The director
10 may require the reporting of any information necessary to determine
11 the amount of precollected tax due.

12 e. The director may require each licensed supplier or licensed
13 permissive supplier to separately disclose and identify, in a written
14 statement to the director with the supplier or permissive supplier
15 report, any removal and sale from the terminal transfer system in
16 another state by that supplier to a person, other than a licensed
17 supplier, permissive supplier or distributor, of gallons of fuel, other
18 than dyed fuel, and which gallons are destined for this State, as
19 shown by the terminal-issued shipping paper, and as to which
20 gallons the tax imposed by P.L. , c. (C.) (pending before the
21 Legislature as this bill) has not been collected or accrued by the
22 supplier upon the removal.

23 f. The reports required by this section shall be filed on or
24 before the 22nd day of the current month with respect to
25 information for the preceding calendar month.

26

27 31. (New section) a. a person, other than a supplier licensed
28 under section 30 of P.L. , c. (C.) (pending before the
29 Legislature as this bill), engaged in business in this State as a
30 terminal operator shall first obtain a terminal operator's license for
31 each terminal site in this State.

32 b. A terminal operator shall be required to post a bond of not
33 less than three months' potential tax liability based on the number of
34 gallons handled as estimated by the director.

35 c. A person operating a terminal in this State shall file with the
36 director by the 25th day of the next month a sworn statement of
37 operations within this State for each of the operator's terminals
38 within this State, including information as the director may
39 prescribe, on forms prescribed and furnished by the director.

40 d. For purposes of reporting and determining tax liability under
41 P.L. , c. (C.) (pending before the Legislature as this bill), a
42 licensee shall maintain inventory records as the director by
43 regulation shall require.

44

45 32. (New section) Every railway or railroad company, water
46 transportation company, and every person transporting fuels in
47 bulk, between points within the State, and every railway or railroad
48 company, water transportation company, and every person

1 transporting fuel in bulk to a point outside the State from any point
2 within the State, or to a point within the State from a point outside
3 of the State, shall, (at any time, and from time to time, upon written
4 request of the director) report, in a manner prescribed by the
5 director, all deliveries of fuel in bulk so made to points within or
6 without the State.

7
8 33. (New section) a. A person other than a supplier desiring to
9 export fuel to a destination outside of this State shall first obtain a
10 distributor's license. Issuance of a distributor's license shall be
11 conditioned upon the applicant holding an appropriate license to
12 import the fuel into the destination state or states.

13 b. A person desiring to deliver dyed fuel or undyed fuel into
14 this State on the person's own behalf, for the person's own the
15 account, or for resale to a purchaser in this State, from another state
16 in a fuel transportation vehicle or in a pipeline or barge shipment
17 into storage facilities other than a qualified terminal, shall first
18 make application for and obtain a distributor's license.

19 c. A person desiring to import fuel to a destination in this State
20 from another state, and who has not entered into an agreement to
21 remit the tax imposed by section 3 of P.L. , c. (C.) (pending
22 before the Legislature as this bill) to the supplier or permissive
23 supplier as trustee with respect to the imports shall do the
24 following:

25 (1) apply for and obtain a distributor's license; and

26 (2) comply with the payment requirements of section 12 of
27 P.L. , c. (C.) (pending before the Legislature as this bill).

28 d. A person blending any motor fuel for sale shall apply for and
29 obtain a distributor's license.

30 e. A distributor's license is a prerequisite to making the
31 election permitted in section 21 of P.L. , c. (C.) (pending
32 before the Legislature as this bill).

33

34 34. (New section) A distributor shall post a bond of not less
35 than three months' total liability for the tax imposed by section 3 of
36 P.L. , c. (C.) (pending before the Legislature as this bill),
37 based on the number of gallons handled as estimated by the director
38 for gasoline and diesel fuel separately. The tax on fuel exported
39 from this State by a licensed distributor shall not be considered part
40 of potential liability for calculation of the bond required of a
41 distributor's license.

42

43 35. (New section) a. If the license applicant and bond are
44 approved, the director shall issue a license for the applicant's
45 principal place of business and the applicant shall make copies for
46 each other business location.

47 b. A license is valid until suspended, revoked for cause,
48 canceled or the license expires.

1 c. A license is not transferable to another person or to another
2 place of business. For purposes of this section, a transfer of a
3 majority interest in a business association, including corporations,
4 partnerships, trusts, joint ventures and any other business
5 association, shall be deemed to be a transfer of any license held by
6 the business association to another person. Any change in
7 ownership of a business association, other than a "publicly traded
8 corporation," as that term is defined by section of 39 of P.L.1977,
9 c.110 (C.5:12-39), shall be reported to the director.

10 d. A license shall be preserved and conspicuously displayed at
11 the principal place of business for which it is issued.

12 e. A person licensed under P.L. , c. (C.) (pending before
13 the Legislature as this bill) shall display the person's conveyance
14 number on the back of any conveyance of fuel.

15 f. Upon the discontinuance, sale, transfer or change of
16 ownership of the business, the license shall be immediately
17 surrendered to the director. Any relocation of the business shall be
18 immediately reported to the director.

19 g. If a person licensed to do business pursuant to P.L. ,
20 c. (C.) (pending before the Legislature as this bill)
21 discontinues, sells, or transfers the business, the licensee shall
22 immediately notify the director in writing of the discontinuance,
23 sale, or transfer. The notice shall give the date of discontinuance,
24 sale, or transfer and if the business is sold or transferred, the name
25 and address of the purchaser or transferee. The licensee shall be
26 liable for all taxes, interest, and penalties that accrue or may be
27 owing and any criminal liability for misuse of the license that
28 occurs prior to cancellation of the license.

29 h. The director shall publish without charge a list of updates of
30 all licensees, by category.

31 i. A licensee shall maintain and keep for a period of four years
32 records of all transactions by which fuel is received, used, sold,
33 delivered, or otherwise disposed of, together with invoices, bills of
34 lading, and other pertinent records and papers as may be required
35 by the director for reasonable administration of P.L. , c. (C.)
36 (pending before the Legislature as this bill).

37
38 36. (New section) a. A license required by P.L. , c. (C.)
39 (pending before the Legislature as this bill) may be suspended or
40 revoked by the director for a violation of any of the provisions of
41 P.L. , c. (C.) (pending before the Legislature as this bill), or
42 on other reasonable grounds, after five days' notice of and hearing
43 on such proposed revocation or suspension conducted pursuant to
44 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
45 seq.). Upon receipt of a written request from the holder of any
46 license issued pursuant to the provisions of P.L. , c. (C.)
47 (pending before the Legislature as this bill), the director may cancel
48 a license effective as soon thereafter as it has been determined that

1 all tax, fines, penalties and interest properly owing to the State have
2 been paid. If the director finds that a person to whom a license has
3 been issued is no longer engaged in the business for which the
4 license was issued, the director may cancel that license by
5 providing reasonable notice of the intent to cancel by mail to the
6 last known address of such person. If a license is canceled, the
7 license certificate previously issued shall be surrendered to the
8 director.

9 b. A person who fails to file any report required by P.L. ,
10 c. (C.) (pending before the Legislature as this bill) and for
11 which a penalty is not otherwise set forth in P.L. , c. (C.)
12 (pending before the Legislature as this bill), shall be liable for the
13 penalties determined pursuant to R.S.54:49-4

14 c. A person shall not engage in any business activity in this
15 State for which a license is required by P.L. , c. (C.)
16 (pending before the Legislature as this bill) unless the person first
17 obtains the license. A person who negligently violates this section
18 is subject to a civil penalty in the amount of \$1,000.

19 d. A supplier, permissive supplier, or distributor who
20 knowingly fails to precollect or timely remit tax otherwise required
21 to be paid over to the director pursuant to P.L. , c. (C.)
22 (pending before the Legislature as this bill), or pursuant to a tax
23 precollection agreement pursuant to P.L. , c. (C.) (pending
24 before the Legislature as this bill), shall be liable for the uncollected
25 tax plus any penalties determined pursuant to R.S.54:49-4.

26

27 37. (New section) a. If the tax imposed by P.L. , c. (C.)
28 (pending before the Legislature as this bill) is not precollected and
29 must be paid by the consumer in accordance with section 26 of
30 P.L. , c. (C.) (pending before the Legislature as this bill), the
31 tax is due and payable by the consumer on the 20th day of each
32 month for the purchases made in the preceding calendar month.
33 The consumer shall file with the director, on forms furnished by the
34 director, a return showing in detail the total purchase price of the
35 fuel, the number of gallons purchased or blended, the location of
36 the purchase, the blend stocks and motor fuel components, if any,
37 and other information as the director may prescribe. With each
38 return, the consumer shall remit to the director the amount of tax
39 shown on the return to be due.

40

41 38. (New section) a. A terminal operator and a refiner with a
42 facility in this State shall prepare and provide to the driver of every
43 fuel transportation vehicle receiving fuel into the vehicle storage
44 tank at the facility a shipping document setting out on its face:

45 (1) Identification by city and state of the terminal or refinery
46 from which the fuel was removed;

47 (2) The date the fuel was removed;

48 (3) The amount of fuel removed, gross gallons and net gallons;

1 (4) The state of destination as represented to the terminal
2 operator or refiner by the transporter, the shipper or the agent of the
3 shipper. A refinery or terminal operator may load fuel if a portion
4 of the fuel is destined for sale or use in this State and a portion of
5 the fuel is destined for sale or use in another state or states.
6 However, such split loads removed shall be documented by the
7 terminal operator or refiner by issuing shipping papers designating
8 the state of destination for each portion of the fuel;

9 (5) The supplier, consignee and transporter of the fuel; and

10 (6) Any other information required by the director for the
11 enforcement of P.L. , c. (C.) (pending before the Legislature
12 as this bill),.

13 b. A terminal operator or refiner may manually prepare
14 shipping papers if the terminal does not have the ability to prepare
15 automated shipping papers or as a result of extraordinary
16 unforeseen circumstances, including acts of God, which temporarily
17 interfere with the ability of the terminal operator or refiner to issue
18 automated machine-generated shipping papers.

19 c. No terminal operator or refiner shall imprint, and no supplier
20 shall knowingly permit a terminal operator to imprint on behalf of
21 the supplier, any false statement on a shipping paper relating to fuel
22 to be delivered to this State or to a state having substantially the
23 same shipping paper requirements with respect to the supplier of the
24 fuel, whether or not it was dyed for the intended destination.

25 d. A terminal operator or refiner who shall knowingly imprint
26 any false statement in violation of this section shall be jointly and
27 severally liable for all the taxes imposed by P.L. , c. (C.)
28 (pending before the Legislature as this bill) which are not otherwise
29 collected by this State as a result of that action.

30 e. A supplier who knowingly violates this section shall be
31 jointly and severally liable with the terminal operator.

32 f. The director may impose a civil penalty of \$500 for the first
33 occurrence against a terminal operator or refiner that fails to meet
34 shipping paper issuance requirements pursuant to P.L. , c. (C.)
35 (pending before the Legislature as this bill), Each subsequent
36 occurrence described in this subsection against that terminal
37 operator is subject to a civil penalty of \$5,000.

38

39 39. (New section) a. A person transporting fuel in a fuel
40 transportation vehicle upon the public highways of this State shall:

41 (1) Carry on board the shipping document issued by the terminal
42 operator or the bulk plant operator of the facility where the fuel was
43 obtained, whether within or without this State. The shipping paper
44 shall set out on its face the state of destination of the fuel
45 transported in the vehicle as represented to the terminal operator at
46 the time the fuel transportation vehicle was loaded;

47 (2) Show, and permit duplication of, the shipping document by a
48 law enforcement officer or the director, upon request, when

1 transporting, holding or off-loading the fuel described in the
2 shipping document;

3 (3) Provide a copy of the shipping document to the distributor or
4 other person who controls the facility to which the fuel is delivered;
5 and

6 (4) Meet such other conditions as the director may require for
7 the enforcement of P.L. , c. (C.) (pending before the
8 Legislature as this bill).

9 b. A person transporting fuel in fuel transportation vehicles
10 upon the public highways of this State shall provide the original or
11 a copy of the terminal-issued shipping document accompanying the
12 shipment to the operator of the retail outlet, bulk plant or bulk end
13 user bulk storage facility to which delivery of the shipment was
14 made. However, a delivery ticket created by the person
15 transporting the fuel may be provided in lieu of the terminal-issued
16 shipping paper for deliveries into bulk end user bulk storage.

17 c. The operator of a fuel retail outlet, bulk plant or bulk end
18 user bulk storage facility shall receive, examine, and retain for a
19 period of 30 days at the delivery location the terminal-issued
20 shipping document received from the transporter for every shipment
21 of fuel that is delivered to that location with record retention of the
22 shipping paper of three years required off-site. If the delivery
23 location is an unattended location, the operator may retain the
24 shipping documents at the normal billing address of the operator.

25 d. A retail dealer, liquefied petroleum gas dealer, aviation fuel
26 dealer, bulk plant operator, wholesale distributor or bulk end user
27 shall not knowingly accept delivery of fuel into bulk storage
28 facilities in this State if that delivery is not accompanied by a
29 shipping paper issued by the terminal operator, or bulk plant
30 operator as provided by regulations, that sets out on its face this
31 State as the state of destination of the fuel.

32 e. A person who knowingly violates or knowingly aids and
33 abets another to violate this section shall be jointly and severally
34 liable for the tax on the fuel transported or delivered.

35 f. A person owning or operating a motor vehicle in violation of
36 this section and sections 42 and 43 of P.L. , c. (C.) (pending
37 before the Legislature as this bill) is guilty of a crime of the fourth
38 degree for the first offense. For the second and each subsequent
39 offense, a violator is guilty of a crime of the third degree.

40 g. The director shall impose a civil penalty of \$500 on a person
41 transporting fuel for the first occurrence of transporting fuel without
42 adequate shipping papers annotated as required under this section
43 and sections 42 and 43 of P.L. , c. (C.) (pending before the
44 Legislature as this bill). Each of that person's subsequent
45 occurrences described in this subsection is subject to a civil penalty
46 of \$5,000.

1 40. (New section) The supplier and the terminal operator may
2 rely for all purposes of P.L. , c. (C.) (pending before the
3 Legislature as this bill) on the representation by the transporter, the
4 shipper or the agent of the shipper as to the intended state of
5 destination and tax-exempt use by the shipper or the purchaser. The
6 shipper, importer, transporter, agent of the shipper and any
7 purchaser, not the supplier or terminal operator, shall be jointly
8 liable for any tax otherwise due to the State as a result of a
9 diversion of the fuel from the represented destination state. A
10 terminal operator may rely on the representation of a licensed
11 supplier with respect to the obligation of the supplier to precollect
12 tax and the related shipping paper representation to be as shown on
13 the shipping paper as provided by subsection a. of section 40 of
14 P.L. , c. (C.) (pending before the Legislature as this bill).

15

16 41. (New section) a. A person shall not sell, use, deliver, or
17 store in this State, or import for sale, use, delivery or storage in this
18 State, fuel as to which the tax imposed by section 3 of P.L. ,
19 c. (C.) (pending before the Legislature as this bill) has not
20 been previously paid to or accrued by either a licensed supplier, or
21 permissive supplier, at the time of removal from a terminal, or a
22 licensed distributor provided all the conditions of section 44 of
23 P.L. , c. (C.) (pending before the Legislature as this bill)
24 applicable to lawful import by the distributor shall have been met.

25 b. The provisions of subsection a. of this section shall not
26 apply to:

27 (1) A supplier with respect to fuel held within the terminal
28 transfer system in this State which was manufactured in this State
29 or imported into this State in a bulk transfer;

30 (2) A consumer with respect to fuel placed in the vehicle fuel
31 supply tank of that person's motor vehicle outside of this State;

32 (3) Dyed fuel, dyed in accordance with P.L. , c. (C.)
33 (pending before the Legislature as this bill);

34 (4) Fuel in the process of exportation by a supplier or a
35 distributor in accordance with the shipping papers required by
36 section 39 of P.L. , c. (C.) (pending before the Legislature
37 as this bill) and with a statement meeting the requirements of
38 section 42 of P.L. , c. (C.) (pending before the Legislature
39 as this bill) shown on the shipping papers;

40 (5) Kerosene used in aircraft subject to the conditions and
41 exceptions in subsection a. of section 12 of P.L. , c. (C.)
42 (pending before the Legislature as this bill);

43 (6) Fuel in possession of a consumer as to which a refund has
44 been issued;

45 (7) Government and other exempt fuel under paragraphs (3) and
46 (4) of subsection b. of section 12 of P.L. , c. (C.) (pending
47 before the Legislature as this bill); or

1 (8) A distributor who has met the conditions of section 44 of
2 P.L. , c. (C.) (pending before the Legislature as this bill).

3
4 42. (New section) a. Except as provided in subsection c. of this
5 section, a person shall not operate a fuel transportation vehicle that
6 is engaged in the shipment of fuel on the public highways of this
7 State without having on board a terminal-issued shipping paper
8 bearing, in addition to the requirements of subsection a. of section
9 41 of P.L. , c. (C.) (pending before the Legislature as this
10 bill), a notation indicating that, with respect to diesel fuel acquired
11 under claim of exempt use, a statement indicating the fuel is
12 "DYED DIESEL FUEL, NONTAXABLE USE ONLY, PENALTY
13 FOR TAXABLE USE" for the load or the appropriate portion of the
14 load. With respect to kerosene acquired under claim of exempt use,
15 a statement shall indicate the fuel is "DYED KEROSENE,
16 NONTAXABLE USE ONLY, PENALTY FOR TAXABLE USE"
17 for the load or the appropriate portion of the load.

18 b. A person is in violation of subsection a. of this section upon
19 boarding the vehicle with a shipping paper which does not meet the
20 requirements set forth in this section.

21 c. The director may in the director's discretion provide an
22 advance notification procedure with respect to documentation for
23 imported fuel as to which the importer is unable to obtain
24 terminal-issued shipping papers which comply with this section.

25 d. Any person who knowingly violates any part of this section
26 is guilty of a crime of the fourth degree.

27 e. The director, the Office of Weights and Measures of the
28 Division of Consumer Affairs in the Department of Law and Public
29 Safety, and the State Police, and its officers shall have full authority
30 in enforcing the provisions of this section.

31
32 43. (New section) a. If a distributor acquires fuel destined for
33 this State which has neither been dyed in accordance with the
34 Internal Revenue Code and the regulations issued thereunder, nor
35 tax paid to or accrued by the supplier at the time of removal from
36 the out-of-State terminal, a licensed distributor and transporter
37 operating on behalf of the licensed importer shall meet all of the
38 following conditions prior to entering fuel onto the highways of this
39 State by loaded fuel transportation vehicle:

40 (1) The terminal origin and the name and address of the
41 importer shall also be set out prominently on the face of each copy
42 of the terminal-issued shipping paper;

43 (2) The terminal-issued shipping paper data otherwise required
44 by P.L. , c. (C.) (pending before the Legislature as this bill),
45 shall be present; and

46 (3) All tax imposed by P.L. , c. (C.) (pending before the
47 Legislature as this bill) with respect to previously requested import

1 verification number activity on the account of the distributor or the
2 transporter shall have been timely precollected or remitted.

3 b. A person who knowingly violates or knowingly aids and
4 abets another to violate this section is guilty of a crime of the fourth
5 degree, provided that a first offense related to a good faith belief
6 that the distributor could import under the conditions will be
7 punishable only by a fine not to exceed \$1,000.

8 c. The director, the Office of Weights and Measures of the
9 Division of Consumer Affairs in the Department of Law and Public
10 Safety, and the Superintendent of State Police and the members of
11 the State Police shall have full authority in enforcing the provisions
12 of this section.

13

14 44. (New section) a. A person shall not operate or maintain a
15 motor vehicle on any public highway in this State with dyed fuel
16 contained in the vehicle fuel supply tank except for uses of dyed
17 fuel on the highway which are lawful under the federal Internal
18 Revenue Code and the regulations thereunder unless otherwise
19 prohibited by P.L. , c. (C.) (pending before the Legislature as
20 this bill).

21 b. A person shall not sell or hold for sale dyed fuel for any use
22 that the person knows or has reason to know is a taxable use of the
23 dyed fuel.

24 c. A person shall not use or hold for use any dyed fuel for a
25 taxable use when the person knows or has reason to know that the
26 fuel is dyed fuel.

27 d. A person shall not willfully, with intent to evade tax, alter or
28 attempt to alter the strength or composition of any dye or marker in
29 any dyed fuel.

30 e. A person who knowingly violates or knowingly aids and
31 abets another to violate the provisions of this section with the intent
32 to evade the tax imposed by P.L. , c. (C.) (pending before
33 the Legislature as this bill) is guilty of a crime of the fourth degree.

34 f. A person, and an officer, employee, or agent of that person
35 entity who willfully participates in any act in violation of this
36 section shall be jointly and severally liable with the person for the
37 tax and penalty which shall be the same as imposed pursuant to
38 section 6715 of the federal Internal Revenue Code of 1986 (26
39 U.S.C. s.6715).

40 g. A person or business entity, and each officer, employee, or
41 agent of the entity who willfully participates in any act in violation
42 of this section shall be jointly and severally liable with the entity for
43 the tax and penalty which shall be the same as that imposed
44 pursuant to section 6715 of the federal Internal Revenue Code of
45 1986 (26 U.S.C. s.6715).

46

47 45. (New section) A notice stating "DYED DIESEL FUEL,
48 NONTAXABLE USE ONLY, PENALTY FOR TAXABLE USE"

1 or "DYED KEROSENE, NONTAXABLE USE ONLY, PENALTY
2 FOR TAXABLE USE" shall be:

3 a. Provided by the terminal operator to any person that receives
4 dyed diesel fuel or dyed kerosene at a terminal rack of that terminal
5 operator; and

6 b. Posted by a retail dealer on any pump where it sells dyed
7 diesel fuel or dyed kerosene for use by its consumer. The form of
8 notice required by this section shall be provided by the time of the
9 removal or sale of the dyed fuel and shall appear on shipping
10 papers, bills of lading, and invoices accompanying the sale or
11 removal of the dyed fuel.

12

13 46. (New section) a. The director, upon presenting appropriate
14 credentials may conduct inspections and remove samples of fuel to
15 determine the coloration of diesel fuel and kerosene, or to identify
16 shipping paper violations at any place where fuel is or may be
17 produced, stored or loaded into fuel transportation vehicles.
18 Inspections shall be performed in a reasonable manner consistent
19 with the circumstances, but in no event is prior notice required.
20 Inspectors may physically inspect, examine or otherwise search any
21 tank, reservoir, or other container that can or might be used for the
22 production, storage, or transportation of fuel. Inspections may be
23 made of any equipment used for, or in connection with, the
24 production, storage, or transportation of fuel. Upon demand by the
25 inspectors all shipping papers, documents and records required to
26 be kept by a person transporting fuel shall be produced for
27 immediate inspection. The places where inspections may occur
28 include, but are not limited to:

- 29 (1) A terminal;
30 (2) A fuel storage facility that is not a terminal;
31 (3) A retail fuel facility;
32 (4) Highway rest stops; or
33 (5) A designated inspection site.

34 For purposes of this section, a "designated inspection site" means
35 any state highway or waterway inspection station, weigh station,
36 agricultural inspection station, mobile station, or other location
37 designated by the director, either fixed or mobile.

38 b. Inspections to determine violations under P.L. ,

39 c. (C.) (pending before the Legislature as this bill) may be
40 conducted by the director, the Chief Administrator of the New
41 Jersey Department of Law and Public Safety, and any other law
42 enforcement officer through procedures established by the director.

43 c. Inspectors may reasonably detain any person or equipment
44 transporting fuel in or through this State for the purpose of
45 determining whether the person is operating in compliance with the
46 provisions of P.L. , c. (C.) (pending before the Legislature
47 as this bill) and any rules and regulations promulgated pursuant
48 thereto. Detainment may continue for such time only as is

1 necessary to determine whether the person is in compliance with
2 P.L. , c. (C.) (pending before the Legislature as this bill).

3
4 47. (New section) a. The director is authorized to audit and
5 examine the records, books, papers, and equipment of a licensee or
6 other person selling, transporting, storing or using fuel to verify the
7 completeness, truth and accuracy of any statement or report and
8 ascertain whether or not the tax imposed by P.L. , c. (C.)
9 (pending before the Legislature as this bill) has been paid.

10 b. Records shall be made available to the director during
11 normal business hours at the physical location of the person in this
12 State, or at the offices of the director within three business days
13 after the director's request if the location at which records are
14 located is outside of this State.

15 c. The director, may, upon showing credentials, inspect, and
16 each fuel vendor, fuel transporter or bulk purchaser shall disclose,
17 immediately upon request any shipping paper required by P.L. ,
18 c. (C.) (pending before the Legislature as this bill) to be
19 maintained at the physical location where the request is made which
20 may include any place fuel is stored or held for sale or
21 transportation.

22 d. A person who shall refuse to permit any inspection or audit
23 authorized by P.L. , c. (C.) (pending before the Legislature
24 as this bill) shall be subject to a civil penalty of \$5,000 in addition
25 to any penalty imposed by any other provision of P.L. , c. (C.)
26 (pending before the Legislature as this bill),.

27 e. A person who refuses, for the purpose of evading tax, to
28 allow an inspection shall, in addition to being liable for any other
29 penalties imposed by P.L. , c. (C.) (pending before the
30 Legislature as this bill), be guilty of a crime of the third degree.

31
32 48. (New section) In addition to the powers granted to the
33 director by P.L. , c. (C.) (pending before the Legislature as
34 this bill), the director is authorized and empowered:

35 a. to make, adopt and amend rules and regulations appropriate
36 to carrying out P.L. , c. (C.) (pending before the Legislature as
37 this bill) and accomplishing its purposes;

38 b. to delegate the director's functions hereunder to any officer
39 or employee of the director's division, or to federal government
40 employees or persons operating under contract with this State, such
41 of the director's powers as the director may deem necessary to carry
42 out efficiently the provisions of P.L. , c. (C.) (pending before
43 the Legislature as this bill), and the person or persons to whom such
44 power has been delegated shall possess and may exercise all of the
45 power and perform all of the duties herein conferred and imposed
46 upon the director;

47 c. to arrange for the institution of programs of cooperation with
48 other departments, divisions, and agencies of the State of New

1 Jersey such as but not limited to the Office of Weights and
2 Measures of the Division of Consumer Affairs in the Department of
3 Law and Public Safety, Motor Carrier Services in the Motor
4 Vehicle Commission, or the Board of Regulatory Commissioners, if
5 a program may be necessary to ensure effective administration and
6 enforcement of P.L. , c. (C.) (pending before the Legislature
7 as this bill);

8 d. to conduct investigations as necessary to enforce the
9 provisions of P.L. , c. (C.) (pending before the Legislature as
10 this bill);

11 e. to prescribe forms upon which reports are made to the
12 director and all other forms and information the director deems
13 necessary to enforce the provisions of P.L. , c. (C.) (pending
14 before the Legislature as this bill), and may require periodic
15 submission of information from any person dealing in, transporting
16 or storing fuel;

17 f. to conduct joint audits, subject to specific agreements with
18 any agency of the United States of America, with another state, or
19 through National or Regional Tax Associations, of the obligations
20 of any license holder, arising out of P.L. , c. (C.) (pending
21 before the Legislature as this bill). Notwithstanding the provisions
22 of R.S.54:50-8 to the contrary, if any, the agreements may provide
23 for exchange of the records and files of the director respecting the
24 administration of P.L. , c. (C.) (pending before the Legislature
25 as this bill) or of any other State tax law;

26 g. to require the licensure of any person not otherwise required
27 to be licensed pursuant to P.L. , c. (C.) (pending before the
28 Legislature as this bill) dealing in, transporting or storing fuel, and
29 to issue licenses for the terms and for the fees, as the director may
30 prescribe; the director may decline to issue a license, or revoke a
31 license issued, for good cause including, but not limited to, the
32 standards provided by subsections c. and d. of section 28 of P.L. ,
33 c. (C.) (pending before the Legislature as this bill)

34 h. to co-collect with the tax imposed pursuant to P.L. ,
35 c. (C.) (pending before the Legislature as this bill), the tax
36 imposed pursuant to the "Petroleum Products Gross Receipts Tax
37 Act," P.L.1990, c.42 (C.54:15B-1 et seq.) pursuant to such
38 procedures as the director may prescribe.

39

40 49. (New section) Moneys received from taxes on fuel used in
41 aircraft, pursuant to subsection b. of section 3 of P.L. , c. (C.)
42 (pending before the Legislature as this bill), shall be accounted for
43 and forwarded by the director to the State Treasurer, who shall
44 credit these payments to the Airport Safety Fund established by
45 section 4 of the "New Jersey Airport Safety Act of 1983," P.L.1983,
46 c.264 (C.6:1-92).

1 50. (New section) a. There is levied a tax on fuel held in
2 storage as of the close of the business day preceding October 1,
3 2010. For the purpose of this section, "close of the business day"
4 means the time at which the last transaction has occurred for that
5 day. The tax on fuel shall be the tax rate specified by subsection a.
6 of section 3 of P.L. , c. (C.) (pending before the Legislature
7 as this bill) for the type of fuel, multiplied by the gallons in storage
8 of that type of fuel as of the close of business day preceding
9 October 1, 2010.

10 b. Persons in possession of fuel in storage as of the close of the
11 business day immediately preceding October 1, 2010 shall:

12 (1) take an inventory at the close of the business day
13 immediately preceding October 1, 2010;

14 (2) report the gallons listed in paragraph (1) of this subsection
15 on forms provided by the director, not later than October 31, 2010;
16 and

17 (3) Remit the tax levied under this section no later than April 1,
18 2011.

19 c. If tax due pursuant to subsection b. of this section is paid to
20 the director on or before October 31, 2010, the person remitting the
21 tax may deduct from that person's tax liability 10% of the tax
22 liability otherwise due.

23 d. In determining the amount of tax due under this section, a
24 person may exclude the amount of fuel in dead storage in each
25 storage tank. For the purposes of this section, "dead storage" means
26 the amount of fuel that cannot be pumped out of a fuel storage tank
27 because the motor fuel is below the mouth of the draw pipe. The
28 amount of motor fuel in dead storage is 200 gallons for a tank with
29 a capacity of less than 10,000 gallons and 400 gallons for a tank
30 with a capacity of 10,000 gallons or more.

31

32 51. (New section) a. A person who is licensed as a distributor
33 pursuant to R.S.54:39-17 prior to October 1, 2010 shall be deemed
34 a supplier licensed pursuant to the "Motor Fuel Tax Act," P.L. ,
35 c. (C.) (pending before the Legislature as this bill) as of October
36 1, 2010 and subject to P.L. , c. (C.) (pending before the
37 Legislature as this bill) regarding licensed suppliers unless the person
38 licensed as a distributor pursuant to R.S.54:39-17 provides notice
39 prior to October 1, 2010 that the person does not desire the status of
40 licensee as a supplier pursuant to P.L. , c. (C.) (pending before
41 the Legislature as this bill). A person who is licensed as a
42 distributor pursuant to R.S.54:39-17 prior to October 1, 2010 who
43 declines licensure pursuant to the "Motor Fuel Tax Act," P.L. ,
44 c. (C.) (pending before the Legislature as this bill) shall be
45 deemed to have terminated its license as of the end of September
46 30, 2010, shall cease in-State activities covered by P.L. , c. (C.)
47 (pending before the Legislature as this bill), and shall be subject to
48 final report requirements of section 27 of P.L. , c. (C.)

1 (pending before the Legislature as this bill). If no notice is received
2 by the director prior to October 1, 2010 declining licensure, then that
3 shall be deemed acceptance of the new license and responsibilities
4 pursuant to the "Motor Fuel Tax Act," P.L. , c. (C.) (pending
5 before the Legislature as this bill), and the person may continue in
6 operation except as provided by subsection f. of this section.

7 Notice may be given to a person who is licensed as a distributor
8 pursuant to R.S.54:39-17 prior to October 1, 2010 that the person
9 will not be granted a license pursuant to the "Motor Fuel Tax Act,"
10 P.L. , c. (C.) (pending before the Legislature as this bill). A
11 person given that notice shall cease activities covered by the license on
12 or before October 1, 2010, shall be deemed to have terminated its
13 license as of the end of September 30, 2010, and shall be subject to
14 final report requirements of section 27 of P.L. , c. (C.)
15 (pending before the Legislature as this bill).

16 b. A person who is licensed as a retail dealer pursuant to
17 R.S.54:39-30 prior to October 1, 2010 shall be deemed a retail
18 dealer licensed pursuant to the "Motor Fuel Tax Act," P.L. ,
19 c. (C.) (pending before the Legislature as this bill) as of October
20 1, 2010 and subject to P.L. , c. (C.) (pending before the
21 Legislature as this bill) regarding retail dealers unless the person
22 licensed as a retail dealer pursuant to R.S.54:39-30 provides notice
23 prior to October 1, 2010 that the person does not desire the status of
24 licensee as a retail dealer pursuant to P.L. , c. (C.) (pending
25 before the Legislature as this bill). A person who is licensed as a
26 retail dealer pursuant to R.S.54:39-17 prior to October 1, 2010 who
27 declines licensure pursuant to the "Motor Fuel Tax Act," P.L. ,
28 c. (C.) (pending before the Legislature as this bill) shall be
29 deemed to have terminated its license as of the end of September
30 30, 2010, shall cease in-State activities covered by P.L. , c. (C.)
31 (pending before the Legislature as this bill), and shall be subject to
32 final report requirements of section 27 of P.L. , c. (C.)
33 (pending before the Legislature as this bill). If no notice is received
34 by the director prior to October 1, 2010 declining licensure, then that
35 shall be deemed acceptance of the new license and responsibilities
36 pursuant to the "Motor Fuel Tax Act," P.L. , c. (C.) (pending
37 before the Legislature as this bill), and the person may continue in
38 operation except as provided by subsection f. of this section.

39 Notice may be given to a person who is licensed as a retail dealer
40 pursuant to R.S.54:39-17 prior to October 1, 2010 that the person
41 will not be granted a license pursuant to the "Motor Fuel Tax Act,"
42 P.L. , c. (C.) (pending before the Legislature as this bill). A
43 person given that notice shall cease activities covered by the license on
44 or before October 1, 2010, shall be deemed to have terminated its
45 license as of the end of September 30, 2010, and shall be subject to
46 final report requirements of section 27 of P.L. , c. (C.)
47 (pending before the Legislature as this bill).

1 c. A person who is licensed as an importer, exporter,
2 wholesaler, or jobber pursuant to R.S.54:39-30 prior to October 1,
3 2010 shall be deemed a distributor licensed pursuant to the “Motor
4 Fuel Tax Act,” P.L. , c. (C.) (pending before the Legislature as
5 this bill) as of October 1, 2010 and subject to P.L. , c. (C.)
6 (pending before the Legislature as this bill) regarding licensed
7 suppliers unless the person licensed as an importer, exporter,
8 wholesaler, or jobber pursuant to R.S.54:39-30 provides notice prior
9 to October 1, 2010 that the person does not desire the status of licensee
10 as a distributor pursuant to P.L. , c. (C.) (pending before the
11 Legislature as this bill). A person who is licensed as an importer,
12 exporter, wholesaler, or jobber pursuant to R.S.54:39-17 prior to
13 October 1, 2010 who declines licensure pursuant to the “Motor Fuel
14 Tax Act,” P.L. , c. (C.) (pending before the Legislature as this
15 bill) shall be deemed to have terminated its license as of the end of
16 September 30, 2010, shall cease in-State activities covered by P.L. ,
17 c. (C.) (pending before the Legislature as this bill), and shall be
18 subject to final report requirements of section 27 of P.L. ,
19 c. (C.) (pending before the Legislature as this bill). If no notice
20 is received by the director prior to October 1, 2010 declining licensure,
21 then that shall be deemed acceptance of the new license and
22 responsibilities pursuant to the “Motor Fuel Tax Act,” P.L. ,
23 c. (C.) (pending before the Legislature as this bill), and the
24 person may continue in operation except as provided by subsection
25 f. of this section.

26 Notice may be given to a person who is licensed as an importer,
27 exporter, wholesaler, or jobber pursuant to R.S.54:39-17 prior to
28 October 1, 2010 that the person will not be granted a license pursuant
29 to the “Motor Fuel Tax Act,” P.L. , c. (C.) (pending before the
30 Legislature as this bill). A person given that notice shall cease
31 activities covered by the license on or before October 1, 2010, shall be
32 deemed to have terminated its license as of September 30, 2010,
33 and shall be subject to final report requirements of section 27 of
34 P.L. , c. (C.) (pending before the Legislature as this bill).

35 d. A person engaged in the business of hauling, transporting or
36 delivering fuel who is a motor fuel transport licensee pursuant to
37 R.S.54:39-1 or who has registered a conveyance for transporting
38 fuel pursuant to R.S.54:39-41 prior to October 1, 2010 shall be
39 deemed a transporter and the conveyance shall be deemed
40 registered as a fuel conveyance pursuant to the “Motor Fuel Tax
41 Act,” P.L. , c. (C.) (pending before the Legislature as this bill)
42 as of October 1, 2010 and subject to P.L. , c. (C.) (pending
43 before the Legislature as this bill) regarding transporters and fuel
44 conveyances unless the motor fuel transport licensee or having a
45 registered conveyance provides notice prior to October 1, 2010 that
46 the person does not desire the status of transporter or does not desire to
47 have a registered fuel conveyance pursuant to P.L. , c. (C.)
48 (pending before the Legislature as this bill). A person who is a

1 motor fuel transport licensee or who has a conveyance registered
2 pursuant to R.S.54:39-41 prior to October 1, 2010 who declines
3 status pursuant to the "Motor Fuel Tax Act," P.L. , c. (C.)
4 (pending before the Legislature as this bill) shall be deemed to have
5 terminated its motor fuel transport license and its conveyance
6 registration, as applicable, as of the end of September 30, 2010, and
7 shall cease in-State activities covered by P.L. , c. (C.) (pending
8 before the Legislature as this bill). If no notice is received by the
9 director prior to October 1, 2010 declining licensure, or registration as
10 applicable, then that shall be deemed acceptance of the new license, or
11 registration as applicable, and acceptance of transporter
12 responsibilities pursuant to the "Motor Fuel Tax Act," P.L. ,
13 c. (C.) (pending before the Legislature as this bill).

14 e. All other persons licensed pursuant to R.S.54:39-1 et seq.
15 shall apply to the director for an appropriate license, as determined
16 by the director and subject to such rules as the director may
17 prescribe, pursuant to this section on or before October 1, 2010 or
18 cease activities requiring a license under this section. If a person
19 accepts a new license and responsibilities that license entails
20 pursuant to the "Motor Fuel Tax Act," P.L. , c. (C.) (pending
21 before the Legislature as this bill), the person may continue in
22 operation except as provided by subsection e. of this section

23 f. A person required to file a bond or other surety with the
24 director pursuant to the "Motor Fuel Tax Act," P.L. , c. (C.)
25 (pending before the Legislature as this bill) shall have until October
26 31, 2010, to establish, reestablish or transfer that surety to the
27 person's new license status pursuant to P.L. , c. (C.) (pending
28 before the Legislature as this bill). A person who does not meet
29 those bonding requirements by October 31, 2010 shall cease
30 activities covered by the license on October 31, 2010.

31 g. Licenses issued pursuant to R.S.54:39-1 et seq. and not
32 continued pursuant to this section shall be invalid as of October 1,
33 2010. Licenses accepted pursuant to this section in place of the
34 license issued pursuant to R.S.54:39-1 et seq. shall be valid until the
35 expiration date of the license originally issued pursuant to
36 R.S.54:39-1 et seq.

37
38 52. (New section) Notwithstanding any provision of the
39 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
40 seq.) to the contrary, the director may adopt immediately upon
41 filing with the Office of Administrative Law such regulations as the
42 director deems necessary to implement the provisions of P.L. ,
43 c. (pending before the Legislature as this bill), which regulations
44 shall be effective for a period not to exceed 360 days following the
45 date of enactment of P.L. , c. (pending before the Legislature as
46 this bill) and may thereafter be amended, adopted, or readopted by
47 the director in accordance with the "Administrative Procedure Act,"
48 P.L.1968, c.410 (C.52:14B-1 et seq.).

1 53. Section 7 of P.L.1990, c.42 (C.54:15B-7) is amended to read
2 as follows:

3 7. a. A company subject to tax under **[this act]** P.L.1990, c.42
4 (C.54:15B-1 et seq.) shall, on or before the 25th day of a month,
5 file a remittance to the director on such forms as may be prescribed
6 by the director and pay the full amount of the tax due on gross
7 receipts subject to tax derived from the first sale of petroleum
8 products within this State and the consideration given or contracted
9 to be given for all deliveries of petroleum products for use or
10 consumption by it within this State for the preceding month.

11 b. On or before the 25th day following the end of a quarterly
12 period, a company subject to tax under **[this act]** P.L.1990, c.42
13 (C.54:15B-1 et seq.) shall file a reconciliation return under oath to
14 the director on such forms as may be prescribed by the director
15 reflecting such information and payments from the preceding
16 quarterly period as the director shall deem necessary.

17 c. The tax payments of a company subject to tax under
18 P.L.1990, c.42 (C.54:15B-1 et seq.) whose tax on sales is co-
19 collected with the tax imposed by section 3 of P.L. , c. (C.)
20 (pending before the Legislature as this bill) pursuant to regulations
21 of the director shall pay the tax under P.L.1990, c.42 (C.54:15B-1 et
22 seq.) at such times and on the returns for the tax imposed under
23 P.L. , c. (C.) (pending before the Legislature as this bill), and
24 omit those sales from the returns required under this section.
25 (cf: P.L.1991, c.181, s.4)
26

27 54. Section 20 of P.L.1980, c.105 (C.54:32B-8.8) is amended to
28 read as follows:

29 20. Receipts from sales of motor **[fuels]** fuel, racing gasoline,
30 liquefied petroleum gas, and aviation fuel as [motor] those fuels
31 are defined [for purposes of the New Jersey Motor Fuel Tax Law
32 (R.S. 54:39-1 et seq.)] by section 2 of P.L. . c. (C.)
33 (pending before the Legislature as this bill); and sales of fuel to an
34 airline for use in its airplanes or to a railroad for use in its
35 locomotives are exempt from the tax imposed under the Sales and
36 Use Tax Act.
37 (cf: P.L.1980, c.105, s.20)
38

39 55. Section 2 of P.L.1963, c.44 (C.54:39A-2) is amended to read
40 as follows:

41 2. For the purpose of this act, unless inconsistent with the
42 context:

43 (a) "User" means every person who operates or causes to be
44 operated any qualified motor vehicle on any highway in this State.
45 The term shall include a rental company in the case of a rental
46 vehicle.

1 (b) "Qualified motor vehicle" means a motor vehicle that is not
2 an exempt vehicle and that is used, designed or maintained for
3 transportation of persons or property; and

4 (1) having two axles and a gross vehicle weight or registered
5 gross vehicle weight in excess of 26,000 pounds;

6 (2) having three or more axles, regardless of weight; or

7 (3) that is used in combination, when the weight of such
8 combination is in excess of 26,000 pounds gross vehicle weight or
9 registered gross vehicle weight.

10 Notwithstanding this definition of qualified motor vehicle, if the
11 director enters into the agreement authorized pursuant to subsection
12 b. of section 24 of P.L.1963, c.44 (C.54:39A-24), the director shall,
13 as may be required by the agreement, issue a card and markers
14 pursuant to P.L. , c. (C.) (pending before the Legislature as
15 this bill) to the user of an exempt vehicle other than a recreational
16 vehicle that is a New Jersey base jurisdiction vehicle and that would
17 be a qualified motor vehicle but for being an exempt vehicle and the
18 director shall administer the reporting and collection of tax imposed
19 by other member jurisdictions with respect to such vehicle.

20 (c) "Exempt vehicle" means:

21 (1) Any vehicle owned or operated by an agency of this State or
22 any political subdivision thereof, or any quasi-governmental
23 authority of which this State is a participating member, or any
24 agency of the federal government or the District of Columbia, or of
25 any state or province or political subdivision thereof.

26 (2) School bus as defined in R.S.39:1-1.

27 (3) Vehicles operated under authority of dealer, manufacturer,
28 converter and transporter general registration plates such as
29 prescribed in R.S.39:3-18 and similar laws of other states.

30 (4) Special mobile equipment not designed or used primarily for
31 the transportation of persons or property.

32 (5) Vehicles operated not for profit by any religious or
33 charitable organization.

34 (6) Vehicles operated by a public utility as defined in R.S.48:2-
35 13, or under a contract with the New Jersey Transit Corporation or
36 under a contract with a county for special or rural transportation bus
37 service subject to the jurisdiction of the New Jersey Transit
38 Corporation pursuant to P.L.1979, c.150 (C.27:25-1 et seq.) whose
39 operations are limited to the State of New Jersey, or vehicles
40 providing commuter bus service which receive or discharge
41 passengers in New Jersey.

42 (7) Vehicles operated, not for hire, by a farmer as defined in
43 R.S.39:3-25.

44 (8) Vehicles used to transport farm labor.

45 (9) Recreational vehicles such as motor homes, pickup trucks
46 with attached campers, and buses when used exclusively for
47 personal pleasure by an individual. A recreational vehicle is a
48 vehicle that is not used in connection with any business endeavor.

1 (d) "Operations" means operations of all qualified motor
2 vehicles, whether loaded or empty, whether for compensation or not
3 for compensation, and whether owned by, contracted for use by, or
4 leased by the user who operates or causes them to be operated,
5 except operations of an omnibus in a regular route bus operation as
6 defined in R.S.48:4-1 and under operating authority conferred
7 pursuant to R.S.48:4-3.

8 (e) The term "motor fuels" means any combustible liquid or
9 gaseous substance used, or suitable, for the generation of power to
10 propel motor vehicles.

11 (f) "Motor fuel tax " means a tax imposed at a rate equal to the
12 sum of:

13 (1) the tax rate per gallon on motor fuels imposed 【under
14 R.S.54:39-1 et seq.】 by section 3 of P.L. , c. (C.)(pending
15 before the Legislature as this bill); and

16 (2) the tax rate per gallon on motor fuels imposed pursuant to
17 section 3 of P.L.1990, c.42 (C.54:15B-3).

18 (g) "Director" shall mean the Director of the Division of Motor
19 Vehicles in the Department of Transportation.

20 (h) "Purchaser" means the person, firm or corporation who or
21 which purchased the fuel, and paid the motor fuel tax thereon, used
22 in the qualified motor vehicles of the user.

23 (i) (Deleted by amendment, P.L.1995, c.347).

24 (j) (Deleted by amendment, P.L.1995, c.347).

25 (k) "Rental vehicle" means a vehicle owned by a rental company
26 and rented to the general public on an hourly, daily, trip, or other
27 short-term basis.

28 (l) "Rental company" means a person engaged in the business
29 of renting vehicles to the general public, including motor carriers,
30 on an hourly, daily, trip, or other short-term basis.

31 (m) "Commuter bus service" means regularly scheduled
32 passenger service provided by qualified motor vehicles within or
33 across the geographical boundaries of New Jersey and utilized by
34 passengers using reduced fare, multiple ride or commutation tickets
35 and shall not include charter bus operations or special bus
36 operations as defined in R.S.48:4-1 or buses operated for the
37 transportation of enrolled children and adults referred to in
38 subsection c. of R.S.48:4-1.

39 (cf: P.L.1995, c.347, s.1)

40

41 56. The following sections are repealed:

42 R.S.54:39-1 through R.S.54:39-15;

43 R.S.54:39-17 through R.S.54:39-49;

44 R.S.54:39-51 through R.S.54:39-54;

45 R.S.54:39-56;

46 R.S.54:39-58 through R.S.54:39-60;

47 R.S.54:39-65 through R.S.54:39-75;

1 Sections 2 and 3 of P.L.1955, c.90 (C.54:39-66.1 and 54:39-
2 67.1);
3 Sections 1 and 2 of P.L.1968, c.420 (C.54:39-6.1 and 54:39-
4 31.1);
5 Section 1 of P.L.1971, c.52 (C.54:39-27.1);
6 Section 7 of P.L.1983, c.264 (C.54:39-27a); and
7 Sections 41, 49, 50 through 62, and 68 of P.L.1992, c.23
8 (C.54:39-57.1, 54:39-6.2, 54:39-6.3, 54:39-6.4, 54:39-64.1,
9 through 54:39-64.8, 54:39-10.1, 54:39-64.9, 54:39-64.10, and
10 54:39-10.2).
11 provided, however, that this repeal shall not affect any obligation,
12 lien or duty to pay taxes, interest or penalties which have accrued or
13 may accrue by virtue of any taxes imposed pursuant to the
14 provisions of the law repealed by this act, or which may be imposed
15 with respect to any redetermination, correction, recomputation or
16 deficiency assessment; and provided that all taxes and returns which
17 would have been due and payable under the provisions of the law
18 repealed shall be due and payable as if the law was in effect; and
19 provided that this repeal shall not affect the legal authority of the
20 State to audit records and assess and collect taxes due or which may
21 be due, together with the interest and penalties as have accrued or
22 would have accrued on those taxes under the provisions of the law
23 repealed; and provided that this repeal shall not affect any
24 determination of, or affect any proceeding for, the enforcement
25 thereof.

26
27 57. This act shall take effect immediately, provided however
28 that sections 1 through 27, 29 through 49, and 53 through 56 shall
29 remain inoperative until October 1, 2010.

30
31

32 STATEMENT

33

34 This bill provides the "Motor Fuel Tax Act," a bill that
35 modernizes the system for assessing the taxes on highway motor
36 vehicles that is principally dedicated by the New Jersey
37 Constitution to the costs of the State transportation system.

38 The current system for collecting the taxes on motor fuels is the
39 result of revisions to the system made in 1992. Taxable diesel fuel
40 is virtually the same product as tax exempt home heating oil. In
41 response to a number of reports on fuel tax evasion based on the
42 difficulty of distinguishing taxable from nontaxable products and
43 corporate manipulation of fuel tax records, including a report by the
44 State Commission of Investigation, a new set of procedures was
45 introduced that emphasized the tracking of the fuel through the
46 chain of distribution.

47 The 1992 system emphasized the licensing of each party in the
48 distribution chain, and regular reporting of purchases and sales by

1 each party, reporting requirements, bonding and other steps to
2 address the problem of substitution of tax exempt No. 2 fuel oil for
3 taxable diesel fuel. The new system circumvented the problem of
4 manipulation of falsified corporate records of putatively taxed fuel
5 by imposing the tax on diesel fuel at retail consumer level.

6 Much has changed since 1992, including the introduction of the
7 federal dyed fuel system, under which fuel for exempt purposes is
8 dyed while fuel for taxable purposes is undyed or "clear."
9 Although New Jersey was one of the two test states that cooperated
10 with the federal Internal Revenue Service in the initial testing of the
11 federal dyed fuel system, it is one of the last of the industrialized
12 states to use the dyed fuel system in its own motor fuels tax
13 administration.

14 This bill changes the point of taxation of diesel fuel from the
15 retail level to the level at which it is removed from the bulk fuel
16 storage and distribution system of refineries, pipelines, ships and
17 barges, at a terminal. The bill also changes the point of taxation of
18 gasoline from the distributor level to the terminal level.

19 This change in the point of taxation will decrease the number of
20 taxpayers and decrease the volume of paperwork. This will save
21 administrative costs for both taxpayers and the tax administrators,
22 and will allow audit staff to focus on fewer taxpayers, which should
23 result in a more comprehensive and productive audit program and a
24 more rapid identification of problem areas.

25 The bill includes requirements for transporting and labeling dyed
26 fuel, and penalties for mishandling dyed (tax-exempt) fuel and for
27 using dyed fuel in highway vehicles. The bill also authorizes the
28 co-collection of petroleum products gross receipts tax with the
29 motor fuel taxes, when that is feasible.