

**SENATE, No. 2289**

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**STATE OF NEW JERSEY**  
**214th LEGISLATURE**

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INTRODUCED SEPTEMBER 23, 2010

**Sponsored by:**

**Senator STEVEN V. OROHO**

**District 24 (Sussex, Hunterdon and Morris)**

**Senator KEVIN J. O'TOOLE**

**District 40 (Bergen, Essex and Passaic)**

**Assemblyman ALEX DECROCE**

**District 26 (Morris and Passaic)**

**Co-Sponsored by:**

**Senator Beck**

**SYNOPSIS**

Amends motor fuel tax act to defer implementation for three months and make technical corrections.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 10/1/2010)**

1 AN ACT concerning the tax on motor fuels, amending P.L.2010,  
2 c.22

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

6  
7 1. Section 2 of P.L.2010, c.22 (C.54:39-102) is amended to  
8 read as follows:

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

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

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

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

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

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

29 a. will be ultimately used for consumer nonmotor fuel use; and  
30 b. is sold or removed in fifty-five gallon drum quantities or less  
31 at the time of the sale or removal **[:]** .

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

39 "Blender" means a person that produces blended motor fuel  
40 outside the terminal transfer system **[:]** .

41 "Blending" means the mixing of one or more petroleum products,  
42 with or without another product, regardless of the original character  
43 of the product blended, if the product obtained by the blending is  
44 capable of use or otherwise sold for use in the generation of power

**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 for the propulsion of a motor vehicle, an airplane, or a motorboat.  
2 The term does not include the blending that occurs in the process of  
3 refining by the original refiner of crude petroleum or the blending  
4 of products known as lubricating oil and greases, or the  
5 commingling of products during transportation in a pipeline [;] .

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

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

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

20 "Bulk transfer" means a transfer of motor fuel from one location  
21 to another by pipeline tender [or], marine delivery, or any other  
22 conveyance within the terminal transfer system [;] and includes a  
23 transfer within a terminal.

24 "Consumer" means the ultimate user of fuel [;] .

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

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

34 "Diesel-powered motor vehicle" means a motor vehicle that is  
35 propelled by a diesel-powered engine [;] .

36 "Director" means the Director of the Division of Taxation in the  
37 Department of the Treasury [;] .

38 "Distributor" means a person who acquires motor fuel from a  
39 supplier, permissive supplier or from another distributor for  
40 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 [;] .

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 out-of-  
39 State by or for the seller constitutes an import by the seller, and fuel  
40 delivered into this State from out-of-State by or for the purchaser  
41 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 [;] .

1 "Importer" includes any person who is the importer of record,  
2 pursuant to federal customs law, with respect to fuel. If the  
3 importer of record is acting as an agent, the person for whom the  
4 agent is acting is the importer. If there is no importer of record of  
5 fuel imported into this State, the owner of the fuel at the time it is  
6 brought into this State from another state or foreign country is the  
7 importer [;] .

8 "Invoiced gallons" means the gallons actually billed on an  
9 invoice for payment to a supplier which shall be either gross gallons  
10 or net gallons on the original manifest or bill of lading [;] .

11 "Kerosene" means the petroleum fraction containing  
12 hydrocarbons that are slightly heavier than those found in gasoline  
13 and naphtha, with a boiling range of one hundred forty-nine to three  
14 hundred degrees Celsius [;] .

15 "Liquefied petroleum gas dealer" means a person who acquires  
16 liquefied petroleum gas for subsequent sale to a consumer and  
17 delivery into the vehicle fuel supply tank [;] .

18 "Liquid" means any substance that is liquid in excess of sixty  
19 degrees Fahrenheit and at a pressure of fourteen and seven-tenths  
20 pounds per square inch absolute [;] .

21 "Motor fuel" means gasoline, diesel fuel, kerosene and blended  
22 fuel [;] .

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

33 "Net gallons" means the total measured volume of fuel,  
34 measured in U.S. gallons, when corrected to a temperature of sixty  
35 degrees Fahrenheit and a pressure of fourteen and seven-tenths  
36 pounds per square inch absolute [;] .

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

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

46 "Position holder" means the person who holds the inventory  
47 position in fuel in a terminal, as reflected on the records of the

1 terminal operator. A person holds the inventory position in fuel  
2 when that person has a contract with the terminal operator for the  
3 use of storage facilities and terminating services for fuel at the  
4 terminal. The term includes a terminal operator who owns fuel in  
5 the terminal [;] .

6 "Propel" means operate the drive engine of a motor vehicle,  
7 whether the vehicle is in motion or at rest [;] .

8 "Qualified terminal" means a terminal which has been assigned a  
9 terminal control number by the federal Internal Revenue  
10 Service [;] .

11 "Rack" means a mechanism for delivering fuel from a refinery or  
12 terminal into a railroad tank car, a fuel transportation vehicle or  
13 other means of transfer outside of the terminal transfer system [;] .

14 "Racing gasoline" means gasoline that contains lead, has an  
15 octane rating of 110 or higher, does not have detergent additives,  
16 and is not suitable for use as a motor fuel in a motor vehicle used on  
17 public highways [;] .

18 "Refiner" means a person that owns, operates, or otherwise  
19 controls a refinery [;] .

20 "Refinery" means a facility used to produce fuel from crude oil,  
21 unfinished oils, natural gas liquids, or other hydrocarbons and from  
22 which fuel may be removed by pipeline, by ship or barge, or at a  
23 rack [;] .

24 "Removal" means any physical transfer of fuel from a terminal,  
25 manufacturing plant, pipeline, ship or barge, refinery, from customs  
26 custody, or from a facility that stores fuel [;] .

27 "Retail dealer" means a person that engages in the business of  
28 selling or dispensing motor fuel to the consumer within this State  
29 [;] .

30 "Supplier" means a person that is:

31 a. registered or required to be registered pursuant to section  
32 4101 of the federal Internal Revenue Code of 1986 (26 U.S.C.  
33 s.4101) for transactions in fuels in the terminal transfer system; and

34 b. satisfies one or more of the following:

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

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

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

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

46 "Supplier" also means a person that produces fuel grade alcohol  
47 or alcohol-derivative substances in this State, produces fuel grade

1 alcohol or alcohol-derivative substances for import to this State into  
2 a terminal, or acquires upon import by truck, rail car or barge into a  
3 terminal, fuel grade alcohol or alcohol-derivative substances.

4 "Supplier" includes a permissive supplier unless the "Motor Fuel  
5 Tax Act," P.L.2010, c.22 (C.54:39-101 et seq.) specifically provides  
6 otherwise [;] .

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

- 8 a. which is a qualified terminal,
- 9 b. to which fuel is supplied by pipeline or marine vessel, or, for  
10 the purposes of fuel grade alcohol, is supplied by truck or railcar,  
11 and
- 12 c. from which fuel may be removed at a rack [;] .

13 "Terminal bulk transfer" includes but is not limited to the  
14 following:

- 15 a. a boat or barge movement of fuel from a refinery or terminal  
16 to a terminal;
- 17 b. a pipeline movement of fuel from a refinery or terminal to a  
18 terminal;
- 19 c. a book transfer of product within a terminal between  
20 suppliers prior to completion of removal across the rack; and
- 21 d. a two-party exchange within a terminal between licensed  
22 suppliers [;] .

23 "Terminal operator" means a person that owns, operates, or  
24 otherwise controls a terminal. A terminal operator may own the  
25 fuel that is transferred through, or stored in, the terminal [;] .

26 "Terminal transfer system" means the fuel distribution system  
27 consisting of refineries, pipelines, vessels, and terminals. Fuel in a  
28 refinery, pipeline, vessel, barge or terminal is in the terminal  
29 transfer system. Fuel in the fuel supply tank of an engine, or in a  
30 tank car, rail car, trailer, truck, or other equipment suitable for  
31 ground transportation is not in the terminal transfer system [;] .

32 "Transmix" means the buffer or interface between two different  
33 products in a pipeline shipment, or a mix of two or more different  
34 products within a refinery or terminal that results in an off-grade  
35 mixture [;] .

36 "Transporter" means an operator of a pipeline, barge, railroad or  
37 fuel transportation vehicle engaged in the business of transporting  
38 fuel [;] .

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

- 40 a. the fuel is transferred from one licensed supplier or licensed  
41 permissive supplier to another licensed supplier or licensed  
42 permissive supplier;
- 43 b. the transaction includes a transfer from the person that holds  
44 the original inventory position for fuel in the terminal as reflected  
45 on the records of the terminal operator;
- 46 c. the exchange transaction is simultaneous with removal from  
47 the terminal by the receiving exchange partner; and

1 d. the terminal operator in its books and records treats the  
2 receiving exchange party as the supplier which removes the product  
3 across a terminal rack for purposes of reporting such events to this  
4 State [;] .

5 "Ultimate vendor - blocked pumps" means a person that sells  
6 clear kerosene at a retail site through a blocked pump and who is  
7 registered with both the Division of Taxation in the Department of  
8 the Treasury and the federal Internal Revenue Service as an  
9 ultimate vendor - blocked pumps [;] .

10 "Undyed diesel fuel" means diesel fuel that is not subject to the  
11 federal Environmental Protection Agency dyeing requirements, or  
12 has not been dyed in accordance with federal Internal Revenue  
13 Service fuel dyeing provisions [;] .

14 "Undyed kerosene" means kerosene that is not subject to the  
15 federal Environmental Protection Agency dyeing requirements, or  
16 has not been dyed in accordance with federal Internal Revenue  
17 Service fuel dyeing provisions [;] . and

18 "Vehicle fuel supply tank" means any receptacle on a motor  
19 vehicle from which fuel is supplied to propel the motor vehicle.  
20 (cf: P.L.2010, c.22, s.2)

21  
22 2. Section 3 of P.L.2010, c.22 (C.54:39-103) is amended to  
23 read as follows:

24 3. a. A tax is imposed on fuel used or consumed in this State  
25 as follows:

26 (1) Motor fuel:

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

28 gasoline and

29 blended fuel that contains gasoline or that is intended for use  
30 as gasoline;

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

32 diesel fuel,

33 blended fuel that contains diesel fuel or that is intended for  
34 use as diesel fuel, and

35 kerosene [other than aviation grade kerosene];

36 (2) Liquefied Petroleum Gas:

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

39 (3) Aviation gasoline:

40 at the rate of 10.5 cents per gallon.

41 b. In addition to the tax, if any, imposed pursuant to subsection  
42 a. of this section a tax is imposed on aviation fuel [distributed] for  
43 distribution to a general aviation airport at the rate of 2 cents per  
44 gallon.

45 c. The taxes imposed by this section are imposed on the  
46 consumer, but shall be precollected pursuant to the terms of the



1 "Motor Fuel Tax Act," P.L.2010, c.22 (C.54:39-101 et seq.), for the  
2 facility and convenience of the consumer.  
3 (cf: P.L.2010, c.22, s.3)

4  
5 3. Section 4 of P.L.2010, c.22 (C.54:39-104) is amended to  
6 read as follows:

7 4. a. The tax imposed by section 3 of P.L.2010, c.22 (C.54:39-  
8 103) on the use of motor fuel and aviation **【gasoline】 fuel** shall be  
9 measured by invoiced gallons of fuel removed, other than by a bulk  
10 transfer:

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

12 (2) From the terminal transfer system outside this State for  
13 delivery to a location in this State as represented on the shipping  
14 papers, provided that the supplier imports the motor fuel or aviation  
15 **【gasoline】 fuel** for the account of the supplier, or the supplier has  
16 made a tax precollection election pursuant to section 18 of  
17 P.L.2010, c.22 (C.54:39-118); and

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

20 b. Except as provided in paragraph (2) of subsection a. of this  
21 section, the tax imposed by section 3 of P.L.2010, c.22 (C.54:39-  
22 103) on the use of motor fuel and aviation **【gasoline】 fuel** which is  
23 imported into this State, other than by a bulk transfer, is **【payable】**  
24 due at the time the product is imported into the State, which tax  
25 shall be paid within three business days from the date that the  
26 import verification number is assigned or within three business days  
27 from the date that the motor fuel or aviation fuel entered this State,  
28 whichever is sooner, and shall be measured by invoiced gallons  
29 received outside this State at a refinery, terminal or at a bulk plant  
30 for delivery to a destination in this State.

31 c. The tax imposed by section 3 of P.L.2010, c.22 (C.54:39-  
32 103) on blended fuel made in this State is payable by the blender at  
33 the point the blended fuel is made in this State outside of the  
34 terminal transfer system. The tax imposed by section 3 of  
35 P.L.2010, c.22 (C.54:39-103) on blended fuel imported into this  
36 State is payable by the importer of that blended fuel, provided the  
37 tax imposed by section 3 of P.L.2010, c.22 (C.54:39-103) has not  
38 already been paid to a permissive supplier through a precollection  
39 agreement. The number of gallons of blended fuel on which the tax  
40 shall be imposed shall be equal to the difference between the  
41 number of gallons of blended fuel made and the number of gallons  
42 of motor fuel that was previously taxed by section 3 of P.L.2010,  
43 c.22 (C.54:39-103) and used to make the blended fuel.

44 d. The tax imposed on aviation fuel by subsection b. of section  
45 3 of P.L.2010, c.22 (C.54:39-103) is payable by the person  
46 purchasing or acquiring the aviation fuel within this State and shall  
47 be precollected by the aviation fuel dealer or supplier making the  
48 sale. A person, whether or not licensed under P.L.2010, c.22

1 (C.54:39-101 et al.), who uses, acquires for use, sells or delivers for  
2 use in motor vehicles any aviation fuel taxable pursuant to  
3 P.L.2010, c.22 (C.54:39-101 et al.) shall be liable for the tax  
4 imposed by subsection a. of section 3 of P.L.2010, c.22 (C.54:39-  
5 103) as if the aviation fuel were gasoline or kerosene defined as  
6 motor fuel.

7 e. The tax imposed by section 3 of P.L.2010, c.22 (C.54:39-  
8 103) on liquefied petroleum gas is payable by the person purchasing  
9 or acquiring the liquefied petroleum gas within this State for use in  
10 a motor vehicle and shall be precollected by the liquefied petroleum  
11 gas dealer making the sale. A person, whether or not licensed under  
12 P.L.2010, c.22 (C.54:39-101 et al.), who uses, acquires for use, sells  
13 or delivers for use in motor vehicles any liquefied petroleum gas  
14 taxable pursuant to P.L.2010, c.22 (C.54:39-101 et al.) shall be  
15 liable for the tax imposed by subsection a. of section 3 of P.L.2010,  
16 c.22 (C.54:39-103) along with applicable penalties.

17 (cf: P.L.2010, c.22, s.4)

18  
19 4. Section 5 of P.L.2010, c.22 (C.54:39-105) is amended to  
20 read as follows:

21 5. a. A supplier, permissive supplier, importer, exporter,  
22 blender, distributor, liquefied petroleum gas dealer, or aviation fuel  
23 dealer shall keep a record of all fuel received, sold or used which  
24 shall include the name of the purchaser, the number of gallons used  
25 or sold and the date of the use or sale. A supplier, permissive  
26 supplier, importer, exporter, blender, distributor, liquefied  
27 petroleum gas dealer, or aviation fuel dealer shall also deliver with  
28 each consignment of fuel to a purchaser within this State a written  
29 statement containing the date and number of gallons delivered and  
30 the names of the purchaser and seller, and that statement shall show  
31 a separate charge for the tax imposed by section 3 of P.L.2010, c.22  
32 (C.54:39-103) on each gallon; provided however, that a statement  
33 shall not be required to be delivered by the supplier, permissive  
34 supplier, importer, exporter, blender, distributor, liquefied  
35 petroleum gas dealer, or aviation fuel dealer if a sale of fuel is made  
36 at a service station and the fuel is delivered directly into a vehicle  
37 fuel supply tank. The records and written statements shall be  
38 preserved by a supplier, permissive supplier, importer, exporter,  
39 blender, distributor, liquefied petroleum gas dealer, or aviation fuel  
40 dealer and the purchaser respectively, for a period of a minimum of  
41 four years and shall be offered for inspection at the request of the  
42 director.

43 b. A supplier, permissive supplier, importer, exporter, blender,  
44 distributor, liquefied petroleum gas dealer, or aviation fuel dealer  
45 shall take a physical inventory of fuel on hand on the first or last  
46 day of each month and shall have the record of that inventory and of  
47 all other matters enumerated in this section available at all times for  
48 inspection by the director. Upon demand by the director each

1 supplier, permissive supplier, importer, exporter, blender,  
2 distributor, liquefied petroleum gas dealer, and aviation fuel dealer  
3 shall furnish a statement under oath reflecting the contents of any  
4 records required to be kept by this section.

5 c. Each supplier, permissive supplier, importer, exporter,  
6 blender, distributor, liquefied petroleum gas dealer, or aviation fuel  
7 dealer shall, on or before the 22nd day of each month, render a  
8 report to the director, in the form and manner prescribed by the  
9 director, stating the number of gallons of fuel sold or used in this  
10 State by that person during the preceding calendar month. Upon  
11 application to the director, the period within which a report must be  
12 made may be extended up to an additional 10 days, if deemed  
13 advisable by the director. A tax at the rate imposed by section 3 of  
14 P.L.2010, c.22 (C.54:39-103) shall be paid by each supplier,  
15 permissive supplier, importer, exporter, blender, distributor,  
16 liquefied petroleum gas dealer, or aviation fuel dealer, on the  
17 number of gallons of fuel sold or used in this State by that person  
18 during the preceding calendar month and not exempted from  
19 taxation, the payment to accompany the filing of the report. The  
20 report shall contain further information as the director may  
21 prescribe or determine.

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

43 (cf: P.L.2010, c.22, s.5)

44

45 5. Section 6 of P.L.2010, c.22 (C.54:39-106) is amended to  
46 read as follows:

47 6. a. Each supplier, permissive supplier, importer, exporter,  
48 blender, distributor, liquefied petroleum gas dealer, or aviation fuel

1 dealer who sells aviation fuel for distribution to general aviation  
2 airports shall, on or before the 22nd day of each month, render a  
3 report to the director, stating the number of gallons of aviation  
4 **【gasoline】 fuel**, sold in this State by that person for distribution to  
5 general aviation airports during the preceding month. In addition to  
6 the provisions of section 4 of P.L.2010, c.22 (C.54:39-104) and  
7 except as otherwise provided in section 12 of P.L.2010, c.22  
8 (C.54:39-112), the tax of 2 cents per gallon as imposed by  
9 subsection b. of section 3 of P.L.2010, c.22 (C.54:39-103) on each  
10 gallon of aviation **【gasoline】 fuel** so reported shall be paid by each  
11 supplier, permissive supplier, importer, exporter, blender,  
12 distributor, liquefied petroleum gas dealer, or aviation fuel dealer,  
13 the payment to accompany the filing of the report.

14 b. Each supplier, permissive supplier, importer, exporter,  
15 blender, distributor, liquefied petroleum gas dealer, or aviation fuel  
16 dealer who sells **【turbine fuels】 aviation grade kerosene** for  
17 distribution to general aviation airports shall, on or before the 22nd  
18 day of each month, render a report to the director, stating the  
19 number of gallons of aviation grade kerosene sold by that person for  
20 distribution to general aviation airports during the preceding month.  
21 Except as otherwise provided by section 12 of P.L.2010, c.22  
22 (C.54:39-112), the tax of 2 cents per gallon imposed under  
23 subsection b. of section 3 of P.L.2010, c.22 (C.54:39-103) on each  
24 gallon of aviation grade kerosene so reported shall be paid by each  
25 supplier, permissive supplier, importer, exporter, blender,  
26 distributor, liquefied petroleum gas dealer, or aviation fuel dealer,  
27 the payment to accompany the filing of the report.

28 c. If a supplier, permissive supplier, importer, exporter,  
29 blender, distributor, liquefied petroleum gas dealer, or aviation fuel  
30 dealer shall fail, neglect or refuse to file the report within the time  
31 prescribed by this section, the director shall note such failure,  
32 neglect or refusal upon the director's records, and may estimate the  
33 sales, distribution and use of that supplier, permissive supplier,  
34 importer, exporter, blender, distributor, liquefied petroleum gas  
35 dealer, or aviation fuel dealer, assessing the tax thereon, and adding  
36 to that assessed tax a penalty of 20% thereof for failure, neglect or  
37 refusal to report, and that estimate shall be prima facie evidence of  
38 the true amount of tax due to the director from the supplier,  
39 permissive supplier, importer, exporter, blender, distributor,  
40 liquefied petroleum gas dealer, or aviation fuel dealer provided that  
41 if a good and sufficient cause or reason is shown for a delinquency,  
42 the director may remit or waive the payment of the whole or any  
43 part of the penalty, as allowed by the State Uniform Tax Procedure  
44 Law, R.S.54:48-1 et seq. Reports required by this section,  
45 exclusive of schedules, itemized statements and other supporting  
46 evidence annexed to those reports, shall at all reasonable times be  
47 open to the public, notwithstanding any provision of R.S.54:50-8 to  
48 the contrary.

1 d. The monthly filing provisions of this section  
2 notwithstanding, the director may require payments of tax liability  
3 at intervals and based upon those classifications as the director may  
4 prescribe by regulation. In prescribing those other periods to be  
5 covered by the return or intervals or classifications for payment of  
6 tax liability, the director may take into account the dollar volume of  
7 tax involved and the need for assuring the prompt and orderly  
8 collection of the taxes imposed.

9 e. The refund provisions of section 12 of P.L.2010, c.22  
10 (C.54:39-112) shall not apply to amounts paid pursuant to this  
11 section. However, a user of general aviation aircraft shall be  
12 allowed a refund or credit of the tax imposed by subsection a. of  
13 section 3 of P.L.2010, c.22 (C.54:39-103), provided the user  
14 complies with the provisions of section 12 of P.L.2010, c.22  
15 (C.54:39-112).

16 (cf: P.L.2010, c.22, s.6)

17  
18 6. Section 7 of P.L.2010, c.22 (C.54:39-107) is amended to  
19 read as follows:

20 7. a. (1) Transporter reports shall cover monthly periods and  
21 shall be submitted within 30 days after the close of the month  
22 covered by the reports. The transporter reports shall show all  
23 quantities of each type of motor fuel delivered at points in the State  
24 or from points inside the State to points outside of the State during  
25 the month, giving the name and address of the consignor, the name  
26 and address of the consignee, place at which delivered, the date of  
27 shipment, the date of delivery, the numbers and initials of the car if  
28 shipped by rail, the name of the boat or barge, if shipped by water,  
29 or if delivery by other means, the method of delivery and the  
30 number of gallons in each shipment.

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

34 (3) Each person engaged in the business of hauling, transporting  
35 or delivering fuel shall, before entering upon the highways or  
36 waterways of this State with any conveyance used therein, apply to  
37 the director for the registration of a fuel conveyance on forms as the  
38 director shall prescribe. Upon receipt of an application, [ the  
39 director shall issue] a license certificate and license plate shall be  
40 issued for each conveyance which shall show the license number  
41 assigned and which shall be displayed on the conveyance at all  
42 times in such a manner as the director may regulate. An annual  
43 license fee of \$50 shall be paid for the licensing of each such  
44 conveyance. Nothing in this section shall in any manner relieve or  
45 discharge persons obtaining licenses pursuant to this section from  
46 complying with provisions of other laws.

47 (4) A person coming into this State in a motor vehicle may  
48 transport in the vehicle fuel supply tank, for the propulsion thereof,

1 fuel without paying the tax, securing the license, or making any  
2 report required under P.L.2010, c.22 (C.54:39-101 et al.).

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

10 (2) The person in charge of any barge, tanker or other vessel in  
11 which fuel is being transported, or of a tank truck, truck tractor,  
12 semitrailer, trailer, or other vehicle used in transporting fuels other  
13 than fuel being transported for use in operating the engine which  
14 propels the vessel or vehicle, shall have in that person's possession  
15 an invoice, bill of sale or other evidence showing the name and  
16 address of the consignor or person from whom that fuel was  
17 received by the person in charge and the name and address of the  
18 consignee or person to whom the person in charge is to make  
19 delivery of the fuel, together with the number of gallons to be  
20 delivered to that person, and shall at the request of the director  
21 produce that invoice, bill of sale or other record evidence for  
22 inspection.

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

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

37 d.] The license [cards] certificates issued for the operation over  
38 the highways or waterways of this State of any conveyance used for  
39 the transportation or hauling of fuels may be suspended or revoked  
40 upon reasonable grounds by the director in the same manner as  
41 other licenses may be suspended or revoked by the director under  
42 the provisions of P.L.2010, c.22 (C.54:39-101 et al.).  
43 (cf: P.L.2010, c.22, s.7)

44  
45 7. Section 8 of P.L.2010, c.22 (C.54:39-108) is amended to  
46 read as follows:

47 8. a. A retail dealer, an aviation fuel dealer and a liquefied  
48 petroleum gas dealer shall, before engaging in the retail sale of fuel,

1 apply to the director for a license for each establishment operated  
2 by that person. A license fee of \$150 shall be paid for the issuance  
3 of a retail license, which shall be valid for a three-year period  
4 commencing on April 1 and expiring on March 31 of the third  
5 succeeding year, and the director shall supply a license plate or  
6 suitable substitute containing the number assigned to the licensee,  
7 and words denoting whether the license is a retail dealer's license,  
8 an aviation fuel dealer's license or a liquefied petroleum gas dealer's  
9 license, which the licensee shall publicly display at each  
10 establishment in the manner as the director shall prescribe. No  
11 applicant shall continue in business after the end of the 14th day  
12 following the date of application unless the license applied for has  
13 been procured and is publicly displayed at the establishment being  
14 operated.

15 b. A retail dealer, liquefied petroleum gas dealer and an  
16 aviation fuel dealer shall keep a daily record showing the total  
17 amount of fuels sold on each business day, daily dispensing pump  
18 totalizer readings, and monthly physical inventories, such records to  
19 be preserved for a period of a minimum of four years, and to be  
20 open for inspection by the director at all times.

21 (cf: P.L.2010, c.22, s.8)

22

23 8. Section 9 of P.L.2010, c.22 (C.54:39-109) is amended to  
24 read as follows:

25 9. a. A person shall, before engaging in the business of a  
26 terminal operator, obtain a terminal operator's license from the  
27 director, for which a license fee of \$450 shall be paid.

28 b. A terminal operator shall, on or before the **[last]** 25th day of  
29 each month, render a report to the director, in such form as the  
30 director may prescribe, stating the quantities of fuel received at the  
31 terminal in the State or sold from it during the preceding month.

32 At the discretion of the director, a terminal operator's report as  
33 submitted under the federal ExSTARS reporting system may be  
34 accepted in lieu of the terminal operator's report required under this  
35 subsection.

36 c. The director shall have the right at any time during normal  
37 business hours to inspect the books of a terminal operator to  
38 determine if the requirements of this act are being properly  
39 observed.

40 d. The director may require those returns to be filed, in the  
41 form and manner, and at the intervals, that the director may  
42 prescribe by regulation.

43 (cf: P.L.2010, c.22, s.9)

44

45 9. Section 10 of P.L.2010, c.22 (C.54:39-110) is amended to  
46 read as follows:

47 10. a. Except as otherwise provided in this act, all fuel delivered  
48 in this State in a vehicle fuel supply tank is presumed to be used or

1 consumed on the highways in this State in producing or generating  
2 power for propelling motor vehicles.

3 b. Subject to proof of exemption pursuant to section **[13]** 12 of  
4 P.L.2010, c.22 (**[C.54:39-113]** C.54:39-112), all motor fuel is  
5 presumed to be used or consumed on the highways of this State to  
6 propel motor vehicles if the fuel is:

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

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

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

12 (cf: P.L.2010, c.22, s.10)

13  
14 10. Section 11 of P.L.2010, c.22 (C.54:39-111) is amended to  
15 read as follows:

16 11. a. An excise tax at the applicable rate determined pursuant  
17 to section 3 of P.L.2010, c.22 (C.54:39-103) is imposed for a  
18 calendar year on unaccounted-for **[fuel]** losses at a terminal that  
19 exceed one-half of one percent of the total number of net gallons  
20 removed from the terminal during the calendar year by a system  
21 transfer or at a rack. To determine liability for the excise tax, the  
22 terminal operator shall determine the terminal loss as the difference  
23 between:

24 (1) the total amount of all **[fuel in]** inventory at the applicable  
25 terminal at the beginning of the year plus the total amount of all  
26 fuel received at the terminal during the year; and

27 (2) the total amount of all **[fuel in]** inventory at the terminal at  
28 the end of the year plus the total amount **[of all fuel]** removed from  
29 the terminal during the year.

30 b. The terminal operator whose fuel is unaccounted for is liable  
31 for the tax imposed by this section. Fuel received by a terminal  
32 operator and not shown on a report as having been removed from  
33 the terminal is presumed to be unaccounted for if not part of the  
34 physical inventory of the terminal. A terminal operator may  
35 provide documentation to substantiate otherwise unaccountable  
36 losses and at the discretion of the director may be relieved of all or  
37 a portion of the tax liability.

38 c. The tax at the applicable rate determined pursuant to section  
39 3 of P.L.2010, c.22 (C.54:39-103) shall be reported, and the tax  
40 shall be due and payable, on or before the 22nd day of the second  
41 month following the end of the year.

42 (cf: P.L.2010, c.22, s.11)

43  
44 11. Section 12 of P.L.2010, c.22 (C.54:39-112) is amended to  
45 read as follows:

46 12. a. Fuel used for the following purposes is exempt from the  
47 tax imposed by the "Motor Fuels Tax Act," P.L.2010, c.22



1 (C.54:39-101 et seq.), and a refund of the tax imposed by  
2 subsection a. of section 3 of P.L.2010, c.22 (C.54:39-103) may be  
3 claimed by the consumer providing proof the tax has been paid and  
4 no refund has been previously issued:

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

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

27 (3) farm machinery,

28 (4) aircraft,

29 (5) ambulances,

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

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

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

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

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

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

43 (12) cleaning,

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

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

48 (15) heating and lighting devices,

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

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

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

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

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

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

19 (b) removed from a terminal by a licensed **[exporter]** distributor  
20 for immediate export as evidenced by the terminal issued shipping  
21 papers; or

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

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

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

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

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

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

11 (5) liquefied petroleum gas except when **[sold by a liquefied**  
12 **petroleum gas dealer to someone who is not licensed as a liquefied**  
13 **petroleum gas dealer]** delivered to the tank of a highway vehicle;

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

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

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

32 (9) Fuel grade alcohol or biodiesel when sold to a licensed  
33 supplier and delivered to a qualified terminal.

34 (cf: P.L.2010, c.22, s.12)

35  
36 12. Section 13 of P.L.2010, c.22 (C.54:39-113) is amended to  
37 read as follows:

38 13. The exemption under section 12 of P.L.2010, c.22 (C.54:39-  
39 112) for sales of fuel sold for use by the United States or any  
40 agency or instrumentality thereof and fuel sold for use by the  
41 Government of this State, or of any political subdivision of this  
42 State or to any department or agency of any of those governments  
43 for official use of those governments in motor vehicles, motor  
44 boats, or other implements owned or leased by this State or any  
45 political subdivision or agency thereof, or to fuels sold at retail to  
46 diplomatic missions and diplomatic personnel under a program  
47 administered by the director and predicated upon the United States

1 Department of State, Office of Foreign Missions (or its successor  
2 office), national tax exemption program shall be claimed as follows:

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

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

7 (2) The quantity of each type of fuel, or if the certificate is for  
8 all the fuel purchased by the purchasing entity, the certificate shall  
9 be for a period as the director may by regulation prescribe, but not  
10 to exceed four years;

11 (3) The exempt use of the fuel;

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

14 (5) The federal employer identification number of the  
15 purchasing entity; and

16 (6) A statement that the purchasing entity understands that the  
17 fraudulent use of the certificate to obtain fuel without paying the tax  
18 levied pursuant to P.L.2010, c.22 (C.54:39-101 et al.) shall result in  
19 the purchaser paying the tax, with penalties and interest, as well as  
20 such other penalties provided by P.L.2010, c.22 (C.54:39-101 et  
21 al.);

22 b. The seller, having obtained from the purchasing entity the  
23 certificate, which the seller shall retain for a period of not less than  
24 four years, shall be eligible for a deduction or to claim a refund of  
25 any taxes paid pursuant to P.L.2010, c.22 (C.54:39-101 et al.); and

26 c. If the sale of fuel to the purchasing entity occurs at a fixed  
27 retail pump available to the general public, the seller, having made  
28 the sale to the purchasing entity without the tax, may apply for a  
29 refund from the director by submitting the application and  
30 supporting documentation as the director shall reasonably prescribe.  
31 However, if the purchase is charged to a fleet or government fueling  
32 credit card, or to an oil company credit card issued to the  
33 purchasing entity, the party extending the credit shall be deemed the  
34 seller and may bill the purchasing entity without the tax and seek a  
35 refund, or use the provisions of this section.

36 (cf: P.L.2010, c.22, s.13)

37

38 13. Section 14 of P.L.2010, c.22 (C.54:39-114) is amended to  
39 read as follows:

40 14. a. To claim a refund in accordance with section 12 of  
41 P.L.2010, c.22 (C.54:39-112), a person shall present to the director  
42 a statement containing a written verification that the claim is made  
43 under penalties of perjury and listing the total amount of fuel  
44 purchased and used for exempt purposes. A claim shall not be  
45 transferred or assigned and shall be filed not more than four years  
46 after the date the fuel was imported, removed or sold if the claimant  
47 is a supplier, importer, exporter or distributor. If the claim is filed  
48 by the consumer, the consumer shall file the claim within six

1 months of the date of purchase. The claim statement shall be  
2 supported by the original sales slip, invoice or other documentation  
3 as approved by the director and shall include the following  
4 information:

- 5 (1) Date of sale;
- 6 (2) Name and address of purchaser;
- 7 (3) Name and address of seller;
- 8 (4) Number of gallons purchased and base price per gallon;
- 9 (5) Number of gallons purchased and charged New Jersey fuel  
10 tax, as a separate item; and
- 11 (6) Number of gallons purchased and charged sales tax, if  
12 applicable, as a separate item[; and
- 13 (7) Marked "paid" by the seller].

14 b. If the original sales slip or invoice is lost or destroyed, a  
15 statement to that effect shall accompany the claim for refund, and  
16 the claim statement shall also set forth the serial number of the  
17 invoice. If the director finds the claim is otherwise regular, the  
18 director may allow such claim for refund.

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

23 d. In the case of a refund payable to a supplier pursuant to  
24 section 12 of P.L.2010, c.22 (C.54:39-112), the supplier may claim  
25 a credit in lieu of the refund for a period not to exceed four years  
26 from the date the fuel was imported, removed or sold.

27 e. To establish the validity of claims filed, the claimant shall  
28 maintain and preserve for a period of at least four years such fuel  
29 consumption records as may be prescribed by the director. The  
30 director may require a claimant to furnish such additional proof of  
31 the validity of a claim as the director may determine, and may  
32 examine the books and records of the claimant for such purpose.  
33 Failure of the claimant to maintain and preserve such records,  
34 furnish such additional proof or to accede to the demand for such  
35 examination by the director shall constitute a waiver of all rights to  
36 the claim or claims questioned and such subsequent claims as the  
37 director may determine.

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

42 g. Fuel tax that has otherwise been erroneously paid by a  
43 person shall be refunded by the director upon proof shown  
44 satisfactory to the director.

45 h. A refund granted pursuant to section 12 of P.L.2010, c.22  
46 (C.54:39-112) to a person for fuel used in aircraft, shall be paid  
47 from the moneys deposited in the Airport Safety Fund established

1 by section 4 of P.L.1983, c.264 (C.6:1-92). Those refunds shall be  
2 granted on an annual basis.

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

7 j. If the State or any political subdivision of the State  
8 heretofore shall have been reimbursed and repaid for the tax paid on  
9 fuel used for operating or propelling motor vehicles, motor boats or  
10 other implements, whether owned or leased by the State or any  
11 political subdivision of the State, the State or that political  
12 subdivision shall be entitled to retain such reimbursement and  
13 repayment, and further claim therefor shall not be required.

14 k. If fuel is sold to a person who claims to be allowed a refund  
15 of the tax imposed by the "Motor Fuel Tax Act," P.L.2010, c.22  
16 (C.54:39-101 et seq.) the seller of that fuel shall furnish the  
17 purchaser with an invoice, or invoices, in conformity with the  
18 requirements of this section.

19 (cf: P.L.2010, c.22, s.14)

20

21 14. Section 16 of P.L.2010, c.22 (C.54:39-116) is amended to  
22 read as follows:

23 16. Except as otherwise provided by the "Motor Fuel Tax Act,"  
24 P.L.2010, c.22 (C.54:39-101 et seq.), the tax imposed by section 3  
25 of P.L.2010, c.22 (C.54:39-103) on fuel imported from another state  
26 shall be precollected on behalf of the consumers and remitted to the  
27 director by the:

28 a. Importer who has imported the nonexempt fuel. The  
29 precollection shall be made and remitted when the tax return is due.  
30 If the importer was not subject to a precollection agreement with  
31 the supplier or permissive supplier, the precollection shall be  
32 remitted in the manner specified by the director; or

33 b. Importer who has imported the nonexempt fuel which is  
34 subject to a precollection agreement with the supplier or permissive  
35 supplier. If the importer is a licensed distributor, the precollection  
36 shall be made and remitted to the supplier or permissive supplier no  
37 later than two business days prior to the date on which the tax is  
38 required to be remitted by the supplier or permissive supplier  
39 pursuant to section 19 of P.L.2010, c.22 (C.54:39-119). The  
40 importer shall remit the tax to the supplier or permissive supplier,  
41 acting as trustee who shall remit to the director on behalf of the  
42 distributor under the same terms as a supplier payment pursuant to  
43 section 19 of P.L.2010, c.22 (C.54:39-119); or

44 c. **【Unlicensed importer】** Importer at the time the fuel is  
45 entered into this State. However, if the supplier of the fuel, as  
46 shown on the records of the terminal operator, has made a blanket  
47 election to precollect tax in accordance with section 18 of P.L.2010,  
48 c.22 (C.54:39-118), then the importer shall remit the tax to the

1 supplier, acting as trustee, who shall remit to the director on behalf  
2 of the importer under the same terms as a supplier payment  
3 pursuant to section 19 of P.L.2010, c.22 (C.54:39-119), and no  
4 import verification number shall be required.  
5 (cf: P.L.2010, c.22, s.16)

6  
7 15. Section 19 of P.L.2010, c.22 (C.54:39-119) is amended to  
8 read as follows:

9 19. a. The tax imposed by section 3 of P.L.2010, c.22 (C.54:39-  
10 103), measured by fuel removed from a terminal or refinery in this  
11 State, other than a terminal bulk transfer, shall be precollected and  
12 remitted on behalf of the consumers to the State by the  
13 **【transporter】** person removing the fuel from the facility through the  
14 supplier or permissive supplier of the fuel, as shown in the records  
15 of the terminal operator, acting as a trustee.

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

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

24 d. A supplier or permissive supplier shall remit any late taxes  
25 remitted to the supplier or permissive supplier by a licensed  
26 distributor and shall notify the director within the twenty business  
27 day limit provided by section 24 of P.L.2010, c.22 (C.54:39-124) of  
28 any late remittances if that supplier or permissive supplier has  
29 previously given notice to the director that the tax amount was not  
30 received pursuant to section 24 of P.L.2010, c.22 (C.54:39-124).

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

33 (cf: P.L.2010, c.22, s.19)

34  
35 16. Section 21 of P.L.2010, c.22 (C.54:39-121) is amended to  
36 read as follows:

37 21. A licensed distributor who removes fuel from a terminal or  
38 refinery **【operated by a supplier or permissive supplier and】** who  
39 remits the tax through the supplier or permissive supplier, acting as  
40 a trustee, may make an election as to the timing of the remittance.  
41 At the election of a licensed distributor, which notice shall be  
42 evidenced by a written statement from the director as to the  
43 purchaser's eligibility status as determined pursuant to section 22 of  
44 P.L.2010, c.22 (C.54:39-122), the supplier or permissive supplier  
45 shall not require a payment of motor fuel tax on fuel transportation  
46 vehicle loads from the licensed distributor sooner than two business  
47 days prior to the date on which the tax is required to be remitted by  
48 the supplier pursuant to section 19 of P.L.2010, c.22 (C.54:39-119).

1 This election shall be subject to a condition that the remittances by  
2 the licensed distributor of tax due the supplier or permissive  
3 supplier shall be paid by electronic funds transfer.  
4 (cf: P.L.2010, c.22, s.21)  
5

6 17. Section 22 of P.L.2010, c.22 (C.54:39-122) is amended to  
7 read as follows:

8 22. a. A purchaser desiring to make an election under section 21  
9 of P.L.2010, c.22 (C.54:39-121) shall present evidence to the  
10 director that:

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

14 (2) The applicant meets the financial responsibility and bonding  
15 requirements imposed by P.L.2010, c.22 (C.54:39-101 et al.), which  
16 bond shall conform to the specific requirements of this section.

17 b. The director shall require a purchaser who pays the tax to a  
18 supplier to file with the director a surety bond payable to the State,  
19 upon which the purchaser is the obligor, or other financial security,  
20 in an amount satisfactory to the director, calculated based on three  
21 times the potential monthly tax payments for gasoline and diesel  
22 fuel separately. The director shall require that the bond indemnify  
23 the director against the tax credits claimed by the suppliers pursuant  
24 to section 23 of P.L.2010, c.22 (C.54:39-123).

25 c. A purchaser desiring to make an election in accordance with  
26 section 21 of P.L.2010, c.22 (C.54:39-121) shall not be subject to  
27 the provisions of subsection b. of this section if the purchaser holds  
28 a valid distributor's license and meets the bonding requirements  
29 according to the law on the day prior to **【October 1, 2010】** January  
30 1, 2011. On and after **【October 1, 2010】** January 1, 2011 each  
31 purchaser holding a valid distributor's license issued prior to  
32 **【October 1, 2010】** January 1, 2011, may elect to become an eligible  
33 purchaser. An eligible purchaser shall have the option to provide  
34 bonding as provided for distributors in section 34 of P.L.2010, c.22  
35 (C.54:39-134).

36 d. The director may **【rescind】** revoke a purchaser's eligibility  
37 and election to defer fuel tax remittances for the purchaser's failure  
38 to make timely tax-deferred payment of tax to a supplier pursuant to  
39 section 21 of P.L.2010, c.22 (C.54:39-121), after five days' notice  
40 of and hearing on such proposed revocation or suspension  
41 conducted pursuant to the "Administrative Procedure Act,"  
42 P.L.1968, c.410 (C.52:14B-1 et seq.). The revocation shall be  
43 implemented by sending written notice to all suppliers and  
44 publishing notice of the revocation on the website of the Division of  
45 Taxation in the Department of the Treasury. As a condition of  
46 restoring a purchaser's eligibility, the director may require further  
47 assurance of the financial responsibility of the purchaser, including  
48 an increase in the amount of the bond or any other action that the



1 director may reasonably require to ensure remittance of the tax  
2 imposed by P.L.2010, c.22 (C.54:39-101 et al.).

3 **【The refusal】** An applicant may request a hearing on the denial  
4 of an application **【or the cancellation of eligibility shall be an action**  
5 of the director subject to review pursuant to R.S.54:51A-14;  
6 provided however that, notwithstanding any other provision of law  
7 to the contrary, appeal shall not act as a stay**】** pursuant to the  
8 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
9 seq.).

10 e. The director shall publish a list of licensed distributors and  
11 make it available to all suppliers on at least a quarterly basis. The  
12 director may, at the director's discretion, provide more timely  
13 publication via the website of the Division of Taxation in the  
14 Department of the Treasury.  
15 (cf: P.L.2010, c.22, s.22.)

16  
17 18. Section 23 of P.L.2010, c.22 (C.54:39-123) is amended to  
18 read as follows:

19 23. A supplier has a fiduciary duty to remit to the director the  
20 amount of tax imposed by P.L.2010, c.22 (C.54:39-101 et al.) paid  
21 to the supplier, in its role as a trustee, by any purchaser, importer,  
22 exporter or licensed distributor. In computing the amount of tax  
23 due, the supplier shall be allowed a credit against the tax payable in  
24 the amount of tax paid by the supplier that was accrued and  
25 remitted to a state, but not received from a licensed distributor. The  
26 director may recover any unpaid tax directly from the purchaser,  
27 importer, exporter or licensed distributor.  
28 (cf: P.L.2010, c.22, s.23)

29  
30 19. Section 28 of P.L.2010, c.22 (C.54:39-128) is amended to  
31 read as follows:

32 28. a. An applicant for a supplier's, distributor's or terminal  
33 operator's license issued pursuant to P.L.2010, c.22 (C.54:39-101 et  
34 al.) shall apply in the form and manner as the director shall  
35 prescribe by regulation. The application shall be subscribed to by  
36 the applicant and shall provide such information as the director may  
37 require, including the applicant's federal identification number.

38 b. A license issued pursuant to P.L.2010, c.22 (C.54:39-101 et  
39 al.) shall be issued for a three-year period, or the unexpired portion  
40 thereof, commencing on April 1 and ending on the third succeeding  
41 March 31 and shall be void thereafter, and that license may be  
42 suspended, revoked or cancelled by the director. A license fee of  
43 \$450 shall be paid for the issuance of that license.

44 c. The director shall investigate each applicant for a license  
45 issued pursuant to P.L.2010, c.22 (C.54:39-101 et al.). A license  
46 shall not be issued if the director determines that any one of the  
47 following conditions exists:

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

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

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

4 (4) The applicant managed, operated, owned or controlled,  
5 directly or indirectly, a business which held a license issued  
6 pursuant to P.L.2010, c.22 (C.54:39-101 et al.) which business is  
7 indebted to this State for any tax, penalties or interest accruing  
8 hereunder;

9 (5) The applicant is managed, operated or controlled, directly or  
10 indirectly, by a person who held a license issued pursuant to  
11 P.L.2010, c.22 (C.54:39-101 et al.) who is indebted to this State for  
12 any tax, penalties, or interest accruing hereunder;

13 (6) The applicant is managed, operated, owned, or controlled,  
14 directly or indirectly, by a person who managed, operated, owned or  
15 controlled, directly or indirectly, a business that held a license  
16 issued pursuant to P.L.2010, c.22 (C.54:39-101 et al.) and which is  
17 indebted to this State for any tax, penalties, or interest accruing  
18 hereunder;

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

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

23 d. A person shall not be entitled to hold a license if it shall  
24 appear to the director that an officer, director or employee of that  
25 person has been convicted of violating any of the provisions of  
26 P.L.2010, c.22 (C.54:39-101 et al.) or of R.S.54:39-1 et seq. or if a  
27 license issued pursuant to the provisions of P.L.2010, c.22  
28 (C.54:39-101 et al.) or of R.S.54:39-1 et seq. and held by an officer,  
29 director or employee of that person has been revoked by the director  
30 for cause.

31 e. Applicants, including corporate officers, partners, members  
32 and individuals, for a license issued by the director may be required  
33 to submit their fingerprints to the director at the time of application.  
34 Officers of a "publicly traded corporation," as that term is defined  
35 by section 39 of P.L.1977, c.110 (C.5:12-39), and its subsidiaries  
36 shall be exempt from this fingerprinting requirement. Persons,  
37 other than applicants for a distributor's license, who possessed  
38 licenses issued pursuant to R.S.54:39-1 et seq. continuously for  
39 three years prior to **【October 1, 2010】** January 1, 2011, shall also  
40 be exempt from this provision. Fingerprints required by this section  
41 shall be submitted on forms prescribed by the director. The director  
42 may forward to the Federal Bureau of Investigation or any other  
43 agency for processing all fingerprints submitted by license  
44 applicants. The receiving agency shall issue its findings to the  
45 director. The director or another State agency may maintain a file  
46 of fingerprints.

47 (cf: P.L.2010, c.22, s.28)

1       20. Section 33 of P.L.2010, c.22 (C.54:39-133) is amended to  
2 read as follows:

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

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

14       c. A person desiring to import fuel to a destination in this State  
15 from another state, and who has not entered into an agreement to  
16 remit the tax imposed by section 3 of P.L.2010, c.22 (C.54:39-103)  
17 to the supplier or permissive supplier as trustee with respect to the  
18 imports shall do the following:

19       (1) apply for and obtain a distributor's license; and

20       (2) comply with the payment requirements of section **[12]** 16 of  
21 P.L.2010, c.22 (C.**[54:39-112]** 54:39-116).

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

24       e. A distributor's license is a prerequisite to making the  
25 election permitted in section 21 of P.L.2010, c.22 (C.54:39-121).  
26 (cf: P.L.2010, c.22, s.33)  
27

28       21. Section 35 of P.L.2010, c.22 (C.54:39-135) is amended to  
29 read as follows:

30       35. a. If the license applicant and bond are approved, the  
31 director shall issue a license for the applicant's principal place of  
32 business and the applicant shall make copies for each other business  
33 location.

34       b. A license is valid until suspended, revoked for cause,  
35 cancelled or the license expires.

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

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

1 e. A person licensed under P.L.2010, c.22 (C.54:39-101 et al.)  
2 shall display the person's conveyance number on the back of any  
3 conveyance of fuel.

4 f. Upon the discontinuance, sale, transfer or change of  
5 ownership of the business, the license shall be immediately  
6 surrendered to the director. Any relocation of the business shall be  
7 immediately reported to the director.

8 g. If a person licensed to do business pursuant to P.L.2010,  
9 c.22 (C.54:39-101 et al.) discontinues, sells, or transfers the  
10 business, the licensee shall immediately notify the director in  
11 writing of the discontinuance, sale, or transfer. The notice shall  
12 give the date of discontinuance, sale, or transfer and if the business  
13 is sold or transferred, the name and address of the purchaser or  
14 transferee. The licensee shall be liable for all taxes, interest, and  
15 penalties that accrue or may be owing and any criminal liability for  
16 misuse of the license that occurs prior to cancellation of the license.

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

19 i. A licensee shall maintain and keep for a **[period] minimum**  
20 of four years records of all transactions by which fuel is received,  
21 used, sold, delivered, or otherwise disposed of, together with  
22 invoices, bills of lading, and other pertinent records and papers as  
23 may be required by the director for reasonable administration of  
24 P.L.2010, c.22 (C.54:39-101 et al.).  
25 (cf: P.L.2010, c.22, s.35)  
26

27 22. Section 39 of P.L.2010, c.22 (C.54:39-139) is amended to  
28 read as follows:

29 39. a. A person transporting fuel in a fuel transportation vehicle  
30 upon the public highways of this State shall:

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

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

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

44 (4) Meet such other conditions as the director may require for  
45 the enforcement of P.L.2010, c.22 (C.54:39-101 et al.).

46 b. A person transporting fuel in fuel transportation vehicles  
47 upon the public highways of this State shall provide the original or  
48 a copy of the terminal-issued shipping document accompanying the

1 shipment to the operator of the retail outlet, bulk plant or bulk end  
2 user bulk storage facility to which delivery of the shipment was  
3 made. However, a delivery ticket created by the person  
4 transporting the fuel may be provided in lieu of the terminal-issued  
5 shipping paper for deliveries into bulk end user bulk storage.

6 c. The operator of a fuel retail outlet, bulk plant or bulk end  
7 user bulk storage facility shall receive, examine, and retain for a  
8 period of 30 days at the delivery location the terminal-issued  
9 shipping document received from the transporter for every shipment  
10 of fuel that is delivered to that location with record retention of the  
11 shipping paper ~~of three~~ for a minimum of four years required off-  
12 site. If the delivery location is an unattended location, the operator  
13 may retain the shipping documents at the normal billing address of  
14 the operator.

15 d. A retail dealer, liquefied petroleum gas dealer, aviation fuel  
16 dealer, bulk plant operator, wholesale distributor or bulk end user  
17 shall not knowingly accept delivery of fuel into bulk storage  
18 facilities in this State if that delivery is not accompanied by a  
19 shipping paper issued by the terminal operator, or bulk plant  
20 operator as provided by regulations, that sets out on its face this  
21 State as the state of destination of the fuel.

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

25 f. A person owning or operating a motor vehicle in violation of  
26 this section and sections 42 and 43 of P.L.2010, c.22 (C.54:39-142  
27 and C.54:39-143) is guilty of a crime of the fourth degree for the  
28 first offense. For the second and each subsequent offense, a violator  
29 is guilty of a crime of the third degree.

30 g. The director shall impose a civil penalty of \$500 on a person  
31 transporting fuel for the first occurrence of transporting fuel without  
32 adequate shipping papers annotated as required under this section  
33 and sections 42 and 43 of P.L.2010, c.22 (C.54:39-142 and C.54:39-  
34 143). Each of that person's subsequent occurrences described in  
35 this subsection is subject to a civil penalty of up to \$5,000.

36 (cf: P.L.2010, c.22, s.39)

37  
38 23. Section 41 of P.L.2010, c.22 (C.54:39-141) is amended to  
39 read as follows:

40 41. a. A person shall not sell, use, deliver, or store in this State,  
41 or import for sale, use, delivery or storage in this State, fuel as to  
42 which the tax imposed by section 3 of P.L.2010, c.22 (C.54:39-103)  
43 has not been previously paid to or accrued by either a licensed  
44 supplier, or permissive supplier, at the time of removal from a  
45 terminal, or a licensed distributor provided all the conditions of  
46 section 43 of P.L.2010, c.22 (C.54:39-143) applicable to lawful  
47 import by the distributor shall have been met.

1       b. The provisions of subsection a. of this section shall not  
2 apply to:

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

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

8       (3) Dyed fuel, dyed in accordance with P.L.2010, c.22 (C.54:39-  
9 101 et al.);

10       (4) Fuel in the process of exportation by a supplier or a  
11 distributor in accordance with the shipping papers required by  
12 section 39 of P.L.2010, c.22 (C.54:39-139) and with a statement  
13 meeting the requirements of section 42 of P.L.2010, c.22 (C.54:39-  
14 142) shown on the shipping papers;

15       (5) Kerosene used in aircraft subject to the conditions and  
16 exceptions in subsection a. of section 12 of P.L.2010, c.22  
17 (C.54:39-112);

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

20       (7) Government and other exempt fuel under paragraphs (3) and  
21 (4) of subsection b. of section 12 of P.L.2010, c.22 (C.54:39-112);  
22 or

23       (8) A distributor who has met the conditions of section ~~[43]~~ 21  
24 of P.L.2010, c.22 (C.~~[54:39-143]~~ 54:39-121).  
25 (cf: P.L.2010, c.22, s.41)  
26

27       24. Section 42 of P.L.2010, c.22 (C.54:39-142) is amended to  
28 read as follows:

29       42. a. Except as provided in subsection c. of this section, a  
30 person shall not operate a fuel transportation vehicle that is engaged  
31 in the shipment of fuel on the public highways of this State without  
32 having on board a terminal-issued shipping paper bearing, in  
33 addition to the requirements of subsection a. of section 38 of  
34 P.L.2010, c.22 (C.54:39-138), a notation indicating that, with  
35 respect to diesel fuel acquired under claim of exempt use, a  
36 statement indicating the fuel is "DYED DIESEL FUEL,  
37 NONTAXABLE USE ONLY, PENALTY FOR TAXABLE USE"  
38 for the load or the appropriate portion of the load. With respect to  
39 kerosene acquired under claim of exempt use, a statement shall  
40 indicate the fuel is "DYED KEROSENE, NONTAXABLE USE  
41 ONLY, PENALTY FOR TAXABLE USE" for the load or the  
42 appropriate portion of the load.

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

46       c. (1) The director may in the director's discretion provide an  
47 advance notification procedure with respect to documentation for

1 imported fuel as to which the importer is unable to obtain terminal-  
2 issued shipping papers which comply with this section.

3 (2) Compliance with relevant federal standards shall satisfy the  
4 requirements of subsection a. of this section.

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

7 e. The director, the Office of Weights and Measures of the  
8 Division of Consumer Affairs in the Department of Law and Public  
9 Safety, and the Superintendent of State Police **[,]** and **[its officers]**  
10 the members of the State Police shall have full authority in  
11 enforcing the provisions of this section.

12 (cf: P.L.2010, c.22, s.42)

13  
14 25. Section 43 of P.L.2010, c.22 (C.54:39-143) is amended to  
15 read as follows:

16 43. a. If a distributor acquires fuel destined for this State which  
17 has neither been dyed in accordance with the Internal Revenue  
18 Code and the regulations issued thereunder, nor tax paid to or  
19 accrued by the supplier at the time of removal from the out-of-State  
20 terminal, a licensed distributor and transporter operating on behalf  
21 of the **[licensed]** importer shall meet all of the following conditions  
22 prior to entering fuel onto the highways of this State by loaded fuel  
23 transportation vehicle:

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

27 (2) The terminal-issued shipping paper data otherwise required  
28 by P.L.2010, c.22 (C.54:39-101 et al.), shall be present; and

29 (3) All tax imposed by P.L.2010, c.22 (C.54:39-101 et al.) with  
30 respect to previously requested import verification number activity  
31 on the account of the distributor or the transporter shall **[have**  
32 **been]** be timely precollected or remitted.

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

38 c. The director, the Office of Weights and Measures of the  
39 Division of Consumer Affairs in the Department of Law and Public  
40 Safety, and the Superintendent of State Police and the members of  
41 the State Police shall have full authority in enforcing the provisions  
42 of this section.

43 (cf: P.L.2010, c.22, s.43)

44  
45 26. Section 44 of P.L.2010, c.22 (C.54:39-144) is amended to  
46 read as follows:

47 44. a. A person shall not operate or maintain a motor vehicle on  
48 any public highway in this State with dyed fuel contained in the

1 vehicle fuel supply tank except for uses of dyed fuel on the highway  
2 which are lawful under the federal Internal Revenue Code and the  
3 regulations thereunder unless otherwise prohibited by P.L.2010,  
4 c.22 (C.54:39-101 et al.).

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

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

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

14 e. A person who knowingly violates or knowingly aids and  
15 abets another to violate the provisions of this section with the intent  
16 to evade the tax imposed by P.L.2010, c.22 (C.54:39-101 et al.) is  
17 guilty of a crime of the fourth degree.

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

24 g. A person or business entity, and each officer, employee, or  
25 agent of the entity who willfully participates in any act in violation  
26 of this section shall be jointly and severally liable with the entity for  
27 the tax and penalty, which shall be the same as that imposed  
28 pursuant to section 6715 of the federal Internal Revenue Code of  
29 1986 (26 U.S.C. s.6715).

30 h. The director, the Office of Weights and Measures of the  
31 Division of Consumer Affairs in the Department of Law and Public  
32 Safety, and the Superintendent of State Police and the members of  
33 the State Police shall have full authority in enforcing the provisions  
34 of this section.

35 (cf: P.L.2010, c.22, s.44)

36  
37 27. Section 50 of P.L.2010, c.22 is amended to read as follows:

38 50. a. There is levied a tax on fuel held in storage as of the  
39 close of the business day preceding **【October 1, 2010】** January 1,  
40 2011. For the purpose of this section, "close of the business day"  
41 means the time at which the last transaction has occurred for that  
42 day. The tax on fuel shall be the tax rate specified by subsection a.  
43 of section 3 of P.L. , c. (C. )(pending before the Legislature as  
44 this bill) for the type of fuel, multiplied by the gallons in storage of  
45 that type of fuel as of the close of business day preceding **【October**  
46 **1, 2010】** January 1, 2011.



1       b. Persons in possession of fuel in storage as of the close of the  
2 business day immediately preceding **【October 1, 2010】** January 1,  
3 2011 shall:

4       (1) take an inventory at the close of the business day  
5 immediately preceding **【October 1, 2010】** January 1, 2011;

6       (2) report the gallons listed in paragraph (1) of this subsection  
7 on forms provided by the director, not later than **【October 1, 2010】**  
8 January 1, 2011; and

9       (3) Remit the tax levied under this section no later than **【April**  
10 **1, 2011】** July 1, 2011.

11       c. If tax due pursuant to subsection b. of this section is paid to  
12 the director on or before **【October 31, 2010】** January 31, 2011, the  
13 person remitting the tax may deduct from that person's tax liability  
14 10% of the tax liability otherwise due.

15       d. In determining the amount of tax due under this section, a  
16 person may exclude the amount of fuel in dead storage in each  
17 storage tank. For the purposes of this section, "dead storage" means  
18 the amount of fuel that cannot be pumped out of a fuel storage tank  
19 because the motor fuel is below the mouth of the draw pipe. The  
20 amount of motor fuel in dead storage is 200 gallons for a tank with  
21 a capacity of less than 10,000 gallons and 400 gallons for a tank  
22 with a capacity of 10,000 gallons or more.

23 (cf: P.L.2010, c.22, s.50)

24

25       28. Section 51 of P.L.2010, c.22 is amended to read as follows:

26       51. a. A person who is licensed as a distributor pursuant to  
27 R.S.54:39-17 prior to **【October 1, 2010】** January 1, 2011 shall be  
28 deemed a supplier licensed pursuant to the "Motor Fuel Tax Act,"  
29 P.L.2010, c.22 (C.54:39-101 et seq.) as of **【October 1, 2010】**  
30 January 1, 2011 and subject to P.L.2010, c.22 (C.54:39-101 et al.)  
31 regarding licensed suppliers unless the person licensed as a  
32 distributor pursuant to R.S.54:39-17 provides notice prior to  
33 **【October 1, 2010】** January 1, 2011 that the person does not desire the  
34 status of licensee as a supplier pursuant to P.L.2010, c.22 (C.54:39-  
35 101 et al.). A person who is licensed as a distributor pursuant to  
36 R.S.54:39-17 prior to **【October 1, 2010】** January 1, 2011 who  
37 declines licensure pursuant to the "Motor Fuel Tax Act," P.L.2010,  
38 c.22 (C.54:39-101 et seq.) shall be deemed to have terminated its  
39 license as of the end of **【September 30, 2010】** December 31, 2010,  
40 shall cease in-State activities covered by P.L.2010, c.22 (C.54:39-101  
41 et al.), and shall be subject to final report requirements of section 27  
42 of P.L.2010, c.22 (C.54:39-127). If no notice is received by the  
43 director prior to **【October 1, 2010】** January 1, 2011 declining  
44 licensure, then that shall be deemed acceptance of the new license and  
45 responsibilities pursuant to the "Motor Fuel Tax Act," P.L.2010, c.22  
46 (C.54:39-101 et seq.), and the person may continue in operation  
47 except as provided by subsection f. of this section.

1 Notice may be given to a person who is licensed as a distributor  
2 pursuant to R.S.54:39-17 prior to **【October 1, 2010】** January 1,  
3 2011 that the person will not be granted a license pursuant to the  
4 “Motor Fuel Tax Act,” P.L.2010, c.22 (C.54:39-101 et seq.). A  
5 person given that notice shall cease activities covered by the license on  
6 or before **【October 1, 2010】** January 1, 2011, shall be deemed to  
7 have terminated its license as of the end of **【September 30, 2010】**  
8 December 31, 2010, and shall be subject to final report  
9 requirements of section 27 of P.L.2010, c.22 (C.54:39-127).

10 b. A person who is licensed as a retail dealer pursuant to  
11 R.S.54:39-30 prior to **【October 1, 2010】** January 1, 2011 shall be  
12 deemed a retail dealer licensed pursuant to the “Motor Fuel Tax  
13 Act,” P.L.2010, c.22 (C.54:39-101 et seq.) as of **【October 1, 2010】**  
14 January 1, 2011 and subject to P.L.2010, c.22 (C.54:39-101 et al.)  
15 regarding retail dealers unless the person licensed as a retail dealer  
16 pursuant to R.S.54:39-30 provides notice prior to **【October 1, 2010】**  
17 January 1, 2011 that the person does not desire the status of licensee  
18 as a retail dealer pursuant to P.L.2010, c.22 (C.54:39-101 et al.). A  
19 person who is licensed as a retail dealer pursuant to R.S.54:39-30  
20 prior to **【October 1, 2010】** January 1, 2011 who declines licensure  
21 pursuant to the “Motor Fuel Tax Act,” P.L.2010, c.22 (C.54:39-101  
22 et seq.) shall be deemed to have terminated its license as of the end  
23 of **【September 30, 2010】** December 31, 2010, and shall cease in-  
24 State activities covered by P.L.2010, c.22 (C.54:39-101 et al.). If no  
25 notice is received by the director prior to **【October 1, 2010】** January  
26 1, 2011 declining licensure, then that shall be deemed acceptance of  
27 the new license and responsibilities pursuant to the “Motor Fuel Tax  
28 Act,” P.L.2010, c.22 (C.54:39-101 et seq.), and the person may  
29 continue in operation except as provided by subsection f. of this  
30 section.

31 Notice may be given to a person who is licensed as a retail dealer  
32 pursuant to R.S.54:39-30 prior to **【October 1, 2010】** January 1,  
33 2011 that the person will not be granted a license pursuant to the  
34 “Motor Fuel Tax Act,” P.L.2010, c.22 (C.54:39-101 et seq.). A  
35 person given that notice shall cease activities covered by the license on  
36 or before **【October 1, 2010】** January 1, 2011, shall be deemed to  
37 have terminated its license as of the end of **【September 30, 2010】**  
38 December 31, 2010, and shall be subject to final report  
39 requirements of section 27 of P.L.2010, c.22 (C.54:39-127).

40 c. A person who is licensed as an importer, exporter,  
41 wholesaler, or jobber pursuant to R.S.54:39-1 et seq. prior to  
42 **【October 1, 2010】** January 1, 2011 shall be deemed a distributor  
43 licensed pursuant to the “Motor Fuel Tax Act,” P.L.2010, c.22  
44 (C.54:39-101 et seq.) as of **【October 1, 2010】** January 1, 2011 and  
45 subject to P.L.2010, c.22 (C.54:39-101 et al.) regarding licensed  
46 **【suppliers】** distributors unless the person licensed as an importer,

1 exporter, wholesaler, or jobber pursuant to R.S.54:39-1 et seq.  
2 provides notice prior to **【October 1, 2010】** January 1, 2011 that the  
3 person does not desire the status of licensee as a distributor pursuant to  
4 P.L.2010, c.22 (C.54:39-101 et al.). A person who is licensed as an  
5 importer, exporter, wholesaler, or jobber pursuant to R.S.54:39-1 et  
6 seq. prior to **【October 1, 2010】** January 1, 2011 who declines  
7 licensure pursuant to the “Motor Fuel Tax Act,” P.L.2010, c.22  
8 (C.54:39-101 et seq.) shall be deemed to have terminated its license  
9 as of the end of **【September 30, 2010】** December 31, 2010, shall  
10 cease in-State activities covered by P.L.2010, c.22 (C.54:39-101 et  
11 al.), and shall be subject to final report requirements of section 27  
12 of P.L.2010, c.22 (C.54:39-127). If no notice is received by the  
13 director prior to **【October 1, 2010】** January 1, 2011 declining  
14 licensure, then that shall be deemed acceptance of the new license and  
15 responsibilities pursuant to the “Motor Fuel Tax Act,” P.L.2010, c.22  
16 (C.54:39-101 et seq.), and the person may continue in operation  
17 except as provided by subsection f. of this section.

18 Notice may be given to a person who is licensed as an importer,  
19 exporter, wholesaler, or jobber pursuant to R.S.54:39-1 et seq. prior  
20 to **【October 1, 2010】** January 1, 2011 that the person will not be  
21 granted a license pursuant to the “Motor Fuel Tax Act,” P.L.2010,  
22 c.22 (C.54:39-101 et seq.). A person given that notice shall cease  
23 activities covered by the license on or before**【October 1, 2010】**  
24 January 1, 2011, shall be deemed to have terminated its license as of  
25 **【September 30, 2010】** December 31, 2010, and shall be subject to  
26 final report requirements of section 27 of P.L.2010, c.22 (C.54:39-  
27 127).

28 d. A person engaged in the business of hauling, transporting or  
29 delivering fuel who is a motor fuel transport licensee pursuant to  
30 R.S.54:39-1 et seq. or who has registered a conveyance for  
31 transporting fuel pursuant to R.S.54:39-41 prior to **【October 1,**  
32 **2010】** January 1, 2011 shall be deemed a transporter and the  
33 conveyance shall be deemed registered as a fuel conveyance  
34 pursuant to the “Motor Fuel Tax Act,” P.L.2010, c.22 (C.54:39-101  
35 et seq.) as of **【October 1, 2010】** January 1, 2011 and subject to  
36 P.L.2010, c.22 (C.54:39-101 et al.) regarding transporters and fuel  
37 conveyances unless the motor fuel transport licensee or person  
38 having a registered conveyance provides notice prior to **【October 1,**  
39 **2010】** January 1, 2011 that the person does not desire the status of  
40 transporter or does not desire to have a registered fuel conveyance  
41 pursuant to P.L.2010, c.22 (C.54:39-101 et al.). A person who is a  
42 motor fuel transport licensee or who has a conveyance registered  
43 pursuant to R.S.54:39-41 prior to **【October 1, 2010】** January 1,  
44 2011 who declines status pursuant to the “Motor Fuel Tax Act,”  
45 P.L.2010, c.22 (C.54:39-101 et seq.) shall be deemed to have  
46 terminated its motor fuel transport license and its conveyance  
47 registration, as applicable, as of the end of **【September 30, 2010】**

1 December 31, 2010, and shall cease in-State activities covered by  
2 P.L.2010, c.22 (C.54:39-101 et al.). If no notice is received by the  
3 director prior to **【October 1, 2010】** January 1, 2011 declining  
4 licensure, or registration as applicable, then that shall be deemed  
5 acceptance of the new license, or registration as applicable, and  
6 acceptance of transporter responsibilities pursuant to the “Motor Fuel  
7 Tax Act,” P.L.2010, c.22 (C.54:39-101 et seq.)

8 Notice may be given to a person who is engaged in the business of  
9 hauling, transporting or delivering fuel who is a motor fuel  
10 transport licensee pursuant to R.S.54:39-1 or who has registered a  
11 conveyance for transporting fuel pursuant to R.S.54:39-41 that the  
12 person will not be granted a license pursuant to the “Motor Fuel Tax  
13 Act,” P.L.2010, c.22 (C.54:39-101 et seq.). A person given that  
14 notice shall cease activities covered by the license on or before  
15 January 1, 2011 and, shall be deemed to have terminated its license  
16 as of December 31, 2010 and shall be subject to final report  
17 requirements of section 27 of P.L.2010, c.22 (C.54:39-127).

18 e. All other persons licensed pursuant to R.S.54:39-1 et seq.  
19 shall apply to the director for an appropriate license, as determined  
20 by the director and subject to such rules as the director may  
21 prescribe, pursuant to this section on or before **【October 1, 2010】**  
22 January 1, 2011 or cease activities requiring a license under this  
23 section. If a person accepts a new license and responsibilities that  
24 license entails pursuant to the “Motor Fuel Tax Act,” P.L.2010, c.22  
25 (C.54:39-101 et seq.), the person may continue in operation except  
26 as provided by subsection f. of this section.

27 f. A person required to file a bond or other surety with the  
28 director pursuant to the “Motor Fuel Tax Act,” P.L.2010, c.22  
29 (C.54:39-101 et seq.) shall have until **【October 31, 2010】** January  
30 31, 2011, to establish, reestablish or transfer that surety to the  
31 person’s new license status pursuant to P.L.2010, c.22 (C.54:39-101  
32 et al.). A person who does not meet those bonding requirements by  
33 **【October 31, 2010】** January 31, 2011 shall cease activities covered  
34 by the license on **【October 31, 2010】** January 31, 2011.

35 g. Licenses issued pursuant to R.S.54:39-1 et seq. and not  
36 continued pursuant to this section shall be invalid as of **【October 1,**  
37 **2010】** January 1, 2011. Licenses accepted pursuant to this section  
38 in place of the license issued pursuant to R.S.54:39-1 et seq. shall  
39 be valid until the expiration date of the license originally issued  
40 pursuant to R.S.54:39-1 et seq.  
41 (cf: P.L.2010, c.22, s.51)

42  
43 29. Section 57 of P.L.2010, c.22 is amended to read as follows:

44 57. This act shall take effect immediately, provided however  
45 that sections 1 through 27, 29 through 49, and 53 through 56 shall  
46 remain inoperative until **【October 1, 2010】** January 1, 2011.  
47 (cf: P.L.2010, c.22, s.57)

1       30. This act shall take effect immediately.

2

3

4

#### STATEMENT

5

6       This bill amends the “Motor Fuel Tax Act,” P.L.2010, c.22, to  
7       make a number of technical amendments that will allow more  
8       effective implementation of the new taxation system and to  
9       postpone the effective date of the new law for three months to allow  
10      time for necessary re-licensing and other administrative issues.

11      P.L.2010, c. 22 changed the point of taxation of diesel fuel from  
12      the retail level to the level in the petroleum distribution chain at  
13      which it is removed from the bulk fuel storage and distribution  
14      system of refineries, pipelines, ships and barges, at a terminal. That  
15      law also changed the point of taxation of gasoline from the  
16      distributor level to the terminal level. The new motor fuel tax  
17      exploits the federal dyed fuel regulations implemented since the  
18      1990s to make this shift in the point of taxation with the effect of  
19      decreasing the number of taxpayers and decreasing the volume of  
20      paperwork in administering the tax.

21      This bill, in addition to making a number of purely technical  
22      corrections to legal reference, eliminates some internal conflicts and  
23      inconsistencies in references to licensing requirements and  
24      licensing fees.

25      The amendments assure that heating oil dealers are not required  
26      to be licensed as motor fuel tax dealers. Heating oil is not a  
27      commercially viable motor fuel, and absent these amendments  
28      approximately 500 heating oil dealers would be required to be  
29      licensed as distributors, defeating one of the simplification goals of  
30      the original legislation.

31      The amendments also clarify that fuel transporters are not among  
32      those required to precollect the motor fuel tax, which would  
33      otherwise conflict with other provisions of the law, also conflicting  
34      with the simplification goals of the original legislation.

35      The amendments correct an error in the original act which  
36      exempted aviation grade kerosene as a taxable fuel. It is clear in  
37      the original act that aviation *gasoline* is a taxable fuel product,  
38      taxable on its initial importation and sale in the State, that becomes  
39      exempt based on its use for powering aircraft. The amendments  
40      provide this same consistent treatment for aviation grade kerosene,  
41      which is exempt from motor fuel taxation if used in aircraft.