

ASSEMBLY, No. 281

STATE OF NEW JERSEY

217th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2016 SESSION

Sponsored by:

Assemblywoman BETTYLOU DECROCE

District 26 (Essex, Morris and Passaic)

Co-Sponsored by:

Assemblywomen Sumter, Handlin, Assemblymen Giblin and S.Kean

SYNOPSIS

“New Jersey Residents’ Power Protection Act”; requires use of emergency power generators by various facilities and businesses; provides related tax incentives.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning the use of emergency power generators by
2 certain facilities and businesses and supplementing various parts
3 of the statutory law.

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

7
8 1. a. As used in this section:

9 “Automatic standby emergency power generator” means an
10 emergency power generator that is powered by natural gas, where
11 natural gas is available, or by propane stored in an above-ground
12 tank, is integrated with the electrical system of the facility, and
13 provides at least 90 percent of the electric power that would be
14 available to the facility if the facility were powered by its electrical
15 system.

16 “Declared state of emergency” means a state of emergency
17 within this State declared by the Governor or the President of the
18 United States.

19 “Disaster” means a natural, technological, or civil emergency
20 that causes damage of sufficient severity and magnitude to result in
21 a declared state of emergency.

22 “Facility” means a nursing home, assisted living facility, or
23 subacute rehabilitation facility licensed pursuant to P.L.1971 c.136
24 (C.26:2H-1 et seq.).

25 “Power outage” means a failure in the supply of electricity
26 causing a temporary cessation in the supply of power.

27 b. (1) A facility, if licensed by the Department of Health on or
28 after the effective date of this act, shall be equipped with and
29 employ an automatic standby emergency power generator in the
30 event of a power outage at the facility.

31 (2) A facility, if licensed by the Department of Health prior to
32 the effective date of this act, shall be equipped with and employ,
33 within 90 days after the effective date of this act, an automatic
34 standby emergency power generator in the event of a power outage
35 at the facility.

36 c. The chief administrative officer of a facility, pursuant to the
37 provisions of subsection b. of this section, shall ensure that its
38 automatic standby emergency power generator is checked, tested,
39 and serviced in accordance with generally accepted engineering
40 practices as prescribed by regulation of the Commissioner of
41 Health.

42 d. If the facility provides public charging stations for portable
43 electronic devices, it shall be equipped with sufficient outlets for
44 members of the public to charge these devices and battery-powered,
45 portable oxygen units. The automatic standby emergency power
46 generator shall be able to accommodate the public charging
47 requirements of this section under the State Uniform Construction
48 Code, as provided in the “State Uniform Construction Code Act,”

1 P.L.1975, c.217 (C.52:27D-119 et seq.), and shall comply with the
2 latest NJPA-70 (National Electrical Code) requirements.

3 e. A facility that violates the provisions of this section shall be
4 subject to such penalties as the Commissioner of Health may
5 determine pursuant to sections 13 and 14 of P.L.1971, c.136
6 (C.26:2H-13 and 26:2H-14); except that the facility shall not be in
7 violation of the provisions of this section if the failure to use an
8 automatic standby emergency power generator during a declared
9 state of emergency is due to physical damage to the facility or the
10 automatic standby emergency power generator sustained from a
11 disaster or during the declared state of emergency.

12
13 2. The Commissioner of Health, pursuant to the
14 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
15 seq.), shall adopt rules and regulations necessary to implement the
16 provisions of section 1 of P.L. , c. (C.) (pending before the
17 Legislature as this bill); except that, notwithstanding any provision
18 of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the
19 commissioner may adopt, immediately upon filing with the Office
20 of Administrative Law, such regulations as the commissioner deems
21 necessary to implement the provisions of section 1 of
22 P.L. , c. (C.) (pending before the Legislature as this bill),
23 which shall be effective for a period not to exceed six months and
24 may thereafter be amended, adopted, or re-adopted by the
25 commissioner in accordance with the requirements of P.L.1968,
26 c.410 (C.52:14B-1 et seq.).

27
28 3. a. As used in this section:

29 "Automatic standby emergency power generator" means an
30 emergency power generator that is powered by natural gas, where
31 natural gas is available, or by propane stored in an above-ground
32 tank, is integrated with the electrical system of the building used by
33 a volunteer or nonvolunteer first aid, ambulance, or rescue squad,
34 and provides at least 90 percent of the electric power that would be
35 available to the building if the building were powered by its
36 electrical system.

37 "Building" means a building that is used by a volunteer or
38 nonvolunteer first aid, ambulance, or rescue squad to house or store
39 equipment used to render emergency services in response to a state
40 of emergency or an emergency alarm.

41 "Declared state of emergency" means a state of emergency
42 within this State declared by the Governor or the President of the
43 United States.

44 "Disaster" means a natural, technological, or civil emergency
45 that causes damage of sufficient severity and magnitude to result in
46 a declared state of emergency.

47 "Power outage" means a failure in the supply of electricity
48 causing a temporary cessation in the supply of power.

1 “Volunteer or nonvolunteer first aid, ambulance, or rescue
2 squad” means a volunteer or nonvolunteer first aid, ambulance, or
3 rescue squad as defined in section 3 of P.L.1987, c.284 (C.27:5F-
4 20).

5 b. (1) A building used by a volunteer or nonvolunteer first aid,
6 ambulance, or rescue squad, on or after the effective date of this act,
7 shall be equipped with and employ an automatic standby emergency
8 power generator in the event of a power outage.

9 (2) A building used by a volunteer or nonvolunteer first aid,
10 ambulance, or rescue squad, prior to the effective date of this act,
11 shall be equipped with and employ, within 90 days after the
12 effective date of this act, an automatic standby emergency power
13 generator in the event of a power outage.

14 c. The chief administrative officer of a volunteer or
15 nonvolunteer first aid, ambulance, or rescue squad, pursuant to the
16 provisions of subsection b. of this section, shall ensure that its
17 automatic standby emergency power generator is checked, tested,
18 and serviced in accordance with generally accepted engineering
19 practices as prescribed by regulation of the Commissioner of
20 Health.

21 d. If the building provides public charging stations for portable
22 electronic devices, it shall be equipped with sufficient outlets for
23 members of the public to charge these devices and battery-powered,
24 portable oxygen units. The automatic standby emergency power
25 generator shall be able to accommodate the public charging
26 requirements of this section under the State Uniform Construction
27 Code, as provided in the “State Uniform Construction Code Act,”
28 P.L.1975, c.217 (C.52:27D-119 et seq.), and shall comply with the
29 latest NJPA-70 (National Electrical Code) requirements.

30 e. A volunteer or nonvolunteer first aid, ambulance, or rescue
31 squad that violates the provisions of this section shall be subject to
32 such disciplinary measures as the Commissioner of Health deems
33 necessary and within the commissioner’s statutory authority to
34 impose; except that the first aid, ambulance, or rescue squad shall
35 not be in violation of the provisions of this section if the failure to
36 use an automatic standby emergency power generator during a
37 declared state of emergency is due to physical damage to the
38 building or the automatic standby emergency power generator
39 sustained from a disaster or during the declared state of emergency.
40

41 4. The Commissioner of Health, pursuant to the
42 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et
43 seq.), shall adopt rules and regulations necessary to implement the
44 provisions of section 3 of P.L. , c. (C.) (pending before the
45 Legislature as this bill); except that, notwithstanding any provision
46 of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the
47 commissioner may adopt, immediately upon filing with the Office
48 of Administrative Law, such regulations as the commissioner deems

1 necessary to implement the provisions of section 3 of P.L. , c.
2 (C.) (pending before the Legislature as this bill), which shall be
3 effective for a period not to exceed six months and may thereafter
4 be amended, adopted, or re-adopted by the commissioner in
5 accordance with the requirements of P.L.1968, c.410 (C.52:14B-1
6 et seq.).

7
8 5. a. As used in this section:

9 “Automatic standby emergency power generator” means an
10 emergency power generator that is powered by natural gas, where
11 natural gas is available, or by propane stored in an above-ground
12 tank, is integrated with the electrical system of the pharmacy, and
13 provides at least 90 percent of the electric power that would be
14 available to the pharmacy if the pharmacy were powered by its
15 electrical system.

16 “Board” means the New Jersey State Board of Pharmacy.

17 “Declared state of emergency” means a state of emergency
18 within this State declared by the Governor or the President of the
19 United States.

20 “Disaster” means a natural, technological, or civil emergency
21 that causes damage of sufficient severity and magnitude to result in
22 a declared state of emergency.

23 “Pharmacist-in-charge” means a pharmacist-in-charge as defined
24 in section 2 of P.L.2003, c.280 (C.45:14-41).

25 “Pharmacy” means a pharmacy licensed by the board.

26 “Power outage” means a failure in the supply of electricity
27 causing a temporary cessation in the supply of power.

28 b. (1) The pharmacist-in-charge of a pharmacy, if the pharmacy
29 is licensed by the board on or after the effective date of this act,
30 shall ensure that the pharmacy is equipped with and employs an
31 automatic standby emergency power generator in the event of a
32 power outage at the pharmacy.

33 (2) The pharmacist-in-charge of a pharmacy, if the pharmacy is
34 licensed by the board prior to the effective date of this act, shall
35 ensure that the pharmacy is equipped with and employs, within 90
36 days after the effective date of this act, an automatic standby
37 emergency power generator in the event of a power outage at the
38 pharmacy.

39 c. The pharmacist-in-charge, pursuant to the provisions of
40 subsection b. of this section, shall ensure that the automatic standby
41 emergency power generator is checked, tested, and serviced in
42 accordance with generally accepted engineering practices as
43 prescribed by regulation of the board.

44 d. A pharmacist-in-charge who intentionally fails to act in
45 accordance with the requirements of this act is subject to discipline
46 for professional misconduct pursuant to section 8 of P.L.1978, c.73
47 (C.45:1-21); except that the pharmacist-in-charge shall not be in
48 violation of the provisions of this section if the failure to use an

1 automatic standby emergency power generator during a declared
2 state of emergency is due to physical damage to the pharmacy or the
3 automatic standby emergency power generator sustained from a
4 disaster or during the declared state of emergency.

5
6 6. The New Jersey State Board of Pharmacy, pursuant to the
7 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
8 seq.), shall adopt rules and regulations necessary to implement the
9 provisions of section 5 of P.L. , c. (C.) (pending before the
10 Legislature as this bill); except that, notwithstanding any provision
11 of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the board
12 may adopt, immediately upon filing with the Office of
13 Administrative Law, such regulations as the board deems necessary
14 to implement the provisions of section 5 of P.L. , c. (C.)
15 (pending before the Legislature as this bill), which shall be effective
16 for a period not to exceed six months and may thereafter be
17 amended, adopted, or re-adopted by the board in accordance with
18 the requirements of P.L.1968, c.410 (C.52:14B-1 et seq.).

19
20 7. a. As used in this section:

21 "Automatic standby emergency power generator" means an
22 emergency power generator that is powered by natural gas, where
23 natural gas is available, or by propane stored in an above-ground
24 tank, is integrated with the electrical system of the building used by
25 a fire department or force, and provides at least 90 percent of the
26 electric power that would be available to the building if the building
27 were powered by its electrical system.

28 "Building" means a building that is used by a volunteer or paid
29 fire department or force to house or store equipment used to render
30 emergency services in response to a state of emergency or an
31 emergency alarm.

32 "Declared state of emergency" means a state of emergency
33 within this State declared by the Governor or the President of the
34 United States.

35 "Disaster" means a natural, technological, or civil emergency
36 that causes damage of sufficient severity and magnitude to result in
37 a declared state of emergency.

38 "Power outage" means a failure in the supply of electricity
39 causing a temporary cessation in the supply of power.

40 b. (1) A building used by a volunteer or paid fire department
41 or force, on or after the effective date of this act, shall be equipped
42 with and employ an automatic standby emergency power generator
43 in the event of a power outage.

44 (2) A building used by a volunteer or paid fire department or
45 force, prior to the effective date of this act, shall be equipped with
46 and employ, within 90 days after the effective date of this act, an
47 automatic standby emergency power generator in the event of a
48 power outage.

1 c. The chief administrative officer of a volunteer or paid fire
2 department or force, pursuant to the provisions of subsection b. of
3 this section, shall ensure that its automatic standby emergency
4 power generator is checked, tested, and serviced in accordance with
5 generally accepted engineering practices as prescribed by regulation
6 of the Director of the Division of Fire Safety in the Department of
7 Community Affairs.

8 d. If the building provides public charging stations for portable
9 electronic devices, it shall be equipped with sufficient outlets for
10 members of the public to charge these devices and battery-powered,
11 portable oxygen units. The automatic standby emergency power
12 generator shall be able to accommodate the public charging
13 requirements of this section under the State Uniform Construction
14 Code, as provided in the "State Uniform Construction Code Act,"
15 P.L.1975, c.217 (C.52:27D-119 et seq.), and shall comply with the
16 latest NJPA-70 (National Electrical Code) requirements.

17 e. A volunteer or paid fire department or force that violates the
18 provisions of this section shall be subject to such disciplinary
19 measures as the Director of the Division of Fire Safety in the
20 Department of Community Affairs deems necessary and within the
21 director's statutory authority to impose; except that the fire
22 department or force shall not be in violation of the provisions of
23 this section if the failure to use an automatic standby emergency
24 power generator during a declared state of emergency is due to
25 physical damage to the building or the automatic standby
26 emergency power generator sustained from a disaster or during the
27 declared state of emergency.

28
29 8. The Director of the Division of Fire Safety in the
30 Department of Community Affairs, pursuant to the "Administrative
31 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt
32 rules and regulations necessary to implement the provisions of
33 section 7 of P.L. , c. (C.) (pending before the Legislature as
34 this bill); except that, notwithstanding any provision of P.L.1968,
35 c.410 (C.52:14B-1 et seq.) to the contrary, the director may adopt,
36 immediately upon filing with the Office of Administrative Law,
37 such regulations as the director deems necessary to implement the
38 provisions of section 7 of P.L. , c. (C.) (pending before the
39 Legislature as this bill), which shall be effective for a period not to
40 exceed six months and may thereafter be amended, adopted, or re-
41 adopted by the director in accordance with the requirements of
42 P.L.1968, c.410 (C.52:14B-1 et seq.).

43
44 9. a. As used in this section:

45 "Automatic standby emergency power generator" means an
46 emergency power generator that is powered by natural gas, where
47 natural gas is available, or by propane stored in an above-ground
48 tank, is integrated with the electrical system of the boarding house,

1 and provides at least 90 percent of the electric power that would be
2 available to the boarding house if the boarding house were powered
3 by its electrical system.

4 “Boarding house” means a boarding house that is approved by
5 the Department of Community Affairs to house residents with
6 Alzheimer’s disease and related disorders or other forms of
7 dementia as prescribed by regulation of the Commissioner of
8 Community Affairs.

9 “Declared state of emergency” means a state of emergency
10 within this State declared by the Governor or the President of the
11 United States.

12 “Disaster” means a natural, technological, or civil emergency
13 that causes damage of sufficient severity and magnitude to result in
14 a declared state of emergency.

15 “Power outage” means a failure in the supply of electricity
16 causing a temporary cessation in the supply of power.

17 b. (1) A person who is licensed to own or operate a boarding
18 house pursuant to P.L.1979, c.496 (C.55:13B-1 et seq.), on or after
19 the effective date of this act, shall ensure that the boarding house is
20 equipped with and employs an automatic standby emergency power
21 generator in the event of a power outage at that facility.

22 (2) A person who is licensed to own or operate a boarding house
23 pursuant to P.L.1979, c.496 (C.55:13B-1 et seq.), prior to the
24 effective date of this act, shall ensure that the boarding house is
25 equipped with and employs, within 90 days after the effective date
26 of this act, an automatic standby emergency power generator in the
27 event of a power outage at that facility.

28 c. The owner or operator of a boarding house, pursuant to the
29 provisions of subsection b. of this section, shall ensure that its
30 automatic standby emergency power generator is checked, tested,
31 and serviced in accordance with generally accepted engineering
32 practices as prescribed by regulation of the Commissioner of
33 Community Affairs.

34 d. The owner or operator of a boarding house who violates the
35 provisions of this section shall be subject to such disciplinary
36 measures as the Commissioner of Community Affairs deems
37 necessary and within the commissioner’s statutory authority to
38 impose; except that the owner or operator shall not be in violation
39 of the provisions of this section if the failure to use an automatic
40 standby emergency power generator during a declared state of
41 emergency is due to physical damage to the boarding house or the
42 automatic standby emergency power generator sustained from a
43 disaster or during the declared state of emergency.

44
45 10. The Commissioner of Community Affairs, pursuant to the
46 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
47 seq.), shall adopt rules and regulations necessary to implement the
48 provisions of section 9 of P.L. , c. (C.) (pending before the

1 Legislature as this bill); except that, notwithstanding any provision
2 of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the
3 commissioner may adopt, immediately upon filing with the Office
4 of Administrative Law, such regulations as the commissioner deems
5 necessary to implement the provisions of section 9 of P.L. , c.
6 (C.) (pending before the Legislature as this bill), which shall be
7 effective for a period not to exceed six months and may thereafter
8 be amended, adopted, or re-adopted by the commissioner in
9 accordance with the requirements of P.L.1968, c.410 (C.52:14B-1
10 et seq.).

11

12 11. a. As used in this section:

13 “Automatic standby emergency power generator” means an
14 emergency power generator that is powered by natural gas, where
15 natural gas is available, or by propane stored in an above-ground
16 tank, is integrated with the electrical system of the grocery store,
17 and provides at least 90 percent of the electric power that would be
18 available to the grocery store if the grocery store were powered by
19 its electrical system.

20 “Declared state of emergency” means a state of emergency
21 within this State declared by the Governor or the President of the
22 United States.

23 “Disaster” means a natural, technological, or civil emergency
24 that causes damage of sufficient severity and magnitude to result in
25 a declared state of emergency.

26 “Grocery store” means a retail business, including a supermarket
27 or convenience store, primarily engaged in the self-service sale of
28 foods and household supplies for off-premises consumption or use.

29 “Power outage” means a failure in the supply of electricity
30 causing a temporary cessation in the supply of power.

31 b. The owner or operator of a newly constructed grocery store,
32 for which an application for a construction permit has not been
33 declared complete by the enforcing agency before the effective date
34 of this act, shall ensure that the grocery store is equipped with and
35 employs an automatic standby emergency power generator in the
36 event of a power outage at that store.

37 c. The owner or operator of the grocery store, pursuant to the
38 provisions of subsection b. of this section, shall ensure that its
39 automatic standby emergency power generator is checked, tested,
40 and serviced in accordance with generally accepted engineering
41 practices as prescribed by regulation of the Commissioner of
42 Community Affairs.

43 d. The owner or operator of a grocery store who violates the
44 provisions of this section shall be subject to such disciplinary
45 measures as the Commissioner of Community Affairs deems
46 necessary and within the commissioner’s statutory authority to
47 impose; except that the owner or operator shall not be in violation
48 of the provisions of this section if the failure to use an automatic

1 standby emergency power generator during a declared state of
2 emergency is due to physical damage to the grocery store or the
3 automatic standby emergency power generator sustained from a
4 disaster or during the declared state of emergency.

5
6 12. The Commissioner of Community Affairs, pursuant to the
7 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
8 seq.), shall adopt rules and regulations necessary to implement the
9 provisions of section 11 of P.L. , c. (C.) (pending before the
10 Legislature as this bill); except that, notwithstanding any provision
11 of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the
12 commissioner may adopt, immediately upon filing with the Office
13 of Administrative Law, such regulations as the commissioner deems
14 necessary to implement the provisions of section 11 of P.L. , c.
15 (C.) (pending before the Legislature as this bill), which shall be
16 effective for a period not to exceed six months and may thereafter
17 be amended, adopted, or re-adopted by the commissioner in
18 accordance with the requirements of P.L.1968, c.410 (C.52:14B-1
19 et seq.).
20

21 13. a. As used in this section:

22 "Alternative power generation device" means a device capable of
23 providing electrical power for the primary purpose of dispensing
24 motor fuel, payment acceptance equipment, pump shutoff switches,
25 and other safety equipment.

26 "Declared state of emergency" means a state of emergency
27 within this State declared by the Governor or the President of the
28 United States.

29 "Disaster" means a natural, technological, or civil emergency
30 that causes damage of sufficient severity and magnitude to result in
31 a declared state of emergency.

32 "Motor fuel" means a combustible liquid or gaseous substance
33 used, or suitable, for the generation of power to propel motor
34 vehicles.

35 "Power outage" means a failure in the supply of electricity
36 causing a temporary cessation in the supply of power.

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

39 "State Office of Emergency Management" means the State
40 Office of Emergency Management in the Division of State Police in
41 the Department of Law and Public Safety.

42 b. A retail dealer shall be equipped with and maintain an
43 alternative power generation device and, within 24 hours of a
44 declared state of emergency in which the retail dealer has suffered a
45 power outage, shall begin using its alternative power generation
46 device to resume the selling or dispensing of motor fuel.

47 c. During regular inspections of a retail dealer, the State
48 Superintendent of Weights and Measures or any State, county, or

1 municipal weights and measures officer shall, in consultation with
2 the State Office of Emergency Management, ensure that the retail
3 dealer is equipped with an alternative power generation device and
4 maintaining it in a safe and proper working condition.

5 d. A retail dealer that fails to comply with the provisions of this
6 section shall be liable for a penalty of not more than \$1,000 for a
7 first offense and not more than \$2,500 for each subsequent offense,
8 to be collected by the State Superintendent of Weights and
9 Measures in a summary proceeding pursuant to the "Penalty
10 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.);
11 except that a retail dealer shall not be in violation of the provisions
12 of this section if the failure to use an alternative power generation
13 device during a declared state of emergency is due to physical
14 damage to the retail dealer's facilities or the alternative power
15 generation device sustained from a disaster or during the declared
16 state of emergency.

17
18 14. The Director of the Division of Consumer Affairs in the
19 Department of Law and Public Safety, pursuant to the
20 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
21 seq.) and in consultation with the Director of the State Office of
22 Emergency Management, shall adopt rules and regulations
23 necessary to implement the provisions of section 13 of
24 P.L. , c. (C.) (pending before the Legislature as this bill);
25 except that, notwithstanding any provision of P.L.1968, c.410
26 (C.52:14B-1 et seq.) to the contrary, the director may adopt,
27 immediately upon filing with the Office of Administrative Law,
28 such regulations as the director deems necessary to implement the
29 provisions of section 13 of P.L. , c. (C.) (pending before the
30 Legislature as this bill), which shall be effective for a period not to
31 exceed six months and may thereafter be amended, adopted, or re-
32 adopted by the director in accordance with the requirements of
33 P.L.1968, c.410 (C.52:14B-1 et seq.).

34
35 15. If a community center, senior center, or other public building
36 provides public charging stations for portable electronic devices, it
37 shall be equipped with sufficient outlets for members of the public
38 to charge these devices and battery-powered, portable oxygen units.
39 Any automatic standby emergency power generator with which the
40 building is equipped shall be able to accommodate the public
41 charging requirements of this section under the State Uniform
42 Construction Code, as provided in the "State Uniform Construction
43 Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.), and shall
44 comply with the latest NJPA-70 (National Electrical Code)
45 requirements.

46
47 16. a. Notwithstanding the provisions of subsection (k) of
48 section 4 of P.L.1945, c. 162 (C.54:10A-4), a taxpayer may elect to

1 treat the cost of qualified generator property, not to exceed \$10,000,
2 as an expense which is not chargeable to capital account. A cost
3 treated as an expense shall be allowed as a deduction for the
4 privilege period in which the qualified generator property is placed
5 in service.

6 b. (1) An election under this section for any privilege period
7 shall:

8 (a) specify the items of qualified generator property to which the
9 election applies and the portion of the cost of each of those items
10 which is to be taken into account under subsection a. of this section,
11 and

12 (b) be made on the taxpayer's return of the tax imposed by
13 section 5 of P.L.1945, c. 162 (C.54:10A-5) for the privilege period.

14 (2) the election shall be made in the manner as the director may
15 by regulation prescribe.

16 (3) An election or specification with respect to a privilege
17 period may be revoked by the taxpayer with respect to any
18 property, and the revocation, once made, shall be irrevocable.

19 c. The director shall prescribe the rules and regulations
20 necessary to carry out the provisions of this section, including,
21 among others, those for determining the adjusted basis of the
22 acquired qualified generator property for the purposes of the
23 Corporation Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1
24 et seq.).

25 d. For the purposes of this section:

26 "Qualified generator property" means (1) an automatic standby
27 emergency power generator, any required propane storage tank and
28 equipment or material required for generator fuel supply, any
29 electrical equipment, material, or switching required to integrate the
30 automatic standby emergency power generator with the electrical
31 system of the facility for a automatic standby emergency power
32 generator that is required to be installed in a facility pursuant to
33 sections 1, 3, 5, 7, 9, or 11 of P.L. , c. (C.) (pending before
34 the Legislature as this bill) and an alternative power generation
35 device with which a retail dealer is required to be equipped
36 pursuant to section 13 of P.L. , c. (C.) (pending before the
37 Legislature as this bill).

38
39 17. a. Receipts from sales of qualified generator property are,
40 subject to the conditions and limitations of this section, exempt
41 from the tax imposed under the "Sales and Use Tax Act,"
42 P.L.1966, c.30 (C.54:32B-1 et seq.).

43 b. Notwithstanding the provisions of subsection a. of this
44 section, the seller shall charge and collect the tax imposed pursuant
45 to the "Sales and Use Tax," P.L.1966, c.30 (C.54:32B-1 et seq.),
46 from the purchaser on sales of qualified generator property at the
47 rate then in effect, and the tax shall be returned as a rebate to the
48 purchaser by the filing of a claim with the director for a rebate of

1 the sales and use tax paid.

2 b. The filing of a claim for a rebate of the sales and use tax
3 paid in accordance with this section shall be made by the purchaser
4 on forms furnished by the director, and shall be accompanied by
5 such information and documentation as may be determined to be
6 necessary by the director to verify the tax paid on qualified
7 generator property. The claim shall be filed within 360 days of the
8 date the qualified generator property is placed in service.

9 c. The director shall review or cause to be reviewed each
10 complete claim filed for a rebate of the sales and use tax paid in
11 accordance with this section, and shall determine or cause to be
12 determined the amount to be returned as a rebate for the sales and
13 use tax paid in connection with purchases of qualified generator
14 property based on the tax separately stated on the sales slip, invoice,
15 receipt, or other statement or memorandum given to the purchaser
16 at the time of purchase; provided however, that the director shall
17 determine the amount to be returned as a rebate for the tax paid in
18 connection with eligible purchases of qualified generator property
19 made by a contractor on behalf of a purchaser based upon the
20 separately stated cost of the qualified generator property, or, if the
21 cost for qualified generator property is not separately stated on the
22 contract, bill, or invoice given to the purchaser by the contractor,
23 the amount to be returned as a rebate shall be based on 50 percent
24 of the total amount of the sales price paid.

25 d. The director shall return or cause to be returned to each
26 purchaser that has filed a complete claim for a rebate of the sales
27 and use tax paid in accordance with this section the amount
28 determined to be returned as a rebate within six months of the date
29 the complete claim is filed.

30 e. The director shall pay or cause to be paid to a purchaser
31 interest on any amount determined to be returned as a rebate that is
32 not returned within six months of the date the complete claim is
33 filed, as is allowed and paid on overpayments of tax pursuant to
34 section 7 of P.L.1992, c.175 (C.54:49-15.1).

35 f. Notwithstanding any provisions of P.L.1968, c.410
36 (C.52:14B-1 et seq.) to the contrary, the director may adopt,
37 immediately upon filing with the Office of Administrative Law,
38 such regulations, including, but not limited to, terms and conditions
39 governing application for and payment of refunds, as the director
40 deems necessary to implement the provisions of this section, which
41 regulations shall be effective for a period not to exceed 180 days
42 from the date of filing. Such regulations may thereafter be
43 amended, adopted, or readopted by the director as the director
44 deems necessary in accordance with the requirements of P.L.1968,
45 c.410.

46

47 18. a. Notwithstanding the provisions of N.J.S.54A:5-1 and
48 section 26 of P.L.2004, c.65 (C.54A:5-1.2), a taxpayer may elect to

1 treat the cost of qualified generator property, not to exceed \$10,000,
2 as an expense which is not chargeable to capital account. A cost
3 treated as an expense shall be allowed as a deduction for the taxable
4 year in which the qualified generator property is placed in service.

5 b. (1) An election under this section for any taxable year shall:

6 (a) specify the items of qualified generator property to which the
7 election applies and the portion of the cost of each of those items
8 which is to be taken into account under subsection a. of this section,
9 and

10 (b) be made on the taxpayer's return of the tax imposed by
11 section "Gross Income Tax Act," N.J.S.54A:1-1 et seq. for the
12 taxable year.

13 (2) the election shall be made in the manner as the director may
14 by regulation prescribe.

15 (3) An election or specification with respect to a privilege
16 period may be revoked by the taxpayer with respect to any property,
17 and the revocation, once made, shall be irrevocable.

18 (4) The election under this section shall be made by the business
19 entity of a taxpayer, and shall apply to each owner of the business
20 entity.

21 c. The director shall prescribe the rules and regulations
22 necessary to carry out the provisions of this section, including,
23 among others, those for determining the adjusted basis of the
24 acquired property for the purposes of the "New Jersey Gross
25 Income Tax Act," N.J.S.54A:1-1 et seq.

26 d. For the purposes of this section:

27 "Qualified generator property" means (1) an automatic standby
28 emergency power generator, any required propane storage tank and
29 equipment or material required for generator fuel supply, any
30 electrical equipment, material, or switching required to integrate the
31 automatic standby emergency power generator with the electrical
32 system of the facility for a automatic standby emergency power
33 generator that is required to be installed in a facility pursuant to
34 sections 1, 3, 5, 7, 9, or 11 of P.L. , c. (C.) (pending
35 before the Legislature as this bill) and (2) an alternative power
36 generation device with which a retail dealer is required to be
37 equipped pursuant to section 13 of P.L. , c. (C.) (pending
38 before the Legislature as this bill).

39

40 19. Sections 1 through 15 of this act shall take effect on the first
41 day of the fourth month next following the date of enactment, but
42 the Commissioner of Health, the Commissioner of Community
43 Affairs, the Director of the Division of Fire Safety in the
44 Department of Community Affairs, the Director of the Division of
45 Consumer Affairs in the Department of Law and Public Safety, and
46 the New Jersey State Board of Pharmacy may each take such
47 anticipatory administrative action in advance thereof as shall be
48 necessary for the implementation of those sections. Sections 16

1 through 18 of this act shall take effect immediately and shall apply
2 to taxable years beginning after the date of enactment, but the
3 Director of the Division of Taxation in the Department of the
4 Treasury may take such anticipatory administrative action in
5 advance thereof as shall be necessary for the implementation of
6 those sections.

7
8 STATEMENT
9

10 This bill, which is to be known as the “New Jersey Residents’
11 Power Protection Act,” requires the use of emergency power
12 generators in certain facilities and places of business in this State.

13 The facilities and businesses to whom this requirement applies
14 provide critical and unique services that are vital to public safety
15 and economic recovery during times of widespread power loss due
16 to a natural disaster or other catastrophic event, and so must have
17 secondary sources of power. These entities include: nursing
18 homes, assisted living facilities, and subacute rehabilitation
19 facilities; first aid, ambulance, and rescue squads; pharmacies;
20 firehouses; boarding houses; newly constructed grocery stores
21 (including supermarkets and convenience marts); and gas stations.

22 The bill further requires that certain entities (such as health care
23 facilities, first aid, ambulance, and rescue squad buildings, and
24 firehouses, community centers, senior centers, and other public
25 buildings), if they provide public charging stations for portable
26 electronic devices, be equipped with sufficient outlets for members
27 of the public to charge these devices and battery-powered, portable
28 oxygen units. Any automatic standby emergency power generator
29 with which the entity is equipped must be able to accommodate this
30 public charging requirement under the State Uniform Construction
31 Code and comply with the latest NJPA-70 (National Electrical
32 Code) requirements.

33 In addition, the bill provides for a corporation business tax
34 deduction and gross income tax deduction (not to exceed \$10,000 in
35 either case), and a sales tax exemption, for the purchase of
36 applicable equipment by certain businesses and individuals,
37 respectively, as will help to effectuate the purposes of this bill.

38 The importance of ensuring ongoing power for the facilities and
39 businesses referenced in this bill was vividly illustrated by the
40 devastation to so many areas of New Jersey, and the resulting
41 hardship to millions of people throughout this State, that was
42 wrought by Hurricanes Irene and Sandy, when access to essential
43 services, food, and other basic necessities was greatly compromised
44 due to widespread and lengthy power outages throughout the State.

45 The bill provides for the expedited adoption of rules and
46 regulations by the appropriate regulatory authority, as applicable to
47 each category of facility and business, to facilitate timely
48 implementation of its provisions.