

ASSEMBLY, No. 414

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

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District 10 (Ocean)

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SYNOPSIS

Ensures operation of certain motor fuel storage, distribution and dispensing facilities during disasters and emergencies.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 2/3/2020)

1 AN ACT concerning the operations of certain motor fuel storage,
2 distribution and dispensing facilities and supplementing Titles 34
3 and 54 of the Revised Statutes and Title 54A of the New Jersey
4 Statutes.

5

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

8

9 1. As used in P.L. , c. (C.)(pending before the
10 Legislature as this bill):

11 "County emergency management coordinator" means the county
12 emergency management coordinator appointed pursuant to section
13 12 of P.L.1953, c.438 (C.App.A:9-42.1).

14 "Declared state of emergency" means any state of emergency
15 within this State declared by the Governor or by the President of the
16 United States.

17 "Disaster" means any natural, technological, or civil emergency
18 that causes damage of sufficient severity and magnitude to result in
19 a declaration of a state of emergency by the Governor or the
20 President of the United States.

21 "Duly authorized weights and measures officer" means and
22 includes the Superintendent of the Division of Weights and
23 Measures or the superintendent's assistants or inspectors, a county
24 or assistant county superintendent of weights and measures or
25 inspectors, or a municipal or assistant municipal superintendent of
26 weights and measures or inspectors.

27 "Gasoline station" or "station" means a place of business located
28 in the State and used for the retail sale and dispensing of motor fuel
29 into the tanks of motor vehicles.

30 "Local building inspector" means any municipal officer charged
31 with or responsible for the enforcement of building codes.

32 "Motor fuel" means any fuel which is used for the propulsion of
33 motor vehicles.

34 "New Jersey Disaster Motor Fuel Supplier Program" or
35 "program" means the "New Jersey Disaster Motor Fuel Supplier
36 Program" established in section 6 of P.L. , c. (C.)(pending
37 before the Legislature as this bill).

38 "Retail dealer" means a person operating a gasoline station.

39 "Sale" means any transfer, gift, sale, offer for sale, or
40 advertisement for sale in any manner or by any means whatsoever,
41 including any transfer of motor fuel from a person to itself or an
42 affiliate at another level of distribution, but does not include
43 product exchanges at the wholesale level of distribution.

44 "State Office of Emergency Management" means the State
45 Office of Emergency Management in the Division of State Police in
46 the Department of Law and Public Safety

47 "Terminal facility" means any inland, waterfront, or offshore
48 appurtenance on land used for the purpose of storing, handling, or

1 transferring motor fuel, but does not include bulk storage facilities
2 owned or operated by a wholesaler.

3 "Wholesaler" means any person, other than a refiner or dealer,
4 who purchases motor fuel at a terminal facility and supplies motor
5 fuel to retail outlets.

6
7 2. No later than December 31, 2014, each terminal facility and
8 wholesaler that engages in the sale of motor fuel in this State shall
9 be capable, in the event of a disaster, of operating its motor fuel
10 distribution loading racks using an alternate generated power source
11 for a minimum of 72 hours. Pending a post-disaster examination of
12 such distribution loading racks to determine any damage that would
13 render it unsafe to use, each terminal facility and wholesaler shall
14 have such alternate generated power source available for operation
15 no later than 24 hours after the disaster. Initial inspection for
16 proper installation and operation of the alternate generated power
17 source shall be completed by a local building inspector, and
18 verification of the inspection shall be submitted to the county
19 emergency management coordinator. A duly authorized weights
20 and measures officer shall check to ensure that the alternate
21 generated power source is available and in good operating order
22 during regular inspections of the terminal facility's and
23 wholesaler's operations.

24
25 3. Each newly constructed or substantially renovated gasoline
26 station for which a certificate of occupancy is issued on or after
27 September 1, 2014 shall be pre-wired with an appropriate transfer
28 switch, and capable of operating all fuel pumps, dispensing
29 equipment, life-safety systems, and payment acceptance equipment
30 using an alternate generated power source. A local building
31 inspector shall verify the installation and operational capability of
32 the transfer switch and alternate generated power source in the
33 normal inspection process before issuing a certificate of occupancy.
34 A copy of the certificate of occupancy shall be provided to the
35 county emergency management coordinator upon issuance of the
36 certificate. A duly authorized weights and measures officer shall
37 check to ensure that the transfer switch and alternate generated
38 power source is available and in good operating order during
39 regular inspections of the gasoline station. As used in this section,
40 "substantially renovated" means a renovation that results in an
41 increase of greater than 50 percent in the assessed value of the
42 gasoline station.

43
44 4. No later than December 31, 2014, all gasoline stations
45 having eight or more fueling positions that are within five miles of
46 an interstate highway or a State or federally-designated evacuation
47 route shall be pre-wired with an appropriate transfer switch and
48 capable of operating all fuel pumps, dispensing equipment, life-

1 safety systems, and payment acceptance equipment using an
2 alternate generated power source. The initial inspection for the
3 proper installation and operability of the transfer switch and
4 alternate generated power source shall be completed by a local
5 building inspector, and verification of the inspection shall be
6 submitted to the county emergency management coordinator. A
7 duly authorized weights and measures official shall check to assure
8 that the transfer switch and alternate generated power source is
9 available and in good operating order during regular inspections of
10 those gasoline stations.

11

12 5. a. Sections 3 and 4 of P.L. , c. (C.)(pending before
13 the Legislature as this bill) shall apply to any gasoline station
14 regardless of whether the gasoline station is located on the grounds
15 of, or is owned by, a retail business establishment that does not
16 engage in the sale of motor fuel.

17 b. Sections 3 and 4 of P.L. , c. (C.)(pending before the
18 Legislature as this bill) shall not apply to:

19 (1) A person licensed as a motor vehicle dealer under
20 R.S.39:10-19;

21 (2) A person who operates a fleet of motor vehicles; or

22 (3) A person who engages in the sale of motor fuel exclusively
23 to operators of fleets of motor vehicles.

24

25 6. There is established the "New Jersey Disaster Motor Fuel
26 Supplier Program" within the Department of Law and Public Safety.
27 The program shall allow any retail dealer doing business in this
28 State to participate in a network of emergency responders to
29 provide motor fuel supplies and services at their gasoline stations to
30 government, medical, critical infrastructure, and other emergency
31 responders, as well as the general public, during a declared state of
32 emergency. Participation in the program shall require a pre-
33 certification by the State Office of Emergency Management of
34 preparedness of the retail dealer to provide emergency motor fuel
35 supplies and services. The Director of the State Office of
36 Emergency Management shall establish the requirements for pre-
37 certification no later than September 1, 2014. The Director of the
38 State Office of Emergency Management shall issue to retail dealers
39 that are pre-certified a logo decal for public display to alert
40 emergency response personnel and the public that the retail dealer is
41 capable of assisting in a declared state of emergency.

42

43 7. A retail dealer shall not be pre-certified, pursuant to section
44 6 of P.L. , c. (C.)(pending before the Legislature as this
45 bill), unless that retail dealer shall have the on-site capability to
46 provide motor fuel dispensing services to emergency responders,
47 demonstrates the ability to have those services available within 24
48 hours after a declared state of emergency, and agrees to make those

1 services available as needed. A retail dealer may choose to sell
2 motor fuel through pre-existing contracts with local, State, and
3 federal emergency response agencies or may provide point-of-sale
4 service to those agencies. In addition, a retail dealer may choose to
5 sell to the general public, or may be directed to provide that service
6 by county or State emergency management personnel. If requested
7 by a participating retail dealer, State Police officers may be
8 provided to a retail dealer for the purpose of maintaining civil order
9 during operating hours.

10

11 8. During a declared state of emergency, emergency response
12 personnel who can produce appropriate identification, as
13 determined by State or county emergency management officials,
14 shall be given priority for motor fuel purchases at gasoline stations
15 operated by retail dealers that are certified under the program. A
16 gasoline station so certified may be directed by county or State
17 emergency management officials to remain open for a period during
18 a declared curfew to provide service for emergency personnel.
19 Under that direction, a gasoline station shall not be in violation of
20 the curfew and shall not be penalized for such operation, nor shall
21 the emergency personnel be in violation of such curfew.

22

23 9. A retail dealer that is pre-certified, pursuant to section 6 of
24 P.L. , c. (C.)(pending before the Legislature as this bill),
25 may request the Director of the State Office of Emergency
26 Management for priority re-supply fueling in order to continue
27 service to emergency responders during a declared state of
28 emergency. The request shall not be binding, but shall be
29 considered by emergency response personnel in determining
30 appropriate response actions.

31

32 10. a. A retail dealer that participates in the program
33 established pursuant to section 6 of P.L. , c. (C.)(pending
34 before the Legislature as this bill), shall be allowed a credit against
35 the tax imposed pursuant to section 5 of P.L.1945, c.162
36 (C.54:10A-5), in an amount equal to 25 percent of the cost of the
37 purchase and installation during the privilege period of the transfer
38 switch and alternate generated power source required to meet the
39 certification requirements established by the State Office of
40 Emergency Management. The total tax credit to be allowed to a
41 taxpayer for such costs shall not exceed \$15,000.

42 The amount of any credit otherwise allowable under this section
43 that cannot be applied for the privilege period due to the limitations
44 of subsection b. of this section, may be carried forward for use in
45 the seven privilege periods following the privilege period for which
46 the credit is allowed.

47 b. The order of priority of the application of the credit allowed
48 under this section and any other credits allowed by law shall be as

1 prescribed by the director. Credits allowable pursuant to this
2 section shall be applied in the order of the credits' privilege periods.
3 The amount of the credit applied under this section against the tax
4 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) for
5 a privilege period, together with any other credits allowed by law,
6 shall not exceed 50 percent of the tax liability otherwise due and
7 shall not reduce the tax liability to an amount less than the statutory
8 minimum provided in subsection (e) of section 5 of P.L.1945, c.162
9 (C.54:10A-5).

10

11 11. a. A retail dealer that participates in the program
12 established pursuant to section 6 of P.L. , c. (C.)(pending
13 before the Legislature as this bill) shall be allowed a credit against
14 the tax otherwise due for the taxable year under the "New Jersey
15 Gross Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal
16 to 25 percent of the cost of the purchase and installation during the
17 taxable year of the transfer switch and alternate generated power
18 source required to meet the certification requirements established
19 by the State Office of Emergency Management. The total tax credit
20 to be allowed to a taxpayer for such costs shall not exceed \$15,000.

21 b. The amount of the credit applied under this section for a
22 taxable year, when taken together with any other credits allowed
23 against the tax imposed pursuant to N.J.S.54A:1-1 et seq., shall not
24 exceed 50 percent of that amount of the taxpayer's liability for tax
25 for the taxable year that bears the same proportional relationship to
26 the total amount of that liability as the amount of the taxpayer's
27 gross income, derived from New Jersey sources and attributable to
28 the business or professional activity of the taxpayer's entire gross
29 income for that year. A credit allowed pursuant to this section shall
30 be taken only after the taxpayer has taken all credits allowed under
31 section 2 of P.L.2000, c.80 (C.54A:4-7). The amount of the credit
32 otherwise allowable under this section which cannot be applied for
33 the taxable year due to the limitations of this subsection may be
34 carried for use in the seven taxable years following the taxable year
35 for which the credit was allowed.

36 c. A partnership shall not be allowed a credit under this section
37 directly, but the amount of credit of a taxpayer in respect of a
38 distributive share of partnership income under the "New Jersey
39 Gross Income Tax Act," N.J.S.54A:1-1 et seq., shall be determined
40 by allocating to the taxpayer that proportion of the credit acquired
41 by the partnership that is equal to the taxpayer's share, whether or
42 not distributed, of the total distributive income or gain of the
43 partnership for its taxable year ending within or with the taxpayer's
44 taxable year.

45

46 12. The Department of Law and Public Safety shall study the
47 progress in post-disaster motor fuel supply distribution and provide

1 a report to the Governor and the Legislature, pursuant to section 2
2 of P.L.1991, c.164 (C.52:14-19.1), by March 1, 2015. The report
3 shall include information on the compliance with P.L. ,
4 c. (C.) (pending before the Legislature as this bill), and the
5 identification of all retailers that are participating in the program.

6
7 13. The Department of Law and Public Safety, in consultation
8 with the Department of the Treasury, shall adopt rules and
9 regulations, pursuant to the "Administrative Procedure Act,"
10 P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to implement the
11 provisions of P.L. , c. (C.) (pending before the Legislature
12 as this bill).

13
14 14. This act shall take effect on the 60th day after the date of
15 enactment, but the Director of the State Office of Emergency
16 Management may take such anticipatory administrative action in
17 advance thereof as shall be necessary for the implementation of this
18 act.

19
20
21 STATEMENT

22
23 This bill provides for a number of measures designed to assure
24 the operation of certain motor fuel storage, distribution and
25 dispensing facilities during disasters and emergencies.

26 Specifically, the bill requires that no later than December 31,
27 2014, each motor fuel terminal facility and wholesaler that sells
28 motor fuel in this State shall be capable, in the event of a disaster,
29 of operating its motor fuel distribution loading racks using an
30 alternate generated power source for a minimum of 72 hours. The
31 bill further requires that each newly constructed or substantially
32 renovated gasoline station for which a certificate of occupancy is
33 issued on or after September 1, 2014, and all gasoline stations
34 having eight or more fueling positions that are within five miles of
35 an interstate highway or a State or federally-designated evacuation
36 route by no later than December 31, 2014, are to be pre-wired with
37 an appropriate transfer switch, and be capable of operating all fuel
38 pumps, dispensing equipment, life-safety systems, and payment
39 acceptance equipment using an alternate generated power source.

40 The bill establishes the "New Jersey Disaster Motor Fuel
41 Supplier Program" (program) within the Department of Law and
42 Public Safety. The program is to allow any motor fuel retail dealer
43 doing business in this State to participate in a network of
44 emergency responders to provide motor fuel supplies and services
45 at their gasoline stations to government, medical, critical
46 infrastructure, and other emergency responders, as well as the
47 general public, during a declared state of emergency. Participation
48 in the program would require a pre-certification of preparedness of

1 the retail dealer by the State Office of Emergency Management
2 (OEM) to provide emergency motor fuel supplies and services. The
3 Director of the State OEM is to establish requirements for pre-
4 certification by no later than September 1, 2014. A retail dealer is
5 not to be pre-certified unless that retail dealer has the on-site
6 capability to provide motor fuel dispensing services to emergency
7 responders, demonstrates the ability to have the service available
8 within 24 hours after a declared state of emergency, and agrees to
9 make the service available as needed.

10 The bill provides that, during a declared state of emergency,
11 emergency response personnel who can produce appropriate
12 identification, as determined by State or county emergency
13 management officials, are to be given priority for motor fuel
14 purchases at gasoline stations operated by retail dealers that are
15 certified under the program. Certified gasoline stations may be
16 directed by county or state emergency management officials to
17 remain open for a period during a declared curfew to provide
18 service for emergency personnel. Under that direction, certified
19 gasoline stations are not to be deemed in violation of the curfew and
20 are not to be penalized for such operation, nor shall the emergency
21 personnel be in violation of such curfew. Retail dealers that are
22 pre-certified may request the Director of the State OEM for priority
23 re-supply fueling in order to continue service to emergency
24 responders.

25 The bill provides to a retail dealer participating in the program a
26 tax credit in an amount equal to 25 percent of the cost of the
27 purchase and installation during the taxable year of the transfer
28 switch and alternate generated power source required to meet the
29 certification requirements established by the State OEM. The total
30 tax credit to be given to a retail dealer is not to exceed \$15,000.