

ASSEMBLY, No. 1275

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman LOUIS D. GREENWALD

District 6 (Burlington and Camden)

SYNOPSIS

Excludes certain services rendered in connection with installation of carpeting and other flooring from sales and use tax.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** excluding sales of certain services rendered in connection
 2 with the installation of carpeting and other flooring from the
 3 imposition of the sales and use tax, amending P.L.1966, c.30.

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

7
 8 1. Section 3 of P.L.1966, c.30 (C.54:32B-3) is amended to read
 9 as follows:

10 3. There is imposed and there shall be paid a tax of 7% upon:

11 (a) The receipts from every retail sale of tangible personal
 12 property or a specified digital product for permanent use or less
 13 than permanent use, and regardless of whether continued payment is
 14 required, except as otherwise provided in this act.

15 (b) The receipts from every sale, except for resale, of the
 16 following services:

17 (1) Producing, fabricating, processing, printing or imprinting
 18 tangible personal property or a specified digital product, performed
 19 for a person who directly or indirectly furnishes the tangible
 20 personal property or specified digital product, not purchased by him
 21 for resale, upon which such services are performed.

22 (2) Installing tangible personal property or a specified digital
 23 product, or maintaining, servicing, repairing tangible personal
 24 property or a specified digital product not held for sale in the
 25 regular course of business, whether or not the services are
 26 performed directly or by means of coin-operated equipment or by
 27 any other means, and whether or not any tangible personal property
 28 or specified digital product is transferred in conjunction therewith,
 29 except (i) such services rendered by an individual who is engaged
 30 directly by a private homeowner or lessee in or about his residence
 31 and who is not in a regular trade or business offering his services to
 32 the public, (ii) such services rendered with respect to personal
 33 property exempt from taxation hereunder pursuant to section 13 of
 34 P.L.1980, c.105 (C.54:32B-8.1), (iii) (Deleted by amendment,
 35 P.L.1990, c.40), (iv) any receipts from laundering, dry cleaning,
 36 tailoring, weaving, or pressing clothing, and shoe repairing and
 37 shoeshining and (v) services rendered in installing property which,
 38 when installed, will constitute an addition or capital improvement to
 39 real property, property or land, other than landscaping services **and**
 40 other than installing carpeting and other flooring**】**.

41 (3) Storing all tangible personal property not held for sale in the
 42 regular course of business; the rental of safe deposit boxes or
 43 similar space; and the furnishing of space for storage of tangible
 44 personal property by a person engaged in the business of furnishing
 45 space for such storage.

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 "Space for storage" means secure areas, such as rooms, units,
2 compartments or containers, whether accessible from outside or
3 from within a building, that are designated for the use of a customer
4 and wherein the customer has free access within reasonable
5 business hours, or upon reasonable notice to the furnisher of space
6 for storage, to store and retrieve property. Space for storage shall
7 not include the lease or rental of an entire building, such as a
8 warehouse or airplane hangar.

9 (4) Maintaining, servicing or repairing real property, other than
10 a residential heating system unit serving not more than three
11 families living independently of each other and doing their cooking
12 on the premises, whether the services are performed in or outside of
13 a building, as distinguished from adding to or improving such real
14 property by a capital improvement, but excluding services rendered
15 by an individual who is not in a regular trade or business offering
16 his services to the public, and excluding garbage removal and sewer
17 services performed on a regular contractual basis for a term not less
18 than 30 days.

19 (5) Mail processing services for printed advertising material,
20 except for mail processing services in connection with distribution
21 of printed advertising material to out-of-State recipients.

22 (6) (Deleted by amendment, P.L.1995, c.184).

23 (7) Utility service provided to persons in this State, any right or
24 power over which is exercised in this State.

25 (8) Tanning services, including the application of a temporary
26 tan provided by any means.

27 (9) Massage, bodywork or somatic services, except such
28 services provided pursuant to a doctor's prescription.

29 (10) Tattooing, including all permanent body art and permanent
30 cosmetic make-up applications, except such services provided
31 pursuant to a doctor's prescription in conjunction with
32 reconstructive breast surgery.

33 (11) Investigation and security services.

34 (12) Information services.

35 (13) Transportation services originating in this State and
36 provided by a limousine operator, as permitted by law, except such
37 services provided in connection with funeral services.

38 (14) Telephone answering services.

39 (15) Radio subscription services.

40 Wages, salaries and other compensation paid by an employer to
41 an employee for performing as an employee the services described
42 in this subsection are not receipts subject to the taxes imposed
43 under this subsection (b).

44 Services otherwise taxable under paragraph (1) or (2) of this
45 subsection (b) are not subject to the taxes imposed under this
46 subsection, where the tangible personal property or specified digital
47 product upon which the services were performed is delivered to the
48 purchaser outside this State for use outside this State.

1 (c) (1) Receipts from the sale of prepared food in or by
2 restaurants, taverns, or other establishments in this State, or by
3 caterers, including in the amount of such receipts any cover,
4 minimum, entertainment or other charge made to patrons or
5 customers, except for meals especially prepared for and delivered to
6 homebound elderly, age 60 or older, and to disabled persons, or
7 meals prepared and served at a group-sitting at a location outside of
8 the home to otherwise homebound elderly persons, age 60 or older,
9 and otherwise homebound disabled persons, as all or part of any
10 food service project funded in whole or in part by government or as
11 part of a private, nonprofit food service project available to all such
12 elderly or disabled persons residing within an area of service
13 designated by the private nonprofit organization; and

14 (2) Receipts from sales of food and beverages sold through
15 vending machines, at the wholesale price of such sale, which shall
16 be defined as 70% of the retail vending machine selling price,
17 except sales of milk, which shall not be taxed. Nothing herein
18 contained shall affect other sales through coin-operated vending
19 machines taxable pursuant to subsection (a) above or the exemption
20 thereto provided by section 21 of P.L.1980, c.105 (C.54:32B-8.9).

21 The tax imposed by this subsection (c) shall not apply to food or
22 drink which is sold to an airline for consumption while in flight.

23 (3) For the purposes of this subsection:

24 "Food and beverages sold through vending machines" means
25 food and beverages dispensed from a machine or other mechanical
26 device that accepts payment; and

27 "Prepared food" means:

28 (i) A. food sold in a heated state or heated by the seller; or

29 B. two or more food ingredients mixed or combined by the
30 seller for sale as a single item, but not including food that is only
31 cut, repackaged, or pasteurized by the seller, and eggs, fish, meat,
32 poultry, and foods containing these raw animal foods requiring
33 cooking by the consumer as recommended by the Food and Drug
34 Administration in Chapter 3, part 401.11 of its Food Code so as to
35 prevent food borne illnesses; or

36 C. food sold with eating utensils provided by the seller,
37 including plates, knives, forks, spoons, glasses, cups, napkins, or
38 straws. A plate does not include a container or packaging used to
39 transport the food;
40 provided however, that

41 (ii) "prepared food" does not include the following sold without
42 eating utensils:

43 A. food sold by a seller whose proper primary NAICS
44 classification is manufacturing in section 311, except subsector
45 3118 (bakeries);

46 B. food sold in an unheated state by weight or volume as a
47 single item; or

1 C. bakery items, including bread, rolls, buns, biscuits, bagels,
2 croissants, pastries, donuts, danish, cakes, tortes, pies, tarts,
3 muffins, bars, cookies, and tortillas.

4 (d) The rent for every occupancy of a room or rooms in a hotel
5 in this State, except that the tax shall not be imposed upon a
6 permanent resident.

7 (e) (1) Any admission charge to or for the use of any place of
8 amusement in the State, including charges for admission to race
9 tracks, baseball, football, basketball or exhibitions, dramatic or
10 musical arts performances, motion picture theaters, except charges
11 for admission to boxing, wrestling, kick boxing or combative sports
12 exhibitions, events, performances or contests which charges are
13 taxed under any other law of this State or under section 20 of
14 P.L.1985, c.83 (C.5:2A-20), and, except charges to a patron for
15 admission to, or use of, facilities for sporting activities in which
16 such patron is to be a participant, such as bowling alleys and
17 swimming pools. For any person having the permanent use or
18 possession of a box or seat or lease or a license, other than a season
19 ticket, for the use of a box or seat at a place of amusement, the tax
20 shall be upon the amount for which a similar box or seat is sold for
21 each performance or exhibition at which the box or seat is used or
22 reserved by the holder, licensee or lessee, and shall be paid by the
23 holder, licensee or lessee.

24 (2) The amount paid as charge of a roof garden, cabaret or other
25 similar place in this State, to the extent that a tax upon such charges
26 has not been paid pursuant to subsection (c) hereof.

27 (f) (1) The receipts from every sale, except for resale, of
28 intrastate, interstate, or international telecommunications services
29 and ancillary services sourced to this State in accordance with
30 section 29 of P.L.2005, c.126 (C.54:32B-3.4).

31 (2) (Deleted by amendment, P.L.2008, c.123)

32 (g) (Deleted by amendment, P.L.2008, c.123)

33 (h) Charges in the nature of initiation fees, membership fees or
34 dues for access to or use of the property or facilities of a health and
35 fitness, athletic, sporting or shopping club or organization in this
36 State, except for: (1) membership in a club or organization whose
37 members are predominantly age 18 or under; and (2) charges in the
38 nature of membership fees or dues for access to or use of the
39 property or facilities of a health and fitness, athletic, sporting or
40 shopping club or organization that is exempt from taxation pursuant
41 to paragraph (1) of subsection (a) of section 9 of P.L.1966, c.30
42 (C.54:32B-9), or that is exempt from taxation pursuant to paragraph
43 (1) or (2) of subsection (b) of section 9 of P.L.1966, c.30 and that
44 has complied with subsection (d) of section 9 of P.L.1966, c.30.

45 (i) The receipts from parking, storing or garaging a motor
46 vehicle, excluding charges for the following: residential parking;
47 employee parking, when provided by an employer or at a facility
48 owned or operated by the employer; municipal parking, storing or

1 garaging; receipts from charges or fees imposed pursuant to section
2 3 of P.L.1993, c.159 (C.5:12-173.3) or pursuant to an agreement
3 between the Casino Reinvestment Development Authority and a
4 casino operator in effect on the date of enactment of P.L.2007,
5 c.105; and receipts from parking, storing or garaging a motor
6 vehicle subject to tax pursuant to any other law or ordinance.

7 For the purposes of this subsection, "municipal parking, storing
8 or garaging" means any motor vehicle parking, storing or garaging
9 provided by a municipality or county, or a parking authority
10 thereof.

11 (cf: P.L.2013, c.193, s.1)

12
13 2. This act shall take effect immediately and apply to services
14 rendered on or after the first day of the fourth month next following
15 the date of enactment.

16 17 18 STATEMENT

19
20 This bill excludes certain services rendered in connection with
21 the installation of carpeting and other flooring from the imposition
22 of the sales and use tax.

23 Under the bill, receipts from sales of services rendered in
24 connection with the installation of carpeting and other flooring,
25 such as linoleum, tile, hardwood, and marble, are exempt from the
26 sales and use tax, if the carpeting or other flooring, when installed,
27 constitutes an addition or "capital improvement" to real property,
28 property, or land.

29 Under current law, sales of services rendered in connection with
30 the installation of carpeting and other flooring are subject to tax,
31 regardless of whether the installation results in a capital
32 improvement. The law generally requires contractors, sub-
33 contractors, and retail dealers who install carpeting and other
34 flooring purchased by customers to collect and remit, to the State,
35 the applicable tax associated with charges for installation services.

36 The exclusion provided by this bill will alleviate the burden on
37 contractors, sub-contractors, and retail dealers currently required to
38 collect and remit the tax, and defray a portion of the overall cost
39 associated with the purchase and installation of carpeting and other
40 flooring that, when installed, constitutes a capital improvement.