ASSEMBLY, No. 3246

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 25, 2020

Sponsored by:
Assemblyman ERIK PETERSON
District 23 (Hunterdon, Somerset and Warren)

SYNOPSIS

Excludes paraffin used in manufacture of candles from petroleum products gross receipts tax.

CURRENT VERSION OF TEXT

As introduced.

AN ACT excluding paraffin used in the manufacture of candles from the petroleum products gross receipts tax, amending P.L.1990, c.42.

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

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

2. For the purposes of this act:

"Aviation fuel" means aviation gasoline or aviation grade kerosene or any other fuel that is used in aircraft.

"Aviation gasoline" means fuel specifically compounded for use in reciprocating aircraft engines.

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

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

"Company" includes a corporation, partnership, limited partnership, limited liability company, association, individual, or any fiduciary thereof.

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

"Director" means the Director of the Division of Taxation in the Department of the Treasury.

"First sale of petroleum products within this State" means the initial sale of a petroleum product delivered to a location in this State. A "first sale of petroleum products within this State" does not include a book or exchange transfer of petroleum products if such products are intended to be sold in the ordinary course of business.

"Gasoline" means all products commonly or commercially known or sold as gasoline that are suitable for use as a motor fuel.

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 <u>thus</u> is new matter.

"Gasoline" does not include products that have an ASTM octane number of less than 75 as determined by the "motor method," ASTM D2700-92. The term does not include racing gasoline or aviation gasoline, but for administrative purposes does include fuel grade alcohol.

"Gross receipts" means all consideration derived from the first sale of petroleum products within this State except sales of:

a. asphalt;

b. petroleum products sold pursuant to a written contract extending one year or longer to nonprofit entities qualifying under subsection (b) of section 9 of P.L.1966, c.30 (C.54:32B-9) as evidenced by an invoice in form prescribed by subsection b. of section 3 of P.L.1991, c.19 (C.54:15B-10);

c. petroleum products sold to governmental entities qualifying under subsection (a) of section 9 of P.L.1966, c.30 (C.54:32B-9) as evidenced by an invoice in form prescribed by subsection b. of section 3 of P.L.1991, c.19 (C.54:15B-10); **[**and**]**

d. polymer grade propylene used in the manufacture of polypropylene<u>; and</u>

<u>e. paraffin used in the manufacture of candles</u>.

"Highway fuel" means gasoline, blended fuel that contains gasoline or is intended for use as gasoline, liquefied petroleum gas, and diesel fuel, blended fuel that contains diesel fuel or is intended for use as diesel fuel, and kerosene, other than aviation grade kerosene.

"Kerosene" means the petroleum fraction containing hydrocarbons that are slightly heavier than those found in gasoline and naphtha, with a boiling range of 149 to 300 degrees Celsius.

"Petroleum products" means refined products made from crude petroleum and its fractionation products, through straight distillation of crude oil or through redistillation of unfinished derivatives, but shall not mean the products commonly known as number 2 heating oil, number 4 heating oil, number 6 heating oil, kerosene and propane gas to be used exclusively for residential use.

"Quarterly period" means a period of three calendar months commencing on the first day of January, April, July or October and ending on the last day of March, June, September or December, respectively.

"Retail price per gallon" means the price charged by retailers in the State for a gallon of the petroleum product dispensed into the fuel tanks of motor vehicles without State or federal tax included.

"Unleaded regular gasoline" means gasoline of the octane rating equal to the lowest octane rated gasoline offered for sale at a majority of the gasoline retailers in the State.

"2016 implementation date" means the later of November 1, 2016 or the 15th day after the date of enactment of P.L.2016, c.57.

(cf: P.L.2016, c.57, s.12)

2. This act shall take effect immediately and apply to first sales of petroleum products made on or after the first day of the quarterly period next beginning after the date of enactment.

STATEMENT

This bill exempts the paraffin used to manufacture candles from New Jersey's petroleum products gross receipts tax, to eliminate a competitive disadvantage to New Jersey candle manufacturers.

At the same time that the home décor market for candles has been expanding, United States manufacturers have been under assault from foreign production: a federal antidumping duty has been in effect since 1986 on candles manufactured in China, to combat aggressive "dumping" in the U.S. market by Chinese manufacturers.

The petroleum products gross receipts tax puts New Jersey candle manufacturers at a particular disadvantage in this market. Candles are typically composed of paraffin wax, a petroleum product subject to the New Jersey tax, so candles made in New Jersey are made of paraffin that has been taxed, whether the candles are sold in New Jersey or elsewhere. Candles themselves are classified by regulation as a finished manufactured product, and so a candle manufactured outside of the New Jersey is not subject to the tax, even if sold in New Jersey. New Jersey manufacturers must compete while carrying a tax burden that their competition does not bear.

There are still several hundred candle manufacturing jobs in New Jersey; this bill will end the tax disadvantage to New Jersey manufacturing before those last few are driven out of the State.