

ASSEMBLY, No. 3370

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED FEBRUARY 25, 2020

Sponsored by:

Assemblyman JOHN J. BURZICHELLI

District 3 (Cumberland, Gloucester and Salem)

Assemblyman THOMAS P. GIBLIN

District 34 (Essex and Passaic)

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

SYNOPSIS

Eliminates certain aviation fuel tax exemptions; provides funding for aviation capital projects.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/11/2020)

1 **AN ACT** concerning the taxation of aviation fuels, appropriating
2 aviation fuel tax revenues for aviation purposes, and amending
3 P.L.1990, c.42, P.L.1991, c.181, and P.L.1995, c.108.

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

7
8 1. Section 7 of P.L.1991, c.181 (C.54:15B-2.1) is amended to
9 read as follows:

10 7. a. "Gross receipts," as otherwise defined by section 2 of
11 P.L.1990, c.42 (C.54:15B-2), shall not include receipts from sales
12 of petroleum products used by marine vessels engaged in interstate
13 or foreign commerce and receipts from sales of aviation fuels used
14 by common carriers in interstate or foreign commerce at an airport
15 in the State with fewer than 20,000 scheduled commercial
16 passenger flights per year other than which shall be taxable
17 pursuant to rules promulgated by the director.

18 b. Highway fuel used for the following purposes is exempt
19 from the tax imposed by section 3 of P.L.1990, c.42 (C.54:15B-3),
20 and a refund of the tax imposed by that section may be claimed by
21 the consumer providing proof the tax has been paid and no refund
22 has been previously issued:

23 (1) autobuses while being operated over the highways of this
24 State in those municipalities to which the operator has paid a
25 monthly franchise tax for the use of the streets therein under the
26 provisions of R.S.48:16-25 and autobuses while being operated over
27 the highways of this State in a regular route bus operation as
28 defined in R.S.48:4-1 and under operating authority conferred
29 pursuant to R.S.48:4-3, or while providing bus service under a
30 contract with the New Jersey Transit Corporation or under a
31 contract with a county for special or rural transportation bus service
32 subject to the jurisdiction of the New Jersey Transit Corporation
33 pursuant to P.L.1979, c.150 (C.27:25-1 et seq.), and autobuses
34 providing commuter bus service which receive or discharge
35 passengers in New Jersey. For the purpose of this paragraph
36 "commuter bus service" means regularly scheduled passenger
37 service provided by motor vehicles whether within or across the
38 geographical boundaries of New Jersey and utilized by passengers
39 using reduced fare, multiple ride, or commutation tickets and shall
40 not include charter bus operations for the transportation of enrolled
41 children and adults referred to in subsection c. of R.S.48:4-1 and
42 "regular route service" does not mean a regular route in the nature
43 of special bus operation or a casino bus operation;

44 (2) agricultural tractors not operated on a public highway;

45 (3) farm machinery;

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 (4) ambulances;
- 2 (5) rural free delivery carriers in the dispatch of their official
- 3 business;
- 4 (6) vehicles that run only on rails or tracks, and such vehicles as
- 5 run in substitution therefor;
- 6 (7) highway motor vehicles that are operated exclusively on
- 7 private property;
- 8 (8) motor boats or motor vessels used exclusively for or in the
- 9 propagation, planting, preservation and gathering of oysters and
- 10 clams in the tidal waters of this State;
- 11 (9) motor boats or motor vessels used exclusively for
- 12 commercial fishing;
- 13 (10) motor boats or motor vessels, while being used for hire for
- 14 fishing parties or being used for sightseeing or excursion parties;
- 15 (11) fire engines and fire-fighting apparatus;
- 16 (12) stationary machinery and vehicles or implements not
- 17 designed for the use of transporting persons or property on the
- 18 public highways;
- 19 (13) heating and lighting devices;
- 20 (14) motor boats or motor vessels used exclusively for Sea Scout
- 21 training by a duly chartered unit of the Boy Scouts of America; and
- 22 (15) emergency vehicles used exclusively by volunteer first-aid
- 23 or rescue squads.
- 24 (cf: P.L.2016, c.57, s.13)

25
26 3. Section 15 of P.L.1995, c.108 (C.27:1B-21.8) is amended to
27 read as follows:

28 15. a. Each year a nonlapsing sum of money shall be
29 appropriated from funds held in the Special Transportation Fund,
30 established pursuant to section 21 of P.L.1984, c.73 (C.27:1B-21),
31 and credited to the Airport Safety Fund, established in the General
32 Fund pursuant to section 4 of P.L.1983, c.264 (C.6:1-92), for use
33 for any purpose pursuant to the "New Jersey Airport Safety,
34 Security and Improvement Act," P.L.1983, c.264 (C.6:1-89 et al.)
35 and that sum shall be included in the annual report of projects
36 prepared pursuant to section 22 of P.L.1984, c.73 (C.27:1B-22).
37 Funds so appropriated shall no longer be subject to the provisions
38 and limitations of chapter 1B of Title 27 of the Revised Statutes,
39 but instead shall be subject to the provisions and limitations of
40 P.L.1983, c.264 (C.6:1-89 et al.).

41 b. Commencing with the fiscal year beginning July 1, 2019
42 there shall be annually appropriated from funds held in the Special
43 Transportation Fund, established pursuant to section 21 of
44 P.L.1984, c.73 (C.27:1B-21) an amount equal to the revenues
45 derived from the tax imposed on the receipts from the sale of
46 aviation fuels used by airlines under the "Petroleum Products Gross
47 Receipts Tax Act," P.L.1990, c.42 (C.54:15B-1 et seq.) to the Port
48 Authority of New York and New Jersey in support of the planning,

1 acquisition, engineering, construction, reconstruction, repair, and
2 rehabilitation costs of extending Port Authority Trans-Hudson
3 Corporation rail service to Newark Liberty International Airport,
4 and for the cost of planning, acquisition, engineering, construction,
5 reconstruction, repair, and rehabilitation of capital projects at
6 airports, local airport systems, or other local facilities owned and
7 operated by the airport owner or operator and directly and
8 substantially related to the air transportation of passengers or
9 property in the State, as a federally permitted use of revenue
10 derived from the taxation of aviation fuel used by airlines pursuant
11 to federal statute, including, but not limited to, Title 49 of United
12 States Code.
13 (cf: P.L.2010, c.38, s.5)

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15 4. This act shall take effect 90 days following enactment.

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STATEMENT

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20 This bill eliminates a tax exemption that airlines receive on their
21 use of aviation fuel and provides funding needed to complete the
22 Port Authority Trans-Hudson Corporation (PATH) rail service
23 extension to Newark Liberty International Airport and other airport
24 capital projects that qualify as federally permitted uses of revenue
25 from the taxation of aviation fuel used by airlines.

26 Currently, common carriers are exempt from taxation on
27 interstate and foreign flights except for that portion of aviation fuel
28 that is used in “burnout,” during taxiing and take-off. This bill taxes
29 the entire receipts from the sale of aviation fuels used by all airlines
30 at the rate of four cents per gallon, except for circumstances where
31 the aviation fuels are used at an airport in the State with fewer than
32 20,000 scheduled commercial passenger flights per year. Aviation
33 fuels consumed at an airport in the State with fewer than 20,000
34 scheduled commercial flights per year will continue to be taxed
35 only on the “burnout” portion.