

ASSEMBLY, No. 4072

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED MAY 7, 2020

Sponsored by:

Assemblyman RONALD S. DANCER

District 12 (Burlington, Middlesex, Monmouth and Ocean)

SYNOPSIS

Provides sales and use tax exemption for certain septic waste removal services including human waste.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT providing a sales and use tax exemption for sales of certain
2 septic waste removal services, amending section 3 of P.L.1966,
3 c.30 (C.54:32B-3).

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% on or
11 before December 31, 2016, 6.875% on and after January 1, 2017 but
12 before January 1, 2018, and 6.625% on and after January 1, 2018
13 upon:

14 (a) The receipts from every retail sale of tangible personal
15 property or a specified digital product for permanent use or less
16 than permanent use, and regardless of whether continued payment is
17 required, except as otherwise provided in P.L.1966, c.30 (C.54:32B-
18 1 et seq.).

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

21 (1) Producing, fabricating, processing, printing, or imprinting
22 tangible personal property or a specified digital product, performed
23 for a person who directly or indirectly furnishes the tangible
24 personal property or specified digital product, not purchased by the
25 person for resale, upon which these services are performed.

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

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

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

14 (4) Maintaining, servicing, or repairing real property, other than
15 a residential heating system unit serving not more than three
16 families living independently of each other and doing their cooking
17 on the premises, whether the services are performed in or outside of
18 a building, as distinguished from adding to or improving the real
19 property by a capital improvement, but excluding services rendered
20 by an individual who is not in a regular trade or business offering
21 his services to the public, **[and]** excluding garbage removal and
22 sewer services performed on a regular contractual basis for a term
23 not less than 30 days, and excluding sewer services related to
24 pumping and treatment of septic waste from septic tanks,
25 maintaining or servicing septic tanks, and pickup, transportation or
26 unloading of septic waste from septic tanks, but not including waste
27 from a sewage treatment plant.

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

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

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

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

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

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

42 (11) Investigation and security services.

43 (12) Information services.

44 (13) (Deleted by amendment, P.L.2017, c.27)

45 (14) Telephone answering services.

46 (15) Radio subscription services.

47 Wages, salaries, and other compensation paid by an employer to
48 an employee for performing as an employee the services described

1 in this subsection are not receipts subject to the taxes imposed
2 under subsection (b) of this section.

3 Services otherwise taxable under paragraph (1) or (2) of
4 subsection (b) of this section are not subject to the taxes imposed
5 under this subsection, where the tangible personal property or
6 specified digital product upon which the services were performed is
7 delivered to the purchaser outside this State for use outside this
8 State.

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

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

30 The tax imposed by subsection (c) of this section shall not apply
31 to food or drink which is sold to an airline for consumption while in
32 flight.

33 (3) For the purposes of this subsection:

34 "Food and beverages sold through vending machines" means
35 food and beverages dispensed from a machine or other mechanical
36 device that accepts payment; and

37 "Prepared food" means:

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

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

46 C. food sold with eating utensils provided by the seller,
47 including plates, knives, forks, spoons, glasses, cups, napkins, or

1 straws. A plate does not include a container or packaging used to
2 transport the food;

3 provided however, that

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

6 A. food sold by a seller whose proper primary NAICS
7 classification is manufacturing in section 311, except subsector
8 3118 (bakeries);

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

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

14 (d) The rent for every occupancy of a room or rooms in a hotel
15 or transient accommodation in this State, except that the tax shall
16 not be imposed upon a permanent resident.

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

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

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

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

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

43 (h) Charges in the nature of initiation fees, membership fees or
44 dues for access to or use of the property or facilities of a health and
45 fitness, athletic, sporting, or shopping club or organization in this
46 State, except for: (1) membership in a club or organization whose
47 members are predominantly age 18 or under; and (2) charges in the
48 nature of membership fees or dues for access to or use of the

1 property or facilities of a health and fitness, athletic, sporting, or
2 shopping club or organization that is exempt from taxation pursuant
3 to paragraph (1) of subsection (a) of section 9 of P.L.1966, c.30
4 (C.54:32B-9), or that is exempt from taxation pursuant to paragraph
5 (1) or (2) of subsection (b) of section 9 of P.L.1966, c.30
6 (C.54:32B-9) and that has complied with subsection (d) of section 9
7 of P.L.1966, c.30 (C.54:32B-9).

8 (i) The receipts from parking, storing, or garaging a motor
9 vehicle, excluding charges for the following: residential parking;
10 employee parking, when provided by an employer or at a facility
11 owned or operated by the employer; municipal parking, storing, or
12 garaging; receipts from charges or fees imposed pursuant to section
13 3 of P.L.1993, c.159 (C.5:12-173.3) or pursuant to an agreement
14 between the Casino Reinvestment Development Authority and a
15 casino operator in effect on the date of enactment of P.L.2007,
16 c.105; and receipts from parking, storing, or garaging a motor
17 vehicle subject to tax pursuant to any other law or ordinance.

18 For the purposes of this subsection, "municipal parking, storing,
19 or garaging" means any motor vehicle parking, storing, or garaging
20 provided by a municipality or county, or a parking authority
21 thereof.

22 (cf: P.L.2018, c.49, s.20)

23
24 2. This act shall take effect on the first day of the first calendar
25 quarter after the date of enactment.

26 27 28 STATEMENT

29
30 This bill provides a sales and use tax exemption for services
31 related to the pumping and treatment of septic waste from septic
32 tanks, maintaining or servicing septic tanks, and pickup,
33 transportation or unloading of septic waste from septic tanks. The
34 current sales and use tax exemption for regular contractual sewer
35 services is only applicable to septic tank services if services are
36 performed on a regular continuous basis. However, residential
37 septic tank services are not typically required on a regular monthly
38 schedule, and are thus currently subject to sales tax. This results in
39 an unfair tax treatment in comparison to the segment of the New
40 Jersey population that is provided with regular public sewer system
41 service that is not subject to the State sales tax. State tax burdens
42 are high enough without the State collecting tax on the removal of
43 human waste from septic tank systems.