

SENATE, No. 3287

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED DECEMBER 16, 2020

Sponsored by:

Senator TROY SINGLETON

District 7 (Burlington)

Senator BOB SMITH

District 17 (Middlesex and Somerset)

Co-Sponsored by:

Senators Greenstein, Vitale and Gopal

SYNOPSIS

Concerns provision of energy to certain manufacturing facilities by providing exemptions to certain energy related taxes.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/24/2021)

1 AN ACT concerning provision of energy to certain manufacturing
2 facilities, and amending P.L.2019, c.437.

3
4 BE IT ENACTED by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Section 1 of P.L.2019, c.437 (C.54:32B-8.47b) is amended
8 to read as follows:

9 1. As used in P.L.2019, c.437 (C.54:32B-8.47b et seq.):

10 "Authority" means the New Jersey Economic Development
11 Authority established by P.L.1974, c.80 (C.34:1B-1 et seq.).

12 "Comprehensive energy audit" means the same as defined in
13 section 2 of P.L.1995, c.180 (C.48:2-21.25).

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

16 "Division" means the Division of Taxation in the Department of
17 the Treasury.

18 "Recovered materials" means the same as defined in 40 C.F.R.
19 s.247.3.

20 "Recovered materials manufacturing facility" means a facility
21 that: (1) received service under an electric public utility rate that
22 applied only to the owner of the facility on January 1, 2004; (2)
23 manufactures products made from recovered materials, provided
24 however, that not less than 50 percent of the content of such
25 products produced in this State meet the definition of recovered
26 materials; (3) completed a comprehensive energy audit not more
27 than 48 months before but not later than 90 days after the effective
28 date of P.L.2019, c.437 (C.54:32B-8.47b et seq.); and (4) employed,
29 individually or collectively with an affiliated facility, not less than
30 250 employees in this State on January 1, 2019.

31 "Recycled materials" means any item or commodity which is
32 manufactured or produced in whole or in part from post-consumer
33 waste material.

34 "Recycled materials manufacturing facility" means a facility
35 that: (1) received service under an electric public utility rate that
36 applied only to the owner of the facility on January 1, 2004 at or
37 above 110 kilovolts delivery; (2) manufactures products made from
38 recycled materials, provided however, that not less than 90 percent
39 of the content of such products produced in this State meet the
40 definition of recycled materials; and (3) employed not less than 200
41 employees in this State on January 1, 2020.

42 "Tax exemption period" means:

43 (1) for a recovered materials manufacturing facility, a period of
44 seven years beginning on a date specified by the owner of a
45 recovered materials manufacturing facility following consultation
46 and filing of notice with the division, provided, however, that the

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 beginning date shall be specified to occur after December 31, 2019
2 and before January 1, 2023; or

3 (2) for a recycled materials manufacturing facility, an initial
4 period of seven years beginning on a date specified by the owner of
5 a recycled materials manufacturing facility following consultation
6 and filing of notice with the division, provided, however, that the
7 beginning date shall be specified to occur after the effective date of
8 P.L. , c (C.) (pending before the Legislature as this bill).
9 (cf: P.L.2019, c.437, s.1)

10
11 2. Section 2 of P.L.2019, c.437 (C.54:32B-8.47c) is amended
12 to read as follows:

13 2. a. Receipts from the sale or use of energy and utility service
14 to or by a recovered materials manufacturing facility or a recycled
15 materials manufacturing facility for use or consumption directly and
16 primarily in the production of tangible personal property shall be
17 exempt from the tax imposed under the "Sales and Use Tax Act,"
18 P.L.1966, c.30 (C.54:32B-1 et seq.), during the tax exemption
19 period.

20 b. Notwithstanding the provisions of subsection a. of this
21 section, a seller of energy and utility service shall charge and
22 collect from a purchaser that is a recovered materials manufacturing
23 facility or a recycled materials manufacturing facility, and remit to
24 the division, the sales and use tax at the rate then in effect, and the
25 tax shall be refunded to the purchaser by the filing, within 30 days
26 of the close of the calendar quarter in which the sale or use is made
27 or rendered, of a claim with the director for a refund of sales and
28 use taxes paid for energy and utility service, which refund shall be
29 paid within 60 days of the filing of a claim for refund. Proof of
30 claim for refund shall be made by the submission of auditable
31 receipts and such other documentation as the director may require.

32 c. (1) If the owner of a recovered materials manufacturing
33 facility or a recycled materials manufacturing facility relocates the
34 facility to a location outside this State during the tax exemption
35 period, the owner of the facility shall pay the director the amount of
36 tax for which an exemption shall have been allowed and refunded in
37 accordance with subsection b. of this section.

38 (2) The State Treasurer shall notify the director of the relocation
39 of a recovered materials manufacturing facility or a recycled
40 materials manufacturing facility to a location outside this State, and
41 the director shall issue a tax assessment for the recapture of tax,
42 equal to the amount of tax for which an exemption shall have been
43 allowed and refunded in accordance with subsection b. of this
44 section.

45 (3) The recapture of tax shall be a State tax subject to the State
46 Uniform Tax Procedure Law, R.S.54:48-1 et seq., and shall be
47 deposited in the General Fund.

48 (cf: P.L.2019, c.437, s.2)

1 3. Section 3 of P.L.2019, c.437 (C.54:32B-8.47d) is amended
2 to read as follows:

3 3. a. The division, in consultation with the authority, shall
4 annually review the financial records of a recovered materials
5 manufacturing facility or a recycled materials manufacturing
6 facility that is eligible for a sales and use tax exemption pursuant to
7 section 2 of P.L.2019, c.437 (C.54:32B-8.47c), in order to
8 determine whether it is economically feasible for the State to
9 continue to allow that recovered materials manufacturing facility or
10 recycled materials manufacturing facility to receive that sales and
11 use tax exemption.

12 b. (1) Upon the completion of the review required by this
13 section, the division, in consultation with the authority, shall
14 prepare and submit, pursuant to section 2 of P.L.1991, c.164
15 (C.52:14-19.1), an annual report to the Legislature containing their
16 recommendation as to whether the sales and use tax exemption
17 should be continued or whether the exemption should be altered,
18 terminated, or repealed. **【The】**

19 (2) For a recovered materials manufacturing facility, the
20 division, in consultation with the authority, shall submit the first
21 annual report on the first day of the ninth month following the
22 commencement of the tax exemption period and shall review the
23 period beginning with the first day after the commencement of the
24 tax exemption period and extending for the subsequent six months.
25 Each of the six subsequent annual reports shall review the 12-month
26 period beginning on the first day after the close of the prior
27 reporting period. For a recycled materials manufacturing facility,
28 the division, in consultation with the authority, shall submit the first
29 annual report on the first day of the ninth month following the
30 commencement of the tax exemption period and shall review the
31 period beginning with the first day after the commencement of the
32 tax exemption period. Each subsequent annual report shall review
33 the 12-month period beginning on the first day after the close of the
34 prior reporting period.

35 c. The annual reports shall review the financial records of such
36 a recovered materials manufacturing facility or recycled materials
37 manufacturing facility for the preceding one-year period. As a
38 condition of receiving the sales and use tax exemption, the
39 recovered materials manufacturing facility or recycled materials
40 manufacturing facility shall make its financial records available to
41 the division and the authority and shall provide such other
42 information as may be required by the division and the authority to
43 complete their review and assessment pursuant to this section.

44 d. Related to the sales and use tax exemption for recycled
45 materials manufacturing facilities, if the division, in consultation
46 with the authority, continues to recommend the sales and use tax
47 exemption for recycled materials manufacturing facilities as a part
48 of the seventh annual review, the sales and use tax exemption for

1 recycled materials manufacturing facilities shall remain in effect for
2 an additional year. The provision of the sales and use tax
3 exemption for recycled materials manufacturing facilities shall be
4 extended on a yearly basis and remain in effect until such time that
5 the division, in consultation with the authority, recommends the
6 termination of that sales and use tax exemption.
7 (cf: P.L.2019, c.437, s.3)

8
9 4. This act shall take effect immediately and shall apply to
10 receipts from the sale or use of energy and utility service to or by a
11 recycled materials manufacturing facility made on or after the
12 effective date.

13
14
15 STATEMENT

16
17 This bill concerns the provision of energy to certain recycled
18 materials manufacturing facilities by exempting, for an initial
19 period of seven years, the sale or use of energy utility service to
20 qualifying recycled materials manufacturing facilities from the sales
21 and use tax. The bill requires the Division of Taxation (division) to
22 annually review the economic feasibility of continuing to provide
23 qualifying recycled materials manufacturing facilities with the
24 exemption from the sales and use tax and to submit their
25 recommendations to the Legislature as to whether such exemptions
26 should be continued. The bill provides that the exemption for
27 recycled materials manufacturing facilities are to be continued until
28 such time that the division recommends the termination of that sales
29 and use tax exemption.