

# ASSEMBLY, No. 4120

## STATE OF NEW JERSEY 217th LEGISLATURE

INTRODUCED SEPTEMBER 15, 2016

**Sponsored by:**

**Assemblyman NICHOLAS CHIARAVALLOTI**

**District 31 (Hudson)**

**Assemblyman RALPH R. CAPUTO**

**District 28 (Essex)**

**SYNOPSIS**

Establishes DEP program to reduce heavy-duty diesel truck emissions from trucks operating in the ports of Bayonne, Elizabeth, Jersey City, and Newark.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 9/20/2016)**

1 AN ACT concerning reduction of air pollutants and diesel exhaust  
2 emissions, and supplementing Title 26 of the Revised Statutes.

3

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

6

7 1. The Legislature finds and declares that the daily confluence  
8 of heavy-duty diesel truck traffic coming and going through the  
9 ports of Bayonne, Elizabeth, Jersey City, and Newark create a  
10 unique and burdensome environmental problem for the State and  
11 the citizens of these cities and the surrounding communities; that  
12 the concentration of air pollutants and diesel exhaust from these  
13 trucks queuing to drop off and pick up shipping containers at the  
14 ports create a serious environmental and health hazard for the area  
15 around the ports, including the Ironbound Neighborhood in Newark,  
16 whose high particulate emissions from diesel exhaust has been  
17 studied and documented; that the federal government has recently  
18 acknowledged the serious health and environmental risks of diesel  
19 emissions, calling for a 25 percent reduction in these emissions over  
20 the next 10 years; that the Port Authority of New York and New  
21 Jersey has sought to require trucks operating in the port district to  
22 be model year 2007 and newer so as to greatly reduce this problem,  
23 but has postponed enforcement of the requirement because, after  
24 committing to the project and promising funding, the Port Authority  
25 did not provide funding for truckers to update their vehicles despite  
26 the economic hardship it would impose on truckers and their  
27 trucking companies if trucks operating in the port district were  
28 required to be model year 2007 or newer; that the Department of  
29 Environmental Protection has long been aware of the air pollution  
30 problems at the New Jersey ports; that, since 1995, the department  
31 has endeavored to reduce emissions from heavy-duty diesel trucks  
32 in the State through enforcement of the periodic and roadside diesel  
33 emissions programs, and, since 2005, through increased  
34 enforcement of idling standards and the reduction of fine particulate  
35 emissions through the retrofitting and conversion of vehicles and  
36 fleets with funding from the Diesel Risk Mitigation Fund  
37 established pursuant to section 28 of P.L.2005, c.219 (C.26:2C-  
38 8.53); that much of the accomplished reductions were possible  
39 because of the funding from the Diesel Risk Mitigation Fund; and  
40 that establishing a similar stable source of funding and concentrated  
41 effort on the reduction of diesel emissions in the ports of Bayonne,  
42 Elizabeth, Jersey City, and Newark could improve the long-standing  
43 environmental and health risks associated with the heavy-duty  
44 diesel truck traffic there.

45 The Legislature therefore determines that reduction of diesel  
46 emissions at the ports of Bayonne, Elizabeth, Jersey City, and  
47 Newark in the New Jersey portion of the Port District of New York  
48 and New Jersey is a State environmental problem; that it is in the

1 best interest of the State to establish a clean truck tariff program at  
2 the ports of Bayonne, Elizabeth, Jersey City, and Newark in order  
3 to protect the health of the residents and citizens while maintaining  
4 the economic vitality of the region; and that the clean truck tariff  
5 program should encourage the updating of the trucks operating  
6 there and provide funding to accomplish those updates.

7 Furthermore, the Legislature urges the Port Authority of New  
8 York and New Jersey to reinstate its commitment to funding the  
9 conversion of trucks operating in the ports of Bayonne, Elizabeth,  
10 Jersey City, and Newark to model years eight years old and newer  
11 by supporting the clean truck tariff established pursuant to section 3  
12 of this act and assisting the Department of Environmental  
13 Protection by entering into an agreement with the department  
14 pursuant to that section.

15

16 2. As used in this act:

17 “Beneficial cargo owner” means the person who owns the  
18 contents of a container being delivered to, or collected from, the  
19 New Jersey portion of the port district.

20 “Department” means the New Jersey Department of  
21 Environmental Protection.

22 “Eligible truck” is any heavy-duty diesel truck registered to  
23 operate in the New Jersey portion of the port district with a model  
24 year of 2011 or older, or after January 2, 2020, with a model year  
25 more than eight years old.

26 “Fund” means the Clean Truck Tariff Fund established pursuant  
27 to section 4 of this act.

28 “New Jersey portion of the port district” means the portion of the  
29 Port District of New York and New Jersey located entirely in the  
30 State of New Jersey, and encompassing the ports of Bayonne,  
31 Elizabeth, Jersey City, and Newark.

32 “Port authority” means the Port Authority of New York and New  
33 Jersey.

34

35 3. a. Prior to January 2, 2020, the beneficial cargo owner of the  
36 contents of a container being transported by an owner or operator of  
37 a heavy-duty diesel truck registered to operate in the New Jersey  
38 portion of the port district with a model year of 2011 or older shall  
39 pay a per-trip clean truck tariff. The clean truck tariff shall be not  
40 less than \$100 nor more than \$150 per trip by an owner or operator  
41 of a heavy-duty diesel truck to a port receiving or delivering a  
42 shipping container, as determined in the agreement established  
43 pursuant to subsection c. of this section and collected in the manner  
44 provided by the agreement. On January 2, 2020 and thereafter, the  
45 beneficial cargo owner of the contents of a container being  
46 transported by an owner or operator of a heavy-duty diesel truck  
47 registered to operate in the New Jersey portion of the port district

1 with a model year more than eight years old shall pay the clean  
2 truck tariff.

3 b. Any moneys collected for the clean truck tariff pursuant to  
4 subsection a. of this section shall be forwarded to the New Jersey  
5 Department of Environmental Protection and deposited in the  
6 "Clean Truck Tariff Fund," established pursuant to section 4 of this  
7 act. An owner of a heavy-duty diesel truck registered to operate in  
8 the New Jersey portion of the port district with a model year of  
9 2011 or older, or after January 2, 2020, with a model year more  
10 than eight years old, may apply to the department for a subsidy or  
11 reimbursement as provided in section 5 of this act.

12 c. The department shall enter into an agreement with the Port  
13 Authority of New York and New Jersey to provide for the  
14 collection and receipt by the department of the clean truck tariff  
15 established pursuant to subsection a. of this section. If the port  
16 authority facilitates the collection of the clean truck tariff and incurs  
17 any administrative expenses therefor, it may retain a portion of the  
18 collected moneys, not to exceed 2 percent, for administrative  
19 expenses connected with its responsibilities pursuant to the  
20 agreement. The agreement shall establish the dollar amount of the  
21 clean truck tariff, how it shall be imposed and collected, and any  
22 other provisions the department and the port authority determine to  
23 be necessary for the collection of the clean truck tariff.

24  
25 4. a. There is established in the department a special, nonlapsing  
26 fund to be known as the "Clean Truck Tariff Fund." The fund shall  
27 be administered by the department and shall be credited with  
28 moneys collected as clean truck tariffs pursuant to section 3 of this  
29 act and any moneys that may be made available to the department  
30 by the Legislature, the federal government, the State, or pursuant to  
31 its applications or solicitations pursuant to subsection d. of this  
32 section.

33 b. Moneys in the fund shall be used by the department solely  
34 for:

35 (1) providing subsidies or reimbursements to owners of eligible  
36 trucks as provided pursuant to subsection c. of this section;

37 (2) administrative costs incurred by the department in the  
38 awarding and distribution of the subsidies or reimbursements,  
39 provided that these administrative costs do not exceed 1 percent of  
40 the moneys deposited in the fund annually; and

41 (3) any moneys due to the port authority pursuant to the  
42 agreement entered into pursuant to subsection c. of section 3 of this  
43 act.

44 c. Any owner of an eligible truck shall be eligible for a subsidy  
45 or reimbursement pursuant to section 5 of this act from the fund  
46 established pursuant to subsection a. of this section.

47 d. The department shall also apply for and solicit funding from  
48 any sources that may be available for the subsidies or

1 reimbursements to owners of eligible trucks provided pursuant to  
2 this act.

3

4 5. a. Moneys in the fund shall be allocated and used to provide  
5 a subsidy or reimbursement to the owner of any eligible truck for a  
6 percentage of the cost of purchase of a replacement truck, as  
7 determined by the department.

8 b. An owner of an eligible truck seeking a subsidy or  
9 reimbursement authorized by subsection a. of this section shall file  
10 an application therefor on a form to be developed by the  
11 Department of Environmental Protection, with the documentation  
12 required by the department. The department shall not charge an  
13 application fee.

14 c. Upon determination that an application for a subsidy or  
15 reimbursement meets all established criteria for an award from the  
16 fund, the department shall approve the application and award the  
17 subsidy or reimbursement, upon the availability of sufficient  
18 moneys in the fund. If moneys in the fund are not sufficient at any  
19 point to fund all applications for a subsidy or reimbursement,  
20 awards shall be made based upon the date of approval of the  
21 application.

22

23 6. a. The Department of Environmental Protection, pursuant to  
24 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
25 seq.), shall adopt rules and regulations establishing:

26 (1) filing requirements for a complete application for a subsidy  
27 or reimbursement from the fund;

28 (2) requirements for an owner of an eligible truck to submit  
29 documentation or other information demonstrating the intent to  
30 purchase or the actual purchase of an eligible truck, which may  
31 include the vehicle identification number of the truck, and  
32 documentation of the actual costs incurred for the purchase or the  
33 projected costs for the intended purchase;

34 (3) eligibility requirements for an owner of an eligible truck,  
35 including, but not limited to, documentation that the owner is in  
36 compliance with the applicable labor, truck safety, and tax laws;  
37 and

38 (4) any other procedures or requirements necessary for the  
39 implementation of this act.

40 b. In establishing requirements for an application for a subsidy  
41 or reimbursement, the department shall strive to minimize the  
42 complexity of the process and the application requirements, and  
43 shall expeditiously process all applications in accordance with the  
44 funding available.

45

46 7. a. The department may deny an application for a subsidy or  
47 reimbursement from the fund, and any subsidy or reimbursement  
48 awarded from the fund may be recoverable by the department, upon

1 a finding that the owner of a heavy-duty diesel truck provided false  
2 information or withheld information on an application that would  
3 render the owner ineligible for a subsidy or reimbursement from the  
4 fund, that resulted in the owner receiving a larger subsidy or  
5 reimbursement than the owner would otherwise be eligible for, or  
6 that resulted in payments from the fund in excess of the actual costs  
7 incurred by the owner or the amount to which the owner is legally  
8 eligible.

9 b. Nothing in this section shall be construed to require the  
10 department, or any other State agency or department, to undertake  
11 an investigation or make any findings concerning the conduct  
12 described in subsection a. of this section.

13  
14 8. This act shall take effect immediately.

15  
16  
17 STATEMENT

18  
19 This bill establishes in the New Jersey Department of  
20 Environmental Protection (DEP) a clean truck tariff program to be  
21 administered by the DEP to address the State health and  
22 environmental problems from heavy-duty diesel truck traffic in the  
23 ports of Bayonne, Elizabeth, Jersey City, and Newark. The bill  
24 requires the beneficial cargo owner of a container being transported  
25 by an owner or operator of a heavy-duty diesel truck registered to  
26 operate in the New Jersey portion of the port district to pay a clean  
27 truck tariff of not less than \$100 nor more than \$150 per trip to a  
28 port to receive or deliver a shipping container:

29 1) prior to January 2, 2020 if the model year of the truck is 2011  
30 or older; and

31 2) on and after January 2, 2020 if the model year of the truck is  
32 more than eight years old.

33 The bill further provides that all moneys collected for the clean  
34 truck tariff would be deposited in the "Clean Truck Tariff Fund,"  
35 established in the bill, and that the moneys would be used to  
36 subsidize or reimburse the costs of updating the model years of the  
37 trucks operating in the ports of Bayonne, Elizabeth, Jersey City, and  
38 Newark. The bill also directs the DEP to apply for and solicit  
39 funding for these subsidies or reimbursements from whatever  
40 funding sources may be available, for deposit into the "Clean Truck  
41 Tariff Fund." Any owner of a heavy-duty diesel truck registered to  
42 operate in the New Jersey portion of the port district with a model  
43 year of 2011 or older, or on or after January 2, 2020, with a model  
44 year more than eight years old, may apply to the DEP for a subsidy  
45 or reimbursement in the manner established by the DEP.

46 The bill also directs the DEP to enter into an agreement with the  
47 Port Authority of New York and New Jersey (the Port Authority) to  
48 provide for the collection of the clean truck tariff and the

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1 forwarding of the moneys therefrom to the DEP. The bill allows  
2 the Port Authority to retain a portion of the collected moneys, not to  
3 exceed 2 percent, for administrative expenses connected with its  
4 responsibilities pursuant to the agreement. The bill also requires  
5 the agreement to establish the dollar amount of the clean truck  
6 tariff, how it would be imposed and collected, and any other  
7 provisions the DEP and the Port Authority determine to be  
8 necessary for the collection of the clean truck tariff.