

ASSEMBLY, No. 3669

STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED MARCH 17, 2022

Sponsored by:

Assemblyman PAUL D. MORIARTY

District 4 (Camden and Gloucester)

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District 16 (Hunterdon, Mercer, Middlesex and Somerset)

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District 19 (Middlesex)

Co-Sponsored by:

Assemblyman Clifton

SYNOPSIS

Provides three-month reduction or suspension of tax on highway fuels based on average retail price of unleaded regular gasoline; makes an appropriation.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/24/2022)

1 AN ACT concerning the taxation of highway fuels and making an
2 appropriation.

3

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

6

7 1. As used in this act:

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

15 “Director” means the Director of the Division of Taxation in the
16 Department of the Treasury.

17 “Gasoline” means all products commonly or commercially
18 known or sold as gasoline that are suitable for use as a motor fuel.
19 The term does not include products that have an ASTM octane
20 number of less than 75 as determined by the "motor method,"
21 ASTM D2700-92. The term does not include racing gasoline or
22 aviation gasoline, but for administrative purposes does include fuel
23 grade alcohol.

24 “Highway fuel” means gasoline, blended fuel that contains
25 gasoline or is intended for use as gasoline, liquefied petroleum gas,
26 and diesel fuel, blended fuel that contains diesel fuel or is intended
27 for use as diesel fuel, and kerosene, other than aviation grade
28 kerosene.

29 “Motor fuel tax” means the tax imposed under the “Motor Fuel
30 Tax Act,” P.L.2010, c.22 (C.54:39-101 et seq.).

31 “Office of the Economist” means the Office of the Economist in
32 the Board of Public Utilities, or its successor.

33 “Petroleum products gross receipts tax” means the tax imposed
34 under the “Petroleum Products Gross Receipts Tax Act,” P.L.1990,
35 c.42 (C.54:15B-1 et seq.).

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

39 “Unleaded regular gasoline” means gasoline of the octane rating
40 equal to the lowest octane rated gasoline offered for sale at a
41 majority of the gasoline retailers in the State.

42

43 2. a. On or before the 15th day of each month following the
44 effective date of this act, and concluding in September 2022, the
45 State Treasurer, in consultation with the Office of the Economist,
46 shall determine the average retail price per gallon of unleaded
47 regular gasoline in the State during the current month. The State

1 Treasurer shall post the determination on the official Internet
2 website of the Division of Taxation in the Department of the
3 Treasury.

4 b. If the determination of the State Treasurer results in the
5 reduction, suspension, or reimposition of the motor fuel tax and the
6 petroleum products gross receipts tax, as provided under sections 3
7 and 4 of this act, then the State Treasurer shall immediately notify,
8 in writing, each person who shall be otherwise liable for the
9 precollection or payment, as applicable, of the motor fuel tax or the
10 petroleum products gross receipts tax.

11
12 3. a. Notwithstanding any provision of the “Motor Fuel Tax
13 Act,” P.L.2010, c.22 (C.54:39-101 et seq.) to the contrary, during
14 the months of June 2022 through August 2022, the rate of tax
15 imposed under paragraphs (1) and (2) of subsection a. of section 3
16 of P.L.2010, c.22 (C.54:39-103) shall be set as follows:

17 (1) the rates otherwise set forth in paragraphs (1) and (2) of
18 subsection a. of section 3 of P.L.2010, c.22 (C.54:39-103) if the
19 average retail price per gallon of unleaded regular gasoline was less
20 than \$4.50 during the preceding month;

21 (2) a 50 percent reduction in the rates imposed under paragraphs
22 (1) and (2) of subsection a. of section 3 of P.L.2010, c.22 (C.54:39-
23 103) if the average retail price per gallon of unleaded regular
24 gasoline was equal to or greater than \$4.51 but not greater than
25 \$5.00 during the preceding month;

26 (3) a 75 percent reduction in the rates imposed under paragraphs
27 (1) and (2) of subsection a. of section 3 of P.L.2010, c.22 (C.54:39-
28 103) if the average retail price per gallon of unleaded regular
29 gasoline was equal to or greater than \$5.01 but not greater than
30 \$5.50 during the preceding month; and

31 (4) no tax shall be imposed under paragraphs (1) and (2) of
32 subsection a. of section 3 of P.L.2010, c.22 (C.54:39-103) if the
33 average retail price per gallon of unleaded regular gasoline
34 exceeded \$5.50 during the preceding month.

35 b. For each month in which the tax imposed under paragraphs
36 (1) and (2) of subsection a. of section 3 of P.L.2010, c.22 (C.54:39-
37 103) is reduced or suspended pursuant to subsection a. of this
38 section, any person otherwise liable for the precollection or
39 payment of that tax shall submit a written report to the director on
40 or before the 22nd day of the following month. In addition to any
41 other information that the director may deem appropriate, the report
42 shall indicate the:

43 (1) number of gallons of highway fuel sold or used by the
44 person in this State during the month;

45 (2) amount of tax paid for the month under paragraphs (1) and
46 (2) of subsection a. of section 3 of P.L.2010, c.22 (C.54:39-103);
47 and

1 (3) total amount of tax that would have been owed for the month
2 under paragraphs (1) and (2) of subsection a. of section 3 of
3 P.L.2010, c.22 (C.54:39-103) if the tax was not reduced or
4 suspended pursuant to this section.

5 c. The benefit of any reduction or suspension of taxation
6 provided under subsection a. of this section shall be passed on to
7 the consumers of highway fuel, and the retail price of highway fuel
8 sold in this State shall be reduced to reflect the reduction or
9 suspension of taxation.

10
11 4. a. Notwithstanding any provision of the “Petroleum
12 Products Gross Receipts Tax Act,” P.L.1990, c.42 (C.54:15B-
13 1 et seq.) to the contrary, during the months of June 2022 through
14 August 2022, the rate of tax imposed on highway fuel under
15 paragraphs (1) and (2) of subsection a. of section 3 of P.L.1990,
16 c.42 (C.54:15B-3) shall be set as follows:

17 (1) the rates otherwise imposed on highway fuel under
18 paragraphs (1) and (2) of subsection a. of section 3 of P.L.1990,
19 c.42 (C.54:15B-3) if the average retail price per gallon of unleaded
20 regular gasoline was less than \$4.50 during the preceding month;

21 (2) a 50 percent reduction in the rates imposed on highway fuel
22 under paragraphs (1) and (2) of subsection a. of section 3 of
23 P.L.1990, c.42 (C.54:15B-3) if the average retail price per gallon of
24 unleaded regular gasoline was equal to or greater than \$4.51 but not
25 greater than \$5.00 during the preceding month;

26 (3) a 75 percent reduction in the rates imposed on highway fuel
27 under paragraphs (1) and (2) of subsection a. of section 3 of
28 P.L.1990, c.42 (C.54:15B-3) if the average retail price per gallon of
29 unleaded regular gasoline was equal to or greater than \$5.01 but not
30 greater than \$5.50 during the preceding month; and

31 (4) no tax shall be imposed on highway fuel under paragraphs
32 (1) and (2) of subsection a. of section 3 of P.L.1990, c.42
33 (C.54:15B-3) if the average retail price per gallon of unleaded
34 regular gasoline exceeded \$5.50 during the preceding month.

35 b. For each month in which the tax imposed on highway fuel
36 under paragraphs (1) and (2) of subsection a. of section 3 of
37 P.L.1990, c.42 (C.54:15B-3) is reduced or suspended pursuant to
38 subsection a. of this section, any person otherwise liable for the
39 payment of that tax shall submit a written report to the director on
40 or before the 22nd day of the following month. In addition to any
41 other information that the director may deem appropriate, the report
42 shall indicate the:

43 (1) gross receipts derived by the person from the first sale of
44 highway fuel in the State during the month;

45 (2) amount of tax paid on highway fuel for the month under
46 paragraphs (1) and (2) of subsection a. of section 3 of P.L.1990,
47 c.42 (C.54:15B-3); and

1 (3) total amount of tax on highway fuel that would have been
2 owed for the month under paragraphs (1) and (2) of subsection a. of
3 section 3 of P.L.1990, c.42 (C.54:15B-3) if the tax was not reduced
4 or suspended pursuant to this section.

5 c. The benefit of any reduction or suspension of taxation
6 provided under subsection a. of this section shall be passed on to
7 the consumers of highway fuel, and the retail price of highway fuel
8 sold in this State shall be reduced to reflect the reduction or
9 suspension of taxation.

10
11 5. There is appropriated from the General Fund, from the
12 revenues collected under the "Sales and Use Tax Act," P.L.1966,
13 c.30 (C.54:32B-1 et seq.) for deposit into the "Transportation Trust
14 Fund Account," established pursuant to section 20 of P.L.1984, c.73
15 (C.27:1B-20), such amounts as are necessary to offset any
16 reductions in motor fuel tax revenues and petroleum products gross
17 receipts tax revenues that occur as a direct result of any reduction or
18 suspension of taxation under sections 3 and 4 of this act, subject to
19 the approval of the Director of the Division of Budget and
20 Accounting in the Department of the Treasury.

21
22 6. Notwithstanding any provision of subsection c. of section 3
23 of P.L.1990, c.42 (C.54:15B-3) to the contrary, the State Treasurer
24 shall consider all amounts appropriated pursuant to section 5 of this
25 act as though such amounts were motor fuel tax revenues and
26 petroleum products gross receipts tax revenues, as applicable, for
27 the purposes of all calculations made under subsection c. of section
28 3 of P.L.1990, c.42 (C.54:15B-3) relating to the determination of
29 the highway fuel cap amount and the rate of tax imposed on
30 highway fuel.

31
32 7. Notwithstanding any provision of section 19 of P.L.2016,
33 c.57 (C.52:18A-257) to the contrary, this act shall not cause the
34 review council to certify for the purposes of subparagraph (h) of
35 paragraph (1) of subsection a. of section 3 of P.L.1990, c.42
36 (C.54:15B-3) to the director that the scheduled implementation of
37 P.L.2016, c.57 (C.54:15B-13 et al.) has been impeded.

38
39 8. Notwithstanding any provision of the "Administrative
40 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the
41 contrary, the director shall adopt, immediately upon filing with the
42 Office of Administrative Law and no later than the 30th day after
43 the date of enactment of this act, such rules and regulations as the
44 director deems necessary to implement the provisions of this act,
45 which regulations may thereafter be amended by the director. The
46 regulations shall expire upon the expiration of this act.

1 9. This act shall take effect immediately and shall expire on
2 September 22, 2022, except that section 6 shall not expire until the
3 effects of this act shall no longer impact the determinations of the
4 State Treasurer under subsection c. of section 3 of P.L.1990, c.42
5 (C.54:15B-3).

6
7
8 STATEMENT
9

10 This bill provides for temporary reductions or suspensions of the
11 State tax on highway fuels based on the average retail price of
12 unleaded regular gasoline. The provisions of the bill would apply
13 during the three-month period of June 2022 through August 2022.

14 Under the bill, the State Treasurer, in consultation with the
15 Office of the Economist in the Board of Public Utilities, would be
16 required to determine, on a monthly basis, the average retail price
17 per gallon of unleaded regular gasoline in the State during the
18 current month.

19 Based on these determinations, the rate of tax imposed on
20 highway fuel would be set as follows: (1) no reduction in tax if the
21 average retail price per gallon of unleaded regular gasoline was less
22 than \$4.50 during the preceding month; (2) a 50 percent tax
23 reduction if the average retail price per gallon of unleaded regular
24 gasoline was equal to or greater than \$4.51 but not greater than
25 \$5.00 during the preceding month; (3) a 75 percent tax reduction if
26 the average retail price per gallon of unleaded regular gasoline was
27 equal to or greater than \$5.01 but not greater than \$5.50 during the
28 preceding month; and (4) no tax would be imposed if the average
29 retail price per gallon of unleaded regular gasoline exceeded \$5.50
30 during the preceding month. The benefits of any reduction or
31 suspension of taxation would be passed on to consumers in the form
32 of reduced retail prices for highway fuels.

33 Under current law, all revenues collected under the motor fuel
34 tax and the petroleum products gross receipts tax are deposited into
35 the Transportation Trust Fund to support the State's transportation
36 system. Notably, these monies are used to pay the State's debt
37 service on transportation bonds.

38 Accordingly, the bill appropriates such amounts as are necessary
39 from the revenues collected under the "Sales and Use Tax Act,"
40 P.L.1966, c.30 (C.54:32B-1 et seq.) to offset any reductions in
41 motor fuel tax revenues and petroleum products gross receipts tax
42 revenues that occur as a direct result of this bill. These monies
43 would be deposited into the Transportation Trust Fund. The bill
44 also requires these appropriations to be considered when the State
45 Treasurer determines the annual rate of taxation for highway fuel
46 under the petroleum products gross receipts tax.