

# ASSEMBLY, No. 4709

## STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED OCTOBER 3, 2022

**Sponsored by:**  
**Assemblyman ROBERT AUTH**  
**District 39 (Bergen and Passaic)**

### **SYNOPSIS**

Reduces taxes on petroleum products gross receipts to 2016 levels; eliminates review council and State Treasurer's authority to change tax rate.

### **CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning taxation of motor fuels, amending P.L.1990,  
2 c.42, supplementing Title 54 of the Revised Statutes, and  
3 repealing section 19 of P.L.2016, c.57.

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.1990, c.42 (C.54:15B-3) is amended to read  
9 as follows:

10 3. a. (1) (a) There is imposed on each company which is  
11 engaged in the refining or distribution, or both, of petroleum  
12 products **[other than highway fuel and aviation fuel]** and which  
13 distributes such products in this State a tax at the rate of **[seven**  
14 **percent of its gross receipts derived]** four cents per gallon from the  
15 first sale of petroleum products within this State **[and there is**  
16 **imposed on each company which is engaged in the refining or**  
17 **distribution, or both, of highway fuel a tax at the rate of 12.85**  
18 **percent, as adjusted pursuant to subsection c. of this section, of its**  
19 **gross receipts derived from the first sale of those products within**  
20 **this State].**

21 (b) **[The applicable tax rate for gasoline, blended fuel that**  
22 **contains gasoline or is intended for use as gasoline, and liquefied**  
23 **petroleum gas, which are taxed as a highway fuel pursuant to**  
24 **subparagraph (a) of this paragraph, shall be converted to a cents-**  
25 **per-gallon rate, rounded to the nearest tenth of a cent, and adjusted**  
26 **quarterly by the director, effective on July 1, October 1, January 1,**  
27 **and April 1, based on the average retail price per gallon of unleaded**  
28 **regular gasoline in the State, as determined in the most recent**  
29 **survey of the retail price per gallon of gasoline that includes a**  
30 **Statewide representative random sample conducted by the Board of**  
31 **Public Utilities, Office of the Economist, or its successor.]**  
32 (Deleted by amendment, P.L. , c. )

33 (c) **[The cents-per-gallon rate determined pursuant to**  
34 **subparagraph (b) of this paragraph shall not be less than the rate**  
35 **determined for the average retail price per gallon of unleaded**  
36 **gasoline in the State on July 1, 2016.]** (Deleted by amendment,  
37 P.L. , c. )

38 (d) **[The applicable tax rate for diesel fuel, blended fuel that**  
39 **contains diesel fuel or is intended for use as diesel fuel, and**  
40 **kerosene, other than aviation grade kerosene, which are taxed as a**  
41 **highway fuel pursuant to subparagraph (a) of this paragraph, shall**  
42 **be converted to a cents-per-gallon rate, rounded to the nearest tenth**  
43 **of a cent, and adjusted quarterly by the director, effective on July 1,**  
44 **October 1, January 1, and April 1, based on the average retail price**

**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 per gallon of number 2 diesel in the State, as determined in the most  
2 recent survey of retail diesel fuel prices that includes a Statewide  
3 representative random sample conducted by the Board of Public  
4 Utilities, Office of the Economist, or its successor.

5 Notwithstanding the provisions of subparagraph (a) of this  
6 paragraph to the contrary, for the period from the 2016  
7 implementation date through December 31, 2016, no rate of tax  
8 shall be applied to diesel fuel, blended fuel that contains diesel fuel  
9 or is intended for use as diesel fuel, or kerosene, other than aviation  
10 grade kerosene; for the period from January 1, 2017 through June  
11 30, 2017, the applicable rate for those fuels shall be 70 percent of  
12 the rate otherwise determined pursuant to subparagraph (a) of this  
13 paragraph, and for July 1, 2017 and thereafter the applicable rate for  
14 those fuels determined pursuant to subparagraph (a) of this  
15 paragraph.】 (Deleted by amendment, P.L. , c. )

16 (e) 【The cents-per-gallon rate determined pursuant to  
17 subparagraph (d) of this paragraph shall not be less than the rate  
18 determined for the average retail price per gallon of number 2  
19 diesel in the State on July 1, 2016.】 (Deleted by amendment,  
20 P.L. , c. )

21 (f) 【The applicable tax rate for fuel oil determined pursuant to  
22 subparagraph (a) of this paragraph shall be converted to a cents-per-  
23 gallon rate, rounded to the nearest tenth of a cent, and adjusted  
24 quarterly by the director, effective on July 1, October 1, January 1,  
25 and April 1, to reflect the average price per gallon, without State or  
26 federal tax included, of retail sales of number 2 fuel oil in the State,  
27 as determined in the most recent survey of retail diesel fuel prices  
28 that included a Statewide representative random sample conducted  
29 by the Board of Public Utilities, Office of the Economist, or its  
30 successor.】 (Deleted by amendment, P.L. , c. )

31 (g) 【The cents-per-gallon rate determined pursuant to  
32 subparagraph (f) of this paragraph shall not be less than the rate  
33 determined for the average price per gallon, without State or  
34 federal tax included, of retail sales of number 2 fuel oil in the State  
35 on July 1, 2016.】 (Deleted by amendment, P.L. , c. )

36 (h) 【On and after the 10th day following a certification by the  
37 review council pursuant to subsection c. of section 19 of  
38 P.L.2016, c.57 (C.52:18A-257), no tax shall be imposed pursuant to  
39 this paragraph.】 (Deleted by amendment, P.L. , c. )

40 (2) (a) 【In addition to the tax, if any, imposed by paragraph (1)  
41 of this subsection, a cents-per-gallon tax is imposed on each  
42 company's gross receipts derived from the first sale of petroleum  
43 products within this State on gasoline, blended fuel that contains  
44 gasoline or that is intended for use as gasoline, liquefied petroleum  
45 gas, and aviation fuel at the rate of four cents per gallon; and】  
46 (Deleted by amendment, P.L. , c. )

1 (b) [In addition to the tax, if any, imposed by paragraph (1) of  
2 this subsection, a cents-per-gallon tax is imposed on each  
3 company's gross receipts derived from the first sale of petroleum  
4 products within this State on diesel fuel, blended fuel that contains  
5 diesel fuel or is intended for use as diesel fuel, and kerosene, other  
6 than aviation grade kerosene, at the rate of four cents per gallon  
7 before July 1, 2017 and at the rate of eight cents per gallon on and  
8 after July 1, 2017.] (Deleted by amendment, P.L. \_\_\_\_, c. \_\_)

9 b. There is imposed on each company that imports or causes to  
10 be imported, other than by a company subject to and having paid  
11 the tax on those imported petroleum products that have generated  
12 gross receipts taxable under subsection a. of this section, petroleum  
13 products for use or consumption by it within this State a tax at the  
14 rate [or rates, determined pursuant to subsection a. of this section,]  
15 of four cents per gallon on the consideration given or contracted to  
16 be given and the gallonage for such petroleum products if the  
17 consideration given or contracted to be given for all such deliveries  
18 made during a quarterly period exceeds \$5,000.

19 c. [(1) For State fiscal years 2018 through 2026, the rate of tax  
20 imposed on highway fuel pursuant to subsection a. of this section  
21 shall be adjusted annually so that the total revenue derived from  
22 highway fuel shall not exceed the highway fuel cap amount.

23 (2) The State Treasurer shall, on or before December 31, 2016,  
24 determine the highway fuel cap amount as the sum of:

25 (a) the taxes collected for State Fiscal Year 2016 pursuant to  
26 paragraphs (1) and (2) of subsection a. of section 3 of P.L.2010,  
27 c.22 (C.54:39-103) on highway fuel,

28 (b) the amount derived from taxing the gallonage of highway  
29 fuel subject to motor fuel tax in State Fiscal Year 2016 at the rate of  
30 four cents per gallon, and

31 (c) the amount that would have been derived from taxing the  
32 gallonage of highway fuel subject to motor fuel tax in State Fiscal  
33 Year 2016 at the rate of 23 cents per gallon.

34 (3) On or before August 15 of each State Fiscal Year following  
35 State Fiscal Year 2017, the State Treasurer and the Legislative  
36 Budget and Finance Officer shall determine the total revenue  
37 derived from:

38 (a) the taxes collected for the prior State Fiscal Year pursuant to  
39 paragraphs (1) and (2) of subsection a. of section 3 of P.L.2010,  
40 c.22 (C.54:39-103) on highway fuel,

41 (b) the revenue that would be derived from imposing the tax  
42 pursuant to paragraph (2) of subsection a. of this section on  
43 highway fuel at the rate of four cents per gallon, and

44 (c) the revenue derived from the taxation of highway fuel  
45 pursuant to paragraph (1) of subsection a. of this section.

46 (4) Upon consideration of the result of the determination  
47 pursuant to paragraph (3) of this subsection, and consultation with  
48 the Legislative Budget and Finance Officer, the State Treasurer

1 shall determine the rate of tax to be imposed on highway fuel  
2 pursuant to subsection a. of this section that will result in revenue  
3 from:

4 (a) the taxes collected on highway fuel for the current State  
5 Fiscal Year pursuant to paragraphs (1) and (2) of subsection a. of  
6 section 3 of P.L.2010, c.22 (C.54:39-103),

7 (b) the revenue derived from the tax imposed pursuant to  
8 paragraph (2) of subsection a. of this section on highway fuel at the  
9 rate of four cents per gallon for the current State Fiscal Year, and

10 (c) the revenue derived from the taxation of highway fuel  
11 pursuant to paragraph (1) of subsection a. of this section equaling  
12 the highway fuel cap amount determined pursuant to paragraph (2)  
13 of this subsection, as adjusted pursuant to paragraph (5) of this  
14 subsection; and that rate shall take effect on October 1 of that year.

15 (5) If the actual revenue determined pursuant to paragraph (3) of  
16 this subsection exceeds the highway fuel cap amount determined  
17 pursuant to paragraph (2) of this subsection, then the highway fuel  
18 cap amount for the succeeding year shall be decreased by the  
19 amount of the excess in setting the rate pursuant to paragraph (4) of  
20 this subsection. If the actual revenue determined pursuant to  
21 paragraph (3) of this subsection is less than the highway fuel cap  
22 amount determined pursuant to paragraph (2) of this subsection,  
23 then the highway fuel cap amount for the succeeding year shall be  
24 increased by the amount of the shortfall in setting the rate pursuant  
25 to paragraph (4) of this subsection.】 (Deleted by amendment,  
26 P.L. , c. )

27 (cf: P.L.2016, c.57, s.14)

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29 2. Section 19 of P.L.2016, c.57 (C.52:18A-257) is repealed.

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31 3. The State Treasurer, in consultation with the New Jersey  
32 Transportation Trust Fund Authority, shall ensure, to the extent  
33 practicable, that the rights of bondholders are not negatively  
34 impacted by the provisions of P.L. , c. .

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36 4. This act shall take effect immediately.

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#### STATEMENT

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41 This bill reduces the petroleum products gross receipts tax to  
42 four cents per gallon, which was the effective tax rate in 2016 prior  
43 to the tax's most recent legislative revision. In 2016, the State  
44 increased three components of the petroleum products gross receipts  
45 tax (PPGRT): (1) the tax on motor fuels was increased by 12.85 %;  
46 (2) the tax on non-motor fuels was increased from 2.75% to 7%;  
47 and (3) the tax on diesel fuels was increased four cents per gallon.  
48 The largest part of this increase was that tax on motor fuels, which

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1 effectively amounted to an increase in 23 cents per gallon. Because  
2 the law included a provision that allows the State Treasurer to  
3 modify the tax rate based on fuel consumption and revenue  
4 collections, the total tax on motor fuels under the PPGRT currently  
5 sits at 31.9 cents per gallon. This bill would eliminate all three  
6 components of the 2016 tax increase and any subsequent PPGRT  
7 increases that have been imposed by the State Treasurer, reverting  
8 the PPGRT back to four cents per gallon and thereby reducing the  
9 cost of gasoline for consumers.

10 The bill also eliminates the power of the State Treasurer to  
11 modify the tax based on fuel consumption and eliminates a review  
12 council connected to the 2016 legislative revision. Any future  
13 changes to the tax would be required to be enacted by the  
14 Legislature and approved by the Governor.

15 The bill provides that the State Treasurer, in consultation with  
16 the New Jersey Transportation Trust Fund Authority, is to ensure  
17 that the rights of bondholders are not negatively impacted by the  
18 provisions of the bill.