



States' Biofuels Statutes

STATE OF NEW JERSEY

This project was undertaken in partnership with the USDA Office of the Chief Economist, The Office of Energy Policy and New Uses. For information on the full project, visit [States' Biofuels Statutory Citations](#).

Current through the 2013 Legislative Session of the New Jersey General Assembly.

54:39-112. Exemptions and claims for a refund by certain enumerated fuel uses; recovery by consumers, suppliers and distributors

a. Fuel used for the following purposes is exempt from the tax imposed by the “Motor Fuel Tax Act,” P.L.2010, c. 22 (C.54:39-101 et seq.), and a refund of the tax imposed by subsection a. of section 3 of P.L.2010, c. 22 (C.54:39-103) may be claimed by the consumer providing proof the tax has been paid and no refund has been previously issued:

(1) Buses while being operated over the highways of this State in those municipalities to which the operator has paid a monthly franchise tax for the use of the streets therein under the provisions of R.S.48:16-25 and buses while being operated over the highways of this State in a regular route bus operation as defined in R.S.48:4-1 and under operating authority conferred pursuant to R.S.48:4-3, or while providing bus service under a contract with the New Jersey Transit Corporation or under a contract with a county for special or rural transportation bus service subject to the jurisdiction of the New Jersey Transit Corporation pursuant to P.L.1979, c. 150 (C.27:25-1 et seq.), and buses providing commuter bus service which receive or discharge passengers in New Jersey. For the purpose of this paragraph “commuter bus service” means regularly scheduled passenger service provided by motor vehicles whether within or across the geographical boundaries of New Jersey and utilized by passengers using reduced fare, multiple ride or commutation tickets and shall not include charter bus operations for the transportation of enrolled children and adults referred to in subsection c. of R.S.48:4-1 and “regular route service” does not mean a regular route in the nature of special bus operation or a casino bus operation,

(2) agricultural tractors not operated on a public highway,

(3) farm machinery,

(4) aircraft,

(5) ambulances,

- (6) rural free delivery carriers in the dispatch of their official business,
- (7) vehicles that run only on rails or tracks, and such vehicles as run in substitution therefor,
- (8) highway motor vehicles that are operated exclusively on private property,
- (9) motor boats or motor vessels used exclusively for or in the propagation, planting, preservation and gathering of oysters and clams in the tidal waters of this State,
- (10) motor boats or motor vessels used exclusively for commercial fishing,
- (11) motor boats or motor vessels, while being used for hire for fishing parties or being used for sightseeing or excursion parties,
- (12) cleaning,
- (13) fire engines and fire-fighting apparatus,
- (14) stationary machinery and vehicles or implements not designed for the use of transporting persons or property on the public highways,
- (15) heating and lighting devices,
- (16) motor boats or motor vessels used exclusively for Sea Scout training by a duly chartered unit of the Boy Scouts of America,
- (17) emergency vehicles used exclusively by volunteer first-aid or rescue squads, and
- (18) three cents per gallon, the difference between the rate of tax on diesel fuel and the rate of tax on gasoline, for diesel fuel used by passenger automobiles and motor vehicles of less than 5,000 pounds gross weight.

b. Subject to the procedural requirements and conditions set out in the “Motor Fuel Tax Act,” P.L.2010, c. 22 (C.54:39-101 et seq.), the following uses are exempt from the tax imposed by section 3 of P.L.2010, c. 22 (C.54:39-103) on fuel, and a deduction or a refund may be claimed by the supplier, permissive supplier or licensed distributor:

- (1) fuel for which proof of export, satisfactory to the director, is available and is either:
 - (a) removed by a licensed supplier for immediate export to a state in which the supplier has a valid license;
 - (b) removed from a terminal by a licensed distributor for immediate export as evidenced by the terminal issued shipping papers; or

(c) acquired by a licensed distributor and which the tax imposed by P.L.2010, c. 22 (C.54:39-101 et al.) has previously been paid or accrued either as a result of being stored outside of the terminal transfer system immediately prior to loading or as a diversion across state boundaries properly reported in conformity with P.L.2010, c. 22 (C.54:39-101 et al.) and was subsequently exported from this State on behalf of the distributor.

The exemption pursuant to subparagraphs (a) and (b) of this paragraph shall be claimed by a deduction on the report of the supplier which is otherwise responsible for remitting the tax upon removal of the product from a terminal or refinery in this State. The exemption pursuant to subparagraph (c) of this paragraph shall be claimed by the distributor, upon a refund application made to the director within six months of the licensed distributor's acquisition of the fuel;

(2) undyed kerosene sold to a licensed ultimate vendor-blocked pumps; if the licensed ultimate vendor-blocked pumps does not sell the kerosene through dispensers that have been designed and constructed to prevent delivery directly from the dispenser into a motor vehicle fuel supply tank, the ultimate vendor-blocked pumps shall be responsible for the tax imposed by section 3 of P.L.2010, c. 22 (C.54:39-103) at the diesel fuel rate. Exempt use of undyed kerosene shall be governed by rules and regulations of the director. If rules or regulations are not promulgated by the director, then the exempt use of undyed kerosene shall be governed by rules and regulations of the Internal Revenue Service. An ultimate vendor-blocked pumps who obtained undyed kerosene upon which the tax levied by section 3 of P.L.2010, c. 22 (C.54:39-103) had been paid and makes sales qualifying pursuant to this subsection may apply for a refund of the tax pursuant to an application, as provided by section 14 of P.L.2010, c. 22 (C.54:39-114), to the director provided the ultimate vendor-blocked pumps did not charge that tax to the consumer;

(3) fuel sold to the United States or any agency or instrumentality thereof, and to the State of New Jersey and its political subdivisions, departments and agencies;

(4) aviation fuel sold to a licensed aviation fuel dealer;

(5) liquefied petroleum gas except when delivered to the tank of a highway vehicle;

(6) motor fuel on which tax has been paid under this act that is later contaminated in a manner making it unsuitable for taxable use. This credit or refund is limited to the remaining portion of taxed fuel in the contaminated mixture and is conditioned upon submitting to the director adequate documentation that the contaminated mixture was subsequently used in an exempt manner;

(7) fuel on which tax has been paid pursuant to P.L.2010, c. 22 (C.54:39-101 et al.) that is either subsequently delivered back into the terminal transfer system for further distribution or delivered to a refinery for further processing;

(8) fuel on which tax has been previously imposed and paid pursuant to section 3 of P.L.2010, c. 22 (C.54:39-103) and which is either subsequently exported, sold or distributed in this State in a manner which would result in a second tax being owed. If there is a second taxable distribution or sale, the party responsible for remittance of the second tax shall be the party eligible for claiming the refund or deduction;

(9) Fuel grade alcohol or biodiesel when sold to a licensed supplier and delivered to a qualified terminal.

Credits: L.2010, c. 22, § 12, eff. June 29, 2010, operative Jan. 1, 2011. Amended by L.2010, c. 79, § 11, eff. Oct. 1, 2010, operative Jan. 1, 2011.