

CHAPTER 22

AN ACT concerning the taxation of motor fuels, supplementing Chapter 39 of Title 54 of the Revised Statutes, amending P.L.1990, c.42, P.L.1980, c.105, and P.L.1963, c.44, and repealing parts of the statutory law.

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

C.54:39-101 Short title.

1. Sections 1 through 49 of this act shall be known and may be cited as the "Motor Fuel Tax Act."

C.54:39-102 Definitions relative to taxation of motor fuels.

2. For the purposes of P.L.2010, c.22 (C.54:39-101 et al.), the following terms have the following meanings:

"Aviation fuel" means aviation gasoline or aviation grade kerosene;

"Aviation fuel dealer" means a person that acquires aviation fuel from a supplier or from another aviation fuel dealer for subsequent sale;

"Aviation gasoline" means fuel specifically compounded for use in reciprocating aircraft engines;

"Aviation grade kerosene" means any kerosene type jet fuel covered by ASTM Specification D 1655 or meeting specification MIL-DTL-5624T (Grade JP-5) or MIL-DTL-83133E (Grade JP-8);

"Blend stock" means a petroleum product component of motor fuel, such as naphtha, reformate, toluene or kerosene, that can be blended for use in a motor fuel without further processing. The term includes those petroleum products defined by regulations issued pursuant to sections 4081 and 4082 of the federal Internal Revenue Code of 1986 (26 U.S.C. ss. 4081 and 4082), but does not include any substance that:

a. will be ultimately used for consumer nonmotor fuel use; and

b. is sold or removed in fifty-five gallon drum quantities or less at the time of the sale or removal;

"Blended fuel" means a mixture composed of motor fuel and another liquid, including blend stock other than a de minimis amount of a product such as carburetor detergent or oxidation inhibitor, that can be used as a fuel in a highway vehicle. "Blended fuel" includes but is not limited to gasohol, biodiesel, ethanol, methanol, fuel grade alcohol, diesel fuel enhancers and resulting blends;

"Blender" means a person that produces blended motor fuel outside the terminal transfer system;

"Blending" means the mixing of one or more petroleum products, with or without another product, regardless of the original character of the product blended, if the product obtained by the blending is capable of use or otherwise sold for use in the generation of power for the propulsion of a motor vehicle, an airplane, or a motorboat. The term does not include the blending that occurs in the process of refining by the original refiner of crude petroleum or the blending of products known as lubricating oil and greases, or the commingling of products during transportation in a pipeline;

"Blocked pump" means a pump that, because of the pump's physical limitations, for example, a short hose, cannot be used to fuel a vehicle, or a pump that is locked by the vendor after each sale and unlocked by the vendor in response to a request by a buyer for undyed kerosene for use other than as a fuel in a diesel-powered highway vehicle or train;

"Biodiesel" means any motor fuel or mixture of motor fuels that is derived, in whole or in part, from agricultural products or animal fats, or the wastes of such products or fats, and is advertised as, offered for sale as, suitable for use or used as motor fuel in an internal combustion engine;

"Bulk plant" means a bulk fuel storage and distribution facility that is not a terminal within the terminal transfer system and from which fuel may be removed by truck or rail car;

"Bulk transfer" means a transfer of fuel from one location to another by pipeline tender or marine delivery within the terminal transfer system;

"Consumer" means the ultimate user of fuel;

"Delivery" means the placing of fuel into the fuel tank of a motor vehicle or into a bulk fuel storage and distribution facility;

"Diesel fuel" means a liquid that is commonly or commercially known or sold as a fuel that is suitable for use in a diesel-powered highway vehicle. A liquid meets this requirement if, without further processing or blending, the liquid has practical and commercial fitness for use in the propulsion engine of a diesel-powered highway vehicle. "Diesel fuel" includes biodiesel, number 1 and number 2 diesel;

"Diesel-powered motor vehicle" means a motor vehicle that is propelled by a diesel-powered engine;

"Director" means the Director of the Division of Taxation in the Department of the Treasury;

"Distributor" means a person who acquires fuel from a supplier, permissive supplier or from another distributor for subsequent sale;

"Dyed fuel" means dyed diesel fuel or dyed kerosene that is required to be dyed pursuant to United States Environmental Protection Agency rules or is dyed pursuant to Internal Revenue Service rules or pursuant to any other requirements subsequently set by the United States Environmental Protection Agency or Internal Revenue Service including any invisible marker requirements;

"Export" means to obtain fuel in this State for sale or other distribution outside of this State. In applying this definition, fuel delivered out-of-State by or for the seller constitutes an export by the seller, and fuel delivered out-of-State by or for the purchaser constitutes an export by the purchaser;

"Exporter" means any person, other than a supplier, who purchases fuel in this State for the purpose of transporting or delivering the fuel outside of this State;

"Fuel" means:

a. a liquid or gaseous substance commonly or commercially known or sold as gasoline, regardless of its classification or use; and

b. a liquid or gaseous substance used, offered for sale or sold for use, either alone or when mixed, blended, or compounded, which is capable of generating power for the propulsion of motor vehicles upon the public highways;

"Fuel grade alcohol" means a methanol or ethanol with a proof of not less than one hundred ninety degrees (determined without regard to denaturants) and products derived from that methanol and ethanol for blending with motor fuel;

"Fuel transportation vehicle" means any vehicle designed for highway use which is also designed or used to transport fuel;

"Gasoline" means all products commonly or commercially known or sold as gasoline that are suitable for use as a motor fuel. Gasoline does not include products that have an ASTM octane number of less than seventy-five as determined by the "motor method," ASTM

D2700-92. The term does not include racing gasoline or aviation gasoline, but for administrative purposes does include fuel grade alcohol;

"General aviation airport" means a civil airport located in this State other than the international airports located in Newark and Atlantic City;

"Gross gallons" means the total measured volume of fuel, measured in U.S. gallons, exclusive of any temperature or pressure adjustments;

"Import" means to bring fuel into this State by any means of conveyance other than in the fuel supply tank of a motor vehicle. In applying this definition, fuel delivered into this State from out-of-State by or for the seller constitutes an import by the seller, and fuel delivered into this State from out-of-State by or for the purchaser constitutes an import by the purchaser;

"Import verification number" means the number assigned by the director with respect to a single fuel transportation vehicle delivery into this State from another state upon request for an assigned number by an importer or the transporter carrying fuel into this State for the account of an importer;

"Importer" includes any person who is the importer of record, pursuant to federal customs law, with respect to fuel. If the importer of record is acting as an agent, the person for whom the agent is acting is the importer. If there is no importer of record of fuel imported into this State, the owner of the fuel at the time it is brought into this State from another state or foreign country is the importer;

"Invoiced gallons" means the gallons actually billed on an invoice for payment to a supplier which shall be either gross gallons or net gallons on the original manifest or bill of lading;

"Kerosene" means the petroleum fraction containing hydrocarbons that are slightly heavier than those found in gasoline and naphtha, with a boiling range of one hundred forty-nine to three hundred degrees Celsius;

"Liquefied petroleum gas dealer" means a person who acquires liquefied petroleum gas for subsequent sale to a consumer and delivery into the vehicle fuel supply tank;

"Liquid" means any substance that is liquid in excess of sixty degrees Fahrenheit and at a pressure of fourteen and seven-tenths pounds per square inch absolute;

"Motor fuel" means gasoline, diesel fuel, kerosene and blended fuel;

"Motor vehicle" means an automobile, truck, truck-tractor or any motor bus or self-propelled vehicle not exclusively operated or driven upon fixed rails or tracks. "Motor vehicle" does not include tractor-type, motorized farm implements and equipment but does include motor vehicles of the truck-type, pickup truck-type, automobiles, and other vehicles required to be registered and licensed each year pursuant to the provisions of the motor vehicle license and registration laws of this State. "Motor vehicle" does not include tractors and machinery designed for off-road use but capable of movement on roads at low speeds;

"Net gallons" means the total measured volume of fuel, measured in U.S. gallons, when corrected to a temperature of sixty degrees Fahrenheit and a pressure of fourteen and seven-tenths pounds per square inch absolute;

"Permissive supplier" means an out-of-State supplier that elects, but is not required, to have a supplier's license pursuant to P.L.2010, c.22 (C.54:39-101 et al.);

"Person" means an individual, a partnership, a limited liability company, a firm, an association, a corporation, estate, trustee, business trust, syndicate, this State, a county, city, municipality, school district or other political subdivision of this State, or any corporation or combination acting as a unit or any receiver appointed by any state or federal court;

"Position holder" means the person who holds the inventory position in fuel in a terminal, as reflected on the records of the terminal operator. A person holds the inventory position in fuel when that person has a contract with the terminal operator for the use of storage facilities and terminating services for fuel at the terminal. The term includes a terminal operator who owns fuel in the terminal;

"Propel" means operate the drive engine of a motor vehicle, whether the vehicle is in motion or at rest;

"Qualified terminal" means a terminal which has been assigned a terminal control number by the federal Internal Revenue Service;

"Rack" means a mechanism for delivering fuel from a refinery or terminal into a railroad tank car, a fuel transportation vehicle or other means of transfer outside of the terminal transfer system;

"Racing gasoline" means gasoline that contains lead, has an octane rating of 110 or higher, does not have detergent additives, and is not suitable for use as a motor fuel in a motor vehicle used on public highways;

"Refiner" means a person that owns, operates, or otherwise controls a refinery;

"Refinery" means a facility used to produce fuel from crude oil, unfinished oils, natural gas liquids, or other hydrocarbons and from which fuel may be removed by pipeline, by ship or barge, or at a rack;

"Removal" means any physical transfer of fuel from a terminal, manufacturing plant, pipeline, ship or barge, refinery, from customs custody, or from a facility that stores fuel;

"Retail dealer" means a person that engages in the business of selling or dispensing motor fuel to the consumer within this State;

"Supplier" means a person that is:

a. registered or required to be registered pursuant to section 4101 of the federal Internal Revenue Code of 1986 (26 U.S.C. s.4101) for transactions in fuels in the terminal transfer system; and

b. satisfies one or more of the following:

(1) is the position holder in a terminal or refinery in this State;

(2) imports fuel into this State from a foreign country;

(3) acquires fuel from a terminal or refinery in this State from a position holder pursuant to either a two-party exchange or a qualified buy-sell arrangement which is treated as an exchange and appears on the records of the terminal operator; or

(4) is the position holder in a terminal or refinery outside this State with respect to fuel which that person imports into this State. A terminal operator shall not be considered a supplier based solely on the fact that the terminal operator handles fuel consigned to it within a terminal.

"Supplier" also means a person that produces fuel grade alcohol or alcohol-derivative substances in this State, produces fuel grade alcohol or alcohol-derivative substances for import to this State into a terminal, or acquires upon import by truck, rail car or barge into a terminal, fuel grade alcohol or alcohol-derivative substances.

"Supplier" includes a permissive supplier unless the "Motor Fuel Tax Act," P.L.2010, c.22 (C.54:39-101 et seq.) specifically provides otherwise;

"Terminal" means a bulk fuel storage and distribution facility:

a. which is a qualified terminal,

b. to which fuel is supplied by pipeline or marine vessel, or, for the purposes of fuel grade alcohol, is supplied by truck or railcar, and

c. from which fuel may be removed at a rack;

"Terminal bulk transfer" includes but is not limited to the following:

- a. a boat or barge movement of fuel from a refinery or terminal to a terminal;
- b. a pipeline movement of fuel from a refinery or terminal to a terminal;
- c. a book transfer of product within a terminal between suppliers prior to completion of removal across the rack; and
- d. a two-party exchange within a terminal between licensed suppliers;

"Terminal operator" means a person that owns, operates, or otherwise controls a terminal. A terminal operator may own the fuel that is transferred through, or stored in, the terminal;

"Terminal transfer system" means the fuel distribution system consisting of refineries, pipelines, vessels, and terminals. Fuel in a refinery, pipeline, vessel, barge or terminal is in the terminal transfer system. Fuel in the fuel supply tank of an engine, or in a tank car, rail car, trailer, truck, or other equipment suitable for ground transportation is not in the terminal transfer system;

"Transmix" means the buffer or interface between two different products in a pipeline shipment, or a mix of two or more different products within a refinery or terminal that results in an off-grade mixture;

"Transporter" means an operator of a pipeline, barge, railroad or fuel transportation vehicle engaged in the business of transporting fuel;

"Two-party exchange" means a transaction in which:

- a. the fuel is transferred from one licensed supplier or licensed permissive supplier to another licensed supplier or licensed permissive supplier;
- b. the transaction includes a transfer from the person that holds the original inventory position for fuel in the terminal as reflected on the records of the terminal operator;
- c. the exchange transaction is simultaneous with removal from the terminal by the receiving exchange partner; and
- d. the terminal operator in its books and records treats the receiving exchange party as the supplier which removes the product across a terminal rack for purposes of reporting such events to this State;

"Ultimate vendor - blocked pumps" means a person that sells clear kerosene at a retail site through a blocked pump and who is registered with both the Division of Taxation in the Department of the Treasury and the federal Internal Revenue Service as an Ultimate vendor - blocked pumps;

"Undyed diesel fuel" means diesel fuel that is not subject to the federal Environmental Protection Agency dyeing requirements, or has not been dyed in accordance with federal Internal Revenue Service fuel dyeing provisions;

"Undyed kerosene" means kerosene that is not subject to the federal Environmental Protection Agency dyeing requirements, or has not been dyed in accordance with federal Internal Revenue Service fuel dyeing provisions; and

"Vehicle fuel supply tank" means any receptacle on a motor vehicle from which fuel is supplied to propel the motor vehicle.

C.54:39-103 Tax imposed on fuel used, consumed in State.

3. a. A tax is imposed on fuel used or consumed in this State as follows:

(1) Motor fuel:

(a) at the rate of 10.5 cents per gallon for:

gasoline and

blended fuel that contains gasoline or that is intended for use as gasoline;

(b) at the rate of 13.5 cents per gallon for:

diesel fuel,

blended fuel that contains diesel fuel or that is intended for use as diesel fuel, and kerosene other than aviation grade kerosene;

(2) Liquefied Petroleum Gas:

at the rate of one-half of the tax imposed under subsection a. of this section on gasoline, or 5.25 cents per gallon;

(3) Aviation gasoline:

at the rate of 10.5 cents per gallon.

b. In addition to the tax, if any, imposed pursuant to subsection a. of this section a tax is imposed on aviation fuel distributed to a general aviation airport at the rate of 2 cents per gallon.

c. The taxes imposed by this section are imposed on the consumer, but shall be precollected pursuant to the terms of the "Motor Fuel Tax Act," P.L.2010, c.22 (C.54:39-101 et seq.), for the facility and convenience of the consumer.

C.54:39-104 Measurement by invoiced gallons of fuel removed.

4. a. The tax imposed by section 3 of P.L.2010, c.22 (C.54:39-103) on the use of motor fuel and aviation gasoline shall be measured by invoiced gallons of fuel removed, other than by a bulk transfer:

(1) From the terminal transfer system within this State;

(2) From the terminal transfer system outside this State for delivery to a location in this State as represented on the shipping papers, provided that the supplier imports the motor fuel or aviation gasoline for the account of the supplier, or the supplier has made a tax precollection election pursuant to section 18 of P.L.2010, c.22 (C.54:39-118); and

(3) Upon sale in a terminal or refinery in this State to a person not holding a supplier's or permissive supplier's license.

b. Except as provided in paragraph (2) of subsection a. of this section, the tax imposed by section 3 of P.L.2010, c.22 (C.54:39-103) on the use of motor fuel and aviation gasoline which is imported into this State, other than by a bulk transfer, is payable at the time the product is imported into the State and shall be measured by invoiced gallons received outside this State at a refinery, terminal or at a bulk plant for delivery to a destination in this State.

c. The tax imposed by section 3 of P.L.2010, c.22 (C.54:39-103) on blended fuel made in this State is payable by the blender at the point the blended fuel is made in this State outside of the terminal transfer system. The tax imposed by section 3 of P.L.2010, c.22 (C.54:39-103) on blended fuel imported into this State is payable by the importer of that blended fuel, provided the tax imposed by section 3 of P.L.2010, c.22 (C.54:39-103) has not already been paid to a permissive supplier through a precollection agreement. The number of gallons of blended fuel on which the tax shall be imposed shall be equal to the difference between the number of gallons of blended fuel made and the number of gallons of motor fuel that was previously taxed by section 3 of P.L.2010, c.22 (C.54:39-103) and used to make the blended fuel.

d. The tax imposed on aviation fuel by subsection b. of section 3 of P.L.2010, c.22 (C.54:39-103) is payable by the person purchasing or acquiring the aviation fuel within this State and shall be precollected by the Aviation Fuel Dealer or Supplier making the sale. A person, whether or not licensed under P.L.2010, c.22 (C.54:39-101 et al.), who uses, acquires for use, sells or delivers for use in motor vehicles any aviation fuel taxable pursuant to P.L.2010, c.22 (C.54:39-101 et al.) shall be liable for the tax imposed by subsection a. of

section 3 of P.L.2010, c.22 (C.54:39-103) as if the aviation fuel were gasoline or kerosene defined as motor fuel.

e. The tax imposed by section 3 of P.L.2010, c.22 (C.54:39-103) on liquefied petroleum gas is payable by the person purchasing or acquiring the liquefied petroleum gas within this State for use in a motor vehicle and shall be precollected by the liquefied petroleum gas dealer making the sale. A person, whether or not licensed under P.L.2010, c.22 (C.54:39-101 et al.), who uses, acquires for use, sells or delivers for use in motor vehicles any liquefied petroleum gas taxable pursuant to P.L.2010, c.22 (C.54:39-101 et al.) shall be liable for the tax imposed by subsection a. of section 3 of P.L.2010, c.22 (C.54:39-103) along with applicable penalties.

C.54:39-105 Records of fuel received, sold, used; report.

5. a. A supplier, permissive supplier, importer, exporter, blender, distributor, liquefied petroleum gas dealer, or aviation fuel dealer shall keep a record of all fuel received, sold or used which shall include the name of the purchaser, the number of gallons used or sold and the date of the use or sale. A supplier, permissive supplier, importer, exporter, blender, distributor, liquefied petroleum gas dealer, or aviation fuel dealer shall also deliver with each consignment of fuel to a purchaser within this State a written statement containing the date and number of gallons delivered and the names of the purchaser and seller, and that statement shall show a separate charge for the tax imposed by section 3 of P.L.2010, c.22 (C.54:39-103) on each gallon; provided however, that a statement shall not be required to be delivered by the supplier, permissive supplier, importer, exporter, blender, distributor, liquefied petroleum gas dealer, or aviation fuel dealer if a sale of fuel is made at a service station and the fuel is delivered directly into a vehicle fuel supply tank. The records and written statements shall be preserved by a supplier, permissive supplier, importer, exporter, blender, distributor, liquefied petroleum gas dealer, or aviation fuel dealer and the purchaser respectively, for a period of four years and shall be offered for inspection at the request of the director.

b. A supplier, permissive supplier, importer, exporter, blender, distributor, liquefied petroleum gas dealer, or aviation fuel dealer shall take a physical inventory of fuel on hand on the first or last day of each month and shall have the record of that inventory and of all other matters enumerated in this section available at all times for inspection by the director. Upon demand by the director each supplier, permissive supplier, importer, exporter, blender, distributor, liquefied petroleum gas dealer, and aviation fuel dealer shall furnish a statement under oath reflecting the contents of any records required to be kept by this section.

c. Each supplier, permissive supplier, importer, exporter, blender, distributor, liquefied petroleum gas dealer, or aviation fuel dealer shall, on or before the 22nd day of each month, render a report to the director, in the form and manner prescribed by the director, stating the number of gallons of fuel sold or used in this State by that person during the preceding calendar month. Upon application to the director, the period within which a report must be made may be extended up to an additional 10 days, if deemed advisable by the director. A tax at the rate imposed by section 3 of P.L.2010, c.22 (C.54:39-103) shall be paid by each supplier, permissive supplier, importer, exporter, blender, distributor, liquefied petroleum gas dealer, or aviation fuel dealer, on the number of gallons of fuel sold or used in this State by that person during the preceding calendar month and not exempted from taxation, the payment to accompany the filing of the report. The report shall contain further information as the director may prescribe or determine.

d. If a supplier, permissive supplier, importer, exporter, blender, distributor, liquefied petroleum gas dealer, or aviation fuel dealer shall fail, neglect or refuse to file the report within the time prescribed by this section, the director shall note that failure, neglect or refusal upon the director's records, and may estimate the sales, distribution and use of that supplier, permissive supplier, importer, exporter, blender, distributor, liquefied petroleum gas dealer, or aviation fuel dealer, assessing the tax thereon, and adding to that assessed tax a penalty of 20% thereof for failure, neglect or refusal to report, and that estimate shall be prima facie evidence of the true amount of tax due to the director from the supplier, permissive supplier, importer, exporter, blender, distributor, liquefied petroleum gas dealer, or aviation fuel dealer; provided that if a good and sufficient cause or reason is shown for a delinquency, the director may remit or waive the payment of the whole or any part of the penalty, as allowed by the State Uniform Tax Procedure Law, R.S.54:48-1 et seq. Reports required by this section, exclusive of schedules, itemized statements and other supporting evidence annexed to those reports, shall at all reasonable times be open to the public, notwithstanding any provision of R.S.54:50-8 to the contrary.

C.54:39-106 Report to director.

6. a. Each supplier, permissive supplier, importer, exporter, blender, distributor, liquefied petroleum gas dealer, or aviation fuel dealer who sells aviation fuel for distribution to general aviation airports shall, on or before the 22nd day of each month, render a report to the director, stating the number of gallons of aviation gasoline, sold in this State by that person for distribution to general aviation airports during the preceding month. In addition to the provisions of section 4 of P.L.2010, c.22 (C.54:39-104) and except as otherwise provided in section 12 of P.L.2010, c.22 (C.54:39-112), the tax of 2 cents per gallon as imposed by subsection b. of section 3 of P.L.2010, c.22 (C.54:39-103) on each gallon of aviation gasoline so reported shall be paid by each supplier, permissive supplier, importer, exporter, blender, distributor, liquefied petroleum gas dealer, or aviation fuel dealer, the payment to accompany the filing of the report.

b. Each supplier, permissive supplier, importer, exporter, blender, distributor, liquefied petroleum gas dealer, or aviation fuel dealer who sells turbine fuels for distribution to general aviation airports shall, on or before the 22nd day of each month, render a report to the director, stating the number of gallons of aviation grade kerosene sold by that person for distribution to general aviation airports during the preceding month. Except as otherwise provided by section 12 of P.L.2010, c.22 (C.54:39-112), the tax of 2 cents per gallon imposed under subsection b. of section 3 of P.L.2010, c.22 (C.54:39-103) on each gallon of aviation grade kerosene so reported shall be paid by each supplier, permissive supplier, importer, exporter, blender, distributor, liquefied petroleum gas dealer, or aviation fuel dealer, the payment to accompany the filing of the report.

c. If a supplier, permissive supplier, importer, exporter, blender, distributor, liquefied petroleum gas dealer, or aviation fuel dealer shall fail, neglect or refuse to file the report within the time prescribed by this section, the director shall note such failure, neglect or refusal upon the director's records, and may estimate the sales, distribution and use of that supplier, permissive supplier, importer, exporter, blender, distributor, liquefied petroleum gas dealer, or aviation fuel dealer, assessing the tax thereon, and adding to that assessed tax a penalty of 20% thereof for failure, neglect or refusal to report, and that estimate shall be prima facie evidence of the true amount of tax due to the director from the supplier, permissive supplier, importer, exporter, blender, distributor, liquefied petroleum gas dealer, or aviation fuel dealer provided that if a good and sufficient cause or reason is shown for a

delinquency, the director may remit or waive the payment of the whole or any part of the penalty, as allowed by the State Uniform Tax Procedure Law, R.S.54:48-1 et seq. Reports required by this section, exclusive of schedules, itemized statements and other supporting evidence annexed to those reports, shall at all reasonable times be open to the public, notwithstanding any provision of R.S.54:50-8 to the contrary.

d. The monthly filing provisions of this section notwithstanding, the director may require payments of tax liability at intervals and based upon those classifications as the director may prescribe by regulation. In prescribing those other periods to be covered by the return or intervals or classifications for payment of tax liability, the director may take into account the dollar volume of tax involved and the need for assuring the prompt and orderly collection of the taxes imposed.

e. The refund provisions of section 12 of P.L.2010, c.22 (C.54:39-112) shall not apply to amounts paid pursuant to this section. However, a user of general aviation aircraft shall be allowed a refund or credit of the tax imposed by subsection a. of section 3 of P.L.2010, c.22 (C.54:39-103), provided the user complies with the provisions of section 12 of P.L.2010, c.22 (C.54:39-112).

C.54:39-107 Transporter reports, registration of fuel conveyance.

7. a. (1) Transporter reports shall cover monthly periods and shall be submitted within 30 days after the close of the month covered by the reports. The transporter reports shall show all quantities of fuel delivered at points in the State or from points inside the State to points outside of the State during the month, giving the name and address of the consignor, the name and address of the consignee, place at which delivered, the date of shipment, the date of delivery, the numbers and initials of the car if shipped by rail, the name of the boat or barge, if shipped by water, or if delivery by other means, the method of delivery and the number of gallons in each shipment.

(2) The director shall have the right at any time during normal business hours to inspect the books of a transporter to determine if the requirements of this section are being properly complied with.

(3) Each person engaged in the business of hauling, transporting or delivering fuel shall, before entering upon the highways or waterways of this State with any conveyance used therein, apply to the director for the registration of a fuel conveyance on forms as the director shall prescribe. Upon receipt of an application, the director shall issue a license certificate and license plate for each conveyance which shall show the license number assigned and which shall be displayed on the conveyance at all times in such a manner as the director may regulate. An annual license fee of \$50 shall be paid for the licensing of each such conveyance. Nothing in this section shall in any manner relieve or discharge persons obtaining licenses pursuant to this section from complying with provisions of other laws.

(4) A person coming into this State in a motor vehicle may transport in the vehicle fuel supply tank, for the propulsion thereof, fuel without paying the tax, securing the license, or making any report required under P.L.2010, c.22 (C.54:39-101 et al.).

b. (1) The driver of a conveyance shall have in the driver's possession at all times while hauling, distributing or transporting fuel, a delivery ticket or other form approved by the director, which shall show the true names of the consignor and consignee and such information as the director may prescribe by regulation. The director or any police officer may stop a conveyance to determine if the provisions of this section are being complied with.

(2) The person in charge of any barge, tanker or other vessel in which fuel is being transported, or of a tank truck, truck tractor, semitrailer, trailer, or other vehicle used in

transporting fuels other than fuel being transported for use in operating the engine which propels the vessel or vehicle, shall have in that person's possession an invoice, bill of sale or other evidence showing the name and address of the consignor or person from whom that fuel was received by the person in charge and the name and address of the consignee or person to whom the person in charge is to make delivery of the fuel, together with the number of gallons to be delivered to that person, and shall at the request of the director produce that invoice, bill of sale or other record evidence for inspection.

c. (1) A barge, tanker, or other vessel so used for the transportation of fuel shall be plainly and visibly marked on both sides thereof and above the water line with the word "gasoline," or other name of the fuel being transported, in letters at least eight inches high and of corresponding appropriate width. An owner or lessee violating the provisions of this paragraph shall be guilty of a crime of the fourth degree.

(2) A tank truck, truck tractor, semitrailer, or trailer used in transporting fuels shall affix to the rear of the truck or trailers a sign which shall indicate in letters not less than four inches high and of corresponding appropriate width, the type of fuel being transported. An owner or lessee violating the provisions of this section shall be punished by imprisonment for not more than six months, or by a fine of not more than \$500, or by both.

d. The license cards issued for the operation over the highways or waterways of this State of any conveyance used for the transportation or hauling of fuels may be suspended or revoked upon reasonable grounds by the director in the same manner as other licenses may be suspended or revoked by the director under the provisions of P.L.2010, c.22 (C.54:39-101 et al.).

C.54:39-108 License required for retail sale of fuel.

8. a. A retail dealer, an aviation fuel dealer and a liquefied petroleum gas dealer shall, before engaging in the retail sale of fuel, apply to the director for a license for each establishment operated by that person. A license fee of \$150 shall be paid for the issuance of a retail license, which shall be valid for a three-year period, and the director shall supply a license plate or suitable substitute containing the number assigned to the licensee, and words denoting whether the license is a retail dealer's license, an aviation fuel dealer's license or a liquefied petroleum gas dealer's license, which the licensee shall publicly display at each establishment in the manner as the director shall prescribe. No applicant shall continue in business after the end of the 14th day following the date of application unless the license applied for has been procured and is publicly displayed at the establishment being operated.

b. A retail dealer, liquefied petroleum gas dealer and an aviation fuel dealer shall keep a daily record showing the total amount of fuels sold on each business day, daily dispensing pump totalizer readings, and monthly physical inventories, such records to be preserved for a period of four years, and to be open for inspection by the director at all times.

C.54:39-109 Terminal operator's license required, report.

9. a. A person shall, before engaging in the business of a terminal operator, obtain a terminal operator's license from the director.

b. A terminal operator shall, on or before the last day of each month, render a report to the director, in such form as the director may prescribe, stating the quantities of fuel received at the terminal in the State or sold from it during the preceding month.

At the discretion of the director, a terminal operator's report as submitted under the federal ExSTARS reporting system may be accepted in lieu of the terminal operator's report required under this subsection.

c. The director shall have the right at any time during normal business hours to inspect the books of a terminal operator to determine if the requirements of this act are being properly observed.

d. The director may require those returns to be filed, in the form and manner, and at the intervals, that the director may prescribe by regulation.

C.54:39-110 Fuel presumed to be used, consumed on State highways to propel motor vehicles.

10. a. Except as otherwise provided in this act, all fuel delivered in this State in a vehicle fuel supply tank is presumed to be used or consumed on the highways in this State in producing or generating power for propelling motor vehicles.

b. Subject to proof of exemption pursuant to section 13 of P.L.2010, c.22 (C.54:39-113), all motor fuel is presumed to be used or consumed on the highways of this State to propel motor vehicles if the fuel is:

(1) removed from a terminal in this State; or

(2) imported into this State other than by a bulk transfer within the terminal transfer system; or

(3) delivered into a consumer's bulk storage tank from which motor vehicles can be fueled.

C.54:39-111 Excise tax imposed, determination of liability.

11. a. An excise tax at the applicable rate determined pursuant to section 3 of P.L.2010, c.22 (C.54:39-103) is imposed for a calendar year on unaccounted-for fuel losses at a terminal that exceed one-half of one percent of the total number of net gallons removed from the terminal during the calendar year by a system transfer or at a rack. To determine liability for the excise tax, the terminal operator shall determine the terminal loss as the difference between:

(1) the total amount of all fuel in inventory at the applicable terminal at the beginning of the year plus the total amount of all fuel received at the terminal during the year; and

(2) the total amount of all fuel in inventory at the terminal at the end of the year plus the total amount of all fuel removed from the terminal during the year.

b. The terminal operator whose fuel is unaccounted for is liable for the tax imposed by this section. Fuel received by a terminal operator and not shown on a report as having been removed from the terminal is presumed to be unaccounted for if not part of the physical inventory of the terminal. A terminal operator may provide documentation to substantiate otherwise unaccountable losses and at the discretion of the director may be relieved of all or a portion of the tax liability.

c. The tax at the applicable rate determined pursuant to section 3 of P.L.2010, c.22 (C.54:39-103) shall be reported, and the tax shall be due and payable, on or before the 22nd day of the second month following the end of the year.

C.54:39-112 Exemptions from tax.

12. a. Fuel used for the following purposes is exempt from the tax imposed by the "Motor Fuels Tax Act," P.L.2010, c.22 (C.54:39-101 et seq.), and a refund 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 autobuses 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 Fuels 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 exporter 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 bulk 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 sold by a liquefied petroleum gas dealer to someone who is not licensed as a liquefied petroleum gas dealer;

(6) motor fuel on which tax has been paid under this act that is later contaminated with dyed fuel 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.

C.54:39-113 Tax exemption for certain sales; documentation from seller required.

‘ 13. The exemption under section 12 of P.L.2010, c.22 (C.54:39-112) for sales of fuel sold for use by the United States or any agency or instrumentality thereof and fuel sold for use by the Government of this State, or of any political subdivision of this State or to any department or agency of any of those governments for official use of those governments in motor vehicles, motor boats, or other implements owned or leased by this State or any political subdivision or agency thereof, or to fuels sold at retail to diplomatic missions and diplomatic personnel under a program administered by the director and predicated upon the

United States Department of State, Office of Foreign Missions (or its successor office), national tax exemption program shall be claimed as follows:

a. The seller shall obtain from the purchasing entity a certificate in such form as the director may by regulation prescribe signed by the purchasing entity listed in this section setting forth:

(1) The name and address of the purchasing entity;

(2) The quantity of fuel, or if the certificate is for all the fuel purchased by the purchasing entity, the certificate shall be for a period as the director may by regulation prescribe, but not to exceed four years;

(3) The exempt use of the fuel;

(4) The name and address of the seller from whom the fuel was purchased;

(5) The federal employer identification number of the purchasing entity; and

(6) A statement that the purchasing entity understands that the fraudulent use of the certificate to obtain fuel without paying the tax levied pursuant to P.L.2010, c.22 (C.54:39-101 et al.) shall result in the purchaser paying the tax, with penalties and interest, as well as such other penalties provided by P.L.2010, c.22 (C.54:39-101 et al.);

b. The seller, having obtained from the purchasing entity the certificate, which the seller shall retain for a period of not less than four years, shall be eligible for a deduction or to claim a refund of any taxes paid pursuant to P.L.2010, c.22 (C.54:39-101 et al.); and

c. If the sale of fuel to the purchasing entity occurs at a fixed retail pump available to the general public, the seller, having made the sale to the purchasing entity without the tax, may apply for a refund from the director by submitting the application and supporting documentation as the director shall reasonably prescribe. However, if the purchase is charged to a fleet or government fueling credit card, or to an oil company credit card issued to the purchasing entity, the party extending the credit shall be deemed the seller and may bill the purchasing entity without the tax and seek a refund, or use the provisions of this section.

C.54:39-114 Procedure for claiming a refund.

14. a. To claim a refund in accordance with section 12 of P.L.2010, c.22 (C.54:39-112), a person shall present to the director a statement containing a written verification that the claim is made under penalties of perjury and listing the total amount of fuel purchased and used for exempt purposes. A claim shall not be transferred or assigned and shall be filed not more than four years after the date the fuel was imported, removed or sold if the claimant is a supplier, importer, exporter or distributor. If the claim is filed by the consumer, the consumer shall file the claim within six months of the date of purchase. The claim statement shall be supported by the original sales slip, invoice or other documentation as approved by the director and shall include the following information:

(1) Date of sale;

(2) Name and address of purchaser;

(3) Name and address of seller;

(4) Number of gallons purchased and base price per gallon;

(5) Number of gallons purchased and charged New Jersey fuel tax, as a separate item;

(6) Number of gallons purchased and charged sales tax, if applicable, as a separate item;

and

(7) Marked "paid" by the seller.

b. If the original sales slip or invoice is lost or destroyed, a statement to that effect shall accompany the claim for refund, and the claim statement shall also set forth the serial

number of the invoice. If the director finds the claim is otherwise regular, the director may allow such claim for refund.

c. The director may make any investigation necessary before refunding the fuel tax to a person and may investigate a refund after the refund has been issued and within the period in which a deficiency may be assessed pursuant to R.S.54:49-6.

d. In the case of a refund payable to a supplier pursuant to section 12 of P.L.2010, c.22 (C.54:39-112), the supplier may claim a credit in lieu of the refund for a period not to exceed four years from the date the fuel was imported, removed or sold.

e. To establish the validity of claims filed, the claimant shall maintain and preserve for a period of at least four years such fuel consumption records as may be prescribed by the director. The director may require a claimant to furnish such additional proof of the validity of a claim as the director may determine, and may examine the books and records of the claimant for such purpose. Failure of the claimant to maintain and preserve such records, furnish such additional proof or to accede to the demand for such examination by the director shall constitute a waiver of all rights to the claim or claims questioned and such subsequent claims as the director may determine.

f. Motor fuel tax that has been paid more than once with respect to the same gallon of fuel shall be refunded by the director to the person who last paid the tax after the subsequent taxable event upon submitting proof satisfactory to the director.

g. Fuel tax that has otherwise been erroneously paid by a person shall be refunded by the director upon proof shown satisfactory to the director.

h. A refund granted pursuant to section 12 of P.L.2010, c.22 (C.54:39-112) to a person for fuel used in aircraft, shall be paid from the moneys deposited in the Airport Safety Fund established by section 4 of P.L.1983, c.264 (C.6:1-92). Those refunds shall be granted on an annual basis.

i. Upon approval by the director of an application, a warrant shall be drawn upon the State Treasurer for the amount of the claim in favor of the claimant and the warrant shall be paid from the tax collected on fuel.

j. If the State or any political subdivision of the State heretofore shall have been reimbursed and repaid for the tax paid on fuel used for operating or propelling motor vehicles, motor boats or other implements, whether owned or leased by the State or any political subdivision of the State, the State or that political subdivision shall be entitled to retain such reimbursement and repayment, and further claim therefor shall not be required.

k. If fuel is sold to a person who claims to be allowed a refund of the tax imposed by the "Motor Fuel Tax Act," P.L.2010, c.22 (C.54:39-101 et seq.) the seller of that fuel shall furnish the purchaser with an invoice, or invoices, in conformity with the requirements of this section.

C.54:39-115 Personal liability for tax imposed, precollected, paid.

15. A person who is required to precollect or pay a tax imposed pursuant to P.L.2010, c.22 (C.54:39-101 et al.) shall be personally liable for the tax imposed, precollected or paid. For purposes of assessment and collection, any amount required to be precollected and paid over to the director, and any additions to tax, penalties and interest with respect to that amount, shall be considered the tax of the person required to precollect the tax. A person required to precollect tax shall have the same right in respect to collecting the tax from a purchaser or in respect to non-payment of the tax by the purchaser as if the tax were a part of the purchase price of the fuel and payable at the same time; provided, however, that the director shall be joined as a party in any action or proceeding brought to collect the tax. Any

amount of tax actually precollected or paid pursuant to P.L.2010, c.22 (C.54:39-101 et al.) shall be held to be a special fund in trust for the director.

A person required to precollect tax who fails to precollect or remit the tax or any part thereof is fully responsible for the unpaid tax. The director may recover any unpaid taxes pursuant to P.L.2010, c.22 (C.54:39-101 et al.) from any party who was under a duty to precollect or pay the tax. That person remains liable for the taxes even if, for whatever reason, the person failed to precollect or pay the taxes due. The liability to precollect and remit tax shall be separate from any duty that the consumer may have pursuant to P.L.2010, c.22 (C.54:39-101 et al.) to pay upon consumption, and the existence of such overlapping duties shall not be a defense for a failure to precollect and remit, although it may give rise to a refund claim in accordance with section 12 of P.L.2010, c.22 (C.54:39-112) if both parties pay the tax.

C.54:39-116 Responsibility for precollection for fuel imported from another state.

16. Except as otherwise provided by the "Motor Fuel Tax Act," P.L.2010, c.22 (C.54:39-101 et seq.), the tax imposed by section 3 of P.L.2010, c.22 (C.54:39-103) on fuel imported from another state shall be precollected on behalf of the consumers and remitted to the director by the:

a. Importer who has imported the nonexempt fuel. The precollection shall be made and remitted when the tax return is due. If the importer was not subject to a precollection agreement with the supplier or permissive supplier, the precollection shall be remitted in the manner specified by the director; or

b. Importer who has imported the nonexempt fuel which is subject to a precollection agreement with the supplier or permissive supplier. If the importer is a licensed distributor, the precollection shall be made and remitted to the supplier or permissive supplier no later than two business days prior to the date on which the tax is required to be remitted by the supplier or permissive supplier pursuant to section 19 of P.L.2010, c.22 (C.54:39-119). The importer shall remit the tax to the supplier or permissive supplier, acting as trustee who shall remit to the director on behalf of the distributor under the same terms as a supplier payment pursuant to section 19 of P.L.2010, c.22 (C.54:39-119); or

c. Unlicensed importer at the time the fuel is entered into this State. However, if the supplier of the fuel, as shown on the records of the terminal operator, has made a blanket election to precollect tax in accordance with section 18 of P.L.2010, c.22 (C.54:39-118), then the importer shall remit the tax to the supplier, acting as trustee, who shall remit to the director on behalf of the importer under the same terms as a supplier payment pursuant to section 19 of P.L.2010, c.22 (C.54:39-119), and no import verification number shall be required.

C.54:39-117 Import verification number required, certain circumstances.

17. An importer that acquires fuel for import by fuel transportation vehicle from a supplier that is not an elective supplier or a permissive supplier, and therefore will not be acting as trustee for the remittance of tax to the State on behalf of the importer, shall first obtain an import verification number from the director before importing the fuel. The importer shall write the import verification number on the shipping document issued for the fuel. The importer shall obtain a separate import verification number for each fuel transportation vehicle delivery of fuel into this State.

C.54:39-118 Elections permitted by certain suppliers.

18. a. A licensed supplier or licensed permissive supplier may make a blanket election with the director to treat all removals of fuel from all of its out-of-State terminals with a destination in this State as shown on the terminal-issued shipping paper as if the removals were removed across the rack by the supplier or permissive supplier from a terminal in this State for all purposes.

b. The election allowed by this section shall be made by filing a "notice of election" with the director, in the form and manner as the director by regulation may prescribe.

c. The director shall publish a list of suppliers electing pursuant to this section.

d. The absence of an election by a supplier in accordance with this section shall in no way relieve the supplier of responsibility for remitting the tax imposed by the "Motor Fuel Tax Act," P.L.2010, c.22 (C.54:39-101 et seq.) upon the removal from an out-of-State terminal for import into this State by the supplier.

e. A supplier that makes the election allowed by this section shall precollect the tax imposed by P.L.2010, c.22 (C.54:39-101 et al.) on all removals from a qualified terminal on its account as a position holder, or as a person receiving fuel from a position holder pursuant to a terminal bulk transfer, without regard to the license status of the person acquiring the fuel from the supplier, the point or terms of sale, or the character of delivery.

f. Each supplier who elects to precollect the tax imposed by P.L.2010, c.22 (C.54:39-101 et al.) agrees to waive any defense that this State lacks jurisdiction to require collection on all out-of-State sales by such person as to which the person had knowledge that the shipments were destined for this State and that this State imposes the requirement pursuant to this subsection under its general police powers to regulate the movement of fuels.

C.54:39-119 Precollection remittance to State by transporter.

19. a. The tax imposed by section 3 of P.L.2010, c.22 (C.54:39-103), measured by fuel removed from a terminal or refinery in this State, other than a terminal bulk transfer, shall be precollected and remitted on behalf of the consumers to the State by the transporter removing the fuel from the facility through the supplier or permissive supplier of the fuel, as shown in the records of the terminal operator, acting as a trustee.

b. The supplier, permissive supplier and each reseller shall list the amount of tax as a separate line item on all invoices or billings.

c. All tax to be paid by a supplier or permissive supplier with respect to gallons removed on the account of the supplier or permissive supplier during a calendar month shall be due and payable on or before the 22nd day of the following month unless that day falls upon a weekend or State holiday in which case the liability shall be due the next succeeding business day.

d. A supplier or permissive supplier shall remit any late taxes remitted to the supplier or permissive supplier by a licensed distributor and shall notify the director within the twenty business day limit provided by section 24 of P.L.2010, c.22 (C.54:39-124) of any late remittances if that supplier or permissive supplier has previously given notice to the director that the tax amount was not received pursuant to section 24 of P.L.2010, c.22 (C.54:39-124).

e. The remittance of all amounts of tax due shall be paid on the basis of the amount invoiced.

C.54:39-120 Liability for tax by terminal operator; exemptions.

20. a. The operator of a terminal in this State is jointly and severally liable for the tax imposed by section 3 of P.L.2010, c.22 (C.54:39-103) and shall remit payment to this State at

the same time and on the same basis as a supplier in accordance with section 19 of P.L.2010, c.22 (C.54:39-119) upon:

(1) The removal of fuel from the terminal on account of any supplier who is not licensed in this State; or

(2) The removal of motor fuel that is not dyed and marked in accordance with Internal Revenue Service requirements, if the terminal operator provides any person with any bill of lading, shipping paper, or similar document indicating that the motor fuel is dyed and marked in accordance with Internal Revenue Service requirements.

b. However, the terminal operator shall be relieved of liability for a removal of fuel from the terminal on account of a supplier who is not licensed in this State if the terminal operator establishes all of the following:

(1) the terminal operator has a valid terminal operator's license issued for the facility from which the fuel is withdrawn;

(2) the terminal operator has a copy of a valid license from the supplier as required by the director; and

(3) The terminal operator has no reason to believe that any information is false.

C.54:39-121 Election as to timing of remittance by licensed distributor.

21. A licensed distributor who removes fuel from a terminal or refinery operated by a supplier or permissive supplier and who remits the tax through the supplier or permissive supplier, acting as a trustee, may make an election as to the timing of the remittance. At the election of a licensed distributor, which notice shall be evidenced by a written statement from the director as to the purchaser's eligibility status as determined pursuant to section 22 of P.L.2010, c.22 (C.54:39-122), the supplier or permissive supplier shall not require a payment of motor fuel tax on fuel transportation vehicle loads from the licensed distributor sooner than two business days prior to the date on which the tax is required to be remitted by the supplier pursuant to section 19 of P.L.2010, c.22 (C.54:39-119). This election shall be subject to a condition that the remittances by the licensed distributor of tax due the supplier or permissive supplier shall be paid by electronic funds transfer.

C.54:39-122 Evidence presented by purchaser.

22. a. A purchaser desiring to make an election under section 21 of P.L.2010, c.22 (C.54:39-121) shall present evidence to the director that:

(1) The applicant was a licensee in good standing under R.S.54:39-1 et seq. as to which the applicant remitted tax to the director; or

(2) The applicant meets the financial responsibility and bonding requirements imposed by P.L.2010, c.22 (C.54:39-101 et al.), which bond shall conform to the specific requirements of this section.

b. The director shall require a purchaser who pays the tax to a supplier to file with the director a surety bond payable to the State, upon which the purchaser is the obligor, or other financial security, in an amount satisfactory to the director, calculated based on three times the potential monthly tax payments for gasoline and diesel fuel separately. The director shall require that the bond indemnify the director against the tax credits claimed by the suppliers pursuant to section 23 of P.L.2010, c.22 (C.54:39-123).

c. A purchaser desiring to make an election in accordance with section 21 of P.L.2010, c.22 (C.54:39-121) shall not be subject to the provisions of subsection b. of this section if the purchaser holds a valid distributor's license and meets the bonding requirements according to the law on the day prior to October 1, 2010. On and after October 1, 2010 each purchaser

holding a valid distributor's license issued prior to October 1, 2010, may elect to become an eligible purchaser. An eligible purchaser shall have the option to provide bonding as provided for distributors in section 34 of P.L.2010, c.22 (C.54:39-134).

d. The director may rescind a purchaser's eligibility and election to defer fuel tax remittances for the purchaser's failure to make timely tax-deferred payment of tax to a supplier pursuant to section 21 of P.L.2010, c.22 (C.54:39-121), by sending written notice to all suppliers and publishing notice of the revocation on the website of the Division of Taxation in the Department of the Treasury. As a condition of restoring a purchaser's eligibility, the director may require further assurance of the financial responsibility of the purchaser, including an increase in the amount of the bond or any other action that the director may reasonably require to ensure remittance of the tax imposed by P.L.2010, c.22 (C.54:39-101 et al.). The refusal of an application or the cancellation of eligibility shall be an action of the director subject to review pursuant to R.S.54:51A-14; provided however that, notwithstanding any other provision of law to the contrary, appeal shall not act as a stay.

e. The director shall publish a list of licensed distributors and make it available to all suppliers on at least a quarterly basis. The director may, at the director's discretion, provide more timely publication via the website of the Division of Taxation in the Department of the Treasury.

C.54:39-123 Fiduciary duty of supplier to remit tax.

23. A supplier has a fiduciary duty to remit to the director the amount of tax imposed by P.L.2010, c.22 (C.54:39-101 et al.) paid to the supplier, in its role as a trustee, by any purchaser, importer, exporter or licensed distributor. In computing the amount of tax due, the supplier shall be allowed a credit against the tax payable in the amount of tax paid by the supplier that was accrued and remitted to a state, but not received from a licensed distributor. The director may recover any unpaid tax directly from the licensed distributor.

C.54:39-124 Eligibility of supplier for credit.

24. For a supplier to be eligible for the credit provided by section 23 of P.L.2010, c.22 (C.54:39-123) the supplier shall provide notice to the director of a failure to collect the tax within 20 business days following the earliest date on which the supplier was entitled to collect the tax from the licensed distributor pursuant to section 21 of P.L.2010, c.22 (C.54:39-121).

A supplier shall supply with the claim for credit such information as the director may prescribe by regulation. The claim for credit shall identify the defaulting licensed distributor and any tax liability that remains unpaid. The credit of the supplier shall be limited to the amount due from the purchaser, plus any tax that accrues from that purchaser from the period from the date of the failure to pay to the date of notification to the director, not to exceed 20 days. Additional credit shall not be allowed to a supplier pursuant to this section with respect to that purchaser until the director has notified the supplier that the purchaser's eligibility to make deferrals in accordance with section 22 of P.L.2010, c.22 (C.54:39-122) has been restored.

C.54:39-125 Tax remitted by electronic fund transfer.

25. If required by the director, all suppliers and other persons required to pay tax pursuant to P.L.2010, c.22 (C.54:39-101 et al.) shall remit tax by electronic fund transfer. The transfer shall be made on or before the date the tax is due.

C.54:39-126 Liability for tax upon delivery; exemptions.

26. a. If the tax imposed by section 3 of P.L.2010, c.22 (C.54:39-103) is not otherwise precollected, the consumer shall be liable, unless the consumer is otherwise exempt pursuant to section 12 of P.L.2010, c.22 (C.54:39-112), for the tax upon the delivery into a motor vehicle fuel supply tank for the use of motor fuel on the highways including, but not limited to:

- (1) Any dyed fuel; or
- (2) Any motor fuel on which a claim for refund has been made.

b. A retail dealer, an aviation fuel dealer or liquefied petroleum gas dealer that sells fuel shall be jointly and severally liable for the tax precollected pursuant to subsection a. of this section if the retail dealer, aviation fuel dealer or liquefied petroleum gas dealer knows or has reason to know that the fuel, as to which tax imposed by P.L.2010, c.22 (C.54:39-101 et al.) has not been paid, is or will be consumed in a nonexempt use.

C.54:39-127 Final report.

27. a. A licensee shall, upon the discontinuance, sale, or transfer of the business or upon the cancellation, revocation or termination by law of a license pursuant to section 35 of P.L.2010, c.22 (C.54:39-135), or as otherwise provided, within thirty days, make a report as required pursuant to P.L.2010, c.22 (C.54:39-101 et al.) marked "Final Report," and shall pay all taxes, penalties and interest that may be due the State except as may otherwise be provided by law.

b. The final report required by this section shall be accompanied by payment of the liability of the final month.

C.54:39-128 Application for license; fee, term.

28. a. An applicant for a license issued pursuant to P.L.2010, c.22 (C.54:39-101 et al.) shall apply in the form and manner as the director shall prescribe by regulation. The application shall be subscribed to by the applicant and shall provide such information as the director may require, including the applicant's federal identification number.

b. A license issued pursuant to P.L.2010, c.22 (C.54:39-101 et al.) shall be issued for a three-year period, or the unexpired portion thereof, commencing on April 1 and ending on the third succeeding March 31 and shall be void thereafter, and that license may be suspended, revoked or cancelled by the director. A license fee of \$450 shall be paid for the issuance of that license.

c. The director shall investigate each applicant for a license issued pursuant to P.L.2010, c.22 (C.54:39-101 et al.). A license shall not be issued if the director determines that any one of the following conditions exists:

- (1) The application is not filed in good faith;
- (2) The applicant is not the real party in interest;
- (3) The license of the real party in interest has been revoked for cause;
- (4) The applicant managed, operated, owned or controlled, directly or indirectly, a business which held a license issued pursuant to P.L.2010, c.22 (C.54:39-101 et al.) which business is indebted to this State for any tax, penalties or interest accruing hereunder;
- (5) The applicant is managed, operated or controlled, directly or indirectly, by a person who held a license issued pursuant to P.L.2010, c.22 (C.54:39-101 et al.) who is indebted to this State for any tax, penalties, or interest accruing hereunder;
- (6) The applicant is managed, operated, owned, or controlled, directly or indirectly, by a person who managed, operated, owned or controlled, directly or indirectly, a business that

held a license issued pursuant to P.L.2010, c.22 (C.54:39-101 et al.) and which is indebted to this State for any tax, penalties, or interest accruing hereunder;

(7) Any good cause as the director may determine; or

(8) With respect to a distributor's license, the applicant intending to export is not licensed in the intended specific state or states of destination.

d. A person shall not be entitled to hold a license if it shall appear to the director that an officer, director or employee of that person has been convicted of violating any of the provisions of P.L.2010, c.22 (C.54:39-101 et al.) or of R.S.54:39-1 et seq. or if a license issued pursuant to the provisions of P.L.2010, c.22 (C.54:39-101 et al.) or of R.S.54:39-1 et seq. and held by an officer, director or employee of that person has been revoked by the director for cause.

e. Applicants, including corporate officers, partners, and individuals, for a license issued by the director may be required to submit their fingerprints to the director at the time of application. Officers of a "publicly traded corporation," as that term is defined by section 39 of P.L.1977, c.110 (C.5:12-39), and its subsidiaries shall be exempt from this fingerprinting requirement. Persons, other than applicants for a distributor's license, who possessed licenses issued pursuant to R.S.54:39-1 et seq. continuously for three years prior to October 1, 2010, shall also be exempt from this provision. Fingerprints required by this section shall be submitted on forms prescribed by the director. The director may forward to the Federal Bureau of Investigation or any other agency for processing all fingerprints submitted by license applicants. The receiving agency shall issue its findings to the director. The director or another State agency may maintain a file of fingerprints.

C.54:39-129 Deposits in lieu of bonds.

29. a. In lieu of any of the bonds required by P.L.2010, c.22 (C.54:39-101 et al.), a licensee may deposit with the director cash, a certificate of deposit or an irrevocable letter of credit. If the applicant files a bond or letter of credit it shall:

(1) Be with a surety company or bank approved by the director which may be an affiliate in the business of assuring such obligations;

(2) Name the applicant as the principal obligor and the State as the obligee; and

(3) Be on forms prescribed by the director.

b. The director may, at the discretion of the director, require a licensee or an applicant to furnish current verified financial statements. The director may make independent inquiry into the financial condition of the applicant and, in any case, shall not be required to accept as accurate financial statements which have not been certified or independently audited. If the director determines that the financial condition of a licensee warrants an increase in the bond, the director may require the licensee to furnish an increased bond.

c. The director may require a licensee to file a new bond with a satisfactory surety in the same form and amount if:

(1) Liability upon the previous bond is discharged or reduced by a judgment rendered, payment made, or otherwise disposed of; or

(2) In the opinion of the director, any surety on the previous bond becomes unsatisfactory. If the new bond is unsatisfactory, the director shall cancel the license. If the new bond is satisfactorily furnished, the director shall release in writing the surety on the previous bond from any liability accruing after the effective date of the new bond.

d. If a licensee has cash, a certificate of deposit or a letter of credit with the director and it is reduced by a judgment rendered, payment made, or otherwise disposed of, the director may require the licensee to make a new deposit equal to the amount of the reduction.

e. If the director determines that the amount of the existing bond is insufficient to ensure payment to the State of the tax, fee, and any penalty and interest for which a licensee is or may become liable, the licensee shall, upon written demand of the director, file a new or increased bond. The director shall allow the licensee at least 30 days to secure the increased bond or cash deposit.

f. A new or increased bond shall meet the requirements set forth in P.L.2010, c.22 (C.54:39-101 et al.); if the new or increased bond required pursuant to this section is unsatisfactory, the director shall cancel the license.

g. Sixty days after making a written request for release to the director, the surety of a bond furnished by a licensee shall be released from any liability to the State accruing on the bond after the 60-day period. The release shall not affect any liability accruing before the expiration of the sixty-day period.

h. The director shall promptly notify the licensee furnishing the bond that a release has been requested. Unless the licensee obtains a new bond that meets the requirements of P.L.2010, c.22 (C.54:39-101 et al.) and files with the director the new bond within the sixty-day period, the director shall cancel the license.

i. Sixty days after the licensee makes a written request for release to the director, the cash deposit, letter of credit or certificate of deposit provided by a licensee shall be cancelled as security for any obligation accruing after the expiration of the sixty-day period. However, the director may retain all or part of the bond for up to three years and one day as security for any obligations accruing before the effective date of the cancellation. Any part not retained by the director shall be released to the licensee. Before the expiration of the 60-day period, the licensee shall provide the director with a bond that satisfies the requirements of P.L.2010, c.22 (C.54:39-101 et al.) or the director shall cancel the license.

C.54:39-130 Supplier's license, permissive supplier's license, posting of bond.

30. a. Before becoming a position holder in a terminal in this State or engaging in a terminal bulk transfer a person shall first obtain a supplier's license. A valid supplier's license allows the holder of the license to engage in all other activities without having to obtain any other license.

b. A person who desires to precollect the tax imposed by P.L.2010, c.22 (C.54:39-101 et al.) as a supplier and who meets the definition of a permissive supplier may obtain a permissive supplier's license. Application for or possession of a permissive supplier's license shall not in itself subject the applicant or licensee to the jurisdiction of this State for any other purpose than administration and enforcement of P.L.2010, c.22 (C.54:39-101 et al.).

c. A supplier or a permissive supplier shall be required to post a bond of not less than three months' potential tax liability based on the number of taxable gallons handled as estimated by the director, but in no event shall the bond be less than \$25,000 or more than \$2,000,000. An applicant who is a "publicly traded corporation," as that term is defined by section 39 of P.L.1977, c.110 (C.5:12-39) and has assets within the State having a book value of \$5 million or more may, at the discretion of the director, be exempted from having to post a bond under this section.

d. For the purpose of determining the amount of precollected tax due, a supplier shall file with the director, on forms prescribed and furnished by the director, a verified statement. The director may require the reporting of any information necessary to determine the amount of precollected tax due.

e. The director may require each licensed supplier or licensed permissive supplier to separately disclose and identify, in a written statement to the director with the supplier or

permissive supplier report, any removal and sale from the terminal transfer system in another state by that supplier to a person, other than a licensed supplier, permissive supplier or distributor, of gallons of fuel, other than dyed fuel, and which gallons are destined for this State, as shown by the terminal-issued shipping paper, and as to which gallons the tax imposed by P.L.2010, c.22 (C.54:39-101 et al.) has not been collected or accrued by the supplier upon the removal.

f. The reports required by this section shall be filed on or before the 22nd day of the current month with respect to information for the preceding calendar month.

C.54:39-131 Terminal operator's license.

31. a. A person, other than a supplier licensed under section 30 of P.L.2010, c.22 (C.54:39-130), engaged in business in this State as a terminal operator shall first obtain a terminal operator's license for each terminal site in this State.

b. A terminal operator shall be required to post a bond of not less than three months' potential tax liability based on the number of gallons handled as estimated by the director.

c. A person operating a terminal in this State shall file with the director by the 25th day of the next month a sworn statement of operations within this State for each of the operator's terminals within this State, including information as the director may prescribe, on forms prescribed and furnished by the director.

d. For purposes of reporting and determining tax liability under P.L.2010, c.22 (C.54:39-101 et al.), a licensee shall maintain inventory records as the director by regulation shall require.

C.54:39-132 Report of deliveries of fuel in bulk.

32. Every railway or railroad company, water transportation company, and every person transporting fuels in bulk, between points within the State, and every railway or railroad company, water transportation company, and every person transporting fuel in bulk to a point outside the State from any point within the State, or to a point within the State from a point outside of the State, shall, (at any time, and from time to time, upon written request of the director) report, in a manner prescribed by the director, all deliveries of fuel in bulk so made to points within or without the State.

C.54:39-133 Distributor's license.

33. a. A person other than a supplier desiring to export fuel to a destination outside of this State shall first obtain a distributor's license. Issuance of a distributor's license shall be conditioned upon the applicant holding an appropriate license to import the fuel into the destination state or states.

b. A person desiring to deliver dyed fuel or undyed fuel into this State on the person's own behalf, for the person's own account, or for resale to a purchaser in this State, from another state in a fuel transportation vehicle or in a pipeline or barge shipment into storage facilities other than a qualified terminal, shall first make application for and obtain a distributor's license.

c. A person desiring to import fuel to a destination in this State from another state, and who has not entered into an agreement to remit the tax imposed by section 3 of P.L.2010, c.22 (C.54:39-103) to the supplier or permissive supplier as trustee with respect to the imports shall do the following:

- (1) apply for and obtain a distributor's license; and
- (2) comply with the payment requirements of section 12 of P.L.2010, c.22 (C.54:39-112).

d. A person blending any motor fuel for sale shall apply for and obtain a distributor's license.

e. A distributor's license is a prerequisite to making the election permitted in section 21 of P.L.2010, c.22 (C.54:39-121).

C.54:39-134 Bond posted by distributor.

34. A distributor shall post a bond of not less than three months' total liability for the tax imposed by section 3 of P.L.2010, c.22 (C.54:39-103), based on the number of gallons handled as estimated by the director for gasoline and diesel fuel separately. The tax on fuel exported from this State by a licensed distributor shall not be considered part of potential liability for calculation of the bond required of a distributor's licensee.

C.54:39-135 Issuance of license.

35. a. If the license applicant and bond are approved, the director shall issue a license for the applicant's principal place of business and the applicant shall make copies for each other business location.

b. A license is valid until suspended, revoked for cause, cancelled or the license expires.

c. A license is not transferable to another person or to another place of business. For purposes of this section, a transfer of a majority interest in a business association, including corporations, partnerships, trusts, joint ventures and any other business association, shall be deemed to be a transfer of any license held by the business association to another person. Any change in ownership of a business association, other than a "publicly traded corporation," as that term is defined by section 39 of P.L.1977, c.110 (C.5:12-39), shall be reported to the director.

d. A license shall be preserved and conspicuously displayed at the principal place of business for which it is issued.

e. A person licensed under P.L.2010, c.22 (C.54:39-101 et al.) shall display the person's conveyance number on the back of any conveyance of fuel.

f. Upon the discontinuance, sale, transfer or change of ownership of the business, the license shall be immediately surrendered to the director. Any relocation of the business shall be immediately reported to the director.

g. If a person licensed to do business pursuant to P.L.2010, c.22 (C.54:39-101 et al.) discontinues, sells, or transfers the business, the licensee shall immediately notify the director in writing of the discontinuance, sale, or transfer. The notice shall give the date of discontinuance, sale, or transfer and if the business is sold or transferred, the name and address of the purchaser or transferee. The licensee shall be liable for all taxes, interest, and penalties that accrue or may be owing and any criminal liability for misuse of the license that occurs prior to cancellation of the license.

h. The director shall publish without charge a list of updates of all licensees, by category.

i. A licensee shall maintain and keep for a period of four years records of all transactions by which fuel is received, used, sold, delivered, or otherwise disposed of, together with invoices, bills of lading, and other pertinent records and papers as may be required by the director for reasonable administration of P.L.2010, c.22 (C.54:39-101 et al.).

C.54:39-136 Suspension, revocation of license.

36. a. A license required by P.L.2010, c.22 (C.54:39-101 et al.) may be suspended or revoked by the director for a violation of any of the provisions of P.L.2010, c.22 (C.54:39-

101 et al.), or on other reasonable grounds, after five days' notice of and hearing on such proposed revocation or suspension conducted pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). Upon receipt of a written request from the holder of any license issued pursuant to the provisions of P.L.2010, c.22 (C.54:39-101 et al.), the director may cancel a license effective as soon thereafter as it has been determined that all tax, fines, penalties and interest properly owing to the State have been paid. If the director finds that a person to whom a license has been issued is no longer engaged in the business for which the license was issued, the director may cancel that license by providing reasonable notice of the intent to cancel by mail to the last known address of such person. If a license is cancelled, the license certificate previously issued shall be surrendered to the director.

b. A person who fails to file any report required by P.L.2010, c.22 (C.54:39-101 et al.) and for which a penalty is not otherwise set forth in P.L.2010, c.22 (C.54:39-101 et al.), shall be liable for the penalties determined pursuant to R.S.54:49-4.

c. A person shall not engage in any business activity in this State for which a license is required by P.L.2010, c.22 (C.54:39-101 et al.) unless the person first obtains the license. A person who negligently violates this section is subject to a civil penalty in the amount of \$1,000.

d. A supplier, permissive supplier, or distributor who knowingly fails to precollect or timely remit tax otherwise required to be paid over to the director pursuant to P.L.2010, c.22 (C.54:39-101 et al.), or pursuant to a tax precollection agreement pursuant to P.L.2010, c.22 (C.54:39-101 et al.), shall be liable for the uncollected tax plus any penalties determined pursuant to R.S.54:49-4.

C.54:39-137 Tax due, payable on 20th day of month.

37. If the tax imposed by P.L.2010, c.22 (C.54:39-101 et al.) is not precollected and must be paid by the consumer in accordance with section 26 of P.L.2010, c.22 (C.54:39-126), the tax is due and payable by the consumer on the 20th day of each month for the purchases made in the preceding calendar month. The consumer shall file with the director, on forms furnished by the director, a return showing in detail the total purchase price of the fuel, the number of gallons purchased or blended, the location of the purchase, the blend stocks and motor fuel components, if any, and other information as the director may prescribe. With each return, the consumer shall remit to the director the amount of tax shown on the return to be due.

C.54:39-138 Provision of shipping document to driver of transportation vehicle.

38. a. A terminal operator and a refiner with a facility in this State shall prepare and provide to the driver of every fuel transportation vehicle receiving fuel into the vehicle storage tank at the facility a shipping document setting out on its face:

(1) Identification by city and state of the terminal or refinery from which the fuel was removed;

(2) The date the fuel was removed;

(3) The amount of fuel removed, gross gallons and net gallons;

(4) The state of destination as represented to the terminal operator or refiner by the transporter, the shipper or the agent of the shipper. A refinery or terminal operator may load fuel if a portion of the fuel is destined for sale or use in this State and a portion of the fuel is destined for sale or use in another state or states. However, such split loads removed shall be

documented by the terminal operator or refiner by issuing shipping papers designating the state of destination for each portion of the fuel;

(5) The supplier, consignee and transporter of the fuel; and

(6) Any other information required by the director for the enforcement of P.L.2010, c.22 (C.54:39-101 et al.).

b. A terminal operator or refiner may manually prepare shipping papers if the terminal does not have the ability to prepare automated shipping papers or as a result of extraordinary unforeseen circumstances, including acts of God, which temporarily interfere with the ability of the terminal operator or refiner to issue automated machine-generated shipping papers.

c. No terminal operator or refiner shall imprint, and no supplier shall knowingly permit a terminal operator to imprint on behalf of the supplier, any false statement on a shipping paper relating to fuel to be delivered to this State or to a state having substantially the same shipping paper requirements with respect to the supplier of the fuel, whether or not it was dyed for the intended destination.

d. A terminal operator or refiner who shall knowingly imprint any false statement in violation of this section shall be jointly and severally liable for all the taxes imposed by P.L.2010, c.22 (C.54:39-101 et al.) which are not otherwise collected by this State as a result of that action.

e. A supplier who knowingly violates this section shall be jointly and severally liable with the terminal operator.

f. The director may impose a civil penalty of \$500 for the first occurrence against a terminal operator or refiner that fails to meet shipping paper issuance requirements pursuant to P.L.2010, c.22 (C.54:39-101 et al.). Each subsequent occurrence described in this subsection against that terminal operator is subject to a civil penalty of \$5,000.

C.54:39-139 Requirements for transportation of fuel on public highways.

39. a. A person transporting fuel in a fuel transportation vehicle upon the public highways of this State shall:

(1) Carry on board the shipping document issued by the terminal operator or the bulk plant operator of the facility where the fuel was obtained, whether within or without this State. The shipping paper shall set out on its face the state of destination of the fuel transported in the vehicle as represented to the terminal operator at the time the fuel transportation vehicle was loaded;

(2) Show, and permit duplication of, the shipping document by a law enforcement officer or the director, upon request, when transporting, holding or off-loading the fuel described in the shipping document;

(3) Provide a copy of the shipping document to the distributor or other person who controls the facility to which the fuel is delivered; and

(4) Meet such other conditions as the director may require for the enforcement of P.L.2010, c.22 (C.54:39-101 et al.).

b. A person transporting fuel in fuel transportation vehicles upon the public highways of this State shall provide the original or a copy of the terminal-issued shipping document accompanying the shipment to the operator of the retail outlet, bulk plant or bulk end user bulk storage facility to which delivery of the shipment was made. However, a delivery ticket created by the person transporting the fuel may be provided in lieu of the terminal-issued shipping paper for deliveries into bulk end user bulk storage.

c. The operator of a fuel retail outlet, bulk plant or bulk end user bulk storage facility shall receive, examine, and retain for a period of 30 days at the delivery location the

terminal-issued shipping document received from the transporter for every shipment of fuel that is delivered to that location with record retention of the shipping paper of three years required off-site. If the delivery location is an unattended location, the operator may retain the shipping documents at the normal billing address of the operator.

d. A retail dealer, liquefied petroleum gas dealer, aviation fuel dealer, bulk plant operator, wholesale distributor or bulk end user shall not knowingly accept delivery of fuel into bulk storage facilities in this State if that delivery is not accompanied by a shipping paper issued by the terminal operator, or bulk plant operator as provided by regulations, that sets out on its face this State as the state of destination of the fuel.

e. A person who knowingly violates or knowingly aids and abets another to violate this section shall be jointly and severally liable for the tax on the fuel transported or delivered.

f. A person owning or operating a motor vehicle in violation of this section and sections 42 and 43 of P.L.2010, c.22 (C.54:39-142 and C.54:39-143) is guilty of a crime of the fourth degree for the first offense. For the second and each subsequent offense, a violator is guilty of a crime of the third degree.

g. The director shall impose a civil penalty of \$500 on a person transporting fuel for the first occurrence of transporting fuel without adequate shipping papers annotated as required under this section and sections 42 and 43 of P.L.2010, c.22 (C.54:39-142 and C.54:39-143). Each of that person's subsequent occurrences described in this subsection is subject to a civil penalty of \$5,000.

C.54:39-140 Reliance on representation of transporter, shipper, agent.

40. The supplier and the terminal operator may rely for all purposes of P.L.2010, c.22 (C.54:39-101 et al.) on the representation by the transporter, the shipper or the agent of the shipper as to the intended state of destination and tax-exempt use by the shipper or the purchaser. The shipper, importer, transporter, agent of the shipper and any purchaser, not the supplier or terminal operator, shall be jointly liable for any tax otherwise due to the State as a result of a diversion of the fuel from the represented destination state. A terminal operator may rely on the representation of a licensed supplier with respect to the obligation of the supplier to precollect tax and the related shipping paper representation to be as shown on the shipping paper as provided by subsection a. of section 38 of P.L.2010, c.22 (C.54:39-138).

C.54:39-141 Payment of tax required.

41. a. A person shall not sell, use, deliver, or store in this State, or import for sale, use, delivery or storage in this State, fuel as to which the tax imposed by section 3 of P.L.2010, c.22 (C.54:39-103) has not been previously paid to or accrued by either a licensed supplier, or permissive supplier, at the time of removal from a terminal, or a licensed distributor provided all the conditions of section 43 of P.L.2010, c.22 (C.54:39-143) applicable to lawful import by the distributor shall have been met.

b. The provisions of subsection a. of this section shall not apply to:

- (1) A supplier with respect to fuel held within the terminal transfer system in this State which was manufactured in this State or imported into this State in a bulk transfer;
- (2) A consumer with respect to fuel placed in the vehicle fuel supply tank of that person's motor vehicle outside of this State;
- (3) Dyed fuel, dyed in accordance with P.L.2010, c.22 (C.54:39-101 et al.);
- (4) Fuel in the process of exportation by a supplier or a distributor in accordance with the shipping papers required by section 39 of P.L.2010, c.22 (C.54:39-139) and with a statement

meeting the requirements of section 42 of P.L.2010, c.22 (C.54:39-142) shown on the shipping papers;

(5) Kerosene used in aircraft subject to the conditions and exceptions in subsection a. of section 12 of P.L.2010, c.22 (C.54:39-112);

(6) Fuel in possession of a consumer as to which a refund has been issued;

(7) Government and other exempt fuel under paragraphs (3) and (4) of subsection b. of section 12 of P.L.2010, c.22 (C.54:39-112); or

(8) A distributor who has met the conditions of section 43 of P.L.2010, c.22 (C.54:39-143).

C.54:39-142 Requirements for operation of fuel transportation vehicle.

42. a. Except as provided in subsection c. of this section, a person shall not operate a fuel transportation vehicle that is engaged in the shipment of fuel on the public highways of this State without having on board a terminal-issued shipping paper bearing, in addition to the requirements of subsection a. of section 38 of P.L.2010, c.22 (C.54:39-138), a notation indicating that, with respect to diesel fuel acquired under claim of exempt use, a statement indicating the fuel is "DYED DIESEL FUEL, NONTAXABLE USE ONLY, PENALTY FOR TAXABLE USE" for the load or the appropriate portion of the load. With respect to kerosene acquired under claim of exempt use, a statement shall indicate the fuel is "DYED KEROSENE, NONTAXABLE USE ONLY, PENALTY FOR TAXABLE USE" for the load or the appropriate portion of the load.

b. A person is in violation of subsection a. of this section upon boarding the vehicle with a shipping paper which does not meet the requirements set forth in this section.

c. The director may in the director's discretion provide an advance notification procedure with respect to documentation for imported fuel as to which the importer is unable to obtain terminal-issued shipping papers which comply with this section.

d. Any person who knowingly violates any part of this section is guilty of a crime of the fourth degree.

e. The director, the Office of Weights and Measures of the Division of Consumer Affairs in the Department of Law and Public Safety, and the State Police, and its officers shall have full authority in enforcing the provisions of this section.

C.54:39-143 Conditions for entering onto State highways transporting fuel.

43. a. If a distributor acquires fuel destined for this State which has neither been dyed in accordance with the Internal Revenue Code and the regulations issued thereunder, nor tax paid to or accrued by the supplier at the time of removal from the out-of-State terminal, a licensed distributor and transporter operating on behalf of the licensed importer shall meet all of the following conditions prior to entering fuel onto the highways of this State by loaded fuel transportation vehicle:

(1) The terminal origin and the name and address of the importer shall also be set out prominently on the face of each copy of the terminal-issued shipping paper;

(2) The terminal-issued shipping paper data otherwise required by P.L.2010, c.22 (C.54:39-101 et al.), shall be present; and

(3) All tax imposed by P.L.2010, c.22 (C.54:39-101 et al.) with respect to previously requested import verification number activity on the account of the distributor or the transporter shall have been timely precollected or remitted.

b. A person who knowingly violates or knowingly aids and abets another to violate this section is guilty of a crime of the fourth degree, provided that a first offense related to a good

faith belief that the distributor could import under the conditions will be punishable only by a fine not to exceed \$1,000.

c. The director, the Office of Weights and Measures of the Division of Consumer Affairs in the Department of Law and Public Safety, and the Superintendent of State Police and the members of the State Police shall have full authority in enforcing the provisions of this section.

C.54:39-144 Prohibited use of dyed fuel.

44. a. A person shall not operate or maintain a motor vehicle on any public highway in this State with dyed fuel contained in the vehicle fuel supply tank except for uses of dyed fuel on the highway which are lawful under the federal Internal Revenue Code and the regulations thereunder unless otherwise prohibited by P.L.2010, c.22 (C.54:39-101 et al.).

b. A person shall not sell or hold for sale dyed fuel for any use that the person knows or has reason to know is a taxable use of the dyed fuel.

c. A person shall not use or hold for use any dyed fuel for a taxable use when the person knows or has reason to know that the fuel is dyed fuel.

d. A person shall not willfully, with intent to evade tax, alter or attempt to alter the strength or composition of any dye or marker in any dyed fuel.

e. A person who knowingly violates or knowingly aids and abets another to violate the provisions of this section with the intent to evade the tax imposed by P.L.2010, c.22 (C.54:39-101 et al.) is guilty of a crime of the fourth degree.

f. A person, and an officer, employee, or agent of that person or entity who willfully participates in any act in violation of this section shall be jointly and severally liable with the person for the tax and penalty which shall be the same as imposed pursuant to section 6715 of the federal Internal Revenue Code of 1986 (26 U.S.C. s.6715).

g. A person or business entity, and each officer, employee, or agent of the entity who willfully participates in any act in violation of this section shall be jointly and severally liable with the entity for the tax and penalty which shall be the same as that imposed pursuant to section 6715 of the federal Internal Revenue Code of 1986 (26 U.S.C. s.6715).

C.54:39-145 Notice provided.

45. A notice stating "DYED DIESEL FUEL, NONTAXABLE USE ONLY, PENALTY FOR TAXABLE USE" or "DYED KEROSENE, NONTAXABLE USE ONLY, PENALTY FOR TAXABLE USE" shall be:

a. Provided by the terminal operator to any person that receives dyed diesel fuel or dyed kerosene at a terminal rack of that terminal operator; and

b. Posted by a retail dealer on any pump where it sells dyed diesel fuel or dyed kerosene for use by its consumer. The form of notice required by this section shall be provided by the time of the removal or sale of the dyed fuel and shall appear on shipping papers, bills of lading, and invoices accompanying the sale or removal of the dyed fuel.

C.54:39-146 Inspections permitted by director.

46. a. The director, upon presenting appropriate credentials may conduct inspections and remove samples of fuel to determine the coloration of diesel fuel and kerosene, or to identify shipping paper violations at any place where fuel is or may be produced, stored or loaded into fuel transportation vehicles. Inspections shall be performed in a reasonable manner consistent with the circumstances, but in no event is prior notice required. Inspectors may physically inspect, examine or otherwise search any tank, reservoir, or other container that

can or might be used for the production, storage, or transportation of fuel. Inspections may be made of any equipment used for, or in connection with, the production, storage, or transportation of fuel. Upon demand by the inspectors all shipping papers, documents and records required to be kept by a person transporting fuel shall be produced for immediate inspection. The places where inspections may occur include, but are not limited to:

- (1) A terminal;
- (2) A fuel storage facility that is not a terminal;
- (3) A retail fuel facility;
- (4) Highway rest stops; or
- (5) A designated inspection site.

For purposes of this section, a "designated inspection site" means any state highway or waterway inspection station, weigh station, agricultural inspection station, mobile station, or other location designated by the director, either fixed or mobile.

b. Inspections to determine violations under P.L.2010, c.22 (C.54:39-101 et al.) may be conducted by the director, the Chief Administrator of the New Jersey Motor Vehicle Commission, and any other law enforcement officer through procedures established by the director.

c. Inspectors may reasonably detain any person or equipment transporting fuel in or through this State for the purpose of determining whether the person is operating in compliance with the provisions of P.L.2010, c.22 (C.54:39-101 et al.) and any rules and regulations promulgated pursuant thereto. Detainment may continue for such time only as is necessary to determine whether the person is in compliance with P.L.2010, c.22 (C.54:39-101 et al.).

C.54:39-147 Audit, examination authorized.

47. a. The director is authorized to audit and examine the records, books, papers, and equipment of a licensee or other person selling, transporting, storing or using fuel to verify the completeness, truth and accuracy of any statement or report and ascertain whether or not the tax imposed by P.L.2010, c.22 (C.54:39-101 et al.) has been paid.

b. Records shall be made available to the director during normal business hours at the physical location of the person in this State, or at the offices of the director within three business days after the director's request if the location at which records are located is outside of this State.

c. The director, may, upon showing credentials, inspect, and each fuel vendor, fuel transporter or bulk purchaser shall disclose, immediately upon request any shipping paper required by P.L.2010, c.22 (C.54:39-101 et al.) to be maintained at the physical location where the request is made which may include any place fuel is stored or held for sale or transportation.

d. A person who shall refuse to permit any inspection or audit authorized by P.L.2010, c.22 (C.54:39-101 et al.) shall be subject to a civil penalty of \$5,000 in addition to any penalty imposed by any other provision of P.L.2010, c.22 (C.54:39-101 et al.).

e. A person who refuses, for the purpose of evading tax, to allow an inspection shall, in addition to being liable for any other penalties imposed by P.L.2010, c.22 (C.54:39-101 et al.), be guilty of a crime of the third degree.

C.54:39-148 Additional powers of director.

48. In addition to the powers granted to the director by P.L.2010, c.22 (C.54:39-101 et al.), the director is authorized and empowered:

- a. to make, adopt and amend rules and regulations appropriate to carrying out P.L.2010, c.22 (C.54:39-101 et al.) and accomplishing its purposes;
- b. to delegate the director's functions hereunder to any officer or employee of the director's division, or to federal government employees or persons operating under contract with this State, such of the director's powers as the director may deem necessary to carry out efficiently the provisions of P.L.2010, c.22 (C.54:39-101 et al.), and the person or persons to whom such power has been delegated shall possess and may exercise all of the power and perform all of the duties herein conferred and imposed upon the director;
- c. to arrange for the institution of programs of cooperation with other departments, divisions, and agencies of the State of New Jersey such as but not limited to the Office of Weights and Measures of the Division of Consumer Affairs in the Department of Law and Public Safety, Motor Carrier Services in the Motor Vehicle Commission, or the Board of Regulatory Commissioners, if a program may be necessary to ensure effective administration and enforcement of P.L.2010, c.22 (C.54:39-101 et al.);
- d. to conduct investigations as necessary to enforce the provisions of P.L.2010, c.22 (C.54:39-101 et al.);
- e. to prescribe forms upon which reports are made to the director and all other forms and information the director deems necessary to enforce the provisions of P.L.2010, c.22 (C.54:39-101 et al.), and may require periodic submission of information from any person dealing in, transporting or storing fuel;
- f. to conduct joint audits, subject to specific agreements with any agency of the United States of America, with another state, or through National or Regional Tax Associations, of the obligations of any license holder, arising out of P.L.2010, c.22 (C.54:39-101 et al.). Notwithstanding the provisions of R.S.54:50-8 to the contrary, if any, the agreements may provide for exchange of the records and files of the director respecting the administration of P.L.2010, c.22 (C.54:39-101 et al.) or of any other State tax law;
- g. to require the licensure of any person not otherwise required to be licensed pursuant to P.L.2010, c.22 (C.54:39-101 et al.) dealing in, transporting or storing fuel, and to issue licenses for the terms and for the fees, as the director may prescribe; the director may decline to issue a license, or revoke a license issued, for good cause including, but not limited to, the standards provided by subsections c. and d. of section 28 of P.L.2010, c.22 (C.54:39-128);
- h. to co-collect with the tax imposed pursuant to P.L.2010, c.22 (C.54:39-101 et al.), the tax imposed pursuant to the "Petroleum Products Gross Receipts Tax Act," P.L.1990, c.42 (C.54:15B-1 et seq.) pursuant to such procedures as the director may prescribe.

C.54:39-149 Disposition of moneys received from taxes on aircraft fuel.

49. Moneys received from taxes on fuel used in aircraft, pursuant to subsection b. of section 3 of P.L.2010, c.22 (C.54:39-103), shall be accounted for and forwarded by the director to the State Treasurer, who shall credit these payments to the Airport Safety Fund established by section 4 of the "New Jersey Airport Safety Act of 1983," P.L.1983, c.264 (C.6:1-92).

50. a. There is levied a tax on fuel held in storage as of the close of the business day preceding October 1, 2010. For the purpose of this section, "close of the business day" means the time at which the last transaction has occurred for that day. The tax on fuel shall be the tax rate specified by subsection a. of section 3 of P.L.2010, c.22 (C.54:39-103) for the type of fuel, multiplied by the gallons in storage of that type of fuel as of the close of the business day preceding October 1, 2010.

b. Persons in possession of fuel in storage as of the close of the business day immediately preceding October 1, 2010 shall:

(1) take an inventory at the close of the business day immediately preceding October 1, 2010;

(2) report the gallons listed in paragraph (1) of this subsection on forms provided by the director, not later than October 31, 2010; and

(3) Remit the tax levied under this section no later than April 1, 2011.

c. If tax due pursuant to subsection b. of this section is paid to the director on or before October 31, 2010, the person remitting the tax may deduct from that person's tax liability 10% of the tax liability otherwise due.

d. In determining the amount of tax due under this section, a person may exclude the amount of fuel in dead storage in each storage tank. For the purposes of this section, "dead storage" means the amount of fuel that cannot be pumped out of a fuel storage tank because the motor fuel is below the mouth of the draw pipe. The amount of motor fuel in dead storage is 200 gallons for a tank with a capacity of less than 10,000 gallons and 400 gallons for a tank with a capacity of 10,000 gallons or more.

51. a. A person who is licensed as a distributor pursuant to R.S.54:39-17 prior to October 1, 2010 shall be deemed a supplier licensed pursuant to the "Motor Fuel Tax Act," P.L.2010, c.22 (C.54:39-101 et seq.) as of October 1, 2010 and subject to P.L.2010, c.22 (C.54:39-101 et al.) regarding licensed suppliers unless the person licensed as a distributor pursuant to R.S.54:39-17 provides notice prior to October 1, 2010 that the person does not desire the status of licensee as a supplier pursuant to P.L.2010, c.22 (C.54:39-101 et al.). A person who is licensed as a distributor pursuant to R.S.54:39-17 prior to October 1, 2010 who declines licensure pursuant to the "Motor Fuel Tax Act," P.L.2010, c.22 (C.54:39-101 et seq.) shall be deemed to have terminated its license as of the end of September 30, 2010, shall cease in-State activities covered by P.L.2010, c.22 (C.54:39-101 et al.), and shall be subject to final report requirements of section 27 of P.L.2010, c.22 (C.54:39-127). If no notice is received by the director prior to October 1, 2010 declining licensure, then that shall be deemed acceptance of the new license and responsibilities pursuant to the "Motor Fuel Tax Act," P.L.2010, c.22 (C.54:39-101 et seq.), and the person may continue in operation except as provided by subsection f. of this section.

Notice may be given to a person who is licensed as a distributor pursuant to R.S.54:39-17 prior to October 1, 2010 that the person will not be granted a license pursuant to the "Motor Fuel Tax Act," P.L.2010, c.22 (C.54:39-101 et seq.). A person given that notice shall cease activities covered by the license on or before October 1, 2010, shall be deemed to have terminated its license as of the end of September 30, 2010, and shall be subject to final report requirements of section 27 of P.L.2010, c.22 (C.54:39-127).

b. A person who is licensed as a retail dealer pursuant to R.S.54:39-30 prior to October 1, 2010 shall be deemed a retail dealer licensed pursuant to the "Motor Fuel Tax Act," P.L.2010, c.22 (C.54:39-101 et seq.) as of October 1, 2010 and subject to P.L.2010, c.22 (C.54:39-101 et al.) regarding retail dealers unless the person licensed as a retail dealer pursuant to R.S.54:39-30 provides notice prior to October 1, 2010 that the person does not desire the status of licensee as a retail dealer pursuant to P.L.2010, c.22 (C.54:39-101 et al.). A person who is licensed as a retail dealer pursuant to R.S.54:39-30 prior to October 1, 2010 who declines licensure pursuant to the "Motor Fuel Tax Act," P.L.2010, c.22 (C.54:39-101 et seq.) shall be deemed to have terminated its license as of the end of September 30, 2010, and shall cease in-State activities covered by P.L.2010, c.22 (C.54:39-101 et al.). If no notice is

received by the director prior to October 1, 2010 declining licensure, then that shall be deemed acceptance of the new license and responsibilities pursuant to the "Motor Fuel Tax Act," P.L.2010, c.22 (C.54:39-101 et seq.), and the person may continue in operation except as provided by subsection f. of this section.

Notice may be given to a person who is licensed as a retail dealer pursuant to R.S.54:39-30 prior to October 1, 2010 that the person will not be granted a license pursuant to the "Motor Fuel Tax Act," P.L.2010, c.22 (C.54:39-101 et seq.). A person given that notice shall cease activities covered by the license on or before October 1, 2010, shall be deemed to have terminated its license as of the end of September 30, 2010, and shall be subject to final report requirements of section 27 of P.L.2010, c.22 (C.54:39-127).

c. A person who is licensed as an importer, exporter, wholesaler, or jobber pursuant to R.S.54:39-1 et seq. prior to October 1, 2010 shall be deemed a distributor licensed pursuant to the "Motor Fuel Tax Act," P.L.2010, c.22 (C.54:39-101 et seq.) as of October 1, 2010 and subject to P.L.2010, c.22 (C.54:39-101 et al.) regarding licensed suppliers unless the person licensed as an importer, exporter, wholesaler, or jobber pursuant to R.S.54:39-1 et seq. provides notice prior to October 1, 2010 that the person does not desire the status of licensee as a distributor pursuant to P.L.2010, c.22 (C.54:39-101 et al.). A person who is licensed as an importer, exporter, wholesaler, or jobber pursuant to R.S.54:39-1 et seq. prior to October 1, 2010 who declines licensure pursuant to the "Motor Fuel Tax Act," P.L.2010, c.22 (C.54:39-101 et seq.) shall be deemed to have terminated its license as of the end of September 30, 2010, shall cease in-State activities covered by P.L.2010, c.22 (C.54:39-101 et al.), and shall be subject to final report requirements of section 27 of P.L.2010, c.22 (C.54:39-127). If no notice is received by the director prior to October 1, 2010 declining licensure, then that shall be deemed acceptance of the new license and responsibilities pursuant to the "Motor Fuel Tax Act," P.L.2010, c.22 (C.54:39-101 et seq.), and the person may continue in operation except as provided by subsection f. of this section.

Notice may be given to a person who is licensed as an importer, exporter, wholesaler, or jobber pursuant to R.S.54:39-1 et seq. prior to October 1, 2010 that the person will not be granted a license pursuant to the "Motor Fuel Tax Act," P.L.2010, c.22 (C.54:39-101 et seq.). A person given that notice shall cease activities covered by the license on or before October 1, 2010, shall be deemed to have terminated its license as of September 30, 2010, and shall be subject to final report requirements of section 27 of P.L.2010, c.22 (C.54:39-127).

d. A person engaged in the business of hauling, transporting or delivering fuel who is a motor fuel transport licensee pursuant to R.S.54:39-1 or who has registered a conveyance for transporting fuel pursuant to R.S.54:39-41 prior to October 1, 2010 shall be deemed a transporter and the conveyance shall be deemed registered as a fuel conveyance pursuant to the "Motor Fuel Tax Act," P.L.2010, c.22 (C.54:39-101 et seq.) as of October 1, 2010 and subject to P.L.2010, c.22 (C.54:39-101 et al.) regarding transporters and fuel conveyances unless the motor fuel transport licensee or person having a registered conveyance provides notice prior to October 1, 2010 that the person does not desire the status of transporter or does not desire to have a registered fuel conveyance pursuant to P.L.2010, c.22 (C.54:39-101 et al.). A person who is a motor fuel transport licensee or who has a conveyance registered pursuant to R.S.54:39-41 prior to October 1, 2010 who declines status pursuant to the "Motor Fuel Tax Act," P.L.2010, c.22 (C.54:39-101 et seq.) shall be deemed to have terminated its motor fuel transport license and its conveyance registration, as applicable, as of the end of September 30, 2010, and shall cease in-State activities covered by P.L.2010, c.22 (C.54:39-101 et al.). If no notice is received by the director prior to October 1, 2010 declining licensure, or registration as applicable, then that shall be deemed acceptance of the new license, or

registration as applicable, and acceptance of transporter responsibilities pursuant to the "Motor Fuel Tax Act," P.L.2010, c.22 (C.54:39-101 et seq.).

e. All other persons licensed pursuant to R.S.54:39-1 et seq. shall apply to the director for an appropriate license, as determined by the director and subject to such rules as the director may prescribe, pursuant to this section on or before October 1, 2010 or cease activities requiring a license under this section. If a person accepts a new license and responsibilities that license entails pursuant to the "Motor Fuel Tax Act," P.L.2010, c.22 (C.54:39-101 et seq.), the person may continue in operation except as provided by subsection f. of this section.

f. A person required to file a bond or other surety with the director pursuant to the "Motor Fuel Tax Act," P.L.2010, c.22 (C.54:39-101 et seq.) shall have until October 31, 2010, to establish, reestablish or transfer that surety to the person's new license status pursuant to P.L.2010, c.22 (C.54:39-101 et al.). A person who does not meet those bonding requirements by October 31, 2010 shall cease activities covered by the license on October 31, 2010.

g. Licenses issued pursuant to R.S.54:39-1 et seq. and not continued pursuant to this section shall be invalid as of October 1, 2010. Licenses accepted pursuant to this section in place of the license issued pursuant to R.S.54:39-1 et seq. shall be valid until the expiration date of the license originally issued pursuant to R.S.54:39-1 et seq.

52. Notwithstanding any provision of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the director may adopt immediately upon filing with the Office of Administrative Law such regulations as the director deems necessary to implement the provisions of P.L.2010, c.22 (C.54:39-101 et al.), which regulations shall be effective for a period not to exceed 360 days following the date of enactment of P.L.2010, c.22 (C.54:39-101 et al.) and may thereafter be amended, adopted, or readopted by the director in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

53. Section 7 of P.L.1990, c.42 (C.54:15B-7) is amended to read as follows:

C.54:15B-7 Filing of return; payment of tax.

7. a. A company subject to tax under P.L.1990, c.42 (C.54:15B-1 et seq.) shall, on or before the 25th day of a month, file a remittance to the director on such forms as may be prescribed by the director and pay the full amount of the tax due on gross receipts subject to tax derived from the first sale of petroleum products within this State and the consideration given or contracted to be given for all deliveries of petroleum products for use or consumption by it within this State for the preceding month.

b. On or before the 25th day following the end of a quarterly period, a company subject to tax under P.L.1990, c.42 (C.54:15B-1 et seq.) shall file a reconciliation return under oath to the director on such forms as may be prescribed by the director reflecting such information and payments from the preceding quarterly period as the director shall deem necessary.

c. The tax payments of a company subject to tax under P.L.1990, c.42 (C.54:15B-1 et seq.) whose tax on sales is co-collected with the tax imposed by section 3 of P.L.2010, c.22 (C.54:39-103) pursuant to regulations of the director shall pay the tax under P.L.1990, c.42 (C.54:15B-1 et seq.) at such times and on the returns for the tax imposed under P.L.2010, c.22 (C.54:39-101 et al.), and omit those sales from the returns required under this section.

54. Section 20 of P.L.1980, c.105 (C.54:32B-8.8) is amended to read as follows:

C.54:32B-8.8 Motor, airplane or railroad fuels.

20. Receipts from sales of motor fuel, racing gasoline, liquefied petroleum gas, and aviation fuel as those fuels are defined by section 2 of P.L.2010, c.22 (C.54:39-102); and sales of fuel to an airline for use in its airplanes or to a railroad for use in its locomotives are exempt from the tax imposed under the Sales and Use Tax Act.

55. Section 2 of P.L.1963, c.44 (C.54:39A-2) is amended to read as follows:

C.54:39A-2 Definitions.

2. For the purpose of this act, unless inconsistent with the context:

(a) "User" means every person who operates or causes to be operated any qualified motor vehicle on any highway in this State. The term shall include a rental company in the case of a rental vehicle.

(b) "Qualified motor vehicle" means a motor vehicle that is not an exempt vehicle and that is used, designed or maintained for transportation of persons or property; and

(1) having two axles and a gross vehicle weight or registered gross vehicle weight in excess of 26,000 pounds;

(2) having three or more axles, regardless of weight; or

(3) that is used in combination, when the weight of such combination is in excess of 26,000 pounds gross vehicle weight or registered gross vehicle weight.

Notwithstanding this definition of qualified motor vehicle, if the director enters into the agreement authorized pursuant to subsection b. of section 24 of P.L.1963, c.44 (C.54:39A-24), the director shall, as may be required by the agreement, issue a card and markers pursuant to section 10 of P.L.1963, c.44 (C.54:39A-10) to the user of an exempt vehicle other than a recreational vehicle that is a New Jersey base jurisdiction vehicle and that would be a qualified motor vehicle but for being an exempt vehicle and the director shall administer the reporting and collection of tax imposed by other member jurisdictions with respect to such vehicle.

(c) "Exempt vehicle" means:

(1) Any vehicle owned or operated by an agency of this State or any political subdivision thereof, or any quasi-governmental authority of which this State is a participating member, or any agency of the federal government or the District of Columbia, or of any state or province or political subdivision thereof.

(2) School bus as defined in R.S.39:1-1.

(3) Vehicles operated under authority of dealer, manufacturer, converter and transporter general registration plates such as prescribed in R.S.39:3-18 and similar laws of other states.

(4) Special mobile equipment not designed or used primarily for the transportation of persons or property.

(5) Vehicles operated not for profit by any religious or charitable organization.

(6) Vehicles operated by a public utility as defined in R.S.48:2-13, or 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.) whose operations are limited to the State of New Jersey, or vehicles providing commuter bus service which receive or discharge passengers in New Jersey.

(7) Vehicles operated, not for hire, by a farmer as defined in R.S.39:3-25.

(8) Vehicles used to transport farm labor.

(9) Recreational vehicles such as motor homes, pickup trucks with attached campers, and buses when used exclusively for personal pleasure by an individual. A recreational vehicle is a vehicle that is not used in connection with any business endeavor.

(d) "Operations" means operations of all qualified motor vehicles, whether loaded or empty, whether for compensation or not for compensation, and whether owned by, contracted for use by, or leased by the user who operates or causes them to be operated, except operations of an omnibus 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.

(e) The term "motor fuels" means any combustible liquid or gaseous substance used, or suitable, for the generation of power to propel motor vehicles.

(f) "Motor fuel tax" means a tax imposed at a rate equal to the sum of:

(1) the tax rate per gallon on motor fuels imposed by section 3 of P.L.2010, c.22 (C.54:39-103); and

(2) the tax rate per gallon on motor fuels imposed pursuant to section 3 of P.L.1990, c.42 (C.54:15B-3).

(g) "Director" shall mean the Director of the Division of Motor Vehicles in the Department of Transportation.

(h) "Purchaser" means the person, firm or corporation who or which purchased the fuel, and paid the motor fuel tax thereon, used in the qualified motor vehicles of the user.

(i) (Deleted by amendment, P.L.1995, c.347).

(j) (Deleted by amendment, P.L.1995, c.347).

(k) "Rental vehicle" means a vehicle owned by a rental company and rented to the general public on an hourly, daily, trip, or other short-term basis.

(l) "Rental company" means a person engaged in the business of renting vehicles to the general public, including motor carriers, on an hourly, daily, trip, or other short-term basis.

(m) "Commuter bus service" means regularly scheduled passenger service provided by qualified motor vehicles 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 or special bus operations as defined in R.S.48:4-1 or buses operated for the transportation of enrolled children and adults referred to in subsection c. of R.S.48:4-1.

Repealer.

56. The following sections are repealed:

R.S.54:39-1 through R.S.54:39-15;

R.S.54:39-17 through R.S.54:39-49;

R.S.54:39-51 through R.S.54:39-54;

R.S.54:39-56;

R.S.54:39-58 through R.S.54:39-60;

R.S.54:39-65 through R.S.54:39-75;

Sections 2 and 3 of P.L.1955, c.90 (C.54:39-66.1 and 54:39-67.1);

Sections 1 and 2 of P.L.1968, c.420 (C.54:39-6.1 and 54:39- 31.1);

Section 1 of P.L.1971, c.52 (C.54:39-27.1);

Section 7 of P.L.1983, c.264 (C.54:39-27a); and

Sections 41, 49, 50 through 62, and 68 of P.L.1992, c.23 (C.54:39-57.1, 54:39-6.2, 54:39-6.3, 54:39-6.4, 54:39-64.1, through 54:39-64.8, 54:39-10.1, 54:39-64.9, 54:39-64.10, and 54:39-10.2).

provided, however, that this repeal shall not affect any obligation, lien or duty to pay taxes, interest or penalties which have accrued or may accrue by virtue of any taxes imposed pursuant to the provisions of the law repealed by this act, or which may be imposed with respect to any redetermination, correction, recomputation or deficiency assessment; and provided that all taxes and returns which would have been due and payable under the provisions of the law repealed shall be due and payable as if the law was in effect; and provided that this repeal shall not affect the legal authority of the State to audit records and assess and collect taxes due or which may be due, together with the interest and penalties as have accrued or would have accrued on those taxes under the provisions of the law repealed; and provided that this repeal shall not affect any determination of, or affect any proceeding for, the enforcement thereof.

57. This act shall take effect immediately, provided however that sections 1 through 27, 29 through 49, and 53 through 56 shall remain inoperative until October 1, 2010.

Approved June 29, 2010.