

VETO MESSAGE:

VETO MESSAGE - No. 108

TO THE SENATE:

I am returning herewith, without my approval, the following bill:

Senate Bill Number 3202, entitled:

"AN ACT to amend the Tax Law, in relation to providing an exemption from the payment of the motor fuels tax and the sales tax on motor fuels used in the operation of commercial fishing vessels"

NOT APPROVED

The Tax Law permits a full refund of state and local taxes on retail sales of Diesel motor fuel used to operate commercial fishing vessels - approximately \$.49 per gallon. However, fishermen must first pay the tax and then apply for a refund to the Department of Taxation and Finance ("Tax Department"). According to some, this process creates both administrative and financial burdens for the industry. In an attempt to reduce these burdens, this bill provides an upfront tax exemption for Diesel motor fuel sold to commercial fishermen to operate commercial fishing vessels.

While the purpose of this bill is commendable - easing some of the financial and administrative burdens on fishermen - it is flawed from both a technical and policy perspective. First, while the bill exempts retail sales of Diesel motor fuel, it does not provide a mechanism for the retailer to recover the taxes it paid to the supplier. As a result, retailers would either have to absorb the cost of the tax paid, or refuse the fisherman's exemption certificate - certainly not a result

intended by the Legislature.

Second, the bill creates a significant risk of evasion. Presently, the Tax Department requires commercial fishermen to verify their identity through commercial fishing licenses and Coast Guard registrations when they file refund applications. This allows the Tax Department to make sure that the refund is actually warranted. Under this bill, retail stations could simply sell the fuel without including the tax in the selling price, which would make it extremely difficult for the Tax Department to determine during an audit whether the fuel was indeed sold for an exempt purpose.

Finally, this bill would have a negative fiscal impact of approximately \$500,000 annually on State revenue. At a time when the State is facing a significant budget deficit, and considering the technical deficiencies, it is difficult to justify this bill.

The bill is disapproved.
PATERSON

(signed) DAVID A.
