



“Saving Our Diners and Protecting Our Past Act” Legislative Guide

S2165 / A3613: “Saving Our Diners and Protecting Our Past Act;” provides sales and use tax exemption and corporation business and gross income tax credits for historic diners and restaurants included on annual registry with the NJ Division of Travel and Tourism

Sponsors: Senator Paul Moriarty
Assembly Majority Leader Lou Greenwald

Overview: The bill provides certain tax benefits to historic diners and historic restaurants in the State

Definitions:

- **Diner:** A food establishment that serves food and beverages to customers primarily for on-site consumption at a booth, table, or counter setting; engages primarily in the preparation and serving of a wide variety of menu offerings, including, but not limited to, hamburgers, salads, sandwiches, soups, breakfast items, entrees, pastries, pies, and beverages. "Diner" shall only include food establishments that are commonly known and regarded as diners, and shall not include any café, delicatessen, tavern, bar, sandwich shop, or other food establishment
- **Restaurant:** A food establishment that operates in a fixed location and in which the principal business is the sale of food and beverages to customers for consumption on the premises
- **Family-owned business entity:** A business entity that has been solely owned and operated by one or more family members for the entire period in which the business has been in operation
- **Family Member:** A sibling, grandparent, grandchild, child, spouse, domestic partner, civil union partner, parent-in-law, or parent of a covered individual, or any other individual related by blood to the employee, and any other individual that the employee shows to have a close association with the employee which is the equivalent of a family relationship
- **Eligible ingredients:** Substances used in the preparation of menu items at a historic diner or historic restaurant, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value, not including alcoholic beverages or tobacco

Qualifications:

- **Historic Diner:**
 1. Has been in continuous operation for at least 25 years, including any period of time in which the establishment was required to suspend dine-in services as a result of a public health emergency;
 2. Qualifies as a small business through the federal "Small Business Act;" and
 3. Is in compliance with all applicable health, safety, and zoning requirements

- **Historic Restaurant:**
 1. Has been in continuous operation for at least 25 years, including any period of time in which the establishment was required to suspend dine-in services as a result of a public health emergency;
 2. Qualifies as a small business through the federal "Small Business Act;"
 3. Is in compliance with all applicable health, safety, and zoning requirements;
 4. Is a family-owned business entity, and;
 5. Has been solely owned and operated by one or more family members for the entire period in which the business has been in operation

Benefits: Any historic diner or historic restaurant included on the annual registry would be entitled to:

- **Sales Tax Exemption:** The bill would exempt the sales of prepared foods and beverages made at historic diners and historic restaurants for on-premises consumption from the sales and use tax. Specifically, this exemption would apply during the 12-month period following the receipt of a sales tax exemption certificate by the operator of the historic diner or restaurant from the Director of the Division of Travel and Tourism in the Department of State, which certificate is to be issued upon the determination that the diner or restaurant has been approved for inclusion on the annual historic diner and restaurant registry

- **Corporation Business Tax and Gross Income Tax Credits for Eligible Ingredients:** The operator of a historic diner or historic restaurant may claim a corporation business tax or gross income tax credit, as applicable, for a portion of the costs incurred for eligible ingredients used in the preparation of foods and beverages. The amount of the tax credit would be equal to 10% of the costs incurred by the taxpayer during the taxable period for the purchase of eligible ingredients used in the preparation of foods or beverages at the historic diner or historic restaurant, up to \$25,000 per year