ASSEMBLY COMMERCE AND ECONOMIC DEVELOPMENT COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3613

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 9, 2026

The Assembly Commerce and Economic Development Committee reports favorably and with committee amendments Assembly Bill No. 3613.

As amended and reported, this bill, designated as the "Saving Our Diners and Preserving Our Past (SODA POP) Act," provides certain tax benefits to historic diners and historic restaurants throughout the State.

Specifically, the bill requires the Division of Travel and Tourism in the Department of State (division) to establish a historic diner and restaurant registry to certify the historic diners and historic restaurants that have been in continuous operation in the State for at least 25 years. Any historic diner or historic restaurant included on the registry is entitled to: (1) a sales tax exemption for the sales of prepared foods and beverages at the historic diner or historic restaurant; and (2) a corporation business tax or gross income tax credit for a portion of the costs incurred for the purchase of eligible ingredients used in the preparation of foods and beverages at the historic diner or historic restaurant.

Historic Diner and Restaurant Registry

Under the bill, the Director of the division (director) is required to solicit applications from the operators of historic diners and historic restaurants in the State for inclusion on a historic diner and restaurant registry, which the director is to update annually. Operators of these establishments are required to include, in an application for initial inclusion or annual renewal on the historic diner and restaurant registry, any information and documentation deemed necessary by the director to determine whether the diner or restaurant qualifies as a historic diner or historic restaurant.

Upon approval by the director, the bill provides that a historic diner or historic restaurant is to be included in the historic diner and restaurant registry on the official Internet website of the division. The historic diner and restaurant registry is required to include the location and history of each historic diner and historic restaurant and any other

information the director deems necessary to increase awareness of historic diners and restaurants in the State.

Upon approval, the director is required to notify the Director of the Division of Taxation in the Department of the Treasury that a historic diner or historic restaurant has been added to the historic diner and restaurant registry and is eligible for sales tax exemption and tax credit under the bill. The Director of the Division of Taxation is required to issue the sales tax exemption certificate and tax credit certificate to the operator of the historic diner or historic restaurant upon this notice.

As defined in the bill, a "historic diner" means a diner that: (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 concern within the meaning of federal law; and (3) is in compliance with all applicable health, safety, and zoning requirements. The bill defines "diner" as a food establishment that: (1) serves food and beverages to customers primarily for on-site consumption at a booth, table, or counter setting; and (2) 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" only includes food establishments that are commonly known and regarded as diners, and does not include any café, delicatessen, tavern, bar, sandwich shop, or other food establishment.

The bill also defines a "historic restaurant" to mean a restaurant that: (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 concern within the meaning of federal law; (3) is in compliance with all applicable health, safety, and zoning requirements; and (4) is a family-owned business entity, as defined in the bill.

Sales Tax Exemption for Retail Sales at Historic Diners and Restaurants

Under current law, the sales of prepared foods and beverages by most food establishments within the State, including diners and restaurants, are subject to the sales and use tax. This bill exempts the sales of prepared foods and beverages made at historic diners and historic restaurants from the sales and use tax, regardless of whether the food or beverage is sold for consumption on or off premises. Specifically, this exemption applies during the 12-month period following the receipt of a sales tax exemption certificate by the operator of the historic diner or historic restaurant, which certificate is to be issued upon the determination that the diner or restaurant has been approved for inclusion on the historic diner and restaurant registry.

Corporation Business Tax and Gross Income Tax Credits for Eligible Ingredients

Under the bill, the operator of a historic diner or historic restaurant that has been included on the historic diner and restaurant registry 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 is equal to 10 percent 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. The bill defines "eligible ingredients" to mean 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.

Under the bill, the operator of a historic diner or historic restaurant is required to submit the following when filing a tax return on which the operator is claiming the tax credit: (1) such business records as may be required by the Director of the Division of Taxation documenting the costs incurred by the taxpayer during the tax period for the purchase of any eligible ingredients used in the preparation of foods or beverages at the historic diner or historic restaurant; and (2) a copy of the tax credit certificate issued to the historic diner or historic restaurant.

This bill was prefiled for introduction in the 2026-2027 session pending technical review. As amended and reported, the bill includes the changes required by technical review, which has been performed.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

(1) change the bill's title to the "Saving Our Diners and Preserving Our Past (SODA POP) Act," rather than the "Saving Our Diners and Protecting Our Past Act";

(2) clarify that the bill requires the director to solicit applications for initial inclusion and annual renewal on the historic diner and restaurant registry and to update the registry annually;

(3) require the director, upon approval of an application, to notify the Director of the Division of Taxation in the Department of the Treasury that a historic diner or historic restaurant has been added to the historic diner and restaurant registry and is eligible for a sales tax exemption and tax credit under the bill;

(4) provide that the Director of the Division of Taxation is required to issue the sales tax exemption certificate and tax credit certificate, as provided in the bill;

(5) allow the sales tax exemption for the sales of prepared foods and beverages at the historic diner or historic restaurant to apply to all

sales of prepared foods and beverages instead of only sales for on premises consumption;

(6) include standard language concerning how tax credits are to be claimed by a taxpayer with respect to a share of partnership or S corporation income; and

(7) make technical changes.