

39:3-10.8

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('New Jersey  
Commercial  
Drivers License  
Act')

LAWS OF: 1990

CHAPTER: 103

Bill No: A3258

Sponsor(s): Impreveduto, Zanagri & Menendez

Date Introduced: March 22, 1990

Committees: Assembly: Appropriations; Commerce and Regulated Professions

Senate: -----

Amended during passage: Yes      Amendments during passage denoted by asterisks.

Date of Passage: Assembly: October 4, 1990  
Senate: October 11, 1990

Date of Approval: November 9, 1990

Following statements are attached if available:

Sponsor statement: Yes  
Committee Statement: Assembly: Yes      10-1-90 & 8-8-90  
Senate: No

Fiscal Note: Yes

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Message on signing: No

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New Jersey. Legislature. Senate. Law,  
Public Safety and Defense Committee.  
Public hearing, held 4-19-90, 5-25-90 and 6-27-90  
Trenton, 1990.

**KBG/SLJ**

STATE OF NEW JERSEY

INTRODUCED MARCH 22, 1990

By Assemblymen IMPREVEDUTO, ZANGARI and Menendez

1 AN ACT concerning the licensing, testing, and regulation of  
2 drivers of commercial motor vehicles, supplementing Title 39  
3 of the Revised Statutes and amending and repealing various  
4 parts of the statutory law.

5  
6 BE IT ENACTED by the Senate and General Assembly of the  
7 State of New Jersey:

8 1. (New section) This act shall be known and may be cited as  
9 the "New Jersey Commercial Driver License Act."

10 2. (New section) The purpose of this act is to reduce or  
11 prevent commercial motor vehicle accidents, fatalities, and  
12 injuries by strengthening licensing and testing standards for  
13 drivers of commercial motor vehicles, and by disqualifying those  
14 drivers who have committed certain serious traffic violations or  
15 other specified offenses. This act is also designed to  
16 substantially conform the laws of this state to the requirements  
17 and standards established under the federal "Commercial Motor  
18 Vehicle Safety Act of 1986," Pub. L. 99-570 (49 U.S.C. § 2701 et  
19 seq.) and the regulations promulgated pursuant to that federal  
20 law. This act is a remedial law and shall be liberally construed to  
21 promote the public health, safety, and welfare.

22 3. (New section) For purposes of this act, a term shall have  
23 the meaning set forth in R.S.39:1-1 unless another meaning for  
24 the term is set forth in this act, or unless another meaning is  
25 clearly apparent from the language or context of this act, or  
26 unless the meaning for the term set forth in R.S.39:1-1 is  
27 inconsistent with the manifest intent of the Legislature in this  
28 act.

29 For purposes of this act:  
30 "Alcohol concentration" means:  
31 a. The number of grams of alcohol per 100 milliliters of blood;  
32 or  
33 b. The number of grams of alcohol per 210 liters of breath.

34 "Commercial driver license" or "CDL" means a license issued  
35 in accordance with this act to a person authorizing the person to  
36 operate a certain class of commercial motor vehicle.

37 "Commercial Driver License Information System" or "CDLIS"  
38 means the information system established pursuant to the federal

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the  
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.  
Matter enclosed in superscript numerals has been adopted as follows:  
1 Assembly ACP committee amendments adopted September 10, 1990.  
2 Assembly AAP committee amendments adopted October 1, 1990.

1 "Commercial Motor Vehicle Safety Act of 1986," Pub. L. 99-570  
2 (49 U.S.C. § 2701 et seq.) to serve as a clearing house for locating  
3 information related to the licensing and identification of  
4 commercial motor vehicle drivers.

5 "Commercial motor vehicle" or "CMV" means a motor vehicle  
6 or combination of motor vehicles used or designed to transport  
7 passengers or property:

8 a. If the vehicle has a gross vehicle weight rating of 26,001 or  
9 more pounds or displays a gross vehicle weight rating of 26,001 or  
10 more pounds;

11 b. If the vehicle has a gross combination weight rating of  
12 26,001 or more pounds inclusive of a towed unit with a gross  
13 vehicle weight rating of more than 10,000 pounds;

14 c. If the vehicle is designed to transport 16 or more passengers  
15 including the driver<sup>1</sup>, provided, the director may, by regulation,  
16 include such vehicles designed to transport 15 or fewer  
17 passengers including the driver as he deems appropriate<sup>1</sup>; <sup>1</sup>[or]

18 d. If the vehicle is designed to transport 8 or more but less  
19 than 16 persons, including the driver, and is used to transport  
20 such persons for hire on a daily basis to and from places of  
21 employment; or<sup>1</sup>

22 <sup>1</sup>[d.]e.<sup>1</sup> If the vehicle is transporting or used in the  
23 transportation of hazardous materials and is required to be  
24 placarded in accordance with subpart f. of 49 C.F.R. § 172, or  
25 <sup>1</sup>[a] the<sup>1</sup> vehicle <sup>1</sup>[displaying] displays<sup>1</sup> a hazardous material  
26 placard.

27 <sup>1</sup>The director may, by regulation, include within this definition  
28 such other motor vehicles or combination of motor vehicles as he  
29 deems appropriate.

30 This term shall not include recreation vehicles.<sup>1</sup>

31 "Controlled substance" means any substance so classified under  
32 subsection (6) <sup>1</sup>of section 102<sup>1</sup> of the "Controlled Substances  
33 Act" (21 U.S.C. § 802), and includes all substances listed on  
34 Schedules I through V of 21 C.F.R. § 1308, or under P.L.1970,  
35 c.226 (C.24:21-1 et seq.) as they may be revised from time to  
36 time. The term, wherever it appears in this act or administrative  
37 regulation promulgated pursuant to this act, shall include  
38 controlled substance analogs.

39 "Controlled substance analog" means a substance that has a  
40 chemical structure substantially similar to that of a controlled  
41 dangerous substance and that was specifically designed to  
42 produce an effect substantially similar to that of a controlled  
43 dangerous substance. The term shall not include a substance  
44 manufactured or distributed in conformance with the provisions  
45 of an approved new drug application or an exemption for  
46 investigational use within the meaning of section 505 of the  
47 Federal Food, Drug and Cosmetic Act, (21 U.S.C. § 355).

48 "Conviction" means <sup>1</sup>[an] a final<sup>1</sup> adjudication that a violation

1 has occurred, a final judgment on a verdict, a finding of guilt in a  
2 tribunal of original jurisdiction, or a conviction following a plea  
3 of guilty, non vult or nolo contendere accepted by a court. It also  
4 includes an unvacated forfeiture of bail, bond or collateral  
5 deposited to secure the person's appearance in court, or the  
6 payment of a fine or court costs, or violation of a condition of  
7 release without bail, regardless of whether the penalty is rebated,  
8 suspended, or probated.

9 <sup>1</sup>["Director" means the Director of the Division of Motor  
10 Vehicles in the Department of Law and Public Safety.]<sup>1</sup>

11 "Disqualification" means either:

12 a. The suspension, revocation, cancellation, or any other  
13 withdrawal by a <sup>1</sup>[State] state<sup>1</sup> of a person's privilege to operate  
14 a commercial motor vehicle;

15 b. A determination by the Federal Highway <sup>1</sup>[Authority]  
16 Administration<sup>1</sup> under the rules of practice for motor carrier  
17 safety contained in 49 C.F.R. § 386, that a person is no longer  
18 qualified to operate a commercial motor vehicle under 49 C.F.R.  
19 § 391; or

20 c. The loss of qualification which automatically follows  
21 conviction of an offense listed in 49 C.F.R. § 383.51.

22 <sup>1</sup>["Division" means the Division of Motor Vehicles in the  
23 Department of Law and Public Safety.]

24 "Domicile" means that state where a person has a true, fixed,  
25 and permanent home and principal residence and to which the  
26 person intends to return whenever the person is absent.<sup>1</sup>

27 "Driver license" means a license issued by this State or <sup>1</sup>any<sup>1</sup>  
28 other jurisdiction to a person authorizing the person to operate a  
29 motor vehicle.

30 "Endorsement" means an authorization to a commercial driver  
31 license required to permit the holder of the license to operate  
32 certain types of commercial motor vehicles.

33 "Felony" means any offense under any federal law or the law  
34 of a state, including this State, that is punishable by death or  
35 imprisonment for a term exceeding one year. The term includes,  
36 but is not limited to, "crimes" as that term is defined in  
37 N.J.S.2C:1-1 et seq.

38 "Foreign jurisdiction" means any jurisdiction other than a state  
39 of the United States.

40 "Gross vehicle weight rating" or "GVWR" means the value  
41 specified by a manufacturer as the loaded weight of a single or a  
42 combination (articulated) vehicle, or the registered gross weight,  
43 whichever is greater. The GVWR of a combination (articulated)  
44 vehicle, commonly referred to as the "gross combination weight  
45 rating" or "GCWR," is the GVWR of the power unit plus the  
46 GVWR of the towed unit or units. In the absence of a value  
47 specified for the towed unit or units by the manufacturer, the  
48 GVWR of a combination (articulated) vehicle is the GVWR of the

1 power unit plus the total weight of the towed unit, including the  
2 loads on them.

3 "Hazardous material" means a substance or material  
4 determined by the Secretary of the United States Department of  
5 Transportation to be capable of posing an unreasonable risk to  
6 health, safety, and property when transported in commerce and  
7 so designated pursuant to the provision of the "Hazardous  
8 Materials Transportation Act," (49 U.S.C. § 1801 et seq.).

9 "Motor vehicle" includes all vehicles propelled otherwise than  
10 by muscular power, except such vehicles as run only upon rails or  
11 tracks. The term "motor vehicle" includes motorized bicycles.

12 "Out of service order" means a temporary prohibition against  
13 operating a commercial motor vehicle.

14 <sup>1</sup>"Recreation vehicle" means a self-propelled or towed vehicle  
15 equipped to serve as temporary living quarters for recreational,  
16 camping, or travel purposes and is used solely as a family or  
17 personal conveyance.<sup>1</sup>

18 "Representative vehicle" means a motor vehicle which  
19 represents the type of motor vehicle that a <sup>1</sup>commercial<sup>1</sup> driver  
20 <sup>1</sup>license<sup>1</sup> applicant operates or expects to operate.

21 <sup>1</sup>["Secretary" means the Secretary of the United States  
22 Department of Transportation or his designee.]<sup>1</sup>

23 "Serious traffic violation" means conviction for one of the  
24 following offenses committed while operating a commercial  
25 motor vehicle:

26 a. Excessive speeding, involving any single offense for a speed  
27 of 15 miles per hour or more above the speed limit;

28 b. Reckless driving, as defined by <sup>1</sup>[State] state<sup>1</sup> or local law  
29 or regulation, including, but not limited to, offenses of driving a  
30 commercial motor vehicle in willful or wanton disregard of the  
31 safety of persons or property, including violations of R.S.39:4-96;

32 c. Improper or erratic traffic lane changes;

33 d. Following a vehicle ahead too closely, including violations  
34 of R.S.39:4-89;

35 e. A violation, arising in connection with a fatal accident, of  
36 <sup>1</sup>[State] state<sup>1</sup> or local law relating to motor vehicle traffic  
37 control, other than a parking violation <sup>1</sup>[. Serious traffic  
38 violations exclude vehicle weight and defect violations]<sup>1</sup>; or

39 f. Any other violation of a state or local law relating to motor  
40 vehicle traffic control<sup>1</sup>[, other than a parking violation, which  
41 the director determines] determined by the Secretary of the  
42 United States Department of Transportation in 49 C.F.R. §  
43 383.5<sup>1</sup> to be <sup>1</sup>a<sup>1</sup> serious <sup>1</sup>traffic violation<sup>1</sup>.

44 <sup>1</sup>This term shall not include vehicle weight or defect  
45 violations.<sup>1</sup>

46 "State" means a state of the United States or the District of  
47 Columbia.

48 <sup>1</sup>["State of domicile" means that state where a person has a

1 true, fixed, and permanent home and principal residence and to  
2 which the person intends to return whenever he is absent.]<sup>1</sup>

3 "Tank vehicle" means any commercial motor vehicle that is  
4 designed to transport any liquid or gaseous material within a tank  
5 that is either permanently or temporarily attached to the vehicle  
6 or the chassis. Such vehicles include, but are not limited to,  
7 cargo tanks and portable tanks as defined by the director.  
8 However, this definition does not include portable tanks having a  
9 rated capacity under 1,000 gallons.

10 <sup>1</sup>["United States" means the fifty states and the District of  
11 Columbia.]<sup>1</sup>

12 "Vehicle group" means a class or type of vehicle with certain  
13 operating characteristics.

14 4. (New section) <sup>1</sup>a.<sup>1</sup> Notwithstanding any other provision of  
15 law to the contrary, the director shall adopt and administer a  
16 classified licensing system and a program for testing and ensuring  
17 the fitness of persons to operate commercial motor vehicles in  
18 accordance with the minimum federal standards established under  
19 the federal Commercial Motor Vehicle Safety Act of 1986,  
20 Pub. L. 99-570 (49 U.S.C. § 2701 et seq.) and the regulations  
21 promulgated pursuant to that law. The director shall not issue a  
22 commercial driver license to a person unless that person passes a  
23 <sup>1</sup>[written] knowledge<sup>1</sup> and <sup>1</sup>[driving] skills<sup>1</sup> test for <sup>1</sup>the<sup>1</sup>  
24 operation of a commercial motor vehicle which complies with the  
25 <sup>1</sup>[minimum established] federal<sup>1</sup> standards. The director may  
26 issue commercial driver examination <sup>1</sup>or learner's<sup>1</sup> permits,  
27 subject to such conditions and restrictions as deemed necessary,  
28 to carry out the provisions of this act.

29 <sup>1</sup>b. A knowledge and skills test shall not be required by the  
30 director for the renewal of a commercial driver license issued  
31 pursuant to the provisions of this act. However, a knowledge and  
32 skills test may be required for (1) the renewal of an endorsement  
33 permitting the operation of vehicles required to be placarded for  
34 hazardous materials, (2) for the renewal or reissuance of a  
35 commercial driver license if the license was suspended or revoked  
36 under section 12 of this act during the last license period  
37 preceeding the renewal or reissuance, or (3) for the the renewal  
38 or reissuance of a license which had not been renewed for a  
39 period of three or more years.

40 c. Upon the request of an applicant for a commercial driver  
41 license, the director shall administer to the applicant oral  
42 knowledge tests for the commercial driver license and any  
43 endorsements if the applicant supplies sufficient proof or  
44 otherwise demonstrates to the satisfaction of the director his  
45 inability to comprehend a written test. The director shall provide  
46 an English and Spanish version of the knowledge tests for a  
47 commercial driver license and for any endorsements and shall be  
48 authorized to provide versions in such other languages as he, in

1 his discretion, may deem appropriate.

2 d. A person who satisfactorily completes the knowledge tests  
3 required by this act for a commercial driver license and any  
4 endorsement shall not be required under R.S.39:3-10,  
5 R.S.39:3-10.1, or any other section in Title 39 of the Revised  
6 Statutes to take any other knowledge test for the operation of a  
7 commercial motor vehicle.

8 e. The director shall make a reasonable effort to notify any  
9 person whose name and address is on file with the division, who is  
10 licensed to operate a commercial motor vehicle under the  
11 provisions of Title 39 of the Revised Statutes in effect prior to  
12 the effective date of this act, and who is required under this act  
13 to obtain a commercial driver license of the locations, times and  
14 dates on which the knowledge tests for the commercial driver  
15 license and for any endorsements may be taken for the first time  
16 and the procedures for taking the tests a second or subsequent  
17 time in the event of a failure. The notice shall include a  
18 description of the licensing and testing standards and  
19 requirements under the federal "Commercial Motor Vehicle  
20 Safety Act of 1986," Pub. L. 99-570 (49 U.S.C. § 2701 et seq.)  
21 and this act. The obligation of the director to provide notice  
22 under this subsection shall be for the sole purpose of expediting  
23 the testing and licensing of commercial drivers and any  
24 deficiency in meeting this obligation shall not abrogate or  
25 diminish the responsibility of a driver from obtaining a  
26 commercial driver license and any necessary endorsements under  
27 this act.

28 f. For the purposes of an application for a commercial driver  
29 license by a person who has never held a license issued under the  
30 provisions of this act, a person who satisfactorily completes the  
31 knowledge test for the commercial driver license but not the test  
32 for an endorsement, or a person who satisfactorily completes the  
33 knowledge test for an endorsement but not the test for the  
34 commercial driver license, shall not be required to retake that  
35 test which was satisfactorily completed.

36 g. No provision in this act, or in any manual, test, or  
37 administrative procedure developed to implement the provisions  
38 of this act, shall be deemed to expand the requirements for  
39 commercial motor vehicle operators concerning pre-trip  
40 inspection, after-trip inspection and inspection during a trip as  
41 such requirements are set forth in federal law or regulation. This  
42 subsection, however, shall not be deemed to limit the authority of  
43 the director, or the authority of any State department or agency,  
44 to promulgate, pursuant to other provisions of State law,  
45 standards and procedures on vehicle inspections which are  
46 consistent with federal law and regulation.<sup>1</sup>

47 5. (New section) Notwithstanding any other provision of law to  
48 the contrary, a person shall not operate a commercial motor



1 vehicle in this State with an alcohol concentration of 0.04% or  
2 more<sup>1</sup>, or while under the influence of a controlled substance<sup>1</sup>.

3 6. (New section) a. Before issuing a commercial driver  
4 license to an applicant, the director shall notify the Commercial  
5 Driver License Information System of the proposed issuance and  
6 shall request driving record information from the Commercial  
7 Driver License Information System, the National Driver Register,  
8 and from any other state which has issued a commercial driver  
9 license to the applicant to determine whether the applicant has a  
10 commercial driver license issued by another state, whether the  
11 applicant's driving privilege has been suspended, revoked  
12 cancelled, or whether the applicant has been disqualified from  
13 operating a commercial <sup>1</sup>[driver license] motor vehicle<sup>1</sup>.

14 The director also shall provide driving record and other  
15 information to the licensing authority of any other state, or  
16 province or territory of Canada, which requests such information  
17 in connection with a commercial driver license. The director  
18 may charge such fees as are deemed appropriate to cover the  
19 costs of providing information, except that no fee shall be  
20 charged if the other jurisdiction does not charge <sup>1</sup>[New Jersey]  
21 this State<sup>1</sup> for similar requests.

22 b. Within 10 days after the issuance of a commercial driver  
23 license, the director shall notify the Commercial Driver License  
24 Information System of that fact, providing all information  
25 required to ensure identification of the licensee.

26 7. (New section) Within 10 days after receiving a report of the  
27 conviction of a holder of a commercial driver license for any  
28 violation of state law related to motor vehicle traffic control  
29 committed in a commercial vehicle, other than <sup>1</sup>a<sup>1</sup> parking  
30 <sup>1</sup>[violations] violation<sup>1</sup>, or after the disqualification of the holder  
31 of a commercial driver license or suspension of privileges for a  
32 period of 60 days or more, the division shall notify the driver  
33 licensing authority in the licensing state, if other than this State,  
34 and the Commercial Driver License Information System of the  
35 conviction, suspension, or disqualification. The notification shall  
36 include all information the director deems necessary.

37 8. (New section) The director, in his discretion, may refuse to  
38 grant a commercial driver license to a person who is, in his  
39 estimation, not a proper person to be granted such a license<sup>1</sup>, but  
40 no defect of the applicant shall bar him from receiving a license  
41 unless it can be shown by tests approved by the director that the  
42 defect incapacitates him from safely operating a commercial  
43 motor vehicle<sup>1</sup>.

44 The director may suspend or revoke a <sup>1</sup>[privilege] license<sup>1</sup> to  
45 operate a commercial motor vehicle, <sup>1</sup>[or]<sup>1</sup> may prohibit a person  
46 from obtaining <sup>1</sup>[a commercial driver] such a<sup>1</sup> license<sup>1</sup>[. The  
47 director], or<sup>1</sup> may suspend or revoke the reciprocity privilege of  
48 a person for a violation of any provision of Title 39 of the

1 Revised Statutes or for any other reasonable grounds<sup>1</sup>, after due  
2 notice in writing of such proposed suspension, revocation, or  
3 prohibition and the grounds thereof<sup>1</sup>.

4 9. (New section) The director shall issue a commercial driver  
5 license only to a person who operates or will operate a  
6 commercial motor vehicle and is domiciled in this State.

7 <sup>1</sup>A person shall apply to the director within 30 days after  
8 establishing domicile in this State for the transfer of a  
9 commercial driver license from the state in which the person was  
10 previously domiciled.<sup>1</sup>

11 10. (New section) a. (1) <sup>2</sup>[Except] Through March 31, 1992,  
12 and except<sup>2</sup> as provided by the director by rule or regulation, a  
13 person who has been issued a commercial driver license shall not  
14 operate a commercial motor vehicle unless the person is in  
15 possession of the valid commercial driver license and  
16 endorsements for the class <sup>1</sup>and type<sup>1</sup> of vehicle being operated.  
17 Such a person shall not operate a commercial motor vehicle if the  
18 person is restricted from operating a commercial vehicle of that  
19 <sup>1</sup>class or<sup>1</sup> type.

20 (2) <sup>2</sup>[Except] On and after April 1, 1992, and except<sup>2</sup> when  
21 operating under a valid commercial driver examination <sup>1</sup>or  
22 learner's<sup>1</sup> permit and accompanied by the holder of a  
23 commercial driver license valid for the class of vehicle being  
24 operated, a person shall not operate a commercial motor vehicle  
25 unless the person has been issued and is in possession of a valid  
26 commercial driver license and applicable endorsements for the  
27 class <sup>1</sup>and type<sup>1</sup> of vehicle being operated. A person shall not  
28 operate a commercial motor vehicle if the person is restricted  
29 from operating a commercial vehicle of that <sup>1</sup>class or<sup>1</sup> type.

30 (3) A person violating this subsection shall be fined not less  
31 than \$250 or more than \$500, or imprisoned for not more than 60  
32 days, or both. This penalty shall not be applicable in cases where  
33 failure to have actual possession of the commercial driver license  
34 is due to an administrative or technical error by the division. If a  
35 person charged with a failure to have possession of a valid  
36 commercial driver license can exhibit the license to the judge of  
37 the court before whom he is summoned to answer to a charge and  
38 the license was valid on the day the person was charged, the  
39 judge may dismiss the charge. However, the judge may impose  
40 court costs.

41 b. (1) A person who has been refused a commercial driver  
42 license, whose commercial motor vehicle driving privilege or any  
43 endorsement has been suspended or revoked, who has been  
44 prohibited or disqualified from operating a commercial motor  
45 vehicle, who is subject to an out of service order, or whose  
46 driving privilege is suspended or revoked, shall not operate a  
47 commercial motor vehicle during the period of refusal,  
48 suspension, revocation, prohibition, or disqualification, or during

1 the period of the out of service order.

2 (2) A person who violates this subsection shall, upon conviction,  
3 be fined <sup>1</sup>not more than<sup>1</sup> \$5,000 for each offense, or imprisoned  
4 for a term <sup>1</sup>of<sup>1</sup> not <sup>1</sup>[to exceed] more than<sup>1</sup> 90 days, or both. If  
5 a person is involved in an accident resulting in personal injury to  
6 another person while operating a commercial motor vehicle in  
7 violation of this subsection, the court shall impose both a period  
8 of imprisonment for 90 days and a fine of \$5,000.

9 In addition, the commercial motor vehicle driving privilege of a  
10 person convicted under this subsection shall be suspended in  
11 accordance with section 12 of this act.

12 11. (New section) Notwithstanding any other law to the  
13 contrary, a person may operate a commercial motor vehicle in  
14 this State if the person has received a waiver <sup>1</sup>of the commercial  
15 driver license requirements<sup>1</sup> from the Secretary of <sup>1</sup>the United  
16 States Department of<sup>1</sup> Transportation or the licensing authority  
17 of any other state <sup>1</sup>[or jurisdiction; or],<sup>1</sup> has a commercial driver  
18 license issued by any state<sup>1</sup>[, or issued by any province or  
19 territory of Canada,]<sup>1</sup> in accordance with minimum federal  
20 standards for the issuance of commercial motor vehicle driver  
21 licenses, <sup>1</sup>[provided that] or has a commercial driver license  
22 issued by any other jurisdiction in accordance with minimum  
23 standards which are substantially similar to the standards in the  
24 federal "Commercial Motor Vehicle Safety Act of 1986," Pub. L.  
25 99-570 (49 U.S.C. § 2701 et seq.) and this act. This section shall  
26 apply only if<sup>1</sup> the person's driving privilege is not suspended or  
27 revoked or cancelled in this State or in the jurisdiction that  
28 issued the commercial driver license, and <sup>1</sup>[that]<sup>1</sup> the person is  
29 not disqualified from operating a commercial motor vehicle, or  
30 subject to an "out of service" order.

31 <sup>1</sup>[Upon application for a transfer of a commercial driver  
32 license from another state of domicile to this State, a person  
33 shall apply to the director for a commercial driver license within  
34 30 days after establishing domicile in this State.]<sup>1</sup>

35 12. (New section) a. In addition to any other penalty provided  
36 by law, a court shall suspend for not less than one year nor more  
37 than three years the commercial motor vehicle driving privilege  
38 of a person for a first violation of:

39 (1) R.S.39:4-50 if the motor vehicle was a commercial motor  
40 vehicle or section 5 of this act.

41 (2) R.S.39:4-129 <sup>1</sup>[involving] if the motor vehicle was<sup>1</sup> a  
42 commercial motor vehicle operated by the person.

43 (3) Using a commercial motor vehicle in the commission of any  
44 "crime" as defined in subsections a., c., or d. of N.J.S.2C:1-4.

45 (4) Refusal to submit to a chemical test <sup>1</sup>[as provided in]  
46 under<sup>1</sup> section 2 of P.L.1966, c.142 (C.39:4-50.2) or section 16 of  
47 this act if the motor vehicle was a commercial motor vehicle.

48 (5) Paragraph (1) of subsection b. of section 10 of this act.

1 b. If a first violation of any of the violations specified in  
2 subsection a. of this section <sup>1</sup>[take] takes<sup>1</sup> place while  
3 transporting hazardous material or <sup>1</sup>[take] takes<sup>1</sup> place in a  
4 vehicle displaying a hazardous material placard, the court shall  
5 suspend the commercial motor vehicle driving privilege of the  
6 person for three years.

7 c. Subject to the provisions of subsection d. of this section, the  
8 court shall revoke for life the commercial motor vehicle driving  
9 privilege of a person for a second or subsequent violation of any  
10 of the offenses specified in subsection a. or any combination of  
11 those offenses arising from two or more separate incidents.  
12 <sup>1</sup>[For purposes of this section, a violation committed in another  
13 state but substantially similar to those enumerated in subsection  
14 a. committed in another state shall be included.]<sup>1</sup>

15 d. The director may issue rules and regulations establishing  
16 guidelines, including conditions under which a revocation of  
17 commercial motor vehicle driving privilege for life under  
18 subsection c. may be reduced to a period of not less than<sup>1</sup> ten  
19 years.

20 e. Notwithstanding any other provision of law to the contrary,  
21 a court shall revoke for life the commercial motor vehicle driving  
22 privilege of a person who uses a commercial motor vehicle in the  
23 commission of a crime involving the manufacture, distribution, or  
24 dispensing of a controlled substance or controlled substance  
25 analog, or possession with intent to manufacture, distribute, or  
26 dispense a controlled substance or controlled substance analog. A  
27 revocation under this subsection shall not be subject to reduction  
28 in accordance with subsection d. of this section.

29 f. A court shall suspend the commercial motor vehicle driving  
30 privilege of a person for a period of not less than 60 days if the  
31 person is convicted of a serious traffic violation and that  
32 conviction constitutes the second serious traffic violation  
33 committed in a commercial motor vehicle in this or any other  
34 state arising from separate incidents occurring within a three  
35 year period. A court shall suspend the commercial motor vehicle  
36 driving privilege for 120 days if the conviction constitutes the  
37 third or subsequent serious traffic violation committed in a  
38 commercial motor vehicle in this or any other state arising from  
39 separate incidents occurring within a three year period.

40 g. After suspending, revoking, or cancelling a commercial  
41 motor vehicle driving privilege, a court shall make a report to the  
42 director within three days in such form as the director may  
43 require. The director shall notify the Commercial Driver License  
44 Information System of the suspension, revocation, or  
45 cancellation. In the case of non-residents, the director also shall  
46 notify the licensing authority of the state which issued the  
47 commercial driver license or the state where the person is  
48 domiciled. The director shall provide these notices within 10

1 days after the suspension, revocation, cancellation, or  
2 disqualification.

3 h. The director shall in accordance with this section suspend a  
4 commercial motor vehicle driving privilege of a person holding  
5 <sup>1,1</sup> or required to hold<sup>1,1</sup> a commercial driver license issued by  
6 this State if the person is convicted in a another state or foreign  
7 jurisdiction of <sup>1</sup>[a violation] an offense<sup>1</sup> of a substantially similar  
8 nature to the offenses specified in subsections a., e., or f. of this  
9 section. For purposes of this section, a violation such as driving  
10 while intoxicated, driving under the influence, or driving while  
11 ability is impaired shall be considered substantially similar  
12 offenses. <sup>1</sup>For purposes of this section, a violation committed in  
13 another state but substantially similar to those enumerated in  
14 subsection a. of this section committed in this State shall be  
15 included.<sup>1</sup>

16 i. Notwithstanding any other provision of law to the contrary,  
17 a conviction <sup>1</sup>[arising]<sup>1</sup> under this section <sup>1,1</sup> or sections 5 or 16  
18 of this act <sup>1,1</sup> shall not merge with a conviction for a violation of  
19 R.S.39:4-50 or section 2 of P.L.1966, c.142 (C.39:4-50.2).

20 13. (New section) The director may, by contract, by  
21 appointment as a motor vehicle agent, or by licensing, authorize  
22 <sup>1</sup>[qualified] any necessary<sup>1</sup> persons, including but not limited to  
23 an agency of this or another state, an employer, a private driver  
24 training facility or other private institution, or a department,  
25 agency or instrumentality of local government to administer  
26 <sup>1</sup>[any portion of a commercial motor vehicle driver examination]  
27 the knowledge or skills tests for a commercial driver license or  
28 endorsement<sup>1</sup>. The director <sup>1</sup>[may] shall<sup>1</sup> adopt such regulations  
29 as deemed necessary to establish, oversee and regulate the  
30 administration of commercial motor vehicle driver testing by  
31 third parties including establishment of maximum fees that may  
32 be charged. <sup>1</sup>The maximum fee for a skills test administered by  
33 a third party shall be set at an amount equal to the cost to the  
34 State for administering such testing.<sup>1</sup>

35 The director may limit the number of persons licensed to  
36 administer examinations and may suspend or revoke an  
37 authorization on any reasonable ground. The director may  
38 terminate third party testing at any time. A person authorized to  
39 administer examinations by appointment as a motor vehicle agent  
40 shall so act until this authority is revoked by the director.

41 <sup>1</sup>An examiner administering a skills test shall not be held  
42 accountable for any violation of Title 39 of the Revised Statutes  
43 committed by the person being tested.<sup>1</sup>

44 14. (New section) The director <sup>1</sup>[may] shall<sup>1</sup> waive the skills  
45 test for a commercial driver license applicant who <sup>1</sup>[is licensed  
46 at the time of an application and who provides proof in such form  
47 and of such type as the director may require that it is appropriate  
48 to waive the skills test, consistent with the purposes of this act

1 and] demonstrates that he meets<sup>1</sup> the requirements <sup>1</sup>for a  
2 waiver<sup>1</sup> under the federal "Commercial Motor Vehicle Safety  
3 Act of 1986," Pub. L. 99-570 (49 U.S.C. § 2701 et seq.). <sup>1</sup>[The  
4 burden in an application for a waiver shall be on the applicant.]<sup>1</sup>

5 15. (New section) <sup>1</sup>a.<sup>1</sup> The director may take such steps as  
6 are necessary to provide for the efficient, timely and orderly  
7 processing of persons required to obtain commercial driver  
8 licenses under this act. The director may <sup>1</sup>require persons to  
9 take the skills test for the commercial driver license or for an  
10 endorsement at the time and place selected by the director. The  
11 director may<sup>1</sup> require <sup>1</sup>[a person] those persons<sup>1</sup> who <sup>1</sup>[operates  
12 or intends to operate a commercial motor vehicle] fail to  
13 satisfactorily complete a knowledge test for the commercial  
14 driver license or an endorsement on the initial attempt<sup>1</sup> to <sup>1</sup>[be  
15 tested and licensed in accordance with the provisions of this act]  
16 take those knowledge tests for a second or subsequent time<sup>1</sup> at a  
17 time and place selected by the director. <sup>1</sup>[The director may,  
18 after notice and an opportunity to be heard, suspend the privilege  
19 to operate a commercial motor vehicle of a person who refuses to  
20 be tested at the time and place selected by the director. The  
21 suspension shall remain in effect until the person obtains a  
22 commercial driver license in accordance with the provision of  
23 this act.]

24 b. If the director determines that persons required to obtain  
25 commercial driver licenses and endorsements by April 1, 1992 are  
26 not voluntarily and in a timely manner scheduling with the  
27 division a date, time and location for the taking of the knowledge  
28 tests or are failing to appear as scheduled, the director may for  
29 the timely processing of all such persons require each person to  
30 appear for the initial taking of the knowledge tests on a date and  
31 at a time and location selected by the director.<sup>1</sup>

32 16. (New section) a. A person who operates a commercial  
33 motor vehicle on a public road, street, or highway, or  
34 quasi-public area in this State, shall be deemed to have given his  
35 consent to the taking of samples of his breath for the purposes of  
36 making chemical tests to determine alcohol concentration;  
37 provided, however, that the taking of samples shall be made in  
38 accordance with the provisions of this act and at the request of a  
39 police officer who has reasonable grounds to believe that the  
40 person has been operating a commercial motor vehicle with an  
41 alcohol concentration of 0.04% or more.

42 b. A record of the taking of such a sample, disclosing the date  
43 and time thereof, as well as the result of a chemical test, shall be  
44 made and a copy thereof, upon request, shall be furnished or  
45 made available to the person so tested.

46 c. In addition to the samples taken and tests made at the  
47 direction of a police officer hereunder, the person tested shall be  
48 permitted to have such samples taken and chemical tests of his

1 breath, urine, or blood made by a person or physician of his own  
2 selection.

3 d. The police officer shall inform the person tested of his  
4 rights under subsections b. and c. of this section.

5 e. No chemical test, as provided in this section, or specimen  
6 necessary thereto, may be made or taken forcibly and against  
7 physical resistance thereto by the defendant. The police officer  
8 shall, however, inform the person arrested of the consequences of  
9 refusing to submit to such test including the penalties under  
10 section 12 of this act. A standard statement, prepared by the  
11 director, shall be read by the police officer to the person.

12 f. The court shall revoke for six months the right to operate  
13 any motor vehicle of any person who, after being arrested for a  
14 violation of section 5 of this act, shall refuse to submit to the  
15 chemical test provided for in this section when requested to do  
16 so, unless the refusal was in connection with a subsequent offense  
17 under this section, section 5 of this act, R.S.39:4-50 or section 2  
18 of P.L.1981, c.512 (C.39:4-50.4a), in which case the revocation  
19 period shall be for 2 years. In addition, a court shall impose the  
20 penalties provided in section 12 of this act.

21 The court shall determine by a preponderance of the evidence  
22 whether the arresting officer had probable cause to believe that  
23 the person had been operating or was in actual physical control of  
24 a commercial motor vehicle on the public highways or  
25 quasi-public areas of this State with an alcohol concentration at  
26 0.04% or more, whether the person was placed under arrest,  
27 whether he refused to submit to the test upon request of the  
28 officer, and if these elements of the violation are not established,  
29 no conviction shall issue. In addition to any other requirements  
30 provided by law, a person whose driving privilege is revoked for  
31 refusing to submit to a chemical test shall satisfy the  
32 requirements of a program of alcohol education or rehabilitation  
33 pursuant to the provisions of R.S.39:4-50. The revocation shall  
34 be independent of any revocation imposed by virtue of a  
35 conviction under the provisions of R.S.39:4-50 or section 12 of  
36 this act.

37 In addition to imposing a revocation under this subsection, a  
38 court shall impose a fine of not less than \$250 or more than \$500.

39 17. (New section) Chemical analyses of an arrested person's  
40 breath, to be considered valid under the provisions of this act,  
41 shall have been performed according to methods approved by the  
42 Attorney General, and by a person certified for this purpose by  
43 the Attorney General. The Attorney General is authorized to  
44 approve satisfactory techniques or methods, to ascertain the  
45 qualifications and competence of individuals to conduct analyses,  
46 and to make certifications of such individuals, which  
47 certifications shall be subject to termination or revocation at the  
48 discretion of the Attorney General. The Attorney General shall

1 prescribe a uniform form for reports of the chemical analysis of  
2 breath to be used by law enforcement officers and others acting  
3 in accordance with the provisions of this act. Each chief of  
4 police, in the case of forms distributed to law enforcement  
5 officers and others in his municipality, or the other officer,  
6 board, or official having charge or control of the police  
7 department where there is no chief, and the Director of the  
8 Division of Motor Vehicles and the Superintendent of State  
9 Police, in the case of such forms distributed to law enforcement  
10 officers and other personnel in their divisions, shall be responsible  
11 for the furnishing and proper disposition of such uniform forms.  
12 Each responsible party shall prepare or cause to be prepared the  
13 records and reports relating to the uniform forms and their  
14 disposition in the manner and at the times prescribed by the  
15 Attorney General. Unless otherwise provided by the Attorney  
16 General, the approval of methods and techniques, the  
17 certification of persons and the prescription of forms of reports  
18 pursuant to section 3 of P.L.1966, c.142 (C.39:4-50.3) shall  
19 constitute approval, certification or prescription, as the case may  
20 be, for purposes of this section.

21 18. (New section) A person who operates a commercial motor  
22 vehicle shall not have more than one <sup>1</sup>[commercial]<sup>1</sup> driver  
23 license.

24 A person convicted of a violation of this section shall be  
25 subject for each offense to a fine of <sup>1</sup>not more than<sup>1</sup> \$5,000, or  
26 imprisoned for a term <sup>1</sup>of<sup>1</sup> not <sup>1</sup>[to exceed] more than<sup>1</sup> 90 days,  
27 or both.

28 19. (New section) The director may adopt any rules and  
29 regulations, in accordance with the provisions of the  
30 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
31 seq.), necessary to carry out the provisions of this act, including  
32 the regulations necessary to place this State in substantial  
33 compliance with the requirements of the federal "Commercial  
34 Motor Vehicle Safety Act of 1986," Pub. L.99-570 (49  
35 U.S.C.§2701 et seq.) and the regulations promulgated pursuant to  
36 that federal law.

37 20. (New section) The director may enter into or make  
38 agreements, arrangements, or declarations to carry out the  
39 provisions of this act. The director may also enter into an  
40 agreement or arrangement with the duly authorized  
41 representative of another state, the federal government, or  
42 province concerning licensing or testing of commercial motor  
43 vehicle operators, the exchange of information concerning  
44 operators, and their operating history. Such arrangements shall,  
45 in the judgment of the director, be in the best interest of this  
46 State and its citizens, keeping in mind the public safety benefits  
47 that flow to this State from a nationwide system for regulating  
48 commercial motor vehicle operators.



1       21. (New section) Notwithstanding any other provision of law  
2 to the contrary, the director may waive, in whole or in part, after  
3 notice and an opportunity for comment, application of any  
4 provision of this act or any regulation promulgated pursuant to  
5 this act with respect to a class of persons or class of commercial  
6 motor vehicles if the director determines that such waiver is not  
7 contrary to the public interest and does not diminish the safe  
8 operation of commercial motor vehicles. A waiver under this  
9 section shall be published in the New Jersey Register, together  
10 with reasons for the waiver. A waiver shall not be granted if the  
11 granting of the waiver is likely to or will place the State in the  
12 position of not being in substantial compliance with the  
13 requirements set forth in the "Commercial Motor Vehicle Safety  
14 Act of 1986," Pub. L. 99-570 (49 U.S.C. § 2701 et seq.). The  
15 director may make such applications as he deems appropriate to  
16 the Secretary <sup>1</sup>of the United States Department of  
17 Transportation<sup>1</sup> to obtain any waiver permitted under federal law.

18       22. (New section) <sup>1</sup>[The] Notwithstanding the provisions of  
19 R.S.39:3-14 or any other sections of law which permit or require  
20 the issuance of driver's license without charge, the<sup>1</sup> required fee  
21 for <sup>1</sup>[a commercial driver license for a 48 month period shall be  
22 \$17.50. The required fee for an] a commercial driver license<sup>1</sup>  
23 examination <sup>1</sup>or learner's<sup>1</sup> permit shall <sup>1</sup>be<sup>1</sup> \$35<sup>1</sup>[. The required  
24 fee for an endorsement for a 48 month period shall be \$12.]. A  
25 permit issued before April 1, 1992 shall be valid for a period of  
26 two years from the date of issuance, unless another time period is  
27 established for such permits in federal regulations promulgated  
28 by the Secretary of the United States Department of  
29 Transportation. The permit holder shall have unlimited testing  
30 opportunities consistent with the scheduling obligations of the  
31 Division of Motor Vehicles and the need to provide testing  
32 opportunities to all persons affected by this act. For an  
33 examination or learner's permit issued on or after April 1, 1992,  
34 the director may limit the permit's validity to a specific length  
35 of time or number of testing opportunities.

36       After the issuance of a commercial driver license, the  
37 examination or learner's permit fee for an additional  
38 endorsement or license class shall be \$10 per endorsement or  
39 class.

40       In addition to fees for a basic driver license and any  
41 non-commercial endorsement and renewals thereof, the required  
42 fee for a 48 month licensing period shall be \$16 for each  
43 commercial driver license and renewal thereof and \$2 for each  
44 endorsement and renewal thereof. In addition, the director shall  
45 charge a fee for a photograph of the licensee and its affixation to  
46 the commercial driver license which shall be based on the actual  
47 cost incurred by the division for the photograph and the  
48 affixation.<sup>1</sup>

1 The commercial driver license shall expire on the last day of  
2 the 48th calendar month following the calendar month in which  
3 the license was issued<sup>1</sup>[, provided, however, that]. However,<sup>1</sup> the  
4 director may, at his discretion, issue licenses and endorsements  
5 which shall expire on a date fixed by him. The fee for such  
6 licenses or endorsements shall be fixed in amounts  
7 proportionately less or greater than the fee otherwise established.

8 23. (New section) The provisions of this act shall be severable,  
9 and if any of its provisions shall be held to be unconstitutional,  
10 the decision of the court shall not affect the validity of the  
11 remaining provisions of this act.

12 24. (New section) Receipts collected by the director pursuant  
13 to this act shall be forwarded to the State Treasurer and be  
14 deposited into a special fund. The division shall establish a  
15 receivable account for the sole purpose of defraying the expenses  
16 incurred for program implementation and administration. The  
17 receivable account shall be relieved by monies deposited into the  
18 special fund from fees derived pursuant to this act. <sup>2</sup>[Upon  
19 completion of the implementation process, monies] Monies<sup>2</sup>  
20 remaining in the special fund <sup>2</sup>[in excess of the amount required  
21 to defray the expenses of the program] on June 30, 1996<sup>2</sup> shall be  
22 deposited into the General <sup>2</sup>[State]<sup>2</sup> Fund.

23 25. N.J.S.2A:82-10 is amended to read as follows:

24 2A:82-10. Copies of motor vehicle records

25 Copies of any act, rule, order or decision made by the director  
26 of the division of motor vehicles, and of any paper filed in his  
27 office when authenticated under his seal shall be evidence in like  
28 manner, and with equal effect as the originals.

29 All transcripts and abstracts of the records of the division of  
30 motor vehicles, the licensing authority of another state, the  
31 Commercial Driver License Information System, or the National  
32 Driver Register as to the names of owners of motor vehicles and  
33 as to the holders of licenses to operate motor vehicles and their  
34 operating records, certified by the director of the division, or  
35 other appropriate official to be true copies of the record, shall be  
36 received in any court as prima facie evidence of the matters and  
37 facts therein stated. [Such] For the purposes of the division, such  
38 transcripts and abstracts shall be copies of the original records  
39 made or copies of the record thereof as recorded by the clerk or  
40 other officer of the Division of Motor Vehicles.

41 For purposes of transcripts, abstracts and computer printouts  
42 under this section, the seal of the director need not be impressed,  
43 but such transcripts, abstracts, and computer printouts shall be  
44 deemed to be sealed when there is affixed thereto, or printed or  
45 marked thereon, the seal of the division.

46 (cf: P.L.1979, c.210, s.1)

47 26. Section 1 of P.L.1979, c.261 (C.39:3-10f) is amended to  
48 read as follows:

1        1. In addition to the requirements for the form and content of  
2 a motor vehicle driver's license under R.S.39:3-10, each initial  
3 New Jersey license issued to a person under the age of 21 after  
4 the effective date of this act shall have a color photograph of the  
5 licensee. Each initial motor vehicle license issued to a person 21  
6 years of age or older on or after May 1, 1982, shall have a color  
7 photograph of the licensee. At the option of the licensee, a  
8 renewal of any motor vehicle driver's license shall be either a  
9 photo-license or a license that does not bear a photograph of the  
10 licensee. All licenses bearing a color photograph of the licensee  
11 as provided in this act shall be valid for a period of 48 calendar  
12 months.

13        To replace a photo-license for a licensee who is temporarily  
14 out of this State, the director may issue a "valid without photo"  
15 photo-license for the unexpired term of the license.

16        The provisions of this <sup>1</sup>[act] section<sup>1</sup> shall not apply to driver  
17 licenses issued pursuant to P.L. \_\_\_\_\_, c. \_\_\_\_\_)(C. \_\_\_\_\_)(now  
18 pending before the Legislature as this bill).

19 (cf: P.L.1985, c.264, s.1)

20        27. R.S.39:3-10.1 is amended to read as follows:

21        39:3-10.1. No person shall drive any motor vehicle or trackless  
22 trolley with a capacity of more than six passengers used for the  
23 transportation of passengers for hire or for the transportation of  
24 passengers to or from summer day camps or summer residence  
25 camps or any bus as defined by the director used for the  
26 transportation of passengers, except vehicles used in ride-sharing  
27 arrangements, taxicabs, or any bus used to transport children to  
28 and from school pursuant to N.J.S.18A:39-1 et seq. or when being  
29 used by a private school to transport children to and from school,  
30 unless specially licensed so to do by the director or in the case of  
31 a nonresident, licensed pursuant to the laws of his resident state  
32 with respect to the licensing of bus drivers. Such license shall not  
33 be granted by the director until the applicant therefor is at least  
34 18 years of age and has passed a satisfactory examination in  
35 ascertainment of his driving ability and familiarity with the  
36 mechanism of said vehicle and has presented evidence,  
37 satisfactory to the director of his previous experience (including  
38 proof that he has had at least three years of driving experience),  
39 good character and physical fitness. Said license shall be  
40 effective until suspended or revoked by the director; provided,  
41 the special licensee is also the holder of a license as provided for  
42 in R.S.39:3-10.

43        Every holder of a special license issued pursuant to this section  
44 shall furnish to the director satisfactory evidence of continuing  
45 physical fitness, good character and experience [once in every 24  
46 months after the issuance of the special license] at the time of  
47 application renewal or such other time as the director may  
48 require, and in such form as the director may require. In

1 addition, any person applying for a special license pursuant to this  
2 section for the transporting of children to and from schools,  
3 pursuant to N.J.S.18A:39-1 et seq., shall comply with the  
4 provisions of section 6 of P.L.1989, c.104 (C.18A:39-19.1).

5 The director may suspend or revoke a license granted under  
6 authority of this section for a violation of any of the provisions of  
7 this subtitle, or on other reasonable grounds, or where, in his  
8 opinion, the licensee is either physically or morally unfit to retain  
9 the same. Notwithstanding the provisions of any law to the  
10 contrary the director shall, upon notice of disqualification from  
11 the Commissioner of Education pursuant to section 6 of P.L.1989,  
12 c.104 (C.18A:39-19.1), immediately revoke the special license  
13 granted under authority of this section without the necessity of a  
14 further hearing.

15 The director may make such rules and regulations as he may  
16 deem necessary to carry out the provisions of this section.

17 (cf: P.L.1989, c.104, s.5)

18 28. R.S.39:3-13 is amended to read as follows:

19 39:3-13. The director may, in his discretion, issue to a person  
20 over 17 years of age an examination permit, under the hand and  
21 seal of the director, allowing such person, for the purpose of  
22 fitting himself to become a licensed driver, to operate a  
23 designated class of motor vehicles for a specified period of not  
24 more than 90 days, while in the company and under the  
25 supervision of a driver licensed to operate such designated class  
26 of motor vehicles. An examination permit issued to a  
27 handicapped person, as determined by the Division of Motor  
28 Vehicles after consultation with the Department of Education,  
29 shall be valid for nine months or until the completion of the road  
30 test portion of his license examination, whichever period is  
31 shorter. The permit shall be sufficient license for the person to  
32 operate such designated class of motor vehicles in this State  
33 during the period specified, while in the company of and under  
34 the control of a driver licensed by this State to operate such  
35 designated class of motor vehicles<sup>1</sup>, or, in the case of a  
36 commercial driver license permit, while in the company of and  
37 under the control of a holder of a valid commercial driver license  
38 for the appropriate license class and with the appropriate  
39 endorsements issued by this or any other state<sup>1</sup>. Such person, as  
40 well as the licensed driver, except for a motor vehicle examiner  
41 administering a driving skills test, shall be held accountable for  
42 all violations of this subtitle committed by such person while in  
43 the presence of the licensed driver.

44 No examination for a driver's license shall be given unless the  
45 applicant has first secured a special learner's permit or  
46 examination permit and no road test shall be scheduled for an  
47 applicant who has secured an examination permit until at least 20  
48 days shall have elapsed following the validation of the

1 examination permit for practice driving, except that in the case  
 2 of an omnibus endorsement or school bus no road test shall be  
 3 scheduled until at least 10 days shall have elapsed.

4 Every applicant for an examination permit to qualify for an  
 5 omnibus endorsement or an articulated vehicle endorsement shall  
 6 be a holder of a valid basic driver's license.

7 The required fees for special learners' permits and  
 8 examination permits shall be as follows:

9 Basic driver's license .....\$ 5.00  
 10 Motorcycle license or endorsement .....5.00  
 11 Omnibus or school bus endorsement .....25.00  
 12 Articulated vehicle endorsement .....15.00

13 The director shall waive the payment of fees for issuance of  
 14 examination permits for omnibus endorsements whenever the  
 15 applicant establishes to the director's satisfaction that said  
 16 applicant will use the omnibus endorsement exclusively for  
 17 operating omnibuses owned by a nonprofit organization duly  
 18 incorporated under Title 15 or 16 of the Revised Statutes or Title  
 19 15A of the New Jersey Statutes.

20 The specified period for which a permit is issued may be  
 21 extended for not more than an additional 60 days, without  
 22 payment of added fee, upon application made by the holder  
 23 thereof, where the holder has applied to take the examination for  
 24 a driver's license prior to the expiration of the original period for  
 25 which the permit was issued and the director was unable to  
 26 schedule an examination during said period.

27 (cf: P.L.1986, c.23, s.1)

28 29. Section 1 of P.L.1955, c.53 (C.39:3-17.1) is amended to  
 29 read as follows:

30 1. [Any] Except as provided in section 19<sup>1</sup> of P.L. \_\_\_\_\_, c. \_\_\_\_\_  
 31 (C. \_\_\_\_\_)(now pending before the Legislature as this bill), any  
 32 person who becomes a resident of this State and who immediately  
 33 prior thereto was authorized to operate and drive a motor vehicle  
 34 or motor vehicles in this State as a nonresident pursuant to  
 35 <sup>1</sup>[sections 39:3-15 and 39:3-17 of the Revised Statutes]  
 36 R.S.39:3-15 and R.S.39:3-17<sup>1</sup>, shall not lose his right to so  
 37 operate and drive such motor vehicle or motor vehicles by  
 38 becoming a resident of this State, but such right shall continue to  
 39 be in full force and effect for 60 days after the establishment of  
 40 his residence in this State in the same manner and to the same  
 41 extent as though he were a nonresident.

42 (cf: P.L.1955, c.53, s.1)

43 30. R.S.39:3-34 is amended to read as follows:

44 39:3-34. No person whose registration certificate or [driver's  
 45 license] driving privilege, including any privilege to operate a  
 46 commercial motor vehicle as defined in P.L. \_\_\_\_\_, c. \_\_\_\_\_  
 47 (C. \_\_\_\_\_)(now pending before the Legislature as this bill), has  
 48 been suspended or revoked, or who has been prohibited or

1 disqualified from obtaining a driver's license or registration  
2 certificate, shall apply to <sup>1</sup>[an agent of the commissioner] the  
3 director<sup>1</sup> for a registration certificate or license, or a learner's  
4 permit, as the case may be, during the period of the suspension,  
5 revocation, or prohibition. A person who violates this section  
6 shall be subject to a fine of not more than <sup>1</sup>[five hundred dollars  
7 (<sup>1</sup>\$500<sup>1</sup> [.00])<sup>1</sup> or imprisonment for not more than three months,  
8 or both, at the discretion of the court.

9 (cf: P.L.1945, c.222, s.1)

10 31. R.S.39:3-36 is amended to read as follows:

11 39:3-36. The registered owner of a motor vehicle or a  
12 motorized bicycle and a licensed operator shall notify the  
13 [commissioner, in writing,] director of a change in his residence  
14 within one week after the change is made. Notice shall be in  
15 such form and shall contain such information as the director may  
16 require. A person who violates this section shall be subject to a  
17 penalty of not more than <sup>1</sup>[ten dollars] \$10<sup>1</sup>.

18 (cf: P.L.1983, c.105, s.3)

19 32. R.S.39:4-46 is amended to read as follows:

20 39:4-46. a. Every vehicle used for commercial purposes on a  
21 street or highway, except for passenger automobiles, shall have  
22 conspicuously displayed thereon, or on a name plate affixed  
23 thereto, the name of the owner, lessee or lessor of the vehicle  
24 and the name of the municipality in which the owner, lessee or  
25 lessor has his principal place of business. Franchised public  
26 utilities and operators of fleets of 50 or more commercial  
27 vehicles, shall be exempted from displaying the name of the  
28 municipality, provided that their vehicles display a corporate  
29 identification number. The sign or name plate shall be in plain  
30 view and not less than three inches high. Where available space  
31 for lettering is limited, either by the design of the vehicle or by  
32 the presence of other legally specified identification markings,  
33 making a strict compliance herewith impractical, the size of the  
34 lettering required by this section shall be as close to three inches  
35 high as is possible, within the limited space area, provided the  
36 name is clearly visible and readily identifiable. In the case of a  
37 combination of two vehicles the requirements of this section will  
38 be served when either unit of the combination conforms with the  
39 above identification specifications. No person shall operate or  
40 drive or cause or permit to be operated or driven on a road or  
41 highway a commercial vehicle, except for passenger automobiles  
42 which does not conform hereto.

43 For purposes of this section, a franchised public utility means a  
44 public utility, as defined in R.S.48:2-13, that has a defined  
45 geographical service territory approved by the Board of Public  
46 Utilities.

47 b. Every owner of a commercial motor vehicle as defined in  
48 section 3 of<sup>1</sup> P.L. , c. (C. )(now pending before the

1 Legislature as this bill) <sup>1</sup>which has a gross vehicle weight rating  
2 or a combined gross vehicle weight rating of 26,001 pounds or  
3 more and is<sup>1</sup> registered or principally garaged in this State shall  
4 display the gross vehicle weight rating (GVWR) for the vehicle in  
5 the manner set forth in subsection a. of this section. For  
6 purposes of this subsection, GVWR means the value specified by  
7 the manufacturer as the maximum loaded weight of a single or  
8 combination (articulated) vehicle, or registered gross weight,  
9 whichever is greater. Any person who knowingly displays or  
10 causes to be displayed on a commercial motor vehicle a GVWR  
11 less than the actual GVWR, or an owner who knowingly permits a  
12 commercial motor vehicle owned by him to be operated in this  
13 State with a displayed GVWR less than the actual GVWR shall,  
14 for each offense, be fined <sup>1</sup>not more than<sup>1</sup> \$5,000, or imprisoned  
15 for a term <sup>1</sup>of<sup>1</sup> not <sup>1</sup>[to exceed] more than<sup>1</sup> 90 days, or both.  
16 (cf: P.L.1986, c.77, s.1)

17 33. R.S.39:5-30 is amended to read as follows:

18 39:5-30. a. Every registration certificate [and], every license  
19 certificate, every privilege to drive motor vehicles, including  
20 commercial motor vehicles as defined in P.L. \_\_\_\_\_, c. \_\_\_\_\_  
21 (C. \_\_\_\_\_)(now pending before the Legislature as this bill), every  
22 endorsement, class of license, and commercial driver license,  
23 may be suspended or revoked, and any person may be prohibited  
24 from obtaining a driver's license or a registration certificate, or  
25 disqualified from obtaining any class of or endorsement on a  
26 commercial driver license, and the reciprocity privilege of any  
27 nonresident may be suspended or revoked by the director for a  
28 violation of any of the provisions of this Title or on any other  
29 reasonable grounds, after due notice in writing of such proposed  
30 suspension, revocation, disqualification or prohibition and the  
31 ground thereof.

32 He may also summon witnesses to appear before him at his  
33 office or at any other place he designates, to give testimony in a  
34 hearing which he holds looking toward a revocation of a license or  
35 registration certificate issued by or under his authority. The  
36 summons shall be served at least 5 days before the return date,  
37 either by registered mail or personal service. A person who fails  
38 to obey the summons shall be subject to a penalty not exceeding  
39 \$100.00, to be recovered with costs in an action at law,  
40 prosecuted by the Attorney General, and in addition the vehicle  
41 registration or driver's license, or both, as the case may be, shall  
42 forthwith be revoked. The fee for witnesses required to attend  
43 before the director shall be \$1.00 for each day's attendance and  
44 \$0.03 for every mile of travel by the nearest generally traveled  
45 route in going to and from the place where the attendance of the  
46 witness is required. These fees shall be paid when the witness is  
47 excused from further attendance, and the disbursements made  
48 from payment of the fees shall be audited and paid in the manner

1 provided for expenses of the department. The actual conduct of  
2 said hearing may be delegated by the director to such  
3 departmental employees as he may designate, in which case the  
4 said employees shall recommend to the director in writing  
5 whether the said licenses or certificates shall or shall not be  
6 suspended or revoked.

7 b. Whenever a matter is presented to the director involving an  
8 alleged violation of

9 (1) R.S.39:4-98, where an excess of 20 miles per hour over the  
10 authorized speed limit is alleged, and which has resulted in the  
11 death of another;

12 (2) R.S.39:4-50, and which has resulted in the death of another;

13 (3) R.S.39:4-96, and which has resulted in the death of  
14 another; or

15 (4) R.S.39:4-129, wherein the death of another has occurred,  
16 and the director has not determined to immediately issue a  
17 preliminary suspension pursuant to subsection e. of this section,  
18 the director shall issue a notice of proposed final suspension or  
19 revocation of any license certificate or any nonresident  
20 reciprocity privilege to operate any motor vehicle or motorized  
21 bicycle held by the individual charged or temporary order  
22 prohibiting the individual from obtaining any license to operate  
23 any motor vehicle or motorized bicycle in this State.

24 In the notice, the director shall provide the individual charged  
25 with an opportunity for a plenary hearing to contest the proposed  
26 final suspension, revocation or other final agency action. Unless  
27 the division receives, no later than the 10th day from the date  
28 the notice was mailed, a written request for hearing, the  
29 proposed final agency action shall take effect on the date  
30 specified in the notice.

31 Upon receipt of a timely request for a plenary hearing, a  
32 preliminary hearing shall be held by an administrative law judge  
33 within 15 days of the receipt of the request. The preliminary  
34 hearing shall be for the purpose of determining whether, pending  
35 a plenary hearing on the proposed final agency action, a  
36 preliminary suspension shall be immediately issued by the judge.  
37 Adjournment of such hearing upon motion by the individual  
38 charged shall be given only for good cause shown.

39 At the preliminary hearing, the parties shall proceed on the  
40 papers submitted to the judge, including the summons, the police  
41 reports and the charged individual's prior driving record  
42 submitted by the division, and any brief affidavits permitted by  
43 the judge from persons who shall be witnesses at the plenary  
44 hearing, and the parties may present oral argument. Based on the  
45 papers, on any oral argument, on the individual's prior driving  
46 record, and on the circumstances of the alleged violation  
47 presented in the papers, the judge shall determine whether the  
48 individual was properly charged with a violation of the law and a



1 death occurred; and, if so, whether in the interest of public  
2 safety, a preliminary suspension shall be immediately ordered  
3 pending the plenary hearing on the proposed suspension or  
4 revocation. The administrative law judge shall transmit his  
5 findings to the director.

6 A plenary hearing shall be held no later than the 45th day  
7 following [receipt of a timely request] the preliminary hearing.  
8 Adjournment of the hearing shall be given only for good  
9 causes shown. If the hearing is otherwise postponed or delayed  
10 solely at the instance of the individual charged, the  
11 administrative law judge shall immediately issue a preliminary  
12 suspension of any license certificate or any nonresident  
13 reciprocity privilege held by the individual charged, or if any such  
14 preliminary suspension or order is in effect, he shall continue  
15 such suspension or order. Such preliminary suspension or  
16 temporary order shall [be effective until the individual charged  
17 appears at the plenary hearing] remain in effect pending a final  
18 agency decision on the matter. If the hearing is otherwise  
19 postponed or delayed at the instance of anyone other than the  
20 individual charged, the judge shall immediately issue an order  
21 restoring the individual's license certificate or any nonresident  
22 reciprocity privilege pending final agency decision in the matter.  
23 The period of any preliminary suspension imposed under this  
24 section shall be deducted from any suspension imposed by the  
25 final agency decision in the matter.

26 c. Whenever any other matter is presented to the director  
27 involving an alleged violation of this title, wherein the death of  
28 another occurred and for which he determines immediate action  
29 is warranted, he may proceed in the manner prescribed in  
30 subsection b. above.

31 d. Whenever a fatal accident occurs in this State, [wherein any  
32 operator involved in the accident is charged with any of the  
33 offenses enumerated in subsection b. of this section], an  
34 investigation of the incident, whether performed by the State  
35 Police or by local police, shall be completed and forwarded to the  
36 director within 72 hours of the time of the accident.

37 e. Whenever a matter is presented to the director involving an  
38 alleged violation of

39 (1) R.S.39:4-98, where an excess of 20 miles per hour over the  
40 authorized speed limit is alleged, and which has resulted in the  
41 death or serious bodily injury of another;

42 (2) R.S.39:4-50, which has resulted in the death or serious  
43 bodily injury of another;

44 (3) R.S.39:4-96 or R.S.39:4-97, which has resulted in the death  
45 or serious bodily injury of another; or

46 (4) R.S.39:4-129, wherein the death or serious bodily injury of  
47 another has occurred, the director for good cause may, without  
48 hearing, immediately issue a preliminary suspension of any

1 license certificate or any nonresident reciprocity privilege to  
2 operate any motor vehicle or motorized bicycle held by an  
3 individual charged or temporary order prohibiting the individual  
4 from obtaining any license to operate any motor vehicle or  
5 motorized bicycle in this State. For purposes of this subsection,  
6 "serious bodily injury" means bodily injury which creates a  
7 substantial risk of death or which causes serious, permanent  
8 disfigurement, or protracted loss or impairment of the function  
9 of any bodily member or organ. Along with the notice of  
10 preliminary suspension, the director shall issue a notice of  
11 proposed final suspension, revocation or other final agency  
12 action, and shall afford the individual the right to a preliminary  
13 hearing to contest the preliminary suspension and a plenary  
14 hearing to contest the proposed final agency action.

15 The preliminary suspension shall remain in effect pending a  
16 final agency decision on the proposed final agency action, unless  
17 a request for a preliminary hearing is received by the division no  
18 later than the 10th day from the date on which the notice was  
19 mailed. The proposed final agency action shall take effect on the  
20 date specified in the notice unless a request for a plenary hearing  
21 is received by the division no later than the 10th day from the  
22 date on which the notice was mailed.

23 Upon timely request by the individual, a preliminary hearing  
24 shall be held by an administrative law judge, no later than the  
25 15th day from the date on which the division receives the  
26 request. The preliminary hearing shall be for the purpose of  
27 determining whether, pending a [plenary hearing on the proposed]  
28 final agency [action] decision on the matter, the preliminary  
29 suspension issued by the director shall remain in effect.  
30 Adjournment of the hearing shall be given only for good cause  
31 shown. If the preliminary hearing is otherwise postponed or  
32 delayed solely at the instance of someone other than the  
33 individual charged, the judge shall immediately order that the  
34 individual's license certificate or any nonresident reciprocity  
35 privilege be restored pending the rescheduled preliminary hearing.

36 At the preliminary hearing, the parties shall proceed on the  
37 papers submitted to the judge, including the summons, the police  
38 reports and the charged individual's prior driving record  
39 submitted by the division, and any brief affidavits permitted by  
40 the judge from persons who shall be witnesses at the final  
41 hearing, and the parties may present oral arguments. Based on  
42 the papers, on any oral argument, on the individual's prior driving  
43 record, and on the circumstances of the alleged violation  
44 presented in the papers, the judge shall immediately determine  
45 whether the individual was properly charged with a violation of  
46 the law and a death occurred; and, if so, whether in the interest  
47 of public safety, the preliminary suspension shall be continued  
48 pending the [plenary hearing on the proposed] final agency

1 [action] decision on the matter. The administrative law judge  
2 shall transmit his findings to the director.

3 Any plenary hearing to contest the proposed final agency  
4 action shall conform to the requirements for a plenary hearing  
5 contained in subsection b. of this section.

6 f. In addition to any other final agency action, the director  
7 shall require any person whose privileges to operate a motor  
8 vehicle or motorized bicycle are suspended or who has been  
9 prohibited from obtaining a license, pursuant to this section, to  
10 be reexamined to determine the person's ability to operate a  
11 motor vehicle or motorized bicycle, prior to regaining or  
12 obtaining any driving privileges in this State.

13 Any determination resulting from any preliminary or plenary  
14 hearing held pursuant to subsections b., c., or e. of this section  
15 shall not be admissible at any criminal or quasi-criminal  
16 proceedings on the alleged violation or violations.

17 (cf: P.L.1982, c.43, s.8)

18 34. R.S.39:5-42 is amended to read as follows:

19 39:5-42. Every judge or magistrate shall make a report, [in  
20 writing] in such form as the director may require, to the  
21 [commissioner] director (1) of all cases heard before him for  
22 violation of this [subtitle] title, or for any other violation in  
23 which a motor vehicle was used in any way, and (2) of the  
24 conviction of any person of having committed a penal offense or  
25 crime in the commission of which a motor vehicle was used,  
26 within three days after the disposition of the case before him as a  
27 judge or magistrate[, upon blanks provided by the commissioner  
28 for that purpose]. The report shall state the nature of the  
29 violation, the full facts concerning the use of the motor vehicle  
30 in the commission of the penal offense or crime, the disposition  
31 of the case by the judge or magistrate and any recommendations  
32 which the judge or magistrate may deem of value to the  
33 [commissioner] director in determining whether action should be  
34 taken against the [license] driving, registration, or other privilege  
35 of the driver or owner of the motor vehicle.

36 (cf: P.L.1942, c.334, s.10)

37 <sup>1</sup>35. (New section) The Division of Motor Vehicles shall report  
38 to the Senate Law, Public Safety and Defense Committee and the  
39 Assembly Commerce and Regulated Professions Committee in six  
40 month intervals beginning six months after the effective date of  
41 this act on the progress in implementing the provisions of this  
42 act. The final report shall be submitted by December 31, 1992.<sup>1</sup>

43 <sup>2</sup>36. Section 1 of P.L.1989, c.164 (C.39:3-10j) is amended to  
44 read as follows:

45 1. The Legislature finds that:

46 a. On September 20, 1988, the Secretary of the United States  
47 Department of Transportation granted the states of this nation  
48 the authority to exempt certain drivers from the licensing

1 provisions of the "Commercial Motor Vehicle Safety Act of  
2 1986," P.L.99-570 (49 U.S.C. § 2701 et seq.).

3 b. The "Commercial Motor Vehicle Safety Act of 1986"  
4 requires a commercial driver's license for anyone who operates a  
5 vehicle that has a gross weight rating in excess of 26,000 pounds,  
6 carries 15 or more passengers or transports hazardous materials.

7 c. While that act's objectives to regulate and improve the  
8 traffic safety of the commercial trucking industry are laudable,  
9 it could have an unintended, and largely adverse, impact upon  
10 certain non-commercial drivers.

11 d. Unless the State of New Jersey, in accordance with the  
12 Secretary of the United States Department of Transportation's  
13 directive, exercises its exemption authority, certain [drivers in  
14 volunteer fire companies and the New Jersey National Guard, and  
15 some farmers] operators of firefighting apparatus, non-civilian  
16 operators of military vehicles owned or operated by the United  
17 States Department of Defense or the National Guard, and  
18 farmers operating farm vehicles will be obligated to secure  
19 commercial driver's licenses under that act.

20 e. There appears to be no significant evidence that the [drivers  
21 for volunteer fire companies and the New Jersey National Guard,  
22 and] operators of firefighting apparatus, non-civilian operators of  
23 military vehicles owned or operated by the United States  
24 Department of Defense or the National Guard, or farmers  
25 operating farm vehicles [and equipment] in and about their  
26 regular agricultural activities pose or have created any safety  
27 hazards on the public highways which would warrant their being  
28 licensed under the provisions of the "Commercial Motor Vehicle  
29 Safety Act of 1986."

30 The Legislature, therefore, declares that it is altogether fitting  
31 and proper to authorize, in accordance with the directives issued  
32 by the Secretary of the United States Department of  
33 Transportation, that the designated [drivers] operators of  
34 [volunteer fire companies] firefighting apparatus, [the New  
35 Jersey National Guard and farmers operating] non-civilian  
36 operators of military vehicles owned and operated by the United  
37 States Department of Defense or the National Guard, and  
38 operators of farm vehicles [and equipment in and about their  
39 regular agricultural activities] under certain circumstances be  
40 exempted from the licensing requirements set forth in the  
41 "Commercial Motor Vehicle Safety Act of 1986."<sup>2</sup>

42 (cf: P.L.1989, c.164, s.1)

43 <sup>2</sup>37. Section 2 of P.L.1989, c.164 (C.39:3-10k) is amended to  
44 read as follows:

45 2. Unless otherwise required by federal law or regulation, and  
46 subject to any rules and regulation promulgated pursuant to the  
47 provisions of this act, no (1) designated [driver] operator of [a  
48 volunteer fire company or the New Jersey National Guard, or any

1 farmer for the operation of a farm vehicle or equipment in and  
 2 about his regular agricultural activities] firefighting apparatus,  
 3 (2) non-civilian operator of a military vehicle owned or operated  
 4 by the United States Department of Defense or the National  
 5 Guard, or (3) operator of a farm vehicle controlled and operated  
 6 by a farmer, used to transport agricultural products, farm  
 7 machinery or farm supplies to or from a farm, operated within  
 8 150 miles of a person's farm, and not used in the operation of a  
 9 common or contract motor carrier, shall be subject to the  
 10 licensing provisions of the "Commercial Motor Vehicle Safety  
 11 Act of 1986," P.L.99-570 (49 U.S.C. § 2701 et seq.).

12 Notwithstanding the provisions of this section, a waiver shall  
 13 not be granted if the granting of the waiver would place the State  
 14 in a position of not being in substantial compliance with the  
 15 requirements of the federal act.<sup>2</sup>

16 (cf: P.L.1989, c.164, s.2)

17 <sup>1</sup>[35.] <sup>2</sup>[36.<sup>1</sup>] <sup>38.</sup><sup>2</sup> Section 3 of P.L.1979, c.97 (C.39:3-13.5) and  
 18 section 30 of P.L.1951, c.23 (C.39:4-50.1) are repealed.

19 <sup>1</sup>[36.] <sup>2</sup>[37.<sup>1</sup>] <sup>39.</sup><sup>2</sup> This act shall take effect immediately,  
 20 except that <sup>2</sup>[paragraph (1) of subsection a. of section 10 shall  
 21 expire on March 31, 1992] section 24 shall expire on July 1, 1996<sup>2</sup>  
 22 and sections 5, 12, 16, <sup>2</sup>and<sup>2</sup> 18 <sup>2</sup>[, and paragraph (2) of  
 23 subsection a. of section 10]<sup>2</sup> shall <sup>2</sup>[take effect] remain  
 24 inoperative until<sup>2</sup> April 1, 1992.

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#### MOTOR VEHICLES

28

29 Establishes the "New Jersey Commercial Driver License Act."

## STATEMENT

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This bill establishes the New Jersey Commercial Driver License Act. This bill was drafted in response to the requirements imposed on states by the federal Commercial Motor Vehicle Safety Act of 1986, Pub. L.99-570 (49 U.S.C. §2701 et seq.). The bill, when enacted into law, along with the regulations to be adopted by the Director of the Division of Motor Vehicles, will substantially conform New Jersey law to the standards and requirements mandated by the federal Commercial Motor Vehicle Safety Act of 1986 and the regulations promulgated by the Federal Highway Administration pursuant to that federal law. Failure to comply would result in the loss to New Jersey of \$30 million annually in federal highway monies. This bill is designed to meet the special needs of this State in the licensing, testing and regulation of operators of commercial motor vehicles.

This bill promotes the cause of safety by establishing new and more comprehensive licensing and testing procedures which are tailored to the type of vehicle a person will operate and standards which will allow for a full evaluation of an applicant's qualifications and which are in line with the uniform requirement established by the federal government. The bill is also designed to remove unqualified or poor drivers from the road and to curtail the problems associated with drivers holding driver licenses from more than one state, whereby a driver can avoid license suspension and disciplinary action by spreading violations among several licenses.

The provisions of the bill address six major areas of concern: the single driver license requirement; the lack of uniform licensing systems for commercial motor vehicle operators in the various states; knowledge and skill examination standards; positive driver identification methods; the need for information system to maintain and access a complete single driver license record; and penalties to remove unsafe commercial drivers from the roads.

Highlights of the bill's provisions follow.

Section 3 sets forth the special definitions needed for the New Jersey Commercial Driver License Act. While these definitions are self-explanatory, a few brief comments on some terms are appropriate. The term "alcohol concentration" in conjunction with the offense defined in section 5 of the bill is designed to forestall any questions concerning the "partition ratio variability" (the rate at which alcohol is absorbed by different individuals) dispute now pending before the courts.

The term "commercial motor vehicle" or "CMV" is defined to aid the law enforcement community and prosecutors in their enforcement efforts. Thus, a motor vehicle which displays a gross vehicle weight rating or registration weight of 26,001 or more pounds or displays a hazardous material placard is a

1 commercial motor vehicle and is subject to the provisions of the  
2 bill. This will remove the need, in most instances, of breaking  
3 bulk or weighing a CMV or conducting time consuming laboratory  
4 tests in order to establish that a vehicle is a CMV.

5 The term "conviction" is defined broadly so as to include every  
6 type of adjudication, civil or criminal, regardless of the nature of  
7 a plea (non vult, guilty, or nolo contendere) and to include the  
8 various types of forfeitures.

9 The term "felony" is used in order to have uniform terminology  
10 with other states. It includes "crimes" as defined in Title 2C of  
11 the New Jersey Statutes, as well as other offenses of the type  
12 described in this State or any other state or jurisdiction.

13 The term "operate" is not specifically defined. The intent is  
14 that the use of the term include the uses recognized by the New  
15 Jersey Supreme Court in State v. Mulcahy, 107 N.J. 467 (1987)  
16 and State v. Wright, 107 N.J. 488 (1987), and that the term be  
17 given a meaning broader than mere "driving."

18 Section 5 establishes a 0.04% alcohol concentration standard  
19 for commercial motor vehicle operators. This standard is  
20 required in order to comply with the federal Commercial Motor  
21 Vehicle Safety Act of 1986 and was adopted by the federal  
22 government as the result of current scientific studies which  
23 demonstrate significant impairment of visual, cognitive, and  
24 psychomotor facilities necessary for safe operation of a motor  
25 vehicle at levels well below the current established State 0.10%  
26 alcohol concentration level. Many of these studies are outlined  
27 and detailed in the Special Report 216 of the Transportation  
28 Research Board of the National Research Council entitled "Zero  
29 Alcohol and Other Options."

30 Section 10 sets forth the basic requirement that no person  
31 operate a commercial motor vehicle unless the person possesses a  
32 valid commercial driver license. This section provides for a  
33 phase-in period to allow the director to test and license all  
34 individuals who require a CDL, and that during that time licenses  
35 will be issued both under R.S.39:3-10 and this act. Paragraph (1)  
36 of subsection a. is designed to apply to those persons who have  
37 been tested and licensed (in this or another state) and who have  
38 already been issued a CDL. Once a person is licensed in  
39 accordance with CDL requirements, the person may no longer  
40 operate a commercial motor vehicle on a license or endorsement  
41 issued under R.S.39:3-10, except as otherwise provided by the  
42 director.

43 On April 1, 1992, paragraph (1) of subsection a. will have  
44 expired and paragraph (2) of subsection a. will become effective.  
45 Paragraph (2) contains the federal requirement that also becomes  
46 effective on that date. The penalties in paragraph (3) of  
47 subsection a. mirror the penalties in R.S.39:3-10. The penalties  
48 in paragraph (2) of subsection b. mirror the penalties in  
49 R.S.39:3-40.

1 Section 12 addresses the federal penalty requirements for  
2 certain violations. It provides that a court must suspend a  
3 person's CDL or reciprocity CDL privilege when a violation  
4 occurs in this State, and that the director must issue the  
5 suspension when the violation occurs in another state.

6 It is not the intent of this bill to supersede the motor vehicle  
7 points system. Thus, drivers who commit "serious traffic  
8 violations" may be held accountable under this section with  
9 regard to the commercial driver license and under the points  
10 system with regard to their basic driving privilege. It is also  
11 important to note that the loss of a basic driving privilege results  
12 in a loss of the commercial driver license privilege as well.  
13 There is no intent to create a "work license." It is essential to  
14 the substantial compliance with the federal law and its  
15 regulations that the suspension periods set forth in section 12 be  
16 imposed. Subsection i. of section 12 was added to clarify that a  
17 person convicted of one of the specified violations under this bill  
18 should receive the required commercial driver license suspension,  
19 even though his conduct may also constitute a violation of a  
20 similar statute. This language also is made applicable to section  
21 16 of the bill and section 1 of P.L.1966, c.142 (C.39:4-50.2) even  
22 though those sections are civil in nature. This was done to  
23 remove any doubts and to forestall litigation on the question.

24 Sections 13 and 14 of the bill authorize commercial driving  
25 testing by third parties if the director determines that such  
26 testing is a sound and cost effective means of issuing commercial  
27 driver licenses. This section also sets forth the requirements for  
28 obtaining a waiver of the skills test as permitted under federal  
29 law.

30 Section 15 grants the director authority to establish an orderly  
31 means for testing all of those persons who will need commercial  
32 driver licenses. The process cannot be accomplished by the April  
33 1, 1992 deadline if scheduling of tests is left to the unconstrained  
34 discretion of the licensees. Therefore, the act gives the director  
35 the necessary control over all aspects of the licensing and testing  
36 function needed to accomplish the task.

37 Section 35 repeals section 3 of P.L.1979, c.97 (C.39:3-13.5)  
38 which concerns the issuance of omnibus endorsements without  
39 examination. This section is repealed because it is incompatible  
40 with the examination requirements established in the federal  
41 Commercial Motor Vehicle Safety Act. Allowing this section to  
42 remain in place will result in the State being not in substantial  
43 compliance with the federal act.

44 In addition, section 35 repeals section 30 of P.L.1951, c.23  
45 (C.39:4-50.1) which concerns the presumptions arising from the  
46 percentage of alcohol in a person's blood. This section is  
47 repealed because it is incompatible with the zero blood alcohol  
48 concentration standard established for operators of commercial  
49 motor vehicles under the federal act. It is also being repealed in



1 light of current scientific studies which demonstrate significant  
2 impairment of visual, cognitive, and psychomotor faculties  
3 necessary for the safe operation of motor vehicles at levels well  
4 below the current 0.10% blood alcohol concentration. Repeal of  
5 this section should not be taken as an indication that blood  
6 alcohol concentration bears no significance to the question of  
7 whether a person is operating a motor vehicle under the influence  
8 of intoxicating liquors in violation of R.S.39:4-50. By repealing  
9 section 30, the intent is to allow the finder of fact to give full  
10 weight to the blood alcohol concentration level in light of recent  
11 scientific studies in determining whether a violation has occurred.

12 The provisions of the bill not highlighted above set forth the  
13 reciprocity, waiver, rulemaking, and severability provisions.

14

15

#### 16 MOTOR VEHICLES

17

18 Establishes the "New Jersey Commercial Driver License Act."

ASSEMBLY COMMERCE AND REGULATED PROFESSIONS  
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3258

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: AUGUST 8, 1990

The Assembly Commerce and Regulated Professions Committee reports favorably Assembly Bill No. 3258 with committee amendments.

As amended, this bill establishes the "New Jersey Commercial Driver License Act." The bill was drafted in response to the enactment of the federal "Commercial Motor Vehicle Safety Act of 1986," Pub. L.99-570 (49 U.S.C. §2701 et seq.) and will substantially conform New Jersey law to the standards and requirements of that federal law. Failure to comply would result in the loss to New Jersey of \$30 million annually in federal highway monies.

This bill promotes the cause of safety by establishing licensing and testing procedures tailored for the type of vehicle a person will operate, and by establishing standards to allow for a full evaluation of an applicant's qualifications. The bill is also designed to remove an unqualified or poor driver from the roadways and to curtail the problems associated with a driver holding driver licenses from more than one state thereby avoiding license suspension and disciplinary action by spreading violations among several licenses.

The provisions of the bill address six major areas of concern: the single driver license requirement; the uniformity of licensing systems for commercial motor vehicle operators in the various states; the establishment of knowledge and skill test standards; positive driver identification methods; an information system to maintain and access a complete single driver license record; and penalties to remove unsafe commercial drivers from the roads.

The committee amendments make the following changes:

1. Section 3:

The definition of "commercial motor vehicle" was amended to include vehicles designed to transport 8 or more persons but less than 16 persons and used to transport such persons to and from work. The director is authorized to include within this definition other vehicles which he may deem appropriate in the future.

The definition of "commercial motor vehicle" was also amended to specifically exclude a "recreation vehicle." "Recreation vehicle" means a self-propelled or towed vehicle equipped to serve as temporary living quarters for recreational, camping, or travel purposes and is used solely as a family or personal conveyance.

Paragraph f. in the definition of "serious traffic violation" was amended to remove the unlimited authority of the director to add to

this list of violations. Additions to this definition will result only if the Secretary of the federal Department of Transportation adds to the definition of "serious traffic violation" by federal regulation.

2. Section 4:

Paragraph b. prohibits the director from requiring, except under certain circumstances, a person to take a knowledge and skills test for each renewal of the commercial driver license.

Paragraph c. requires the director to offer oral and Spanish language knowledge tests for the commercial driver license and for any endorsements. Other foreign language tests would be offered in the future as the director deems appropriate.

Paragraph d. states that once a person has taken the knowledge tests for a commercial driver license and for any endorsement, he cannot be required to take other knowledge tests for the operation of a commercial motor vehicle.

Paragraph e. requires the director to make a reasonable effort to notify all persons who have to obtain a commercial driver license and any endorsements of the requirements in this act.

Paragraph f. states that if a person satisfactorily completes one part of the knowledge test for a commercial driver license or for any endorsements but fails another part, the person will only have to retake the part he failed.

Paragraph g. states that nothing in the bill or in any manual, test or regulation shall be deemed to expand the requirements in the federal regulations concerning pre-trip, after-trip and during trip inspections by commercial vehicle operators.

3. Section 8:

This section would have given broad authority to the director to deny a commercial driver license to any person who was not a proper person in the estimation of the director to receive such a license and to suspend or revoke a license without stating the grounds or cause for the suspension or revocation. The amendments add wording to this section to place conditions and requirements on the director should he choose to exercise this authority. The section, as amended, will be substantially similar to the authority the director currently has under sections R.S.39:3-10 and R.S.39:5-30.

4. Section 13:

These amendments clarify the wording which authorizes the director to permit third parties to administer the knowledge and skills tests for a commercial driver license. The amendments specify that the maximum fee for a skills test which may be charged by a third party tester must be set by the director at an amount equal to the cost to the State of administering such skills testing.

5. Section 14:

This section was amended to clarify that any person who meets the conditions for a waiver set forth in the federal regulations will obtain the waiver of the skills test under this act.

6. Section 15:

This section was amended to clarify that the director has the authority to schedule persons for the skills test and for second or subsequent attempts at the knowledge tests for the commercial driver license and for any endorsements. The director will not have the authority to schedule persons for the initial taking of the knowledge tests unless the director determines that persons required to obtain a commercial driver license are not voluntarily scheduling a date, time and location for the tests or are failing to appear as scheduled.

7. Section 22:

This section sets forth the fees which will be charged by the division for an examination or learner's permit and for the commercial driver license and endorsement. The committee amended the bill to change the fees and clarify the terms of the examination or learner's permits.

8. Section 28:

The committee amended the bill in order to clarify that a person with a commercial driver license examination or learner's permit can operate a commercial motor vehicle only while in the company of a person holding a valid commercial driver license with the appropriate endorsements.

9. Section 35:

The committee added this section to require the director to report to the Assembly Commerce and Regulated Professions Committee and the Senate Law, Public Safety and Defense Committee every six months until December 31, 1992 on the division's progress in implementing this act.

10. Other amendments are technical in nature to clarify wording, to clarify intent, or to ensure that the bill is in substantial compliance with federal law and regulations.

Section 36 repeals section 3 of P.L.1979, c.97 (C.39:3-13.5) which concerns the issuance of omnibus endorsements without examination. This section is repealed because it is incompatible with the examination requirements established in the federal "Commercial Motor Vehicle Safety Act of 1986." Allowing this section to remain in place will result in the State being not in substantial compliance with the federal act.

In addition, section 36 repeals section 30 of P.L.1951, c.23 (C.39:4-50.1) which concerns the presumptions arising from the percentage of alcohol in a person's blood. This section is repealed because it is incompatible with the blood alcohol concentration standard established for operators of commercial motor vehicles under the federal act. It is also being repealed in light of current scientific studies which demonstrate significant impairment of visual, cognitive, and psychomotor faculties necessary for the safe operation of motor vehicles at levels well below the current 0.10% blood alcohol concentration. Repeal of this section should not be taken as an indication that blood alcohol concentration bears no

significance to the question of whether a person is operating a motor vehicle under the influence of intoxicating liquors in violation of R.S.39:4-50. By repealing section 30, the intent is to allow the finder of fact to give full weight to the blood alcohol concentration level in light of recent scientific studies in determining whether a violation has occurred.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[FIRST REPRINT]

**ASSEMBLY, No. 3258**

with Assembly committee amendments

**STATE OF NEW JERSEY**

DATED: OCTOBER 1, 1990

The Assembly Appropriations Committee reports favorably Assembly Bill No. 3258 [1R] with committee amendments.

Assembly Bill No. 3258 [1R], as amended, establishes the "New Jersey Commercial Driver License Act" in response to the enactment of the federal "Commercial Motor Vehicle Safety Act of 1986," Pub. L.99-570 (49 U.S.C. §2701 et seq.) and will substantially conform New Jersey law to the standards and requirements of that federal law.

The federal law requires that, by April 1, 1992, the drivers of certain commercial vehicles be tested and licensed according to rigorous standards. By instituting a nationwide commercial licensing system, the federal government expects to standardize licensing requirements, remove unqualified and poor drivers from the road and curtail the problems associated with the holding of drivers licenses from several states.

The provisions of the bill address six major areas of concern: the single driver license requirement; the uniformity of licensing systems for commercial motor vehicle operators in the various states; the establishment of knowledge and skill test standards; positive driver identification methods; an information system to maintain and access a complete single driver license record; and penalties to remove unsafe commercial drivers from the roads.

FISCAL IMPACT:

Should the State of New Jersey fail to comply with the federal law, the subsequent result could amount to a loss of up to \$30 million annually in federal highway monies to the State of New Jersey.

According to the Division of Motor Vehicles (DMV), approximately 350,000 drivers would be affected by this legislation. Revenues from the commercial driver license (CDL) fees, examination fees and endorsement fees during the first two years of implementation are estimated to be approximately \$19.95 million while expense needs are estimated to be approximately \$15.53 million. However, the Office of Legislative Services estimates revenues during the implementation period to be \$18.63 million and costs at \$16.69 million. After the initial two year period, future year estimated revenues from testing and licensing fees for the next four fiscal years do not seem to be sufficient to operate the CDL program required by this bill, unless use of the excess collections accumulated during the initial 18 to 24 month period, due to the high volume of vehicle operators who have to be tested, can be utilized.

The General Fund, which currently receives all motor vehicle fees, would no longer receive, according to the provisions of this bill, monies which represent the fees for articulated and omnibus endorsements. The monies would be deposited into a special fund created by this bill to defray expenses for program implementation and administrative costs. However, after June 30, 1996, moneys remaining in the special fund would then be deposited to the General Fund and the special fund expires.

COMMITTEE AMENDMENTS:

The committee amendments are technical in nature to clarify Section 24 which concerns the funding of the program. The funds collected in excess of expenditures during the first three years would be needed to keep the special fund in balance for the subsequent three years. Therefore, after June 30, 1996, monies collected shall all be deposited to the General Fund and the special fund expires. Other amendments exempt specific drivers such as operators of firefighting apparatus, military and National Guard vehicles, and farm vehicles. Further amendments, technical in nature, clarify the operative and expiration dates of the bill sections.

FISCAL NOTE TO  
[FIRST REPRINT]  
ASSEMBLY, No. 3258

STATE OF NEW JERSEY

DATED: October 22, 1990

Assembly Bill No. 3258 (1R) of 1990 establishes the New Jersey Commercial Driver License Act in response to the requirements imposed on states by the federal Commercial Motor Vehicle Safety Act of 1986. The federal law requires that, by April 1, 1992, the drivers of certain commercial vehicles be tested and licensed according to its rigorous standards. By instituting a nationwide commercial licensing system, the federal government expects to standardize licensing requirements, remove unqualified and poor drivers from the road and curtail the problems associated with the holding of multiple state drivers' licenses.

This bill requires the Division of Motor Vehicles (DMV) in the Department of Law and Public Safety to test and license commercial motor vehicle drivers in conformance with the federal directives. The bill further requires DMV to participate in the Commercial Driver License Information System (CDLIS), a national clearinghouse for commercial driver licensing data.

This bill permits the DMV director to waive the skills test for certain commercial driver license applicants who are licensed at the time of application. The director may also waive a class of persons or class of commercial motor vehicles from commercial driver licensing requirements if he determines that the waiver is not contrary to the public interest, does not diminish the safe operation of commercial motor vehicles and is consistent with federal law and regulations.

The commercial driver license would allow the holder to drive certain commercial vehicles with weights in excess of 26,000 pounds, depending on the classification of the license. DMV estimates that 350,000 drivers will apply for a commercial driver license in the first year following enactment of this bill. However, the actual testing and licensing of drivers is projected to occur over two years. Special endorsements to the commercial driver license, to be determined by regulation, would be necessary for several types of commercial motor vehicles. Licenses and endorsements would be valid for four years.

The bill also establishes a \$16 commercial driver license fee, a \$35 examination or learner's permit fee for the license, a \$2 fee per endorsement and a \$10 examination or learner's permit fee for each endorsement. The director would also charge a fee based on the actual cost incurred by the division for a photograph of the licensee and its affixation to the commercial driver license. These fees would be in addition to the current basic driver license and non-commercial endorsement fees.



## A3258 [1R]

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The fees would be deposited into a special fund set up to pay for program implementation and administration costs. Upon completion of the implementation process at the end of FY 1992, remaining monies in the fund in excess of the amount required to defray the expenses of the program would be deposited into the General Fund.

Furthermore, this bill provides fines and penalties for violations of several of its provisions. Fines up to \$5,000 could be levied, depending on the violation. DMV has not estimated the amount of revenue that would be generated from fines because of the unpredictability of the number of violators and fines assessed.

The following table presents DMV's estimated costs of implementation and revenue estimates for this bill together with Office of Legislative Services (OLS) adjustments to these estimates, as explained in the footnotes:

|                                  | <u>FY 1991</u>   | <u>FY 1992</u>   | <u>FY 1993</u>   |
|----------------------------------|------------------|------------------|------------------|
| <u>DMV Estimated Cost</u>        |                  |                  |                  |
| Salaries                         | \$3,324,001      | \$3,385,979      | \$2,066,060      |
| Computer Programming             | 2,675,000        | --               | --               |
| 600 Testing Terminals            | 2,294,350        | --               | --               |
| CDLIS Fees                       | 865,983          | 691,719          | 463,371          |
| Private Agent Commissions        | 242,000          | 198,000          | --               |
| Printing & Office                | 172,770          | 166,470          | 175,854          |
| Building Rental                  | 167,000          | 167,000          | --               |
| Postage                          | 116,783          | 116,783          | 5,220            |
| Furniture                        | 89,095           | --               | --               |
| Other                            | <u>374,718</u>   | <u>478,258</u>   | <u>148,465</u>   |
| Total Cost                       | \$10,321,700     | \$5,204,209      | \$2,858,970      |
| <u>OLS Adjustments</u>           |                  |                  |                  |
| Fringe Benefits <sup>1</sup>     | <u>\$570,432</u> | <u>\$603,148</u> | <u>\$13,194</u>  |
| Total Adjusted Cost              | \$10,892,132     | \$5,807,357      | \$2,872,164      |
| <u>DMV Estimated Revenue</u>     |                  |                  |                  |
| Fee Revenue <sup>2</sup>         | \$17,390,625     | \$2,561,250      | \$2,561,250      |
| General Fund Loss <sup>3</sup>   | <u>(600,376)</u> | <u>(337,344)</u> | <u>(188,520)</u> |
| Total Revenue                    | \$16,790,249     | \$2,223,906      | \$2,372,730      |
| <u>OLS Adjustments</u>           |                  |                  |                  |
| Amended License Fee <sup>4</sup> | (\$328,125)      | (\$153,750)      | (\$153,750)      |
| Additional General               |                  |                  |                  |
| Fund Loss <sup>5</sup>           | (315,900)        | (315,900)        | (315,900)        |
| Photo Fees <sup>6</sup>          | <u>700,000</u>   | <u>30,000</u>    | <u>30,000</u>    |
| Total Adjusted Revenue           | \$16,846,224     | \$1,784,256      | \$1,933,080      |
| Surplus/(Deficit)                | \$5,954,092      | (\$4,023,101)    | (\$939,084)      |
| Net Surplus Over Three Years     |                  |                  | \$991,907        |

<sup>1</sup> This adjustment adds fringe benefit costs of 20 percent and 12 percent of salaries for full-time temporary positions and overtime

paid to existing employees, respectively. The DMV estimate does not include fringe benefit costs.

<sup>2</sup> DMV assumes testing and licensing fees from the 350,000 applicants would be realized in FY 1991 while testing and issuance of the licenses of these applicants would occur during FY 1991 and FY 1992.

<sup>3</sup> This bill eliminates the need for commercial driver license holders to have articulated and omnibus endorsements. DMV recognizes the General Fund loss of these endorsements fees. However, the DMV estimate does not account for the loss of testing fees for these endorsements.

<sup>4</sup> The DMV estimate used the original \$17.50 licensing fee instead of the \$16 fee in the amended bill.

<sup>5</sup> The adjustment recognizes the amount lost to the General Fund from testing fees for articulated and omnibus endorsements.

<sup>6</sup> This adjustment adds an amount for photo fees which DMV would collect, assuming \$2 per license. The DMV estimate does not account for this revenue.

It should be noted that some of the costs associated with this bill will be offset by savings realized in the current licensing program, especially for FY 1993 and beyond. OLS has made no adjustment for these savings because data on which to base an estimate are not available.

This fiscal note has been prepared pursuant to P.L.1980, c.67.