

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

OTHER: Yes

See 49 CFR Parts 100-199, adopted by the United States Department of Transportation pursuant to the provisions of the "Hazardous Materials Transportation Act," Pub. L. 93-633 (49 U.S.C. §1801)

LAW/RWH

P.L.2012, CHAPTER 72, *approved December 3, 2012*
Senate, No. 1816 (*First Reprint*)

1 AN ACT concerning the inspection of carriers of hazardous
2 materials, and amending P.L.1983, c.401 and P.L.1985, c.415.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Section 5 of P.L.1983, c.401 (C.39:5B-29) is amended to
8 read as follows:

9 5. a. Any person who violates the provisions of this act or any
10 rule or regulation adopted pursuant thereto shall be subject to a
11 penalty of not less than \$100 nor more than \$5,000.00 for the first
12 offense, nor less than \$200 nor more than \$10,000.00 for the second
13 offense, nor less than \$500 nor more than \$25,000.00 for the third
14 or any subsequent offense. Notwithstanding any other provision of
15 law, 50 percent of the penalty moneys collected pursuant to this
16 paragraph shall be deposited into the "Highway Safety Fund"
17 created pursuant to section 5 of P.L.2003, c.131 (C.39:3-20.4).

18 The complaint and summons shall state whether the charges
19 pertain to a first offense, or to a second or subsequent offense, but if
20 the complaint or summons fails to allege a second or subsequent
21 offense, the penalty imposed shall be for a first offense. The
22 penalty may be reduced to \$25 for a first offense, \$50 for a second
23 offense, and \$125 for a third and subsequent offense for a non-out-
24 of- service equipment violation if the defendant provides proof of
25 repair to the vehicle that is satisfactory to the court. Proof that the
26 violation has been corrected shall be by a document certifying that
27 the non-out-of-service equipment violation has been corrected. The
28 Division of State Police, a diesel emissions inspection center
29 licensed by the New Jersey Motor Vehicle Commission, a certified
30 fleet mechanic approved by the New Jersey Motor Vehicle
31 Commission, or any other entity approved by the New Jersey Motor
32 Vehicle Commission shall be authorized to issue the requisite
33 certifying documentation. The Division of State Police may, in its
34 discretion, designate times and locations where a defendant may
35 bring a vehicle for an inspection pursuant to which a requisite
36 certifying document may be issued. Nothing in this act shall be
37 construed as requiring the Division of State Police to conduct a
38 vehicle inspection pursuant to which a requisite certifying
39 document may be issued other than at the time and locations as the
40 Division of State Police may provide.

41 Repairs to effect a reduction of penalty under the provisions of

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:

¹Assembly ALP committee amendments adopted September 24, 2012.

1 this section shall be made before the hearing date. A defendant may
2 be permitted to submit the certification of repairs by mail; provided
3 that if the court deems the certification to be inadequate, it shall
4 afford the defendant the option to withdraw the defendant's guilty
5 plea.

6 The Department of Transportation is authorized to adopt a
7 schedule of penalties for any specific violation of P.L.1983, c.401
8 (C.39:5B-25 et seq.) or any rule or regulation adopted pursuant
9 thereto. A penalty imposed pursuant to this act may be collected in
10 a civil action by a summary proceeding under the "Penalty
11 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.),
12 or in a summary proceeding before a court of competent jurisdiction
13 wherein injunctive relief has been sought. The State Police **[and]**,
14 police officers of the Port Authority of New York and New Jersey
15 and police officers of the Delaware River Port Authority may issue
16 a summons and complaint returnable in a municipal court or other
17 court of competent jurisdiction for violations of P.L.1983, c.401
18 (C.39:5B-25 et seq.) and this amendatory and supplementary act or
19 any rule or regulation adopted pursuant thereto. In addition to the
20 jurisdiction conferred by the "Penalty Enforcement Law of 1999,"
21 the Law and Chancery Divisions of the Superior Court shall have
22 jurisdiction of proceedings for the enforcement of the penalties
23 provided in this act. The various municipal courts shall have
24 jurisdiction of proceedings for the enforcement of penalties under
25 \$5,000.00 provided in P.L.1983, c.401 (C.39:5B-25 et seq.).

26 b. Penalties imposed pursuant to this act shall in no way reduce
27 or otherwise limit the liability of any person, pursuant to the laws of
28 this State, for cleanup costs or other damages arising from a
29 discharge of hazardous materials.

30 c. The Superintendent of the State Police, police officers of the
31 Port Authority of New York and New Jersey, police officers of the
32 Delaware River Port Authority and personnel of the Department of
33 Transportation and of the Department of Environmental Protection
34 duly authorized by the superintendent may, in addition to seeking a
35 civil penalty, seek injunctive relief in the Chancery Division,
36 General Equity Part of the Superior Court as to any person found to
37 have violated any provision of P.L.1983, c. 401 (C. 39:5B-25 et
38 seq.) or this amendatory and supplementary act or any rule or
39 regulation adopted pursuant to either.

40 d. (Deleted by amendment, P.L.2003, c.131).
41 (cf: P.L.2003, c.131, s.2)

42

43 2. Section 2 of P.L.1985, c.415 (C.39:5B-31) is amended to read
44 as follows:

45 2. a. **¹[The Superintendent of the State Police]** Any State
46 Police officer¹ may inspect such vehicles, railroad cars, and places
47 of origin or destination in the State ¹**[of the hazardous materials**
48 being transported, as may be necessary to carry out the provisions

1 of P.L.1983, c.401 (C.39:5b-25 et seq.) and this amendatory and
2 supplementary act. The superintendent] with respect to compliance
3 with motor carrier safety regulations or hazardous materials
4 transportation regulations. Any State Police officer¹ may also break
5 such cargo seals on vehicles and railroad cars as may be necessary
6 to inspect vehicles and railroad cars transporting hazardous
7 materials to ascertain that packages as defined in 49 C.F.R. s.171.8
8 have been properly classified, described, packaged, marked,
9 labeled, blocked and braced and are in proper condition for
10 shipment.

11 ¹Any State Police officer may stop and enter upon a commercial
12 motor vehicle, as defined in the rules and regulations adopted
13 pursuant to section 3 of P.L.1985, c.415 (C.39:5B-32), traveling the
14 roads of the State for the purpose of performing safety inspections
15 consistent with State law and as provided for under the rules and
16 regulations adopted pursuant to section 3 of P.L.1985, c.415
17 (C.39:5B-32).

18 Any State Police officer may enter, during regular business
19 hours, the commercial premises owned or leased by a commercial
20 motor vehicle carrier, wherein the records, required to be
21 maintained under State law and the rules and regulations adopted
22 pursuant to section 3 of P.L.1985, c.415 (C.39:5B-32), are stored
23 and maintained, and may inspect and copy the records for the
24 purpose of enforcing State law and the rules and regulations
25 adopted pursuant to section 3 of P.L.1985, c.415 (C.39:5B-32). If
26 the records contain evidence of violations of State law or the rules
27 and regulations adopted pursuant to section 3 of P.L.1985, c.415
28 (C.39:5B-32), a State Police officer shall produce and take
29 possession of copies of the records. The Superintendent of State
30 Police shall coordinate activities under this section with the Federal
31 Motor Carrier Safety Administration to ensure compliance with all
32 federal and State laws and regulations.¹

33 b. The powers exercised by the ¹["superintendent] State Police¹
34 pursuant to this section may also be exercised by police officers of
35 the Port Authority of New York and New Jersey, police officers of
36 the Delaware River Port Authority, and by personnel of the
37 Department of Transportation duly authorized by the
38 ¹["superintendent] Superintendent of State Police¹. Appropriate
39 personnel of the Department of Environmental Protection duly
40 authorized by the superintendent may, consistent with federal
41 regulations, inspect the contents of packages referred to in
42 subsection a. of this section at places of origin prior to acceptance
43 by the transporter or at places of destination after acceptance by the
44 consignee. In addition, personnel of the Department of
45 Environmental Protection so authorized may conduct, in
46 conjunction with and under the direction of State Police personnel,
47 inspections and break cargo seals as described in subsection a. of
48 this section when at off-highway facilities, including, but not

1 limited to, public truck stops, public rest areas, State weigh stations,
2 and commercial motor vehicle inspection stations.

3 c. The Commissioner of Transportation is authorized to adopt, in
4 consultation with the Superintendent of the State Police and
5 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
6 (C.52:14B-1 et seq.), rules and regulations governing inspection and
7 breaking of cargo seals by those authorized to do so under this
8 section. No person not given specific authority in this section to do
9 so shall break cargo seals under this section or otherwise implement
10 the provisions of this section.

11 (cf: P.L.1985, c.415, s.2)

12

13 3. This act shall take effect of the first day of the second month
14 following enactment.

15

16

17

18

19 Affords DRPA police officers authority to inspect hazardous
20 materials carriers and cargoes; clarifies authority of State Police to
21 conduct inspections.

SENATE, No. 1816

STATE OF NEW JERSEY 215th LEGISLATURE

INTRODUCED MARCH 15, 2012

Sponsored by:

Senator DONALD NORCROSS
District 5 (Camden and Gloucester)
Senator FRED H. MADDEN, JR.
District 4 (Camden and Gloucester)

Co-Sponsored by:

Senator Beach

SYNOPSIS

Affords DRPA police officers authority to inspect hazardous materials carriers and cargoes.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/22/2012)

S1816 NORCROSS, MADDEN

2

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7 1. Section 5 of P.L.1983, c.401 (C.39:5B-29) is amended to
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12 offense, nor less than \$200 nor more than \$10,000.00 for the second
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14 or any subsequent offense. Notwithstanding any other provision of
15 law, 50 percent of the penalty moneys collected pursuant to this
16 paragraph shall be deposited into the "Highway Safety Fund"
17 created pursuant to section 5 of P.L.2003, c.131 (C.39:3-20.4).

18 The complaint and summons shall state whether the charges
19 pertain to a first offense, or to a second or subsequent offense, but if
20 the complaint or summons fails to allege a second or subsequent
21 offense, the penalty imposed shall be for a first offense. The
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23 offense, and \$125 for a third and subsequent offense for a non-out-
24 of- service equipment violation if the defendant provides proof of
25 repair to the vehicle that is satisfactory to the court. Proof that the
26 violation has been corrected shall be by a document certifying that
27 the non-out-of-service equipment violation has been corrected. The
28 Division of State Police, a diesel emissions inspection center
29 licensed by the New Jersey Motor Vehicle Commission, a certified
30 fleet mechanic approved by the New Jersey Motor Vehicle
31 Commission, or any other entity approved by the New Jersey Motor
32 Vehicle Commission shall be authorized to issue the requisite
33 certifying documentation. The Division of State Police may, in its
34 discretion, designate times and locations where a defendant may
35 bring a vehicle for an inspection pursuant to which a requisite
36 certifying document may be issued. Nothing in this act shall be
37 construed as requiring the Division of State Police to conduct a
38 vehicle inspection pursuant to which a requisite certifying
39 document may be issued other than at the time and locations as the
40 Division of State Police may provide.

41 Repairs to effect a reduction of penalty under the provisions of
42 this section shall be made before the hearing date. A defendant may
43 be permitted to submit the certification of repairs by mail; provided
44 that if the court deems the certification to be inadequate, it shall
45 afford the defendant the option to withdraw the defendant's guilty

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Matter underlined thus is new matter.

1 plea.

2 The Department of Transportation is authorized to adopt a
3 schedule of penalties for any specific violation of P.L.1983, c.401
4 (C.39:5B-25 et seq.) or any rule or regulation adopted pursuant
5 thereto. A penalty imposed pursuant to this act may be collected in
6 a civil action by a summary proceeding under the "Penalty
7 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.),
8 or in a summary proceeding before a court of competent jurisdiction
9 wherein injunctive relief has been sought. The State Police **[and]**,
10 police officers of the Port Authority of New York and New Jersey
11 and police officers of the Delaware River Port Authority may issue
12 a summons and complaint returnable in a municipal court or other
13 court of competent jurisdiction for violations of P.L.1983, c.401
14 (C.39:5B-25 et seq.) and this amendatory and supplementary act or
15 any rule or regulation adopted pursuant thereto. In addition to the
16 jurisdiction conferred by the "Penalty Enforcement Law of 1999,"
17 the Law and Chancery Divisions of the Superior Court shall have
18 jurisdiction of proceedings for the enforcement of the penalties
19 provided in this act. The various municipal courts shall have
20 jurisdiction of proceedings for the enforcement of penalties under
21 \$5,000.00 provided in P.L.1983, c.401 (C.39:5B-25 et seq.).

22 b. Penalties imposed pursuant to this act shall in no way reduce
23 or otherwise limit the liability of any person, pursuant to the laws of
24 this State, for cleanup costs or other damages arising from a
25 discharge of hazardous materials.

26 c. The Superintendent of the State Police, police officers of the
27 Port Authority of New York and New Jersey, police officers of the
28 Delaware River Port Authority and personnel of the Department of
29 Transportation and of the Department of Environmental Protection
30 duly authorized by the superintendent may, in addition to seeking a
31 civil penalty, seek injunctive relief in the Chancery Division,
32 General Equity Part of the Superior Court as to any person found to
33 have violated any provision of P.L.1983, c. 401 (C. 39:5B-25 et
34 seq.) or this amendatory and supplementary act or any rule or
35 regulation adopted pursuant to either.

36 d. (Deleted by amendment, P.L.2003, c.131).
37 (cf: P.L.2003, c.131, s.2)

38

39 2. Section 2 of P.L.1985, c.415 (C.39:5B-31) is amended to
40 read as follows:

41 2. a. The Superintendent of the State Police may inspect such
42 vehicles, railroad cars, and places of origin or destination in the
43 State of the hazardous materials being transported, as may be
44 necessary to carry out the provisions of P.L. 1983, c. 401 (C.39:5b-
45 25 et seq.) and this amendatory and supplementary act. The
46 superintendent may also break such cargo seals on vehicles and
47 railroad cars as may be necessary to inspect vehicles and railroad
48 cars transporting hazardous materials to ascertain that packages as

1 defined in 49 C.F.R. s.171.8 have been properly classified,
2 described, packaged, marked, labeled, blocked and braced and are
3 in proper condition for shipment.

4 b. The powers exercised by the superintendent pursuant to this
5 section may also be exercised by police officers of the Port
6 Authority of New York and New Jersey, police officers of the
7 Delaware River Port Authority, and by personnel of the Department
8 of Transportation duly authorized by the superintendent.
9 Appropriate personnel of the Department of Environmental
10 Protection duly authorized by the superintendent may, consistent
11 with federal regulations, inspect the contents of packages referred to
12 in subsection a. of this section at places of origin prior to
13 acceptance by the transporter or at places of destination after
14 acceptance by the consignee. In addition, personnel of the
15 Department of Environmental Protection so authorized may
16 conduct, in conjunction with and under the direction of State Police
17 personnel, inspections and break cargo seals as described in
18 subsection a. of this section when at off-highway facilities,
19 including, but not limited to, public truck stops, public rest areas,
20 State weigh stations, and commercial motor vehicle inspection
21 stations.

22 c. The Commissioner of Transportation is authorized to adopt,
23 in consultation with the Superintendent of the State Police and
24 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
25 (C.52:14B-1 et seq.), rules and regulations governing inspection and
26 breaking of cargo seals by those authorized to do so under this
27 section. No person not given specific authority in this section to do
28 so shall break cargo seals under this section or otherwise implement
29 the provisions of this section.

30 (cf: P.L.1985, c.415, s.2)

31

32 3. This act shall take effect of the first day of the second month
33 following enactment.

34

35

36

STATEMENT

37

38 This bill would afford police officers of the Delaware River Port
39 Authority (DRPA) the power to inspect hazardous materials carriers
40 and cargoes.

41 Under current law, only members of the State Police, police
42 officers of the Port Authority of New York and New Jersey and
43 specially designed State Department of Transportation and State
44 Department of Environmental Protection personnel are authorized
45 to undertake such inspections.

46 The police officers of the DRPA have been trained to perform
47 such inspections and are knowledgeable in the federal regulations
48 governing the transportation of hazardous materials (49 CFR Parts

S1816 NORCROSS, MADDEN

5

1 100-199, adopted by the United States Department of
2 Transportation pursuant to the provisions of the "Hazardous
3 Materials Transportation Act," Pub. L. 93-633 (49 U.S.C.§1801)).

4 In the State of Pennsylvania, DRPA police officers are
5 authorized to exercise these inspection and enforcement powers.

SENATE LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

SENATE, No. 1816

STATE OF NEW JERSEY

DATED: MAY 14, 2012

The Senate Law and Public Safety Committee reports favorably Senate Bill No. 1816.

This bill affords police officers of the Delaware River Port Authority (DRPA) the power to inspect hazardous materials carriers and cargoes.

Under current law, only members of the State Police, police officers of the Port Authority of New York and New Jersey and specially designated State Department of Transportation and State Department of Environmental Protection personnel are authorized to undertake such inspections.

It is the committee's understanding that the police officers of the DRPA have been trained to perform such inspections and are knowledgeable in the federal regulations governing the transportation of hazardous materials (49 CFR Parts 100-199, adopted by the United States Department of Transportation pursuant to the provisions of the "Hazardous Materials Transportation Act," Pub. L. 93-633 (49 U.S.C. §1801)).

It is also the committee's understanding that DRPA police officers in the commonwealth of Pennsylvania are authorized to exercise these inspection and enforcement powers.

ASSEMBLY LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

SENATE, No. 1816

with committee amendments

STATE OF NEW JERSEY

DATED: SEPTEMBER 24, 2012

The Assembly Law and Public Safety Committee reports favorably and with committee amendments Senate Bill No. 1816.

As amended and reported by the committee, Senate Bill No. 1816 affords police officers of the Delaware River Port Authority (DRPA) the power to inspect hazardous materials carriers and cargoes. As amended, this bill also clarifies the existing authority of the State Police to perform safety inspections of commercial motor vehicles transporting hazardous materials and inspect records maintained by commercial motor vehicle carriers in accordance with State law, rules and regulations.

Under current law, only members of the State Police, police officers of the Port Authority of New York and New Jersey and specially designated State Department of Transportation and State Department of Environmental Protection personnel are authorized to undertake such inspections.

It is the committee's understanding that the police officers of the DRPA have been trained to perform such inspections and are knowledgeable in the federal regulations governing the transportation of hazardous materials (49 CFR Parts 100-199, adopted by the United States Department of Transportation pursuant to the provisions of the "Hazardous Materials Transportation Act," Pub.L.93-633 (49 U.S.C.§1801)).

It is also the committee's understanding that DRPA police officers in the commonwealth of Pennsylvania are authorized to exercise these inspection and enforcement powers.

As amended and reported by the committee, this bill is identical to Assembly Bill No. 2763, also amended and reported by the committee on this same date.

COMMITTEE AMENDMENTS:

The committee amended the bill to clarify the existing authority of the State Police to perform safety inspections of commercial motor vehicles and inspect records maintained by commercial motor vehicle carriers in accordance with State law, rules and regulations.

ASSEMBLY, No. 2763

STATE OF NEW JERSEY 215th LEGISLATURE

INTRODUCED MAY 10, 2012

Sponsored by:

Assemblyman PAUL D. MORIARTY

District 4 (Camden and Gloucester)

Assemblyman GILBERT "WHIP" L. WILSON

District 5 (Camden and Gloucester)

SYNOPSIS

Affords DRPA police officers authority to inspect hazardous materials carriers and cargoes.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/29/2012)

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A2763 MORIARTY, WILSON

5

1 governing the transportation of hazardous materials (49 CFR Parts
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3 Transportation pursuant to the provisions of the "Hazardous
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ASSEMBLY LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2763

with committee amendments

STATE OF NEW JERSEY

DATED: SEPTEMBER 24, 2012

The Assembly Law and Public Safety Committee reports favorably and with committee amendments Assembly Bill No. 2763.

As amended and reported by the committee, Assembly Bill No. 2763 affords police officers of the Delaware River Port Authority (DRPA) the power to inspect hazardous materials carriers and cargoes. As amended, this bill also clarifies the existing authority of the State Police to perform safety inspections of commercial motor vehicles transporting hazardous materials and inspect records maintained by commercial motor vehicle carriers in accordance with State law, rules and regulations.

Under current law, only members of the State Police, police officers of the Port Authority of New York and New Jersey and specially designated State Department of Transportation and State Department of Environmental Protection personnel are authorized to inspect hazardous materials carriers and cargoes.

It is the committee's understanding that the police officers of the DRPA have been trained to perform such inspections and are knowledgeable in the federal regulations governing the transportation of hazardous materials (49 CFR Parts 100-199, adopted by the United States Department of Transportation pursuant to the provisions of the "Hazardous Materials Transportation Act," Pub.L.93-633 (49 U.S.C. §1801)).

It is also the committee's understanding that DRPA police officers in the commonwealth of Pennsylvania are authorized to exercise these inspection and enforcement powers.

As amended and reported by the committee, this bill is identical to Senate Bill No. 1816, also amended and reported by the committee on this same date.

COMMITTEE AMENDMENTS:

The committee amended the bill to clarify the existing authority of the State Police to perform safety inspections of commercial motor vehicles and inspect records maintained by commercial motor vehicle carriers in accordance with State law, rules and regulations.