

39:5E-1 to 39:5E-26

LEGISLATIVE HISTORY CHECKLIST

NJSA 39:5E-1 to 39:5E-26 ("Bulk Commodities Transportation Act")

Laws of 1977 Chapter 259

Bill No. A2066

Sponsor(s) Bornheiner, Flynn

Date Introduced June 21, 1976

Committee: Assembly Transportation and Communications

Senate Transportation and Communications

Amended during passage Yes No Assembly Committee substitute enacted.

Date of passage: Assembly May 2

Senate June 27

Date of approval October 12, 1977

Following statements are attached if available:

Sponsor statement Yes xix

Committee Statement: Assembly Yes xix

Senate Yesx No

Fiscal Note Yesx No

Veto message Yesx No

Message on signing Yesx No

Following were printed:

Reports Yesx No

Hearings Yesx No

10/4/76

10/12/77

ASSEMBLY COMMITTEE SUBSTITUTE FOR

ASSEMBLY, No. 2066**STATE OF NEW JERSEY**

ADOPTED APRIL 21, 1977

AN ACT providing for the regulation of the transportation of bulk commodities in intrastate commerce, designating the Division of Motor Vehicles in the Department of Law and Public Safety to be responsible therefor, providing penalties for the violation thereof, and making an appropriation therefor.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. This act shall be known and may be cited as the "Bulk Com-
2 modities Transportation Act."

1 2. It is hereby declared to be the policy of this State to regulate
2 transportation of bulk commodities by motor vehicle in a fair and
3 impartial manner; to promote safety of operations upon the public
4 highways; to protect the interest of the public; to recognize and
5 preserve the inherent advantages of, and to foster sound economic
6 conditions in, such transportation by, haulers of bulk commodities
7 and other carriers; and to cooperate with Federal Government
8 and the several states of the United States, and duly authorized
9 officials thereof in matters relating to highway transportation, and
10 with bulk commodity hauler associations in the administration of
11 this act.

1 3. The words and phrases used herein shall have the following
2 meaning:

3 a. "Person" means any individual, copartnership, association,
4 company, or corporation, and includes any trustee, receiver,
5 assignee, leasee, or personal representative of any person herein
6 defined.

7 b. "Director" means the Director of the Division of Motor
8 Vehicles in the Department of Law and Public Safety.

9 c. "Hauler of bulk commodities" or "bulk commodity hauler"
10 means any common carrier or contract carrier as defined herein.

11 d. "Motor vehicle" means any vehicle, machine, tractor, truck
12 trailer, or semi-trailer, or any combination thereof, propelled,
13 driven or drawn by mechanical power, and used upon the public

14 highways in the transportation of bulk commodities in intrastate
15 commerce defined herein.

16 e. "Intrastate commerce" means the shipment of property
17 wholly between points in this State, or at a single location, in
18 which the highways within or without this State are used by the
19 transporting motor vehicle.

20 f. "Public highway" or "highway" means any public street,
21 road, thoroughfare, bridge and way in this State open to the use of
22 the public for purposes of motor vehicular travel, including those
23 that impose toll charges.

24 g. "Bulk commodities" means liquids or gases, not in containers,
25 and dry fungible commodities, not in containers; slurries not in
26 containers; waste liquid and dry bulk waste not in containers;
27 loaded in bulk in a carrier's vehicle and unloaded in bulk from a
28 carrier's vehicle. It shall not include agricultural, farm or dairy
29 products in their natural, processed, concentrated or treated states,
30 whether packaged or unpackaged.

31 h. "Common carrier" means any person who or which engages
32 in or holds itself out to the general public to engage in the trans-
33 portation of bulk commodities by motor vehicle for compensation
34 in intrastate commerce in this State.

35-45 i. "Contract carrier" means any person who or which engages in
46 transportation of bulk commodities by motor vehicle in intrastate
47 commerce for compensation under continuing contracts with one
48 person or a limited number of persons either (a) for the furnishing
49 of transportation services through the assignment of motor vehicles
50 for a continuing period of time to the exclusive use of each person
51 served or (b) for the furnishing of transportation services designed
52 to meet the distinct need of each individual customer.

53 j. "Certificate" means the certificate of public convenience and
54 necessity issued by the director to a common carrier to operate as
55 such over the public highways of this State, or at a single location.

56 k. "Permit" means the permit issued by the director to contract
57 carriers to operate as such over the public highways of this State,
58 or at a single location.

59 l. "Property" shall include all of the articles in the definition of
60 bulk commodities.

1 4. The provisions of this act shall not be construed to include
2 motor vehicles owned or operated by:

3 a. The United States, the State, or any local government sub-
4 division, agency or instrumentality thereof;

5 b. Persons transporting property in intrastate commerce without
6 compensation or transporting property of which such person is

7 the owner and where said transportation is not performed as a
8 subterfuge to avoid regulations hereunder.

1 5. The director shall regulate the transportation of bulk com-
2 modities in intrastate commerce and to that end shall establish
3 reasonable requirements with respect to proper and adequate
4 service by the persons engaged therein; shall prescribe a uniform
5 system of accounts, records, reports and the preservation thereof;
6 shall prescribe reasonable qualifications for persons providing said
7 service with respect to financial responsibility, adequacy and safety
8 of equipment, safe operation of equipment by the drivers thereof.
9 The director shall administer, execute, and enforce all provisions
10 of this act and adopt rules, regulations and procedures for such
11 administration in accordance with the provisions of the Admini-
12 strative Procedure Act'' P. L. 1968, c. 410 (C. 52:14B-1 et seq.)
13 unless otherwise excepted herein.

1 6. There is hereby established an advisory board which shall
2 advise the director regarding transportation policy concerning the
3 regulation of intrastate commerce as defined herein and for said
4 purpose the director and the board shall meet at his call at least
5 twice annually. The advisory board shall be composed of 4
6 members as follows: one bulk commodities shipper, one repre-
7 sentative of the tank truck carriers' association, one representative
8 of the New Jersey State Safety Council, and one private citizen.

9 Members of the board shall be appointed by the Governor, for
10 terms of 3 years except that those members first appointed shall
11 serve terms as follows: one for 3 years, two for 2 years, and one
12 for 1 year. Should any member fail, for whatever reason, to serve
13 the full term for which he was appointed, the vacancy shall be
14 filled by the Governor by appointment for the unexpired term.
15 When the term of any member expires he shall continue to serve
16 until a successor has been appointed.

1 7. No common or contract carrier shall engage in the business
2 of transporting bulk commodities in intrastate commerce as de-
3 fined herein unless there is in force with respect to such common
4 carrier a certificate of public convenience and necessity, and with
5 respect to such contract carrier a permit, issued by the director
6 authorizing such transportation service.

7 a. Application for a certificate or permit shall be made in writing
8 to the director in such form and contain such information and be
9 accompanied by such proof of notice to interested parties as he may
10 by rule or regulation require.

11 b. A certificate or permit shall be issued to any qualified applicant
12 therefor, authorizing the whole or any part of the operations
13 covered by the application, if it is found that the applicant is fit,
14 willing and able to properly perform the service of a bulk com-
15 modities hauler and to conform to the provisions of this act and
16 the lawful requirements, rules and regulations adopted thereunder,
17 and that the proposed service, to the extent authorized by the
18 certificate of permit, is in the public interest and consistent with
19 the transportation policy declared in this act, is or will be required
20 by public convenience and necessity; otherwise, said application
21 shall be denied.

22 (1) In determining whether issuance of a certificate or permit
23 is in the public interest and consistent with the transportation
24 policy declared in this act, the director shall consider the financial
25 responsibility of the applicant, his business reputation, moral
26 character and his observance of motor vehicle laws in the operation
27 of his business.

28 (2) In the case of an application for a contract carrier's permit,
29 the director shall also consider the number of shippers to be served
30 by the applicant, the nature of the service proposed, the effect
31 granting of the permit would have upon the protesting carriers, the
32 effect denial of the permit would have upon the applicant or its
33 shipper.

34 c. In any application for authority or additional authority the
35 burden of proof shall be upon the applicant to establish the need
36 for the service or additional services, inadequacy of existing service
37 and that any prior violation of this act or other laws, or of rules and
38 regulations of the director on the limitations of any prior authority
39 did not result from deliberate disregard thereof.

1 8. The director shall issue a certificate or permit to any hauler
2 of bulk commodities, or his successor in interest, who was in opera-
3 tion as such within this State 1 year prior to the effective date of
4 this act provided that:

5 a. The operation was continuous since that date or if interrupted
6 said interruption of service was due to circumstances beyond the
7 control of the applicant or his predecessor in interest.

8 b. The applicant or his predecessor in interest had a permanent
9 place of business within this State on or before 1 year prior to the
10 effective date of this act.

11 c. The applicant owned or operated under lease at least one
12 motor vehicle registered in this State used in the transportation of
13 bulk commodities on or before 1 year prior to the effective date of
14 this act.

1 9. No certificate or permit shall be issued to any person or officer,
2 director, partner or associate thereof, who has made a misstatement
3 of fact on the application therefor, or who has committed any act
4 which if committed by a certificate or permit holder would be cause
5 for suspension or revocation of the certificate or permit.

1 10. Any hauler of bulk commodities who is in business as such
2 within this State on the effective date of this act may lawfully con-
3 tinue in operation pending the disposition of his application for a
4 certificate or permit provided said application is filed with the
5 director within 120 days following the effective date of this act.

1 11. Upon receipt of an application for a certificate or a permit,
2 the director may, in his discretion, hold hearings, or notwithstand-
3 ing any other act, employ a modified procedure, to best facilitate
4 the fact finding process prior to a final disposition of an application.
5 If the director determines that a hearing shall be held, the director
6 may delegate the actual conduct of said hearing to designated
7 representatives, said hearing to be conducted in accordance with the
8 provisions of the "Administrative Procedure Act," P. L. 1968, c. 4
9 (C. 52:14B-1 et seq.).

10 a. The director shall cause each application to be published in
11 the New Jersey Register. Interested parties shall have the right
12 to protest the issuance of a certificate or permit within 20 days
13 following publication of the application. The protest shall be in
14 writing, and be verified under oath, in such form and contain such
15 information as the director may by rule or regulation require. A
16 copy of the protest shall be served on the applicant and proof of
17 service shall accompany the original filed with the director. The
18 director shall consider any protests and accord them appropriate
19 weight in making his determination on the disposition of the
20 application.

21 b. The director, upon receipt of the record including the hearing
22 officer's report and recommendation, exceptions thereto, and what-
23 ever protests are filed, shall render a final administrative decision,
24 setting forth findings of fact and conclusions of law, either grant-
25 ing or rejecting said application and setting forth any limitations,
26 conditions or terms thereon.

27 c. The director shall cause the certificate or permit issued pur-
28 suant to his final decision to be published in the New Jersey
29 Register.

1 12. Modified procedure may be ordered on the Director's initia-
2 tive, or upon his approval of a request filed by any party that the
3 modified procedure shall be observed. An order directing modified
4 procedure shall list the names and addresses of the persons who

5 at that time are interested parties to the proceeding, and direct
6 that they comply with the modified procedure rules.

7 The modified procedure shall be administered as follows:

8 a. Upon receipt of an application requesting a certificate or
9 permit, the director shall determine whether modified procedure
10 should be implemented. The director shall give notice of the intent
11 to implement modified procedure by publication in the New Jersey
12 Register.

13 b. The applicant shall have 20 days in which to supply the
14 director and all interested parties, with a statement of facts and
15 legal arguments; exhibits and affidavits of witnesses, in support
16 of the application. Exhibits shall identify the party submitting
17 them and shall be serially numbered. No oral testimony shall be
18 taken, nor shall a hearing be held in a modified procedure unless a
19 specific request for cross-examination of a witness, concerning a
20 material fact, is made in either protestant's papers or applicant's
21 reply. The director shall have the discretion to determine whether
22 or not to allow said cross-examination, notwithstanding any
23 other act.

24 c. Upon receipt of applicant's petition and affidavits, protestants
25 shall have 20 days from the date of receipt to admit or deny in
26 writing every specific allegation made by the applicant. Pro-
27 testant's statement and applicant's reply shall specify those state-
28 ments of fact and arguments of the opposite party to which
29 exception is taken, and include a statement of facts and arguments
30 in support of such exception. Protests shall be filed with the
31 director and the applicant, and proof of service on the applicant
32 shall be filed with the director. Applicant's statement of reply
33 shall be confined to a rebuttal of protestant's statement and shall
34 be submitted within 10 days of the receipt of protestant's statement.
35 No extensions of time shall be granted unless good cause is shown.

36 d. If within any time period provided in the modified procedure
37 rules a party fails to file a pleading required by those rules, or
38 otherwise fails to comply therewith, such party shall be deemed to
39 be in default and to have waived any further hearing; thereafter
40 the proceeding may be disposed of without further notice to the
41 defaulting party, and without other formal proceedings as to such
42 party. Persons permitted to intervene under modified procedure
43 shall file and serve pleadings in conformity with the provisions
44 relating to the parties in whose behalf they intervene.

45 e. Procedure subsequent to that provided in the modified proce-
46 dure rules shall be the same as that in proceedings not handled
47 under modified procedure.

1 13. Certificates and permits issued under section 7 shall specify
2 the service to be rendered and the points between which or territory
3 within which, the hauler of bulk commodities is authorized to
4 operate or serve. There shall, at the time of issuance of such
5 certificate or permit and from time to time thereafter, be attached
6 to the exercise of privileges granted by the certificate or permit
7 such reasonable terms, conditions, and limitations as the public
8 convenience and necessity may from time to time require; provided
9 that no terms, conditions, or limitations shall restrict the right of
10 the hauler to add to, or dispose of, its equipment and facilities
11 within the territory specified in the certificate or permit as the
12 development of the business and the demands of the public shall
13 require. Certificates or permits issued pursuant to section 8 of
14 this act shall authorize operations over irregular routes between
15 all points within the State.

16 14. Every hauler of bulk commodities subject to this act, receiving
17 bulk commodities for transportation in intrastate commerce shall
18 issue a receipt or bill of lading therefor, and shall be liable to the
19 lawful holder thereof in accordance with the provisions of Title 12A
20 of New Jersey Statutes (Uniform Commercial Code).

1 15. Unless, for good cause shown, the director shall find, or shall
2 have found, that both a certificate and a permit may be so held
3 consistently with the public interest and with the transportation
4 policy declared in this act:

5 a. No person, or any person controlling, controlled by, or under
6 common control with such person, shall hold a certificate as a
7 common carrier authorizing operation for the transportation of
8 property by motor vehicle over a route or within a territory, if
9 such person, or any such controlling person, controlled person, or
10 person under common control, holds a permit as a contract carrier
11 authorizing operation for the transportation of property by motor
12 vehicle over the same route or within the same territory; and

13 b. No person, or any person controlling, controlled by, or under
14 common control with such person, shall hold a permit as a contract
15 carrier authorizing operation for the transportation of property
16 by motor vehicle over a route or within a territory, if such person,
17 or any such controlling person, controlled person, or person under
18 common control, holds a certificate as a common carrier authorizing
19 operation for the transportation of property by motor vehicle over
20 the same route or within the same territory.

1 16. To enable the provision of service for which there is an
2 immediate and urgent need to a point or points or within a territory
3 having no carrier service capable of meeting such need, the director

4 may, in his discretion and without hearings or other proceedings,
5 grant temporary authority for such service by a common carrier or
6 a contract carrier by motor vehicle, as the case may be. Such
7 temporary authority, unless suspended or revoked for good cause,
8 shall be valid for such time as the director shall specify but not
9 more than an aggregate of 180 days, and shall create no presump-
10 tion that corresponding permanent authority will be granted
11 thereafter.

12 a. Pending the determination of an application filed with the
13 director for approval of a consolidation or merger of the properties
14 of two or more motor carriers, or a purchase lease, or contract to
15 operate the properties of one or more motor carriers, the director
16 may, in his discretion, and without hearings or other proceedings,
17 grant temporary approval of the operation of the motor carrier
18 properties sought to be acquired by the person proposing in such
19 pending application to acquire such properties, if it shall appear
20 that failure to grant such temporary approval may result in
21 destruction of or injury to such motor carrier properties sought to
22 be acquired, or to interfere substantially with their future useful-
23 ness in the performance of adequate and continuous service to the
24 public.

25 b. Transportation service rendered under such temporary
26 authority shall be subject to all applicable provisions of this act
27 and to the rules, regulations and requirements of the director pro-
28 mulgated thereunder.

1 17. Certificates or permits shall be effective from the date speci-
2 fied therein, and shall remain in effect until suspended or termi-
3 nated as herein provided. Any such certificates or permits may
4 upon application of the holder thereof, in the discretion of the
5 director and upon public notice, be amended or revoked, in whole
6 or in part, or may upon complaint or on the director's own initiative
7 after notice and hearing, be suspended, changed, or revoked, in
8 whole or in part; for willful failure to comply with any provisions
9 of this act, or with any lawful order, rule or regulation of the
10 director promulgated thereunder, or with any term, condition or
11 limitation of such certificate or permit; provided that subject to
12 the provisions of paragraph e of this section, no such certificate or
13 permit shall be revoked (except upon application of the holder)
14 unless the holder thereof willfully fails to comply, within a
15 reasonable time, but not less than 30 days, to be fined by the director
16 after a lawful order of the director commanding obedience to the
17 provision of this act or to the rules or regulations of the director
18 promulgated thereunder, or to the terms, conditions or limitations

19 of such certificates or permits found by the director to have been
20 violated by such holder; and provided, further, that the right to
21 engage in operations as a hauler of bulk commodities in this State
22 by virtue of any certificate or permit, or any application filed pur-
23 suant to the provisions of section 7, or temporary authority under
24 section 16 may be suspended by the director upon reasonable
25 notice of not less than 15 days to the hauler, but without hearing
26 or other proceedings, for failure to comply, and until compliance,
27 with the provisions of this act or with any lawful order, rule or
28 regulation of the director promulgated thereunder.

29 Any certificate or permit may be transferred pursuant to such
30 rules and regulations as the director may prescribe, including
31 notice by the director to haulers of bulk commodities having an
32 interest therein; provided the applicant established (1) that the
33 transferee is fit, willing and able to operate pursuant to the terms
34 of said certificate or permit, as provided in section 9 of this act;
35 (2) that operations authorized by such certificate or permit are
36 being conducted in accordance with the terms of the certificate and
37 (3) that if the authority sought to be acquired is to be joined with
38 other authority held by the transferee, such resulting authority
39 will not adversely affect existing authorized service.

40 Where for the continuous period of 1 year a holder of a certifi-
41 cate or permit fails to render any bulk commodity hauler service
42 in intrastate commerce under said certificate or permit, except for
43 reasons not within the control of said holder of such certificate or
44 permit, the director, on his own motion, or upon the complaint of
45 any interested party, may direct the revocation of said certificate
46 or permit, only after reasonable opportunity for hearing to inter-
47 ested parties. No order of revocation shall be issued under this
48 subparagraph solely for failure to render service in any part of
49 the State, as long as any bulk commodity hauler service has been
50 rendered by said holder.

1 18. All actions at law by haulers of bulk commodities subject to
2 this act for recovery of their charges, or any part thereof, or for
3-4 the recovery of overcharges shall be begun within 3 years from the
5 time the cause of action accrues, and not after.

6 All claims against any hauler of bulk commodities for damage to
7 property shall be filed in writing with the hauler of bulk commodi-
8 ties within 6 months from the time the cause of action accrues, and
9 not after, and all suits in respect thereof shall be instituted within
10 1 year, such period of institution to be computed from the day that
11 notice in writing is given by the mover to the claimant that the
12 mover has disallowed the claim or any part of parts thereof
13 specified in the notice.

1 19. There shall be paid to the director a fee of \$375.00 upon the
2 filing of every application for a certificate or permit, or the
3 transfer or assignment of same. Certificates or permits issued
4 shall remain in effect unless canceled, revoked or suspended as
5 provided in section 17. Each power unit shall bear an identification
6 plate at an annual fee of \$10.00 for each power unit.

1 20. No certificate or permit shall be issued to a hauler of bulk
2 commodities or remain in force unless such hauler of bulk com-
3 modities complies with such reasonable rules and regulations as
4 the director shall prescribe governing the approval of surety bonds,
5 policies of insurance, qualifications as a self-insurer or other
6 securities or agreements, in such reasonable amount as the director
7 may require, conditioned to pay within the amount of surety bonds,
8 policies of insurance, qualifications as a self-insurer or other
9 securities or agreements, any final judgment recovered against such
10 hauler for bodily injuries to or death of any person resulting from
11 the negligent operation, maintenance or use of motor vehicles under
12 such certificate or permit, or for loss or damage to property of
13 others, provided, that any surety company or casualty insurance
14 company, or mutual casualty insurance company providing said
15 bonds or policies shall be duly licensed by the Commissioner of
16 Insurance of this State or duly authorized by said commissioner
17 to do business in this State, and duly authorized by its charter to
18 write such surety bonds or policies of insurance mentioned herein.

1 21. It shall be the duty of every hauler of bulk commodities to
2 provide safe, proper and adequate service, equipment and facilities
3 for performing service in intrastate commerce.

4 Whenever the director finds that service in any section of the
5 State is inadequate because of shortage of equipment, congestion
6 of traffic, or other emergency requiring immediate action he may
7 upon his initiative, or upon complaint, without answer or other
8 formal pleading by the interested carrier or carriers, with or
9 without notice, conduct a hearing on the making or filing of a report:

10 a. Suspend the operation of any or all rules, regulations, or
11 practices then established with respect to motor carriers for such
12 time as he may determine;

13 b. Make such just and reasonable directions with respect to
14 motor carrier service without regard to ownership as between
15 carriers, during such emergency as in his opinion will best promote
16 service in the interest of the public, upon such terms of compensa-
17 tion as the carriers may agree upon, or in the event of their dis-
18 agreement, as he may determine after subsequent hearing to be
19 just and reasonable;

20 c. Require such joint or common use of terminals, as in his
21 opinion will best meet the emergency and serve the public interest,
22 and upon such terms as the carriers may agree upon or, in the
23 event of their disagreement, as he may determine after subsequent
24 hearing to be just and reasonable; and

25 d. Give directions for preference or priority in transportation
26 a movement of traffic under permits, at such time and for such
27 periods as he may determine, and to modify, change, suspend, or
28 annul them.

1 22. It shall be the duty of every hauler of bulk commodities
2 operating under a certificate or permit to file with the director a
3 designation in writing of the name and post-office address in this
4 State of a person upon whom service of orders, notices or
5 processes may be made pursuant to this act. Such designation
6 may, from time to time, be changed in like writing, similarly filed.
7 Service of orders, notices or processes in proceedings under this
8 act may be made upon a hauler of bulk commodities by personal
9 service upon it, or upon the person so designated by it, or by
10 registered mail addressed to it, or to such person at the address
11 filed or by publication in the New Jersey Register. Whenever
12 notice is given by mail as provided herein, the date of mailing
13 shall be considered as the time when service is made.

14 This section shall not be construed as limiting any other lawful
15 manner of service of process upon haulers.

16 Except as otherwise provided in this act, all orders of the director
17 shall take effect on such date or within a reasonable time as the
18 director may prescribe and shall continue in force until its further
19 order, or for a specified period of time, as shall be prescribed in
20 the order, unless the same shall be suspended or modified or set
21 aside by the director, or be suspended or set aside by a court of
22 competent jurisdiction.

1 23. Any person knowingly and willfully violating any provision
2 of this act, or any person knowingly and willfully violating any
3 rule, regulation, requirement or order thereunder, or any terms,
4 condition or limitation of any certificate or permit for which a
5 penalty is not otherwise herein provided, shall upon conviction
6 thereof be fined not less than \$25.00 nor more than \$100.00, for the
7 first offense and not more than \$200.00 for any subsequent offense.
8 Each day of such violation shall constitute a separate offense.

9 If any hauler of bulk commodities operates in violation of any
10 provision of this act, or any rule, regulation, requirement, or order
11 thereunder, or of any term, condition or limitation of any certificate

12 or permit, any person injured thereby or the director or his duly
13 authorized agent may apply to the Superior Court of this State for
14 enforcement of such provisions of this act, or of such rule, regula-
15 tion, requirement, order, term, condition or limitation; and such
16 court shall have jurisdiction to enforce compliance thereto by an
17 appropriate judgment or order.

18 Any person, whether hauler of bulk commodities or any officer,
19 employee, agent or representative thereof, who shall knowingly
20 and willfully fraudulently seek to evade or defeat regulation as in
21 this act provided for haulers of bulk commodities shall be guilty
22 of a violation of this act and upon conviction thereof be fined not
23 more than \$100.00 for the first offense and not more than \$200.00
24 for any subsequent offense.

25 Any hauler of bulk commodities, or any officer, agent, employee
26 or representative thereof who shall willfully fail or refuse to make a
27 report to the director as required by this act, or to keep any
28 accounts, records, and memoranda in the form and manner
29 approved or prescribed by the director, or who shall knowingly
30 and willfully falsify, destroy, mutilate, or alter any such report,
31 account, record, or memoranda, shall be guilty of a violation of this
32 act and upon conviction thereof shall be punished by a fine not
33 exceeding \$1,000.00.

1 24. The director shall by civil action in any court of competent
2 jurisdiction of this State, prevent any person from operating as a
3 hauler of bulk commodities in violation of the provisions of this
4 act. Penalties as provided in this act may be recovered in a sum-
5 mary proceeding pursuant to "the Penalty Enforcement Law"
6 (N. J. S. 2A:58-1 et seq.) in proceeding before a municipal court
7 judge or other court of competent jurisdiction.

8 It shall be the duty of the director, his agent, employees, and
9 inspectors appointed under his authority to enforce all of the pro-
10 visions of this act, and, for the purpose of such enforcement, au-
11 thority and power are hereby given to them and each of them to
12 stop any vehicle of a hauler of bulk commodities and examine the
13 same as well as any shipping documents, or vehicle leases to insure
14 that the provisions and requirements of this act, the rules and
15 regulations thereunder, the terms, conditions and limitations of
16 any certificate or permit, that may have been issued to any such
17 hauler of bulk commodities are being complied with and to issue a
18 summons in the same manner as any police officer of the State for
19 appearance before a municipal court judge or other judge or other
20 court of competent jurisdiction.

21 If any hauler of bulk commodities shall after a hearing by the
22 directors be found to have violated any of the provisions of this
23 act, or rule, regulation or order of the director, the director may
24 suspend the certificate or permit issued to such hauler of bulk com-
25 modities, for a stated period. Operation after suspension as herein
26 provided shall constitute a misdemeanor by the operator and the
27 hauler of bulk commodities.

1 25. All fees shall be accounted for and forwarded by the director
2 to the Treasurer of the State and all such sums shall become part
3 of the General State Fund; and any and all fines, penalties and
4 forfeitures imposed and collected for violation of any of the pro-
5 visions of this act shall become a part of the General State Fund.

1 26. If any provisions of this act, or the application thereof to
2 any person, or commerce, or circumstances, is held invalid the re-
3 mainder of the act and the application thereof to other persons,
4 commerce or circumstances, shall not be affected thereby.

1 27. There is hereby appropriated to the director the sum of
2 \$75,000.00 to implement the provisions of this act during the
3 12-month period following its enactment.

1 28. This act shall take effect 180 days after enactment, provided,
2 however, that the director may in his discretion do immediately all
3 things necessary and appropriate to prepare for the implementa-
4 tion of the provisions of this act.

STATEMENT

ASSEMBLY TRANSPORTATION AND COMMUNICATIONS COMMITTEE

Many dangerous substances are transported by bulk carriers, and the rules and regulations of the Federal Department of Transportation and Interstate Commerce Commission create standards to which drivers and vehicles must conform if they are involved in interstate hauling.

At present there are no laws in New Jersey which regulate bulk carriers involved in intrastate commerce. People are able to engage in this business without having to demonstrate any knowledge of how to safely handle the cargo or the vehicle.

This committee substitute provides that the Director of the Division of Motor Vehicles shall regulate the transportation of bulk commodities in intrastate commerce. In order to achieve such regulation the director shall establish reasonable requirements with respect to proper and adequate service by persons engaged in such intrastate commerce. Furthermore, the director shall pre-

scribe a uniform system of accounts, records, reports and the preservation thereof and shall prescribe reasonable qualifications for persons providing said service with respect to financial responsibility, adequacy and safety of equipment, and the safe operation of such equipment.

The committee substitute also establishes an advisory board which shall advise the director regarding transportation policy concerning the regulation of intrastate commerce. Members of the advisory board shall include one bulk commodities shipper, one representative of the tank truck carriers' association, one representative of the New Jersey State Safety Council, and one private citizen.

The committee substitute requires that every hauler of bulk commodities engaged in intrastate commerce (which, by the definition of the bill excludes carriers of agricultural, farm or dairy products in their natural, processed, concentrated or treated states, whether packaged or unpackaged), shall be required to obtain a certificate of public convenience and necessity as well as a permit issued by the director authorizing such transportation service. A fee of \$375.00 shall be paid to the director upon the filing of every application for a certificate or permit, or the transfer or assignment of same. In addition, each power unit shall bear an identification plate at an annual fee of \$10.00 for each power unit.

The director shall issue a certificate to any hauler of bulk commodities who was in operation within New Jersey for at least 1 year prior to the effective date of this act provided that such hauler satisfies specific criteria indicating that he has provided or attempted to provide a satisfactory level of bulk carrier service in the State.

Upon receipt of an application for a certificate or a permit, the director may designate representatives to hold a public hearing in accordance with the provisions of the Administrative Procedure Act. The committee substitute states that the director, upon receipt of the record including the hearing officer's report and recommendation, exceptions thereto, and whatever protests are filed, shall render a final administrative decision, either granting or rejecting said application and setting forth any limitations, conditions or terms thereon.

The bill also provides that whenever the director determines that service in any section of the State is inadequate because of shortage of equipment, congestion or traffic, or other emergency requiring immediate action, he may on his own initiative, or upon complaint, without any formal pleading by bulk carriers or without

any notice, hearing or report suspend the existing rules, regulations or practices regarding the regulation of bulk carriers. Furthermore, the director is authorized to take whatever actions he deems necessary during such emergency to promote bulk carrier service in the interest of the public.

Another provision of the committee substitute is to appropriate \$75,000.00 to the director to implement the provisions of this act during the 12-month period following its enactment.

18 in the same manner as any police officer of the State for appearance
19 before a magistrate or other court of competent jurisdiction.

20 c. If any hauler of bulk commodities shall after hearing by the
21 board be found to have violated any of the provisions of this act,
22 or rule, regulation or order of the board, the board may suspend
23 the certificate issued to such hauler of bulk commodities for a
24 stated period. Operation after suspension as herein provided shall
25 constitute a misdemeanor by the operator and the hauler of bulk
26 commodities.

1 18. All fees shall be accounted for and forwarded by the board
2 to the Treasurer of the State and all such sums shall become part
3 of the General State Fund; and any and all fines, penalties and
4 forfeitures imposed and collected for violation of any of the pro-
5 visions of this act shall become a part of the General State Fund.

1 19. If any provisions of this act, or the application thereof to
2 any person, or commerce, or circumstances, is held invalid, the
3 remainder of the act and the application thereof to other persons,
4 commerce or circumstances, shall not be affected thereby.

1 20. This act shall take effect 120 days after its enactment.

STATEMENT

Many dangerous substances are transported by bulk carriers, and the rules and regulations of the Federal Department of Transportation and Interstate Commerce Commission create standards to which drivers and vehicles must conform if they are involved in interstate hauling.

At present there are no laws in New Jersey which regulate bulk carriers involved in intrastate commerce. People are able to engage in this business without having to demonstrate any knowledge of how to safely handle the cargo or the vehicle.

The purpose of this bill is to establish and define the powers of the Bulk Carrier Regulation Board. The members of this board will license all those who wish to engage in the business of bulk hauling, and will promulgate standards for intrastate hauling that will be in line with those of the I.C.C.