

39:1-1

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2005 **CHAPTER:** 147

NJSA: 39:1-1 (Revises statutes governing operation of commercial motor vehicles)

BILL NO: S2300 (Substituted for A3793)

SPONSOR(S): Sacco and others

DATE INTRODUCED: January 31, 2005

COMMITTEE: **ASSEMBLY:**
SENATE: Transportation

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** June 20, 2005

SENATE: June 20, 2005

DATE OF APPROVAL: July 12, 2005

FOLLOWING ARE ATTACHED IF AVAILABLE:

[FINAL TEXT OF BILL](#) (2nd reprint enacted)

S2300

[SPONSOR'S STATEMENT:](#) (Begins on page 16 of original bill) [Yes](#)

COMMITTEE STATEMENT: **ASSEMBLY:** No

[SENATE:](#) [Yes](#)

[FLOOR AMENDMENT STATEMENT:](#) [Yes](#)

LEGISLATIVE FISCAL ESTIMATE: No

A3793

[SPONSOR'S STATEMENT:](#) (Begins on page 23 of original bill) [Yes](#)

COMMITTEE STATEMENT: [ASSEMBLY:](#) [Yes](#)

SENATE: No

[FLOOR AMENDMENT STATEMENT:](#) [Yes](#)

LEGISLATIVE FISCAL ESTIMATE: No

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P.L. 2005, CHAPTER 147, *approved July 12, 2005*
Senate, No. 2300 (*Second Reprint*)

1 AN ACT concerning ²[the operation of certain]² commercial motor
2 vehicles, amending ²R.S. 39:1-1,² P.L.1990, c.103 and R.S.39:4-
3 128, and supplementing chapter 4 of Title 39 of the Revised
4 Statutes.

5

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

8

9 ²1. R.S.39:1-1 is amended to read as follows:

10 39:1-1. As used in this subtitle, unless other meaning is clearly
11 apparent from the language or context, or unless inconsistent with the
12 manifest intention of the Legislature:

13 "Alley" means a public highway wherein the roadway does not
14 exceed 12 feet in width.

15 "Authorized emergency vehicles" means vehicles of the fire
16 department, police vehicles and such ambulances and other vehicles as
17 are approved by the [Director of the Division of Motor Vehicles in the
18 Department of Transportation] chief administrator when operated in
19 response to an emergency call.

20 "Automobile" includes all motor vehicles except motorcycles.

21 "Berm" means that portion of the highway exclusive of roadway
22 and shoulder, bordering the shoulder but not to be used for vehicular
23 travel.

24 "Business district" means that portion of a highway and the territory
25 contiguous thereto, where within any 600 feet along such highway
26 there are buildings in use for business or industrial purposes, including
27 but not limited to hotels, banks, office buildings, railroad stations, and
28 public buildings which occupy at least 300 feet of frontage on one side
29 or 300 feet collectively on both sides of the roadway.

30 "Car pool" means two or more persons commuting on a daily basis
31 to and from work by means of a vehicle with a seating capacity of nine
32 passengers or less.

33 "Chief Administrator" or "Administrator" means the [chief
34 administrator] Chief Administrator of the New Jersey Motor Vehicle
35 Commission.

36 "Commercial motor vehicle" includes every type of motor-driven
37 vehicle used for commercial purposes on the highways, such as the

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 Senate STR committee amendments adopted February 7, 2005.

² Assembly floor amendments adopted May 16, 2005.

1 transportation of goods, wares and merchandise, excepting such
2 vehicles as are run only upon rails or tracks and vehicles of the
3 passenger car type used for touring purposes or the carrying of farm
4 products and milk, as the case may be.

5 "Commission" means the New Jersey Motor Vehicle Commission
6 established by section 4 of P.L.2003, c.13 (C.39:2A-4).

7 "Commissioner" means the Commissioner of Transportation of this
8 State.

9 "Commuter van" means a motor vehicle having a seating capacity
10 of not less than seven nor more than 15 adult passengers, in which
11 seven or more persons commute on a daily basis to and from work and
12 which vehicle may also be operated by the driver or other designated
13 persons for their personal use.

14 "Crosswalk" means that part of a highway at an intersection
15 included within the connections of the lateral lines of the sidewalks on
16 opposite sides of the highway measured from the curbs or, in the
17 absence of curbs, from the edges of the shoulder, or, if none, from the
18 edges of the roadway; also, any portion of a highway at an intersection
19 or elsewhere distinctly indicated for pedestrian crossing by lines or
20 other marking on the surface.

21 "Dealer" includes every person actively engaged in the business of
22 buying, selling or exchanging motor vehicles or motorcycles and who
23 has an established place of business.

24 "Deputy Chief Administrator" means the deputy chief administrator
25 of the commission.

26 "Deputy director" means the deputy [director of the Division of
27 Motor Vehicles in the Department of Transportation] chief
28 administrator.

29 "Director" means the [Director of the Division of Motor Vehicles
30 in the Department of Transportation] chief administrator.

31 "Division" means the [Division of Motor Vehicles in the
32 Department of Transportation] New Jersey Motor Vehicle
33 Commission acting directly or through its duly authorized officers or
34 agents.

35 "Driver" means the rider or driver of a horse, bicycle or motorcycle
36 or the driver or operator of a motor vehicle, unless otherwise
37 specified.

38 "Explosives" means any chemical compound or mechanical mixture
39 that is commonly used or intended for the purpose of producing an
40 explosion and which contains any oxidizing and combustive units or
41 other ingredients in such proportions, quantities or packing that an
42 ignition by fire, friction, by concussion, by percussion, or by detonator
43 of any part of the compound or mixture may cause such a sudden
44 generation of highly heated gases that the resultant gaseous pressures
45 are capable of producing destructive effects on contiguous objects or
46 of destroying life or limb.

1 "Farm tractor" means every motor vehicle designed and used
2 primarily as a farm implement for drawing plows, mowing machines,
3 and other implements of husbandry.

4 "Flammable liquid" means any liquid having a flash point below 200
5 degrees Fahrenheit, and a vapor pressure not exceeding 40 pounds.

6 "Gross weight" means the combined weight of a vehicle and a load
7 thereon.

8 "High occupancy vehicle" or "HOV" means a vehicle which is used
9 to transport two or more persons and shall include public
10 transportation, car pool, van pool, and other vehicles as determined by
11 regulation of the Department of Transportation.

12 "Highway" means the entire width between the boundary lines of
13 every way publicly maintained when any part thereof is open to the use
14 of the public for purposes of vehicular travel.

15 "Horse" includes mules and all other domestic animals used as
16 draught animals or beasts of burden.

17 "Inside lane" means the lane nearest the center line of the roadway.

18 "Intersection" means the area embraced within the prolongation of
19 the lateral curb lines or, if none, the lateral boundary lines of two or
20 more highways which join one another at an angle, whether or not one
21 such highway crosses another.

22 "Laned roadway" means a roadway which is divided into two or
23 more clearly marked lanes for vehicular traffic.

24 "Leased limousine" means any limousine subject to regulation in the
25 State which:

26 a. Is offered for rental or lease, without a driver, to be operated by
27 a limousine service as the lessee, for the purpose of carrying
28 passengers for hire; and

29 b. Is leased or rented for a period of one year or more following
30 registration.

31 "Leased motor vehicle" means any motor vehicle subject to
32 registration in this State which:

33 a. Is offered for rental or lease, without a driver, to be operated by
34 the lessee, his agent or servant, for purposes other than the
35 transportation of passengers for hire; and

36 b. Is leased or rented for a period of one year or more following
37 registration.

38 "Limited-access highway" means every highway, street, or roadway
39 in respect to which owners or occupants of abutting lands and other
40 persons have no legal right of access to or from the same except at
41 such points only and in such manner as may be determined by the
42 public authority having jurisdiction over such highway, street, or
43 roadway; and includes any highway designated as a "freeway" or
44 "parkway" by authority of law.

45 "Local authorities" means every county, municipal and other local
46 board or body having authority to adopt local police regulations under

1 the Constitution and laws of this State, including every county
2 governing body with relation to county roads.

3 "Magistrate" means any municipal court and the Superior Court,
4 and any officer having the powers of a committing magistrate and the
5 [Director of the Division of Motor Vehicles in the Department of
6 Transportation] chief administrator.

7 "Manufacturer" means a person engaged in the business of
8 manufacturing or assembling motor vehicles, who will, under normal
9 business conditions during the year, manufacture or assemble at least
10 10 new motor vehicles.

11 "Metal tire" means every tire the surface of which in contact with
12 the highway is wholly or partly of metal or other hard nonresilient
13 material.

14 "Motorized bicycle" means a pedal bicycle having a helper motor
15 characterized in that either the maximum piston displacement is less
16 than 50 cc. or said motor is rated at no more than 1.5 brake
17 horsepower and said bicycle is capable of a maximum speed of no
18 more than 25 miles per hour on a flat surface.

19 "Motorcycle" includes motorcycles, motor bikes, bicycles with
20 motor attached and all motor-operated vehicles of the bicycle or
21 tricycle type, except motorized bicycles as defined in this section,
22 whether the motive power be a part thereof or attached thereto and
23 having a saddle or seat with driver sitting astride or upon it or a
24 platform on which the driver stands.

25 "Motor-drawn vehicle" includes trailers, semitrailers, or any other
26 type of vehicle drawn by a motor-driven vehicle.

27 "Motor vehicle" includes all vehicles propelled otherwise than by
28 muscular power, excepting such vehicles as run only upon rails or
29 tracks and motorized bicycles.

30 "Noncommercial truck" means every motor vehicle designed
31 primarily for transportation of property, and which is not a
32 "commercial vehicle."

33 "Official traffic control devices" means all signs, signals, markings,
34 and devices not inconsistent with this subtitle placed or erected by
35 authority of a public body or official having jurisdiction for the
36 purpose of regulating, warning, or guiding traffic.

37 "Omnibus" includes all motor vehicles used for the transportation
38 of passengers for hire, except commuter vans and vehicles used in
39 ridesharing arrangements and school buses, if the same are not
40 otherwise used in the transportation of passengers for hire.

41 "Operator" means a person who is in actual physical control of a
42 vehicle or street car.

43 "Outside lane" means the lane nearest the curb or outer edge of the
44 roadway.

45 "Owner" means a person who holds the legal title of a vehicle, or
46 if a vehicle is the subject of an agreement for the conditional sale or

1 lease thereof with the right of purchase upon performance of the
2 conditions stated in the agreement and with an immediate right of
3 possession vested in the conditional vendee or lessee, or if a
4 mortgagor of a vehicle is entitled to possession, then the conditional
5 vendee, lessee or mortgagor shall be deemed the owner for the
6 purpose of this subtitle.

7 "Parking" means the standing or waiting on a street, road or
8 highway of a vehicle not actually engaged in receiving or discharging
9 passengers or merchandise, unless in obedience to traffic regulations
10 or traffic signs or signals.

11 "Passenger automobile" means all automobiles used and designed
12 for the transportation of passengers, other than omnibuses and school
13 buses.

14 "Pedestrian" means a person afoot.

15 "Person" includes natural persons, firms, copartnerships,
16 associations, and corporations.

17 "Pneumatic tire" means every tire in which compressed air is
18 designed to support the load.

19 "Pole trailer" means every vehicle without motive power designed
20 to be drawn by another vehicle and attached to the towing vehicle by
21 means of a reach, or pole, or by being boomed or otherwise secured
22 to the towing vehicle, and ordinarily used for transporting long or
23 irregularly shaped loads, such as poles, pipes, or structural members
24 capable, generally, of sustaining themselves as beams between the
25 supporting connections.

26 "Private road or driveway" means every road or driveway not open
27 to the use of the public for purposes of vehicular travel.

28 "Railroad train" means a steam engine, electric or other motor, with
29 or without cars coupled thereto, operated upon rails, except street
30 cars.

31 "Recreation vehicle" means a self-propelled or towed vehicle
32 equipped to serve as temporary living quarters for recreational,
33 camping or travel purposes and used solely as a family or personal
34 conveyance.

35 "Residence district" means that portion of a highway and the
36 territory contiguous thereto, not comprising a business district, where
37 within any 600 feet along such highway there are buildings in use for
38 business or residential purposes which occupy 300 feet or more of
39 frontage on at least one side of the highway.

40 "Ridesharing" means the transportation of persons in a motor
41 vehicle, with a maximum carrying capacity of not more than 15
42 passengers, including the driver, where such transportation is
43 incidental to the purpose of the driver. The term shall include such
44 ridesharing arrangements known as car pools and van pools.

45 "Right-of-way" means the privilege of the immediate use of the
46 highway.

1 "Road tractor" means every motor vehicle designed and used for
2 drawing other vehicles and not so constructed as to carry any load
3 thereon either independently or any part of the weight of a vehicle or
4 load so drawn.

5 "Roadway" means that portion of a highway improved, designed,
6 or ordinarily used for vehicular travel, exclusive of the berm or
7 shoulder. In the event a highway includes two or more separate
8 roadways, the term "roadway" as used herein shall refer to any such
9 roadway separately, but not to all such roadways, collectively.

10 "Safety zone" means the area or space officially set aside within a
11 highway for the exclusive use of pedestrians, which is so plainly
12 marked or indicated by proper signs as to be plainly visible at all times
13 while set apart as a safety zone.

14 "School bus" means every motor vehicle operated by, or under
15 contract with, a public or governmental agency, or religious or other
16 charitable organization or corporation, or privately operated [for
17 compensation] for the transportation of children to or from school for
18 secular or religious education, which complies with the regulations of
19 the [Department of Education] New Jersey Motor Vehicle
20 Commission affecting school buses, including "School Vehicle Type
21 I" and "School Vehicle Type II" as defined below:

22 "School Vehicle Type I" means any vehicle [with a seating capacity
23 of 17 or more] designed to transport 16 or more passengers, including
24 the driver, used to transport enrolled children, and adults only when
25 serving as chaperones, to or from a school, school connected activity,
26 day camp, summer day camp, summer residence camp, nursery school,
27 child care center, preschool center or other similar places of education.
28 Such vehicle shall comply with the regulations of the [Division of
29 Motor Vehicles] New Jersey Motor Vehicle Commission and either
30 the Department of Education or the Department of Human Services,
31 whichever is the appropriate supervising agency.

32 "School Vehicle Type II" means any vehicle [with a seating
33 capacity of 16 or less] designed to transport less than 16 passengers,
34 including the driver, used to transport enrolled children, and adults
35 only when serving as chaperones, to or from a school, school
36 connected activity, day camp, summer day camp, summer residence
37 camp, nursery school, child care center, preschool center or other
38 similar places of education. Such vehicle shall comply with the
39 regulations of the [Division of Motor Vehicles] New Jersey Motor
40 Vehicle Commission and either the Department of Education or the
41 Department of Human Services, whichever is the appropriate
42 supervising agency.

43 "School zone" means that portion of a highway which is either
44 contiguous to territory occupied by a school building or is where
45 school crossings are established in the vicinity of a school, upon which

1 are maintained appropriate "school signs" in accordance with
2 specifications adopted by the [director] chief administrator and in
3 accordance with law.

4 "School crossing" means that portion of a highway where school
5 children are required to cross the highway in the vicinity of a school.

6 "Semitrailer" means every vehicle with or without motive power,
7 other than a pole trailer, designed for carrying persons or property and
8 for being drawn by a motor vehicle and so constructed that some part
9 of its weight and that of its load rests upon or is carried by another
10 vehicle.

11 "Shipper" means any person who shall deliver, or cause to be
12 delivered, any commodity, produce or article for transportation as the
13 contents or load of a commercial motor vehicle. In the case of a
14 sealed ocean container, "shipper" shall not be construed to include any
15 person whose activities with respect to the shipment are limited to the
16 solicitation or negotiation of the sale, resale, or exchange of the
17 commodity, produce or article within that container.

18 "Shoulder" means that portion of the highway, exclusive of and
19 bordering the roadway, designed for emergency use but not ordinarily
20 to be used for vehicular travel.

21 "Sidewalk" means that portion of a highway intended for the use of
22 pedestrians, between the curb line or the lateral line of a shoulder, or
23 if none, the lateral line of the roadway and the adjacent right-of-way
24 line.

25 "Sign." See "Official traffic control devices."

26 "Slow-moving vehicle" means a vehicle run at a speed less than the
27 maximum speed then and there permissible.

28 "Solid tire" means every tire of rubber or other resilient material
29 which does not depend upon compressed air for the support of the
30 load.

31 "Street" means the same as highway.

32 "Street car" means a car other than a railroad train, for transporting
33 persons or property and operated upon rails principally within a
34 municipality.

35 "Stop," when required, means complete cessation from movement.

36 "Stopping or standing," when prohibited, means any cessation of
37 movement of a vehicle, whether occupied or not, except when
38 necessary to avoid conflict with other traffic or in compliance with the
39 directions of a police officer or traffic control sign or signal.

40 "Suburban business or residential district" means that portion of
41 highway and the territory contiguous thereto, where within any 1,320
42 feet along that highway there is land in use for business or residential
43 purposes and that land occupies more than 660 feet of frontage on one
44 side or collectively more than 660 feet of frontage on both sides of
45 that roadway.

46 "Through highway" means every highway or portion thereof at the

1 entrances to which vehicular traffic from intersecting highways is
2 required by law to stop before entering or crossing the same and when
3 stop signs are erected as provided in this chapter.

4 "Trackless trolley" means every motor vehicle which is propelled by
5 electric power obtained from overhead trolley wires but not operated
6 upon rails.

7 "Traffic" means pedestrians, ridden or herded animals, vehicles,
8 street cars, and other conveyances either singly, or together, while
9 using any highway for purposes of travel.

10 "Traffic control signal" means a device, whether manually,
11 electrically, mechanically, or otherwise controlled, by which traffic is
12 alternately directed to stop and to proceed.

13 "Trailer" means every vehicle with or without motive power, other
14 than a pole trailer, designed for carrying persons or property and for
15 being drawn by a motor vehicle and so constructed that no part of its
16 weight rests upon the towing vehicle.

17 "Truck" means every motor vehicle designed, used, or maintained
18 primarily for the transportation of property.

19 "Truck tractor" means every motor vehicle designed and used
20 primarily for drawing other vehicles and not so constructed as to carry
21 a load other than a part of the weight of the vehicle and load so drawn.

22 "Van pooling" means seven or more persons commuting on a daily
23 basis to and from work by means of a vehicle with a seating
24 arrangement designed to carry seven to 15 adult passengers.

25 "Vehicle" means every device in, upon or by which a person or
26 property is or may be transported upon a highway, excepting devices
27 moved by human power or used exclusively upon stationary rails or
28 tracks or motorized bicycles.²

29 (cf: P.L.2003, c.13, s.36)

30

31 ²[1.] 2.² Section 3 of P.L.1990, c.103 (C.39:3-10.11) is amended
32 to read as follows:

33 3. For purposes of this act, a term shall have the meaning set forth
34 in R.S.39:1-1 unless another meaning for the term is set forth in this
35 act, or unless another meaning is clearly apparent from the language
36 or context of this act, or unless the meaning for the term set forth in
37 R.S.39:1-1 is inconsistent with the manifest intent of the Legislature
38 in this act.

39 For purposes of this act:

40 "Alcohol concentration" means:

- 41 a. The number of grams of alcohol per 100 milliliters of blood; or
- 42 b. The number of grams of alcohol per 210 liters of breath.

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

46 "Commercial Driver License Information System" or "CDLIS"

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

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

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

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

15 c. If the vehicle is designed to transport 16 or more passengers
16 including the driver;

17 d. If the vehicle is designed to transport eight or more but less than
18 16 persons, including the driver, and is used to transport such persons
19 for hire on a daily basis to and from places of employment; ²[or]²

20 e. If the vehicle is transporting or used in the transportation of
21 hazardous materials and is required to be placarded in accordance with
22 Subpart F. of 49 C.F.R. s.172, or the vehicle displays a hazardous
23 material placard ²; or

24 f. If the vehicle is operated by, or under contract with, a public or
25 governmental agency, or religious or other charitable organization or
26 corporation, or is privately operated, and is used for the transportation
27 of children to or from a school, school connected activity, day camp,
28 summer day camp, summer residence camp, nursery school, child care
29 center, preschool center or other similar places of education².

30 The chief administrator may, by regulation, include within this
31 definition such other motor vehicles or combination of motor vehicles
32 as he deems appropriate.

33 This term shall not include recreation vehicles.

34 This term shall not include motor vehicles designed to transport
35 eight or more but less than sixteen persons, including the driver, which
36 are owned and operated directly by businesses engaged in the practice
37 of mortuary science when those vehicles are used exclusively for
38 providing transportation related to the provision of funeral services
39 and which shall not be used in that capacity at any time to pick up or
40 discharge passengers to any airline terminal, train station or other
41 transportation center, or for any purpose not directly related to the
42 provision of funeral services.

43 "Controlled substance" means any substance so classified under
44 subsection (6) of section 102 of the "Controlled Substances Act" (21
45 U.S.C. s.802), and includes all substances listed on Schedules I
46 through V of 21 C.F.R. s.1308, or under P.L.1970, c.226 (C.24:21-1

1 et seq.) as they may be revised from time to time. The term, wherever
2 it appears in this act or administrative regulation promulgated pursuant
3 to this act, shall include controlled substance analogs.

4 "Controlled substance analog" means a substance that has a
5 chemical structure substantially similar to that of a controlled
6 dangerous substance and that was specifically designed to produce an
7 effect substantially similar to that of a controlled dangerous substance.

8 The term shall not include a substance manufactured or distributed in
9 conformance with the provisions of an approved new drug application
10 or an exemption for investigational use within the meaning of section
11 505 of the Federal Food, Drug and Cosmetic Act (21 U.S.C. s.355).

12 "Conviction" means a final adjudication that a violation has
13 occurred, a final judgment on a verdict, a finding of guilt in a tribunal
14 of original jurisdiction, or a conviction following a plea of guilty, non
15 vult or nolo contendere accepted by a court. It also includes an
16 unvacated forfeiture of bail, bond or collateral deposited to secure the
17 person's appearance in court, or the payment of a fine or court costs,
18 or violation of a condition of release without bail, regardless of
19 whether the penalty is rebated, suspended, or probated.

20 "Disqualification" means either:

21 a. The suspension, revocation, cancellation, or any other
22 withdrawal by a state of a person's privilege to operate a commercial
23 motor vehicle;

24 b. A determination by the **[Federal Highway Administration]**
25 Federal Motor Carrier Safety Administration under the rules of
26 practice for motor carrier safety contained in 49 C.F.R. s.386, that a
27 person is no longer qualified to operate a commercial motor vehicle
28 under 49 C.F.R. s.391; or

29 c. The loss of qualification which automatically follows conviction
30 of an offense listed in 49 **[§]C.F.R.s.383.51.**

31 "Domicile" means that state where a person has a true, fixed, and
32 permanent home and principal residence and to which the person
33 intends to return whenever the person is absent.

34 "Driver license" means a license issued by this State or any other
35 jurisdiction to a person authorizing the person to operate a motor
36 vehicle.

37 "Endorsement" means an authorization to a commercial driver
38 license required to permit the holder of the license to operate certain
39 types of commercial motor vehicles.

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

44 "Foreign jurisdiction" means any jurisdiction other than a state of
45 the United States.

46 "Gross vehicle weight rating" or "GVWR" means the value

1 specified by a manufacturer as the loaded weight of a single or a
2 combination (articulated) vehicle² [, or the registered gross weight,
3 whichever is greater]². The GVWR of a combination (articulated)
4 vehicle, commonly referred to as the "gross combination weight
5 rating" or "GCWR," is the GVWR of the power unit plus the GVWR
6 of the towed unit or units. In the absence of a value specified for the
7 towed unit or units by the manufacturer, the GVWR of a combination
8 (articulated) vehicle is the GVWR of the power unit plus the total
9 weight of the towed unit, including the loads on them.

10 "Hazardous material" means a substance or material determined by
11 the Secretary of the United States Department of Transportation to be
12 capable of posing an unreasonable risk to health, safety, and property
13 when transported in commerce and so designated pursuant to the
14 provisions of the "Hazardous Materials Transportation Act" (49
15 U.S.C. s.1801 et seq.).

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

19 "Non-commercial motor vehicle" means a motor vehicle or
20 combination of motor vehicles other than a "commercial motor
21 vehicle" as defined in this section.

22 ["Out of service order"] "Out-of-service order" means a temporary
23 prohibition against operating a commercial motor vehicle.

24 "Recreation vehicle" means a self-propelled or towed vehicle equipped
25 to serve as temporary living quarters for recreational, camping, or
26 travel purposes and is used solely as a family or personal conveyance.

27 "Representative vehicle" means a motor vehicle which represents
28 the type of motor vehicle that a commercial driver license applicant
29 operates or expects to operate.

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

32 a. Excessive speeding, involving any single offense for a speed of
33 15 miles per hour or more above the speed limit;

34 b. Reckless driving, as defined by state or local law or regulation,
35 including, but not limited to, offenses of driving a commercial motor
36 vehicle in willful or wanton disregard of the safety of persons or
37 property, including violations of R.S.39:4-96;

38 c. Improper or erratic traffic lane changes;

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

41 e. A violation, arising in connection with a fatal accident, of state
42 or local law relating to motor vehicle traffic control, other than a
43 parking violation; [or]

44 f. Any other violation of a state or local law relating to motor
45 vehicle traffic control determined by the Secretary of the United States
46 Department of Transportation in 49 C.F.R. s.383.5 to be a serious

1 traffic violation;

2 g. Driving a commercial motor vehicle without a commercial driver
3 license in the driver's possession; or

4 h. Driving a commercial motor vehicle without the proper class of
5 commercial driver license or endorsements for the specific vehicle
6 group being operated or for the passengers or type of cargo being
7 transported.

8 This term shall not include vehicle weight or defect violations.

9 "State" means a state of the United States or the District of
10 Columbia.

11 "Tank vehicle" means any commercial motor vehicle that is
12 designed to transport any liquid or gaseous material within a tank that
13 is either permanently or temporarily attached to the vehicle or the
14 chassis. Such vehicles include, but are not limited to, cargo tanks and
15 portable tanks as defined by the director. However, this definition
16 does not include portable tanks having a rated capacity under 1,000
17 gallons.

18 "Vehicle group" means a class or type of vehicle with certain
19 operating characteristics.

20 (cf: P.L.2004, c.124, s.2)

21

22 ²[2.] 3.² Section 4 of P.L.1990, c.103 (C.39:3-10.12) is amended
23 to read as follows:

24 4. a. Notwithstanding any other provision of law to the contrary,
25 the [director] chief administrator shall adopt and administer a
26 classified licensing system and a program for testing and ensuring the
27 fitness of persons to operate commercial motor vehicles in accordance
28 with the minimum federal standards established under the federal
29 "Commercial Motor Vehicle Safety Act of 1986," Pub. L. 99-570 (49
30 U.S.C. s. 2701 et seq.) and the regulations promulgated pursuant to
31 that law. The ²[director] chief administrator² shall not issue a
32 commercial driver license to a person unless that person passes a
33 knowledge and skills test for the operation of a commercial motor
34 vehicle which complies with the federal standards. The [director]
35 chief administrator may issue commercial driver examination or
36 learner's permits, subject to such conditions and restrictions as deemed
37 necessary, to carry out the provisions of this act.

38 b. A knowledge and skills test shall not be required by the
39 [director] chief administrator for the renewal of a commercial driver
40 license issued pursuant to the provisions of this act. However, a
41 knowledge and skills test may be required for (1) the renewal of an
42 endorsement permitting the operation of vehicles required to be
43 placarded for hazardous materials, (2) for the renewal or reissuance of
44 a commercial driver license if the license was suspended or revoked
45 under section 12 of this act during the last license period preceding the
46 renewal or reissuance, or (3) for the renewal or reissuance of a license

- 1 which had not been renewed for a period of three or more years.
- 2 c. Upon the request of an applicant for a commercial driver license,
3 the ~~the [director]~~ chief administrator shall administer to the applicant oral
4 knowledge tests for the commercial driver license and any
5 endorsements if the applicant supplies sufficient proof or otherwise
6 demonstrates to the satisfaction of the ~~the [director]~~ chief administrator
7 his inability to comprehend a written test. The ~~the [director]~~ chief
8 administrator shall provide an English and Spanish version of the
9 knowledge tests for a commercial driver license and for any
10 endorsements and shall be authorized to provide versions in such other
11 languages as he, in his discretion, may deem appropriate.
- 12 d. A person who satisfactorily completes the knowledge tests
13 required by this act for a commercial driver license and any
14 endorsement shall not be required under R.S.39:3-10, R.S.39:3-10.1,
15 or any other section in Title 39 of the Revised Statutes to take any
16 other knowledge test for the operation of a commercial motor vehicle.
- 17 e. ~~the director~~ shall make a reasonable effort to notify any person
18 whose name and address is on file with the division, who is licensed to
19 operate a commercial motor vehicle under the provisions of Title 39
20 of the Revised Statutes in effect prior to the effective date of this act,
21 and who is required under this act to obtain a commercial driver
22 license of the locations, times and dates on which the knowledge tests
23 for the commercial driver license and for any endorsements may be
24 taken for the first time and the procedures for taking the tests a second
25 or subsequent time in the event of a failure. The notice shall include
26 a description of the licensing and testing standards and requirements
27 under the federal "Commercial Motor Vehicle Safety Act of 1986,"
28 Pub. L. 99-570 (49 U.S.C. s. 2701 et seq.) and this act. The obligation
29 of the director to provide notice under this subsection shall be for the
30 sole purpose of expediting the testing and licensing of commercial
31 drivers and any deficiency in meeting this obligation shall not abrogate
32 or diminish the responsibility of a driver from obtaining a commercial
33 driver license and any necessary endorsements under this act] ~~(Deleted~~
34 ~~by amendment, P.L. c.)~~ ²~~(now pending before the Legislature as~~
35 ~~this bill)~~².
- 36 f. For the purposes of an application for a commercial driver
37 license by a person who has never held a license issued under the
38 provisions of this act, a person who satisfactorily completes the
39 knowledge test for the commercial driver license but not the test for
40 an endorsement, or a person who satisfactorily completes the
41 knowledge test for an endorsement but not the test for the commercial
42 driver license, shall not be required to retake that test which was
43 satisfactorily completed.
- 44 g. No provision in this act, or in any manual, test, or administrative
45 procedure developed to implement the provisions of this act, shall be
46 deemed to expand the requirements for commercial motor vehicle

1 operators concerning pre-trip inspection, after-trip inspection and
2 inspection during a trip as such requirements are set forth in federal
3 law or regulation. This subsection, however, shall not be deemed to
4 limit the authority of the [director] chief administrator, or the
5 authority of any State department or agency, to promulgate, pursuant
6 to other provisions of State law, standards and procedures on vehicle
7 inspections which are consistent with federal law and regulation.

8 ²h. Classified licensing of drivers of school buses shall be by
9 endorsement on the commercial drivers license issued pursuant to
10 P.L.1990, c.103 (C.39:3-10.9 et seq.).²

11 (cf: P.L.1990, c.103, s.4)

12
13 ²[3.] 4.² Section 6 of P.L.1990, c.103 (C.39:3-10.14) is amended
14 to read as follows:

15 6. a. Before issuing a commercial driver license to an applicant,
16 the [director] chief administrator shall notify the Commercial Driver
17 License Information System of the proposed issuance and shall request
18 driving record information from the Commercial Driver License
19 Information System, the National Driver Register, and from any other
20 state which has issued a commercial driver license, non-commercial
21 motor vehicle driver license or basic driver license to the applicant to
22 determine whether the applicant has a commercial driver license, non-
23 commercial motor vehicle driver license or basic driver license issued
24 by another state, whether the applicant's driving privilege has been
25 suspended, revoked, cancelled, or whether the applicant has been
26 disqualified from operating a commercial motor vehicle.

27 The [director] chief administrator also shall provide driving record
28 and other information to the licensing authority of any other state, or
29 province or territory of Canada, which requests such information in
30 connection with a commercial driver license. The [director] chief
31 administrator may charge such fees as are deemed appropriate to cover
32 the costs of providing information, except that no fee shall be charged
33 if the other jurisdiction does not charge this State for similar requests.

34 b. Within 10 days after the issuance of a commercial driver license,
35 the [director] chief administrator shall notify the Commercial Driver
36 License Information System of that fact, providing all information
37 required to ensure identification of the licensee.

38 (cf: P.L.1990, c.103, s.6)

39
40 ²[4.] 5.² Section 7 of P.L.1990, c.103 (C.39:3-10.15) is amended
41 to read as follows:

42 7. Within 10 days after receiving a report of the conviction of a
43 holder of a commercial driver license for any violation of state law
44 related to motor vehicle traffic control committed in a [commercial]
45 vehicle, other than a parking violation, or a report of the conviction of
46 a person who is not the holder of a commercial driver license for any

1 violation of state law related to motor vehicle traffic control
2 committed in a commercial vehicle, other than a parking violation, or
3 after the disqualification of the holder of a commercial driver license
4 or suspension of privileges for a period of 60 days or more, the
5 **[division] commission** shall notify the driver licensing authority in the
6 licensing state, if other than this State, and the Commercial Driver
7 License Information System of the conviction, suspension, or
8 disqualification. The notification shall include all information the
9 **[director] chief administrator** deems necessary.

10 (cf: P.L.1990, c.103, s.7)

11

12 ²[5.] 6.² Section 10 of P.L.1990, c.103 (C.39:3-10.18) is amended
13 to read as follows:

14 10. a. (1) **[Through March 31, 1992, and except as provided by the**
15 **director by rule or regulation, a person who has been issued a**
16 **commercial driver license shall not operate a commercial motor vehicle**
17 **unless the person is in possession of the valid commercial driver**
18 **license and endorsements for the class and type of vehicle being**
19 **operated. Such a person shall not operate a commercial motor vehicle**
20 **if the person is restricted from operating a commercial vehicle of that**
21 **class or type]** (~~Deleted by amendment, P.L. ., c. .~~) ²(now pending
22 before the Legislature as this bill)².

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

32 (3) A person violating this subsection shall be fined not less than
33 \$250 or more than \$500, or imprisoned for not more than 60 days, or
34 both ²[, and if that person has never been licensed to operate a
35 commercial motor vehicle in this State or any other jurisdiction, the
36 court shall issue an order to the Chief Administrator of the Motor
37 Vehicle Commission requiring the chief administrator to refuse to issue
38 a license to operate a commercial motor vehicle to that person for a
39 period of 180 days]². ²If that person has never been licensed to
40 operate a commercial motor vehicle in this State or any other
41 jurisdiction, the chief administrator shall refuse to issue a license to
42 operate a commercial motor vehicle to that person for a period of 180
43 days from the date of the violation.² This penalty shall not be
44 applicable in cases where failure to have actual possession of the
45 commercial driver license is due to an administrative or technical error
46 by the **[division] commission**. If a person charged with a failure to

1 have possession of a valid commercial driver license can exhibit the
2 license to the judge of the court before whom he is summoned to
3 answer to a charge and the license was valid on the day the person was
4 charged, the judge may dismiss the charge. However, the judge may
5 impose court costs.

6 b. (1) A person who has been refused a commercial driver license,
7 whose commercial motor vehicle driving privilege or any endorsement
8 has been suspended or revoked, who has been prohibited or
9 disqualified from operating a commercial motor vehicle, who is subject
10 to an out of service order, or whose driving privilege is suspended or
11 revoked, shall not operate a commercial motor vehicle during the
12 period of refusal, suspension, revocation, prohibition, or
13 disqualification, or during the period of the out of service order.

14 (2) A person who violates this subsection shall, upon conviction,
15 be fined not ~~less than \$500 or~~ more than \$5,000 for each offense, or
16 imprisoned for a term of not more than 90 days, or both; ~~provided,~~
17 however, a person who operates a commercial motor vehicle during
18 the period of an out-of-service order shall, upon conviction, be fined
19 not less than \$1,100 or more than \$2,750 and may be imprisoned for
20 a term of not more than 90 days. If a person is involved in an accident
21 resulting in personal injury to another person while operating a
22 commercial motor vehicle in violation of this subsection, the court
23 shall impose both a period of imprisonment for 90 days and a fine of
24 \$5,000.

25 (3) An employer shall not knowingly allow, require, permit or
26 authorize a driver to operate a commercial motor vehicle during the
27 period of refusal, suspension, revocation, prohibition, disqualification,
28 or during the period of the out-of-service order. An employer who is
29 convicted of a violation of this subsection shall be subject to a fine of
30 not less than \$2,750 or more than \$11,000.

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

34 (cf: P.L.1990, c.103, s.10)

35

36 ²[6.] ²7. Section 12 of P.L.1990, c.103 (C.39:3-10.20) is amended
37 to read as follows:

38 12. a. In addition to ²the imposition of² any other penalty
39 provided by law, ²[a court] the chief administrator² shall suspend for
40 not less than one year nor more than three years the commercial motor
41 vehicle driving privilege of a person ²convicted² for a first violation of:

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

44 (2) R.S.39:4-129 if the motor vehicle was a commercial motor
45 vehicle operated by the person.

46 (3) Using a commercial motor vehicle in the commission of any

1 "crime" as defined in subsection a., c., or d. of N.J.S.2C:1-4.

2 (4) Refusal to submit to a chemical test under section 2 of
3 P.L.1966, c.142 (C.39:4-50.2) or section 16 of this act if the motor
4 vehicle was a commercial motor vehicle.

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

6 (6) A violation, arising in connection with a fatal accident, of State
7 or local law relating to motor vehicle traffic control, other than a
8 parking violation, regardless of whether the motor vehicle operated by
9 the person was a commercial motor vehicle or a non-commercial
10 motor vehicle.

11 b. If a first violation of any of the violations specified in subsection
12 a. of this section takes place while transporting hazardous material or
13 takes place in a vehicle displaying a hazardous material placard, the
14 ²[court] chief administrator² shall suspend the commercial motor
15 vehicle driving privilege of the person for three years.

16 c. Subject to the provisions of subsection d. of this section, the
17 ²[court] chief administrator² shall revoke for life the commercial
18 motor vehicle driving privilege of a person for a second or subsequent
19 violation of any of the offenses specified in subsection a. or any
20 combination of those offenses arising from two or more separate
21 incidents.

22 d. The [director] chief administrator may issue rules and
23 regulations establishing guidelines, including conditions under which
24 a revocation of commercial motor vehicle driving privilege for life
25 under subsection c. may be reduced to a period of not less than 10
26 years.

27 e. Notwithstanding any other provision of law to the contrary, ²[a
28 court] the chief administrator² shall revoke for life the commercial
29 motor vehicle driving privilege of a person who uses a commercial
30 motor vehicle in the commission of a crime involving the manufacture,
31 distribution, or dispensing of a controlled substance or controlled
32 substance analog, or possession with intent to manufacture, distribute,
33 or dispense a controlled substance or controlled substance analog. A
34 revocation under this subsection shall not be subject to reduction in
35 accordance with subsection d. of this section.

36 f. (1) ²[A court] The chief administrator² shall suspend the
37 commercial motor vehicle driving privilege of a person for a period of
38 not less than 60 days if the person is convicted of a serious traffic
39 violation, other than a violation arising in connection with a fatal
40 accident as set forth in paragraph (6) of subsection a. of this section,
41 and that conviction constitutes the second serious traffic violation
42 committed in a commercial motor vehicle or non-commercial motor
43 vehicle in this or any other state arising from separate incidents
44 occurring within a three year period. ²[A court] The chief
45 administrator² shall suspend the commercial motor vehicle driving
46 privilege for 120 days if the conviction constitutes the third or

1 subsequent serious traffic violation, other than a violation arising in
2 connection with a fatal accident as set forth in paragraph (6) of
3 subsection a. of this section, committed in a commercial motor vehicle
4 or non-commercial motor vehicle in this or any other state arising from
5 separate incidents occurring within a three year period.

6 (2) ²[A court] The chief administrator² shall suspend the
7 commercial motor vehicle driving privilege of a person for a period of
8 not less than 60 days if the person is convicted of a violation of
9 R.S.39:4-128; section 68 of P.L.1951, c.23 (C.39:4-127.1)^{2,2} or
10 section ²[9] 10² of P.L. _____, c. _____ (C. _____)(now pending before the
11 Legislature as this bill). ²[A court] The chief administrator² shall
12 suspend the commercial motor vehicle driving privilege for not less
13 than 120 days if the conviction constitutes the second violation of
14 R.S.39:4-128; section 68 of P.L.1951, c.23 (C.39:4-127.1); section
15 ²[9] 10² of P.L. _____, c. _____ (C. _____) or any combination of such
16 violations in this or any other state arising from separate incidents
17 occurring within a three-year period. ²[A court] The chief
18 administrator² shall suspend the commercial motor vehicle driving
19 privilege for not less than one year if the conviction constitutes the
20 third or subsequent violation of R.S.39:4-128; section 68 of P.L.1951,
21 c.23 (C.39:4-127.1); section ²[9] 10² of P.L. _____, c. _____ (C. _____) (now
22 pending before the Legislature as this bill) or any combination of such
23 violations in this or any other state arising from separate incidents
24 occurring within the past three years.

25 (3) ²[A court] The chief administrator² shall suspend the
26 commercial motor vehicle driving privilege of a person for a period of
27 not less than 180 days or more than one year if the person is convicted
28 of violating a driver or vehicle out-of-service order while driving a
29 commercial motor vehicle transporting nonhazardous materials. ²[A
30 court] The chief administrator² shall suspend the commercial motor
31 vehicle driving privilege of a person for a period of not less than one
32 year or more than five years if the conviction constitutes the second
33 conviction in a separate incident² in this or any other state² within a
34 10- year period of violating a driver or vehicle out-of-service order
35 while driving a commercial motor vehicle transporting nonhazardous
36 materials. ²[A court] The chief administrator² shall suspend the
37 commercial motor vehicle driving privilege for a person for a period
38 of not less than three years or more than five years if the conviction
39 constitutes the third or subsequent conviction in a separate incident² in
40 this or any other state² within a 10-year period of violating a driver or
41 vehicle out-of-service order while driving a commercial motor vehicle
42 transporting nonhazardous materials.

43 (4) ²[A court] The chief administrator² shall suspend the
44 commercial motor vehicle driving privilege of a person for a period of
45 not less than 180 days or more than two years if the person is

1 convicted of violating a driver or vehicle out-of-service order while
2 driving a commercial motor vehicle transporting hazardous materials
3 required to be placarded under ²[part 172.] ² Subpart F of 49
4 C.F.R. ²s.172², or while operating a vehicle designed to transport 16
5 or more passengers, including the driver. ²[A court] The chief
6 administrator² shall suspend the commercial motor vehicle driving
7 privilege of a person for a period of not less than three years or more
8 than five years if the conviction constitutes ¹[the] a¹ second ¹or
9 subsequent¹ conviction in a separate incident within a 10-year period
10 ²in this or any other state² of violating a driver or vehicle out-of-
11 service order while driving a commercial motor vehicle transporting
12 hazardous materials required to be placarded under ²[part 172.]²
13 Subpart F of 49 C.F.R. ²s.172², or while operating a vehicle designed
14 to transport 16 or more passengers, including the driver. ¹[A court
15 shall suspend the commercial motor vehicle driving privilege of the
16 person for a period of not less than three years or more than five years
17 if the conviction constitutes the third or subsequent conviction in a
18 separate incident within a 10-year period of violating a driver or
19 vehicle out-of-service order while driving a commercial motor vehicle
20 transporting hazardous materials required to be placarded under part
21 172, Subpart F of 49 C.F.R., or while operating a vehicle designed to
22 transport 16 or more passengers, including the driver.]¹

23 g. ²[After suspending, revoking or canceling a commercial motor
24 vehicle driving privilege, a] A² court shall make a report to the
25 [director] chief administrator within three days in such form as the
26 [director] chief administrator may require ²concerning conviction for
27 violation of P.L. 1990, c.103 (C.39:3-10.9 et seq.)². The [director]
28 chief administrator shall notify the Commercial Driver License
29 Information System of the suspension, revocation, or cancellation. In
30 the case of non-residents, the [director] chief administrator also shall
31 notify the licensing authority of the state which issued the commercial
32 driver license or the state where the person is domiciled. The
33 [director] chief administrator shall provide these notices within 10
34 days after the suspension, revocation, cancellation, or disqualification.

35 h. The [director] chief administrator shall in accordance with this
36 section suspend a commercial motor vehicle driving privilege of a
37 person holding, or required to hold, a commercial driver license issued
38 by this State if the person is convicted in another state or foreign
39 jurisdiction of an offense of a substantially similar nature to the
40 offenses specified in subsection a., e., [or] f.,¹[g., h., i.]¹ ²g., h., i.²
41 or j. of this section. For purposes of this section, a violation such as
42 driving while intoxicated, driving under the influence, or driving while
43 ability is impaired shall be considered substantially similar offenses.
44 For purposes of this section, a violation committed in another state but
45 substantially similar to those enumerated in subsection a., e., f.,¹ [g.,

1 h., i.]¹ g., h., i.² or j. of this section committed in this State shall be
2 included.

3 i. Notwithstanding any other provision of law to the contrary, a
4 conviction under this section, or section 5 or 16 of this act, shall not
5 merge with a conviction for a violation of R.S.39:4-50 or section 2 of
6 P.L.1966, c.142 (C.39:4-50.2).

7 j. In addition to any other penalty provided by law,² [a court] the
8 chief administrator² shall suspend for one year the commercial motor
9 vehicle driving privilege of a person for a first violation of:

10 (1) R.S.39:4-50 while operating a non-commercial motor vehicle;

11 (2) R.S.39:4-129 while operating a non-commercial motor vehicle;

12 (3) Refusing to submit to a chemical test under section 2 of
13 P.L.1966, c.142 (C.39:4-50.2) while operating a non-commercial
14 motor vehicle; or

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

17 k. The chief administrator shall in accordance with this section
18 suspend the commercial motor vehicle driving privilege of a person
19 holding, or required to hold, a commercial driver license issued by this
20 State if that person has been disqualified from operating a commercial
21 motor vehicle by the Federal Motor Carrier Safety Administration
22 pursuant to 49 C.F.R. s.383.52 because that person's driving has been
23 determined to constitute an imminent hazard.

24 l. The Motor Vehicle Commission shall maintain records of
25 accidents, convictions, and disqualification for persons holding, or
26 required to hold, a commercial driver license in accordance with 49
27 C.F.R. s.384.225 and the AAMVANet, Inc.'s "Commercial Driver
28 License Information System State Procedures," as amended and
29 supplemented.

30 (cf: P.L.1990, c.103, s.12)

31

32 ²[7.] 8.² Section 14 of P.L.1990, c.103 (C.39:3-10.22) is amended
33 to read as follows:

34 14. The [director] chief administrator shall waive the skills test for
35 a commercial driver license applicant who demonstrates that he meets
36 the requirements for a waiver under the federal "Commercial Motor
37 Vehicle Safety Act of 1986," Pub. L. 99-570 (49 U.S.C. s. 2701 et
38 seq.), as those requirements are set forth in 49 C.F.R. s.383.77.

39 (cf: P.L.1990, c.103, s.14)

40

41 ²[8.] 9.² R.S.39:4-128 is amended to read as follows:

42 39:4-128. (a) The driver of any omnibus, designed for carrying
43 more than six passengers, or of any school bus carrying any school
44 child or children, or of any vehicle carrying explosive substance or
45 flammable liquids as a cargo or part of a cargo, or of any commercial
46 motor vehicle specified in 49 C.F.R. s.392.10(a) (1) through (6),

1 before crossing at grade any track or tracks of a railroad shall stop
2 such vehicle within 50 feet but not less than 15 feet from the nearest
3 rail of such railroad and while so stopped listen and look in both
4 directions along such track or tracks, for any approaching train, and
5 for signals indicating the approach of a train. After stopping as
6 required herein and upon proceeding when it is safe to do so, the
7 driver of any said vehicle shall cross only in such gear of the vehicle
8 that there will be no necessity for changing gears while traversing such
9 crossing and the driver shall not shift gears while crossing the track or
10 tracks. This section shall not apply to grade crossings which are no
11 longer used for railroad traffic and which have been abandoned by the
12 railroad company provided that appropriate signs have been posted to
13 indicate that such grade crossing has been abandoned or is no longer
14 used for any railroad traffic. This section shall not apply to grade
15 crossings where the railroad track has been removed or paved over
16 and the warning signs erected by the railroad in accordance with
17 R.S.48:12-58 have been removed, provided that in such case written
18 notice is given to the Commissioner of Transportation and to the
19 appropriate State or local authority having jurisdiction over the
20 highway, road, or street prior to the undertaking of such removal or
21 paving of railroad track. This section shall also not apply to grade
22 crossings marked with a sign reading "Exempt Crossing."

23 The Commissioner of Transportation is hereby vested with the
24 exclusive authority to designate and mark any railroad grade crossings
25 across any street or highway in this State with a sign "Exempt
26 Crossing." The commissioner shall hold a public hearing before
27 designating any crossing as exempt with notice of such hearing to be
28 served in accordance with regulations promulgated by the
29 commissioner.

30 The commissioner shall designate a grade crossing an exempt
31 crossing when the potential for damage and injury from accidents
32 between motor vehicles required to stop at grade crossings and other
33 motor vehicles traveling in the same direction exceeds that between a
34 train and the vehicles required to stop by law. Crossings designated
35 as exempt crossings may include, but shall not be limited to, industrial,
36 spurline and secondary crossings. The commissioner shall promulgate
37 such regulations as are necessary to effectuate the purpose of the
38 establishment of exempt crossings.

39 (b) No person shall operate or move any crawler-type tractor,
40 wheel tractor, tractor engine with or without trailer or trailers
41 attached, steam shovel, derrick, roller, self-propelled concrete mixer,
42 or any self-propelled vehicle, commercial motor vehicle, equipment,
43 machinery, apparatus or structure having a normal operating speed of
44 10 or less miles per hour or a vertical body or load clearance of less
45 than 1/2 inch per foot of the distance between any two adjacent axles
46 or in any event of less than 9 inches, measured above the level surface

1 of a roadway, upon or across any track or tracks at a railroad grade
2 crossing without first complying with the following requirements.

3 Notice of any such intended crossing shall be given to the nearest
4 superintendent or trainmaster of such railroad. Such notice shall
5 specify the approximate time of crossing and a reasonable time shall
6 be given to such railroad to provide proper protection at such
7 crossing.

8 After concluding satisfactory arrangements with the proper officer
9 of the railroad and before making any such crossing, the person
10 operating or moving any such vehicle or equipment shall first stop the
11 same not less than 15 feet nor more than 50 feet from the nearest rail
12 of such railroad, and while so stopped shall listen and look in both
13 directions along such track or tracks for any approaching train and for
14 signals indicating the approach of a train, and shall not proceed until
15 the crossing can be made safely.

16 No such crossing shall be made when warning is given by automatic
17 signal or crossing gates or a flagman or otherwise of the immediate
18 approach of a railroad train or car. If the flagman is provided by the
19 railroad, movement over the crossing shall be made under his
20 jurisdiction.

21 (c) Any person violating the provisions of this section shall be
22 punished by a fine of not more than \$50.00 for the first offense and
23 for the second offense a fine of not more than \$100.00, or by
24 imprisonment for not more than 30 days, or by both such fine and
25 imprisonment.

26 (d) This section shall not be construed as limiting the authority of
27 any municipality to adopt police regulations governing the operation
28 of omnibuses and to provide penalties for their violation, or to relieve
29 the owner or operator of such omnibus subject to the jurisdiction of
30 the Board of Public Utilities from any penalty prescribed by the laws
31 of this State for violation of orders of such board.

32 (cf: P.L.1979, c.48, s.1)

33

34 ²[9.] 10.² (New section) a. A driver of a commercial motor
35 vehicle, other than a commercial motor vehicle that is required to stop
36 at a railroad crossing in accordance with R.S.39:4-128, shall, upon
37 approaching a railroad grade crossing, drive at a rate of speed that will
38 permit the commercial motor vehicle to be stopped before reaching the
39 nearest rail of the crossing. A driver shall not drive a commercial
40 motor vehicle upon or over a railroad crossing until he has exercised
41 due caution to ascertain that a train is not approaching the crossing.

42 b. A driver of a commercial motor vehicle, other than a commercial
43 motor vehicle that is required to stop at a railroad crossing in
44 accordance with R.S.39:4-128, shall stop that commercial motor
45 vehicle before reaching the nearest rail of the crossing, if the tracks of
46 the crossing are not clear of other vehicles or if there is insufficient

1 space to drive the commercial motor vehicle completely through the
2 crossing without stopping the commercial motor vehicle.

3 c. An employer shall not knowingly allow, require, permit or
4 authorize a driver to operate a commercial motor vehicle in violation
5 of R.S.39:4-128, section 68 of P.L.1951, c.23 (C.39:4-127.1) or this
6 section. An employer who is convicted of any such violation shall be
7 ²[subject to a fine of] fined² not more than \$10,000.

8
9 ²11. (New section) Upon issuance of a summons or complaint
10 charging a motorist with any violation, other than a parking violation,
11 under Title 39 of the Revised Statutes, a law enforcement officer shall
12 identify on the face of the summons or complaint, whether the
13 motorist is a holder of a commercial driver license.²

14
15 ²[10.] 12.² This act shall take effect ¹[immediately] September
16 30, 2005¹.

17

18

19

20

21 Revises certain statutes governing operation of commercial motor
22 vehicles; clarifies existing penalties and establishes new offenses.

SENATE, No. 2300

STATE OF NEW JERSEY
211th LEGISLATURE

INTRODUCED JANUARY 31, 2005

Sponsored by:

Senator NICHOLAS J. SACCO

District 32 (Bergen and Hudson)

Senator ROBERT W. SINGER

District 30 (Burlington, Mercer, Monmouth and Ocean)

SYNOPSIS

Revises certain statutes governing operation of commercial motor vehicles; clarifies existing penalties and establishes new offenses.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the operation of certain commercial motor
2 vehicles, amending P.L.1990, c.103 and R.S.39:4-128, and
3 supplementing chapter 4 of Title 39 of the Revised Statutes.

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

7
8 1. Section 3 of P.L.1990, c.103 (C.39:3-10.11) is amended to read
9 as follows:

10 3. For purposes of this act, a term shall have the meaning set forth
11 in R.S.39:1-1 unless another meaning for the term is set forth in this
12 act, or unless another meaning is clearly apparent from the language
13 or context of this act, or unless the meaning for the term set forth in
14 R.S.39:1-1 is inconsistent with the manifest intent of the Legislature
15 in this act.

16 For purposes of this act:

17 "Alcohol concentration" means:

- 18 a. The number of grams of alcohol per 100 milliliters of blood; or
19 b. The number of grams of alcohol per 210 liters of breath.

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

23 "Commercial Driver License Information System" or "CDLIS"
24 means the information system established pursuant to the federal
25 "Commercial Motor Vehicle Safety Act of 1986," Pub.L.99-570 (49
26 U.S.C. s.2701 et seq.) to serve as a clearinghouse for locating
27 information related to the licensing and identification of commercial
28 motor vehicle drivers.

29 "Commercial motor vehicle" or "CMV" means a motor vehicle or
30 combination of motor vehicles used or designed to transport
31 passengers or property:

32 a. If the vehicle has a gross vehicle weight rating of 26,001 or
33 more pounds or displays a gross vehicle weight rating of 26,001 or
34 more pounds;

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

38 c. If the vehicle is designed to transport 16 or more passengers
39 including the driver;

40 d. If the vehicle is designed to transport eight or more but less than
41 16 persons, including the driver, and is used to transport such persons
42 for hire on a daily basis to and from places of employment; or

43 e. If the vehicle is transporting or used in the transportation 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.

1 hazardous materials and is required to be placarded in accordance with
2 Subpart F. of 49 C.F.R. s.172, or the vehicle displays a hazardous
3 material placard.

4 The chief administrator may, by regulation, include within this
5 definition such other motor vehicles or combination of motor vehicles
6 as he deems appropriate.

7 This term shall not include recreation vehicles.

8 This term shall not include motor vehicles designed to transport
9 eight or more but less than sixteen persons, including the driver, which
10 are owned and operated directly by businesses engaged in the practice
11 of mortuary science when those vehicles are used exclusively for
12 providing transportation related to the provision of funeral services
13 and which shall not be used in that capacity at any time to pick up or
14 discharge passengers to any airline terminal, train station or other
15 transportation center, or for any purpose not directly related to the
16 provision of funeral services.

17 "Controlled substance" means any substance so classified under
18 subsection (6) of section 102 of the "Controlled Substances Act" (21
19 U.S.C. s.802), and includes all substances listed on Schedules I
20 through V of 21 C.F.R. s.1308, or under P.L.1970, c.226 (C.24:21-1
21 et seq.) as they may be revised from time to time. The term, wherever
22 it appears in this act or administrative regulation promulgated pursuant
23 to this act, shall include controlled substance analogs.

24 "Controlled substance analog" means a substance that has a
25 chemical structure substantially similar to that of a controlled
26 dangerous substance and that was specifically designed to produce an
27 effect substantially similar to that of a controlled dangerous substance.
28 The term shall not include a substance manufactured or distributed in
29 conformance with the provisions of an approved new drug application
30 or an exemption for investigational use within the meaning of section
31 505 of the Federal Food, Drug and Cosmetic Act (21 U.S.C. s.355).

32 "Conviction" means a final adjudication that a violation has
33 occurred, a final judgment on a verdict, a finding of guilt in a tribunal
34 of original jurisdiction, or a conviction following a plea of guilty, non
35 vult or nolo contendere accepted by a court. It also includes an
36 unvacated forfeiture of bail, bond or collateral deposited to secure the
37 person's appearance in court, or the payment of a fine or court costs,
38 or violation of a condition of release without bail, regardless of
39 whether the penalty is rebated, suspended, or probated.

40 "Disqualification" means either:

41 a. The suspension, revocation, cancellation, or any other
42 withdrawal by a state of a person's privilege to operate a commercial
43 motor vehicle;

44 b. A determination by the [Federal Highway Administration]
45 Federal Motor Carrier Safety Administration under the rules of
46 practice for motor carrier safety contained in 49 C.F.R. s.386, that a

1 person is no longer qualified to operate a commercial motor vehicle
2 under 49 C.F.R. s.391; or

3 c. The loss of qualification which automatically follows conviction
4 of an offense listed in 49 [§]C.F.R.s.383.51.

5 "Domicile" means that state where a person has a true, fixed, and
6 permanent home and principal residence and to which the person
7 intends to return whenever the person is absent.

8 "Driver license" means a license issued by this State or any other
9 jurisdiction to a person authorizing the person to operate a motor
10 vehicle.

11 "Endorsement" means an authorization to a commercial driver
12 license required to permit the holder of the license to operate certain
13 types of commercial motor vehicles.

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

18 "Foreign jurisdiction" means any jurisdiction other than a state of
19 the United States.

20 "Gross vehicle weight rating" or "GVWR" means the value
21 specified by a manufacturer as the loaded weight of a single or a
22 combination (articulated) vehicle, or the registered gross weight,
23 whichever is greater. The GVWR of a combination (articulated)
24 vehicle, commonly referred to as the "gross combination weight
25 rating" or "GCWR," is the GVWR of the power unit plus the GVWR
26 of the towed unit or units. In the absence of a value specified for the
27 towed unit or units by the manufacturer, the GVWR of a combination
28 (articulated) vehicle is the GVWR of the power unit plus the total
29 weight of the towed unit, including the loads on them.

30 "Hazardous material" means a substance or material determined by
31 the Secretary of the United States Department of Transportation to be
32 capable of posing an unreasonable risk to health, safety, and property
33 when transported in commerce and so designated pursuant to the
34 provisions of the "Hazardous Materials Transportation Act" (49
35 U.S.C. s.1801 et seq.).

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

39 "Non-commercial motor vehicle" means a motor vehicle or
40 combination of motor vehicles other than a "commercial motor
41 vehicle" as defined in this section.

42 ["Out of service order"] "Out-of-service order" means a temporary
43 prohibition against operating a commercial motor vehicle.

44 "Recreation vehicle" means a self-propelled or towed vehicle
45 equipped to serve as temporary living quarters for recreational,
46 camping, or travel purposes and is used solely as a family or personal

1 conveyance.

2 "Representative vehicle" means a motor vehicle which represents
3 the type of motor vehicle that a commercial driver license applicant
4 operates or expects to operate.

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

7 a. Excessive speeding, involving any single offense for a speed of
8 15 miles per hour or more above the speed limit;

9 b. Reckless driving, as defined by state or local law or regulation,
10 including, but not limited to, offenses of driving a commercial motor
11 vehicle in willful or wanton disregard of the safety of persons or
12 property, including violations of R.S.39:4-96;

13 c. Improper or erratic traffic lane changes;

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

16 e. A violation, arising in connection with a fatal accident, of state
17 or local law relating to motor vehicle traffic control, other than a
18 parking violation; [or]

19 f. Any other violation of a state or local law relating to motor
20 vehicle traffic control determined by the Secretary of the United States
21 Department of Transportation in 49 C.F.R. s.383.5 to be a serious
22 traffic violation;

23 g. Driving a commercial motor vehicle without a commercial driver
24 license in the driver's possession; or

25 h. Driving a commercial motor vehicle without the proper class of
26 commercial driver license or endorsements for the specific vehicle
27 group being operated or for the passengers or type of cargo being
28 transported.

29 This term shall not include vehicle weight or defect violations.

30 "State" means a state of the United States or the District of
31 Columbia.

32 "Tank vehicle" means any commercial motor vehicle that is
33 designed to transport any liquid or gaseous material within a tank that
34 is either permanently or temporarily attached to the vehicle or the
35 chassis. Such vehicles include, but are not limited to, cargo tanks and
36 portable tanks as defined by the director. However, this definition
37 does not include portable tanks having a rated capacity under 1,000
38 gallons.

39 "Vehicle group" means a class or type of vehicle with certain
40 operating characteristics.

41 (cf: P.L.2004, c.124, s.2)

42

43 2. Section 4 of P.L.1990, c.103 (C.39:3-10.12) is amended to read
44 as follows:

45 4. a. Notwithstanding any other provision of law to the contrary,
46 the [director] chief administrator shall adopt and administer a

1 classified licensing system and a program for testing and ensuring the
2 fitness of persons to operate commercial motor vehicles in accordance
3 with the minimum federal standards established under the federal
4 "Commercial Motor Vehicle Safety Act of 1986," Pub. L. 99-570 (49
5 U.S.C. s. 2701 et seq.) and the regulations promulgated pursuant to
6 that law. The director shall not issue a commercial driver license to a
7 person unless that person passes a knowledge and skills test for the
8 operation of a commercial motor vehicle which complies with the
9 federal standards. The [director] chief administrator may issue
10 commercial driver examination or learner's permits, subject to such
11 conditions and restrictions as deemed necessary, to carry out the
12 provisions of this act.

13 b. A knowledge and skills test shall not be required by the
14 [director] chief administrator for the renewal of a commercial driver
15 license issued pursuant to the provisions of this act. However, a
16 knowledge and skills test may be required for (1) the renewal of an
17 endorsement permitting the operation of vehicles required to be
18 placarded for hazardous materials, (2) for the renewal or reissuance of
19 a commercial driver license if the license was suspended or revoked
20 under section 12 of this act during the last license period preceding the
21 renewal or reissuance, or (3) for the renewal or reissuance of a license
22 which had not been renewed for a period of three or more years.

23 c. Upon the request of an applicant for a commercial driver license,
24 the [director] chief administrator shall administer to the applicant oral
25 knowledge tests for the commercial driver license and any
26 endorsements if the applicant supplies sufficient proof or otherwise
27 demonstrates to the satisfaction of the [director] chief administrator
28 his inability to comprehend a written test. The [director] chief
29 administrator shall provide an English and Spanish version of the
30 knowledge tests for a commercial driver license and for any
31 endorsements and shall be authorized to provide versions in such other
32 languages as he, in his discretion, may deem appropriate.

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

38 e. [The director shall make a reasonable effort to notify any person
39 whose name and address is on file with the division, who is licensed to
40 operate a commercial motor vehicle under the provisions of Title 39
41 of the Revised Statutes in effect prior to the effective date of this act,
42 and who is required under this act to obtain a commercial driver
43 license of the locations, times and dates on which the knowledge tests
44 for the commercial driver license and for any endorsements may be
45 taken for the first time and the procedures for taking the tests a second
46 or subsequent time in the event of a failure. The notice shall include

1 a description of the licensing and testing standards and requirements
2 under the federal "Commercial Motor Vehicle Safety Act of 1986,"
3 Pub. L. 99-570 (49 U.S.C. s. 2701 et seq.) and this act. The obligation
4 of the director to provide notice under this subsection shall be for the
5 sole purpose of expediting the testing and licensing of commercial
6 drivers and any deficiency in meeting this obligation shall not abrogate
7 or diminish the responsibility of a driver from obtaining a commercial
8 driver license and any necessary endorsements under this act] (Deleted
9 by amendment, P.L. c.).

10 f. For the purposes of an application for a commercial driver
11 license by a person who has never held a license issued under the
12 provisions of this act, a person who satisfactorily completes the
13 knowledge test for the commercial driver license but not the test for
14 an endorsement, or a person who satisfactorily completes the
15 knowledge test for an endorsement but not the test for the commercial
16 driver license, shall not be required to retake that test which was
17 satisfactorily completed.

18 g. No provision in this act, or in any manual, test, or administrative
19 procedure developed to implement the provisions of this act, shall be
20 deemed to expand the requirements for commercial motor vehicle
21 operators concerning pre-trip inspection, after-trip inspection and
22 inspection during a trip as such requirements are set forth in federal
23 law or regulation. This subsection, however, shall not be deemed to
24 limit the authority of the [director] chief administrator, or the
25 authority of any State department or agency, to promulgate, pursuant
26 to other provisions of State law, standards and procedures on vehicle
27 inspections which are consistent with federal law and regulation.
28 (cf: P.L.1990, c.103, s.4)

29
30 3. Section 6 of P.L.1990, c.103 (C.39:3-10.14) is amended to read
31 as follows:

32 6. a. Before issuing a commercial driver license to an applicant,
33 the [director] chief administrator shall notify the Commercial Driver
34 License Information System of the proposed issuance and shall request
35 driving record information from the Commercial Driver License
36 Information System, the National Driver Register, and from any other
37 state which has issued a commercial driver license, non-commercial
38 motor vehicle driver license or basic driver license to the applicant to
39 determine whether the applicant has a commercial driver license, non-
40 commercial motor vehicle driver license or basic driver license issued
41 by another state, whether the applicant's driving privilege has been
42 suspended, revoked, cancelled, or whether the applicant has been
43 disqualified from operating a commercial motor vehicle.

44 The [director] chief administrator also shall provide driving record
45 and other information to the licensing authority of any other state, or
46 province or territory of Canada, which requests such information in

1 connection with a commercial driver license. The [director] chief
2 administrator may charge such fees as are deemed appropriate to cover
3 the costs of providing information, except that no fee shall be charged
4 if the other jurisdiction does not charge this State for similar requests.

5 b. Within 10 days after the issuance of a commercial driver license,
6 the [director] chief administrator shall notify the Commercial Driver
7 License Information System of that fact, providing all information
8 required to ensure identification of the licensee.

9 (cf: P.L.1990, c.103, s.6)

10
11 4. Section 7 of P.L.1990, c.103 (C.39:3-10.15) is amended to read
12 as follows:

13 7. Within 10 days after receiving a report of the conviction of a
14 holder of a commercial driver license for any violation of state law
15 related to motor vehicle traffic control committed in a [commercial]
16 vehicle, other than a parking violation, or a report of the conviction of
17 a person who is not the holder of a commercial driver license for any
18 violation of state law related to motor vehicle traffic control
19 committed in a commercial vehicle, other than a parking violation, or
20 after the disqualification of the holder of a commercial driver license
21 or suspension of privileges for a period of 60 days or more, the
22 [division] commission shall notify the driver licensing authority in the
23 licensing state, if other than this State, and the Commercial Driver
24 License Information System of the conviction, suspension, or
25 disqualification. The notification shall include all information the
26 [director] chief administrator deems necessary.

27 (cf: P.L.1990, c.103, s.7)

28
29 5. Section 10 of P.L.1990, c.103 (C.39:3-10.18) is amended to
30 read as follows:

31 10. a. (1) [Through March 31, 1992, and except as provided by the
32 director by rule or regulation, a person who has been issued a
33 commercial driver license shall not operate a commercial motor vehicle
34 unless the person is in possession of the valid commercial driver
35 license and endorsements for the class and type of vehicle being
36 operated. Such a person shall not operate a commercial motor vehicle
37 if the person is restricted from operating a commercial vehicle of that
38 class or type] (Deleted by amendment, P.L. , c.).

39 (2) On and after April 1, 1992, and except when operating under
40 a valid commercial driver examination or learner's permit and
41 accompanied by the holder of a commercial driver license valid for the
42 class or type of vehicle being operated, a person shall not operate a
43 commercial motor vehicle unless the person has been issued and is in
44 possession of a valid commercial driver license and applicable
45 endorsements for the class and type of vehicle being operated. A
46 person shall not operate a commercial motor vehicle if the person is

1 restricted from operating a commercial vehicle of that class or type.

2 (3) A person violating this subsection shall be fined not less than
3 \$250 or more than \$500, or imprisoned for not more than 60 days, or
4 both, and if that person has never been licensed to operate a
5 commercial motor vehicle in this State or any other jurisdiction, the
6 court shall issue an order to the Chief Administrator of the Motor
7 Vehicle Commission requiring the chief administrator to refuse to issue
8 a license to operate a commercial motor vehicle to that person for a
9 period of 180 days. This penalty shall not be applicable in cases where
10 failure to have actual possession of the commercial driver license is
11 due to an administrative or technical error by the [division]
12 commission. If a person charged with a failure to have possession of
13 a valid commercial driver license can exhibit the license to the judge
14 of the court before whom he is summoned to answer to a charge and
15 the license was valid on the day the person was charged, the judge may
16 dismiss the charge. However, the judge may impose court costs.

17 b. (1) A person who has been refused a commercial driver license,
18 whose commercial motor vehicle driving privilege or any endorsement
19 has been suspended or revoked, who has been prohibited or
20 disqualified from operating a commercial motor vehicle, who is subject
21 to an out of service order, or whose driving privilege is suspended or
22 revoked, shall not operate a commercial motor vehicle during the
23 period of refusal, suspension, revocation, prohibition, or
24 disqualification, or during the period of the out of service order.

25 (2) A person who violates this subsection shall, upon conviction,
26 be fined not less than \$500 or more than \$5,000 for each offense, or
27 imprisoned for a term of not more than 90 days, or both; provided,
28 however, a person who operates a commercial motor vehicle during
29 the period of an out-of-service order shall, upon conviction, be fined
30 not less than \$1,100 or more than \$2,750 and may be imprisoned for
31 a term of not more than 90 days. If a person is involved in an accident
32 resulting in personal injury to another person while operating a
33 commercial motor vehicle in violation of this subsection, the court
34 shall impose both a period of imprisonment for 90 days and a fine of
35 \$5,000.

36 (3) An employer shall not knowingly allow, require, permit or
37 authorize a driver to operate a commercial motor vehicle during the
38 period of refusal, suspension, revocation, prohibition, disqualification,
39 or during the period of the out-of-service order. An employer who is
40 convicted of a violation of this subsection shall be subject to a fine of
41 not less than \$2,750 or more than \$11,000.

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

45 (cf: P.L.1990, c.103, s.10)

1 6. Section 12 of P.L.1990, c.103 (C.39:3-10.20) is amended to
2 read as follows:

3 12. a. In addition to any other penalty provided by law, a court
4 shall suspend for not less than one year nor more than three years the
5 commercial motor vehicle driving privilege of a person for a first
6 violation of:

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

9 (2) R.S.39:4-129 if the motor vehicle was a commercial motor
10 vehicle operated by the person.

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

13 (4) Refusal to submit to a chemical test under section 2 of
14 P.L.1966, c.142 (C.39:4-50.2) or section 16 of this act if the motor
15 vehicle was a commercial motor vehicle.

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

17 (6) A violation, arising in connection with a fatal accident, of State
18 or local law relating to motor vehicle traffic control, other than a
19 parking violation, regardless of whether the motor vehicle operated by
20 the person was a commercial motor vehicle or a non-commercial
21 motor vehicle.

22 b. If a first violation of any of the violations specified in subsection
23 a. of this section takes place while transporting hazardous material or
24 takes place in a vehicle displaying a hazardous material placard, the
25 court shall suspend the commercial motor vehicle driving privilege of
26 the person for three years.

27 c. Subject to the provisions of subsection d. of this section, the
28 court shall revoke for life the commercial motor vehicle driving
29 privilege of a person for a second or subsequent violation of any of the
30 offenses specified in subsection a. or any combination of those
31 offenses arising from two or more separate incidents.

32 d. The [director] chief administrator may issue rules and
33 regulations establishing guidelines, including conditions under which
34 a revocation of commercial motor vehicle driving privilege for life
35 under subsection c. may be reduced to a period of not less than 10
36 years.

37 e. Notwithstanding any other provision of law to the contrary, a
38 court shall revoke for life the commercial motor vehicle driving
39 privilege of a person who uses a commercial motor vehicle in the
40 commission of a crime involving the manufacture, distribution, or
41 dispensing of a controlled substance or controlled substance analog,
42 or possession with intent to manufacture, distribute, or dispense a
43 controlled substance or controlled substance analog. A revocation
44 under this subsection shall not be subject to reduction in accordance
45 with subsection d. of this section.

46 f. (1) A court shall suspend the commercial motor vehicle driving

1 privilege of a person for a period of not less than 60 days if the person
2 is convicted of a serious traffic violation, other than a violation arising
3 in connection with a fatal accident as set forth in paragraph (6) of
4 subsection a. of this section, and that conviction constitutes the second
5 serious traffic violation committed in a commercial motor vehicle or
6 non-commercial motor vehicle in this or any other state arising from
7 separate incidents occurring within a three year period. A court shall
8 suspend the commercial motor vehicle driving privilege for 120 days
9 if the conviction constitutes the third or subsequent serious traffic
10 violation, other than a violation arising in connection with a fatal
11 accident as set forth in paragraph (6) of subsection a. of this section,
12 committed in a commercial motor vehicle or non-commercial motor
13 vehicle in this or any other state arising from separate incidents
14 occurring within a three year period.

15 (2) A court shall suspend the commercial motor vehicle driving
16 privilege of a person for a period of not less than 60 days if the person
17 is convicted of a violation of R.S.39:4-128; section 68 of P.L.1951,
18 c.23 (C.39:4-127.1) or section 9 of P.L. , c. (C.)(now pending
19 before the Legislature as this bill). A court shall suspend the
20 commercial motor vehicle driving privilege for not less than 120 days
21 if the conviction constitutes the second violation of R.S.39:4-128;
22 section 68 of P.L.1951, c.23 (C.39:4-127.1); section 9 of P.L. ,
23 c. (C.) or any combination of such violations in this or any other
24 state arising from separate incidents occurring within a three-year
25 period. A court shall suspend the commercial motor vehicle driving
26 privilege for not less than one year if the conviction constitutes the
27 third or subsequent violation of R.S.39:4-128; section 68 of P.L.1951,
28 c.23 (C.39:4-127.1); section 9 of P.L. , c. (C.) (now pending
29 before the Legislature as this bill) or any combination of such
30 violations in this or any other state arising from separate incidents
31 occurring within the past three years.

32 (3) A court shall suspend the commercial motor vehicle driving
33 privilege of a person for a period of not less than 180 days or more
34 than one year if the person is convicted of violating a driver or vehicle
35 out-of-service order while driving a commercial motor vehicle
36 transporting nonhazardous materials. A court shall suspend the
37 commercial motor vehicle driving privilege of a person for a period of
38 not less than one year or more than five years if the conviction
39 constitutes the second conviction in a separate incident within a 10-
40 year period of violating a driver or vehicle out-of-service order while
41 driving a commercial motor vehicle transporting nonhazardous
42 materials. A court shall suspend the commercial motor vehicle driving
43 privilege for a person for a period of not less than three years or more
44 than five years if the conviction constitutes the third or subsequent
45 conviction in a separate incident within a 10-year period of violating
46 a driver or vehicle out-of-service order while driving a commercial

1 motor vehicle transporting nonhazardous materials.
2 (4) A court shall suspend the commercial motor vehicle driving
3 privilege of a person for a period of not less than 180 days or more
4 than two years if the person is convicted of violating a driver or
5 vehicle out-of-service order while driving a commercial motor vehicle
6 transporting hazardous materials required to be placarded under part
7 172, Subpart F of 49 C.F.R., or while operating a vehicle designed to
8 transport 16 or more passengers, including the driver. A court shall
9 suspend the commercial motor vehicle driving privilege of a person for
10 a period of not less than three years or more than five years if the
11 conviction constitutes the second conviction in a separate incident
12 within a 10-year period of violating a driver or vehicle out-of-service
13 order while driving a commercial motor vehicle transporting hazardous
14 materials required to be placarded under part 172, Subpart F of 49
15 C.F.R., or while operating a vehicle designed to transport 16 or more
16 passengers, including the driver. A court shall suspend the commercial
17 motor vehicle driving privilege of the person for a period of not less
18 than three years or more than five years if the conviction constitutes
19 the third or subsequent conviction in a separate incident within a 10-
20 year period of violating a driver or vehicle out-of-service order while
21 driving a commercial motor vehicle transporting hazardous materials
22 required to be placarded under part 172, Subpart F of 49 C.F.R., or
23 while operating a vehicle designed to transport 16 or more passengers,
24 including the driver.

25 g. After suspending, revoking or canceling a commercial motor
26 vehicle driving privilege, a court shall make a report to the [director]
27 chief administrator within three days in such form as the [director]
28 chief administrator may require. The [director] chief administrator
29 shall notify the Commercial Driver License Information System of the
30 suspension, revocation, or cancellation. In the case of non-residents,
31 the [director] chief administrator also shall notify the licensing
32 authority of the state which issued the commercial driver license or the
33 state where the person is domiciled. The [director] chief
34 administrator shall provide these notices within 10 days after the
35 suspension, revocation, cancellation, or disqualification.

36 h. The [director] chief administrator shall in accordance with this
37 section suspend a commercial motor vehicle driving privilege of a
38 person holding, or required to hold, a commercial driver license issued
39 by this State if the person is convicted in another state or foreign
40 jurisdiction of an offense of a substantially similar nature to the
41 offenses specified in subsection a., e., [or] f., g., h., i. or j. of this
42 section. For purposes of this section, a violation such as driving while
43 intoxicated, driving under the influence, or driving while ability is
44 impaired shall be considered substantially similar offenses. For
45 purposes of this section, a violation committed in another state but
46 substantially similar to those enumerated in subsection a., e., f., g., h.,

1 i. or j. of this section committed in this State shall be included.

2 i. Notwithstanding any other provision of law to the contrary, a
3 conviction under this section, or section 5 or 16 of this act, shall not
4 merge with a conviction for a violation of R.S.39:4-50 or section 2 of
5 P.L.1966, c.142 (C.39:4-50.2).

6 j. In addition to any other penalty provided by law, a court shall
7 suspend for one year the commercial motor vehicle driving privilege
8 of a person for a first violation of:

9 (1) R.S.39:4-50 while operating a non-commercial motor vehicle;

10 (2) R.S.39:4-129 while operating a non-commercial motor vehicle;

11 (3) Refusing to submit to a chemical test under section 2 of
12 P.L.1966, c.142 (C.39:4-50.2) while operating a non-commercial
13 motor vehicle; or

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

16 k. The chief administrator shall in accordance with this section
17 suspend the commercial motor vehicle driving privilege of a person
18 holding, or required to hold, a commercial driver license issued by this
19 State if that person has been disqualified from operating a commercial
20 motor vehicle by the Federal Motor Carrier Safety Administration
21 pursuant to 49 C.F.R. s.383.52 because that person's driving has been
22 determined to constitute an imminent hazard.

23 l. The Motor Vehicle Commission shall maintain records of
24 accidents, convictions, and disqualification for persons holding, or
25 required to hold, a commercial driver license in accordance with 49
26 C.F.R. s.384.225 and the AAMVAnet, Inc.'s "Commercial Driver
27 License Information System State Procedures," as amended and
28 supplemented.

29 (cf: P.L.1990, c.103, s.12)

30

31 7. Section 14 of P.L.1990, c.103 (C.39:3-10.22) is amended to
32 read as follows:

33 14. The [director] chief administrator shall waive the skills test for
34 a commercial driver license applicant who demonstrates that he meets
35 the requirements for a waiver under the federal "Commercial Motor
36 Vehicle Safety Act of 1986," Pub. L. 99-570 (49 U.S.C. s. 2701 et
37 seq.), as those requirements are set forth in 49 C.F.R. s.383.77.

38 (cf: P.L.1990, c.103, s.14)

39

40 8. R.S.39:4-128 is amended to read as follows:

41 39:4-128. (a) The driver of any omnibus, designed for carrying
42 more than six passengers, or of any school bus carrying any school
43 child or children, or of any vehicle carrying explosive substance or
44 flammable liquids as a cargo or part of a cargo, or of any commercial
45 motor vehicle specified in 49 C.F.R. s.392.10(a) (1) through (6),
46 before crossing at grade any track or tracks of a railroad shall stop

1 such vehicle within 50 feet but not less than 15 feet from the nearest
2 rail of such railroad and while so stopped listen and look in both
3 directions along such track or tracks, for any approaching train, and
4 for signals indicating the approach of a train. After stopping as
5 required herein and upon proceeding when it is safe to do so, the
6 driver of any said vehicle shall cross only in such gear of the vehicle
7 that there will be no necessity for changing gears while traversing such
8 crossing and the driver shall not shift gears while crossing the track or
9 tracks. This section shall not apply to grade crossings which are no
10 longer used for railroad traffic and which have been abandoned by the
11 railroad company provided that appropriate signs have been posted to
12 indicate that such grade crossing has been abandoned or is no longer
13 used for any railroad traffic. This section shall not apply to grade
14 crossings where the railroad track has been removed or paved over
15 and the warning signs erected by the railroad in accordance with R.S.
16 48:12-58 have been removed, provided that in such case written
17 notice is given to the Commissioner of Transportation and to the
18 appropriate State or local authority having jurisdiction over the
19 highway, road, or street prior to the undertaking of such removal or
20 paving of railroad track. This section shall also not apply to grade
21 crossings marked with a sign reading "Exempt Crossing."

22 The Commissioner of Transportation is hereby vested with the
23 exclusive authority to designate and mark any railroad grade crossings
24 across any street or highway in this State with a sign "Exempt
25 Crossing." The commissioner shall hold a public hearing before
26 designating any crossing as exempt with notice of such hearing to be
27 served in accordance with regulations promulgated by the
28 commissioner.

29 The commissioner shall designate a grade crossing an exempt
30 crossing when the potential for damage and injury from accidents
31 between motor vehicles required to stop at grade crossings and other
32 motor vehicles traveling in the same direction exceeds that between a
33 train and the vehicles required to stop by law. Crossings designated
34 as exempt crossings may include, but shall not be limited to, industrial,
35 spurline and secondary crossings. The commissioner shall promulgate
36 such regulations as are necessary to effectuate the purpose of the
37 establishment of exempt crossings.

38 (b) No person shall operate or move any crawler-type tractor,
39 wheel tractor, tractor engine with or without trailer or trailers
40 attached, steam shovel, derrick, roller, self-propelled concrete mixer,
41 or any self-propelled vehicle, commercial motor vehicle, equipment,
42 machinery, apparatus or structure having a normal operating speed of
43 10 or less miles per hour or a vertical body or load clearance of less
44 than 1/2 inch per foot of the distance between any two adjacent axles
45 or in any event of less than 9 inches, measured above the level surface
46 of a roadway, upon or across any track or tracks at a railroad grade

1 crossing without first complying with the following requirements.

2 Notice of any such intended crossing shall be given to the nearest
3 superintendent or trainmaster of such railroad. Such notice shall
4 specify the approximate time of crossing and a reasonable time shall
5 be given to such railroad to provide proper protection at such
6 crossing.

7 After concluding satisfactory arrangements with the proper officer
8 of the railroad and before making any such crossing, the person
9 operating or moving any such vehicle or equipment shall first stop the
10 same not less than 15 feet nor more than 50 feet from the nearest rail
11 of such railroad, and while so stopped shall listen and look in both
12 directions along such track or tracks for any approaching train and for
13 signals indicating the approach of a train, and shall not proceed until
14 the crossing can be made safely.

15 No such crossing shall be made when warning is given by automatic
16 signal or crossing gates or a flagman or otherwise of the immediate
17 approach of a railroad train or car. If the flagman is provided by the
18 railroad, movement over the crossing shall be made under his
19 jurisdiction.

20 (c) Any person violating the provisions of this section shall be
21 punished by a fine of not more than \$50.00 for the first offense and
22 for the second offense a fine of not more than \$100.00, or by
23 imprisonment for not more than 30 days, or by both such fine and
24 imprisonment.

25 (d) This section shall not be construed as limiting the authority of
26 any municipality to adopt police regulations governing the operation
27 of omnibuses and to provide penalties for their violation, or to relieve
28 the owner or operator of such omnibus subject to the jurisdiction of
29 the Board of Public Utilities from any penalty prescribed by the laws
30 of this State for violation of orders of such board.

31 (cf: P.L. 1979, c. 48, s. 1)

32

33 9. (New section) a. A driver of a commercial motor vehicle, other
34 than a commercial motor vehicle that is required to stop at a railroad
35 crossing in accordance with R.S.39:4-128, shall, upon approaching a
36 railroad grade crossing, drive at a rate of speed that will permit the
37 commercial motor vehicle to be stopped before reaching the nearest
38 rail of the crossing. A driver shall not drive a commercial motor
39 vehicle upon or over a railroad crossing until he has exercised due
40 caution to ascertain that a train is not approaching the crossing.

41 b. A driver of a commercial motor vehicle, other than a commercial
42 motor vehicle that is required to stop at a railroad crossing in
43 accordance with R.S.39:4-128, shall stop that commercial motor
44 vehicle before reaching the nearest rail of the crossing, if the tracks of
45 the crossing are not clear of other vehicles or if there is insufficient
46 space to drive the commercial motor vehicle completely through the

1 crossing without stopping the commercial motor vehicle.

2 c. An employer shall not knowingly allow, require, permit or
3 authorize a driver to operate a commercial motor vehicle in violation
4 of R.S.39:4-128, section 68 of P.L.1951, c.23 (C.39:4-127.1) or this
5 section. An employer who is convicted of any such violation shall be
6 subject to a fine of not more than \$10,000.

7

8 10. This act shall take effect immediately.

9

10

11

STATEMENT

12

13 This bill would revise certain statutes governing the operation of
14 commercial motor vehicles.

15 Under the provisions of the bill, existing penalties are clarified and
16 new offenses are established. For example, the current definition of a
17 "serious traffic violation" is expanded to include two new offenses:
18 (1) driving a commercial motor vehicle without having in one's
19 possession a commercial driver license (CDL) and (2) driving a
20 commercial motor vehicle without having the proper CDL license or
21 endorsement for that particular vehicle.

22 The bill establishes a minimum penalty of \$500 for persons who
23 operate commercial motor vehicles while their CDLs are suspended or
24 revoked, or who have been otherwise prohibited or disqualified from
25 operating a commercial motor vehicle. A person who operates a
26 commercial motor vehicle while subject to an out of service order is
27 subject to a fine of not less than \$1,100 or more than \$2750, and may
28 be imprisoned for a term of not more than 90 days. Any employer
29 who knowingly permits a driver to operate a commercial motor vehicle
30 during a time when that driver is prohibited or disqualified from
31 operating a commercial motor vehicle, or the driver's CDL is revoked
32 or suspended, or the driver is subject to an out of service order is
33 subject to a fine of not less than \$2,750 or more than \$11,000.

34 Other new offenses and penalties include CDL suspensions for: (1)
35 certain motor vehicle violations committed while operating a non-
36 commercial vehicle; (2) failing to properly stop at railroad crossings
37 and (3) operating a commercial motor vehicle while subject to an out
38 of service order.

39 The bill also clarifies that an operator who commits a traffic
40 violation which results in a motor vehicle fatality, regardless of
41 whether he was operating a commercial or non-commercial motor
42 vehicle, is subject to a license suspension of one to three years, in
43 addition to any other prescribed penalties.

44 Further, the bill amends R.S.39:4-128 to bring the scope of that
45 section's provisions into conformity with the federal code concerning
46 which types of commercial motor vehicles must stop at railroad grade

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17

1 crossings. In addition, the bill establishes new approach procedures
2 and protocols for commercial motor vehicles that are not required by
3 law to stop at those railroad grade crossings.

4 With regard to the issuance of a CDL, the chief administrator's
5 responsibilities are broadened under this bill. Currently, before issuing
6 a CDL the chief administrator must determine whether any other state
7 has issued a CDL to the applicant. Under this bill, the chief
8 administrator also would be required to determine whether the
9 applicant has been issued a CDL, non-commercial driver license or a
10 basic driver license by any other state.

11 Finally, the bill includes technical amendments to eliminate
12 transitional provisions that are outdated and no longer applicable, and,
13 to reflect the enactment of P.L.2003, c.13, replaces references to
14 "Director" and "Division of Motor Vehicles" with "Chief
15 Administrator" and "Motor Vehicle Commission."

SENATE TRANSPORTATION COMMITTEE

STATEMENT TO

SENATE, No. 2300

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 7, 2005

The Senate Transportation Committee reports favorably Senate Bill No. 2300 with committee amendments.

As amended, this bill would revise certain statutes governing the operation of commercial motor vehicles. The bill would bring certain provisions of New Jersey law into conformity with the Federal Motor Carrier Safety Improvement Act of 1999 and the rules and regulations promulgated by the Federal Motor Carrier Safety Administration.

Under the provisions of the bill, existing penalties are clarified and new offenses are established. For example, the current definition of a "serious traffic violation" is expanded to include two new offenses: (1) driving a commercial motor vehicle without having in one's possession a commercial driver license (CDL) and (2) driving a commercial motor vehicle without having the proper CDL license or endorsement for that particular vehicle.

The bill establishes a minimum penalty of \$500 for persons who operate commercial motor vehicles while their CDLs are suspended or revoked, or who have been otherwise prohibited or disqualified from operating a commercial motor vehicle. A person who operates a commercial motor vehicle while subject to an out-of-service order is subject to a fine of not less than \$1,100 or more than \$2750, and may be imprisoned for a term of not more than 90 days. Any employer who knowingly permits a driver to operate a commercial motor vehicle during a time when that driver is prohibited or disqualified from operating a commercial motor vehicle, or the driver's CDL is revoked or suspended, or the driver is subject to an out of service order is subject to a fine of not less than \$2,750 or more than \$11,000.

Other new offenses and penalties include CDL suspensions for: (1) certain motor vehicle violations committed while operating a non-commercial vehicle; (2) failing to properly stop at railroad crossings and (3) operating a commercial motor vehicle while subject to an out of service order.

The bill also clarifies that an operator who commits a traffic violation which results in a motor vehicle fatality, regardless of whether he was operating a commercial or non-commercial motor

vehicle, is subject to a license suspension of one to three years, in addition to any other prescribed penalties.

Further, the bill amends R.S.39:4-128 to bring the scope of that section's provisions into conformity with the federal code concerning which types of commercial motor vehicles must stop at railroad grade crossings. In addition, the bill establishes new approach procedures and protocols for commercial motor vehicles that are not required by law to stop at those railroad grade crossings.

With regard to the issuance of a CDL, the chief administrator's responsibilities are broadened under this bill. Currently, before issuing a CDL the chief administrator must determine whether any other state has issued a CDL to the applicant. Under this bill, the chief administrator also would be required to determine whether the applicant has been issued a CDL, non-commercial driver license or a basic driver license by any other state.

Finally, the bill includes technical amendments to eliminate transitional provisions that are outdated and no longer applicable, and, to reflect the enactment of P.L.2003, c.13, replaces references to "Director" and "Division of Motor Vehicles" with "Chief Administrator" and "Motor Vehicle Commission."

The committee amended the bill to remove duplicative provisions and to clarify subsection references. Also, the committee extended the effective date to September 30, 2005.

STATEMENT TO
[First Reprint]
SENATE, No. 2300

with Assembly Floor Amendments
(Proposed By Assemblyman WISNIEWSKI)

ADOPTED: MAY 16, 2005

These amendments (1) extend the definition of commercial motor vehicle to apply to certain vehicles used for the transportation of children; (2) provide that the chief administrator of the Motor Vehicle Commission rather than the court shall take certain action with regard to enforcing the commercial motor vehicle statutes; and, (3) require a law enforcement officer to identify on the face of a summons or complaint for a Title 39 violation, other than a parking violation, whether the motorist is a holder of a commercial driver license.

As amended, this bill is identical to A-3793(2R).

ASSEMBLY, No. 3793

STATE OF NEW JERSEY 211th LEGISLATURE

INTRODUCED FEBRUARY 14, 2005

Sponsored by:

Assemblyman JOHN S. WISNIEWSKI

District 19 (Middlesex)

Assemblyman PETER J. BIONDI

District 16 (Morris and Somerset)

SYNOPSIS

Revises certain statutes governing operation of commercial motor vehicles; clarifies existing penalties and establishes new offenses.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/11/2005)

1 AN ACT concerning commercial motor vehicles, amending R.S.39:1-1,
2 P.L.1990, c.103 and R. S.39:4-128, and supplementing chapter 4
3 of Title 39 of the Revised Statutes.

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

7
8 1. R.S.39:1-1 is amended to read as follows:

9 39:1-1. As used in this subtitle, unless other meaning is clearly
10 apparent from the language or context, or unless inconsistent with the
11 manifest intention of the Legislature:

12 "Alley" means a public highway wherein the roadway does not
13 exceed 12 feet in width.

14 "Authorized emergency vehicles" means vehicles of the fire
15 department, police vehicles and such ambulances and other vehicles as
16 are approved by the [Director of the Division of Motor Vehicles in the
17 Department of Transportation] chief administrator when operated in
18 response to an emergency call.

19 "Automobile" includes all motor vehicles except motorcycles.

20 "Berm" means that portion of the highway exclusive of roadway
21 and shoulder, bordering the shoulder but not to be used for vehicular
22 travel.

23 "Business district" means that portion of a highway and the territory
24 contiguous thereto, where within any 600 feet along such highway
25 there are buildings in use for business or industrial purposes, including
26 but not limited to hotels, banks, office buildings, railroad stations, and
27 public buildings which occupy at least 300 feet of frontage on one side
28 or 300 feet collectively on both sides of the roadway.

29 "Car pool" means two or more persons commuting on a daily basis
30 to and from work by means of a vehicle with a seating capacity of nine
31 passengers or less.

32 "Chief Administrator" or "Administrator" means the [chief
33 administrator] Chief Administrator of the New Jersey Motor Vehicle
34 Commission.

35 "Commercial motor vehicle" includes every type of motor-driven
36 vehicle used for commercial purposes on the highways, such as the
37 transportation of goods, wares and merchandise, excepting such
38 vehicles as are run only upon rails or tracks and vehicles of the
39 passenger car type used for touring purposes or the carrying of farm
40 products and milk, as the case may be.

41 "Commission" means the New Jersey Motor Vehicle Commission
42 established by section 4 of P.L.2003, c.13 (C.39:2A-4).

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.

1 "Commissioner" means the Commissioner of Transportation of this
2 State.

3 "Commuter van" means a motor vehicle having a seating capacity
4 of not less than seven nor more than 15 adult passengers, in which
5 seven or more persons commute on a daily basis to and from work and
6 which vehicle may also be operated by the driver or other designated
7 persons for their personal use.

8 "Crosswalk" means that part of a highway at an intersection
9 included within the connections of the lateral lines of the sidewalks on
10 opposite sides of the highway measured from the curbs or, in the
11 absence of curbs, from the edges of the shoulder, or, if none, from the
12 edges of the roadway; also, any portion of a highway at an intersection
13 or elsewhere distinctly indicated for pedestrian crossing by lines or
14 other marking on the surface.

15 "Dealer" includes every person actively engaged in the business of
16 buying, selling or exchanging motor vehicles or motorcycles and who
17 has an established place of business.

18 "Deputy Chief Administrator" means the deputy chief administrator
19 of the commission.

20 "Deputy director" means the deputy [director of the Division of
21 Motor Vehicles in the Department of Transportation] chief
22 administrator.

23 "Director" means the [Director of the Division of Motor Vehicles
24 in the Department of Transportation] chief administrator.

25 "Division" means the [Division of Motor Vehicles in the
26 Department of Transportation] New Jersey Motor Vehicle
27 Commission acting directly or through its duly authorized officers or
28 agents.

29 "Driver" means the rider or driver of a horse, bicycle or motorcycle
30 or the driver or operator of a motor vehicle, unless otherwise
31 specified.

32 "Explosives" means any chemical compound or mechanical mixture
33 that is commonly used or intended for the purpose of producing an
34 explosion and which contains any oxidizing and combustive units or
35 other ingredients in such proportions, quantities or packing that an
36 ignition by fire, friction, by concussion, by percussion, or by detonator
37 of any part of the compound or mixture may cause such a sudden
38 generation of highly heated gases that the resultant gaseous pressures
39 are capable of producing destructive effects on contiguous objects or
40 of destroying life or limb.

41 "Farm tractor" means every motor vehicle designed and used
42 primarily as a farm implement for drawing plows, mowing machines,
43 and other implements of husbandry.

44 "Flammable liquid" means any liquid having a flash point below 200
45 degrees Fahrenheit, and a vapor pressure not exceeding 40 pounds.

1 "Gross weight" means the combined weight of a vehicle and a load
2 thereon.

3 "High occupancy vehicle" or "HOV" means a vehicle which is used
4 to transport two or more persons and shall include public
5 transportation, car pool, van pool, and other vehicles as determined by
6 regulation of the Department of Transportation.

7 "Highway" means the entire width between the boundary lines of
8 every way publicly maintained when any part thereof is open to the use
9 of the public for purposes of vehicular travel.

10 "Horse" includes mules and all other domestic animals used as
11 draught animals or beasts of burden.

12 "Inside lane" means the lane nearest the center line of the roadway.

13 "Intersection" means the area embraced within the prolongation of
14 the lateral curb lines or, if none, the lateral boundary lines of two or
15 more highways which join one another at an angle, whether or not one
16 such highway crosses another.

17 "Laned roadway" means a roadway which is divided into two or
18 more clearly marked lanes for vehicular traffic.

19 "Leased limousine" means any limousine subject to regulation in the
20 State which:

21 a. Is offered for rental or lease, without a driver, to be operated by
22 a limousine service as the lessee, for the purpose of carrying
23 passengers for hire; and

24 b. Is leased or rented for a period of one year or more following
25 registration.

26 "Leased motor vehicle" means any motor vehicle subject to
27 registration in this State which:

28 a. Is offered for rental or lease, without a driver, to be operated by
29 the lessee, his agent or servant, for purposes other than the
30 transportation of passengers for hire; and

31 b. Is leased or rented for a period of one year or more following
32 registration.

33 "Limited-access highway" means every highway, street, or roadway
34 in respect to which owners or occupants of abutting lands and other
35 persons have no legal right of access to or from the same except at
36 such points only and in such manner as may be determined by the
37 public authority having jurisdiction over such highway, street, or
38 roadway; and includes any highway designated as a "freeway" or
39 "parkway" by authority of law.

40 "Local authorities" means every county, municipal and other local
41 board or body having authority to adopt local police regulations under
42 the Constitution and laws of this State, including every county
43 governing body with relation to county roads.

44 "Magistrate" means any municipal court and the Superior Court,
45 and any officer having the powers of a committing magistrate and the

1 [Director of the Division of Motor Vehicles in the Department of
2 Transportation] chief administrator.

3 "Manufacturer" means a person engaged in the business of
4 manufacturing or assembling motor vehicles, who will, under normal
5 business conditions during the year, manufacture or assemble at least
6 10 new motor vehicles.

7 "Metal tire" means every tire the surface of which in contact with
8 the highway is wholly or partly of metal or other hard nonresilient
9 material.

10 "Motorized bicycle" means a pedal bicycle having a helper motor
11 characterized in that either the maximum piston displacement is less
12 than 50 cc. or said motor is rated at no more than 1.5 brake
13 horsepower and said bicycle is capable of a maximum speed of no
14 more than 25 miles per hour on a flat surface.

15 "Motorcycle" includes motorcycles, motor bikes, bicycles with
16 motor attached and all motor-operated vehicles of the bicycle or
17 tricycle type, except motorized bicycles as defined in this section,
18 whether the motive power be a part thereof or attached thereto and
19 having a saddle or seat with driver sitting astride or upon it or a
20 platform on which the driver stands.

21 "Motor-drawn vehicle" includes trailers, semitrailers, or any other
22 type of vehicle drawn by a motor-driven vehicle.

23 "Motor vehicle" includes all vehicles propelled otherwise than by
24 muscular power, excepting such vehicles as run only upon rails or
25 tracks and motorized bicycles.

26 "Noncommercial truck" means every motor vehicle designed
27 primarily for transportation of property, and which is not a
28 "commercial vehicle."

29 "Official traffic control devices" means all signs, signals, markings,
30 and devices not inconsistent with this subtitle placed or erected by
31 authority of a public body or official having jurisdiction for the
32 purpose of regulating, warning, or guiding traffic.

33 "Omnibus" includes all motor vehicles used for the transportation
34 of passengers for hire, except commuter vans and vehicles used in
35 ridesharing arrangements and school buses, if the same are not
36 otherwise used in the transportation of passengers for hire.

37 "Operator" means a person who is in actual physical control of a
38 vehicle or street car.

39 "Outside lane" means the lane nearest the curb or outer edge of the
40 roadway.

41 "Owner" means a person who holds the legal title of a vehicle, or
42 if a vehicle is the subject of an agreement for the conditional sale or
43 lease thereof with the right of purchase upon performance of the
44 conditions stated in the agreement and with an immediate right of
45 possession vested in the conditional vendee or lessee, or if a
46 mortgagor of a vehicle is entitled to possession, then the conditional

1 vendee, lessee or mortgagor shall be deemed the owner for the
2 purpose of this subtitle.

3 "Parking" means the standing or waiting on a street, road or
4 highway of a vehicle not actually engaged in receiving or discharging
5 passengers or merchandise, unless in obedience to traffic regulations
6 or traffic signs or signals.

7 "Passenger automobile" means all automobiles used and designed
8 for the transportation of passengers, other than omnibuses and school
9 buses.

10 "Pedestrian" means a person afoot.

11 "Person" includes natural persons, firms, copartnerships,
12 associations, and corporations.

13 "Pneumatic tire" means every tire in which compressed air is
14 designed to support the load.

15 "Pole trailer" means every vehicle without motive power designed
16 to be drawn by another vehicle and attached to the towing vehicle by
17 means of a reach, or pole, or by being boomed or otherwise secured
18 to the towing vehicle, and ordinarily used for transporting long or
19 irregularly shaped loads, such as poles, pipes, or structural members
20 capable, generally, of sustaining themselves as beams between the
21 supporting connections.

22 "Private road or driveway" means every road or driveway not open
23 to the use of the public for purposes of vehicular travel.

24 "Railroad train" means a steam engine, electric or other motor, with
25 or without cars coupled thereto, operated upon rails, except street
26 cars.

27 "Recreation vehicle" means a self-propelled or towed vehicle
28 equipped to serve as temporary living quarters for recreational,
29 camping or travel purposes and used solely as a family or personal
30 conveyance.

31 "Residence district" means that portion of a highway and the
32 territory contiguous thereto, not comprising a business district, where
33 within any 600 feet along such highway there are buildings in use for
34 business or residential purposes which occupy 300 feet or more of
35 frontage on at least one side of the highway.

36 "Ridesharing" means the transportation of persons in a motor
37 vehicle, with a maximum carrying capacity of not more than 15
38 passengers, including the driver, where such transportation is
39 incidental to the purpose of the driver. The term shall include such
40 ridesharing arrangements known as car pools and van pools.

41 "Right-of-way" means the privilege of the immediate use of the
42 highway.

43 "Road tractor" means every motor vehicle designed and used for
44 drawing other vehicles and not so constructed as to carry any load
45 thereon either independently or any part of the weight of a vehicle or
46 load so drawn.

1 "Roadway" means that portion of a highway improved, designed,
2 or ordinarily used for vehicular travel, exclusive of the berm or
3 shoulder. In the event a highway includes two or more separate
4 roadways, the term "roadway" as used herein shall refer to any such
5 roadway separately, but not to all such roadways, collectively.

6 "Safety zone" means the area or space officially set aside within a
7 highway for the exclusive use of pedestrians, which is so plainly
8 marked or indicated by proper signs as to be plainly visible at all times
9 while set apart as a safety zone.

10 "School bus" means every motor vehicle operated by, or under
11 contract with, a public or governmental agency, or religious or other
12 charitable organization or corporation, or privately operated [for
13 compensation] for the transportation of children to or from school for
14 secular or religious education, which complies with the regulations of
15 the [Department of Education] New Jersey Motor Vehicle
16 Commission affecting school buses, including "School Vehicle Type
17 I" and "School Vehicle Type II" as defined below:

18 "School Vehicle Type I" means any vehicle [with a seating capacity
19 of 17 or more] designed to transport 16 or more passengers, including
20 the driver, used to transport enrolled children, and adults only when
21 serving as chaperones, to or from a school, school connected activity,
22 day camp, summer day camp, summer residence camp, nursery school,
23 child care center, preschool center or other similar places of education.
24 Such vehicle shall comply with the regulations of the [Division of
25 Motor Vehicles] New Jersey Motor Vehicle Commission and either
26 the Department of Education or the Department of Human Services,
27 whichever is the appropriate supervising agency.

28 "School Vehicle Type II" means any vehicle [with a seating
29 capacity of 16 or less] designed to transport less than 16 passengers,
30 including the driver, used to transport enrolled children, and adults
31 only when serving as chaperones, to or from a school, school
32 connected activity, day camp, summer day camp, summer residence
33 camp, nursery school, child care center, preschool center or other
34 similar places of education. Such vehicle shall comply with the
35 regulations of the [Division of Motor Vehicles] New Jersey Motor
36 Vehicle Commission and either the Department of Education or the
37 Department of Human Services, whichever is the appropriate
38 supervising agency.

39 "School zone" means that portion of a highway which is either
40 contiguous to territory occupied by a school building or is where
41 school crossings are established in the vicinity of a school, upon which
42 are maintained appropriate "school signs" in accordance with
43 specifications adopted by the [director] chief administrator and in
44 accordance with law.

1 "School crossing" means that portion of a highway where school
2 children are required to cross the highway in the vicinity of a school.

3 "Semitrailer" means every vehicle with or without motive power,
4 other than a pole trailer, designed for carrying persons or property and
5 for being drawn by a motor vehicle and so constructed that some part
6 of its weight and that of its load rests upon or is carried by another
7 vehicle.

8 "Shipper" means any person who shall deliver, or cause to be
9 delivered, any commodity, produce or article for transportation as the
10 contents or load of a commercial motor vehicle. In the case of a
11 sealed ocean container, "shipper" shall not be construed to include any
12 person whose activities with respect to the shipment are limited to the
13 solicitation or negotiation of the sale, resale, or exchange of the
14 commodity, produce or article within that container.

15 "Shoulder" means that portion of the highway, exclusive of and
16 bordering the roadway, designed for emergency use but not ordinarily
17 to be used for vehicular travel.

18 "Sidewalk" means that portion of a highway intended for the use of
19 pedestrians, between the curb line or the lateral line of a shoulder, or
20 if none, the lateral line of the roadway and the adjacent right-of-way
21 line.

22 "Sign." See "Official traffic control devices."

23 "Slow-moving vehicle" means a vehicle run at a speed less than the
24 maximum speed then and there permissible.

25 "Solid tire" means every tire of rubber or other resilient material
26 which does not depend upon compressed air for the support of the
27 load.

28 "Street" means the same as highway.

29 "Street car" means a car other than a railroad train, for transporting
30 persons or property and operated upon rails principally within a
31 municipality.

32 "Stop," when required, means complete cessation from movement.

33 "Stopping or standing," when prohibited, means any cessation of
34 movement of a vehicle, whether occupied or not, except when
35 necessary to avoid conflict with other traffic or in compliance with the
36 directions of a police officer or traffic control sign or signal.

37 "Suburban business or residential district" means that portion of
38 highway and the territory contiguous thereto, where within any 1,320
39 feet along that highway there is land in use for business or residential
40 purposes and that land occupies more than 660 feet of frontage on one
41 side or collectively more than 660 feet of frontage on both sides of
42 that roadway.

43 "Through highway" means every highway or portion thereof at the
44 entrances to which vehicular traffic from intersecting highways is
45 required by law to stop before entering or crossing the same and when
46 stop signs are erected as provided in this chapter.

1 "Trackless trolley" means every motor vehicle which is propelled by
2 electric power obtained from overhead trolley wires but not operated
3 upon rails.

4 "Traffic" means pedestrians, ridden or herded animals, vehicles,
5 street cars, and other conveyances either singly, or together, while
6 using any highway for purposes of travel.

7 "Traffic control signal" means a device, whether manually,
8 electrically, mechanically, or otherwise controlled, by which traffic is
9 alternately directed to stop and to proceed.

10 "Trailer" means every vehicle with or without motive power, other
11 than a pole trailer, designed for carrying persons or property and for
12 being drawn by a motor vehicle and so constructed that no part of its
13 weight rests upon the towing vehicle.

14 "Truck" means every motor vehicle designed, used, or maintained
15 primarily for the transportation of property.

16 "Truck tractor" means every motor vehicle designed and used
17 primarily for drawing other vehicles and not so constructed as to carry
18 a load other than a part of the weight of the vehicle and load so drawn.

19 "Van pooling" means seven or more persons commuting on a daily
20 basis to and from work by means of a vehicle with a seating
21 arrangement designed to carry seven to 15 adult passengers.

22 "Vehicle" means every device in, upon or by which a person or
23 property is or may be transported upon a highway, excepting devices
24 moved by human power or used exclusively upon stationary rails or
25 tracks or motorized bicycles.

26 (cf: P.L.2003, c.13, s.36)

27

28 2. Section 3 of P.L.1990, c.103 (C.39:3-10.11) is amended to read
29 as follows:

30 3. For purposes of this act, a term shall have the meaning set forth
31 in R.S.39:1-1 unless another meaning for the term is set forth in this
32 act, or unless another meaning is clearly apparent from the language
33 or context of this act, or unless the meaning for the term set forth in
34 R.S.39:1-1 is inconsistent with the manifest intent of the Legislature
35 in this act.

36 For purposes of this act:

37 "Alcohol concentration" means:

- 38 a. The number of grams of alcohol per 100 milliliters of blood; or
39 b. The number of grams of alcohol per 210 liters of breath.

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

43 "Commercial Driver License Information System" or "CDLIS"
44 means the information system established pursuant to the federal
45 "Commercial Motor Vehicle Safety Act of 1986," Pub.L.99-570 (49
46 U.S.C. s.2701 et seq.) to serve as a clearinghouse for locating

1 information related to the licensing and identification of commercial
2 motor vehicle drivers.

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

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

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

12 c. If the vehicle is designed to transport 16 or more passengers
13 including the driver;

14 d. If the vehicle is designed to transport eight or more but less than
15 16 persons, including the driver, and is used to transport such persons
16 for hire on a daily basis to and from places of employment; [or]

17 e. If the vehicle is transporting or used in the transportation of
18 hazardous materials and is required to be placarded in accordance with
19 Subpart F. of 49 C.F.R. s.172, or the vehicle displays a hazardous
20 material placard ; or

21 f. If the vehicle is operated by, or under contract with, a public or
22 governmental agency, or religious or other charitable organization or
23 corporation, or is privately operated, and is used for the transportation
24 of children to or from a school, school connected activity, day camp,
25 summer day camp, summer residence camp, nursery school, child care
26 center, preschool center or other similar places of education.

27 The chief administrator may, by regulation, include within this
28 definition such other motor vehicles or combination of motor vehicles
29 as he deems appropriate.

30 This term shall not include recreation vehicles.

31 This term shall not include motor vehicles designed to transport
32 eight or more but less than sixteen persons, including the driver, which
33 are owned and operated directly by businesses engaged in the practice
34 of mortuary science when those vehicles are used exclusively for
35 providing transportation related to the provision of funeral services
36 and which shall not be used in that capacity at any time to pick up or
37 discharge passengers to any airline terminal, train station or other
38 transportation center, or for any purpose not directly related to the
39 provision of funeral services.

40 "Controlled substance" means any substance so classified under
41 subsection (6) of section 102 of the "Controlled Substances Act" (21
42 U.S.C. s.802), and includes all substances listed on Schedules I
43 through V of 21 C.F.R. s.1308, or under P.L.1970, c.226 (C.24:21-1
44 et seq.) as they may be revised from time to time. The term, wherever
45 it appears in this act or administrative regulation promulgated pursuant
46 to this act, shall include controlled substance analogs.

1 "Controlled substance analog" means a substance that has a
2 chemical structure substantially similar to that of a controlled
3 dangerous substance and that was specifically designed to produce an
4 effect substantially similar to that of a controlled dangerous substance.
5 The term shall not include a substance manufactured or distributed in
6 conformance with the provisions of an approved new drug application
7 or an exemption for investigational use within the meaning of section
8 505 of the Federal Food, Drug and Cosmetic Act (21 U.S.C. s.355).

9 "Conviction" means a final adjudication that a violation has
10 occurred, a final judgment on a verdict, a finding of guilt in a tribunal
11 of original jurisdiction, or a conviction following a plea of guilty, non
12 vult or nolo contendere accepted by a court. It also includes an
13 unvacated forfeiture of bail, bond or collateral deposited to secure the
14 person's appearance in court, or the payment of a fine or court costs,
15 or violation of a condition of release without bail, regardless of
16 whether the penalty is rebated, suspended, or probated.

17 "Disqualification" means either:

18 a. The suspension, revocation, cancellation, or any other
19 withdrawal by a state of a person's privilege to operate a commercial
20 motor vehicle;

21 b. A determination by the [Federal Highway Administration]
22 Federal Motor Carrier Safety Administration under the rules of
23 practice for motor carrier safety contained in 49 C.F.R. s.386, that a
24 person is no longer qualified to operate a commercial motor vehicle
25 under 49 C.F.R. s.391; or

26 c. The loss of qualification which automatically follows conviction
27 of an offense listed in 49 [§]C.F.R.s.383.51.

28 "Domicile" means that state where a person has a true, fixed, and
29 permanent home and principal residence and to which the person
30 intends to return whenever the person is absent.

31 "Driver license" means a license issued by this State or any other
32 jurisdiction to a person authorizing the person to operate a motor
33 vehicle.

34 "Endorsement" means an authorization to a commercial driver
35 license required to permit the holder of the license to operate certain
36 types of commercial motor vehicles.

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

41 "Foreign jurisdiction" means any jurisdiction other than a state of
42 the United States.

43 "Gross vehicle weight rating" or "GVWR" means the value
44 specified by a manufacturer as the loaded weight of a single or a
45 combination (articulated) vehicle [, or the registered gross weight,
46 whichever is greater]. The GVWR of a combination (articulated)

1 vehicle, commonly referred to as the "gross combination weight
2 rating" or "GCWR," is the GVWR of the power unit plus the GVWR
3 of the towed unit or units. In the absence of a value specified for the
4 towed unit or units by the manufacturer, the GVWR of a combination
5 (articulated) vehicle is the GVWR of the power unit plus the total
6 weight of the towed unit, including the loads on them.

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

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

16 "Non-commercial motor vehicle" means a motor vehicle or
17 combination of motor vehicles other than a "commercial motor
18 vehicle" as defined in this section.

19 **["Out of service order"]** "Out-of-service order" means a
20 temporary prohibition against operating a commercial motor vehicle.

21 "Recreation vehicle" means a self-propelled or towed vehicle
22 equipped to serve as temporary living quarters for recreational,
23 camping, or travel purposes and is used solely as a family or personal
24 conveyance.

25 "Representative vehicle" means a motor vehicle which represents
26 the type of motor vehicle that a commercial driver license applicant
27 operates or expects to operate.

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

30 a. Excessive speeding, involving any single offense for a speed of
31 15 miles per hour or more above the speed limit;

32 b. Reckless driving, as defined by state or local law or regulation,
33 including, but not limited to, offenses of driving a commercial motor
34 vehicle in willful or wanton disregard of the safety of persons or
35 property, including violations of R.S.39:4-96;

36 c. Improper or erratic traffic lane changes;

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

39 e. A violation, arising in connection with a fatal accident, of state
40 or local law relating to motor vehicle traffic control, other than a
41 parking violation; **[or]**

42 f. Any other violation of a state or local law relating to motor
43 vehicle traffic control determined by the Secretary of the United States
44 Department of Transportation in 49 C.F.R. s.383.5 to be a serious
45 traffic violation;

1 g. Driving a commercial motor vehicle without a commercial driver
2 license in the driver's possession; or

3 h. Driving a commercial motor vehicle without the proper class of
4 commercial driver license or endorsements for the specific vehicle
5 group being operated or for the passengers or type of cargo being
6 transported.

7 This term shall not include vehicle weight or defect violations.

8 "State" means a state of the United States or the District of
9 Columbia.

10 "Tank vehicle" means any commercial motor vehicle that is
11 designed to transport any liquid or gaseous material within a tank that
12 is either permanently or temporarily attached to the vehicle or the
13 chassis. Such vehicles include, but are not limited to, cargo tanks and
14 portable tanks as defined by the director. However, this definition
15 does not include portable tanks having a rated capacity under 1,000
16 gallons.

17 "Vehicle group" means a class or type of vehicle with certain
18 operating characteristics.

19 (cf: P.L.2004, c.124, s.2)

20
21 3. Section 4 of P.L.1990, c.103 (C.39:3-10.12) is amended to read
22 as follows:

23 4. a. Notwithstanding any other provision of law to the contrary,
24 the [director] chief administrator shall adopt and administer a
25 classified licensing system and a program for testing and ensuring the
26 fitness of persons to operate commercial motor vehicles in accordance
27 with the minimum federal standards established under the federal
28 "Commercial Motor Vehicle Safety Act of 1986," Pub. L. 99-570 (49
29 U.S.C. s. 2701 et seq.) and the regulations promulgated pursuant to
30 that law. The [director] chief administrator shall not issue a
31 commercial driver license to a person unless that person passes a
32 knowledge and skills test for the operation of a commercial motor
33 vehicle which complies with the federal standards. The [director]
34 chief administrator may issue commercial driver examination or
35 learner's permits, subject to such conditions and restrictions as deemed
36 necessary, to carry out the provisions of this act.

37 b. A knowledge and skills test shall not be required by the
38 [director] chief administrator for the renewal of a commercial driver
39 license issued pursuant to the provisions of this act. However, a
40 knowledge and skills test may be required for (1) the renewal of an
41 endorsement permitting the operation of vehicles required to be
42 placarded for hazardous materials, (2) for the renewal or reissuance of
43 a commercial driver license if the license was suspended or revoked
44 under section 12 of this act during the last license period preceding the
45 renewal or reissuance, or (3) for the renewal or reissuance of a license
46 which had not been renewed for a period of three or more years.

1 c. Upon the request of an applicant for a commercial driver license,
2 the [director] chief administrator shall administer to the applicant oral
3 knowledge tests for the commercial driver license and any
4 endorsements if the applicant supplies sufficient proof or otherwise
5 demonstrates to the satisfaction of the [director] chief administrator
6 his inability to comprehend a written test. The [director] chief
7 administrator shall provide an English and Spanish version of the
8 knowledge tests for a commercial driver license and for any
9 endorsements and shall be authorized to provide versions in such other
10 languages as he, in his discretion, may deem appropriate.

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

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

35 f. For the purposes of an application for a commercial driver
36 license by a person who has never held a license issued under the
37 provisions of this act, a person who satisfactorily completes the
38 knowledge test for the commercial driver license but not the test for
39 an endorsement, or a person who satisfactorily completes the
40 knowledge test for an endorsement but not the test for the commercial
41 driver license, shall not be required to retake that test which was
42 satisfactorily completed.

43 g. No provision in this act, or in any manual, test, or administrative
44 procedure developed to implement the provisions of this act, shall be
45 deemed to expand the requirements for commercial motor vehicle
46 operators concerning pre-trip inspection, after-trip inspection and

1 inspection during a trip as such requirements are set forth in federal
2 law or regulation. This subsection, however, shall not be deemed to
3 limit the authority of the [director] chief administrator, or the
4 authority of any State department or agency, to promulgate, pursuant
5 to other provisions of State law, standards and procedures on vehicle
6 inspections which are consistent with federal law and regulation.

7 h. Classified licensing of drivers of school buses shall be by
8 endorsement on the commercial driver license issued pursuant to
9 P.L.1990, c.103 (C.39:3-10.9 et seq.).

10 (cf: P.L.1990, c.103, s.4)

11
12 4. Section 6 of P.L.1990, c.103 (C.39:3-10.14) is amended to read
13 as follows:

14 6. a. Before issuing a commercial driver license to an applicant,
15 the [director] chief administrator shall notify the Commercial Driver
16 License Information System of the proposed issuance and shall request
17 driving record information from the Commercial Driver License
18 Information System, the National Driver Register, and from any other
19 state which has issued a commercial driver license, non-commercial
20 motor vehicle driver license or basic driver license to the applicant to
21 determine whether the applicant has a commercial driver license, non-
22 commercial motor vehicle driver license or basic driver license issued
23 by another state, whether the applicant's driving privilege has been
24 suspended, revoked, cancelled, or whether the applicant has been
25 disqualified from operating a commercial motor vehicle.

26 The [director] chief administrator also shall provide driving record
27 and other information to the licensing authority of any other state, or
28 province or territory of Canada, which requests such information in
29 connection with a commercial driver license. The [director] chief
30 administrator may charge such fees as are deemed appropriate to cover
31 the costs of providing information, except that no fee shall be charged
32 if the other jurisdiction does not charge this State for similar requests.

33 b. Within 10 days after the issuance of a commercial driver license,
34 the [director] chief administrator shall notify the Commercial Driver
35 License Information System of that fact, providing all information
36 required to ensure identification of the licensee.

37 (cf: P.L.1990, c.103, s.6)

38
39 5. Section 7 of P.L.1990, c.103 (C.39:3-10.15) is amended to read
40 as follows:

41 7. Within 10 days after receiving a report of the conviction of a
42 holder of a commercial driver license for any violation of state law
43 related to motor vehicle traffic control committed in a [commercial]
44 vehicle, other than a parking violation, or a report of the conviction of
45 a person who is not the holder of a commercial driver license for any
46 violation of state law related to motor vehicle traffic control

1 committed in a commercial vehicle, other than a parking violation, or
2 after the disqualification of the holder of a commercial driver license
3 or suspension of privileges for a period of 60 days or more, the
4 **[division] commission** shall notify the driver licensing authority in the
5 licensing state, if other than this State, and the Commercial Driver
6 License Information System of the conviction, suspension, or
7 disqualification. The notification shall include all information the
8 **[director] chief administrator** deems necessary.
9 (cf: P.L.1990, c.103, s.7)

10

11 6. Section 10 of P.L.1990, c.103 (C.39:3-10.18) is amended to
12 read as follows:

13 10. a. (1) **[Through March 31, 1992, and except as provided by**
14 **the director by rule or regulation, a person who has been issued a**
15 **commercial driver license shall not operate a commercial motor vehicle**
16 **unless the person is in possession of the valid commercial driver**
17 **license and endorsements for the class and type of vehicle being**
18 **operated. Such a person shall not operate a commercial motor vehicle**
19 **if the person is restricted from operating a commercial vehicle of that**
20 **class or type] (Deleted by amendment, P.L. , c.)(now pending**
21 **before the Legislature as this bill).**

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

31 (3) A person violating this subsection shall be fined not less than
32 \$250 or more than \$500, or imprisoned for not more than 60 days, or
33 both, and if that person has never been licensed to operate a
34 commercial motor vehicle in this State or any other jurisdiction, the
35 court shall issue an order to the Chief Administrator of the New Jersey
36 Motor Vehicle Commission requiring the chief administrator to refuse
37 to issue a license to operate a commercial motor vehicle to that person
38 for a period of 180 days. This penalty shall not be applicable in cases
39 where failure to have actual possession of the commercial driver
40 license is due to an administrative or technical error by the **[division]**
41 **commission**. If a person charged with a failure to have possession of
42 a valid commercial driver license can exhibit the license to the judge
43 of the court before whom he is summoned to answer to a charge and
44 the license was valid on the day the person was charged, the judge may
45 dismiss the charge. However, the judge may impose court costs.

1 b. (1) A person who has been refused a commercial driver license,
2 whose commercial motor vehicle driving privilege or any endorsement
3 has been suspended or revoked, who has been prohibited or
4 disqualified from operating a commercial motor vehicle, who is subject
5 to an out of service order, or whose driving privilege is suspended or
6 revoked, shall not operate a commercial motor vehicle during the
7 period of refusal, suspension, revocation, prohibition, or
8 disqualification, or during the period of the out of service order.

9 (2) A person who violates this subsection shall, upon conviction, be
10 fined not less than \$500 or more than \$5,000 for each offense, or
11 imprisoned for a term of not more than 90 days, or both; provided,
12 however, a person who operates a commercial motor vehicle during
13 the period of an out-of-service order shall, upon conviction, be fined
14 not less than \$1,100 or more than \$2,750 and may be imprisoned for
15 a term of not more than 90 days. If a person is involved in an accident
16 resulting in personal injury to another person while operating a
17 commercial motor vehicle in violation of this subsection, the court
18 shall impose both a period of imprisonment for 90 days and a fine of
19 \$5,000.

20 (3) An employer shall not knowingly allow, require, permit or
21 authorize a driver to operate a commercial motor vehicle during the
22 period of refusal, suspension, revocation, prohibition, disqualification,
23 or during the period of the out-of-service order. An employer who is
24 convicted of a violation of this subsection shall be subject to a fine of
25 not less than \$2,750 or more than \$11,000.

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

29 (cf: P.L.1990, c.103, s.10)

30

31 7. Section 12 of P.L.1990, c.103 (C.39:3-10.20) is amended to
32 read as follows:

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

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

39 (2) R.S.39:4-129 if the motor vehicle was a commercial motor
40 vehicle operated by the person.

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

43 (4) Refusal to submit to a chemical test under section 2 of
44 P.L.1966, c.142 (C.39:4-50.2) or section 16 of this act if the motor
45 vehicle was a commercial motor vehicle.

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

1 (6) A violation, arising in connection with a fatal accident, State
2 law or local law relating to motor vehicle traffic control, other than a
3 parking violation, regardless of whether the motor vehicle operated by
4 the person was a commercial motor vehicle or a non-commercial
5 motor vehicle.

6 b. If a first violation of any of the violations specified in subsection
7 a. of this section takes place while transporting hazardous material or
8 takes place in a vehicle displaying a hazardous material placard, the
9 court shall suspend the commercial motor vehicle driving privilege of
10 the person for three years.

11 c. Subject to the provisions of subsection d. of this section, the
12 court shall revoke for life the commercial motor vehicle driving
13 privilege of a person for a second or subsequent violation of any of the
14 offenses specified in subsection a. or any combination of those
15 offenses arising from two or more separate incidents.

16 d. The [director] chief administrator may issue rules and
17 regulations establishing guidelines, including conditions under which
18 a revocation of commercial motor vehicle driving privilege for life
19 under subsection c. may be reduced to a period of not less than 10
20 years.

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

30 f. (1) A court shall suspend the commercial motor vehicle driving
31 privilege of a person for a period of not less than 60 days if the person
32 is convicted of a serious traffic violation, other than a violation arising
33 in connection with a fatal accident as set forth in paragraph (6) of
34 subsection a. of this section, and that conviction constitutes the second
35 serious traffic violation committed in a commercial motor vehicle or
36 non-commercial motor vehicle in this or any other state arising from
37 separate incidents occurring within a three year period. A court shall
38 suspend the commercial motor vehicle driving privilege for 120 days
39 if the conviction constitutes the third or subsequent serious traffic
40 violation, other than a violation arising in connection with a fatal
41 accident as set forth in paragraph (6) of subsection a. of this section,
42 committed in a commercial motor vehicle or non-commercial motor
43 vehicle in this or any other state arising from separate incidents
44 occurring within a three year period.

45 (2) A court shall suspend the commercial motor vehicle driving
46 privilege of a person for a period of not less than 60 days if the person

1 is convicted of a violation of R.S.39:4-128; section 68 of P.L.1951,
2 c.23 (C.39:4-127.1); or section 10 of P.L. , c. (C.)(now pending
3 before the Legislature as this bill). A court shall suspend the
4 commercial motor vehicle driving privilege for not less than 120 days
5 if the conviction constitutes the second violation of R.S.39:4-128;
6 section 68 of P.L.1951, c.23 (C.39:4-127.1); section 10 of P.L. ,
7 c. (C.) or any combination of such violations in this or any other
8 state arising from separate incidents occurring within a three-year
9 period. A court shall suspend the commercial motor vehicle driving
10 privilege for not less than one year if the conviction constitutes the
11 third or subsequent violation of R.S.39:4-128; section 68 of P.L.1951,
12 c.23 (C.39:4-127.1); section 10 of P.L. , c. (C.) (now pending
13 before the Legislature as this bill) or any combination of such
14 violations in this or any other state arising from separate incidents
15 occurring within the past three years.

16 (3) A court shall suspend the commercial motor vehicle driving
17 privilege of a person for a period of not less than 180 days or more
18 than one year if the person is convicted of violating a driver or vehicle
19 out-of-service order while driving a commercial motor vehicle
20 transporting nonhazardous materials. A court shall suspend the
21 commercial motor vehicle driving privilege of a person for a period of
22 not less than one year or more than five years if the conviction
23 constitutes the second conviction in a separate incident within a 10-
24 year period of violating a driver or vehicle out-of-service order while
25 driving a commercial motor vehicle transporting nonhazardous
26 materials. A court shall suspend the commercial motor vehicle driving
27 privilege for a person for a period of not less than three years or more
28 than five years if the conviction constitutes the third or subsequent
29 conviction in a separate incident within a 10-year period of violating
30 a driver or vehicle out-of-service order while driving a commercial
31 motor vehicle transporting nonhazardous materials.

32 (4) A court shall suspend the commercial motor vehicle driving
33 privilege of a person for a period of not less than 180 days or more
34 than two years if the person is convicted of violating a driver or
35 vehicle out-of-service order while driving a commercial motor vehicle
36 transporting hazardous materials required to be placarded under
37 Subpart F of 49 C.F.R. s.172, or while operating a vehicle designed to
38 transport 16 or more passengers, including the driver. A court shall
39 suspend the commercial motor vehicle driving privilege of a person for
40 a period of not less than three years or more than five years if the
41 conviction constitutes a second or subsequent conviction in a separate
42 incident within a 10-year period of violating a driver or vehicle out-of-
43 service order while driving a commercial motor vehicle transporting
44 hazardous materials required to be placarded under Subpart F of 49
45 C.F.R. s.172, or while operating a vehicle designed to transport 16 or
46 more passengers, including the driver.

1 g. After suspending, revoking or canceling a commercial motor
2 vehicle driving privilege, a court shall make a report to the [director]
3 chief administrator within three days in such form as the [director]
4 chief administrator may require. The [director] chief administrator
5 shall notify the Commercial Driver License Information System of the
6 suspension, revocation, or cancellation. In the case of non-residents,
7 the [director] chief administrator also shall notify the licensing
8 authority of the state which issued the commercial driver license or the
9 state where the person is domiciled. The [director] chief
10 administrator shall provide these notices within 10 days after the
11 suspension, revocation, cancellation, or disqualification.

12 h. The [director] chief administrator shall in accordance with this
13 section suspend a commercial motor vehicle driving privilege of a
14 person holding, or required to hold, a commercial driver license issued
15 by this State if the person is convicted in another state or foreign
16 jurisdiction of an offense of a substantially similar nature to the
17 offenses specified in subsection a., e., [or] f., g., h., i. or j. of this
18 section. For purposes of this section, a violation such as driving while
19 intoxicated, driving under the influence, or driving while ability is
20 impaired shall be considered substantially similar offenses. For
21 purposes of this section, a violation committed in another state but
22 substantially similar to those enumerated in subsection a., e., f., g., h.,
23 i. or j. of this section committed in this State shall be included.

24 i. Notwithstanding any other provision of law to the contrary, a
25 conviction under this section, or section 5 or 16 of this act, shall not
26 merge with a conviction for a violation of R.S.39:4-50 or section 2 of
27 P.L.1966, c.142 (C.39:4-50.2).

28 j. In addition to any other penalty provided by law, a court shall
29 suspend for one year the commercial motor vehicle driving privilege
30 of a person for a first violation of:

31 (1) R.S.39:4-50 while operating a non-commercial motor vehicle;

32 (2) R.S.39:4-129 while operating a non-commercial motor vehicle;

33 (3) Refusing to submit to a chemical test under section 2 of
34 P.L.1966, c.142 (C.39:4-50.2) while operating a non-commercial
35 motor vehicle; or

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

38 k. The chief administrator shall in accordance with this section
39 suspend the commercial motor vehicle driving privilege of a person
40 holding, or required to hold, a commercial driver license issued by this
41 State if that person has been disqualified from operating a commercial
42 motor vehicle by the Federal Motor Carrier Safety Administration
43 pursuant to 49 C.F.R. s.383.52 because that person's driving has been
44 determined to constitute an imminent hazard.

45 l. The Motor Vehicle Commission shall maintain records of
46 accidents, convictions, and disqualification for persons holding, or

1 required to hold, a commercial driver license in accordance with 49
2 C.F.R. s.384.225 and the AAMVAnet, Inc.'s "Commercial Driver
3 License Information System State Procedures," as amended and
4 supplemented.

5 (cf: P.L.1990, c.103, s.12)

6

7 8. Section 14 of P.L.1990, c.103 (C.39:3-10.22) is amended to
8 read as follows:

9 14. The [director] chief administrator shall waive the skills test for
10 a commercial driver license applicant who demonstrates that he meets
11 the requirements for a waiver under the federal "Commercial Motor
12 Vehicle Safety Act of 1986," Pub. L. 99-570 (49 U.S.C. s. 2701 et
13 seq.), as those requirements are set forth in 49 C.F.R. s.383.77.

14 (cf: P.L.1990, c.103, s.14)

15

16 9. R.S.39:4-128 is amended to read as follows:

17 39:4-128. (a) The driver of any omnibus, designed for carrying
18 more than six passengers, or of any school bus carrying any school
19 child or children, or of any vehicle carrying explosive substance or
20 flammable liquids as a cargo or part of a cargo, or of any commercial
21 motor vehicle specified in 49 C.F.R. s.392.10(a) (1) through (6),
22 before crossing at grade any track or tracks of a railroad shall stop
23 such vehicle within 50 feet but not less than 15 feet from the nearest
24 rail of such railroad and while so stopped listen and look in both
25 directions along such track or tracks, for any approaching train, and
26 for signals indicating the approach of a train. After stopping as
27 required herein and upon proceeding when it is safe to do so, the
28 driver of any said vehicle shall cross only in such gear of the vehicle
29 that there will be no necessity for changing gears while traversing such
30 crossing and the driver shall not shift gears while crossing the track or
31 tracks. This section shall not apply to grade crossings which are no
32 longer used for railroad traffic and which have been abandoned by the
33 railroad company provided that appropriate signs have been posted to
34 indicate that such grade crossing has been abandoned or is no longer
35 used for any railroad traffic. This section shall not apply to grade
36 crossings where the railroad track has been removed or paved over
37 and the warning signs erected by the railroad in accordance with R.S.
38 48:12-58 have been removed, provided that in such case written notice
39 is given to the Commissioner of Transportation and to the appropriate
40 State or local authority having jurisdiction over the highway, road, or
41 street prior to the undertaking of such removal or paving of railroad
42 track. This section shall also not apply to grade crossings marked with
43 a sign reading "Exempt Crossing."

44 The Commissioner of Transportation is hereby vested with the
45 exclusive authority to designate and mark any railroad grade crossings
46 across any street or highway in this State with a sign "Exempt

1 Crossing." The commissioner shall hold a public hearing before
2 designating any crossing as exempt with notice of such hearing to be
3 served in accordance with regulations promulgated by the
4 commissioner.

5 The commissioner shall designate a grade crossing an exempt
6 crossing when the potential for damage and injury from accidents
7 between motor vehicles required to stop at grade crossings and other
8 motor vehicles traveling in the same direction exceeds that between a
9 train and the vehicles required to stop by law. Crossings designated
10 as exempt crossings may include, but shall not be limited to, industrial,
11 spurline and secondary crossings. The commissioner shall promulgate
12 such regulations as are necessary to effectuate the purpose of the
13 establishment of exempt crossings.

14 (b) No person shall operate or move any crawler-type tractor,
15 wheel tractor, tractor engine with or without trailer or trailers
16 attached, steam shovel, derrick, roller, self-propelled concrete mixer,
17 or any self-propelled vehicle, commercial motor vehicle, equipment,
18 machinery, apparatus or structure having a normal operating speed of
19 10 or less miles per hour or a vertical body or load clearance of less
20 than 1/2 inch per foot of the distance between any two adjacent axles
21 or in any event of less than 9 inches, measured above the level surface
22 of a roadway, upon or across any track or tracks at a railroad grade
23 crossing without first complying with the following requirements.

24 Notice of any such intended crossing shall be given to the nearest
25 superintendent or trainmaster of such railroad. Such notice shall
26 specify the approximate time of crossing and a reasonable time shall
27 be given to such railroad to provide proper protection at such
28 crossing.

29 After concluding satisfactory arrangements with the proper officer
30 of the railroad and before making any such crossing, the person
31 operating or moving any such vehicle or equipment shall first stop the
32 same not less than 15 feet nor more than 50 feet from the nearest rail
33 of such railroad, and while so stopped shall listen and look in both
34 directions along such track or tracks for any approaching train and for
35 signals indicating the approach of a train, and shall not proceed until
36 the crossing can be made safely.

37 No such crossing shall be made when warning is given by automatic
38 signal or crossing gates or a flagman or otherwise of the immediate
39 approach of a railroad train or car. If the flagman is provided by the
40 railroad, movement over the crossing shall be made under his
41 jurisdiction.

42 (c) Any person violating the provisions of this section shall be
43 punished by a fine of not more than \$50.00 for the first offense and for
44 the second offense a fine of not more than \$100.00, or by
45 imprisonment for not more than 30 days, or by both such fine and
46 imprisonment.

1 (d) This section shall not be construed as limiting the authority of
2 any municipality to adopt police regulations governing the operation
3 of omnibuses and to provide penalties for their violation, or to relieve
4 the owner or operator of such omnibus subject to the jurisdiction of
5 the Board of Public Utilities from any penalty prescribed by the laws
6 of this State for violation of orders of such board.

7 (cf: P.L. 1979, c. 48, s. 1)

8

9 10. (New section) a. A driver of a commercial motor vehicle,
10 other than a commercial motor vehicle that is required to stop at a
11 railroad crossing in accordance with R.S.39:4-128, shall, upon
12 approaching a railroad grade crossing, drive at a rate of speed that will
13 permit the commercial motor vehicle to be stopped before reaching the
14 nearest rail of the crossing. A driver shall not drive a commercial
15 motor vehicle upon or over a railroad crossing until he has exercised
16 due caution to ascertain that a train is not approaching the crossing.

17 b. A driver of a commercial motor vehicle, other than a commercial
18 motor vehicle that is required to stop at a railroad crossing in
19 accordance with R.S.39:4-128, shall stop that commercial motor
20 vehicle before reaching the nearest rail of the crossing, if the tracks of
21 the crossing are not clear of other vehicles or if there is insufficient
22 space to drive the commercial motor vehicle completely through the
23 crossing without stopping the commercial motor vehicle.

24 c. An employer shall not knowingly allow, require, permit or
25 authorize a driver to operate a commercial motor vehicle in violation
26 of R.S.39:4-128, section 68 of P.L.1951, c.23 (C.39:4-127.1) or this
27 section. An employer who is convicted of any such violation shall be
28 fined not more than \$10,000.

29

30 11. This act shall take effect immediately.

31

32

33

STATEMENT

34

35 This bill would bring the provisions of the "New Jersey Commercial
36 Driver License Act," P.L.1990, c.103 (C.39:3-10.9 et seq.) into
37 conformity with the Federal Motor Carrier Safety Improvement Act of
38 1999 and the rules and regulations promulgated by the Federal Motor
39 Carrier Safety Administration.

40 Under the provisions of the bill, existing penalties are clarified and
41 new offenses are established. For example, the current definition of a
42 "serious traffic violation" is expanded to include two new offenses:
43 (1) driving a commercial motor vehicle without having in one's
44 possession a commercial driver license (CDL) and (2) driving a
45 commercial motor vehicle without having the proper CDL license or
46 endorsement for that particular vehicle.

1 The bill establishes a minimum penalty of \$500 for persons who
2 operate commercial motor vehicles while their CDLs are suspended or
3 revoked, or who have been otherwise prohibited or disqualified from
4 operating a commercial motor vehicle. A person who operates a
5 commercial motor vehicle while subject to an out of service order is
6 subject to a fine of not less than \$1,100 or more than \$2750, and may
7 be imprisoned for a term of not more than 90 days. Any employer
8 who knowingly permits a driver to operate a commercial motor vehicle
9 during a time when that driver is prohibited or disqualified from
10 operating a commercial motor vehicle, or the driver's CDL is revoked
11 or suspended, or the driver is subject to an out of service order is
12 subject to a fine of not less than \$2,750 or more than \$11,000.

13 Other new offenses and penalties include CDL suspensions for: (1)
14 certain motor vehicle violations committed while operating a non-
15 commercial vehicle; (2) failing to properly stop at railroad crossings
16 and (3) operating a commercial motor vehicle while subject to an out
17 of service order.

18 The bill also clarifies that an operator who commits a traffic
19 violation which results in a motor vehicle fatality, regardless of
20 whether he was operating a commercial or non-commercial motor
21 vehicle, is subject to a license suspension of one to three years, in
22 addition to any other prescribed penalties.

23 In addition, the bill provides for the classified licensing of school
24 bus drivers by an endorsement on their CDLs.

25 Further, the bill amends R.S.39:4-128 to bring the scope of that
26 section's provisions into conformity with the federal code concerning
27 which types of commercial motor vehicles must stop at railroad grade
28 crossings. In addition, the bill establishes new approach procedures
29 and protocols for commercial motor vehicles that are not required by
30 law to stop at those railroad grade crossings.

31 With regard to the issuance of a CDL, the chief administrator's
32 responsibilities are broadened under this bill. Currently, before issuing
33 a CDL the chief administrator must determine whether any other state
34 has issued a CDL to the applicant. Under this bill, the chief
35 administrator also would be required to determine whether the
36 applicant has been issued a CDL, non-commercial driver license or a
37 basic driver license by any other state.

38 Finally, the bill includes technical amendments to eliminate
39 transitional provisions that are outdated and no longer applicable, and,
40 to reflect the enactment of P.L.2003, c.13, replaces references to
41 "Director" and "Division of Motor Vehicles" with "Chief
42 Administrator" and "New Jersey Motor Vehicle Commission."

ASSEMBLY TRANSPORTATION COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3793

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 10, 2005

The Assembly Transportation Committee reports favorably and with committee amendments Assembly Bill No. 3793.

As reported, this bill would bring the provisions of the "New Jersey Commercial Driver License Act," P.L.1990, c.103 (C.39:3-10.9 et seq.) into conformity with the Federal Motor Carrier Safety Improvement Act of 1999 and the rules and regulations promulgated by the Federal Motor Carrier Safety Administration.

Under the provisions of the bill, existing penalties are clarified and new offenses are established. For example, the current definition of a "serious traffic violation" is expanded to include two new offenses: (1) driving a commercial motor vehicle without having in one's possession a commercial driver license (CDL) and (2) driving a commercial motor vehicle without having the proper CDL license or endorsement for that particular vehicle.

The bill establishes a minimum penalty of \$500 for persons who operate commercial motor vehicles while their CDLs are suspended or revoked, or who have been otherwise prohibited or disqualified from operating a commercial motor vehicle. A person who operates a commercial motor vehicle while subject to an out of service order is subject to a fine of not less than \$1,100 or more than \$2750, and may be imprisoned for a term of not more than 90 days. Any employer who knowingly permits a driver to operate a commercial motor vehicle during a time when that driver is prohibited or disqualified from operating a commercial motor vehicle, or the driver's CDL is revoked or suspended, or the driver is subject to an out-of-service order is subject to a fine of not less than \$2,750 or more than \$11,000.

Other new offenses and penalties include CDL suspensions for: (1) certain motor vehicle violations committed while operating a non-commercial vehicle; (2) failing to properly stop at railroad crossings and (3) operating a commercial motor vehicle while subject to an out of service order.

The bill also clarifies that an operator who commits a traffic violation which results in a motor vehicle fatality, regardless of whether he was operating a commercial or non-commercial motor

vehicle, is subject to a license suspension of one to three years, in addition to any other prescribed penalties.

In addition, the bill provides for the classified licensing of school bus drivers by an endorsement on their CDLs.

Further, the bill amends R.S.39:4-128 to bring the scope of that section's provisions into conformity with the federal code concerning which types of commercial motor vehicles must stop at railroad grade crossings. In addition, the bill establishes new approach procedures and protocols for commercial motor vehicles that are not required by law to stop at those railroad grade crossings.

With regard to the issuance of a CDL, the chief administrator's responsibilities are broadened under this bill. Currently, before issuing a CDL the chief administrator must determine whether any other state has issued a CDL to the applicant. Under this bill, the chief administrator also would be required to determine whether the applicant has been issued a CDL, non-commercial driver license or a basic driver license by any other state.

The bill includes technical amendments to eliminate transitional provisions that are outdated and no longer applicable, and, to reflect the enactment of P.L.2003, c.13, replaces references to "Director" and "Division of Motor Vehicles" with "Chief Administrator" and "New Jersey Motor Vehicle Commission."

COMMITTEE AMENDMENTS

The committee amendments extend the bill's effective date to September 30, 2005.

STATEMENT TO
[First Reprint]
ASSEMBLY, No. 3793

with Assembly Floor Amendments
(Proposed By Assemblyman WISNIEWSKI)

ADOPTED: MARCH 14, 2005

These amendments would transfer to the New Jersey Motor Vehicle Commission the authority to enforce the penalty provisions of this bill.