

# 39:3-79.10

## LEGISLATIVE HISTORY CHECKLIST

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**LAWS OF:** 2005 **CHAPTER:** 234

**NJSA:** 39:3-79.10 (Requires systematic maintenance check program for intermodal chassis)

**BILL NO:** A1478/1482 (Substituted for S2201)

**SPONSOR(S):** Wisniewski

**DATE INTRODUCED:** Pre-filed

**COMMITTEE:** **ASSEMBLY:** Transportation; Appropriations  
**SENATE:** Transportation; Budget and Appropriations

**AMENDED DURING PASSAGE:** Yes

**DATE OF PASSAGE:** **ASSEMBLY:** February 24, 2005

**SENATE:** June 30, 2005

**DATE OF APPROVAL:** September 22, 2005

**FOLLOWING ARE ATTACHED IF AVAILABLE:**

[FINAL TEXT OF BILL](#) (Assembly Committee Substitute (1<sup>st</sup> Reprint) for A1478/1482 enacted)

### A1478/1482

[SPONSOR'S STATEMENT \(A1478\)](#) (Begins on page 6 of original bill) [Yes](#)

[SPONSOR'S STATEMENT \(A1482\)](#) (Begins on page 6 of original bill) [Yes](#)

**COMMITTEE STATEMENT:** **ASSEMBLY:** Yes [12-9-2004 \(Trans\)](#)  
[1-10-2005 \(Approp\)](#)  
[2-14-2005 \(Trans\)](#)

**SENATE:** Yes [3-7-2005 \(Trans\)](#)  
[6-27-2005 \(Bud & App\)](#)

**FLOOR AMENDMENT STATEMENT:** No

[LEGISLATIVE FISCAL ESTIMATE:](#) [Yes](#)

[LEGISLATIVE FISCAL NOTE](#) [Yes](#)

### S2201

[SPONSOR'S STATEMENT:](#) (Begins on page 8 of original bill) [Yes](#)

**COMMITTEE STATEMENT:** **ASSEMBLY:** No

**SENATE:** Yes [3-7-2005 \(Trans\)](#)  
[6-27-2005 \(Bud & App\)](#)

**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL ESTIMATE:** No

**VETO MESSAGE:** No

**GOVERNOR'S PRESS RELEASE ON SIGNING:**

No

**FOLLOWING WERE PRINTED:**

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**REPORTS:**

No

**HEARINGS:**

Yes

**NEWSPAPER ARTICLES:**

No

974.90 New Jersey. Legislature. General Assembly. Transportation Committee  
T764 Committee meeting on A1478/1482;...(requires systematic maintenance  
2005d Check program for intermodal chassis and allocates responsibility for equipment defects);...  
Held on 2-14-2005. West New York, New Jersey, 2005  
[PDF copy of hearing](#)

P.L. 2005, CHAPTER 234, *approved September 22, 2005*

Assembly Committee Substitute (*First Reprint*) for

Assembly, Nos. 1478 and 1482

1 AN ACT concerning intermodal chassis, requiring a systematic  
2 maintenance check program, allocating responsibility for  
3 equipment defects, and supplementing 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 1. As used in this act:

10 "Department" means the New Jersey Department of  
11 Transportation.

12 "Equipment interchange receipt" or "interchange receipt" means  
13 the receipt exchanged between an intermodal equipment provider or  
14 its agent and a motor carrier or its driver confirming acceptance of an  
15 intermodal chassis by a motor carrier and indicating the name of the  
16 intermodal equipment provider for such equipment.

17 "Intermodal chassis" or "chassis" means a trailer designed to carry  
18 intermodal freight containers.

19 "Intermodal equipment facility" means any facility in New Jersey  
20 at which intermodal chassis are maintained and interchanged to motor  
21 carriers by or on behalf of an intermodal equipment provider.

22 "Intermodal equipment provider" or "equipment provider" means  
23 the person or entity that provides an intermodal chassis to a motor  
24 carrier pursuant to a written interchange agreement or has  
25 responsibility for maintenance of the intermodal chassis.

26 "Systematic maintenance check program" or "SMC" means the  
27 eight-point intermodal chassis inspection program established by this  
28 act.

29

30 2. a. An intermodal equipment provider shall not tender for  
31 interchange in New Jersey with a motor carrier an intermodal chassis  
32 that has not passed the systematic maintenance check program  
33 required by this act or that fails to meet the requirements set forth in  
34 the Federal Motor Carrier Safety Regulations, 49 C.F.R. sections 393  
35 and 396. Any intermodal equipment provider tendering to, or  
36 interchanging with, a motor carrier such equipment shall provide  
37 certification that the chassis is currently in compliance with the SMC

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

**Matter underlined thus is new matter.**

**Matter enclosed in superscript numerals has been adopted as follows:**

**<sup>1</sup> Assembly ATR committee amendments adopted February 14, 2005.**

1 program set forth in this act.

2 b. An intermodal equipment provider that violates this section shall  
3 be <sup>1</sup>~~[fined]~~assessed a civil administrative penalty by the department<sup>1</sup>  
4 up to \$5,000, per occurrence, commensurate with the gravity of the  
5 offense. <sup>1</sup>A civil administrative penalty imposed pursuant to this  
6 subsection may be recovered by a summary proceeding pursuant to  
7 the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10  
8 et seq.).<sup>1</sup>

9 c. Nothing in this act is intended to supersede or interfere with  
10 the commercial motor vehicle inspection requirements and standards  
11 set forth in 49 C.F.R. sections 393 and 396. Rather, this act imposes  
12 an additional requirement that an intermodal equipment provider  
13 inspect chassis on a routine basis and as otherwise required by this act.

14

15 3. a. An intermodal equipment provider shall establish and  
16 implement a systematic maintenance check program for the intermodal  
17 chassis that it tenders for interchange to motor carriers. The SMC  
18 program shall be consistent with Federal Motor Carrier Safety  
19 Regulations set forth in 49 C.F.R. sections 393 and 396 and shall  
20 include, but not be limited to, the following components or actions:

- 21 (1) tires;  
22 (2) brakes;  
23 (3) lights;  
24 (4) a twist lock and safety lock inspection which includes ensuring  
25 that twist locks are operational and safety locks are working;  
26 (5) wheel lubrication;  
27 (6) frame;  
28 (7) registration and federal and State inspection stickers; and  
29 (8) upon the satisfactory completion of the inspection and any  
30 required actions necessary to bring the chassis into compliance with  
31 the inspection standards, the application of an SMC inspection sticker  
32 with the equipment provider's name, the inspector's name, and an  
33 expiration date set at six months following the inspection. Chassis  
34 which fail a SMC inspection shall be processed in accordance with  
35 section 4 of this act.

36 b. Each SMC inspection shall be recorded on a SMC inspection  
37 report that shall include, but not be limited to, all of the following:

- 38 (1) Positive identification of the intermodal chassis, including  
39 company identification number and vehicle license plate number;  
40 (2) Date of and reason for each SMC inspection; and  
41 (3) Signature, under penalty of perjury, of the inspector that the  
42 SMC inspection has been performed and that the chassis is roadworthy  
43 or, if the chassis failed the inspection, the specific reason for the  
44 failure.

45

46 4. a. Intermodal equipment providers shall implement a process to

1 positively identify by means of a tag those intermodal chassis that are  
2 out-of-service as a result of having failed an inspection required by this  
3 act. The tag shall contain the name of the intermodal equipment  
4 provider, the inspector and the date that the chassis failed inspection.  
5 The tag shall be supplied by the intermodal equipment provider and  
6 shall meet the specifications determined by the department.

7 b. A chassis which is out-of-service as a result of having failed an  
8 inspection required by this act shall be transported, without a  
9 container, to a facility where repairs and maintenance may be  
10 performed. Defects identified during an SMC inspection of a chassis  
11 shall be repaired, and the repairs shall be recorded on the chassis  
12 maintenance file and on the SMC inspection report. A chassis  
13 subject to this section shall not be interchanged with a motor carrier  
14 or operated on a public road in New Jersey until all defects listed  
15 during the inspection have been corrected, the chassis passes an SMC  
16 inspection, and an authorized inspector attests to that fact and affixes  
17 an SMC inspection sticker to the chassis.

18

19 5. In addition to the routine SMC inspection which must take  
20 place at least once every six months in accordance with section 3 of  
21 this act, the following events shall cause a full SMC eight-point  
22 inspection to be done immediately:

23 a. a repair is done to remedy a defect that would be the basis for  
24 failure of an SMC inspection other than a minor repair or minor  
25 equipment defect,

26 b. a defect is noted on an in-gate interchange receipt that would  
27 be the basis for failure of an SMC inspection other than a minor repair  
28 or minor equipment defect, or

29 c. an SMC inspection sticker has expired.

30 For purposes of this section, "minor repair or minor equipment  
31 defect" means any one of the following: the need to inflate tires; the  
32 need to replace lights, a lens or a reflector; a twistlock or safety lock  
33 inspection or a safety latch replacement; a simple confirmation of  
34 federal or State inspection stickers; or the reapplication of an SMC  
35 inspection sticker that has not expired.

36

37 6. Individuals performing SMC inspections pursuant to this act  
38 shall be qualified, at a minimum, as set forth in 49 C.F.R. sections  
39 396.19 and 396.25. Evidence of each inspector's qualification shall be  
40 retained by the intermodal equipment provider at the intermodal  
41 equipment facility for the period of time during which the inspector is  
42 performing SMC inspections at that facility.

43

44 7. a. Any motor carrier or driver who, as a result of the pre-trip  
45 inspection of the intermodal chassis, determines the intermodal chassis  
46 to be in an unsafe operating condition shall request that the intermodal

1 equipment provider repair or replace the intermodal chassis prior to  
2 completion of the interchange. It shall be at the discretion of the  
3 intermodal equipment provider whether to repair or to replace the  
4 chassis.

5 In the event a driver is forced to wait for more than one hour while  
6 the chassis is repaired or replaced, the intermodal equipment provider  
7 shall compensate the driver at an hourly rate to be set by the  
8 department based upon the average rate in comparable situations.

9 b. If a driver's request for repair or replacement is refused by the  
10 equipment provider, which shall be a violation of this section, the  
11 driver may file a complaint with the department. If, after an equipment  
12 provider has been afforded an opportunity for a hearing pursuant to  
13 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
14 seq.), the department determines that the equipment provider has  
15 violated this section, that person shall be subject to a civil  
16 administrative penalty <sup>1</sup>to be imposed by the department<sup>1</sup> not to  
17 exceed \$1,000 for the first violation and not more than \$5,000 for  
18 each subsequent violation. <sup>1</sup>A civil administrative penalty imposed  
19 pursuant to this subsection may be recovered by a summary  
20 proceeding pursuant to the "Penalty Enforcement Law of 1999,"  
21 P.L.1999, c.274 (C.2A:58-10 et seq.).<sup>1</sup>  
22

23 8. Records of inspections, maintenance or repairs of chassis  
24 performed pursuant to this act shall be maintained for <sup>1</sup>~~[two]~~three<sup>1</sup>  
25 years and made available upon request of the department or a motor  
26 carrier which has transported the chassis.

27 All records required by this act may be kept in a digital format or  
28 other media allowing for the storage and retrieval of data if printouts  
29 of those records can be provided upon request at the intermodal  
30 equipment facility.

31  
32 9. a. Any intermodal equipment provider that tenders intermodal  
33 chassis for interchange in New Jersey with a motor carrier shall  
34 register with the New Jersey Department of Transportation in  
35 accordance with regulations promulgated pursuant to this act.

36 b. Every registered intermodal equipment provider shall certify to  
37 the department on an annual basis that the equipment provider is  
38 conducting a systematic maintenance check program for intermodal  
39 chassis that is in compliance with this act.

40 c. The department may conduct audits at an intermodal equipment  
41 facility as it deems necessary to effectuate the purposes of this act,  
42 including, but not limited to, when an intermodal equipment provider  
43 has demonstrated a history of non-compliance with any requirements  
44 of this act. The audit shall include, but not be limited to, SMC  
45 inspection, tagging and processing of failed chassis, repair, and record-  
46 keeping requirements. The department is authorized to enter any

1 intermodal equipment facility for the purposes of conducting the  
2 audits.

3 As part of the audits, the department may request the New Jersey  
4 State Police or, if the chassis is tendered at a port, the police of the  
5 authority operating that port, to accompany the department and to  
6 conduct a limited number of chassis inspections in order to determine  
7 that SMC inspection and identification requirements are being met.  
8 Any New Jersey State Police officer trained to inspect intermodal  
9 chassis is authorized to enter any intermodal equipment facility for the  
10 purposes of conducting inspections as part of an audit by the  
11 department. <sup>1</sup>Nothing herein shall limit the authority of an authorized  
12 member of the State Police or the police of the authority operating the  
13 port to enter upon and perform inspections of vehicles in operation  
14 upon the highways of this State or at the premises or places of  
15 business of the owner or lessee of such vehicles.<sup>1</sup>

16 d. If, during an audit, the department determines that an  
17 intermodal equipment provider has failed to comply with any of the  
18 requirements of this act, the department shall:

19 (1) direct the intermodal equipment provider to comply  
20 immediately with the requirements of this act; and

21 (2) impose a civil administrative penalty on the intermodal  
22 equipment provider of up to \$5,000, commensurate with the gravity  
23 of the offense, for every day that the intermodal equipment provider  
24 fails to comply with the requirements of this act. <sup>1</sup>A civil  
25 administrative penalty imposed pursuant to this subsection may be  
26 recovered by a summary proceeding pursuant to the "Penalty  
27 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).<sup>1</sup>

28  
29 <sup>1</sup>[10. a. Prior to an intermodal equipment provider tendering a  
30 chassis for interchange in New Jersey with a motor carrier, the  
31 intermodal equipment provider and the motor carrier shall enter into  
32 an agreement which allocates responsibility for equipment and all  
33 aspects thereof, and contains indemnity provisions in accordance with  
34 this allocation. The allocation of responsibility shall be as follows:

35 (1) the intermodal equipment provider shall be responsible for  
36 latent equipment defects on the chassis, and

37 (2) the motor carrier shall be responsible for equipment defects if  
38 the equipment is one of the specific equipment components required  
39 to be inspected by the driver during the pre-trip inspection. The pre-  
40 trip inspection shall be conducted as part of the walk-around  
41 inspection required by federal law prior to use of the chassis.

42 The department, in conjunction with representatives of intermodal  
43 equipment providers, motor carriers and the New Jersey State Police,  
44 shall establish a list of the specific chassis equipment components to  
45 be inspected during the pre-trip inspection required by this paragraph.

46 b. The requirements of this section concerning responsibility for

1 equipment and indemnification provisions shall only apply  
2 prospectively to written agreements for the interchange of intermodal  
3 chassis entered into after the effective date of this act. The parties to  
4 an agreement entered into prior to the effective date of the act may  
5 voluntarily modify their agreement to incorporate the requirements of  
6 this section and agree to be bound by the requirements of the section  
7 immediately.]<sup>1</sup>

8  
9 <sup>1</sup>10. a. When, upon roadside inspection of an intermodal chassis,  
10 there is found a violation of State law or regulations or Federal Motor  
11 Carrier Safety Administration Regulations, 49 C.F.R. sections 393  
12 and 396, relating to the chassis, any summons, complaint, or  
13 violation report shall cite the motor carrier, the intermodal equipment  
14 provider, or the registered owner as follows:

15 (1) for latent equipment defects on the chassis, the summons,  
16 complaint, or violation report shall cite the intermodal equipment  
17 provider identified on the equipment interchange receipt; in the event  
18 there is no equipment interchange receipt, the summons, complaint or  
19 violation report shall cite the equipment provider shown on the SMC  
20 inspection sticker. If there is neither an interchange receipt or a SMC  
21 inspection sticker, the summons, complaint or violation report shall  
22 cite the registered owner of the chassis as determined by a registration  
23 document, a company identification number or the chassis license plate  
24 number. When the summons, complaint or violation report cites the  
25 registered owner because it is not possible to identify an equipment  
26 provider, the registered owner may seek reimbursement for any fine  
27 from the equipment provider; and

28 (2) for equipment defects when the equipment is one of the  
29 specific equipment components required to be inspected by the driver  
30 during the pre-trip inspection, the summons, complaint or violation  
31 report shall cite the motor carrier. The pre-trip inspection shall be  
32 conducted as part of the walk-around inspection required by federal  
33 law prior to use of the chassis.

34 The department, in conjunction with representatives of intermodal  
35 equipment providers, motor carriers and the New Jersey State Police,  
36 shall establish a list of the specific chassis equipment components to  
37 be inspected during the pre-trip inspection and for which the driver  
38 shall be cited on the summons, complaint or violation report.

39 b. (1) An intermodal equipment provider, registered chassis owner,  
40 or any other entity shall not seek reimbursement of a fine or penalty  
41 imposed by a municipal court for a violation of State law or  
42 regulations or Federal Motor Carrier Safety Administration  
43 Regulations, 49 C.F.R. sections 393 and 396, relating to the chassis  
44 from the motor carrier or its driver, or otherwise hold the motor  
45 carrier or its driver responsible for summons or complaint related to  
46 the chassis, unless the violation was caused by the negligence or willful



1 misconduct of the motor carrier, its driver, agent, subcontractor or  
2 assigns.

3 (2) A motor carrier or its driver shall not seek reimbursement of a  
4 fine or penalty imposed by a municipal court for a violation of State  
5 law or regulations or Federal Motor Carrier Safety Administration  
6 Regulations, 49 C.F.R. sections 393 and 396, relating to the chassis  
7 from the intermodal equipment provider, registered chassis owner, or  
8 any other entity, or otherwise hold the intermodal equipment provider,  
9 registered chassis owner, or any other entity responsible for summons  
10 or complaint related to the chassis, unless the violation was caused by  
11 the negligence or willful misconduct of the intermodal equipment  
12 provider, registered chassis owner, or other entity.

13 c. (1) Whenever the act or omission of an intermodal equipment  
14 provider is deemed the cause for a violation report citing a motor  
15 carrier, the motor carrier may petition the appropriate authorities to  
16 request that the violation not be used or applied against the motor  
17 carrier's overall compliance record maintained in accordance with  
18 Federal Motor Carrier Safety Administration Regulations.

19 (2) Whenever the act or omission of a motor carrier or its driver  
20 is deemed the cause for a violation report citing an intermodal  
21 equipment provider, the intermodal equipment provider may petition  
22 the appropriate authorities to request that the violation not be used or  
23 applied against the intermodal equipment provider's overall compliance  
24 record maintained in accordance with Federal Motor Carrier Safety  
25 Administration Regulations.

26 (3) The State Police and the department shall establish a process  
27 whereby, upon application of a motor carrier, a violation report  
28 improperly citing a motor carrier may be administratively removed  
29 from its compliance record.

30 The State Police and the department shall establish a process  
31 whereby, upon application of an intermodal equipment provider, a  
32 violation report improperly citing an intermodal equipment provider  
33 may be administratively removed from its compliance record.

34 d. The provisions of this section shall apply only to a summons,  
35 complaint, or violation report issued on or after the effective date of  
36 this act.

37 e. This section is intended solely to determine which party shall be  
38 cited on a summons, complaint or violation report for a violation of  
39 State law or regulations or Federal Motor Carrier Safety  
40 Administration Regulations, 49 C.F.R. sections 393 and 396, relating  
41 to an intermodal chassis. Nothing in this section is intended to affect  
42 any indemnification agreement among an intermodal equipment  
43 provider, a motor carrier or any other entity concerning intermodal  
44 chassis.<sup>1</sup>

45

46 <sup>1</sup>[11. a. When, upon roadside inspection of an intermodal chassis,

1 there is found a violation of State law or regulations or Federal Motor  
2 Carrier Safety Administration regulations relating to the chassis, the  
3 summons or complaint shall indicate on its face whether the violation  
4 is the responsibility of the motor carrier or the intermodal equipment  
5 provider.

6 b. A summons or complaint issued for a latent equipment defect  
7 on the chassis that is the responsibility of the intermodal equipment  
8 provider in accordance with the provisions of paragraph (1) of  
9 subsection a. of section 10 of this act shall be issued to the intermodal  
10 equipment provider identified on the equipment interchange receipt.

11 In the event there is no equipment interchange receipt, the  
12 summons or complaint shall be issued to the equipment provider  
13 shown on the SMC inspection sticker. If there is neither an  
14 interchange receipt nor a SMC inspection sticker, the summons or  
15 complaint shall be issued to the registered owner of the chassis as  
16 determined by a registration document, a company identification  
17 number or the chassis license plate number. When the summons or  
18 complaint is issued to the registered owner because it is not possible  
19 to identify an equipment provider, the registered owner may seek  
20 reimbursement for any fine from the equipment provider.

21 The intermodal equipment provider or the registered owner of the  
22 chassis shall be liable for any fines or penalties resulting from the  
23 summons or complaint. An intermodal equipment provider, registered  
24 chassis owner, or any other entity shall not seek reimbursement from  
25 the motor carrier or its driver, or otherwise hold the motor carrier or  
26 its driver responsible for the summons or complaint, unless the  
27 violation was caused by the negligence or willful misconduct of the  
28 motor carrier, its driver, agent, subcontractor or assigns.

29 c. A summons or complaint issued for a violation concerning a  
30 specific equipment component of the chassis that is the responsibility  
31 of the motor carrier in accordance with the provisions of paragraph (2)  
32 of subsection a. of section 10 of this act shall be issued to the motor  
33 carrier. The motor carrier shall be liable for any fines or penalties;  
34 provided however, in the event the defect was caused by the  
35 negligence or willful misconduct of the intermodal equipment provider,  
36 its agent, subcontractor or assigns, the intermodal equipment provider  
37 shall acknowledge responsibility in writing and reimburse the motor  
38 carrier for any fine.

39 d. Whenever the act or omission of an intermodal equipment  
40 provider is deemed responsible for a summons or complaint issued  
41 against a motor carrier, the motor carrier may petition the appropriate  
42 authorities to request that the summons or complaint shall not be used  
43 or applied against the motor carrier's overall compliance record  
44 maintained in accordance with Federal Motor Carrier Safety  
45 Administration regulations.

46 e. The State Police shall establish a process whereby, upon

1 application of a motor carrier, a summons or complaint improperly  
2 applied against a motor carrier may be administratively removed from  
3 its compliance record.]<sup>1</sup>

4  
5 <sup>1</sup> 11. It shall be a violation of this act to interfere with or attempt  
6 to interfere with the duties, obligations, rights or remedies of a motor  
7 carrier or its driver, an intermodal equipment provider, or an SMC  
8 inspector as provided in this act. If, after a person has been afforded  
9 an opportunity for a hearing pursuant to the "Administrative  
10 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the department  
11 determines that the person has violated this section, that person shall  
12 be subject to a civil administrative penalty to be imposed by the  
13 department not to exceed \$1,000 for the first violation and not more  
14 than \$5,000 for each subsequent violation. A civil administrative  
15 penalty imposed pursuant to this subsection may be recovered by a  
16 summary proceeding pursuant to the "Penalty Enforcement Law of  
17 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).<sup>1</sup>

18  
19 12. The department shall adopt such rules and regulations  
20 pursuant to the provisions of the "Administrative Procedure Act,"  
21 P.L.1968, c.410 (C.52:14B-1 et seq.) necessary to effectuate the  
22 purposes of this act.

23  
24 13. This act shall take effect on the first day of the twelfth month  
25 following enactment. This act shall expire upon:

26 a. the effective date of a federal statute to regulate the inspection  
27 and maintenance of intermodal chassis; or

28 b. when final rules by the Federal Motor Carrier Safety  
29 Administration regulating the inspection and maintenance of  
30 intermodal chassis take effect.

31  
32  
33  
34  
35 \_\_\_\_\_  
36 Requires systematic maintenance check program for intermodal chassis  
and establishes party to be cited for chassis equipment defects.

**ASSEMBLY, No. 1478**

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**STATE OF NEW JERSEY**  
**211th LEGISLATURE**

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PRE-FILED FOR INTRODUCTION IN THE 2004 SESSION

**Sponsored by:**

**Assemblyman JOHN S. WISNIEWSKI**

**District 19 (Middlesex)**

**SYNOPSIS**

Requires inspection of intermodal chassis for roadability.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning intermodal chassis, requiring an inspection  
2 program and supplementing Title 39 of the Revised Statutes.

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

6  
7 1. As used in this act:

8 "Chassis provider" means the registered owner of an intermodal  
9 chassis, any authorized representative of the registered owner, or any  
10 other entity that is charged with providing or tendering intermodal  
11 chassis for interchange with a motor carrier.

12 "Chassis provider's facility" means a location operated by the  
13 chassis provider where chassis are tendered and interchanged and  
14 auxiliary locations, including repair facilities, related to the providing  
15 of chassis.

16 "Department" means the New Jersey Department of Transportation.

17 "Intermodal chassis" or "chassis" means a trailer designed to carry  
18 intermodal freight containers.

19  
20 2. a. Any chassis provider that provides or tenders intermodal  
21 chassis for interchange with a motor carrier shall:

22 (1) register with the department in accordance with regulations  
23 promulgated pursuant to section 7 of this act; and

24 (2) implement and carry out the intermodal chassis roadability  
25 inspection program set forth in this act.

26 b. No chassis provider shall tender to, or interchange with, a motor  
27 carrier an intermodal chassis that fails to pass the inspection required  
28 by this act or that fails to meet the requirements set forth in the  
29 Federal Motor Carrier Safety Regulations, 49 C.F.R. s. 396. Any  
30 chassis provider tendering to, or interchanging with, a motor carrier  
31 such equipment shall provide certification that the chassis has passed  
32 the inspection set forth in this act. Any chassis provider which violates  
33 this section shall be fined up to \$10,000, commensurate with the  
34 gravity of the offense, per occurrence.

35 c. Nothing in this act is intended to supersede the commercial  
36 motor vehicle inspection requirements and standards set forth in 49  
37 C.F.R. 396. Rather, this act imposes an additional requirement that a  
38 chassis provider inspect chassis on a routine basis.

39  
40 3. a. A chassis provider shall inspect a chassis pursuant to this  
41 section prior to each tendering of the chassis to a driver for  
42 interchange. The inspection shall include, but not be limited to, brake  
43 adjustment, brake system components and leaks, suspension systems,  
44 tires and wheels, vehicle connecting devices, lights and electrical  
45 systems, and a visual inspection of the chassis to determine that it has  
46 not been tampered with.

1 b. Each inspection shall be recorded on a roadability inspection  
2 report that shall include, but not be limited to, all of the following:

3 (1) Positive identification of the intermodal chassis, including  
4 company identification number and vehicle license plate number;

5 (2) Date and nature of each inspection; and

6 (3) Signature, under penalty of perjury, of the chassis provider or  
7 an authorized representative that the inspection has been performed  
8 and that the chassis is roadworthy.

9 c. (1) Individuals performing inspections pursuant to this section  
10 shall be qualified, at a minimum, as set forth in 49 C.F.R. § 396.19 and  
11 396.25. Evidence of each inspector's qualification shall be retained by  
12 the chassis provider at the chassis provider's facility for the period of  
13 time during which the inspector is performing such inspections.

14 (2) No inspector shall be threatened, coerced, or otherwise  
15 retaliated against by a chassis provider for refusing to pass a chassis  
16 that fails an inspection, or for designating a chassis for repair. In the  
17 event that an inspector is so threatened, the inspector shall be  
18 protected by and afforded all rights and remedies provided in the  
19 "Conscientious Employee Protection Act," P.L.1986, c.105 (C.34:19-1  
20 et seq.). Accordingly, any person who violates this paragraph shall be  
21 subject to the penalties provided in that act.

22 d. After completing the inspection, the inspector shall affix a green  
23 tag on a chassis that has passed inspection and a red tag on a chassis  
24 that has failed inspection. The tag shall be tamper-proof and shall  
25 contain the name of the inspector and the date and time the inspection  
26 was completed. In addition, a red tag shall specify the defects that  
27 warranted the failed inspection and that require repair. The tag shall  
28 be placed on the driver's side of the chassis next to the chassis'  
29 identification plate. The tag shall be provided by the chassis provider  
30 and shall meet specifications determined by the department.

31 e. Chassis shall be readily distinguishable according to their tag  
32 designation and kept with chassis with the same color tag. Red-  
33 tagged chassis shall be transported, without a container, to a facility  
34 where repairs and required maintenance may be performed. Defects  
35 identified during an inspection of an intermodal chassis shall be  
36 repaired, and the repairs shall be recorded on the intermodal chassis  
37 maintenance file before the chassis is released from the control of the  
38 chassis provider. No chassis subject to this act shall be released to a  
39 motor carrier or operated on a public road until all defects listed  
40 during the inspection have been corrected, the chassis passes  
41 inspection, and an authorized inspector attests to that fact and affixes  
42 a green tag to the chassis.

43 f. Any driver who believes that a chassis is in an unsafe operating  
44 condition may request that the chassis be re-inspected by the entity  
45 responsible for the inspection and maintenance of the chassis pursuant  
46 to this act. In the event that such a request is made, the driver:

1 (1) shall not be made responsible for delivery of the chassis to the  
2 repair facility; and

3 (2) shall receive a green-tagged chassis without delay. In the event  
4 a driver is forced to wait for one or more hours, the chassis provider  
5 shall compensate the driver at a reasonable rate.

6 (3) A request for re-inspection, any corrective action taken, or the  
7 reason why corrective action was not taken shall be recorded in the  
8 intermodal chassis maintenance file. Alternatively, the driver may  
9 contact the New Jersey State Police or, if the chassis is tendered at a  
10 port, the police of the authority operating that port, with regard to the  
11 physical condition of the chassis.

12 g. No driver shall be threatened, coerced, or otherwise retaliated  
13 against by a chassis provider, marine terminal operator, shipping  
14 company, steamship line, or motor carrier or any other entity for  
15 requesting that the intermodal chassis be re-inspected or repaired or  
16 for contacting the State Police or the police of a port authority with  
17 regard to the physical condition of a chassis. If, after a person has been  
18 afforded an opportunity for a hearing pursuant to the "Administrative  
19 Procedure Act," P.L. 1968, c.410 (C.52:14B-1 et seq.), the  
20 department determines that the person has violated this subsection,  
21 that person shall be subject to a civil administrative penalty not to  
22 exceed \$1,000 for the first violation and not more than \$5,000 for  
23 each subsequent violation.

24

25 4. a. Records of each inspection pursuant to this act shall be:

26 (1) maintained for 90 days by the chassis provider at the chassis  
27 provider's facility where each chassis is inspected;

28 (2) made available upon request by any authorized employee of the  
29 department; and

30 (3) made available during normal business hours to any motor  
31 carrier or driver or the authorized representative thereof who has been  
32 engaged to transport an intermodal container of a chassis inspected  
33 pursuant to this section from the chassis provider's facility.

34 b. Records of maintenance or repairs performed pursuant to the  
35 inspection required in section 3 of this act shall be:

36 (1) maintained for two years by the chassis provider at the chassis  
37 provider's facility; and

38 (2) made available upon request of the department.

39 c. Requests for re-inspection made pursuant to subsection f. of  
40 section 3 of this act shall be recorded in the intermodal chassis  
41 maintenance file and:

42 (1) maintained for two years by the chassis provider at the chassis  
43 provider's facility; and

44 (2) made available upon request of the department.

45 d. All above-described records may be kept in a computer system  
46 provided:

- 1 (1) back-up copies are maintained; and
- 2 (2) printouts of those records are provided upon request.

3  
4 5. a. The department shall conduct random reviews at a chassis  
5 provider's facility at least once a year to determine whether the chassis  
6 provider is complying with the requirements of this act including, but  
7 not limited to, inspection, tagging, repair, and record-keeping  
8 requirements. The review shall include the inspection of a limited  
9 number of green-tagged chassis in order to determine that inspection  
10 and tagging requirements are being met.

11 b. If, during an inspection, the department determines that a chassis  
12 provider has failed to comply with any of the requirements of this act,  
13 the department shall:

14 (1) direct the chassis provider to comply immediately with the  
15 requirements of this act;

16 (2) impose on the chassis provider a civil administrative penalty of  
17 up to \$10,000, commensurate with the gravity of the offense, for every  
18 day, after the day of inspection, that the chassis provider fails to  
19 comply with the requirements of this act; and

20 (3) after 10 days of non-compliance, immediately forward a  
21 recommendation to the Federal Motor Carrier Safety Administration  
22 for administrative or other action deemed necessary against the  
23 chassis provider's interstate operating authority.

24  
25 6. In addition to the reviews conducted by the department in  
26 accordance with section 5 of this act, any State Police officer, while  
27 in the performance of the duties of office, is authorized to enter any  
28 chassis provider's facility where green-tagged chassis are kept,  
29 including property of a port authority and ocean marine terminal  
30 property, and perform inspections of green-tagged chassis which are  
31 intended to be tendered to or interchanged with a motor carrier for use  
32 on a highway. In the event the officer determines that a green-tagged  
33 chassis would likely cause an accident or breakdown by reason of its  
34 mechanical condition, the officer shall declare the chassis "out of  
35 service" in accordance with the Federal Motor Carrier Safety  
36 Regulations, 49 C.F.R. 396.9, and the chassis provider shall be fined  
37 \$1,000 per chassis.

38 Any summons or complaint issued for violation of this act related  
39 to the defective condition of an intermodal chassis shall be issued to  
40 the chassis provider responsible for the inspection and maintenance of  
41 the chassis in accordance with this act, provided that the chassis is not  
42 owned by the driver and that the defective condition of the chassis was  
43 not caused by the failure of the motor carrier or its driver to operate  
44 the commercial motor vehicle in a safe manner.

45  
46 7. The department shall adopt such rules and regulations pursuant



1 to the provisions of the "Administrative Procedure Act," P.L.1968,  
2 c.410 (C.52:14B-1 et seq.) necessary to effectuate the purposes of this  
3 act.

4  
5 8. This act shall take effect on the 90th day following enactment.  
6

7  
8 STATEMENT  
9

10 This bill requires a chassis provider of intermodal chassis to register  
11 with the New Jersey Department of Transportation and to implement  
12 an intermodal chassis roadability inspection program to inspect each  
13 chassis prior to it being tendered to a motor carrier for operation on  
14 the highways and roads of New Jersey.

15 This bill prohibits a chassis provider from tendering to a motor  
16 carrier an intermodal chassis that fails to pass the safety inspection  
17 required by the bill or that fails to meet the requirements of the Federal  
18 Motor Carrier Safety Regulations. Nothing in this bill is meant to  
19 supersede federal inspection requirements and standards; rather, this  
20 bill helps to enforce those standards by imposing an additional  
21 requirement that a chassis provider inspect chassis prior to tendering  
22 them to a motor carrier.

23 This bill contains requirements for tagging chassis following  
24 inspection to indicate whether or not they passed inspection,  
25 requirements for record keeping and for annual reviews by the  
26 Department of Transportation for compliance with the requirements  
27 of the bill.

28 This bill also provides that any State Police officer is authorized to  
29 enter the chassis provider's facility to perform inspections of chassis  
30 which have green tags indicating that they have passed inspection.

31 This bill contains provisions prohibiting retaliation by chassis  
32 providers against inspectors for refusing to pass a chassis that fails  
33 inspection or for designating it for repair. The bill also has provisions  
34 to protect motor carrier drivers from retaliation for requesting that a  
35 chassis be re-inspected or repaired or for contacting the State Police  
36 or police of a port authority with regard to the condition of a tendered  
37 chassis.

38 Under current law, the responsibility for compliance with federal  
39 safety regulations concerning the maintenance of intermodal chassis  
40 rests with the drivers of the vehicles who receive these chassis. This  
41 responsibility is misplaced as the drivers do not own the chassis, nor  
42 do they have the authority or ability to effectuate compliance. The  
43 responsibility to inspect, maintain and repair intermodal chassis should  
44 be with the entities that own the equipment or have been charged by  
45 the owner with tendering it for interchange with a motor carrier. This  
46 bill will help ensure that these entities properly inspect, service,  
47 maintain and repair a chassis before giving it to a driver for operation  
48 on New Jersey highways and roads.

**ASSEMBLY, No. 1482**

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**STATE OF NEW JERSEY**  
**211th LEGISLATURE**

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PRE-FILED FOR INTRODUCTION IN THE 2004 SESSION

**Sponsored by:**

**Assemblyman JOHN S. WISNIEWSKI**

**District 19 (Middlesex)**

**SYNOPSIS**

Requires inspection of intermodal chassis for roadability.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning intermodal chassis, requiring an inspection  
2 program and supplementing Title 39 of the Revised Statutes.

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

6  
7 1. As used in this act:

8 "Chassis provider" means any entity, whether public or private,  
9 located at a port facility that is charged with providing or discharging  
10 intermodal chassis or trailers.

11 "Department" means the New Jersey Department of Transportation.

12 "Intermodal chassis" or "chassis" means a trailer designed to carry  
13 intermodal freight containers.

14

15 2. a. Any chassis provider that receives and dispatches intermodal  
16 chassis shall implement and carry out the intermodal chassis roadability  
17 inspection program, as described in this act, in lieu of any other  
18 inspection required under Title 39 of the Revised Statutes.

19 b. No chassis provider shall tender to, or interchange with, a motor  
20 carrier, an intermodal chassis that fails to pass the inspection required  
21 by this act and that fails to meet the requirements set forth in Federal  
22 Motor Carrier Safety Regulations. 49 C.F.R. § 396. Any chassis  
23 provider tendering to, or interchanging with, a motor carrier such  
24 equipment shall provide certification that the chassis has passed the  
25 inspection set forth in this act. Any chassis provider which violates  
26 this section shall be fined \$500 per occurrence.

27 c. Nothing in this act is meant to supersede the inspection  
28 requirements and standards under 49 C.F.R. 396. Rather, this act  
29 imposes an additional requirement that chassis providers inspect  
30 chassis on a routine basis.

31

32 3. a. Chassis providers shall inspect all chassis pursuant to this  
33 section before a container is placed on the chassis, and before the  
34 chassis is released for operation. The inspection shall include, but not  
35 be limited to, brake adjustment, an inspection of brake system  
36 components and leaks, suspension systems, tires and wheels, vehicle  
37 connecting devices, lights and electrical systems, and a visual  
38 inspection of the chassis to determine that it has not been tampered  
39 with.

40 b. Each inspection shall be recorded on a daily roadability  
41 inspection report that shall include, but not be limited to, all of the  
42 following:

43 (1) Positive identification of the intermodal chassis, including  
44 company identification number and vehicle license plate number.

45 (2) Date and nature of each inspection.

46 (3) Signature, under penalty of perjury, of the chassis provider or

1 an authorized representative that the inspection has been performed  
2 and that the chassis is roadworthy. Individuals performing inspections  
3 pursuant to this section shall be qualified, at a minimum, as set forth  
4 in 49 C.F.R. § 396.19. Evidence of each inspector's qualification shall  
5 be retained by the ocean marine terminal for the period of time during  
6 which the inspector is performing such inspections. No inspector shall  
7 be threatened, coerced, or otherwise retaliated against by a chassis  
8 provider for refusing to pass a chassis that fails an inspection, or for  
9 designating a chassis for repair. In the event that an inspector is so  
10 threatened, the inspector shall be protected by and afforded all rights  
11 and remedies provided in the "Conscientious Employee Protection  
12 Act," P.L.1986, c.105 (C.34:19-1 et seq.). Accordingly, any person  
13 who violates this section shall be subject to the penalties provided in  
14 that act.

15 (4) As part of the inspection, the inspector shall affix a tamper-  
16 proof green tag on a chassis that has passed inspection and a red tag  
17 on a chassis that has failed inspection. The tag shall contain the name  
18 of the inspector and the date and time the inspection was completed  
19 and shall be placed on the driver's side of the chassis next to the  
20 chassis' identification plate. In addition, a red tag shall specify the  
21 defects that warranted the failed inspection and that require repair.  
22 The tag shall be provided by the chassis provider and shall meet  
23 specifications determined by the department.

24 c. Chassis shall be segregated according to that designation.  
25 Green-tagged chassis shall be kept in an area designated for  
26 interchange with motor carriers. Red-tagged chassis shall be  
27 transported to an on-site facility where repairs and any required  
28 maintenance may be performed. Defects identified during any  
29 inspection of any intermodal chassis shall be repaired, and the repairs  
30 shall be recorded on an intermodal chassis maintenance file as  
31 provided herein before the chassis is released from the control of the  
32 chassis provider. No chassis subject to this act shall be released to a  
33 motor carrier or operated on a public road until all defects listed  
34 during the inspection have been corrected, the chassis passes  
35 inspection, the chassis provider's authorized representative attests to  
36 that fact and affixes a green tag on the chassis.

37 d. Any driver who believes that a chassis is in an unsafe operating  
38 condition may request that the chassis be re-inspected by the entity  
39 responsible for the inspection and maintenance of the chassis pursuant  
40 to this act. In the event that such a request is made, the driver:

41 (1) shall not be made responsible for delivery of the chassis to the  
42 repair facility; and

43 (2) shall receive a green-tagged chassis without delay. In the event  
44 a driver is forced to wait for one or more hours, the chassis provider  
45 shall compensate the driver at a rate of \$100 per hour. Such a request,  
46 any corrective action taken, or the reason why corrective action was

1 not taken shall be recorded in the intermodal chassis maintenance file.  
2 Alternatively, the driver may contact a law enforcement agency with  
3 regard to the physical condition of the chassis.

4 e. No driver shall be threatened, coerced, or otherwise retaliated  
5 against by a marine terminal operator, chassis provider, shipping  
6 company, steamship line, or motor carrier for requesting that the  
7 intermodal chassis be re-inspected or repaired or for contacting a law  
8 enforcement agency with regard to the physical condition of a chassis.  
9 In the event that a driver of a commercial motor vehicle is so  
10 threatened, coerced or otherwise retaliated against, the driver shall be  
11 protected by and afforded all rights and remedies provided in the  
12 "Conscientious Employee Protection Act." Accordingly, any person  
13 who violates this section shall be subject to the penalties provided in  
14 that act.

15

16 4. a. Records of each inspection pursuant to this act shall be:

17 (1) maintained for 90 days by the chassis provider at the ocean  
18 marine terminal where each chassis is inspected;

19 (2) made available upon request by any authorized employee of the  
20 department; and

21 (3) made available during normal business hours to any motor  
22 carrier or driver or the authorized representative thereof who has been  
23 engaged to transport an intermodal container of a chassis inspected  
24 pursuant to this section from the ocean marine terminal.

25 b. Records of maintenance or repairs performed pursuant to the  
26 inspection required in section 2 of this act shall be:

27 (1) maintained for two years by the chassis provider; and

28 (2) made available upon request of the department.

29 c. Requests for re-inspection made pursuant to subsection d. of  
30 section 2 of this act shall be recorded in the intermodal chassis  
31 maintenance file and shall be maintained and made available pursuant  
32 to section 1 of this act.

33 d. All above-described records may be kept in a computer system  
34 if printouts of those records may be provided upon request.

35

36 5. a. The department shall conduct random, but at least annual on-  
37 site reviews to determine whether the chassis provider is complying  
38 with the requirements of this act, including but not limited to  
39 inspection, tagging, quarantine or repair, and record-keeping  
40 requirements. Following an inspection in which the department  
41 determines that a chassis provider has failed to comply with any of the  
42 requirements of this act, the department shall:

43 (1) direct the chassis provider to comply immediately with the  
44 requirements of this act;

45 (2) impose a civil administrative penalty on the chassis provider of  
46 \$100 for every day, after the day of inspection, that the provider fails

- 1 to comply with the requirements of this act;
- 2 (3) after 10 days of non-compliance, immediately forward a  
3 recommendation to the Division of Motor Vehicles to suspend the  
4 provider's motor carrier property permit, and forward a  
5 recommendation to the Federal Motor Carrier Safety Administration  
6 for administrative or other action deemed necessary against the  
7 carrier's interstate operating authority;
- 8 (4) after 20 days of non-compliance, the chassis provider's property  
9 permit shall be revoked.
- 10 b. If any inspection results in an unsatisfactory rating due to  
11 conditions presenting an imminent danger to the public safety, the  
12 department shall take actions pursuant to paragraph (3) or paragraph  
13 (4) of subsection a. of this section.
- 14 c. Any State Police officer, while in the performance of the duties  
15 of office, is authorized to enter upon and perform inspections of  
16 green-tagged chassis at any ocean marine terminal which are intended  
17 to be tendered to or interchanged with a motor carrier for use on a  
18 highway. In the event the officer determines that any green-tagged  
19 chassis is unroadworthy, the chassis provider shall be fined \$500 per  
20 occurrence.
- 21 d. Any summons or complaint issued for violation of this act  
22 related to the defective condition of an intermodal chassis shall be  
23 issued to the chassis provider responsible for the inspection and  
24 maintenance of the chassis, provided that the chassis is not owned by  
25 the driver and that the defective condition of the chassis was caused  
26 by the failure of the motor carrier or its driver to operate the  
27 commercial motor vehicle in a safe manner.
- 28
- 29 6. Any provision in a contract between an owner or lessee of an  
30 intermodal chassis and a driver that contains a hold harmless or  
31 indemnity clause concerning defects in the physical condition of the  
32 intermodal chassis shall be void as against public policy. This section  
33 shall not apply to damage to the intermodal chassis caused by the  
34 neglect or willful failure of the motor carrier or its driver to operate  
35 the commercial motor vehicle in a safe manner.
- 36
- 37 7. The department shall adopt such rules and regulations pursuant  
38 to the provisions of the "Administrative Procedure Act," P.L.1968,  
39 c.410 (C.52:14B-1 et seq.) necessary to effectuate the purposes of this  
40 act.
- 41
- 42 8. Nothing in this act shall relieve a commercial driver or  
43 commercial motor carrier of any duty imposed by State or federal law  
44 related to the safe operation of a commercial motor vehicle.
- 45
- 46 9. This act shall take effect on the 90th day following enactment.

1 STATEMENT

2

3 This bill requires all chassis providers to implement an intermodal  
4 chassis roadability inspection program to certify to the Department of  
5 Transportation that chassis have been inspected and approved, prior  
6 to being released for operation.

7 In addition, the bill provides that any summons or complaint issued  
8 for the violation of any State or federal law related to the defective  
9 condition of an intermodal chassis subject to inspection that is not  
10 owned by that motor carrier or commercial driver, be issued to the  
11 chassis provider responsible for the inspection, maintenance or  
12 dispatch of the intermodal chassis.

13 Under current law, the responsibility for compliance with federal  
14 safety regulations concerning the maintenance of intermodal chassis  
15 rests with the drivers of the vehicles who receive these chassis. This  
16 responsibility, however, is completely misplaced as the drivers do not  
17 own the chassis, nor do they possess the authority or ability to  
18 effectuate compliance. Rather, these obligations initiate with and truly  
19 belong to the shipping companies, steamship lines or ocean marine  
20 terminal operators, as those entities either own or are officially  
21 charged with maintaining such equipment. These entities, however,  
22 fail to repair unworthy chassis and fail to properly service or maintain  
23 those that are roadworthy.

# ASSEMBLY TRANSPORTATION COMMITTEE

## STATEMENT TO

### ASSEMBLY COMMITTEE SUBSTITUTE FOR **ASSEMBLY, Nos. 1478 and 1482**

# **STATE OF NEW JERSEY**

DATED: DECEMBER 9, 2004

The Assembly Transportation Committee reports favorably Assembly Committee Substitute for Assembly Bill Nos. 1478 and 1482.

This committee substitute bill requires an intermodal equipment provider that tenders intermodal chassis for interchange in New Jersey to implement a systematic maintenance check (SMC) program to inspect the chassis on a routine basis. An intermodal chassis is a trailer designed to carry intermodal freight containers.

The bill gives the New Jersey Department of Transportation (the department) authority for oversight over the inspection program.

The bill requires future agreements between intermodal equipment providers and motor carriers to contain allocations of responsibility for equipment defects and indemnity provisions.

The bill contains provisions which clarify when a summons or complaint for a violation of State or federal law concerning the chassis shall be issued to the motor carrier or the intermodal equipment provider.

#### Chassis Inspection Program

The bill prohibits an intermodal equipment provider from tendering to a motor carrier a chassis that fails to pass a SMC inspection or that fails to meet the requirements of the Federal Motor Carrier Safety Administration regulations. Nothing in this bill is meant to supersede federal inspection requirements and standards; rather, this bill helps to enforce those standards by imposing an additional requirement that an intermodal equipment provider regularly inspect chassis prior to tendering them to a motor carrier.

The bill sets forth the components on a chassis that must be inspected at least once every six months under the SMC program along with requirements for a dated SMC inspection sticker.

The bill also provides that a full eight-point SMC inspection must be done following certain repairs, when certain defects are noted on an in-gate interchange receipt, or when a SMC inspection sticker has expired.

The bill contains requirements for tagging and processing a chassis



that has failed an SMC inspection. It also contains requirements for the qualification of inspectors and for record keeping concerning the inspection, maintenance or repairs of chassis.

A driver who, as a result of the pre-trip inspection of the chassis, determines that it is in an unsafe operating condition shall request that the equipment provider repair or replace the chassis. The decision to repair or replace will be at the equipment provider's discretion. If the driver is forced to wait for more than one hour while the chassis is repaired or replaced, the driver shall be compensated at an hourly rate to be determined by the department. If the request to repair or replace is refused by the equipment provider, the driver may file a complaint with the department and the department may, following a hearing, assess a civil administrative penalty.

#### Oversight

The bill requires any intermodal equipment provider that tenders intermodal chassis for interchange in New Jersey to register with the department and to annually certify to the department that it is in compliance with the chassis inspection program.

The bill gives the department authority to enter an intermodal equipment provider facility to conduct audits to determine compliance with the act. While conducting a compliance audit, the department may request that the State Police, or the police of the authority operating the port, accompany the department and inspect a limited number of chassis for inspection compliance.

#### Allocation of Responsibility for Chassis Equipment Defects and Indemnity Agreements

The bill requires that intermodal equipment providers and motor carriers enter into an agreement which allocates responsibility for equipment and contains indemnity provisions in accordance with this allocation. In general, the intermodal equipment provider will be responsible for latent equipment defects and the motor carrier will be responsible for equipment defects which should be detected during a pre-trip inspection conducted during the federally-required walk-around inspection.

#### Issuance of Summons or Complaints for Chassis Violations

The bill contains provisions which clarify when a summons or complaint for a violation of State or federal law concerning the chassis shall be issued to the motor carrier or the intermodal equipment provider. The summons provisions incorporate the same allocation of responsibility as required in the allocation of responsibility agreement.

#### Effective Date

The bill will take effect on the first day of the twelfth month following enactment. It will expire upon the effective date of a federal

statute to regulate the inspection and maintenance of intermodal chassis or when final rules by the Federal Motor Carrier Safety Administration regulating the inspection and maintenance of intermodal chassis take effect.

# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

### ASSEMBLY COMMITTEE SUBSTITUTE FOR **ASSEMBLY, Nos. 1478 and 1482**

# **STATE OF NEW JERSEY**

DATED: JANUARY 10, 2005

The Assembly Appropriations Committee reports favorably Assembly Bill Nos. 1478 and 1482 (ACS).

Assembly Bill Nos. 1478 and 1482 (ACS) requires an intermodal equipment provider that tenders intermodal chassis for interchange in New Jersey to implement a systematic maintenance check program to inspect the chassis on a routine basis. An intermodal chassis is a trailer designed to carry intermodal freight containers.

The bill gives the New Jersey Department of Transportation authority for oversight over the inspection program.

The bill requires future agreements between intermodal equipment providers and motor carriers to contain allocations of responsibility for equipment defects and indemnity provisions.

The bill clarifies when a summons or complaint for a violation of State or federal law concerning the chassis shall be issued to the motor carrier or the intermodal equipment provider.

#### Chassis Inspection Program

The bill prohibits an intermodal equipment provider from tendering to a motor carrier a chassis that fails to pass a systematic maintenance check (SMC) inspection or that fails to meet the requirements of the Federal Motor Carrier Safety Administration regulations. Nothing in this bill is meant to supersede federal inspection requirements and standards; rather, this bill helps to enforce those standards by imposing an additional requirement that an intermodal equipment provider regularly inspect chassis prior to tendering them to a motor carrier.

The bill sets forth the components on a chassis that must be inspected at least once every six months under the SMC program along with requirements for a dated SMC inspection sticker.

The bill also provides that a full eight-point SMC inspection must be done following certain repairs, when certain defects are noted on an in-gate interchange receipt, or when a SMC inspection sticker has expired.

The bill contains requirements for tagging and processing a chassis that has failed an SMC inspection. It also contains requirements for the qualification of inspectors and for record keeping concerning the

inspection, maintenance or repairs of chassis.

A driver who, as a result of the pre-trip inspection of the chassis, determines that it is in an unsafe operating condition shall request that the equipment provider repair or replace the chassis. The decision to repair or replace will be at the equipment provider's discretion. If the driver is forced to wait for more than one hour while the chassis is repaired or replaced, the driver shall be compensated at an hourly rate to be determined by the department. If the request to repair or replace is refused by the equipment provider, the driver may file a complaint with the Department of Transportation and the department may, following a hearing, assess a civil administrative penalty.

#### Oversight

The bill requires any intermodal equipment provider that tenders intermodal chassis for interchange in New Jersey to register with the Department of Transportation and to annually certify to the department that it is in compliance with the chassis inspection program.

The bill gives the department authority to enter an intermodal equipment provider facility to conduct audits to determine compliance with the act. While conducting a compliance audit, the department may request that the State Police, or the police of the authority operating the port, accompany the department and inspect a limited number of chassis for inspection compliance.

#### Allocation of Responsibility for Chassis Equipment Defects and Indemnity Agreements

The bill requires that intermodal equipment providers and motor carriers enter into an agreement which allocates responsibility for equipment and contains indemnity provisions in accordance with this allocation. In general, the intermodal equipment provider will be responsible for latent equipment defects and the motor carrier will be responsible for equipment defects which should be detected during a pre-trip inspection conducted during the federally-required walk-around inspection.

#### Issuance of Summons or Complaints for Chassis Violations

The bill contains provisions which clarify when a summons or complaint for a violation of State or federal law concerning the chassis shall be issued to the motor carrier or the intermodal equipment provider. The summons provisions incorporate the same allocation of responsibility as required in the allocation of responsibility agreement.

#### Effective Date

The bill will take effect on the first day of the twelfth month following enactment. It will expire upon the effective date of a federal statute to regulate the inspection and maintenance of intermodal chassis or when final rules by the Federal Motor Carrier Safety

Administration regulating the inspection and maintenance of intermodal chassis take effect.

**FISCAL IMPACT:**

No specific information has been provided by the Department of Transportation on the costs of fulfilling department responsibilities under the bill.

The bill requires the creation and maintenance of two data bases, one for information on the tagging and records of the inspection, maintenance and repairs of intermodal chassis and a second for the registration of intermodal equipment providers.

The most substantial costs, and those least clear under the terms of the bill, are those of inspection. Section 9 of the bill authorizes, but does not require, departmental compliance audits that include spot chassis inspections at intermodal equipment facilities and authorizes, but does not require, trained State Police officers to conduct compliance chassis inspections at intermodal equipment facilities. The extent of these inspections, and therefore their costs, is not known at this time.

# ASSEMBLY TRANSPORTATION COMMITTEE

## STATEMENT TO

### ASSEMBLY COMMITTEE SUBSTITUTE FOR **ASSEMBLY, Nos. 1478 and 1482**

with committee amendments

# STATE OF NEW JERSEY

DATED: FEBRUARY 14, 2005

The Assembly Transportation Committee reports favorably and with committee amendments Assembly Committee Substitute for Assembly Bill Nos. 1478 and 1482.

On December 9, 2004, the Committee released Assembly Committee Substitute for Assembly Bill Nos. 1478 and 1482. On January 10, 2005 it was released by the Assembly Appropriations Committee. On January 24, 2005, it was recommitted to the Assembly Transportation Committee.

As released today with committee amendments, this committee substitute bill requires an intermodal equipment provider that tenders intermodal chassis for interchange in New Jersey to implement a systematic maintenance check (SMC) program to inspect the chassis on a routine basis. An intermodal chassis is a trailer designed to carry intermodal freight containers.

The bill gives the New Jersey Department of Transportation (the department) authority for oversight over the inspection program.

The bill contains provisions which establish which party shall be cited for chassis defects when, during a roadside inspection, there is found a violation of State law or regulations or Federal Motor Carrier Safety Administration regulations relating to the chassis.

#### Chassis Inspection Program

The bill prohibits an intermodal equipment provider from tendering to a motor carrier a chassis that fails to pass a SMC inspection or that fails to meet the requirements of the Federal Motor Carrier Safety Administration regulations. Nothing in this bill is meant to supersede federal inspection requirements and standards; rather, this bill helps to enforce those standards by imposing an additional requirement that an intermodal equipment provider regularly inspect chassis prior to tendering them to a motor carrier.

The bill sets forth the components on a chassis that must be inspected at least once every six months under the SMC program along with requirements for a dated SMC inspection sticker.

The bill also provides that a full eight-point SMC inspection must be done following certain repairs, when certain defects are noted on an in-gate interchange receipt, or when a SMC inspection sticker has expired.

The bill contains requirements for tagging and processing a chassis that has failed an SMC inspection. It also contains requirements for the qualification of inspectors and for record keeping concerning the inspection, maintenance or repairs of chassis.

A driver who, as a result of the pre-trip inspection of the chassis, determines that it is in an unsafe operating condition shall request that the equipment provider repair or replace the chassis. The decision to repair or replace will be at the equipment provider's discretion. If the driver is forced to wait for more than one hour while the chassis is repaired or replaced, the driver shall be compensated at an hourly rate to be determined by the department. If the request to repair or replace is refused by the equipment provider, the driver may file a complaint with the department and the department may, following a hearing, assess a civil administrative penalty.

#### Oversight

The bill requires any intermodal equipment provider that tenders intermodal chassis for interchange in New Jersey to register with the department and to annually certify to the department that it is in compliance with the chassis inspection program.

The bill gives the department authority to enter an intermodal equipment provider facility to conduct audits to determine compliance with the act. While conducting a compliance audit, the department may request that the State Police, or the police of the authority operating the port, accompany the department and inspect a limited number of chassis for inspection compliance.

#### Summons, Complaint or Violation Report for Chassis

The bill contains provisions which establish whether the motor carrier, the intermodal equipment provider, or the registered owner of the chassis shall be cited when, during a roadside inspection of a chassis, there is found a violation of State law or regulations or Federal Motor Carrier Safety Administration regulations which results in a complaint, summons or violation report.

For latent equipment defects, the intermodal equipment provider will be cited. If the intermodal equipment provider cannot be determined, the registered owner of the chassis will be cited.

For equipment defects which should be detected during a pre-trip inspection conducted during the federally-required walk-around inspection, the motor carrier will be cited.

The bill provides that an equipment provider or motor carrier may not seek reimbursement of a fine or penalty imposed as a result of a summons or complaint unless the violation was caused by the negligence or willful misconduct of another party. The bill also

provides that, under certain circumstances, an equipment provider or motor carrier may petition the appropriate authorities to request that a violation report not be used against its overall compliance record.

#### Interference with Duties and Rights of Others

The bill provides that it is a violation of the act to interfere with or attempt to interfere with the duties, obligations, rights or remedies of a motor carrier or its driver, an intermodal equipment provider, or an SMC inspector as provided for by the act.

#### Effective Date

The bill will take effect on the first day of the twelfth month following enactment. It will expire upon the effective date of a federal statute to regulate the inspection and maintenance of intermodal chassis or when final rules by the Federal Motor Carrier Safety Administration regulating the inspection and maintenance of intermodal chassis take effect.

#### COMMITTEE AMENDMENTS

The Committee amended the bill to clarify that the penalties imposed for failing to comply with sections 2, 7 and 9 of the bill are civil administrative penalties to be assessed by the department and which may be collected by the department in accordance with the "Penalty Enforcement Law of 1999," P.L. 1999, c.274 (C.2A:58-10 et seq.).

The Committee amended the bill to change the record maintenance requirement of the bill from two years to three years.

The Committee amended the bill to clarify that the authorization given to a New Jersey State Police officer to enter any intermodal equipment facility for the purpose of conducting inspections of chassis as part of an audit by the department does not limit the authority of a member of the State Police or the police of the authority operating the port to inspect vehicles in operation upon highways of the State or on business premises of the owner or lessee of vehicles.

The Committee amended the bill to remove references to an agreement between an intermodal equipment provider and a motor carrier which would allocate responsibility for equipment and contain indemnity provisions. Language was added by amendment to clarify that the bill is not intended to affect any indemnification agreement, such as the UIIA Provisions adopted by the Intermodal Interchange Executive Committee, concerning intermodal chassis.

The Committee amended the bill to clarify that the purpose of the bill is to determine which party shall be cited on a summons, complaint or violation report for a violation of State law or regulations or Federal Motor Carrier Safety Administration regulations, 49 C.F.R. sections 393 and 396, relating to an intermodal chassis.

The Committee amended the bill to make the provisions concerning reimbursement for a penalty or fine imposed as a result of



a summons or complaint to apply to the intermodal equipment provider, as well as the motor carrier. Similarly, the Committee amended the bill to provide that the intermodal equipment provider, as well as the motor carrier, may petition to have a violation report not be used against its overall compliance report.

The Committee amended the bill to clarify that the provisions concerning summons, complaints and violation reports apply only to summons, complaints and violation reports issued after the effective date of the bill.

The Committee amended the bill to provide that it is a violation of the bill to interfere with or attempt to interfere with the duties, obligations, rights or remedies of a motor carrier or its driver, an intermodal equipment provider, or an SMC inspector as provided for by the bill.

# SENATE TRANSPORTATION COMMITTEE

## STATEMENT TO

[First Reprint]

### ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, Nos. 1478 and 1482

# STATE OF NEW JERSEY

DATED: MARCH 7, 2005

The Senate Transportation Committee reports favorably Assembly Committee Substitute for Assembly Bill Nos. 1478 and 1482 (1R).

This bill requires an intermodal equipment provider that tenders intermodal chassis for interchange in New Jersey to implement a systematic maintenance check (SMC) program to inspect the chassis on a routine basis. An intermodal chassis is a trailer designed to carry intermodal freight containers.

The bill gives the New Jersey Department of Transportation (the “department”) authority for oversight over the inspection program.

The bill contains provisions which establish which party shall be cited for chassis defects when, during a roadside inspection, there is found a violation of State law or regulations or Federal Motor Carrier Safety Administration regulations relating to the chassis.

#### Chassis Inspection Program

The bill prohibits an intermodal equipment provider from tendering to a motor carrier a chassis that fails to pass a SMC inspection or that fails to meet the requirements of the Federal Motor Carrier Safety Administration regulations. Nothing in this bill is meant to supersede federal inspection requirements and standards; rather, this bill helps to enforce those standards by imposing an additional requirement that an intermodal equipment provider regularly inspect chassis prior to tendering them to a motor carrier.

The bill sets forth the components on a chassis that must be inspected at least once every six months under the SMC program along with requirements for a dated SMC inspection sticker.

The bill also provides that a full eight-point SMC inspection must be done following certain repairs, when certain defects are noted on an in-gate interchange receipt, or when a SMC inspection sticker has expired.

The bill contains requirements for tagging and processing a chassis that has failed an SMC inspection. It also contains requirements for

the qualification of inspectors and for record keeping concerning the inspection, maintenance or repairs of chassis.

A driver who, as a result of the pre-trip inspection of the chassis, determines that it is in an unsafe operating condition shall request that the equipment provider repair or replace the chassis. The decision to repair or replace will be at the equipment provider's discretion. If the driver is forced to wait for more than one hour while the chassis is repaired or replaced, the driver shall be compensated at an hourly rate to be determined by the department. If the request to repair or replace is refused by the equipment provider, the driver may file a complaint with the department and the department may, following a hearing, assess a civil administrative penalty.

#### Oversight

The bill requires any intermodal equipment provider that tenders intermodal chassis for interchange in New Jersey to register with the department and to annually certify to the department that it is in compliance with the chassis inspection program.

The bill gives the department authority to enter an intermodal equipment provider facility to conduct audits to determine compliance with the act. While conducting a compliance audit, the department may request that the State Police, or the police of the authority operating the port, accompany the department and inspect a limited number of chassis for inspection compliance.

#### Summons, Complaint or Violation Report for Chassis

The bill contains provisions which establish whether the motor carrier, the intermodal equipment provider, or the registered owner of the chassis shall be cited when, during a roadside inspection of a chassis, there is found a violation of State law or regulations or Federal Motor Carrier Safety Administration regulations which results in a complaint, summons or violation report.

For latent equipment defects, the intermodal equipment provider will be cited. If the intermodal equipment provider cannot be determined, the registered owner of the chassis will be cited.

For equipment defects which should be detected during a pre-trip inspection conducted during the federally-required walk-around inspection, the motor carrier will be cited.

The bill provides that an equipment provider or motor carrier may not seek reimbursement of a fine or penalty imposed as a result of a summons or complaint unless the violation was caused by the negligence or willful misconduct of another party. The bill also provides that, under certain circumstances, an equipment provider or motor carrier may petition the appropriate authorities to request that a violation report not be used against its overall compliance record.

#### Interference with Duties and Rights of Others

The bill provides that it is a violation of the bill to interfere with or

attempt to interfere with the duties, obligations, rights or remedies of a motor carrier or its driver, an intermodal equipment provider, or an SMC inspector as provided for by the bill.

Effective Date

The bill will take effect on the first day of the twelfth month following enactment. It will expire upon the effective date of a federal statute to regulate the inspection and maintenance of intermodal chassis or when final rules by the Federal Motor Carrier Safety Administration regulating the inspection and maintenance of intermodal chassis take effect.

This bill is identical to S-2201, as amended and reported by the committee on the same date.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

[First Reprint]

### ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, Nos. 1478 and 1482

# STATE OF NEW JERSEY

DATED: JUNE 27, 2005

The Senate Budget and Appropriations Committee reports favorably Assembly Bill Nos. 1478 and 1482 (ACS/1R).

This bill requires an intermodal equipment provider that tenders intermodal chassis for interchange in New Jersey to implement a systematic maintenance check (SMC) program to inspect the chassis on a routine basis. An intermodal chassis is a trailer designed to carry intermodal freight containers.

The bill gives the New Jersey Department of Transportation (the “department”) authority for oversight over the inspection program.

The bill determines which party shall be cited on a summons, complaint or violation report for a violation of State law or regulations or Federal Motor Carrier Safety Administration regulations, 49 C.F.R. sections 393 and 396, relating to an intermodal chassis.

The bill is not intended to affect any indemnification agreement, such as the UIIA Provisions adopted by the Intermodal Interchange Executive Committee, concerning intermodal chassis.

#### Chassis Inspection Program

The bill prohibits an intermodal equipment provider from tendering to a motor carrier a chassis that fails to pass a SMC inspection or that fails to meet the requirements of the Federal Motor Carrier Safety Administration regulations. Nothing in this bill is meant to supersede federal inspection requirements and standards; rather, this bill helps to enforce those standards by imposing an additional requirement that an intermodal equipment provider regularly inspect chassis prior to tendering them to a motor carrier.

The bill sets forth the components on a chassis that must be inspected at least once every six months under the SMC program along with requirements for a dated SMC inspection sticker.

The bill also provides that a full eight-point SMC inspection must be done following certain repairs, when certain defects are noted on an in-gate interchange receipt, or when a SMC inspection sticker has expired.

The bill contains requirements for tagging and processing a chassis that has failed an SMC inspection. It also contains requirements for the qualification of inspectors and for record keeping concerning the inspection, maintenance or repairs of chassis.

A driver who, as a result of the pre-trip inspection of the chassis, determines that it is in an unsafe operating condition shall request that the equipment provider repair or replace the chassis. The decision to repair or replace will be at the equipment provider's discretion. If the driver is forced to wait for more than one hour while the chassis is repaired or replaced, the driver shall be compensated at an hourly rate to be determined by the department. If the request to repair or replace is refused by the equipment provider, the driver may file a complaint with the department and the department may, following a hearing, assess a civil administrative penalty which may be collected by the department in accordance with the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

#### Oversight

The bill requires any intermodal equipment provider that tenders intermodal chassis for interchange in New Jersey to register with the department and to annually certify to the department that it is in compliance with the chassis inspection program.

The bill gives the department authority to enter an intermodal equipment provider facility to conduct audits to determine compliance with the act. While conducting a compliance audit, the department may request that the State Police, or the police of the authority operating the port, accompany the department and inspect a limited number of chassis for inspection compliance. The authorization given to a New Jersey State Police officer to enter any intermodal equipment facility for the purpose of conducting inspections of chassis as part of an audit by the department does not limit the authority of a member of the State Police or the police of the authority operating the port to inspect vehicles in operation upon highways of the State or on business premises of the owner or lessee of vehicles.

#### Summons, Complaint or Violation Report for Chassis

The bill contains provisions which establish whether the motor carrier, the intermodal equipment provider, or the registered owner of the chassis shall be cited when, during a roadside inspection of a chassis, there is found a violation of State law or regulations or Federal Motor Carrier Safety Administration regulations which results in a complaint, summons or violation reports issued after the effective date of the bill.

For latent equipment defects, the intermodal equipment provider will be cited. If the intermodal equipment provider cannot be determined, the registered owner of the chassis will be cited.

For equipment defects which should be detected during a pre-trip inspection conducted during the federally-required walk-around

inspection, the motor carrier will be cited.

The bill provides that an intermodal equipment provider or motor carrier may not seek reimbursement of a fine or penalty imposed as a result of a summons or complaint unless the violation was caused by the negligence or willful misconduct of another party. The intermodal equipment provider, as well as the motor carrier, may petition to have a violation report not be used against its overall compliance report.

#### Interference with Duties and Rights of Others

The bill provides that it is a violation to interfere with or attempt to interfere with the duties, obligations, rights or remedies of a motor carrier or its driver, an intermodal equipment provider, or an SMC inspector as provided for by the bill.

#### Effective Date

The bill will take effect on the first day of the twelfth month following enactment. It will expire upon the effective date of a federal statute to regulate the inspection and maintenance of intermodal chassis or when final rules by the Federal Motor Carrier Safety Administration regulating the inspection and maintenance of intermodal chassis take effect.

As reported, this bill is identical to S-2201 (1R), as also reported by the Committee.

#### FISCAL IMPACT:

The Office of Legislative Services concurs with the Executive Branch that compliance with this bill may be accomplished by hiring a Principal Inspector and a Secretarial Assistant, with a projected cost of \$142,806 in salaries, fringe benefits and equipment in order to handle the associated work load. The costs in the second and third years would be \$141,184 and \$147,248, respectively. This program unit would oversee approximately 20-25 intermodal equipment providers, who manage approximately 3 million intermodal chassis in their possession. The projected cost does not include legal expenditures needed to hear appeals of administrative fines and penalties assessed to violators by the DOT. The bill does not require departmental compliance audits that include spot chassis inspections at intermodal equipment facilities and authorizes, but does not require, trained State Police officers to conduct compliance chassis inspections at intermodal equipment facilities. If the DOT or State Police undertake a more extensive role than currently planned, the costs of the bill would be commensurably higher.

**LEGISLATIVE FISCAL ESTIMATE  
ASSEMBLY COMMITTEE SUBSTITUTE FOR  
ASSEMBLY, Nos. 1478 and 1482  
STATE OF NEW JERSEY  
211th LEGISLATURE**

DATED: APRIL 12, 2005

**SUMMARY**

**Synopsis:** Requires systematic maintenance check program for intermodal chassis and allocates responsibility for equipment defects.

**Type of Impact:** Probable ongoing expenditure increase to General Fund.

**Agencies Affected:** Department of Transportation (DOT), Motor Vehicle Commission (MVC)

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<u><b>Year 1</b></u>	<u><b>Year 2</b></u>	<u><b>Year 3</b></u>
<b>State Cost</b>	Indeterminate- See Comments Below		

! The DOT or MVC activity proposed in the bill is not fully specified; however the DOT has informally indicated that its implementation costs will comprise a new two-person program unit.

**BILL DESCRIPTION**

Assembly Committee Substitute for Assembly Bill Nos. 1478 and 1482 of 2004 (the bill) proposes to require that an intermodal equipment provider that tenders intermodal chassis for interchange in New Jersey implement a systematic maintenance check program to inspect the chassis on a routine basis. An intermodal chassis is a trailer designed to carry intermodal freight containers.

The bill would give the DOT authority for oversight over the inspection program.

The bill would require future agreements between intermodal equipment providers and motor carriers to contain allocations of responsibility for equipment defects and indemnity provisions.

Chassis Inspection Program

The bill prohibits an intermodal equipment provider from tendering to a motor carrier a chassis that fails to pass a systematic maintenance check inspection or that fails to meet the requirements of the Federal Motor Carrier Safety Administration regulations. Nothing in this bill is meant to supersede federal inspection requirements and standards; rather, this bill helps to enforce those standards by imposing an additional requirement that an intermodal equipment



provider regularly inspect chassis prior to tendering them to a motor carrier.

The bill sets forth the components on a chassis that must be inspected at least once every six months under the systematic maintenance check program along with requirements for a dated systematic maintenance check inspection sticker.

The bill also provides that a full eight-point systematic maintenance check inspection must be done following certain repairs, when certain defects are noted on an in-gate interchange receipt, or when a systematic maintenance check inspection sticker has expired.

The bill contains requirements for tagging and processing a chassis that has failed a systematic maintenance check inspection. It also contains requirements for the qualification of inspectors and for record keeping concerning the inspection, maintenance or repairs of chassis.

A driver who, as a result of the pre-trip inspection of the chassis, determines that it is in an unsafe operating condition shall request that the equipment provider repair or replace the chassis. The decision to repair or replace will be at the equipment provider's discretion. If the driver is forced to wait for more than one hour while the chassis is repaired or replaced, the driver shall be compensated at an hourly rate to be determined by the department. If the request to repair or replace is refused by the equipment provider, the driver may file a complaint with the DOT and the DOT may, following a hearing, assess a civil administrative penalty.

#### Oversight

The bill requires any intermodal equipment provider that tenders intermodal chassis for interchange in New Jersey to register with the DOT and to annually certify to the DOT that it is in compliance with the chassis inspection program.

The bill gives the DOT authority to enter an intermodal equipment provider facility to conduct audits to determine compliance with the act. While conducting a compliance audit, the DOT may request that the State Police, or the police of the authority operating the port, accompany the DOT and inspect a limited number of chassis for inspection compliance.

#### Allocation of Responsibility for Chassis Equipment Defects and Indemnity Agreements

The bill requires that intermodal equipment providers and motor carriers enter into an agreement which allocates responsibility for equipment and contains indemnity provisions in accordance with this allocation. In general, the intermodal equipment provider will be responsible for latent equipment defects and the motor carrier will be responsible for equipment defects which should be detected during a pre-trip inspection conducted during the federally-required walk-around inspection.

#### Issuance of Summons or Complaints for Chassis Violations

The bill contains provisions which clarify when a summons or complaint for a violation of State or federal law concerning the chassis shall be issued to the motor carrier or the intermodal equipment provider. The summons provisions incorporate the same allocation of responsibility as required in the allocation of responsibility agreement.

## **FISCAL ANALYSIS**

### ***OFFICE OF LEGISLATIVE SERVICES***

The bill requires the creation and maintenance of two data bases, one for information on the tagging and records of the inspection, maintenance and repairs of intermodal chassis and a

second for the registration of intermodal equipment providers.

The most substantial costs, and those least clear under the terms of the bill, are those of inspection. Section 9 of the bill authorizes, but does not require, departmental compliance audits that include spot chassis inspections at intermodal equipment facilities and authorizes, but does not require, trained State Police officers to conduct compliance chassis inspections at intermodal equipment facilities. The extent of these inspections, and therefore their costs, is not known at this time.

Information informally provided by the DOT on the costs of fulfilling department responsibilities under the bill indicates that DOT plans to create a two-person program unit to undertake administrative duties under this bill. If the DOT holds to these plans, costs could be as low as \$200,000 annually.

Section: *Authorities, Utilities, Transportation and Communications*

Analyst: *Mark J. Trease*  
*Associate Fiscal Analyst*

Approved: *David J. Rosen*  
*Legislative Budget and Finance Officer*

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

**FISCAL NOTE**  
[First Reprint]  
**ASSEMBLY COMMITTEE SUBSTITUTE FOR**  
**ASSEMBLY, Nos. 1478 and 1482**  
**STATE OF NEW JERSEY**  
**211th LEGISLATURE**

DATED: MAY 10, 2005

**SUMMARY**

**Synopsis:** Requires systematic maintenance check program for intermodal chassis and establishes party to be cited for chassis equipment defects.

**Type of Impact:** Ongoing expenditure increase to General Fund.

**Agencies Affected:** Department of Transportation (DOT), Motor Vehicle Commission (MVC), State Police, Administrative Office of the Courts, Attorney General.

**Executive Estimate**

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Year 2</u></b>	<b><u>Year 3</u></b>
<b>State Cost</b>	\$142,806	\$141,184	\$147,248

- ! The Office of Legislative Services (OLS) accepts the Executive Estimate as reasonable given the DOT's plans for implementing the bill.
- ! The OLS notes that alternative approvals to the bill's implementation could entail higher costs.
- ! Some offsetting revenues may occur from fines, but the bill does not dedicate the usage of any such revenue to the DOT.

**BILL DESCRIPTION**

Assembly Committee Substitute for Assembly Bill Nos. 1478 and 1482 (1R) of 2004 proposes to require intermodal equipment providers that tender intermodal chassis for interchange in New Jersey to implement a systematic maintenance check program to inspect the chassis on a routine basis. An intermodal chassis is a trailer designed to carry intermodal freight containers.

The bill gives the DOT authority for oversight over the inspection program.

The bill contains provisions which establish which party shall be cited for chassis defects when, during a roadside inspection, there is found a violation of State law or regulations or Federal Motor Carrier Safety Administration regulations relating to the chassis.

Chassis Inspection Program

The bill prohibits an intermodal equipment provider from tendering to a motor carrier a chassis that fails to pass a systematic maintenance check inspection or that fails to meet the requirements of the Federal Motor Carrier Safety Administration regulations.

The bill sets forth the components on a chassis that must be inspected at least once every six months under the systematic maintenance check program along with requirements for a dated systematic maintenance check inspection sticker. The bill provides that an systematic maintenance check inspection must be done following certain repairs, when certain defects are noted on an in-gate interchange receipt, or when a systematic maintenance check inspection sticker has expired.

The bill contains requirements for tagging and processing a chassis that has failed an systematic maintenance check inspection. It also contains requirements for the qualification of inspectors and for record keeping concerning the inspection, maintenance or repairs of chassis.

#### Oversight

The bill requires any intermodal equipment provider that tenders intermodal chassis for interchange in New Jersey to register with the department and to annually certify to the department that it is in compliance with the chassis inspection program.

The bill gives the department authority to enter an intermodal equipment provider facility to conduct audits to determine compliance with the act. While conducting a compliance audit, the department may request that the State Police, or the police of the authority operating the port, accompany the department and inspect a limited number of chassis for inspection compliance.

#### Summons, Complaint or Violation Report for Chassis

The bill contains provisions which establish whether the motor carrier, the intermodal equipment provider, or the registered owner of the chassis shall be cited when, during a roadside inspection of a chassis, there is found a violation of State law or regulations or Federal Motor Carrier Safety Administration regulations which results in a complaint, summons or violation report.

For latent equipment defects, the intermodal equipment provider will be cited. If the intermodal equipment provider cannot be determined, the registered owner of the chassis will be cited.

For equipment defects which should be detected during a pre-trip inspection conducted during the federally-required walk-around inspection, the motor carrier will be cited.

The bill provides that an equipment provider or motor carrier may not seek reimbursement of a fine or penalty imposed as a result of a summons or complaint unless the violation was caused by the negligence or willful misconduct of another party. The bill also provides that, under certain circumstances, an equipment provider or motor carrier may petition the appropriate authorities to request that a violation report not be used against its overall compliance record.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

According to the Administration, compliance with this bill may be accomplished by hiring a Principal Inspector and a Secretarial Assistant, with a projected cost of \$142,806 in salaries, fringe benefits and equipment in order to handle the associated work load. The costs in the second and third years would be \$141,184 and \$147,248, respectively. This program unit would

oversee approximately 20-25 intermodal equipment providers, who manage approximately 3 million intermodal chassis in their possession.

The Principal Inspector would have overall responsibility for:

- ! Development of a system for registration of intermodal equipment providers;
- ! Registration of the providers; and
- ! Administration and oversight of the program.

The Administration notes that the projected cost does not include legal expenditures needed to hear appeals of administrative fines and penalties assessed to violators by the DOT; this is due to the uncertainty of the number of annual violators. Additionally, costs can not be determined as to clothing maintenance for chassis inspections, travel mileage, vehicle allowances, and data processing report updates.

The Administration also states that following provisions of the bill have a fiscal impact, some of which overlap the duties of the Principal Inspector, but may include other actors or costs:

- ! Ongoing audits of intermodal equipment facilities as deemed necessary. The audit shall include systematic maintenance check inspection, tagging and processing of failed chassis, repair and record-keeping requirements. The DOT may request that the New Jersey State Police or the police of the authority operating that port to accompany the Department to conduct a limited number of chassis inspections as a part of the audit.
- ! Imposing civil administrative penalties for violations of the requirements proposed.
- ! Collecting civil administrative penalties under the "Penalty Enforcement Law of 1999".
- ! Conducting hearings under the Administrative Procedures Act.
- ! In conjunction with the State Police, establish a process where a motor carrier can petition for the removal of an improperly reported violation from his/her federal motor carrier safety record.
- ! In conjunction with the State Police, equipment providers, and motor carriers, establish a list of the specific chassis equipment components to be inspected during the pre-trip inspection and for which the driver shall be cited on the summons, complaint or violation report.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS accepts the Executive Estimate as reasonable given the DOT's plans for implementation.

The OLS notes that the greatest cost uncertainty involves the bill's audit provisions. Section 9 of the bill authorizes, but does not require, departmental compliance audits that include spot chassis inspections at intermodal equipment facilities and authorizes, but does not require, trained State Police officers to conduct compliance chassis inspections at intermodal equipment facilities. If the DOT or State Police undertake a more extensive role than currently planned, the costs of the bill would be commensurably higher.

Section: *Authorities, Utilities, Transportation and Communications*

Analyst: *Mark J. Trease*  
*Associate Fiscal Analyst*

Approved: *David J. Rosen*  
*Legislative Budget and Finance Officer*

**SENATE, No. 2201**

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**STATE OF NEW JERSEY**  
**211th LEGISLATURE**

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INTRODUCED JANUARY 11, 2005

**Sponsored by:**

**Senator NICHOLAS J. SACCO**

**District 32 (Bergen and Hudson)**

**SYNOPSIS**

Requires systematic maintenance check program for intermodal chassis and allocates responsibility for equipment defects.

**CURRENT VERSION OF TEXT**

As introduced.



**S2201 SACCO**

2

1 **AN ACT** concerning intermodal chassis, requiring a systematic  
2 maintenance check programs, allocating responsibility for  
3 equipment defects, and supplementing 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 1. As used in this act:

10 "Department" means the New Jersey Department of Transportation.

11 "Equipment interchange receipt" or "interchange receipt" means the  
12 receipt exchanged between an intermodal equipment provider or its  
13 agent and a motor carrier or its driver confirming acceptance of an  
14 intermodal chassis by a motor carrier and indicating the name of the  
15 intermodal equipment provider for such equipment.

16 "Intermodal chassis" or "chassis" means a trailer designed to carry  
17 intermodal freight containers.

18 "Intermodal equipment facility" means any facility in New Jersey at  
19 which intermodal chassis are maintained and interchanged to motor  
20 carriers by or on behalf of an intermodal equipment provider.

21 "Intermodal equipment provider" or "equipment provider" means  
22 the person or entity that provides an intermodal chassis to a motor  
23 carrier pursuant to a written interchange agreement or has  
24 responsibility for maintenance of the intermodal chassis.

25 "Systematic maintenance check program" or "SMC" means the  
26 eight-point intermodal chassis inspection program established by this  
27 act.

28

29 2. a. An intermodal equipment provider shall not tender for  
30 interchange in New Jersey with a motor carrier an intermodal chassis  
31 that has not passed the systematic maintenance check program  
32 required by this act or that fails to meet the requirements set forth in  
33 the Federal Motor Carrier Safety Regulations, 49 C.F.R. sections 393  
34 and 396. Any intermodal equipment provider tendering to, or  
35 interchanging with, a motor carrier such equipment shall provide  
36 certification that the chassis is currently in compliance with the SMC  
37 program set forth in this act.

38 b. An intermodal equipment provider that violates this section shall  
39 be fined up to \$5,000, per occurrence, commensurate with the gravity  
40 of the offense.

41 c. Nothing in this act is intended to supersede or interfere with the  
42 commercial motor vehicle inspection requirements and standards set  
43 forth in 49 C.F.R. sections 393 and 396. Rather, this act imposes an  
44 additional requirement that an intermodal equipment provider inspect  
45 chassis on a routine basis and as otherwise required by this act.

**S2201 SACCO**

1       3. a. An intermodal equipment provider shall establish and  
2 implement a systematic maintenance check program for the intermodal  
3 chassis that it tenders for interchange to motor carriers. The SMC  
4 program shall be consistent with Federal Motor Carrier Safety  
5 Regulations set forth in 49 C.F.R. sections 393 and 396 and shall  
6 include, but not be limited to, the following components or actions:

- 7       (1) tires;
- 8       (2) brakes;
- 9       (3) lights;
- 10      (4) a twist lock and safety lock inspection which includes ensuring  
11 that twist locks are operational and safety locks are working;
- 12      (5) wheel lubrication;
- 13      (6) frame;
- 14      (7) registration and federal and State inspection stickers; and
- 15      (8) upon the satisfactory completion of the inspection and any  
16 required actions necessary to bring the chassis into compliance with  
17 the inspection standards, the application of an SMC inspection sticker  
18 with the equipment provider's name, the inspector's name, and an  
19 expiration date set at six months following the inspection. Chassis  
20 which fail a SMC inspection shall be processed in accordance with  
21 section 4 of this act.

22      b. Each SMC inspection shall be recorded on a SMC inspection  
23 report that shall include, but not be limited to, all of the following:

- 24      (1) Positive identification of the intermodal chassis, including  
25 company identification number and vehicle license plate number;
- 26      (2) Date of and reason for each SMC inspection; and
- 27      (3) Signature, under penalty of perjury, of the inspector that the  
28 SMC inspection has been performed and that the chassis is roadworthy  
29 or, if the chassis failed the inspection, the specific reason for the  
30 failure.

31  
32      4. a. Intermodal equipment providers shall implement a process to  
33 positively identify by means of a tag those intermodal chassis that are  
34 out-of-service as a result of having failed an inspection required by this  
35 act. The tag shall contain the name of the intermodal equipment  
36 provider, the inspector and the date that the chassis failed inspection.  
37 The tag shall be supplied by the intermodal equipment provider and  
38 shall meet the specifications determined by the department.

39      b. A chassis which is out-of-service as a result of having failed an  
40 inspection required by this act shall be transported, without a  
41 container, to a facility where repairs and maintenance may be  
42 performed. Defects identified during an SMC inspection of a chassis  
43 shall be repaired, and the repairs shall be recorded on the chassis  
44 maintenance file and on the SMC inspection report.

45      A chassis subject to this section shall not be interchanged with a  
46 motor carrier or operated on a public road in New Jersey until all



**S2201 SACCO**

1 defects listed during the inspection have been corrected, the chassis  
2 passes an SMC inspection, and an authorized inspector attests to that  
3 fact and affixes an SMC inspection sticker to the chassis.

4  
5 5. In addition to the routine SMC inspection which must take place  
6 at least once every six months in accordance with section 3 of this act,  
7 the following events shall cause a full SMC eight-point inspection to  
8 be done immediately:

9 a. a repair is done to remedy a defect that would be the basis for  
10 failure of an SMC inspection other than a minor repair or minor  
11 equipment defect,

12 b. a defect is noted on an in-gate interchange receipt that would be  
13 the basis for failure of an SMC inspection other than a minor repair or  
14 minor equipment defect, or

15 c. an SMC inspection sticker has expired.

16 For purposes of this section, "minor repair or minor equipment  
17 defect" means any one of the following: the need to inflate tires; the  
18 need to replace lights, a lens or a reflector; a twistlock or safety lock  
19 inspection or a safety latch replacement; a simple confirmation of  
20 federal or State inspection stickers; or the reapplication of an SMC  
21 inspection sticker that has not expired.

22  
23 6. Individuals performing SMC inspections pursuant to this act  
24 shall be qualified, at a minimum, as set forth in 49 C.F.R. sections  
25 396.19 and 396.25. Evidence of each inspector's qualification shall be  
26 retained by the intermodal equipment provider at the intermodal  
27 equipment facility for the period of time during which the inspector is  
28 performing SMC inspections at that facility.

29  
30 7. a. Any motor carrier or driver who, as a result of the pre-trip  
31 inspection of the intermodal chassis, determines the intermodal chassis  
32 to be in an unsafe operating condition shall request that the intermodal  
33 equipment provider repair or replace the intermodal chassis prior to  
34 completion of the interchange. It shall be at the discretion of the  
35 intermodal equipment provider whether to repair or to replace the  
36 chassis.

37 In the event a driver is forced to wait for more than one hour while  
38 the chassis is repaired or replaced, the intermodal equipment provider  
39 shall compensate the driver at an hourly rate to be set by the  
40 department based upon the average rate in comparable situations.

41 b. If a driver's request for repair or replacement is refused by the  
42 equipment provider, which shall be a violation of this section, the  
43 driver may file a complaint with the department. If, after an equipment  
44 provider has been afforded an opportunity for a hearing pursuant to  
45 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
46 seq.), the department determines that the equipment provider has

**S2201 SACCO**

1 violated this section, that person shall be subject to a civil  
2 administrative penalty not to exceed \$1,000 for the first violation and  
3 not more than \$5,000 for each subsequent violation.

4  
5 8. Records of inspections, maintenance or repairs of chassis  
6 performed pursuant to this act shall be maintained for two years and  
7 made available upon request of the department or a motor carrier  
8 which has transported the chassis.

9 All records required by this act may be kept in a digital format or  
10 other media allowing for the storage and retrieval of data if printouts  
11 of those records can be provided upon request at the intermodal  
12 equipment facility.

13  
14 9. a. Any intermodal equipment provider that tenders intermodal  
15 chassis for interchange in New Jersey with a motor carrier shall  
16 register with the New Jersey Department of Transportation in  
17 accordance with regulations promulgated pursuant to this act.

18 b. Every registered intermodal equipment provider shall certify to  
19 the department on an annual basis that the equipment provider is  
20 conducting a systematic maintenance check program for intermodal  
21 chassis that is in compliance with this act.

22 c. The department may conduct audits at an intermodal equipment  
23 facility as it deems necessary to effectuate the purposes of this act,  
24 including, but not limited to, when an intermodal equipment provider  
25 has demonstrated a history of non-compliance with any requirements  
26 of this act. The audit shall include, but not be limited to, SMC  
27 inspection, tagging and processing of failed chassis, repair, and record-  
28 keeping requirements. The department is authorized to enter any  
29 intermodal equipment facility for the purposes of conducting the  
30 audits.

31 As part of the audits, the department may request the New Jersey  
32 State Police or, if the chassis is tendered at a port, the police of the  
33 authority operating that port, to accompany the department and to  
34 conduct a limited number of chassis inspections in order to determine  
35 that SMC inspection and identification requirements are being met.  
36 Any New Jersey State Police officer trained to inspect intermodal  
37 chassis is authorized to enter any intermodal equipment facility for the  
38 purposes of conducting inspections as part of an audit by the  
39 department.

40 d. If, during an audit, the department determines that an intermodal  
41 equipment provider has failed to comply with any of the requirements  
42 of this act, the department shall:

43 (1) direct the intermodal equipment provider to comply  
44 immediately with the requirements of this act; and

45 (2) impose a civil administrative penalty on the intermodal  
46 equipment provider of up to \$5,000, commensurate with the gravity

**S2201 SACCO**

1 of the offense, for every day that the intermodal equipment provider  
2 fails to comply with the requirements of this act.

3  
4 10. a. Prior to an intermodal equipment provider tendering a  
5 chassis for interchange in New Jersey with a motor carrier, the  
6 intermodal equipment provider and the motor carrier shall enter into  
7 an agreement which allocates responsibility for equipment and all  
8 aspects thereof, and contains indemnity provisions in accordance with  
9 this allocation. The allocation of responsibility shall be as follows:

10 (1) the intermodal equipment provider shall be responsible for  
11 latent equipment defects on the chassis, and

12 (2) the motor carrier shall be responsible for equipment defects if  
13 the equipment is one of the specific equipment components required  
14 to be inspected by the driver during the pre-trip inspection. The pre-  
15 trip inspection shall be conducted as part of the walk-around  
16 inspection required by federal law prior to use of the chassis.

17 The department, in conjunction with representatives of intermodal  
18 equipment providers, motor carriers and the New Jersey State Police,  
19 shall establish a list of the specific chassis equipment components to  
20 be inspected during the pre-trip inspection required by this paragraph.

21 b. The requirements of this section concerning responsibility for  
22 equipment and indemnification provisions shall only apply  
23 prospectively to written agreements for the interchange of intermodal  
24 chassis entered into after the effective date of this act. The parties to  
25 an agreement entered into prior to the effective date of the act may  
26 voluntarily modify their agreement to incorporate the requirements of  
27 this section and agree to be bound by the requirements of the section  
28 immediately.

29  
30 11. a. When, upon roadside inspection of an intermodal chassis,  
31 there is found a violation of State law or regulations or Federal Motor  
32 Carrier Safety Administration regulations relating to the chassis, the  
33 summons or complaint shall indicate on its face whether the violation  
34 is the responsibility of the motor carrier or the intermodal equipment  
35 provider.

36 b. A summons or complaint issued for a latent equipment defect on  
37 the chassis that is the responsibility of the intermodal equipment  
38 provider in accordance with the provisions of paragraph (1) of  
39 subsection a. of section 10 of this act shall be issued to the intermodal  
40 equipment provider identified on the equipment interchange receipt.

41 In the event there is no equipment interchange receipt, the summons  
42 or complaint shall be issued to the equipment provider shown on the  
43 SMC inspection sticker. If there is neither an interchange receipt nor  
44 a SMC inspection sticker, the summons or complaint shall be issued  
45 to the registered owner of the chassis as determined by a registration  
46 document, a company identification number or the chassis license plate

1 number. When the summons or complaint is issued to the registered  
2 owner because it is not possible to identify an equipment provider, the  
3 registered owner may seek reimbursement for any fine from the  
4 equipment provider.

5 The intermodal equipment provider or the registered owner of the  
6 chassis shall be liable for any fines or penalties resulting from the  
7 summons or complaint. An intermodal equipment provider, registered  
8 chassis owner, or any other entity shall not seek reimbursement from  
9 the motor carrier or its driver, or otherwise hold the motor carrier or  
10 its driver responsible for the summons or complaint, unless the  
11 violation was caused by the negligence or willful misconduct of the  
12 motor carrier, its driver, agent, subcontractor or assigns.

13 c. A summons or complaint issued for a violation concerning a  
14 specific equipment component of the chassis that is the responsibility  
15 of the motor carrier in accordance with the provisions of paragraph (2)  
16 of subsection a. of section 10 of this act shall be issued to the motor  
17 carrier. The motor carrier shall be liable for any fines or penalties;  
18 provided however, in the event the defect was caused by the  
19 negligence or willful misconduct of the intermodal equipment provider,  
20 its agent, subcontractor or assigns, the intermodal equipment provider  
21 shall acknowledge responsibility in writing and reimburse the motor  
22 carrier for any fine.

23 d. Whenever the act or omission of an intermodal equipment  
24 provider is deemed responsible for a summons or complaint issued  
25 against a motor carrier, the motor carrier may petition the appropriate  
26 authorities to request that the summons or complaint shall not be used  
27 or applied against the motor carrier's overall compliance record  
28 maintained in accordance with Federal Motor Carrier Safety  
29 Administration regulations.

30 e. The State Police shall establish a process whereby, upon  
31 application of a motor carrier, a summons or complaint improperly  
32 applied against a motor carrier may be administratively removed from  
33 its compliance record.

34  
35 12. The department shall adopt such rules and regulations pursuant  
36 to the provisions of the "Administrative Procedure Act," P.L.1968,  
37 c.410 (C.52:14B-1 et seq.) necessary to effectuate the purposes of this  
38 act.

39  
40 13. This act shall take effect on the first day of the twelfth month  
41 following enactment. This act shall expire upon:

42 a. the effective date of a federal statute to regulate the inspection  
43 and maintenance of intermodal chassis; or

44 b. when final rules by the Federal Motor Carrier Safety  
45 Administration regulating the inspection and maintenance of  
46 intermodal chassis take effect.

STATEMENT

1  
2  
3 This bill requires an intermodal equipment provider that tenders  
4 intermodal chassis for interchange in New Jersey to implement a  
5 systematic maintenance check (SMC) program to inspect the chassis  
6 on a routine basis. An intermodal chassis is a trailer designed to carry  
7 intermodal freight containers.

8 The bill gives the New Jersey Department of Transportation (the  
9 department) authority for oversight over the inspection program.

10 The bill requires future agreements between intermodal equipment  
11 providers and motor carriers to contain allocations of responsibility for  
12 equipment defects and indemnity provisions.

13 The bill contains provisions which clarify when a summons or  
14 complaint for a violation of State or federal law concerning the chassis  
15 shall be issued to the motor carrier or the intermodal equipment  
16 provider.

17  
18 Chassis Inspection Program

19 The bill prohibits an intermodal equipment provider from tendering  
20 to a motor carrier a chassis that fails to pass a SMC inspection or that  
21 fails to meet the requirements of the Federal Motor Carrier Safety  
22 Administration regulations. Nothing in this bill is meant to supersede  
23 federal inspection requirements and standards; rather, this bill helps  
24 to enforce those standards by imposing an additional requirement that  
25 an intermodal equipment provider regularly inspect chassis prior to  
26 tendering them to a motor carrier.

27 The bill sets forth the components on a chassis that must be  
28 inspected at least once every six months under the SMC program  
29 along with requirements for a dated SMC inspection sticker.

30 The bill also provides that a full eight-point SMC inspection must  
31 be done following certain repairs, when certain defects are noted on  
32 an in-gate interchange receipt, or when a SMC inspection sticker has  
33 expired.

34 The bill contains requirements for tagging and processing a chassis  
35 that has failed an SMC inspection. It also contains requirements for  
36 the qualification of inspectors and for record keeping concerning the  
37 inspection, maintenance or repairs of chassis.

38 A driver who, as a result of the pre-trip inspection of the chassis,  
39 determines that it is in an unsafe operating condition shall request that  
40 the equipment provider repair or replace the chassis. The decision to  
41 repair or replace will be at the equipment provider's discretion. If the  
42 driver is forced to wait for more than one hour while the chassis is  
43 repaired or replaced, the driver shall be compensated at an hourly rate  
44 to be determined by the department. If the request to repair or replace  
45 is refused by the equipment provider, the driver may file a complaint  
46 with the department and the department may, following a hearing,

1 assess a civil administrative penalty.

2

3

Oversight

4 The bill requires any intermodal equipment provider that tenders  
5 intermodal chassis for interchange in New Jersey to register with the  
6 department and to annually certify to the department that it is in  
7 compliance with the chassis inspection program.

8 The bill gives the department authority to enter an intermodal  
9 equipment provider facility to conduct audits to determine compliance  
10 with the act. While conducting a compliance audit, the department  
11 may request that the State Police, or the police of the authority  
12 operating the port, accompany the department and inspect a limited  
13 number of chassis for inspection compliance.

14

15 Allocation of Responsibility for Chassis Equipment Defects and  
16 Indemnity Agreements

17 The bill requires that intermodal equipment providers and motor  
18 carriers enter into an agreement which allocates responsibility for  
19 equipment and contains indemnity provisions in accordance with this  
20 allocation. In general, the intermodal equipment provider will be  
21 responsible for latent equipment defects and the motor carrier will be  
22 responsible for equipment defects which should be detected during a  
23 pre-trip inspection conducted during the federally-required walk-  
24 around inspection.

25

26 Issuance of Summons or Complaints for Chassis Violations

27 The bill contains provisions which clarify when a summons or  
28 complaint for a violation of State or federal law concerning the chassis  
29 shall be issued to the motor carrier or the intermodal equipment  
30 provider. The summons provisions incorporate the same allocation of  
31 responsibility as required in the allocation of responsibility agreement.

32

33

Effective Date

34 The bill will take effect on the first day of the twelfth month  
35 following enactment. It will expire upon the effective date of a  
36 federal statute to regulate the inspection and maintenance of  
37 intermodal chassis or when final rules by the Federal Motor Carrier  
38 Safety Administration regulating the inspection and maintenance of  
39 intermodal chassis take effect.

# SENATE TRANSPORTATION COMMITTEE

## STATEMENT TO

### **SENATE, No. 2201**

with committee amendments

# STATE OF NEW JERSEY

DATED: MARCH 7, 2005

The Senate Transportation Committee reports favorably and with committee amendments Senate Bill No. 2201.

As amended, this bill requires an intermodal equipment provider that tenders intermodal chassis for interchange in New Jersey to implement a systematic maintenance check (SMC) program to inspect the chassis on a routine basis. An intermodal chassis is a trailer designed to carry intermodal freight containers.

The bill gives the New Jersey Department of Transportation (the “department”) authority for oversight over the inspection program.

The bill contains provisions which establish which party shall be cited for chassis defects when, during a roadside inspection, there is found a violation of State law or regulations or Federal Motor Carrier Safety Administration regulations relating to the chassis.

#### Chassis Inspection Program

The bill prohibits an intermodal equipment provider from tendering to a motor carrier a chassis that fails to pass a SMC inspection or that fails to meet the requirements of the Federal Motor Carrier Safety Administration regulations. Nothing in this bill is meant to supersede federal inspection requirements and standards; rather, this bill helps to enforce those standards by imposing an additional requirement that an intermodal equipment provider regularly inspect chassis prior to tendering them to a motor carrier.

The bill sets forth the components on a chassis that must be inspected at least once every six months under the SMC program along with requirements for a dated SMC inspection sticker.

The bill also provides that a full eight-point SMC inspection must be done following certain repairs, when certain defects are noted on an in-gate interchange receipt, or when a SMC inspection sticker has expired.

The bill contains requirements for tagging and processing a chassis that has failed an SMC inspection. It also contains requirements for the qualification of inspectors and for record keeping concerning the inspection, maintenance or repairs of chassis.

A driver who, as a result of the pre-trip inspection of the chassis, determines that it is in an unsafe operating condition shall request that the equipment provider repair or replace the chassis. The decision to repair or replace will be at the equipment provider's discretion. If the driver is forced to wait for more than one hour while the chassis is repaired or replaced, the driver shall be compensated at an hourly rate to be determined by the department. If the request to repair or replace is refused by the equipment provider, the driver may file a complaint with the department and the department may, following a hearing, assess a civil administrative penalty.

#### Oversight

The bill requires any intermodal equipment provider that tenders intermodal chassis for interchange in New Jersey to register with the department and to annually certify to the department that it is in compliance with the chassis inspection program.

The bill gives the department authority to enter an intermodal equipment provider facility to conduct audits to determine compliance with the act. While conducting a compliance audit, the department may request that the State Police, or the police of the authority operating the port, accompany the department and inspect a limited number of chassis for inspection compliance.

#### Summons, Complaint or Violation Report for Chassis

The bill contains provisions which establish whether the motor carrier, the intermodal equipment provider, or the registered owner of the chassis shall be cited when, during a roadside inspection of a chassis, there is found a violation of State law or regulations or Federal Motor Carrier Safety Administration regulations which results in a complaint, summons or violation report.

For latent equipment defects, the intermodal equipment provider will be cited. If the intermodal equipment provider cannot be determined, the registered owner of the chassis will be cited.

For equipment defects which should be detected during a pre-trip inspection conducted during the federally-required walk-around inspection, the motor carrier will be cited.

The bill provides that an equipment provider or motor carrier may not seek reimbursement of a fine or penalty imposed as a result of a summons or complaint unless the violation was caused by the negligence or willful misconduct of another party. The bill also provides that, under certain circumstances, an equipment provider or motor carrier may petition the appropriate authorities to request that a violation report not be used against its overall compliance record.

#### Interference with Duties and Rights of Others

The bill provides that it is a violation of the bill to interfere with or attempt to interfere with the duties, obligations, rights or remedies of a motor carrier or its driver, an intermodal equipment provider, or an



SMC inspector as provided for by the bill.

#### Effective Date

The bill will take effect on the first day of the twelfth month following enactment. It will expire upon the effective date of a federal statute to regulate the inspection and maintenance of intermodal chassis or when final rules by the Federal Motor Carrier Safety Administration regulating the inspection and maintenance of intermodal chassis take effect.

#### COMMITTEE AMENDMENTS

The committee amended the bill to clarify that the penalties imposed for failing to comply with sections 2, 7 and 9 of the bill are civil administrative penalties to be assessed by the department and which may be collected by the department in accordance with the "Penalty Enforcement Law of 1999," P.L. 1999, c.274 (C.2A:58-10 et seq.).

The committee amended the bill to change the record maintenance requirement of the bill from two years to three years.

The committee amended the bill to clarify that the authorization given to a New Jersey State Police officer to enter any intermodal equipment facility for the purpose of conducting inspections of chassis as part of an audit by the department does not limit the authority of a member of the State Police or the police of the authority operating the port to inspect vehicles in operation upon highways of the State or on business premises of the owner or lessee of vehicles.

The committee amended the bill to remove references to an agreement between an intermodal equipment provider and a motor carrier which would allocate responsibility for equipment and contain indemnity provisions. Language was added by amendment to clarify that the bill is not intended to affect any indemnification agreement, such as the UIIA Provisions adopted by the Intermodal Interchange Executive Committee, concerning intermodal chassis.

The committee amended the bill to clarify that the purpose of the bill is to determine which party shall be cited on a summons, complaint or violation report for a violation of State law or regulations or Federal Motor Carrier Safety Administration regulations, 49 C.F.R. sections 393 and 396, relating to an intermodal chassis.

The committee amended the bill to make the provisions concerning reimbursement for a penalty or fine imposed as a result of a summons or complaint to apply to the intermodal equipment provider, as well as the motor carrier. Similarly, the committee amended the bill to provide that the intermodal equipment provider, as well as the motor carrier, may petition to have a violation report not be used against its overall compliance report.

The committee amended the bill to clarify that the provisions concerning summons, complaints and violation reports apply only to summons, complaints and violation reports issued after the effective

date of the bill.

The committee amended the bill to provide that it is a violation of the bill to interfere with or attempt to interfere with the duties, obligations, rights or remedies of a motor carrier or its driver, an intermodal equipment provider, or an SMC inspector as provided for by the bill.

With these amendments, this bill is identical to ACS for A-1478/1482 (1R).

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

[First Reprint]

**SENATE, No. 2201**

# **STATE OF NEW JERSEY**

DATED: JUNE 27, 2005

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 2201 (1R).

This bill requires an intermodal equipment provider that tenders intermodal chassis for interchange in New Jersey to implement a systematic maintenance check (SMC) program to inspect the chassis on a routine basis. An intermodal chassis is a trailer designed to carry intermodal freight containers.

The bill gives the New Jersey Department of Transportation authority for oversight over the inspection program.

The bill determines which party shall be cited on a summons, complaint or violation report for a violation of State law or regulations or Federal Motor Carrier Safety Administration regulations, 49 C.F.R. sections 393 and 396, relating to an intermodal chassis.

The bill is not intended to affect any indemnification agreement, such as the UIIA Provisions adopted by the Intermodal Interchange Executive Committee, concerning intermodal chassis.

### Chassis Inspection Program

The bill prohibits an intermodal equipment provider from tendering to a motor carrier a chassis that fails to pass a SMC inspection or that fails to meet the requirements of the Federal Motor Carrier Safety Administration regulations. Nothing in this bill is meant to supersede federal inspection requirements and standards; rather, this bill helps to enforce those standards by imposing an additional requirement that an intermodal equipment provider regularly inspect chassis prior to tendering them to a motor carrier.

The bill sets forth the components on a chassis that must be inspected at least once every six months under the SMC program along with requirements for a dated SMC inspection sticker.

The bill also provides that a full eight-point SMC inspection must be done following certain repairs, when certain defects are noted on an in-gate interchange receipt, or when a SMC inspection sticker has expired.

The bill contains requirements for tagging and processing a chassis that has failed an SMC inspection. It also contains requirements for

the qualification of inspectors and for record keeping concerning the inspection, maintenance or repairs of chassis.

A driver who, as a result of the pre-trip inspection of the chassis, determines that it is in an unsafe operating condition shall request that the equipment provider repair or replace the chassis. The decision to repair or replace will be at the equipment provider's discretion. If the driver is forced to wait for more than one hour while the chassis is repaired or replaced, the driver shall be compensated at an hourly rate to be determined by the department. If the request to repair or replace is refused by the equipment provider, the driver may file a complaint with the department and the department may, following a hearing, assess a civil administrative penalty which may be collected by the department in accordance with the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

#### Oversight

The bill requires any intermodal equipment provider that tenders intermodal chassis for interchange in New Jersey to register with the department and to annually certify to the department that it is in compliance with the chassis inspection program.

The bill gives the department authority to enter an intermodal equipment provider facility to conduct audits to determine compliance with the act. While conducting a compliance audit, the department may request that the State Police, or the police of the authority operating the port, accompany the department and inspect a limited number of chassis for inspection compliance. The authorization given to a New Jersey State Police officer to enter any intermodal equipment facility for the purpose of conducting inspections of chassis as part of an audit by the department does not limit the authority of a member of the State Police or the police of the authority operating the port to inspect vehicles in operation upon highways of the State or on business premises of the owner or lessee of vehicles.

#### Summons, Complaint or Violation Report for Chassis

The bill contains provisions which establish whether the motor carrier, the intermodal equipment provider, or the registered owner of the chassis shall be cited when, during a roadside inspection of a chassis, there is found a violation of State law or regulations or Federal Motor Carrier Safety Administration regulations which results in a complaint, summons or violation reports issued after the effective date of the bill.

For latent equipment defects, the intermodal equipment provider will be cited. If the intermodal equipment provider cannot be determined, the registered owner of the chassis will be cited.

For equipment defects which should be detected during a pre-trip inspection conducted during the federally-required walk-around inspection, the motor carrier will be cited.

The bill provides that an intermodal equipment provider or motor carrier may not seek reimbursement of a fine or penalty imposed as a result of a summons or complaint unless the violation was caused by the negligence or willful misconduct of another party. The intermodal equipment provider, as well as the motor carrier, may petition to have a violation report not be used against its overall compliance report.

#### Interference with Duties and Rights of Others

The bill provides that it is a violation to interfere with or attempt to interfere with the duties, obligations, rights or remedies of a motor carrier or its driver, an intermodal equipment provider, or an SMC inspector as provided for by the bill.

#### Effective Date

The bill will take effect on the first day of the twelfth month following enactment. It will expire upon the effective date of a federal statute to regulate the inspection and maintenance of intermodal chassis or when final rules by the Federal Motor Carrier Safety Administration regulating the inspection and maintenance of intermodal chassis take effect.

As reported, this bill is identical to ACS for A-1478/1482 (1R), as also reported by the committee.

#### FISCAL IMPACT:

The Office of Legislative Services concurs with the Executive Branch that compliance with this bill may be accomplished by hiring a Principal Inspector and a Secretarial Assistant, with a projected cost of \$142,806 in salaries, fringe benefits and equipment in order to handle the associated work load. The costs in the second and third years would be \$141,184 and \$147,248, respectively. This program unit would oversee approximately 20-25 intermodal equipment providers, who manage approximately 3 million intermodal chassis in their possession. The projected cost does not include legal expenditures needed to hear appeals of administrative fines and penalties assessed to violators by the DOT. The bill authorizes, but does not require departmental compliance audits that include spot chassis inspections at intermodal equipment facilities and authorizes, but does not require, trained State Police officers to conduct compliance chassis inspections at intermodal equipment facilities. If the DOT or State Police undertake a more extensive role than currently planned, the costs of the bill would be commensurably higher.