

39:3-10.11

LEGISLATIVE HISTORY CHECKLIST

Compiled by the NJ State Law Library

LAWS OF: 2009 **CHAPTER:** 271

NJSA: 39:3-10.11 (Makes various changes to State law concerning commercial driver licenses to comply with Federal Motor Carrier Safety Regulations)

BILL NO: S3091 (Substituted for A4282)

SPONSOR(S) Sacco and Others

DATE INTRODUCED: November 23, 2009

COMMITTEE: **ASSEMBLY:** ---

SENATE: Transportation

AMENDED DURING PASSAGE: No

DATE OF PASSAGE: **ASSEMBLY:** January 11, 2010

SENATE: January 7, 2010

DATE OF APPROVAL: January 17, 2010

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (Introduced version of bill enacted)

S3091

SPONSOR'S STATEMENT: (Begins on page 11 of introduced bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: Yes

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL NOTE: No

A4282

SPONSOR'S STATEMENT: (Begins on page 11 of introduced bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes

SENATE: No

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL NOTE: No

(continued)

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext.103 or <mailto:refdesk@njstatelib.org>

REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

LAW/KER

P.L. 2009, CHAPTER 271, *approved January 17, 2010*
Senate, No. 3091

1 AN ACT concerning commercial driver licenses and amending
2 P.L.1990, c.103.

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

6
7 1. Section 3 of P.L.1990, c.103 (C.39:3-10.11) is amended to
8 read as follows:

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

15 For purposes of this act:

16 "Alcohol concentration" means:

17 a. The number of grams of alcohol per 100 milliliters of blood;

18 or

19 b. The number of grams of alcohol per 210 liters of breath.

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

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

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

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

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

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

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

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

Matter underlined thus is new matter.

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

5 f. If the vehicle is operated by, or under contract with, a public
6 or governmental agency, or religious or other charitable
7 organization or corporation, or is privately operated, and is used for
8 the transportation of children to or from a school, school connected
9 activity, day camp, summer day camp, summer residence camp,
10 nursery school, child care center, preschool center or other similar
11 places of education.

12 The chief administrator may, by regulation, include within this
13 definition such other motor vehicles or combination of motor
14 vehicles as he deems appropriate.

15 This term shall not include recreation vehicles.

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

25 "Controlled substance" means any substance so classified under
26 subsection (6) of section 102 of the "Controlled Substances Act"
27 (21 U.S.C. s.802), and includes all substances listed on Schedules I
28 through V of 21 C.F.R. s.1308, or under P.L.1970, c.226 (C.24:21-1
29 et seq.) as they may be revised from time to time. The term,
30 wherever it appears in this act or administrative regulation
31 promulgated pursuant to this act, shall include controlled substance
32 analogs.

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

42 "Conviction" means a final adjudication that a violation has
43 occurred, a final judgment on a verdict, a finding of guilt in a
44 tribunal of original jurisdiction, or a conviction following a plea of
45 guilty, non vult or nolo contendere accepted by a court. It also
46 includes an unvacated forfeiture of bail, bond or collateral deposited
47 to secure the person's appearance in court, or the payment of a fine
48 or court costs, or violation of a condition of release without bail,

1 regardless of whether the penalty is rebated, suspended, or
2 probated.

3 "Disqualification" means either:

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

7 b. A determination by the Federal Motor Carrier Safety
8 Administration under the rules of practice for motor carrier safety
9 contained in 49 C.F.R. s.386, that a person is no longer qualified to
10 operate a commercial motor vehicle under 49 C.F.R. s.391; or

11 c. The loss of qualification which automatically follows
12 conviction of an offense listed in 49 C.F.R.s.383.51.

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

16 "Driver license" means a license issued by this State or any other
17 jurisdiction to a person authorizing the person to operate a motor
18 vehicle.

19 "Endorsement" means an authorization to a commercial driver
20 license required to permit the holder of the license to operate certain
21 types of commercial motor vehicles.

22 "Felony" means any offense under any federal law or the law of
23 a state, including this State, that is punishable by death or
24 imprisonment for a term exceeding one year. The term includes,
25 but is not limited to, "crimes" as that term is defined in N.J.S.2C:1-
26 1 et seq.

27 "Foreign jurisdiction" means any jurisdiction other than a state of
28 the United States.

29 "Gross vehicle weight rating" or "GVWR" means the value
30 specified by a manufacturer as the loaded weight of a single or a
31 combination (articulated) vehicle, or the registered gross weight,
32 whichever is greater. The GVWR of a combination (articulated)
33 vehicle, commonly referred to as the "gross combination weight
34 rating" or "GCWR," is the GVWR of the power unit plus the
35 GVWR of the towed unit or units. In the absence of a value
36 specified for the towed unit or units by the manufacturer, the
37 GVWR of a combination (articulated) vehicle is the GVWR of the
38 power unit plus the total weight of the towed unit, including the
39 loads on them.

40 "Hazardous material" means a substance or material determined
41 by the Secretary of the United States Department of Transportation
42 to be capable of posing an unreasonable risk to health, safety, and
43 property when transported in commerce and so designated pursuant
44 to the provisions of the "Hazardous Materials Transportation Act"
45 (49 U.S.C. s.1801 et seq.).

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

1 "Non-commercial motor vehicle" means a motor vehicle or
2 combination of motor vehicles other than a "commercial motor
3 vehicle" as defined in this section.

4 "Out-of-service order" means a [temporary prohibition against
5 operating a] declaration by an authorized enforcement officer of a
6 federal, state, Canadian, Mexican, or local jurisdiction that a driver,
7 a commercial motor vehicle, or a motor carrier operation is out-of-
8 service pursuant to 49 C.F.R. s.386.72, 392.5., 395.13, 396.9, or
9 any compatible law or the North American Uniform Out-of-Service
10 Criteria.

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

15 "Representative vehicle" means a motor vehicle which represents
16 the type of motor vehicle that a commercial driver license applicant
17 operates or expects to operate.

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

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

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

27 c. Improper or erratic traffic lane changes;

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

30 e. A violation, arising in connection with a fatal accident, of
31 state or local law relating to motor vehicle traffic control, other than
32 a parking violation;

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

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

39 h. Driving a commercial motor vehicle without the proper class
40 of commercial driver license or endorsements for the specific
41 vehicle group being operated or for the passengers or type of cargo
42 being transported.

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

44 "State" means a state of the United States or the District of
45 Columbia.

46 "Tank vehicle" means any commercial motor vehicle that is
47 designed to transport any liquid or gaseous material within a tank
48 that is either permanently or temporarily attached to the vehicle or

1 the chassis. Such vehicles include, but are not limited to, cargo
2 tanks and portable tanks as defined by the director. However, this
3 definition does not include portable tanks having a rated capacity
4 under 1,000 gallons.

5 "Vehicle group" means a class or type of vehicle with certain
6 operating characteristics.

7 (cf: P.L.2005, c.147, s.2)

8

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

11 10. a. (1) (Deleted by amendment, P.L.2005, c.147).

12 (2) On and after April 1, 1992, and except when operating under
13 a valid commercial driver examination or learner's permit and
14 accompanied by the holder of a commercial driver license valid for
15 the class or type of vehicle being operated, a person shall not
16 operate a commercial motor vehicle unless the person has been
17 issued and is in possession of a valid commercial driver license and
18 applicable endorsements for the class and type of vehicle being
19 operated. A person shall not operate a commercial motor vehicle if
20 the person is restricted from operating a commercial vehicle of that
21 class or type.

22 (3) A person violating this subsection shall be fined not less
23 than \$250 or more than \$500, or imprisoned for not more than 60
24 days, or both. If that person has never been licensed to operate a
25 commercial motor vehicle in this State or any other jurisdiction, the
26 chief administrator shall refuse to issue a license to operate a
27 commercial motor vehicle to that person for a period of 180 days
28 from the date of the **[violation]** conviction. This penalty shall not
29 be applicable in cases where failure to have actual possession of the
30 commercial driver license is due to an administrative or technical
31 error by the commission. If a person charged with a failure to have
32 possession of a valid commercial driver license can exhibit the
33 license to the judge of the court before whom he is summoned to
34 answer to a charge and the license was valid on the day the person
35 was charged, the judge may dismiss the charge. However, the judge
36 may impose court costs.

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

46 (2) A person who violates this subsection shall, upon
47 conviction, be fined not less than \$500 or more than \$5,000 for each
48 offense, or imprisoned for a term of not more than 90 days, or both;

1 provided, however, a person who operates a commercial motor
2 vehicle during the period of an out-of-service order shall, upon
3 conviction, be fined **[not less than \$1,100 or more than \$2,750]**
4 \$2,500 and may be imprisoned for a term of not more than 90 days.
5 A person who operates a commercial motor vehicle during the
6 period of an out-of-service order shall, upon a second or subsequent
7 conviction of this subsection, be fined \$5,000 and may be
8 imprisoned for a term of not more than 90 days. If a person is
9 involved in an accident resulting in personal injury to another
10 person while operating a commercial motor vehicle in violation of
11 this subsection, the court shall impose both a period of
12 imprisonment for 90 days and a fine of \$5,000.

13 (3) An employer shall not knowingly allow, require, permit or
14 authorize a driver to operate a commercial motor vehicle during the
15 period of refusal, suspension, revocation, prohibition,
16 disqualification, or during the period of the out-of-service order.
17 An employer who is convicted of a violation of this subsection shall
18 be subject to a fine of not less than \$2,750 or more than **[\$11,000]**
19 \$25,000.

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

23 (cf: P.L.2005, c.147, s.6)

24
25 3. Section 12 of P.L.1990, c.103 (C.39:3-10.20) is amended to
26 read as follows:

27 12. a. In addition to the imposition of any other penalty provided
28 by law, the chief administrator shall suspend for not less than one
29 year nor more than three years the commercial motor vehicle
30 driving privilege of a person convicted for a first violation of:

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

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

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

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

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

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

46 b. If a first violation of any of the violations specified in
47 subsection a. of this section takes place while transporting
48 hazardous material or takes place in a vehicle displaying a

1 hazardous material placard, the chief administrator shall suspend
2 the commercial motor vehicle driving privilege of the person for
3 three years.

4 c. Subject to the provisions of subsection d. of this section, the
5 chief administrator shall revoke for life the commercial motor
6 vehicle driving privilege of a person for a second or subsequent
7 violation of any of the offenses specified in **[subsection]**
8 subsections a. and j. of this section or any combination of those
9 offenses arising from two or more separate incidents.

10 d. The chief administrator may issue rules and regulations
11 establishing guidelines, including conditions under which a
12 revocation of commercial motor vehicle driving privilege for life
13 under subsection c. may be reduced to a period of not less than 10
14 years.

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

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

41 (2) The chief administrator shall suspend the commercial motor
42 vehicle driving privilege of a person for a period of not less than 60
43 days if the person is convicted of a violation of R.S.39:4-128;
44 section 68 of P.L.1951, c.23 (C.39:4-127.1); or section 10 of
45 P.L.2005, c.147 (C.39:4-128.11). The chief administrator shall
46 suspend the commercial motor vehicle driving privilege for not less
47 than 120 days if the conviction constitutes the second violation of
48 R.S.39:4-128; section 68 of P.L.1951, c.23 (C.39:4-127.1); section

1 10 of P.L.2005, c.147 (C.39:4-128.11) or any combination of such
2 violations in this or any other state arising from separate incidents
3 occurring within a three-year period. The chief administrator shall
4 suspend the commercial motor vehicle driving privilege for not less
5 than one year if the conviction constitutes the third or subsequent
6 violation of R.S.39:4-128; section 68 of P.L.1951, c.23 (C.39:4-
7 127.1); section 10 of P.L.2005, c.147 (C.39:4-128.11) or any
8 combination of such violations in this or any other state arising
9 from separate incidents occurring within the past three years.

10 (3) The chief administrator shall suspend the commercial motor
11 vehicle driving privilege of a person for a period of not less than
12 180 days or more than one year if the person is convicted of
13 violating a driver **[or]** , commercial motor vehicle , or motor carrier
14 operation out-of-service order while driving a commercial motor
15 vehicle transporting nonhazardous materials. The chief
16 administrator shall suspend the commercial motor vehicle driving
17 privilege of a person for a period of not less than **[one year]** two
18 years or more than five years if the conviction constitutes the
19 second conviction in a separate incident in this or any other state
20 within a 10-year period of violating a driver **[or]** , commercial
21 motor vehicle , or motor carrier operation out-of-service order while
22 driving a commercial motor vehicle transporting nonhazardous
23 materials. The chief administrator shall suspend the commercial
24 motor vehicle driving privilege for a person for a period of not less
25 than three years or more than five years if the conviction constitutes
26 the third or subsequent conviction in a separate incident in this or
27 any other state within a 10-year period of violating a driver **[or]** ,
28 commercial motor vehicle , or motor carrier operation out-of-
29 service order while driving a commercial motor vehicle transporting
30 nonhazardous materials.

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

1 s.172, or while operating a vehicle designed to transport 16 or more
2 passengers, including the driver.

3 g. A court shall make a report to the chief administrator within
4 three days in such form as the chief administrator may require
5 concerning conviction for violation of P.L. 1990, c.103 (C.39:3-
6 10.9 et seq.). The chief administrator shall notify the Commercial
7 Driver License Information System of the suspension, revocation,
8 or cancellation. In the case of non-residents, the chief administrator
9 also shall notify the licensing authority of the state which issued the
10 commercial driver license or the state where the person is
11 domiciled. The chief administrator shall provide these notices
12 within 10 days after the suspension, revocation, cancellation, or
13 disqualification.

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

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

31 j. In addition to any other penalty provided by law, the chief
32 administrator shall suspend for one year the commercial motor
33 vehicle driving privilege of a person for a first violation of:

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

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

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

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

43 k. The chief administrator shall in accordance with this section
44 suspend the commercial motor vehicle driving privilege of a person
45 holding, or required to hold, a commercial driver license issued by
46 this State if that person has been disqualified from operating a
47 commercial motor vehicle by the Federal Motor Carrier Safety

1 Administration pursuant to 49 C.F.R. s.383.52 because that person's
2 driving has been determined to constitute an imminent hazard.

3 1. The Motor Vehicle Commission shall maintain records of
4 accidents, convictions, and disqualification for persons holding, or
5 required to hold, a commercial driver license in accordance with 49
6 C.F.R. s.384.225 and the AAMVAnet, Inc.'s "Commercial Driver
7 License Information System State Procedures," as amended and
8 supplemented.

9 m. Any driver who is found to be in violation of the provisions
10 of paragraph (a) or (b) of 49 C.F.R. s.392.5, relating to the use of
11 alcohol, being under the influence of alcohol, having any measured
12 alcohol concentration or detected presence of alcohol, or possessing
13 alcohol, shall be placed out-of-service immediately for a period of
14 24 hours.

15 (cf: P.L.2005, c.147, s.7)

16

17 4. This act shall take effect immediately.

18

19

20

STATEMENT

21

22 This bill would make various changes to State law concerning
23 commercial driver licenses to comply with Federal Motor Carrier
24 Safety Regulations (FMCSRs). Specifically, this bill:

25 • Amends the definitions of "gross vehicle weight rating"
26 and "out-of-service order" to conform to the federal
27 definition of these terms.

28 • Establishes a fine of \$2,500 in lieu of a fine range for a
29 first offense of operating a commercial motor vehicle
30 during a period of an out-of-service order and establishes
31 a fine of \$5,000 and possible imprisonment for not more
32 than 90 days for a second or subsequent offense of
33 operating a commercial motor vehicle during the period
34 of an out-of-service order.

35 • Increases the fine from \$11,000 to \$25,000 for an
36 employer who is convicted of knowingly allowing,
37 requiring, permitting, or authorizing a driver to operate a
38 commercial motor vehicle during the period of regular,
39 suspension, revocation, prohibition, disqualification, or
40 during the period of an out-of-service order.

41 • Provides for the enforcement of out-of-service orders
42 issued for violations of driver, commercial motor vehicle,
43 or motor carrier operations.

44 • Authorizes the Chief Administrator of the New Jersey
45 Motor Vehicle Commission to revoke for life the
46 commercial motor vehicle driving privilege of a person
47 convicted for a second or subsequent violation of certain

1 offenses, including any moving violation which results in
2 a fatality.

- 3 • Authorizes the Chief Administrator of the New Jersey
4 Motor Vehicle Commission to revoke for life the
5 commercial motor vehicle driving privilege of a person
6 who uses either a commercial motor vehicle or a non-
7 commercial motor vehicle in the commission of a crime
8 involving the manufacture, distribution, or dispensing of a
9 controlled substance, or possession with intent to
10 manufacture, distribute, or dispense a controlled
11 substance.
- 12 • Provides that a holder of a commercial driver license
13 found to be in violation of the FMCSRs relating to the use
14 of alcohol, being under the influence of alcohol, having
15 any measured alcohol concentration or detected presence,
16 or in the possession of alcohol will immediately be placed
17 out-of-service for a 24-hour period.

18 Non-compliance with the FMCSRs may result in sanctions
19 against the State in a one to ten percent loss of federal highway
20 funds.

21
22
23 _____
24

25 Makes various changes to State law concerning commercial
26 driver licenses to comply with Federal Motor Carrier Safety
27 Regulations.

SENATE, No. 3091

STATE OF NEW JERSEY
213th LEGISLATURE

INTRODUCED NOVEMBER 23, 2009

Sponsored by:

Senator NICHOLAS J. SACCO

District 32 (Bergen and Hudson)

Assemblyman JOHN S. WISNIEWSKI

District 19 (Middlesex)

SYNOPSIS

Makes various changes to State law concerning commercial driver licenses to comply with Federal Motor Carrier Safety Regulations.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 1/12/2010)

S3091 SACCO

2

1 AN ACT concerning commercial driver licenses and amending
2 P.L.1990, c.103.

3

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

6

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

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

15 For purposes of this act:

16 "Alcohol concentration" means:

17 a. The number of grams of alcohol per 100 milliliters of blood;
18 or

19 b. The number of grams of alcohol per 210 liters of breath.

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

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

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

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

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

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

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

43 e. If the vehicle is transporting or used in the transportation of
44 hazardous materials and is required to be placarded in accordance

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

Matter underlined thus is new matter.

S3091 SACCO

3

1 with Subpart F. of 49 C.F.R. s.172, or the vehicle displays a
2 hazardous material placard; or

3 f. If the vehicle is operated by, or under contract with, a public
4 or governmental agency, or religious or other charitable
5 organization or corporation, or is privately operated, and is used for
6 the transportation of children to or from a school, school connected
7 activity, day camp, summer day camp, summer residence camp,
8 nursery school, child care center, preschool center or other similar
9 places of education.

10 The chief administrator may, by regulation, include within this
11 definition such other motor vehicles or combination of motor
12 vehicles as he deems appropriate.

13 This term shall not include recreation vehicles.

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

23 "Controlled substance" means any substance so classified under
24 subsection (6) of section 102 of the "Controlled Substances Act"
25 (21 U.S.C. s.802), and includes all substances listed on Schedules I
26 through V of 21 C.F.R. s.1308, or under P.L.1970, c.226 (C.24:21-1
27 et seq.) as they may be revised from time to time. The term,
28 wherever it appears in this act or administrative regulation
29 promulgated pursuant to this act, shall include controlled substance
30 analogs.

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

40 "Conviction" means a final adjudication that a violation has
41 occurred, a final judgment on a verdict, a finding of guilt in a
42 tribunal of original jurisdiction, or a conviction following a plea of
43 guilty, non vult or nolo contendere accepted by a court. It also
44 includes an unvacated forfeiture of bail, bond or collateral deposited
45 to secure the person's appearance in court, or the payment of a fine
46 or court costs, or violation of a condition of release without bail,
47 regardless of whether the penalty is rebated, suspended, or
48 probated.

S3091 SACCO

1 "Disqualification" means either:

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

5 b. A determination by the Federal Motor Carrier Safety
6 Administration under the rules of practice for motor carrier safety
7 contained in 49 C.F.R. s.386, that a person is no longer qualified to
8 operate a commercial motor vehicle under 49 C.F.R. s.391; or

9 c. The loss of qualification which automatically follows
10 conviction of an offense listed in 49 C.F.R.s.383.51.

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

14 "Driver license" means a license issued by this State or any other
15 jurisdiction to a person authorizing the person to operate a motor
16 vehicle.

17 "Endorsement" means an authorization to a commercial driver
18 license required to permit the holder of the license to operate certain
19 types of commercial motor vehicles.

20 "Felony" means any offense under any federal law or the law of
21 a state, including this State, that is punishable by death or
22 imprisonment for a term exceeding one year. The term includes,
23 but is not limited to, "crimes" as that term is defined in N.J.S.2C:1-
24 1 et seq.

25 "Foreign jurisdiction" means any jurisdiction other than a state of
26 the United States.

27 "Gross vehicle weight rating" or "GVWR" means the value
28 specified by a manufacturer as the loaded weight of a single or a
29 combination (articulated) vehicle, or the registered gross weight,
30 whichever is greater. The GVWR of a combination (articulated)
31 vehicle, commonly referred to as the "gross combination weight
32 rating" or "GCWR," is the GVWR of the power unit plus the
33 GVWR of the towed unit or units. In the absence of a value
34 specified for the towed unit or units by the manufacturer, the
35 GVWR of a combination (articulated) vehicle is the GVWR of the
36 power unit plus the total weight of the towed unit, including the
37 loads on them.

38 "Hazardous material" means a substance or material determined
39 by the Secretary of the United States Department of Transportation
40 to be capable of posing an unreasonable risk to health, safety, and
41 property when transported in commerce and so designated pursuant
42 to the provisions of the "Hazardous Materials Transportation Act"
43 (49 U.S.C. s.1801 et seq.).

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

S3091 SACCO

1 "Non-commercial motor vehicle" means a motor vehicle or
2 combination of motor vehicles other than a "commercial motor
3 vehicle" as defined in this section.

4 "Out-of-service order" means a [temporary prohibition against
5 operating a] declaration by an authorized enforcement officer of a
6 federal, state, Canadian, Mexican, or local jurisdiction that a driver,
7 a commercial motor vehicle, or a motor carrier operation is out-of-
8 service pursuant to 49 C.F.R. s.386.72, 392.5., 395.13, 396.9, or
9 any compatible law or the North American Uniform Out-of-Service
10 Criteria.

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

15 "Representative vehicle" means a motor vehicle which represents
16 the type of motor vehicle that a commercial driver license applicant
17 operates or expects to operate.

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

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

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

27 c. Improper or erratic traffic lane changes;

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

30 e. A violation, arising in connection with a fatal accident, of
31 state or local law relating to motor vehicle traffic control, other than
32 a parking violation;

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

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

39 h. Driving a commercial motor vehicle without the proper class
40 of commercial driver license or endorsements for the specific
41 vehicle group being operated or for the passengers or type of cargo
42 being transported.

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

44 "State" means a state of the United States or the District of
45 Columbia.

46 "Tank vehicle" means any commercial motor vehicle that is
47 designed to transport any liquid or gaseous material within a tank
48 that is either permanently or temporarily attached to the vehicle or

S3091 SACCO

6

1 the chassis. Such vehicles include, but are not limited to, cargo
2 tanks and portable tanks as defined by the director. However, this
3 definition does not include portable tanks having a rated capacity
4 under 1,000 gallons.

5 "Vehicle group" means a class or type of vehicle with certain
6 operating characteristics.
7 (cf: P.L.2005, c.147, s.2)

8
9 2. Section 10 of P.L.1990, c.103 (C.39:3-10.18) is amended to
10 read as follows:

11 10. a. (1) (Deleted by amendment, P.L.2005, c.147).

12 (2) On and after April 1, 1992, and except when operating under
13 a valid commercial driver examination or learner's permit and
14 accompanied by the holder of a commercial driver license valid for
15 the class or type of vehicle being operated, a person shall not
16 operate a commercial motor vehicle unless the person has been
17 issued and is in possession of a valid commercial driver license and
18 applicable endorsements for the class and type of vehicle being
19 operated. A person shall not operate a commercial motor vehicle if
20 the person is restricted from operating a commercial vehicle of that
21 class or type.

22 (3) A person violating this subsection shall be fined not less
23 than \$250 or more than \$500, or imprisoned for not more than 60
24 days, or both. If that person has never been licensed to operate a
25 commercial motor vehicle in this State or any other jurisdiction, the
26 chief administrator shall refuse to issue a license to operate a
27 commercial motor vehicle to that person for a period of 180 days
28 from the date of the **[violation]** conviction. This penalty shall not
29 be applicable in cases where failure to have actual possession of the
30 commercial driver license is due to an administrative or technical
31 error by the commission. If a person charged with a failure to have
32 possession of a valid commercial driver license can exhibit the
33 license to the judge of the court before whom he is summoned to
34 answer to a charge and the license was valid on the day the person
35 was charged, the judge may dismiss the charge. However, the judge
36 may impose court costs.

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

46 (2) A person who violates this subsection shall, upon
47 conviction, be fined not less than \$500 or more than \$5,000 for each
48 offense, or imprisoned for a term of not more than 90 days, or both;

S3091 SACCO

7

1 provided, however, a person who operates a commercial motor
2 vehicle during the period of an out-of-service order shall, upon
3 conviction, be fined **[not less than \$1,100 or more than \$2,750]**
4 \$2,500 and may be imprisoned for a term of not more than 90 days.
5 A person who operates a commercial motor vehicle during the
6 period of an out-of-service order shall, upon a second or subsequent
7 conviction of this subsection, be fined \$5,000 and may be
8 imprisoned for a term of not more than 90 days. If a person is
9 involved in an accident resulting in personal injury to another
10 person while operating a commercial motor vehicle in violation of
11 this subsection, the court shall impose both a period of
12 imprisonment for 90 days and a fine of \$5,000.

13 (3) An employer shall not knowingly allow, require, permit or
14 authorize a driver to operate a commercial motor vehicle during the
15 period of refusal, suspension, revocation, prohibition,
16 disqualification, or during the period of the out-of-service order.
17 An employer who is convicted of a violation of this subsection shall
18 be subject to a fine of not less than \$2,750 or more than **[\$11,000]**
19 \$25,000.

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

23 (cf: P.L.2005, c.147, s.6)

24
25 3. Section 12 of P.L.1990, c.103 (C.39:3-10.20) is amended to
26 read as follows:

27 12. a. In addition to the imposition of any other penalty provided
28 by law, the chief administrator shall suspend for not less than one
29 year nor more than three years the commercial motor vehicle
30 driving privilege of a person convicted for a first violation of:

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

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

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

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

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

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

46 b. If a first violation of any of the violations specified in
47 subsection a. of this section takes place while transporting
48 hazardous material or takes place in a vehicle displaying a

S3091 SACCO

1 hazardous material placard, the chief administrator shall suspend
2 the commercial motor vehicle driving privilege of the person for
3 three years.

4 c. Subject to the provisions of subsection d. of this section, the
5 chief administrator shall revoke for life the commercial motor
6 vehicle driving privilege of a person for a second or subsequent
7 violation of any of the offenses specified in **[subsection]**
8 subsections a. and j. of this section or any combination of those
9 offenses arising from two or more separate incidents.

10 d. The chief administrator may issue rules and regulations
11 establishing guidelines, including conditions under which a
12 revocation of commercial motor vehicle driving privilege for life
13 under subsection c. may be reduced to a period of not less than 10
14 years.

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

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

41 (2) The chief administrator shall suspend the commercial motor
42 vehicle driving privilege of a person for a period of not less than 60
43 days if the person is convicted of a violation of R.S.39:4-128;
44 section 68 of P.L.1951, c.23 (C.39:4-127.1); or section 10 of
45 P.L.2005, c.147 (C.39:4-128.11). The chief administrator shall
46 suspend the commercial motor vehicle driving privilege for not less
47 than 120 days if the conviction constitutes the second violation of
48 R.S.39:4-128; section 68 of P.L.1951, c.23 (C.39:4-127.1); section

S3091 SACCO

1 10 of P.L.2005, c.147 (C.39:4-128.11) or any combination of such
2 violations in this or any other state arising from separate incidents
3 occurring within a three-year period. The chief administrator shall
4 suspend the commercial motor vehicle driving privilege for not less
5 than one year if the conviction constitutes the third or subsequent
6 violation of R.S.39:4-128; section 68 of P.L.1951, c.23 (C.39:4-
7 127.1); section 10 of P.L.2005, c.147 (C.39:4-128.11) or any
8 combination of such violations in this or any other state arising
9 from separate incidents occurring within the past three years.

10 (3) The chief administrator shall suspend the commercial motor
11 vehicle driving privilege of a person for a period of not less than
12 180 days or more than one year if the person is convicted of
13 violating a driver **[or]** , commercial motor vehicle , or motor carrier
14 operation out-of-service order while driving a commercial motor
15 vehicle transporting nonhazardous materials. The chief
16 administrator shall suspend the commercial motor vehicle driving
17 privilege of a person for a period of not less than **[one year]** two
18 years or more than five years if the conviction constitutes the
19 second conviction in a separate incident in this or any other state
20 within a 10-year period of violating a driver **[or]** , commercial
21 motor vehicle , or motor carrier operation out-of-service order while
22 driving a commercial motor vehicle transporting nonhazardous
23 materials. The chief administrator shall suspend the commercial
24 motor vehicle driving privilege for a person for a period of not less
25 than three years or more than five years if the conviction constitutes
26 the third or subsequent conviction in a separate incident in this or
27 any other state within a 10-year period of violating a driver **[or]** ,
28 commercial motor vehicle , or motor carrier operation out-of-
29 service order while driving a commercial motor vehicle transporting
30 nonhazardous materials.

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

1 s.172, or while operating a vehicle designed to transport 16 or more
2 passengers, including the driver.

3 g. A court shall make a report to the chief administrator within
4 three days in such form as the chief administrator may require
5 concerning conviction for violation of P.L. 1990, c.103 (C.39:3-
6 10.9 et seq.). The chief administrator shall notify the Commercial
7 Driver License Information System of the suspension, revocation,
8 or cancellation. In the case of non-residents, the chief administrator
9 also shall notify the licensing authority of the state which issued the
10 commercial driver license or the state where the person is
11 domiciled. The chief administrator shall provide these notices
12 within 10 days after the suspension, revocation, cancellation, or
13 disqualification.

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

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

31 j. In addition to any other penalty provided by law, the chief
32 administrator shall suspend for one year the commercial motor
33 vehicle driving privilege of a person for a first violation of:

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

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

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

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

43 k. The chief administrator shall in accordance with this section
44 suspend the commercial motor vehicle driving privilege of a person
45 holding, or required to hold, a commercial driver license issued by
46 this State if that person has been disqualified from operating a
47 commercial motor vehicle by the Federal Motor Carrier Safety

S3091 SACCO

11

1 Administration pursuant to 49 C.F.R. s.383.52 because that person's
2 driving has been determined to constitute an imminent hazard.

3 1. The Motor Vehicle Commission shall maintain records of
4 accidents, convictions, and disqualification for persons holding, or
5 required to hold, a commercial driver license in accordance with 49
6 C.F.R. s.384.225 and the AAMVAnet, Inc.'s "Commercial Driver
7 License Information System State Procedures," as amended and
8 supplemented.

9 m. Any driver who is found to be in violation of the provisions
10 of paragraph (a) or (b) of 49 C.F.R. s.392.5, relating to the use of
11 alcohol, being under the influence of alcohol, having any measured
12 alcohol concentration or detected presence of alcohol, or possessing
13 alcohol, shall be placed out-of-service immediately for a period of
14 24 hours.

15 (cf: P.L.2005, c.147, s.7)

16

17 4. This act shall take effect immediately.

18

19

20

STATEMENT

21

22 This bill would make various changes to State law concerning
23 commercial driver licenses to comply with Federal Motor Carrier
24 Safety Regulations (FMCSRs). Specifically, this bill:

- 25 • Amends the definitions of "gross vehicle weight rating"
26 and "out-of-service order" to conform to the federal
27 definition of these terms.
- 28 • Establishes a fine of \$2,500 in lieu of a fine range for a
29 first offense of operating a commercial motor vehicle
30 during a period of an out-of-service order and establishes
31 a fine of \$5,000 and possible imprisonment for not more
32 than 90 days for a second or subsequent offense of
33 operating a commercial motor vehicle during the period
34 of an out-of-service order.
- 35 • Increases the fine from \$11,000 to \$25,000 for an
36 employer who is convicted of knowingly allowing,
37 requiring, permitting, or authorizing a driver to operate a
38 commercial motor vehicle during the period of regular,
39 suspension, revocation, prohibition, disqualification, or
40 during the period of an out-of-service order.
- 41 • Provides for the enforcement of out-of-service orders
42 issued for violations of driver, commercial motor vehicle,
43 or motor carrier operations.
- 44 • Authorizes the Chief Administrator of the New Jersey
45 Motor Vehicle Commission to revoke for life the
46 commercial motor vehicle driving privilege of a person
47 convicted for a second or subsequent violation of certain

S3091 SACCO

12

- 1 offenses, including any moving violation which results in
2 a fatality.
- 3 • Authorizes the Chief Administrator of the New Jersey
4 Motor Vehicle Commission to revoke for life the
5 commercial motor vehicle driving privilege of a person
6 who uses either a commercial motor vehicle or a non-
7 commercial motor vehicle in the commission of a crime
8 involving the manufacture, distribution, or dispensing of a
9 controlled substance, or possession with intent to
10 manufacture, distribute, or dispense a controlled
11 substance.
 - 12 • Provides that a holder of a commercial driver license
13 found to be in violation of the FMCSRs relating to the use
14 of alcohol, being under the influence of alcohol, having
15 any measured alcohol concentration or detected presence,
16 or in the possession of alcohol will immediately be placed
17 out-of-service for a 24-hour period.
- 18 Non-compliance with the FMCSRs may result in sanctions
19 against the State in a one to ten percent loss of federal highway
20 funds.

SENATE TRANSPORTATION COMMITTEE

STATEMENT TO

SENATE, No. 3091

STATE OF NEW JERSEY

DATED: DECEMBER 3, 2009

The Senate Transportation Committee reports favorably Senate Bill No. 3091.

This bill would make various changes to State law concerning commercial driver licenses to comply with Federal Motor Carrier Safety Regulations (FMCSRs). Specifically, this bill:

- Amends the definitions of “gross vehicle weight rating” and “out-of-service order” to conform to the federal definition of these terms.
- Establishes a fine of \$2,500 in lieu of a fine range for a first offense of operating a commercial motor vehicle during a period of an out-of-service order and establishes a fine of \$5,000 and possible imprisonment for not more than 90 days for a second or subsequent offense of operating a commercial motor vehicle during the period of an out-of-service order.
- Increases the fine from \$11,000 to \$25,000 for an employer who is convicted of knowingly allowing, requiring, permitting, or authorizing a driver to operate a commercial motor vehicle during the period of refusal, suspension, revocation, prohibition, disqualification, or during the period of an out-of-service order.
- Provides for the enforcement of out-of-service orders issued for violations of driver, commercial motor vehicle, or motor carrier operations.
- Authorizes the Chief Administrator of the New Jersey Motor Vehicle Commission to revoke for life the commercial motor vehicle driving privilege of a person convicted for a second or subsequent violation of certain offenses, including any moving violation which results in a fatality.
- Authorizes the Chief Administrator of the New Jersey Motor Vehicle Commission to revoke for life the commercial motor vehicle driving privilege of a person who uses a non-commercial motor vehicle in the commission of a crime involving the manufacture, distribution, or dispensing of a controlled substance, or possession with

intent to manufacture, distribute, or dispense a controlled substance. Under existing law, the chief administrator may revoke for life the commercial motor vehicle driving privilege of a person who uses a commercial motor vehicle in the commission of the aforementioned crimes.

- Provides that a holder of a commercial driver license found to be in violation of the FMCSRs relating to the use of alcohol, being under the influence of alcohol, having any measured alcohol concentration or detected presence, or in the possession of alcohol will immediately be placed out-of-service for a 24-hour period.

Non-compliance with the FMCSRs may result in sanctions against the State in a one to ten percent loss of federal highway funds.

ASSEMBLY, No. 4282

STATE OF NEW JERSEY 213th LEGISLATURE

INTRODUCED NOVEMBER 30, 2009

Sponsored by:

Assemblyman JOHN S. WISNIEWSKI

District 19 (Middlesex)

SYNOPSIS

Makes various changes to State law concerning commercial driver licenses to comply with Federal Motor Carrier Safety Regulations.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning commercial driver licenses and amending
2 P.L.1990, c.103.

3

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

6

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

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

15 For purposes of this act:

16 "Alcohol concentration" means:

17 a. The number of grams of alcohol per 100 milliliters of blood;
18 or

19 b. The number of grams of alcohol per 210 liters of breath.

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

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

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

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

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

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

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

43 e. If the vehicle is transporting or used in the transportation of
44 hazardous materials and is required to be placarded in accordance

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

Matter underlined thus is new matter.

1 with Subpart F. of 49 C.F.R. s.172, or the vehicle displays a
2 hazardous material placard; or

3 f. If the vehicle is operated by, or under contract with, a public
4 or governmental agency, or religious or other charitable
5 organization or corporation, or is privately operated, and is used for
6 the transportation of children to or from a school, school connected
7 activity, day camp, summer day camp, summer residence camp,
8 nursery school, child care center, preschool center or other similar
9 places of education.

10 The chief administrator may, by regulation, include within this
11 definition such other motor vehicles or combination of motor
12 vehicles as he deems appropriate.

13 This term shall not include recreation vehicles.

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

23 "Controlled substance" means any substance so classified under
24 subsection (6) of section 102 of the "Controlled Substances Act"
25 (21 U.S.C. s.802), and includes all substances listed on Schedules I
26 through V of 21 C.F.R. s.1308, or under P.L.1970, c.226 (C.24:21-1
27 et seq.) as they may be revised from time to time. The term,
28 wherever it appears in this act or administrative regulation
29 promulgated pursuant to this act, shall include controlled substance
30 analogs.

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

40 "Conviction" means a final adjudication that a violation has
41 occurred, a final judgment on a verdict, a finding of guilt in a
42 tribunal of original jurisdiction, or a conviction following a plea of
43 guilty, non vult or nolo contendere accepted by a court. It also
44 includes an unvacated forfeiture of bail, bond or collateral deposited
45 to secure the person's appearance in court, or the payment of a fine
46 or court costs, or violation of a condition of release without bail,
47 regardless of whether the penalty is rebated, suspended, or
48 probated.

1 "Disqualification" means either:

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

5 b. A determination by the Federal Motor Carrier Safety
6 Administration under the rules of practice for motor carrier safety
7 contained in 49 C.F.R. s.386, that a person is no longer qualified to
8 operate a commercial motor vehicle under 49 C.F.R. s.391; or

9 c. The loss of qualification which automatically follows
10 conviction of an offense listed in 49 C.F.R.s.383.51.

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

14 "Driver license" means a license issued by this State or any other
15 jurisdiction to a person authorizing the person to operate a motor
16 vehicle.

17 "Endorsement" means an authorization to a commercial driver
18 license required to permit the holder of the license to operate certain
19 types of commercial motor vehicles.

20 "Felony" means any offense under any federal law or the law of
21 a state, including this State, that is punishable by death or
22 imprisonment for a term exceeding one year. The term includes,
23 but is not limited to, "crimes" as that term is defined in N.J.S.2C:1-
24 1 et seq.

25 "Foreign jurisdiction" means any jurisdiction other than a state of
26 the United States.

27 "Gross vehicle weight rating" or "GVWR" means the value
28 specified by a manufacturer as the loaded weight of a single or a
29 combination (articulated) vehicle, or the registered gross weight,
30 whichever is greater. The GVWR of a combination (articulated)
31 vehicle, commonly referred to as the "gross combination weight
32 rating" or "GCWR," is the GVWR of the power unit plus the
33 GVWR of the towed unit or units. In the absence of a value
34 specified for the towed unit or units by the manufacturer, the
35 GVWR of a combination (articulated) vehicle is the GVWR of the
36 power unit plus the total weight of the towed unit, including the
37 loads on them.

38 "Hazardous material" means a substance or material determined
39 by the Secretary of the United States Department of Transportation
40 to be capable of posing an unreasonable risk to health, safety, and
41 property when transported in commerce and so designated pursuant
42 to the provisions of the "Hazardous Materials Transportation Act"
43 (49 U.S.C. s.1801 et seq.).

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

1 "Non-commercial motor vehicle" means a motor vehicle or
2 combination of motor vehicles other than a "commercial motor
3 vehicle" as defined in this section.

4 "Out-of-service order" means a [temporary prohibition against
5 operating a] declaration by an authorized enforcement officer of a
6 federal, state, Canadian, Mexican, or local jurisdiction that a driver,
7 a commercial motor vehicle, or a motor carrier operation is out-of-
8 service pursuant to 49 C.F.R. s.386.72, 392.5., 395.13, 396.9, or
9 any compatible law or the North American Uniform Out-of-Service
10 Criteria.

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

15 "Representative vehicle" means a motor vehicle which represents
16 the type of motor vehicle that a commercial driver license applicant
17 operates or expects to operate.

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

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

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

27 c. Improper or erratic traffic lane changes;

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

30 e. A violation, arising in connection with a fatal accident, of
31 state or local law relating to motor vehicle traffic control, other than
32 a parking violation;

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

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

39 h. Driving a commercial motor vehicle without the proper class
40 of commercial driver license or endorsements for the specific
41 vehicle group being operated or for the passengers or type of cargo
42 being transported.

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

44 "State" means a state of the United States or the District of
45 Columbia.

46 "Tank vehicle" means any commercial motor vehicle that is
47 designed to transport any liquid or gaseous material within a tank
48 that is either permanently or temporarily attached to the vehicle or

1 the chassis. Such vehicles include, but are not limited to, cargo
2 tanks and portable tanks as defined by the director. However, this
3 definition does not include portable tanks having a rated capacity
4 under 1,000 gallons.

5 "Vehicle group" means a class or type of vehicle with certain
6 operating characteristics.
7 (cf: P.L.2005, c.147, s.2)

8
9 2. Section 10 of P.L.1990, c.103 (C.39:3-10.18) is amended to
10 read as follows:

11 10. a. (1) (Deleted by amendment, P.L.2005, c.147).

12 (2) On and after April 1, 1992, and except when operating under
13 a valid commercial driver examination or learner's permit and
14 accompanied by the holder of a commercial driver license valid for
15 the class or type of vehicle being operated, a person shall not
16 operate a commercial motor vehicle unless the person has been
17 issued and is in possession of a valid commercial driver license and
18 applicable endorsements for the class and type of vehicle being
19 operated. A person shall not operate a commercial motor vehicle if
20 the person is restricted from operating a commercial vehicle of that
21 class or type.

22 (3) A person violating this subsection shall be fined not less
23 than \$250 or more than \$500, or imprisoned for not more than 60
24 days, or both. If that person has never been licensed to operate a
25 commercial motor vehicle in this State or any other jurisdiction, the
26 chief administrator shall refuse to issue a license to operate a
27 commercial motor vehicle to that person for a period of 180 days
28 from the date of the **[violation]** conviction. This penalty shall not
29 be applicable in cases where failure to have actual possession of the
30 commercial driver license is due to an administrative or technical
31 error by the commission. If a person charged with a failure to have
32 possession of a valid commercial driver license can exhibit the
33 license to the judge of the court before whom he is summoned to
34 answer to a charge and the license was valid on the day the person
35 was charged, the judge may dismiss the charge. However, the judge
36 may impose court costs.

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

46 (2) A person who violates this subsection shall, upon
47 conviction, be fined not less than \$500 or more than \$5,000 for each
48 offense, or imprisoned for a term of not more than 90 days, or both;

1 provided, however, a person who operates a commercial motor
2 vehicle during the period of an out-of-service order shall, upon
3 conviction, be fined **[not less than \$1,100 or more than \$2,750]**
4 \$2,500 and may be imprisoned for a term of not more than 90 days.
5 A person who operates a commercial motor vehicle during the
6 period of an out-of-service order shall, upon a second or subsequent
7 conviction of this subsection, be fined \$5,000 and may be
8 imprisoned for a term of not more than 90 days. If a person is
9 involved in an accident resulting in personal injury to another
10 person while operating a commercial motor vehicle in violation of
11 this subsection, the court shall impose both a period of
12 imprisonment for 90 days and a fine of \$5,000.

13 (3) An employer shall not knowingly allow, require, permit or
14 authorize a driver to operate a commercial motor vehicle during the
15 period of refusal, suspension, revocation, prohibition,
16 disqualification, or during the period of the out-of-service order.
17 An employer who is convicted of a violation of this subsection shall
18 be subject to a fine of not less than \$2,750 or more than **[\$11,000]**
19 \$25,000.

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

23 (cf: P.L.2005, c.147, s.6)

24
25 3. Section 12 of P.L.1990, c.103 (C.39:3-10.20) is amended to
26 read as follows:

27 12. a. In addition to the imposition of any other penalty provided
28 by law, the chief administrator shall suspend for not less than one
29 year nor more than three years the commercial motor vehicle
30 driving privilege of a person convicted for a first violation of:

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

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

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

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

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

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

46 b. If a first violation of any of the violations specified in
47 subsection a. of this section takes place while transporting
48 hazardous material or takes place in a vehicle displaying a

1 hazardous material placard, the chief administrator shall suspend
2 the commercial motor vehicle driving privilege of the person for
3 three years.

4 c. Subject to the provisions of subsection d. of this section, the
5 chief administrator shall revoke for life the commercial motor
6 vehicle driving privilege of a person for a second or subsequent
7 violation of any of the offenses specified in **[subsection]**
8 subsections a. and j. of this section or any combination of those
9 offenses arising from two or more separate incidents.

10 d. The chief administrator may issue rules and regulations
11 establishing guidelines, including conditions under which a
12 revocation of commercial motor vehicle driving privilege for life
13 under subsection c. may be reduced to a period of not less than 10
14 years.

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

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

41 (2) The chief administrator shall suspend the commercial motor
42 vehicle driving privilege of a person for a period of not less than 60
43 days if the person is convicted of a violation of R.S.39:4-128;
44 section 68 of P.L.1951, c.23 (C.39:4-127.1); or section 10 of
45 P.L.2005, c.147 (C.39:4-128.11). The chief administrator shall
46 suspend the commercial motor vehicle driving privilege for not less
47 than 120 days if the conviction constitutes the second violation of
48 R.S.39:4-128; section 68 of P.L.1951, c.23 (C.39:4-127.1); section

1 10 of P.L.2005, c.147 (C.39:4-128.11) or any combination of such
2 violations in this or any other state arising from separate incidents
3 occurring within a three-year period. The chief administrator shall
4 suspend the commercial motor vehicle driving privilege for not less
5 than one year if the conviction constitutes the third or subsequent
6 violation of R.S.39:4-128; section 68 of P.L.1951, c.23 (C.39:4-
7 127.1); section 10 of P.L.2005, c.147 (C.39:4-128.11) or any
8 combination of such violations in this or any other state arising
9 from separate incidents occurring within the past three years.

10 (3) The chief administrator shall suspend the commercial motor
11 vehicle driving privilege of a person for a period of not less than
12 180 days or more than one year if the person is convicted of
13 violating a driver **[or], commercial motor vehicle, or motor carrier**
14 **operation** out-of-service order while driving a commercial motor
15 vehicle transporting nonhazardous materials. The chief
16 administrator shall suspend the commercial motor vehicle driving
17 privilege of a person for a period of not less than **[one year] two**
18 **years** or more than five years if the conviction constitutes the
19 second conviction in a separate incident in this or any other state
20 within a 10-year period of violating a driver **[or], commercial**
21 **motor vehicle, or motor carrier operation** out-of-service order while
22 driving a commercial motor vehicle transporting nonhazardous
23 materials. The chief administrator shall suspend the commercial
24 motor vehicle driving privilege for a person for a period of not less
25 than three years or more than five years if the conviction constitutes
26 the third or subsequent conviction in a separate incident in this or
27 any other state within a 10-year period of violating a driver **[or],**
28 **commercial motor vehicle, or motor carrier operation** out-of-service
29 order while driving a commercial motor vehicle transporting
30 nonhazardous materials.

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

1 s.172, or while operating a vehicle designed to transport 16 or more
2 passengers, including the driver.

3 g. A court shall make a report to the chief administrator within
4 three days in such form as the chief administrator may require
5 concerning conviction for violation of P.L. 1990, c.103 (C.39:3-
6 10.9 et seq.). The chief administrator shall notify the Commercial
7 Driver License Information System of the suspension, revocation,
8 or cancellation. In the case of non-residents, the chief administrator
9 also shall notify the licensing authority of the state which issued the
10 commercial driver license or the state where the person is
11 domiciled. The chief administrator shall provide these notices
12 within 10 days after the suspension, revocation, cancellation, or
13 disqualification.

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

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

31 j. In addition to any other penalty provided by law, the chief
32 administrator shall suspend for one year the commercial motor
33 vehicle driving privilege of a person for a first violation of:

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

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

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

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

43 k. The chief administrator shall in accordance with this section
44 suspend the commercial motor vehicle driving privilege of a person
45 holding, or required to hold, a commercial driver license issued by
46 this State if that person has been disqualified from operating a
47 commercial motor vehicle by the Federal Motor Carrier Safety

1 Administration pursuant to 49 C.F.R. s.383.52 because that person's
2 driving has been determined to constitute an imminent hazard.

3 1. The Motor Vehicle Commission shall maintain records of
4 accidents, convictions, and disqualification for persons holding, or
5 required to hold, a commercial driver license in accordance with 49
6 C.F.R. s.384.225 and the AAMVAnet, Inc.'s "Commercial Driver
7 License Information System State Procedures," as amended and
8 supplemented.

9 m. Any driver who is found to be in violation of the provisions
10 of paragraph (a) or (b) of 49 C.F.R. s.392.5, relating to the use of
11 alcohol, being under the influence of alcohol, having any measured
12 alcohol concentration or detected presence of alcohol, or possessing
13 alcohol, shall be placed out-of-service immediately for a period of
14 24 hours.

15 (cf: P.L.2005, c.147, s.7)

16

17 4. This act shall take effect immediately.

18

19

20

STATEMENT

21

22 This bill would make various changes to State law concerning
23 commercial driver licenses to comply with Federal Motor Carrier
24 Safety Regulations (FMCSRs). Specifically, this bill:

25

26 • Amends the definitions of "gross vehicle weight rating"
27 and "out-of-service order" to conform to the federal
28 definition of these terms.

29 • Establishes a fine of \$2,500 in lieu of a fine range for a
30 first offense of operating a commercial motor vehicle
31 during a period of an out-of-service order and establishes
32 a fine of \$5,000 and possible imprisonment for not more
33 than 90 days for a second or subsequent offense of
34 operating a commercial motor vehicle during the period
35 of an out-of-service order.

36 • Increases the fine from \$11,000 to \$25,000 for an
37 employer who is convicted of knowingly allowing,
38 requiring, permitting, or authorizing a driver to operate a
39 commercial motor vehicle during the period of regular,
40 suspension, revocation, prohibition, disqualification, or
41 during the period of an out-of-service order.

42 • Provides for the enforcement of out-of-service orders
43 issued for violations of driver, commercial motor vehicle,
44 or motor carrier operations.

45 • Authorizes the Chief Administrator of the New Jersey
46 Motor Vehicle Commission to revoke for life the
47 commercial motor vehicle driving privilege of a person
48 convicted for a second or subsequent violation of certain

- 1 offenses, including any moving violation which results in
2 a fatality.
- 3 • Authorizes the Chief Administrator of the New Jersey
4 Motor Vehicle Commission to revoke for life the
5 commercial motor vehicle driving privilege of a person
6 who uses either a commercial motor vehicle or a non-
7 commercial motor vehicle in the commission of a crime
8 involving the manufacture, distribution, or dispensing of a
9 controlled substance, or possession with intent to
10 manufacture, distribute, or dispense a controlled
11 substance.
 - 12 • Provides that a holder of a commercial driver license
13 found to be in violation of the FMCSRs relating to the use
14 of alcohol, being under the influence of alcohol, having
15 any measured alcohol concentration or detected presence,
16 or in the possession of alcohol will immediately be placed
17 out-of-service for a 24-hour period.
- 18
- 19 Non-compliance with the FMCSRs may result in sanctions
20 against the State in a one to ten percent loss of federal highway
21 funds.

ASSEMBLY TRANSPORTATION, PUBLIC WORKS AND
INDEPENDENT AUTHORITIES COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4282

STATE OF NEW JERSEY

DATED: DECEMBER 3, 2009

The Assembly Transportation, Public Works and Independent Authorities Committee reports favorably Assembly Bill No. 4282.

As reported, this bill would make various changes to State law concerning commercial driver licenses to comply with Federal Motor Carrier Safety Regulations (FMCSRs).

Specifically, this bill:

- Amends the definitions of “gross vehicle weight rating” and “out-of-service order” to conform to the federal definition of these terms.
- Establishes a fine of \$2,500 in lieu of a fine range for a first offense of operating a commercial motor vehicle during a period of an out-of-service order and establishes a fine of \$5,000 and possible imprisonment for not more than 90 days for a second or subsequent offense of operating a commercial motor vehicle during the period of an out-of-service order.
- Increases the fine from \$11,000 to \$25,000 for an employer who is convicted of knowingly allowing, requiring, permitting, or authorizing a driver to operate a commercial motor vehicle during the period of refusal, suspension, revocation, prohibition, disqualification, or during the period of an out-of-service order.
- Provides for the enforcement of out-of-service orders issued for violations of driver, commercial motor vehicle, or motor carrier operations.
- Authorizes the Chief Administrator of the New Jersey Motor Vehicle Commission to revoke for life the commercial motor vehicle driving privilege of a person convicted for a second or subsequent violation of certain offenses, including any moving violation which results in a fatality.
- Authorizes the Chief Administrator of the New Jersey Motor Vehicle Commission to revoke for life the commercial motor vehicle driving privilege of a person who uses a non-commercial motor vehicle in the commission of

a crime involving the manufacture, distribution, or dispensing of a controlled substance, or possession with intent to manufacture, distribute, or dispense a controlled substance. Under existing law, the chief administrator may revoke for life the commercial motor vehicle driving privilege of a person who uses a commercial motor vehicle in the commission of the aforementioned crimes.

- Provides that a holder of a commercial driver license found to be in violation of the FMCSRs relating to the use of alcohol, being under the influence of alcohol, having any measured alcohol concentration or detected presence, or in the possession of alcohol will immediately be placed out-of-service for a 24-hour period.

Non-compliance with the FMCSRs may result in sanctions against the State in a one to ten percent loss of federal highway funds.