

**LEGISLATIVE HISTORY CHECKLIST**  
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(Park &amp; Ride DOT to establish)

**NJSA:** 27:1A-5.13

**LAWS OF:** 1993 **CHAPTER:** 231

**BILL NO:** S1867

**SPONSOR(S)** Rand and others

**DATE INTRODUCED:** May 17, 1993

**COMMITTEE:** **ASSEMBLY:** ---  
**SENATE:** Transportation

**AMENDED DURING PASSAGE:** Yes Amendments during passage  
 First reprint enacted denoted by asterisks

**DATE OF PASSAGE:** **ASSEMBLY:** June 21, 1993  
**SENATE:** June 17, 1993

**DATE OF APPROVAL:** August 6, 1993

**FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:**

**SPONSOR STATEMENT:** Yes

**COMMITTEE STATEMENT:** **ASSEMBLY:** No  
**SENATE:** Yes

**FISCAL NOTE:** No

**VETO MESSAGE:** No

**MESSAGE ON SIGNING:** No

**FOLLOWING WERE PRINTED:**

**REPORTS:** No

**HEARINGS:** No

KBG:pp

[FIRST REPRINT]  
SENATE, No. 1867

STATE OF NEW JERSEY

INTRODUCED MAY 17, 1993

By Senators RAND, LITTELL and Haines

1 AN ACT concerning the Department of Transportation, amending  
2 P.L.1967, c.268 and supplementing Title 27 of the Revised  
3 Statutes.

4

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

7 1. (New section) The Commissioner of Transportation may,  
8 pursuant to subsection (b) of section 5 of P.L.1966, c.301  
9 (C.27:1A-5):

10 a. Acquire by purchase, condemnation, lease, gift or  
11 otherwise, on terms and conditions and in the manner the  
12 commissioner deems proper, any land or property, real or  
13 personal, tangible or intangible, for the purpose of establishing a  
14 park-and-ride lot or facility;

15 b. Plan, design, construct, equip, operate, improve or  
16 maintain, either directly or by contract with any public or private  
17 entity, a park-and-ride lot or facility;

18 c. Approve a park-and-ride lot or facility for use <sup>1</sup>[by the  
19 public for] in whole or in part for public<sup>1</sup> park-and-ride purposes,  
20 <sup>1</sup>[which approval shall be subject to] provided that there is<sup>1</sup> a  
21 written agreement between the commissioner and the owner of  
22 the lot or facility in which the owner agrees to <sup>1</sup>[operate or  
23 maintain, either directly or through an agent,] the use of<sup>1</sup> the lot  
24 or facility <sup>1</sup>[as dedicated in whole or in part to] for<sup>1</sup> public  
25 park-and-ride purposes.

26 Nothing in this section may be construed as affecting the  
27 power or authority of any public or private entity to establish a  
28 park-and-ride lot or facility without the approval of the  
29 commissioner to the extent otherwise provided or permitted by  
30 law.

31 2. (New section) The Commissioner of Transportation, or the  
32 commissioner's designee, may agree to defend and indemnify any  
33 person, who, pursuant to a written agreement with the  
34 commissioner entered into pursuant to subsection c. of section 1  
35 of this amendatory and supplementary act, owns, operates, or  
36 maintains an approved park-and-ride lot or facility, against  
37 claims, causes of action, demands, costs or judgments against  
38 that person arising as a direct result of the operation, ownership  
39 or maintenance of that approved park-and-ride lot or facility.  
40 The commissioner is authorized to reach an agreement to defend  
41 and indemnify a person upon the terms and limitations the

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:  
<sup>1</sup> Senate STR committee amendments adopted May 24, 1993.

1 commissioner deems reasonable and appropriate.

2 An agreement to defend and indemnify pursuant to this section  
3 does not bar, reduce, limit or affect any remedies which the  
4 commissioner may have to enforce the commissioner's  
5 agreement or to assert a claim for damages to which the  
6 commissioner may be entitled arising out of the person's failure  
7 to perform the agreement, or for the recovery of funds expended  
8 for the defense of a person if the defense was undertaken in  
9 response to a claim or cause of action brought against the person  
10 which is proven to have arisen from gross negligence, willful  
11 misconduct, fraud, intentional tort, bad faith, or criminal conduct.

12 No one other than the person owning, operating, or maintaining  
13 the approved park-and-ride lot or facility pursuant to an  
14 agreement with the commissioner has the right to enforce any  
15 agreement for defense or indemnification between that person  
16 and the commissioner.

17 3. Section 1 of P.L.1967, c.268 (C.27:7-21.4) is amended to  
18 read as follows:

19 1. Any real or personal property heretofore or hereafter  
20 acquired by the [State] Department of Transportation for  
21 [highway purposes] a transportation or transportation related  
22 program or project may be leased by the Commissioner of  
23 Transportation to any person or public body or agency on a  
24 temporary basis [pending the commencement of construction of  
25 the highway improvement for which such property was acquired.  
26 Every such lease agreement shall be terminable by the  
27 commissioner by giving 30 days' written notice to the lessee of  
28 intention to terminate. No person shall remain in possession of  
29 premises beyond the date for termination fixed in the lease  
30 agreement or fixed by the commissioner in the notice of  
31 termination]. The commissioner <sup>1</sup>[may, in the commissioner's  
32 discretion,] shall<sup>1</sup> include a provision in the lease which would  
33 allow the termination of the lease upon written notice thereof to  
34 the lessee prior to the conclusion of the term of the lease <sup>1</sup>in  
35 accordance with a minimum period of time for that notice, such  
36 provision having been the subject of negotiation between the  
37 commissioner and the prospective lessee,<sup>1</sup> so as to ensure that  
38 the occupancy of the property does not in any manner interfere  
39 with or delay the transportation program or project for which the  
40 property is needed. No person, public body or agency shall  
41 remain in possession of premises beyond the conclusion of the  
42 term of the lease or, in the case of a notice of termination, the  
43 date fixed by the commissioner in the notice. If the lessee  
44 remains past conclusion of the term of the lease or beyond the  
45 date fixed in the notice of termination, the department may  
46 institute a summary proceeding in the Superior Court, for an  
47 order to show cause as to why the department should not be  
48 granted immediate possession of the leased property and the  
49 property be vacated of its occupants.

50 (cf: P.L.1967, c.268, s.1)

51 4. This act shall take effect immediately.

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55 Gives DOT explicit authority to establish park-and-ride lots and  
56 to indemnify owners, operators and maintainers of approved lots;  
57 ends 30-day lease notice requirement in certain cases.

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2 commissioner may be entitled arising out of the person's failure  
3 to perform the agreement, or for the recovery of funds expended  
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#### STATEMENT

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49 This bill makes explicit the authority of the Department of  
50 Transportation to establish park-and-ride lots and facilities and  
51 provides the commissioner with discretionary powers to  
52 indemnify owners, operators, and persons who maintain approved  
53 park-and-ride facilities. The bill also removes the requirement  
54 that property leased by the Department of Transportation on a

1 temporary basis pending the construction of a highway  
2 improvement be terminable on 30 days' notice and inserts a new  
3 provision that permits the commissioner to negotiate a  
4 cancellation clause in regard to a lease for property acquired for  
5 a transportation or transportation related project. The 30-day  
6 requirement has created problems for the department because of  
7 the reluctance of park-and-ride lessees to make improvements to  
8 their leased property if they would essentially be subject to an  
9 extremely short termination notice which effectively results in a  
10 month-to-month lease arrangement.

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14

15 Gives DOT explicit authority to establish park-and-ride lots and  
16 to indemnify owners, operators and maintainers of approved lots;  
17 ends 30-day lease notice requirement in certain cases.

SENATE TRANSPORTATION COMMITTEE

STATEMENT TO

**SENATE, No. 1867**

with Senate committee amendments

**STATE OF NEW JERSEY**

DATED: MAY 24, 1993

The Senate Transportation Committee favorably reports Senate Bill No. 1867 with committee amendments.

This amended bill makes explicit the authority of the Department of Transportation to establish park-and-ride lots and facilities and provides the Commissioner of Transportation with discretionary powers to indemnify owners, operators, and persons who maintain approved park-and-ride lots and facilities. The bill also removes the requirement that property leased by the Department of Transportation on a temporary basis pending the construction of a highway improvement be terminable on 30 days' notice and inserts a new provision that requires the commissioner to negotiate a cancellation clause in regard to a lease for property acquired for a transportation or transportation related project. The 30-day requirement has created problems for the department because of the reluctance of park-and-ride lessees to make improvements to their leased property if they would essentially be subject to an extremely short termination notice which effectively results in a month-to-month lease arrangement.

The amendments adopted by the committee clarify the conditions under which the Commissioner of Transportation would approve a park-and-ride lot or facility and require rather than permit the commissioner to negotiate the cancellation clause.