

[Second Reprint]

SENATE, No. 2300

STATE OF NEW JERSEY
211th LEGISLATURE

INTRODUCED JANUARY 31, 2005

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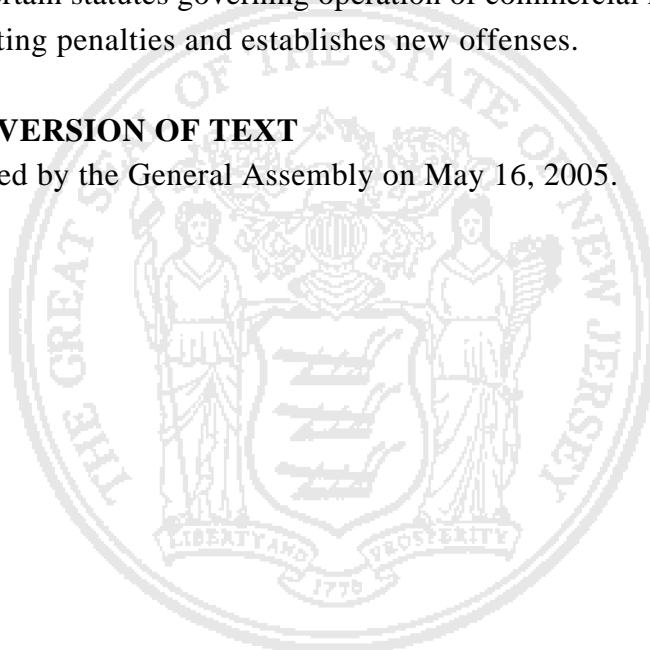
District 16 (Morris and Somerset)

SYNOPSIS

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

CURRENT VERSION OF TEXT

As amended by the General Assembly on May 16, 2005.



(Sponsorship Updated As Of: 6/21/2005)

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

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

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

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

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

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

20 "Automobile" includes all motor vehicles except motorcycles.

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

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

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

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

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

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate STR committee amendments adopted February 7, 2005.

² Assembly floor amendments adopted May 16, 2005.

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

3 "Commissioner" means the Commissioner of Transportation of this
4 State.

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

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

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

20 "Deputy Chief Administrator" means the deputy chief administrator
21 of the commission.

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

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

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

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

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

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

46 "Flammable liquid" means any liquid having a flash point below 200

1 degrees Fahrenheit, and a vapor pressure not exceeding 40 pounds.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 "Pedestrian" means a person afoot.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

45 "School crossing" means that portion of a highway where school

1 children are required to cross the highway in the vicinity of a school.

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

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

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

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

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

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

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

27 "Street" means the same as highway.

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

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

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

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

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

46 "Trackless trolley" means every motor vehicle which is propelled by

1 electric power obtained from overhead trolley wires but not operated
2 upon rails.

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

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

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

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

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

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

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

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

26

27 ²[1.] 2.² Section 3 of P.L.1990, c.103 (C.39:3-10.11) is amended
28 to read as follows:

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

35 For purposes of this act:

36 "Alcohol concentration" means:

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

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

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

1 motor vehicle drivers.

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

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

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

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

13 d. If the vehicle is designed to transport eight or more but less than
14 16 persons, including the driver, and is used to transport such persons
15 for hire on a daily basis to and from places of employment; ²[or]²

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

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

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

29 This term shall not include recreation vehicles.

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

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

46 "Controlled substance analog" means a substance that has a

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

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

16 "Disqualification" means either:

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

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

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

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

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

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

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

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

42 "Gross vehicle weight rating" or "GVWR" means the value
43 specified by a manufacturer as the loaded weight of a single or a
44 combination (articulated) vehicle²[, or the registered gross weight,
45 whichever is greater]². The GVWR of a combination (articulated)
46 vehicle, commonly referred to as the "gross combination weight

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

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

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

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

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

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

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

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

28 a. Excessive speeding, involving any single offense for a speed of
29 15 miles per hour or more above the speed limit;

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

34 c. Improper or erratic traffic lane changes;

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

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

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

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

46 h. Driving a commercial motor vehicle without the proper class of

1 commercial driver license or endorsements for the specific vehicle
2 group being operated or for the passengers or type of cargo being
3 transported.

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

5 "State" means a state of the United States or the District of
6 Columbia.

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

14 "Vehicle group" means a class or type of vehicle with certain
15 operating characteristics.

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

17

18 ²[2.] 3.² Section 4 of P.L.1990, c.103 (C.39:3-10.12) is amended
19 to read as follows:

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

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

44 c. Upon the request of an applicant for a commercial driver license,
45 the **[director]** chief administrator shall administer to the applicant oral
46 knowledge tests for the commercial driver license and any

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

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

13 e. [The director shall make a reasonable effort to notify any person
14 whose name and address is on file with the division, who is licensed to
15 operate a commercial motor vehicle under the provisions of Title 39
16 of the Revised Statutes in effect prior to the effective date of this act,
17 and who is required under this act to obtain a commercial driver
18 license of the locations, times and dates on which the knowledge tests
19 for the commercial driver license and for any endorsements may be
20 taken for the first time and the procedures for taking the tests a second
21 or subsequent time in the event of a failure. The notice shall include
22 a description of the licensing and testing standards and requirements
23 under the federal "Commercial Motor Vehicle Safety Act of 1986,"
24 Pub. L. 99-570 (49 U.S.C. s. 2701 et seq.) and this act. The obligation
25 of the director to provide notice under this subsection shall be for the
26 sole purpose of expediting the testing and licensing of commercial
27 drivers and any deficiency in meeting this obligation shall not abrogate
28 or diminish the responsibility of a driver from obtaining a commercial
29 driver license and any necessary endorsements under this act] (Deleted
30 by amendment, P.L. c.)²(now pending before the Legislature as
31 this bill)².

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

40 g. No provision in this act, or in any manual, test, or administrative
41 procedure developed to implement the provisions of this act, shall be
42 deemed to expand the requirements for commercial motor vehicle
43 operators concerning pre-trip inspection, after-trip inspection and
44 inspection during a trip as such requirements are set forth in federal
45 law or regulation. This subsection, however, shall not be deemed to
46 limit the authority of the [director] chief administrator, or the

1 authority of any State department or agency, to promulgate, pursuant
2 to other provisions of State law, standards and procedures on vehicle
3 inspections which are consistent with federal law and regulation.

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

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

8
9 ²[3.] 4.² Section 6 of P.L.1990, c.103 (C.39:3-10.14) is amended
10 to read as follows:

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

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

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

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

35
36 ²[4.] 5.² Section 7 of P.L.1990, c.103 (C.39:3-10.15) is amended
37 to read as follows:

38 7. Within 10 days after receiving a report of the conviction of a
39 holder of a commercial driver license for any violation of state law
40 related to motor vehicle traffic control committed in a [commercial]
41 vehicle, other than a parking violation, or a report of the conviction of
42 a person who is not the holder of a commercial driver license for any
43 violation of state law related to motor vehicle traffic control
44 committed in a commercial vehicle, other than a parking violation, or
45 after the disqualification of the holder of a commercial driver license
46 or suspension of privileges for a period of 60 days or more, the

1 [division] commission shall notify the driver licensing authority in the
2 licensing state, if other than this State, and the Commercial Driver
3 License Information System of the conviction, suspension, or
4 disqualification. The notification shall include all information the
5 [director] chief administrator deems necessary.
6 (cf: P.L.1990, c.103, s.7)

7
8 ²[5.] 6.² Section 10 of P.L.1990, c.103 (C.39:3-10.18) is amended
9 to read as follows:

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

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

28 (3) A person violating this subsection shall be fined not less than
29 \$250 or more than \$500, or imprisoned for not more than 60 days, or
30 both ²[and if that person has never been licensed to operate a
31 commercial motor vehicle in this State or any other jurisdiction, the
32 court shall issue an order to the Chief Administrator of the Motor
33 Vehicle Commission requiring the chief administrator to refuse to issue
34 a license to operate a commercial motor vehicle to that person for a
35 period of 180 days]². ²If that person has never been licensed to
36 operate a commercial motor vehicle in this State or any other
37 jurisdiction, the chief administrator shall refuse to issue a license to
38 operate a commercial motor vehicle to that person for a period of 180
39 days from the date of the violation.² This penalty shall not be
40 applicable in cases where failure to have actual possession of the
41 commercial driver license is due to an administrative or technical error
42 by the [division] commission. If a person charged with a failure to
43 have possession of a valid commercial driver license can exhibit the
44 license to the judge of the court before whom he is summoned to
45 answer to a charge and the license was valid on the day the person was
46 charged, the judge may dismiss the charge. However, the judge may

1 impose court costs.

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

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

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

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

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

31

32 ²[6.] ²7. Section 12 of P.L.1990, c.103 (C.39:3-10.20) is amended
33 to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

1 separate incidents occurring within a three year period.

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

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

39 (4) ²[A court] The chief administrator shall suspend the
40 commercial motor vehicle driving privilege of a person for a period of
41 not less than 180 days or more than two years if the person is
42 convicted of violating a driver or vehicle out-of-service order while
43 driving a commercial motor vehicle transporting hazardous materials
44 required to be placarded under ²[part 172.]² Subpart F of 49
45 C.F.R. ²s.172², or while operating a vehicle designed to transport 16

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

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

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

44 i. Notwithstanding any other provision of law to the contrary, a
45 conviction under this section, or section 5 or 16 of this act, shall not

1 merge with a conviction for a violation of R.S.39:4-50 or section 2 of
2 P.L.1966, c.142 (C.39:4-50.2).

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

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

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

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

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

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

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

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

27

28 ²[7.] 8.² Section 14 of P.L.1990, c.103 (C.39:3-10.22) is amended
29 to read as follows:

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

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

36

37 ²[8.] 9.² R.S.39:4-128 is amended to read as follows:

38 39:4-128. (a) The driver of any omnibus, designed for carrying
39 more than six passengers, or of any school bus carrying any school
40 child or children, or of any vehicle carrying explosive substance or
41 flammable liquids as a cargo or part of a cargo, or of any commercial
42 motor vehicle specified in 49 C.F.R. s.392.10(a) (1) through (6),
43 before crossing at grade any track or tracks of a railroad shall stop
44 such vehicle within 50 feet but not less than 15 feet from the nearest
45 rail of such railroad and while so stopped listen and look in both
46 directions along such track or tracks, for any approaching train, and

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

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

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

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

45 Notice of any such intended crossing shall be given to the nearest
46 superintendent or trainmaster of such railroad. Such notice shall

1 specify the approximate time of crossing and a reasonable time shall
2 be given to such railroad to provide proper protection at such
3 crossing.

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

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

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

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

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

29

30 ²[9.] 10.² (New section) a. A driver of a commercial motor
31 vehicle, other than a commercial motor vehicle that is required to stop
32 at a railroad crossing in accordance with R.S.39:4-128, shall, upon
33 approaching a railroad grade crossing, drive at a rate of speed that will
34 permit the commercial motor vehicle to be stopped before reaching the
35 nearest rail of the crossing. A driver shall not drive a commercial
36 motor vehicle upon or over a railroad crossing until he has exercised
37 due caution to ascertain that a train is not approaching the crossing.

38 b. A driver of a commercial motor vehicle, other than a commercial
39 motor vehicle that is required to stop at a railroad crossing in
40 accordance with R.S.39:4-128, shall stop that commercial motor
41 vehicle before reaching the nearest rail of the crossing, if the tracks of
42 the crossing are not clear of other vehicles or if there is insufficient
43 space to drive the commercial motor vehicle completely through the
44 crossing without stopping the commercial motor vehicle.

45 c. An employer shall not knowingly allow, require, permit or
46 authorize a driver to operate a commercial motor vehicle in violation

1 of R.S.39:4-128, section 68 of P.L.1951, c.23 (C.39:4-127.1) or this
2 section. An employer who is convicted of any such violation shall be
3 ²[subject to a fine of] fined² not more than \$10,000.

4

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

10

11 ²[10.] 12.² This act shall take effect ¹[immediately] September
12 30, 2005¹.