

CHAPTER 13

AN ACT concerning motor vehicles, abolishing the Division of Motor Vehicles in the Department of Transportation, establishing the New Jersey Motor Vehicle Commission and revising parts of the statutory law.

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

C.39:2A-1 Short title.

1. Sections 1 through 30, 32 through 35, 40, 41, 105, 109, 110 and 120 through 123 of this act shall be known and may be cited as "The Motor Vehicle Security and Customer Service Act."

C.39:2A-2 Findings, declarations relative to New Jersey Motor Vehicle Commission.

2. The Legislature finds and declares that:

a. The Division of Motor Vehicle Services (DMV) is one of the State's principal customer service agencies with regular and direct contact with virtually every citizen;

b. The DMV has over 15 million contacts a year with the public, including 39 million transactions, more than any other State agency;

c. The DMV has responsibility for issuing and certifying motor vehicle driver's licenses, ensuring the proper registration of motor vehicles, as well as conducting safety and emissions inspections of motor vehicles;

d. The public expects courteous, efficient and accessible service from government agencies, including the DMV;

e. The DMV's failed security systems are contributing to a growing national problem of identity theft that is costing New Jersey and the nation millions of dollars each week;

f. In the past, the DMV has been unable to deal with fraud and corruption because of inadequate funding, training, security, internal controls and oversight;

g. The DMV must improve its security system and equipment, and its fraud detection, training and monitoring so that fraudulent driver's licenses, such as those used in the furtherance of terroristic activities, will be eliminated;

h. Internal audits and controls and investigations are also needed to detect patterns of fraud, theft, corruption, identity theft and mismanagement in the issuance of driver's licenses, registrations, and titles because DMV documents must be more resistant to compromise;

I. Criminals have used counterfeit passports, Social Security cards, county identification cards, pay stubs and W-2 forms to obtain fraudulent driver's licenses and identification cards in furtherance of identity-theft schemes;

j. Proper identification must be required at all phases of the licensing and driver testing process to assure that only those persons qualified to legally obtain licenses do so;

k. It is essential that DMV records be matched with Social Security Administration records in order to verify the validity of Social Security numbers in DMV databases;

l. Cameras, armed security guards, panic buttons, alarms, safety upgrades, card access systems and door replacements are needed in order to prevent fraud;

m. Employees or agents of the DMV should be required to undergo background checks and fingerprinting;

n. Cleaning crews and maintenance workers at DMV facilities must be supervised by DMV employees to ensure the security of DMV records;

o. In a time of rapidly changing information technology and Internet communications, the DMV lacks an information technology plan to bring it to the 21st Century and still operates on a decades-old computer network with patchwork hardware, antiquated software and obsolete display terminals that lack processing abilities;

p. Previous DMV efforts to implement complex technological mandates have failed, due to bureaucratic mismanagement, inefficient planning and inadequate oversight, as characterized by reports of the State Commission of Investigation;

q. The DMV has become a reactive agency, struggling to keep up with the demands of newly legislated responsibilities, and without the necessary resources to prevent fraud and corruption at its front-line agencies and without the ability to provide even adequate service to its six million customers;

r. The DMV needs a strategic business plan, which is a key to the operation of an agency, and must work within the confines of such plan in an effort to adopt best practices, improve

customer service and gain back the confidence of New Jersey citizens and the Legislature;

s. The DMV's privatization of some of its agencies in July 1995 has created poor, disjointed and confused service delivery without consistency among the agencies in terms of policies and procedures, which has led to confusion and frustration in the minds of New Jersey citizens;

t. The DMV privatization has also resulted in poorly paid employees who have received inadequate benefits, resulting in a high turnover rate at DMV agencies;

u. A major benefit to a State-operated DMV system is the ability to centralize anti-fraud policies and procedures;

v. Historically, the privately-operated local motor vehicle agencies have been plagued with long lines, poor customer service and inadequate business practices that have routinely caused network delays and failures for hours at a time;

w. The DMV would be in a better position to plan for long-term improvements, replacements and daily operations if it had a dedicated and consistent source of funding;

x. In order to address the various problems with the DMV, a "FIX DMV Commission" was formed on April 25, 2002, by Governor's Executive Order Number 19 to conduct a comprehensive review of the DMV and to make recommendations on the restructuring and reorganization of the agency;

y. The "FIX DMV Commission" has reported that the DMV is in crisis and has recommended that a New Jersey Motor Vehicle Commission be formed in, but not of, the Department of Transportation to replace the current New Jersey Division of Motor Vehicles with the purposes of: (1) identifying and regulating drivers and motor vehicles to deter unlawful and unsafe acts; (2) identifying and correcting vehicle defects and limiting the amount of vehicle-produced air pollution; (3) focusing on and responding to customer service and security issues; and (4) effectuating change by bringing greater attention and resources to the needs of the organization;

z. It is therefore in the public interest to create a New Jersey Motor Vehicle Commission, the duties of which would include, but not be limited to: (1) addressing the multitude of functions assigned to it while curtailing fraudulent and criminal activities that present threats to the State's security system; (2) following a multi-year strategic business plan that is constantly reviewed and updated, thus avoiding the need for the cyclical reforms that have characterized its history; and (3) conducting operations on a fiscal year budget, controlling fees sufficient to fund the budget, adopting regulations regarding processes and fees; and implementing an annual strategic business plan.

C.39:2A-3 Definitions relative to New Jersey Motor Vehicle Commission.

3. As used in this act:

"Agency" or "motor vehicle agency" means that enterprise run by an agent designated by the commission to be the commission's agent for the registering of motor vehicles, issuing registration certificates and licensing of drivers, as provided in R.S.39:3-3 and R.S.39:10-25.

"Agent" or "Motor Vehicle Agent" means a person designated as agent in R.S.39:3-3 and R.S.39:10-25.

"Chair" means the chair of the commission.

"Chief Administrator" or "administrator" means the chief administrator of the commission.

"Commission" means the New Jersey Motor Vehicle Commission established and created by section 4 of this act.

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

"Department" means the Department of Transportation of this State.

"Deputy Chief Administrator" or "deputy administrator" means the deputy chief administrator of the commission and all references in any law, rule, regulation or order to the Deputy Director of the division shall mean and refer to the deputy administrator.

"Director" means the Director of the Division of Motor Vehicles.

"Division" or "DMV" means the Division of Motor Vehicles in the Department of Transportation.

"Service charge" means an amount charged by the commission for services rendered, which includes all new fees and surcharges, increases in existing fees and surcharges, and such amounts as provided in section 105 of P.L.2003, c.13 (C.39:2A-36). Service charges are revenue of the

commission and are not subject to appropriation as Direct State Services by the Legislature.

C.39:2A-4 "New Jersey Motor Vehicle Commission" established; division abolished.

4. a. There is hereby established a body corporate and politic, with corporate succession, to be known as the "New Jersey Motor Vehicle Commission." The commission shall be established in the Executive Branch of the State Government and for the purposes of complying with the provisions of Article V, Section IV, paragraph 1 of the New Jersey Constitution, the commission is allocated, in but not of, the Department of Transportation, but notwithstanding this allocation, the commission shall be independent of any supervision and control by the department or by any board or officer thereof. The commission is hereby constituted as an instrumentality of the State exercising public and essential governmental functions, and the exercise by the commission of the powers conferred by this act shall be deemed and held to be an essential governmental function of the State.

b. The Division of Motor Vehicles, transferred to the Department of Transportation pursuant to Reorganization Plan No. 002-1995, is abolished as a division in the Department of Transportation, and all of its functions, powers and duties, except as herein otherwise provided, are transferred to, and are continued in the commission and shall be exercised by the chief administrator of the commission. Unless otherwise specified in this act, this transfer shall be subject to the provisions of the "State Agency Transfer Act," P.L.1971, c.375 (C.52:14D-1 et seq.). All records, equipment and other personal property, appropriations, and any unexpended balances of funds appropriated or otherwise available to the division, shall be transferred to the commission pursuant to the "State Agency Transfer Act."

c. Whenever any law, rule, regulation, order, contract, tariff, document, reorganization plan, judicial, or administrative proceeding or otherwise thereunder, refers to the Division of Motor Vehicles in the Department of Law and Public Safety or in the Department of Transportation, or to the director thereof, the reference shall mean and refer to the commission, unless otherwise stated in this act.

d. Regulations adopted by the division shall continue with full force and effect until amended or repealed pursuant to law.

e. The commission shall operate on a fiscal year budget cycle.

f. The commission shall continue in existence until dissolved by act of the Legislature. However, any dissolution of the commission shall be on condition that the commission has no debts, contractual duties or obligations outstanding, or that provision has been made for the payment, discharge or retirement of these debts, contractual duties or obligations. Upon any dissolution of the commission, all property, rights, funds and assets thereof shall pass to and become vested in the State.

C.39:2A-5 Transfer of employees; retirement system, health benefits.

5. a. Upon the abolishment of the division, all career service employees serving in the division on that date shall be employees of the commission and shall be transferred to the commission pursuant to the "State Agency Transfer Act," P.L.1971, c.375 (C.52:14D-1 et seq.) and shall retain their present career service employment status and their collective bargaining status, including all rights of tenure, retirement, pension, disability, leave of absence, or similar benefits. Future employees of the commission shall be hired consistent with the provisions of Title 11A of the New Jersey Statutes and the rules promulgated thereunder.

b. Upon action of the commission, all agency employees shall become employees of the commission. Such employees shall be assigned to appropriate titles by the Department of Personnel. Those private motor vehicle agency employees who were employed by the agency on or before January 1, 2003 and who are assigned to career service titles upon employment with the commission shall, upon completion of the special probationary period described in section 7 of this act, attain permanent, regular appointments in their respective titles. No special probationary period shall be required for those who have previously completed a probationary period during their previous State service employment. Except for managerial and confidential employees as defined by the "New Jersey Employer - Employee Relations Act," P.L.1941, c.100

(C.34:13A-1 et seq.), such employees shall be covered under the State of New Jersey's collective bargaining agreements and shall obtain all employment and collective bargaining rights consistent therewith.

c. Officers and employees of the commission shall be enrolled in the Public Employees' Retirement System and shall be eligible to participate in the State Health Benefits Program established pursuant to the "New Jersey State Health Benefits Program Act," P.L.1961, c.49 (C.52:14-17.25 et seq.).

C.39:2A-6 Employee seniority, benefits transferred, continued.

6. a. Notwithstanding the provisions of Title 11A of the New Jersey Statutes and rules promulgated thereunder to the contrary, employees of a private motor vehicle agency who were employed with that agency immediately after serving in the division prior to its privatization, shall, upon returning to State service as employees of the commission, receive civil service seniority credit for all years of employment service retroactive to the date upon which they commenced State employment prior to employment with the private motor vehicle agency. These employees shall also receive civil service seniority credit for all years of employment with the private motor vehicle agency as if the employment were total and continuous.

b. Employees employed by the private motor vehicle agency who enter State service as employees of the commission but who have no prior State service shall receive civil service seniority credit for all years of employment with the private motor vehicle agency.

c. Civil service seniority credit for all employees referred to in subsections a. and b. of this section shall only be used to determine seniority credit for layoff and promotional purposes and accrual of paid leave.

d. Accumulated sick and vacation leave for employees entering or returning to State service as provided in subsections a. and b. of this section shall be transferred and credited to their State leave accounts immediately upon their return to State service.

C.39:2A-7 Probationary period for certain employees.

7. Notwithstanding the provisions of Title 11A of the New Jersey Statutes and the rules promulgated thereunder to the contrary, all employees entering or returning to State service other than those on a Special Reemployment List as employees of the commission following employment with a private motor vehicle agency, who have been employed with the private motor vehicle agency on or before January 1, 2003, and assigned to the career service shall be subject to a special probationary period unless they have already completed a probationary period during their previous State service employment. The special probationary period shall have a duration of six months from the date that the employees enter or return to State service as employees of the commission. Each employee's work performance shall be evaluated to determine whether the employee can satisfactorily perform the duties of the title to which the employee is appointed and progress reports shall be provided to the employee as provided by the rules of the Merit System Board in the Department of Personnel. An employee who is determined to have satisfactorily performed the duties of the employee's career service title shall attain permanent status in that title at the conclusion of the special probationary period. An employee who is determined not to have satisfactorily performed the duties of that title during or at the conclusion of the special probationary period shall be immediately separated from State service and shall not have any right of appeal regarding the separation to the Merit System Board.

C.39:2A-8 Determination of employee salaries.

8. Notwithstanding the provisions of Title 11A of the New Jersey Statutes and the rules promulgated thereunder to the contrary, the employees entering or returning to State service as employees of the commission in career service titles following employment with a private motor vehicle agency, shall receive a salary commensurate with total years of service as determined by the commission in the salary range assigned to the career service titles to which they have received an appointment.

C.39:2A-9 Testing of provisional employees.

9. a. Notwithstanding the provisions of Title 11A of the New Jersey Statutes and the rules promulgated thereunder to the contrary, employees entering State service other than those on a Special Reemployment List as employees of the commission in career service titles following employment after January 1, 2003 with a private motor vehicle agency shall be considered provisional employees subject to competitive testing.

b. Notwithstanding the provisions of Title 11A of the New Jersey Statutes and the rules promulgated thereunder, employees entering State service as provided in subsection a. of this section shall not be subject to displacement by persons on preexisting Special Reemployment Lists. Special Reemployment Lists for applicable titles shall be used only to fill vacant positions in the commission.

C.39:2A-10 Powers of Deputy Chief Administrator.

10. The Deputy Chief Administrator shall assist the administrator in the day-to-day administration of the commission and shall have all of the powers and duties of the administrator, as authorized and assigned by the administrator.

The deputy administrator shall carry out all of the administrator's duties and responsibilities during the administrator's absence, disqualification or inability to serve, and shall perform such other duties and responsibilities as the administrator shall determine and assign. The deputy administrator shall serve at the pleasure of the administrator and shall receive such salary as fixed by the administrator in accordance with the table of organization. The deputy administrator shall be in the State unclassified service.

C.39:2A-11 Administrator considered "appointing authority."

11. Except as otherwise provided by law, the administrator shall be considered the "appointing authority" for the commission within the contemplation of the civil service laws and the table of organization. The administrator may delegate such appointing authority to the deputy administrator as he deems necessary.

C.39:2A-12 Membership of commission.

12. a. The commission shall consist of the following eight members:

- (1) The Commissioner of Transportation, who shall serve as an ex officio voting member;
- (2) The State Attorney General, who shall serve as an ex officio voting member;
- (3) The Chair of the commission who shall be a nonvoting member. The Chair shall be appointed by the Governor with the advice and consent of the Senate. The Chair shall serve at the pleasure of the Governor during the Governor's term of office, and shall receive such salary as shall be fixed by the Governor which is not greater than the salary of a cabinet-level official of the State. Prior to nomination, the Governor shall cause the Attorney General to conduct an inquiry into the nominee's background, financial stability, integrity and responsibility and reputation for good character, honesty and integrity. The person appointed and serving as Chair shall also be Chief Administrator of the commission and shall devote full time to the performance of his duties. The Chief Administrator shall be in the State unclassified service.

Notwithstanding the provisions of this section to the contrary, the person in office as the Director of the Division of Motor Vehicles in the Department of Transportation on the effective date of this section shall be the first Chair of the commission without the further requirement of the advice and consent of the Senate and shall also be the first Chief Administrator of the commission;

- (4) The State Treasurer, who shall serve as an ex officio voting member; and
- (5) Four public members who shall be appointed by the Governor with the advice and consent of the Senate, not more than two of whom shall be of the same political party. The public members shall be voting members and serve for a term of four years. These members shall be New Jersey residents who shall provide appropriate geographic representation from throughout the State and who shall have experience and familiarity with public safety, customer service, security, or business operations. At least one member shall reside in a northern county (Bergen, Essex, Hudson, Morris, Passaic, Union, Sussex and Warren), at least one member shall

reside in a central county (Hunterdon, Mercer, Middlesex, Monmouth and Somerset), and at least one member shall reside in a southern county (Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean and Salem).

b. Initial appointments of public members to the commission shall be for terms as follows: one member for four years, one member for three years, one member for two years, and one member for one year. After the initial appointments, all public members shall be appointed for terms of four years; and may be appointed for any number of successive terms. A member's term shall be deemed to commence on January 1 of the year in which the member is appointed. The commission may elect a secretary and a treasurer, who need not be members, and the same person may be elected to serve both as secretary and treasurer.

c. Each ex officio member of the commission may designate two employees of the member's department or agency, who may represent the member at meetings of the commission. A designee may lawfully vote and otherwise act on behalf of the member. The designation shall be in writing delivered to the commission and shall continue in effect until revoked or amended by writing delivered to the commission.

d. Each public member shall continue in office after the expiration of the member's term until a successor is appointed and qualified. The successor shall be appointed in like manner for the unexpired term only.

e. A vacancy in the membership of the commission occurring other than by expiration of term shall be filled in the same manner as the original appointment, but for the unexpired term only.

C.39:2A-13 Powers, duties of commission.

13. a. In addition to any powers and duties conferred upon it elsewhere in this act, the commission shall be authorized to:

- (1) Make, amend and repeal bylaws not inconsistent with State and federal law;
 - (2) Adopt an official seal;
 - (3) Maintain an office at such place or places within the State as it may designate;
 - (4) Apply for and accept grants from the State or federal government, or any agency thereof, or grants, gifts or other contributions from any foundation, corporation, association or individual, or any private source, and comply with the terms, conditions and limitations thereof, as necessary and proper to carry out the purposes of this act;
 - (5) Delegate to the administrator and any other officers of the commission such powers and duties as necessary and proper to carry out the purposes of this act;
 - (6) Operate, lease, license or contract in such manner as to produce revenue for the commission, as provided in this act;
 - (7) Accept and use any funds available to the commission;
 - (8) Enter into agreements or contracts to pay for services rendered from any public or private entity, and receive payment for services rendered to any public or private entity;
- and
- (9) Enter into agreements or contracts, execute any and all instruments, and do and perform acts or things necessary, convenient or desirable for the purposes of the commission, or to carry out any power expressly or implicitly given in this act.

b. The commission is further authorized to:

- (1) Review and approve a statement of the vision, mission, and goals of the commission, as submitted by the administrator;
- (2) Review and approve the strategic business plan of the commission which shall include the commission's long-term objectives, policies, and programs, including a facilities improvement and management plan and a table of organization, as submitted by the administrator;
- (3) Review and approve the annual budget of the commission as submitted by the administrator and ensure that projected revenues and service charges are sufficient to adequately fund the commission both in the short and long-term;
- (4) Receive reports and recommendations from the Advisory Councils created pursuant to this act and provide policy direction related thereto to the administrator;
- (5) Review and recommend all capital purchases and construction projects undertaken by the commission;

(6) Review any proposed bill, joint resolution or concurrent resolution introduced in either House of the Legislature which establishes or modifies any motor vehicle statute or regulation in this State. Such a review shall include, but not be limited to, an analysis of the fiscal impact of the bill or resolution on the commission and any comments upon or recommendations concerning the legislation including rejection, modification or approval. Additionally, the commission shall suggest alternatives to the legislation which it deems may be appropriate; and

(7) Recommend to the Governor and the Legislature any statutory changes it deems appropriate, including, but not limited to, any revisions to fees or service charges or changes to programs, in order to insure the proper functioning and operation of the commission.

c. Except as provided in this section and section 21 of this act, all administrative functions, powers and duties of the commission may be exercised by the administrator and any reference to the commission in any law, rule or regulation may for this purpose be deemed to refer to the administrator.

C.39:2A-14 Election of Vice-Chair.

14. The commission shall elect annually, by a majority of the full membership of the commission, one of its members, other than the Chair, to serve as Vice-Chair for the ensuing year. The Vice-Chair shall hold office until January 1 next ensuing. The Vice-Chair, acting in the capacity of presiding officer, shall carry out all of the responsibilities of the Chair of the commission during the Chair's absence, disqualification, or inability to serve.

C.39:2A-15 Member compensation.

15. Members other than those serving ex officio shall serve without compensation, but the commission shall reimburse commission members for actual expenses necessarily incurred in the discharge of their duties.

C.39:2A-16 Meetings of commission.

16. a. The commission shall meet monthly or at more frequent times at the discretion of the Chair or as a majority of the commission shall decide. Meetings of the commission shall be held at such times and places as the Chair may deem necessary and convenient.

b. The meetings shall be subject to the provisions of the "Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.).

c. Any other law, rule or regulation to the contrary notwithstanding, the commission shall take all necessary steps to ensure that all interested persons are given adequate notice of commission meetings and the agenda of such meetings, through the utilization of media engaged in the dissemination of information.

d. The powers of the commission shall be vested in the members thereof. Four members of the commission shall constitute a quorum at any meeting. Actions may be taken and motions and resolutions adopted by the commission by the affirmative vote of at least four members. No vacancy in the membership of the commission shall impair the right of a quorum to exercise all the rights and perform all the duties of the commission.

C.39:2A-17 Minutes delivered to Governor, effect of veto.

17. A true copy of the minutes of every meeting of the commission shall be delivered by and under the certification of the secretary of the commission, without delay, to the Governor. No action taken at the meeting shall have force or effect until 10 days, Saturdays, Sundays, and public holidays excepted, after the minutes are delivered, unless during the 10-day period the Governor approves the minutes, in which case the action shall become effective upon approval. If, in that 10-day period, the Governor returns copies of the minutes with a veto of any action taken by the commission or any member, the action shall be null and void and of no effect.

C.39:2A-18 members subject to Conflict of Interest Law.

18. Members of the commission shall be subject to the provisions of the "New Jersey Conflicts of Interest Law," P.L.1971, c.182 (C.52:13D-12 et seq.).

C.39:2A-19 Removal of member.

19. Each appointed member of the commission may be removed from office by the Governor for cause, after a public hearing and may be suspended by the Governor pending the completion of the hearing. Before assuming the duties of commission membership, each member shall take and subscribe an oath to perform the duties of the office faithfully, impartially and justly to the best of the member's ability. A record of the oaths shall be filed in the office of the Secretary of State.

C.39:2A-20 Authorization of payment methods including electronic.

20. The commission may, in acceptance of payment of any fees, fines, penalties, surcharges, service charges or other charges, authorize the use of a credit or debit card or any other electronic payment device.

C.39:2A-21 Rules, regulations.

21. The commission shall adopt all rules and regulations in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) for the proper functioning of the commission, and as necessary to effectuate the purposes of this act, except for those relating to the internal governance of the commission adopted by the administrator. Current rules and regulations of the division shall remain in full force and effect until such time as they are repealed or amended by the commission or in accordance with any other law.

C.39:2A-22 Annual report to Governor and Legislature.

22. a. On or before September 30 of each year, the commission shall file with the Governor and the presiding officer of each House of the Legislature a report setting forth the operational, capital and financial expenditures of the previous year, the operational, capital and financial plan, and the table of organization and staffing plan, for the current year and a proposed operational, capital and financial plan for the next ensuing year. The report may include recommendations for revisions to fees or service charges which the commission deems appropriate.

The commission shall include in this report the latest audited annual financial statement. In this statement, the commission shall disclose all revenues remitted to the commission and provide a detailed listing of the various categories in which it receives revenue, including any surplus revenue from the prior year.

b. The commission shall cause a financial audit of its books and accounts to be made at least once each year by certified public accountants and a copy thereof shall be filed with the State Treasurer.

c. On or before September 30 and March 30 of each year, the commission shall file with the Governor and the presiding officer of each House of the Legislature a report providing an assessment of the quality of service provided by the commission and a description of any security improvements made by the commission in the prior six-month period and those anticipated in the current six-month period.

To the extent practicable, the report also shall include data setting forth in detail the number of transactions annually performed at each commission agency or facility and by other means including, but not limited to, electronic transactions. This portion of the report also shall disclose, to the extent practicable, the average waiting time to process a transaction at each commission agency or facility and, where applicable, through other means. If the commission determines that it is not able to ascertain these data for inclusion in the six-month report, the report shall set forth the reasons the data could not be included and provide a date by which the commission reasonably estimates that it will be able to provide these data.

In addition, the report shall include the number of criminal complaints filed against any commission employee or any other person, in connection with commission related activity. Complaints which are determined to be unfounded shall not be included. The report shall set forth the various crimes and offenses for which complaints were filed against any commission employee or in connection with any commission activity.

C.39:2A-23 Immunity from liability.

23. Members, officers and employees of the commission shall not be liable in an action for damages to any person for any action taken or recommendation made within the scope of their employment as a member, officer or employee if the action or recommendation was taken or made without malice. The members of the commission shall be indemnified and their defense of any action provided for in the same manner and to the same extent as employees of the State under the "New Jersey Tort Claims Act," P.L.1972, c.45 (N.J.S.59:1-1 et seq.) on account of acts or omissions in the scope of their employment.

C.39:2A-24 Absolute, qualified immunities.

24. As the commission is a State agency, all absolute and qualified immunities and defenses provided to public entities and public employees by the "New Jersey Tort Claims Act," P.L.1972, c.45 (N.J.S.59:1-1 et seq.), the "New Jersey Contractual Liability Act," P.L.1972, c.45 (N.J.S.59:13-1 et seq.), and any other law shall apply to all interests held and activities performed by the commission and its employees pursuant to this act.

C.39:2A-25 Legal representation.

25. The Attorney General shall provide legal representation to the commission and its employees to the same extent as representation is provided to other State agencies and their employees.

C.39:2A-26 Advisory councils.

26. There are created within the commission five advisory councils, which shall provide the commission with advice, technical expertise, information, guidance, and recommendations in four general areas. The commission shall designate the appropriate State and local government representatives, interest group representatives, technical experts, and constituent representatives as appropriate to serve on the councils, with no council having more than five members. Federal government representatives and representatives of national organizations shall be asked to serve, and if willing, shall be designated by the commission to serve. All council members shall be designated by commission action and shall serve on rotating terms so as to provide stability and continuity on each council. The Chair, or the Chair's designee, shall serve on each council. The councils shall meet and report to the commission monthly, or as frequently as the commission requests. The councils are as follows:

a. The Safety Advisory Council, which shall advise the commission regarding its policies, operating practices, regulations and standards in regard to driver, motor vehicle and traffic safety and consider new initiatives or legislation to enhance the safety of the motoring public.

b. The Customer Service Advisory Council, which shall advise the commission regarding its policies, operating practices, employee communications, regulations, and standards in providing appropriate customer service. The council shall: examine benchmarking performance and level of service standards for the Telephone Center; examine internal communications to ensure consistency and systematic application; make recommendations regarding marketing and the dissemination of information to the public to re-establish a robust marketing and public information program which informs and educates public consumers; and advise on all aspects of customer service at the commission.

c. The Security and Privacy Advisory Council, which shall: advise the commission as to how to effectively maintain its system and business processes in the securest manner; help it to address its most serious security breaches; advise as to new or modified programs needed to achieve heightened security; recommend methods to curtail fraudulent and criminal activities that present threats to the State's security as well as measures to protect the privacy of driver information, including but not limited to the Driver's Privacy Protection Act of 1994, Pub.L.103-322.

d. The Business Advisory Council, which shall advise the commission on improvements in the commission's business practices which affect its public and private partners, regulated entities, interest groups, businesses, and constituents in providing motor vehicle services.

e. The Technology Advisory Council, which shall advise the commission on the latest and best technological services and equipment to ensure continued modernization of the

commission's facilities, equipment, operations, security, and customer service.

C.39:2A-27 Study on location, adequacy of agency facilities.

27. The administrator is directed to immediately commence a study on the location and adequacy of agency facilities. Special attention shall be paid to siting agencies which are accessible to transit and parking facilities. The study shall examine the affordability and practicality of using smaller satellite offices. The study shall reexamine the location and number of the commission's regional service centers. The study shall reevaluate the core business practices used in the administration of motor vehicle services and so report to the commission.

C.39:2A-28 Powers, duties of administrator.

28. In addition to any powers and duties otherwise imposed by this act, the administrator shall have general responsibility for the implementation of this act, and shall, without limitation:

a. Perform, exercise and discharge the functions, powers and duties of the commission through such offices as may be established by this act or otherwise by law;

b. Administer and organize the work of the commission in such organizational units, and from time to time alter the plan of organization as deemed expedient, as necessary for the secure, efficient and effective operation of the commission;

c. Appoint, remove and fix the compensation of subordinate officers and other personnel employed by the commission in accordance with the commission's table of organization, except as herein otherwise specifically provided;

d. Appoint, remove, and fix the compensation and terms of employment of the deputy administrator, who shall serve in the State unclassified service, in accordance with the commission's table of organization;

e. Organize and maintain an administrative office and employ therein such secretarial, clerical and other assistants in the commission as the internal operations of the commission may require;

f. Formulate and adopt rules and regulations for the efficient conduct of the work and general administration of the commission, its officers and employees;

g. Prepare an annual budget, and submit it to the commission;

h. Prepare annually, a strategic business plan and submit it to the commission, including a facilities improvement and management plan and a table of organization;

i. Institute or cause to be instituted such legal proceedings or processes as may be necessary to properly enforce and give effect to any of the powers or duties of the administrator;

j. Report as the Governor shall from time to time request or as may be required by law;

k. Collect all fees, fines, penalties, surcharges, service charges and other charges imposed by this act and the regulations issued pursuant thereto or pursuant to law;

l. Develop and maintain a master list of all assets;

m. Oversee the implementation of the facilities improvement and management plan, in consultation with the State Treasurer; and

n. Perform such other functions as may be prescribed in this act or by any other law or by the commission.

C.39:2A-29 Goals of administrator, deputy administrator.

29. The administrator, and the deputy administrator under the direction of the administrator, shall have as their immediate goal the improvement of the safety and security of the State's motor vehicle licensing, registration, titling and inspection system and to this end are authorized to:

a. Make technological improvements, including the modernization of software and hardware, the addition of surveillance cameras, alarms, and access systems, and the utilization of biometrics;

b. Increase the number of audit staff, security guards, and other security-related employees;

c. Improve training and monitoring procedures;

d. Utilize document imaging from the field;

e. Integrate the New Jersey title database with the National Motor Vehicle Title Information System;

f. Improve license plate management, including an automated inventory system and

reissuance program;

g. Acquire the ability to access State vital statistics data to immediately update driver's license information;

h. Implement additional proofs of identity verification for a non-driver identification card, driver's license, permits, and registrations;

I. Implement card access systems, clear visibility barriers and door replacements where needed;

j. Replace the written driver's license knowledge test with an online test;

k. Increase the use of credit or debit cards or any other electronic payment device;

l. Increase the use of scanned documents;

m. Match motor vehicle records with Social Security records to verify Social Security numbers in the motor vehicle database, to the extent allowable; and

n. Seek the assistance of the Immigration and Naturalization Service to verify authenticity of motor vehicle applicants and their eligibility for documents.

C.39:2A-30 "Motor Vehicles Affordability and Fairness Task Force."

30. a. There is created a task force to be known as the "Motor Vehicles Affordability and Fairness Task Force" to study the impact of the current point system and non-driving related suspension of driving privileges, in particular, the Merit Rating Plan Surcharges, on the driving public and make recommendations for the reform of the surcharge suspension program to increase motorist safety. In addition, the task force shall examine "The Parking Offenses Adjudication Act," P.L.1985, c.14 (C.39:4-139.2 et seq.) and municipal court processes related thereto, as well as court actions on surcharge assessments and license suspensions related to nonpayment of fines or tickets as well as motor vehicle moving violations.

b. The task force shall consist of 19 members as follows: the Commissioner of Transportation, ex officio, or a designated representative; the Chair of the New Jersey Motor Vehicle Commission, ex officio or a designated representative; a representative of the Administrative Office of the Courts; the Director of the Office of Highway Traffic Safety, in the Department of Law and Public Safety, ex officio, or a designated representative; the Director of the Division of Insurance in the Department of Banking and Insurance, ex officio, or a designated representative; the Chairperson of the State Employment and Training Commission, ex officio or a designated representative; and nine public members, to be appointed by the Governor, among whom shall be included a representative of the New Jersey Highway Traffic Safety Policy Advisory Council, a representative of a not-for-profit highway safety organization, a representative of the automobile retailers industry, a representative of the automobile insurance industry, a regular operator of a motor vehicle weighing in excess of twenty-six thousand pounds, one law enforcement officer engaged in highway patrol, a representative from the New Jersey State League of Municipalities, a representative from the New Jersey Institute for Social Justice and a representative of a New Jersey based chapter of the American Automobile Association. The Speaker of the General Assembly and the President of the Senate shall each appoint two members who may be public members or members of the Legislature. No more than two of the legislative appointees shall be from the same political party. Legislative appointees shall serve during the legislative term of the appointing authority.

c. The members of the task force shall serve without compensation, but may be reimbursed for necessary expenses incurred in the performance of their duties.

d. The task force shall organize as soon as may be practicable after the appointment of a majority of its members and shall select a chairperson from among the members. The members shall select a secretary, who need not be a member of the task force.

e. The task force shall meet at the call of the chairperson.

f. The task force shall be entitled to call to its assistance and avail itself of the services of the employees of any State department, board, bureau, commission or agency, as it may require and as may be available for its purposes, and to employ stenographic and clerical assistance and incur traveling and other miscellaneous expenses as may be necessary in order to perform its duties, within the limits of funds appropriated or otherwise made available to it for its purposes.

g. The task force shall study and develop recommendations concerning the following issues,

including but not limited to:

- (1) the rapid growth in the number of driver's license suspensions;
- (2) identification and regulation of drivers to deter unlawful and unsafe acts;
- (3) establishment of a mechanism to assist low-income residents that are hard pressed to secure the restoration of driving privileges;
- (4) reform of the parking ticket suspension system and "The Parking Offenses Adjudication Act"; and
- (5) increasing the collection of outstanding surcharges.

h. The study shall include, but not be limited to, investigating issues of motor vehicle safety, insurance, finance, and socioeconomic conditions. The task force shall review and analyze studies examining the social impacts of driver's license and registration suspensions. The task force shall also review and analyze studies and statistics regarding surcharges and suspensions to develop recommendations for reform.

i. The task force shall develop recommendations for public and private strategies and recommendations for legislative or regulatory action, if deemed appropriate, to address these issues. The recommendations shall include suggestions for the development of public information campaigns to educate and inform motorists about driver's license and registration suspensions, and methods of lessening financial and social burdens on motorists.

j. The task force's recommendations shall be aimed at developing and implementing an amnesty policy and a reform of the surcharge suspension. The task force shall review the impact of suspension of driving privileges upon businesses and individuals dependent upon having a valid driver's license for gainful employment and to conduct commerce in this State.

k. The task force shall prepare and submit a final report containing its findings and recommendations, including any recommendations for legislative or regulatory action that it deems appropriate, no later than one year after the task force organizes, to the Governor, the President of the Senate and the Speaker of the General Assembly, and the members of the Senate Transportation Committee and the Assembly Transportation Committee, or their successors.

l. Upon the submission of the final report the task force shall dissolve. Any and all materials, records, work products or other property of the task force shall become property of the commission.

31. Section 6 of P.L.1983, c.65 (C.17:29A-35) is amended to read as follows:

C.17:29A-35 New Jersey Merit Rating Plan.

6. a. (Deleted by amendment, P.L.1997, c.151.)

b. There is created a New Jersey Merit Rating Plan which shall apply to all drivers and shall include, but not be limited to, the following provisions:

(1) (a) Plan surcharges shall be levied, beginning on or after January 1, 1984, by the New Jersey Motor Vehicle Commission (hereafter the "commission") established by section 4 of P.L.2003, c.13 (C.39:2A-4) on any driver who, in the preceding 36-month period, has accumulated six or more motor vehicle points, as provided in Title 39 of the Revised Statutes; except that the allowance for a reduction of points in Title 39 of the Revised Statutes shall not apply for the purpose of determining surcharges under this paragraph. The accumulation of points shall be calculated as of the date the point violation is posted to the driver history record and shall be levied pursuant to rules promulgated by the commission. Surcharges assessed pursuant to this paragraph shall be \$100.00 for six points, and \$25.00 for each additional point. No offense shall be selected for billing which occurred prior to February 10, 1983. No offense shall be considered for billing in more than three annual assessments.

(b) (Deleted by amendment, P.L.1984, c.1.)

(2) Plan surcharges shall be levied for convictions (a) under R.S.39:4-50 for violations occurring on or after February 10, 1983, and (b) under section 2 of P.L.1981, c.512 (C.39:4-50.4a), or for offenses committed in other jurisdictions of a substantially similar nature to those under R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a), for violations occurring on or after January 26, 1984. Except as hereinafter provided, surcharges under this paragraph shall be levied annually for a three-year period, and shall be \$1,000.00 per year for each of the first

two convictions, for a total surcharge of \$3,000 for each conviction, and \$1,500.00 per year for the third conviction occurring within a three-year period, for a total surcharge of \$4,500 for the third conviction. If a driver is convicted under both R.S.39:4-50 and section 2 of P.L.1981, c.512 (C.39:4-50.4a) for offenses arising out of the same incident, the driver shall be assessed only one surcharge for the two offenses.

If, upon written notification from the commission or its designee, mailed to the last address of record with the commission, a driver fails to pay a surcharge levied under this subsection, the driving privilege of the driver shall be suspended forthwith until the minimum payment requirement as set forth by rule by the commission is paid to the commission; except that the commission may authorize payment of the surcharge on an installment basis over a period not to exceed 12 months for assessments under \$2,300 or 24 months for assessments of \$2,300 or more. If a driver fails to pay the surcharge or any installments on the surcharge, the total surcharge shall become due immediately, except as otherwise prescribed by rule of the commission.

The commission may authorize any person to pay the surcharge levied under this section by use of a credit card, debit card or other electronic payment device, and the administrator is authorized to require the person to pay all costs incurred by the commission in connection with the acceptance of the credit card, debit card or other electronic payment device. If a surcharge or related administrative fee is paid by credit or debit cards or any other electronic payment device and the amount is subsequently reversed by the credit card company or bank, the driving privilege of the surcharged driver shall be suspended and the driver shall be subject to the fee imposed for dishonored checks pursuant to section 31 of P.L.1994, c.60 (C.39:5-36.1).

In addition to any other remedy provided by law, the commission is authorized to utilize the provisions of the SOIL (Set off of Individual Liability) program established pursuant to P.L.1981, c.239 (C.54A:9-8.1 et seq.) to collect any surcharge levied under this section that is unpaid on or after the effective date of this act. As an additional remedy, the commission may issue a certificate to the Clerk of the Superior Court stating that the person identified in the certificate is indebted under this surcharge law in such amount as shall be stated in the certificate. The certificate shall reference the statute under which the indebtedness arises. Thereupon the clerk to whom such certificate shall have been issued shall immediately enter upon the record of docketed judgments the name of such person as debtor; the State as creditor; the address of such person, if shown in the certificate; the amount of the debt so certified; a reference to the statute under which the surcharge is assessed, and the date of making such entries. The docketing of the entries shall have the same force and effect as a civil judgment docketed in the Superior Court, and the commission shall have all the remedies and may take all of the proceedings for the collection thereof which may be had or taken upon the recovery of a judgment in an action, but without prejudice to any right of appeal. Upon entry by the clerk of the certificate in the record of docketed judgments in accordance with this provision, interest in the amount specified by the court rules for post-judgment interest shall accrue from the date of the docketing of the certificate, however payment of the interest may be waived by the commission or its designee. In the event that the surcharge remains unpaid following the issuance of the certificate of debt and the commission takes any further collection action including referral of the matter to the Attorney General or his designee, the fee imposed, in lieu of the actual cost of collection, may be 20 percent of surcharges of \$1,000 or more. The administrator or his designee may establish a sliding scale, not to exceed a maximum amount of \$200, for surcharge principal amounts of less than \$1,000 at the time the certificate of debt is forwarded to the Superior Court for filing. The commission shall provide written notification to a driver of the proposed filing of the certificate of debt at least 10 days prior to the proposed filing; such notice shall be mailed to the driver's last address of record with the commission. If a certificate of debt is satisfied following a credit card payment, debit card payment or payment by other electronic payment device and that payment is reversed, a new certificate of debt shall be filed against the surcharged driver unless the original is reinstated.

If the administrator or his designee approves a special payment plan for repayment of the certificate of debt, and the driver is complying with the approved plan, the plan may be continued for any new surcharge not part of the certificate of debt.

All moneys collectible under this subsection b. shall be billed and collected by the commission except as provided in P.L.1997, c.280 (C.2B:19-10 et al.) for the collection of unpaid surcharges. Commencing on September 1, 1996, or such earlier time as the Commissioner of Banking and Insurance shall certify to the State Treasurer that amounts on deposit in the New Jersey Automobile Insurance Guaranty Fund are sufficient to satisfy the current and anticipated financial obligations of the New Jersey Automobile Full Insurance Underwriting Association, all plan surcharges collected by the commission under this subsection b. shall be remitted to the Division of Motor Vehicles Surcharge Fund for transfer to the Market Transition Facility Revenue Fund, as provided in section 12 of P.L.1994, c.57 (C.34:1B-21.12), for the purposes of section 4 of P.L.1994, c.57 (C.34:1B-21.4) until such a time as all the Market Transition Facility bonds, notes and obligations and all Motor Vehicle Commission bonds, notes and obligations issued pursuant to that section 4 of P.L.1994, c.57 (C.34:1B-21.4) and the costs thereof are discharged and no longer outstanding. From the date of certification by the Commissioner of Banking and Insurance that the moneys collectible under this subsection are no longer needed to fund the association or at such a time as all Market Transition Facility bonds, notes and obligations issued pursuant to section 4 of P.L.1994, c.57 (C.34:1B-21.4) and the costs thereof are discharged and no longer outstanding moneys collectible under this subsection shall, subject to appropriation, be remitted to the New Jersey Property-Liability Insurance Guaranty Association created pursuant to section 6 of P.L.1974, c.17 (C.17:30A-6) to be used for payment of any loans made by that association to the New Jersey Automobile Insurance Guaranty Fund pursuant to paragraph (10) of subsection a. of section 8 of P.L.1974, c.17 (C.17:30A-8); provided that all such payments shall be subject to and dependent upon appropriation by the State Legislature.

(3) In addition to any other authority provided in P.L.1983, c.65 (C.17:29A-33 et al.), the commissioner, after consultation with the commission, is specifically authorized (a) (Deleted by amendment, P.L.1994, c.64), (b) to impose, in accordance with paragraph (1)(a) of this subsection, surcharges for motor vehicle violations or convictions for which motor vehicle points are not assessed under Title 39 of the Revised Statutes, or (c) to reduce the number of points for which surcharges may be assessed below the level provided in paragraph (1)(a) of this subsection, except that the dollar amount of all surcharges levied under the New Jersey Merit Rating Plan shall be uniform on a Statewide basis for each filer, without regard to classification or territory. Surcharges adopted by the commissioner on or after January 1, 1984 for motor vehicle violations or convictions for which motor vehicle points are not assessable under Title 39 of the Revised Statutes shall not be retroactively applied but shall take effect on the date of the New Jersey Register in which notice of adoption appears or the effective date set forth in that notice, whichever is later.

c. No motor vehicle violation surcharges shall be levied on an automobile insurance policy issued or renewed on or after January 1, 1984, except in accordance with the New Jersey Merit Rating Plan, and all surcharges levied thereunder shall be assessed, collected and distributed in accordance with subsection b. of this section.

d. (Deleted by amendment, P.L.1990, c.8.)

e. The Commissioner of Banking and Insurance and the commission as may be appropriate, shall adopt any rules and regulations necessary or appropriate to effectuate the purposes of this section.

C.39:2A-31 Exercise of powers by commission for people; tax exemption.

32. The exercise of the powers granted by this act will be in all respects for the benefit of the people of the State, for the increase of their commerce and prosperity, and for the improvement of their health and living conditions, and as the operation and maintenance of facilities and assets by the commission will constitute the performance of essential governmental functions, the commission shall not be required to pay any taxes or assessments upon any facility and assets or any property acquired or used by the commission under the provisions of this act or upon the income therefrom, and any facility and assets and any property acquired or used by the commission under the provisions of this act and the income therefrom shall be exempt from

taxation.

C.39:2A-32 Fingerprinting, criminal history checks of employees; use.

33. a. The commission shall require the fingerprinting of all prospective employees, employees of the commission, and employees of the agents of the commission, for purposes of determining employment eligibility in any title or capacity that is either directly or indirectly involved in the issuance or processing of driver's licenses, permits, business licenses, identification cards, driving records, or vehicle registrations and titles, and of all independent contractors and their employees who work on a motor vehicle premises or have access to motor vehicle records or documents. The commission is hereby authorized to exchange fingerprint data with, and receive criminal history record information from, the Federal Bureau of Investigation and the Division of State Police, consistent with the provisions of Pub.L.92-544, for use in determining employment eligibility.

b. The commission may, as deemed necessary by the commission, receive the results of periodic follow-ups of criminal history record checks of all employees of the commission and employees of its agents, for purposes of determining continuing employment eligibility in any title or capacity that is either directly or indirectly involved in the issuance or processing of driver's licenses, identification cards, driving records, or vehicle registrations and titles.

c. If the information from the criminal history record background check discloses that a prospective or current employee has a record of criminal history, the commission shall review the information with respect to the type and date of the criminal offense to determine if the person is qualified for employment with the commission. Criminal offenses which shall disqualify an individual from employment include, but are not limited to, any crime or offense, whether committed in New Jersey or in another jurisdiction, which in New Jersey would constitute murder, assault with intent to murder, espionage, treason, rape, kidnaping, unlawful possession of an explosive or weapon, extortion, armed robbery, distribution of or intent to distribute a controlled substance, possession of a controlled substance, willful destruction of property, burglary, theft, fraud, forgery, terrorism, solicitation of money or resources for a terrorist organization and aggravated assault.

d. Notwithstanding the provisions of subsection b. or c. of this section, an individual shall not be disqualified from employment or service under this act on the basis of any conviction disclosed by a criminal record check performed pursuant to this act without an opportunity to challenge the accuracy of the disqualifying criminal history record.

e. An individual who has been disqualified under the provisions of this act shall be entitled to reapply for the position if the disqualifying conviction is reversed.

f. Notwithstanding the provisions of subsection b. or c. of this section, an individual shall not be disqualified from employment or service on the basis of any conviction disclosed by a criminal history record background check performed pursuant to this act if the individual has affirmatively demonstrated to the administrator, clear and convincing evidence of the individual's rehabilitation. In determining whether an individual has affirmatively demonstrated rehabilitation, the following factors shall be considered:

- (1) the nature and responsibility of the position which the applicant would hold, has held or currently holds, as the case may be;
- (2) the nature and seriousness of the offense;
- (3) the circumstances under which the offense occurred;
- (4) the date of the offense;
- (5) the age of the applicant when the offense was committed;
- (6) whether the offense was an isolated or repeated incident;
- (7) any social conditions which may have contributed to the offense; and
- (8) any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs, or the recommendation of those who have had the applicant under their supervision.

C.39:3-10.17a Fingerprinting, criminal history records check for applicants for certain

commercial driver's licenses.

34. a. The commission shall require the fingerprinting of all applicants for commercial driver's licenses with a hazardous material endorsement, a tank vehicle endorsement or both, at the initial application and upon renewal, in order to determine eligibility for those endorsements. The commission is hereby authorized to exchange fingerprint data with, and receive criminal history record information from the Federal Bureau of Investigation and the Division of State Police, consistent with the provisions of Pub.L.92-544, for use in determining eligibility. The commission shall require any person who, prior to the date of enactment of this act, has been issued a commercial driver's license with a hazardous material endorsement, a tanker vehicle endorsement or both, to undergo a criminal history record background check as a condition to continue to hold, use and renew such an endorsement. No criminal history record check shall be performed without the applicant's written consent. The applicant shall bear the cost for the criminal history record check, including all costs for administering and processing the check. Failure or refusal to submit a disclosure and fingerprints will result in an automatic disqualification.

b. Upon receipt of the criminal history record information, the commission shall notify the applicant, in writing, of the applicant's qualification or disqualification for a commercial driver's license with a hazardous material endorsement, a tank vehicle endorsement or both. If the applicant is disqualified, the basis for the disqualification shall be identified in the written notice to the applicant.

c. The applicant shall have 30 days from the postmarked date of the written notice of disqualification to challenge the accuracy of the criminal history record information. If no challenge is filed or if the determination of the accuracy of the criminal history record information upholds the disqualification, the applicant's disqualification for a commercial driver's license, with a hazardous material endorsement, a tank vehicle endorsement or both will stand.

d. The commission, in a manner not inconsistent with appropriate federal requirements, shall provide by regulation the grounds upon which an applicant may be disqualified.

C.39:2A-33 Contracts for ancillary services; use of revenues.

35. a. The commission may contract for ancillary services at facilities used by the commission, including but not limited to food and beverage concessions, service concessions that would be beneficial to its customers, and information services that would be of interest or informative to its customers, such as television displays, public service displays, and the like.

b. In entering into a contract pursuant to this section, the commission shall award a contract on the basis of competitive public bids or proposals to the responsible bidder or proposer whose bid or proposal is determined to be in the best interest of the State, price and other factors considered.

c. The commission is authorized to receive funds from the contract and shall have the right to use the same. The revenue shall not be subject to appropriation as Direct State Services by the Legislature. In addition, this revenue shall not be restricted from use by the commission in any manner except as provided by law. This revenue shall be used in the furtherance of commission purposes. This revenue shall be considered revenue of the commission and shall not be subject to the calculation of proportional revenue remitted to the commission pursuant to section 105 of this act.

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

Words and phrases defined.

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

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

"Authorized emergency vehicles" means vehicles of the fire department, police vehicles and such ambulances and other vehicles as are approved by the Director of the Division of Motor Vehicles in the Department of Transportation when operated in response to an emergency call.

"Automobile" includes all motor vehicles except motorcycles.

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

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

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

"Chief Administrator" or "Administrator" means the chief administrator of the New Jersey Motor Vehicle Commission.

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

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

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

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

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

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

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

"Deputy director" means deputy director of the Division of Motor Vehicles in the Department of Transportation.

"Director" means the Director of the Division of Motor Vehicles in the Department of Transportation.

"Division" means the Division of Motor Vehicles in the Department of Transportation acting directly or through its duly authorized officers or agents.

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

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

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

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

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

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

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

travel.

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

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

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

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

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

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

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

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

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

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

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

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

"Magistrate" means any municipal court and the Superior Court, and any officer having the powers of a committing magistrate and the Director of the Division of Motor Vehicles in the Department of Transportation.

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

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

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

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

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

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

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

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

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

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

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

"Owner" means a person who holds the legal title of a vehicle, or if a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or if a mortgagor of a vehicle is entitled to possession, then the conditional vendee, lessee or mortgagor shall be deemed the owner for the purpose of this subtitle.

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

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

"Pedestrian" means a person afoot.

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

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

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

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

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

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

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

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

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

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

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

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

"School bus" means every motor vehicle operated by, or under contract with, a public or governmental agency, or religious or other charitable organization or corporation, or privately operated for compensation for the transportation of children to or from school for secular or religious education, which complies with the regulations of the Department of Education affecting school buses, including "School Vehicle Type I" and "School Vehicle Type II" as defined below:

"School Vehicle Type I" means any vehicle with a seating capacity of 17 or more, used to transport enrolled children, and adults only when serving as chaperones, to or from a school, school connected activity, day camp, summer day camp, nursery school, child care center, preschool center or other similar places of education. Such vehicle shall comply with the

regulations of the Division of Motor Vehicles and either the Department of Education or the Department of Human Services, whichever is the appropriate supervising agency.

"School Vehicle Type II" means any vehicle with a seating capacity of 16 or less, used to transport enrolled children, and adults only when serving as chaperones, to or from a school, school connected activity, day camp, summer day camp, nursery school, child care center, preschool center or other similar places of education. Such vehicle shall comply with the regulations of the Division of Motor Vehicles and either the Department of Education or the Department of Human Services, whichever is the appropriate supervising agency.

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

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

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

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

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

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

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

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

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

"Street" means the same as highway.

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

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

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

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

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

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

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

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

"Trailer" means every vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so

constructed that no part of its weight rests upon the towing vehicle.

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

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

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

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

37. R.S.39:3-10 is amended to read as follows:

Licensing of drivers; classifications.

39:3-10. No person shall drive a motor vehicle on a public highway in this State unless the person is under supervision while participating in a behind-the-wheel driving course pursuant to section 6 of P.L.1977, c.25 (C.39:3-13.2a) or is in possession of a validated permit, or a provisional or basic driver's license issued to him in accordance with this article.

No person under 18 years of age shall be issued a basic license to drive motor vehicles, nor shall a person be issued a validated permit, including a validated examination permit, until he has passed a satisfactory examination and other requirements as to his ability as an operator. The examination shall include a test of the applicant's vision, his ability to understand traffic control devices, his knowledge of safe driving practices and of the effects that ingestion of alcohol or drugs has on a person's ability to operate a motor vehicle, his knowledge of such portions of the mechanism of motor vehicles as is necessary to insure the safe operation of a vehicle of the kind or kinds indicated by the applicant and of the laws and ordinary usages of the road. No person shall sit for an examination for any permit without exhibiting photo identification deemed acceptable by the commission, unless that person is a high school student participating in a course of driving education approved by the State Department of Education and conducted in a public, parochial or private school of this State, pursuant to section 1 of P.L.1950, c.127 (C.39:3-13.1). The commission may waive the written law knowledge examination for any person 18 years of age or older possessing a valid driver's license issued by any other state, the District of Columbia or the United States Territories of American Samoa, Guam, Puerto Rico or the Virgin Islands. The commission shall be required to provide that person with a booklet that highlights those motor vehicle laws unique to New Jersey. A road test shall be required for a provisional license and serve as a demonstration of the applicant's ability to operate a vehicle of the class designated. No person shall sit for a road test unless that person exhibits photo identification deemed acceptable by the commission. A high school student who has completed a course of behind-the-wheel automobile driving education approved by the State Department of Education and conducted in a public, parochial or private school of this State, who has been issued a special learner's permit pursuant to section 1 of P.L.1950, c.127 (C.39:3-13.1) prior to January 1, 2003, shall not be required to exhibit photo identification in order to sit for a road test. The commission may waive the road test for any person 18 years of age or older possessing a valid driver's license issued by any other state, the District of Columbia or the United States Territories of American Samoa, Guam, Puerto Rico or the Virgin Islands. The road test shall be given on public streets, where practicable and feasible, but may be preceded by an off-street screening process to assess basic skills. The commission shall approve locations for the road test which pose no more than a minimal risk of injury to the applicant, the examiner and other motorists. No new locations for the road test shall be approved unless the test can be given on public streets.

The commission shall issue a basic driver's license to operate a motor vehicle other than a motorcycle to a person over 18 years of age who previously has not been licensed to drive a motor vehicle in this State or another jurisdiction only if that person has: (1) operated a passenger automobile in compliance with the requirements of this title for not less than one year,

not including any period of suspension or postponement, from the date of issuance of a provisional license pursuant to section 4 of P.L.1950, c.127 (C.39:3-13.4); (2) not been assessed more than two motor vehicle points; (3) not been convicted in the previous year for a violation of R.S.39:4-50, section 2 of P.L.1981, c.512 (C.39:4-50.4a), P.L.1992, c.189 (C.39:4-50.14), R.S.39:4-129, N.J.S.2C:11-5, subsection c. of N.J.S.2C:12-1, or any other motor vehicle-related violation the commission determines to be significant and applicable pursuant to regulation; and (4) passed an examination of his ability to operate a motor vehicle pursuant to this section.

The commission shall expand the driver's license examination by 20%. The additional questions to be added shall consist solely of questions developed in conjunction with the State Department of Health and Senior Services concerning the use of alcohol or drugs as related to highway safety. The commission shall develop in conjunction with the State Department of Health and Senior Services supplements to the driver's manual which shall include information necessary to answer any question on the driver's license examination concerning alcohol or drugs as related to highway safety.

Up to 20 questions may be added to the examination on subjects to be determined by the commission that are of particular relevance to youthful drivers, after consultation with the Director of the Office of Highway Traffic Safety.

The commission shall expand the driver's license examination to include a question asking whether the applicant is aware of the provisions of the "Uniform Anatomical Gift Act," P.L.1969, c.161 (C.26:6-57 et seq.) and the procedure for indicating on the driver's license the intention to make a donation of body organs or tissues pursuant to P.L.1978, c.181 (C.39:3-12.2).

Any person applying for a driver's license to operate a motor vehicle or motorized bicycle in this State shall surrender to the commission any current driver's license issued to him by another state or jurisdiction upon his receipt of a driver's license for this State. The commission shall refuse to issue a driver's license if the applicant fails to comply with this provision. An applicant for a permit or license who is less than 18 years of age, and who holds a permit or license for a passenger automobile issued by another state or country that is valid or has expired within a time period designated by the commission, shall be subject to the permit and license requirements and penalties applicable to State permit and license applicants who are of the same age; except that if the other state or country has permit or license standards substantially similar to those of this State, the credentials of the other state or country shall be acceptable.

The commission shall create classified licensing of drivers covering the following classifications:

a. Motorcycles, except that for the purposes of this section, motorcycle shall not include any three-wheeled motor vehicle equipped with a single cab with glazing enclosing the occupant, seats similar to those of a passenger vehicle or truck, seat belts and automotive steering.

b. Omnibuses as classified by R.S.39:3-10.1 and school buses classified under N.J.S.18A:39-1 et seq.

c. (Deleted by amendment, P.L.1999, c.28).

d. All motor vehicles not included in classifications a. and b. A license issued pursuant to this classification d. shall be referred to as the "basic driver's license."

Every applicant for a license under classification b. shall be a holder of a basic driver's license. Any issuance of a license under classification b. shall be by endorsement on the basic driver's license.

A driver's license for motorcycles may be issued separately, but if issued to the holder of a basic driver's license, it shall be by endorsement on the basic driver's license.

The commission, upon payment of the lawful fee and after it or a person authorized by it has examined the applicant and is satisfied of the applicant's ability as an operator, may, in its discretion, issue a license to the applicant to drive a motor vehicle. The license shall authorize him to drive any registered vehicle, of the kind or kinds indicated, and shall expire, except as otherwise provided, on the last day of the 48th calendar month following the calendar month in which such license was issued.

The commission may, at its discretion and for good cause shown, issue licenses which shall expire on a date fixed by it. If the commission issues a license to a person who has demonstrated

authorization to be present in the United States for a period of time shorter than the standard period of the license, the commission shall fix the expiration date of the license at a date based on the period in which the person is authorized to be present in the United States under federal immigration laws. The commission may renew such a license only if it is demonstrated that the person's continued presence in the United States is authorized under federal law. The fee for licenses with expiration dates fixed by the commission shall be fixed by the commission in amounts proportionately less or greater than the fee herein established.

The required fee for a license for the 48-month period shall be as follows:

Motorcycle license or endorsement: \$18.

Omnibus or school bus endorsement: \$18.

Basic driver's license: \$18.

The commission shall waive the payment of fees for issuance of omnibus endorsements whenever an applicant establishes to the commission's satisfaction that said applicant will use the omnibus endorsement exclusively for operating omnibuses owned by a nonprofit organization duly incorporated under Title 15 or 16 of the Revised Statutes or Title 15A of the New Jersey Statutes.

The commission shall issue licenses for the following license period on and after the first day of the calendar month immediately preceding the commencement of such period, such licenses to be effective immediately.

All applications for renewals of licenses shall be made in a manner prescribed by the commission and in accordance with procedures established by it.

The commission in its discretion may refuse to grant a permit or license to drive motor vehicles to a person who is, in its estimation, not a proper person to be granted such a permit or license, but no defect of the applicant shall debar him from receiving a permit or license unless it can be shown by tests approved by the commission that the defect incapacitates him from safely operating a motor vehicle.

In addition to requiring an applicant for a driver's license to submit satisfactory proof of identity and age, the commission also shall require the applicant to provide, as a condition for obtaining a permit and license, satisfactory proof that the applicant's presence in the United States is authorized under federal law.

If the commission has reasonable cause to suspect that any document presented by an applicant as proof of identity, age or legal residency is altered, false or otherwise invalid, the commission shall refuse to grant the permit or license until such time as the document may be verified by the issuing agency to the commission's satisfaction.

A person violating this section shall be subject to a fine not exceeding \$500 or imprisonment in the county jail for not more than 60 days, but if that person has never been licensed to drive in this State or any other jurisdiction, he shall be subject to a fine of not less than \$200 and, in addition, the court shall issue an order to the commission requiring the commission to refuse to issue a license to operate a motor vehicle to the person for a period of not less than 180 days. The penalties provided for by this paragraph shall not be applicable in cases where failure to have actual possession of the operator's license is due to an administrative or technical error by the commission.

Nothing in this section shall be construed to alter or extend the expiration of any license issued prior to the date this amendatory and supplementary act becomes operative.

38. Section 15 of P.L.2001, c.391 (C.39:3-10f5) is amended to read as follows:

C.39:3-10f5 Use of revenues from fees.

15. a. Revenues from the fees collected for the digitized picture provided for in this act shall be revenues of the commission upon enactment of P.L.2003, c.13 (C.39:2A-1 et al.) and used for the purposes of the commission.

b. (Deleted by amendment, P.L.2003, c.13).

c. Any revenue credited to the fund shall remain in the fund exclusively for the purposes of the commission.

39. Section 14 of P.L.1995, c.112 (C.39:8-54) is amended to read as follows:

C.39:8-54 Misrepresentation, transfer of license; penalties.

14. A person who displays or causes or permits to be displayed any sign, mark, or advertisement, or otherwise identifies that person as a private inspection facility, a registered motor vehicle repair facility or an emission inspector when not holding a valid license or registration issued by the director, or who inspects a motor vehicle without being licensed as a private inspection facility, or who conducts an emission inspection without being licensed as an emission inspector, or who performs for compensation an emission-related repair on a motor vehicle that has failed an emission test without being registered as a motor vehicle emission repair facility, or who transfers or attempts to transfer a valid license or registration, shall be subject to a fine of not less than \$1,000 or imprisonment for not more than 30 days, or both. Any fine collected under the provisions of this section shall be paid to the State Treasurer and deposited in the "Motor Vehicle Inspection Fund" established pursuant to subsection j. of R.S.39:8-2.

C.39:2A-34 Reorganization plans superseded.

40. To the extent that Reorganization Plans Nos. 002-1995 and 005-1998 are inconsistent with any provisions of this act, they are superseded to the extent of such inconsistencies and any reference in such Plans to the Division of Motor Vehicles in the Department of Transportation shall mean and refer to the commission.

C.39:2A-35 Transfer of Commercial Bus Unit.

41. The Commercial Bus Unit in the Department of Transportation, together with all of its functions, powers and duties is transferred to and vested in the commission. This transfer shall be subject to the provisions of the "State Agency Transfer Act," P.L.1971, c.375 (C.52:14D-1 et seq.). All career service employees who serve in the Commercial Bus Unit shall be employees of the commission and shall retain their present civil service employment status and their collective bargaining status, including all rights of tenure, retirement pension, disability, leave of absence, or similar benefits. All records, property appropriations, and any unexpended balance of funds appropriated or otherwise available to the Commercial Bus Unit, shall be transferred to the commission pursuant to the "State Agency Transfer Act."

42. R.S.39:2-3 is amended to read as follows:

Powers, duties of commission.

39:2-3. The commission shall:

- a. Have all the powers and perform all the duties conferred or imposed upon it by this Title;
- b. Have charge and supervision of the administration and enforcement of this Title and attend to the enforcement thereof, and for the purpose of enforcement may communicate with the police departments and police officers in the state;
- c. Collect such data with respect to the proper restrictions to be placed upon motor vehicles and their use upon the public roads, turnpikes and thoroughfares as shall seem for the public good;
- d. Execute all contracts entered into by the commission and approve all bills for disbursement of money under any provision of this chapter and chapter 3 of this title (R.S. 39:3-1 et seq.), which bills shall be paid by the State Treasurer upon the warrant of the comptroller out of any appropriation regularly made therefor.

43. R.S.39:3-3 is amended to read as follows:

Motor Vehicle Agents, appointment, duties; background checks.

39:3-3. A Motor Vehicle Agent (hereinafter "agent") shall administer and ensure the efficient operations of a local commission office. The commission shall designate at least one person in each county for each 300,000 inhabitants or fraction thereof to be its agent for the registering

of motor vehicles, issuing registration certificates and licensing of drivers, subject to the requirements of this subtitle and to any rules and regulations the commission imposes. The agent shall so act until his authority is revoked by the commission. All moneys received by such agents for registrations and licenses granted under the provisions of this chapter shall forthwith be deposited as received with the State Treasurer. Notwithstanding any provision of law to the contrary, all current agent contracts shall remain in effect until their expiration. Until the agent contract expires, the fee allowed the agent for registration certificates issued by him and for every license granted by him shall be fixed by the commission on the basis of the registration or license fees collected by the agent. The commission may limit the fee so paid to a maximum. Such fee shall be paid to the agent by the State Treasurer upon the voucher of the commission in the same manner as other State expenses are paid until the agent contract expires. At such time as the agent becomes a State employee, the agent shall receive a salary as fixed by the administrator in accordance with the commission table of organization. Future agent appointments shall be in the State unclassified service and the agents shall serve at the pleasure of the administrator. To determine suitability for appointment, all agents shall undergo a background check prior to appointment based upon an examination of State, federal and financial records. No person shall be appointed as an agent who has contributed \$1,000 or more to any gubernatorial or State party committee in any one year during the five years preceding appointment. All agents appointed pursuant to this section shall be qualified by education and experience to administer and ensure the efficient operation of a local commission office. As used in this section, education and experience shall include a background in law enforcement, security services, customer relations or services; business administration, finance or management; or public administration or finance.

44. R.S.39:3-47 is amended to read as follows:

Illuminating devices required; violations, fines.

39:3-47. No person shall drive, move, park or be in custody of any vehicle or combination of vehicles on any street or highway unless such vehicle or combination of vehicles is equipped with lamps and illuminating devices as hereinafter in this article respectively required for different classes of vehicles.

a. No person shall drive, move, park or be in custody of any vehicle or combination of vehicles on any street or highway during the times when lighted lamps are required unless such vehicle or combination of vehicles displays lighted lamps and illuminating devices as hereinafter in this article required. Failure to use lighted lamps when lighted lamps are required may result in a fine not to exceed \$50.00. In no case shall motor vehicle points or automobile insurance eligibility points pursuant to section 26 of P.L.1990, c.8 (C:17:33B-14) be assessed against any person for a violation of this subsection. A person who is fined under this subsection for a violation of this subsection shall not be subject to a surcharge under the New Jersey Merit Rating Plan as provided in section 6 of P.L.1983, c.65 (C:17:29A-35).

b. No person shall use on any vehicle any approved electric lamp or similar device unless the light source of such lamp or device complies with the conditions of approval as to focus and rated candlepower.

c. No person shall alter the equipment or performance of equipment of any vehicle which has been approved at an official inspection station designated by the commission with intent to defeat the purpose of such inspection, and no person shall drive or use any vehicle with equipment so altered.

45. R.S.39:3-69 is amended to read as follows:

Horns and audible warning devices.

39:3-69. Every motor vehicle except a motor-drawn vehicle when operated upon a highway shall be equipped with a horn in good working order and capable of emitting sound audible under normal conditions from a distance of not less than 200 feet, but no horn or other warning device shall emit an unreasonably loud or harsh sound or a whistle. The driver of a motor vehicle shall,

when reasonably necessary to insure safe operation, give audible warning with his horn but shall not otherwise use such horn when upon a highway.

No vehicle shall be equipped with nor shall any person use upon a vehicle any siren, whistle or bell except as otherwise permitted in this section. It is permissible but not required that any vehicle be equipped with a theft alarm signal device which is so arranged that it cannot be used by the driver as an ordinary warning signal. Any emergency vehicle authorized by the commission may be equipped with a siren, whistle, or bell capable of emitting sound audible under normal conditions from a distance of not less than 500 feet and of a type approved by the commission, but such siren, whistle or bell shall not be used except when such vehicle is operated in response to an emergency call or in the immediate pursuit of an actual or suspected violator of the law, in which said latter events the driver of such vehicle shall sound said siren, whistle or bell when necessary to warn pedestrians and other drivers of the approach thereof.

No person shall install or use on the exhaust system of any motor vehicle any device which emits an audible sound unless authorized to do so by the commission.

No bicycle shall be equipped with nor shall any person use upon a bicycle any siren or whistle.

The commission is hereby authorized in its discretion to promulgate standards concerning the audibility of audible warning devices.

46. Section 2 of P.L.1938, c.352 (C.39:3-85.2) is amended to read as follows:

C.39:3-85.2 Reports to State Police, commission.

2. Every chief of police or other peace officer in the State of New Jersey, upon receiving reliable information that any motor vehicle has been stolen or any registration plates have been lost or stolen, shall within twenty-four hours report this information to the Superintendent of State Police and the commission.

Any chief of police or other peace officer, upon receiving reliable information that any motor vehicle or registration plates, which he previously reported as stolen or lost has been recovered, shall within twenty-four hours report the fact of such recovery to the Superintendent of State Police and the commission.

47. Section 3 of P.L.1938, c.352 (C.39:3-85.3) is amended to read as follows:

C.39:3-85.3 Record of stolen motor vehicles, registration plates.

3. The Superintendent of State Police and the commission having been notified of the theft of a motor vehicle or the loss or theft of registration plates by a chief of police or other peace officer, shall index and file this information in such a manner that a motor vehicle or registration plates can be properly identified. These records shall be available to all police officers and other interested agencies. The Superintendent of State Police and the commission shall co-operate with and assist all peace officers and other agencies in tracing or examining any questionable automobiles to determine the ownership thereof.

48. R.S.39:4-6 is amended to read as follows:

Duties of commissioner.

39:4-6. The commissioner shall investigate traffic conditions, means for their improvement and the enforcement of laws and regulations relating to traffic, including pedestrian travel on the public streets and highways. He may determine, regulate and control the character, type, location, placing of and operation of all official traffic control devices on the streets, highways and public places in the State, or cause the removal of such devices determined to be unnecessary. He shall see that the laws relating to such devices are enforced, investigate the manner of enforcing the laws regarding the parking of vehicles on public highways, the use of streets by pedestrians, investigate the location of "stop" signs and cause the removal of those which in his opinion are installed in violation of this chapter, and cause the removal of all colored lights so located as to be confused with traffic signals. He shall also enforce the provisions of

this chapter and promulgate rules and regulations for the enforcement of his duties hereunder.

This section shall not be construed to in any way curtail the powers of actual enforcement vested by law in the local authorities.

49. Section 2 of P.L.1975, c.250 (C.39:4-14.3) is amended to read as follows:

C.39:4-14.3 Regulations relative to motorized bicycles.

2. a. Motorized bicycles shall not be operated upon interstate highways or upon public highways divided by a grass or concrete median or highways with posted speed limits in excess of 50 miles per hour or upon the railroad or right-of-way of an operating railroad within the State of New Jersey or upon any public land where expressly prohibited by the governing body, department or agency having jurisdiction thereof.

The commissioner is authorized to adopt regulations either prohibiting the operation of motorized bicycles on any public road or highway with a speed limit in excess of 40 miles per hour, which in his discretion are hazardous for the operation of motorized bicycles or permitting the operation of motorized bicycles on any public road or highway, upon which the operation of motorized bicycles is otherwise prohibited by the provisions of this section, which in his discretion are safe for the operation of motorized bicycles. In no case, however, shall the commissioner adopt a regulation permitting motorized bicycles to be operated on any highway with a posted speed in excess of 50 miles per hour.

b. No municipality shall limit or otherwise restrict the operation of motorized bicycles on any public roads or highways under its jurisdiction in contravention of the provisions of this act or any regulations adopted by the director pursuant thereto.

c. Motorized bicycles shall not be operated by a person under 15 years of age.

d. No person shall operate a motorized bicycle unless he is in possession of a valid driver's license of any class or a motorized bicycle license, which shall be issued by the commission to any person 15 years of age or older, upon proof of identity and date of birth, and after he has passed a satisfactory examination as to his ability as an operator. Such examination shall include a test of the applicant's knowledge of such portions of the mechanism of motorized bicycles as is necessary to insure their safe operation and of the laws and ordinary usages of the road and a demonstration of his ability to operate a motorized bicycle.

The demonstration of an applicant's ability to operate a motorized bicycle shall be administered at such municipalities that the commission shall designate, under the supervision of the commission, or an officer, employee, or authorized agent of the commission, in accordance with rules and regulations promulgated by the commission.

The administrator may, in his discretion, issue a learner's permit to a person 15 years of age or older, upon proof of identity and date of birth, allowing such person, for the purpose of fitting himself to become a motorized bicycle driver, to operate a motorized bicycle during daylight hours without supervision for a period not to exceed 45 days. The permit shall be sufficient license for the person to operate a motorized bicycle. No permit shall be issued unless the person applying therefor shall pay the sum of \$5.00 to the commission, or an officer, employee or agent of the commission.

e. The valid driver's license, the insurance identification card, and the registration certificate shall be in the possession of the operator at all times when he is operating a motorized bicycle with motor engaged on the highways of this State. The operator shall exhibit his driver's license when requested to do so by any police officer or magistrate, while in the performance of the duties of his office and shall write his name in the presence of the officer, so that the officer may thereby determine the identity of the licensee and at the same time determine the correctness of the registration certificate, as it relates to the registration number and number plates of the motorized bicycle for which it was issued and the correctness of the evidence of a policy of insurance, as it relates to the coverage of the motorized bicycle for which it was issued. Any person violating this subsection shall be subject to a fine not exceeding \$50.00.

If a person charged with a violation of this subsection can exhibit his valid driver's license, insurance identification card, and registration certificate, which were valid on the day he was charged, to the judge of the municipal court before whom he is summoned to answer to the

charge, the judge may dismiss the charge; however, the judge may impose court costs.

f. Unless otherwise determined by the commissioner, statutes, rules and regulations applicable to bicycles shall apply whenever a motorized bicycle is operated upon any highway or upon any public land.

Every person operating a motorized bicycle upon a public road or highway shall be subject to all of the duties applicable to the driver of a vehicle by chapter 4 of Title 39 and N.J.S.2C:11-5 and all amendments and supplements thereto.

50. Section 42 of P.L.1951, c.23 (C.39:4-85.1) is amended to read as follows:

C.39:4-85.1 Designation of one-way traffic.

42. The commissioner with respect to highways under his jurisdiction may by regulation, and local and county authorities with respect to highways under their jurisdiction may by ordinance or resolution designate any such highway or any separate roadway of such highway for one-way traffic and shall erect appropriate signs giving notice thereon.

Upon a highway or roadway properly designated and signed for one-way traffic, a vehicle shall be driven only in the direction designated.

51. R.S.39:4-120 is amended to read as follows:

Traffic control signal devices.

39:4-120. The commissioner may determine the character, type, location, placing and operation of all traffic control signal devices on the highways of this State. The commissioner may adopt a manual and specifications for a uniform system of traffic control signals consistent with the provisions of this act for use upon public highways within the State. Such uniform system shall correlate with and so far as possible conform to the system then current as specified in the "Manual on Uniform Traffic Control Devices for Streets and Highways."

52. Section 1 of P.L.1948, c.342 (C.39:4-138.1) is amended to read as follows:

C.39:4-138.1 Determination of "no parking zones."

1. The commissioner, by regulations, shall have authority to establish and maintain "no parking" zones on portions of State highways where parking is deemed hazardous or inimical to the proper flow of traffic.

"No parking" zones so established shall be clearly marked by appropriate signs of a type and design according to specifications adopted by the commissioner.

53. Section 7 of P.L.1941, c.345 (C.39:4-183.6) is amended to read as follows:

C.39:4-183.6 Determination of signage.

7. The commissioner may determine the character, type, location, wording or symbol, and use of all traffic signs on the highways of this State; may adopt a manual and specifications for a uniform system of traffic signs consistent with the provisions of this act for use upon public highways within the State. Such uniform system shall correlate with and so far as possible conform to the system then current as specified in the "Manual on Uniform Traffic Control Devices for Streets and Highways."

54. Section 10 of P.L.1941, c.345 (C.39:4-183.9) is amended to read as follows:

C.39:4-183.9 Design of traffic signs.

10. The design of all traffic signs shall conform to and have the minimum dimensions of the specifications adopted by the commissioner, except as otherwise approved by the commissioner. Where conditions require greater visibility necessitating a larger sign, standard shapes and colors shall be used, and standard proportions shall be retained, so far as practicable.

This is not to be deemed to prohibit the erection of enlarged bridge type signs or narrow

longitudinal type signs suspended from mast arms, over the roadway.

55. Section 3 of P.L.1971, c.393 (C.39:4-183.21a) is amended to read as follows:

C.39:4-183.21a Removal of certain signs.

3. The commissioner shall, upon receiving notice from a railroad company that it has abandoned a particular line and the grade crossings thereon, order the removal of any advance warning signs erected pursuant to section 22 of P.L.1941, c.345 (C.39:4-183.21).

56. Section 25 of P.L.1941, c.345 (C.39:4-183.24) is amended to read as follows:

C.39:4-183.24 Standard location, information signs.

25. Standard location and information signs shall conform to the design and specifications adopted by the commissioner.

57. Section 114 of P.L.1951, c.23 (C.39:4-201.1) is amended to read as follows:

C.39:4-201.1 "No passing" zones.

114. With respect to highways under his jurisdiction the commissioner, by regulations, shall have authority to establish and maintain as "no passing" zones portions of such highways where overtaking and passing, or driving to the left of the roadway is deemed especially hazardous. Notice to the public of the establishment of said "no-passing" zones, shall be given in the manner provided in section 39:4-198 of the Revised Statutes.

58. Section 5 of P.L.1950, c.16 (C.39:4-212) is amended as follows:

C.39:4-212 Consultation, cooperation relative to enforcement of regulations.

5. The said division and any such board, body or officer is authorized to consult and cooperate with the commissioner, and the county and municipal officials having jurisdiction over the highways and traffic regulations and enforcement in the city of Trenton, or in the municipality in which the State institution may be located, as the case may be, in making and enforcing the said regulations.

59. R.S.39:5-32 is amended as follows:

Validation, granting of new license.

39:5-32. The commission shall, at all times, have the power to validate a driver's license that has been revoked, or to grant a new license to any person whose license to drive motor vehicles shall have been revoked.

60. R.S.39:5-33 is amended to read as follows:

Validity of new license.

39:5-33. If a driver of motor vehicles shall have had his license suspended or revoked, a new license granted to him shall be void and of no effect, unless it shall be granted by the commission.

61. R.S.39:5-34 is amended to read as follows:

Granting of new registration.

39:5-34. If a registration or registration certificate shall have been suspended or revoked, a new registration or registration certificate issued shall be void and of no effect, unless the new registration shall be made and the new certificate issued under the direction of the commission.

62. R.S.39:5-46 is amended to read as follows:

Report to commission of stolen produce.

39:5-46. The clerk of every court wherein a person licensed to operate a motor vehicle in this or another state is convicted of stealing produce from a farm in this state, shall, within three days after the conviction, make a report in writing to the commission of all such cases heard before the court, upon blanks provided by the commission for the purpose. The report shall state the name and address of the person convicted, the date thereof, the sentence imposed by the court and any recommendations the court may deem of value to the commission in determining whether action should be taken against the convicted person's license.

63. R.S.39:5-47 is amended to read as follows:

Seizure, sale of stolen motor vehicles.

39:5-47. The commission may authorize the seizure of a motor vehicle operated over the highways of this State when it has reason to believe that the motor vehicle has been stolen or is otherwise being operated under suspicious circumstances and may retain it in the name of the commission until such time as the identity of ownership is established, whereupon it shall order the release of the motor vehicle to its owner.

After the expiration of ninety days from the date the motor vehicle came into the possession of the commission by seizure or otherwise, it shall sell it at public sale, upon notice of the sale being first published for the space of two weeks in one or more newspapers published and circulating in this state, and also by posting the notice in five public places in this state. The newspapers and places of posting shall be designated by the commission. Upon the sale of the motor vehicle all claims for interest therein shall be forever barred and the proceeds realized therefrom shall become the sole property of the state, to be used as other moneys received under chapter 3 of this title (R.S.39:3-1 et seq.).

64. R.S.39:10-4 is amended to read as follows:

Enforcement intrusted to commission.

39:10-4. The enforcement of this chapter shall be intrusted to the commission and it may make rules and regulations necessary in its judgment for the administration and enforcement thereof in addition thereto but not inconsistent therewith. The commission may employ and discharge any person it requires for the administration and enforcement of this chapter and fix their compensation.

65. R.S.39:11-2 is amended to read as follows:

"Motor vehicle junk business," "motor vehicle junk yard."

39:11-2. The terms "motor vehicle junk business" or "motor vehicle junk yard" shall mean and describe any business and any place of storage or deposit adjacent to or visible from a State highway, which displays, or in or upon which there are displayed, to the public view, two or more unregistered motor vehicles which, in the opinion of the commission, are unfit for reconditioning for use for highway transportation, or used parts of motor vehicles or material which has been a part of a motor vehicle, the sum of which parts or material shall, in the opinion of the commission, be equal in bulk to two or more motor vehicles.

66. R.S.39:11-3 is amended to read as follows:

Licensure of junk yard, business.

39:11-3. The commission may, in its discretion, issue licenses permitting the establishment and maintenance of a motor vehicle junk yard or business, and no such business shall be established or maintained unless it is licensed in accordance with this chapter.

67. R.S.39:11-4 is amended to read as follows:

Permit from municipality required.

39:11-4. Before making application to the commission for a license for the motor vehicle junk business or motor vehicle junk yard, the applicant shall first obtain a permit or certificate approving its proposed location from the governing body or zoning commission of the municipality in which it is proposed to establish or maintain the junk yard or business.

68. R.S.39:11-6 is amended to read as follows:

Public hearing.

39:11-6. Upon request of the governing body or zoning commission, as the case may be, of the municipality in which the yard or business is proposed to be located, the commission shall hold a public hearing within the municipality not less than three nor more than five weeks from the date of the application. Notice of the hearing shall be given to the applicant and to the council or mayor, by mail, postage prepaid, and be published once in a newspaper having a circulation within the municipality, not less than seven days before the date of the hearing. The hearing shall be conducted by the commission or its authorized representative, and the applicant shall pay to the commission or its representative a fee of twenty-five dollars, the costs of the notices and the expenses of the hearing. Upon the conclusion of the hearing, the commission shall, within five days, recommend in writing to the governing body or the zoning commission, as the case may be, the granting or refusal of the local permit or certificate of approval, giving its reasons for the recommendation.

69. R.S.39:11-7 is amended to read as follows:

Application for State license.

39:11-7. Application for a state license for the motor vehicle junk yard or business shall be made to the commission, in writing, upon a form to be supplied by it. With the application there shall be submitted a local permit or certificate of approval, as hereinbefore described, and the application shall be accompanied by the amount of the fees herein fixed for the license applied for. The commission or its representative, upon receipt of the application, shall examine the location of the motor vehicle junk yard or business proposed to be established or maintained, and shall grant the license if in its judgment there is no valid reason why it should not be granted. The commission in granting the license, may impose upon the establishment or maintenance of the yard or business, such conditions as it deems advisable, having regard to the depreciation of surrounding property and the health, safety and general welfare of the public, and no license for the junk yard or business shall be issued until these conditions have been complied with.

70. R.S.39:11-8 is amended to read as follows:

Fees.

39:11-8. An applicant for the license shall pay to the commission a fee of \$50.00 for the examination of the proposed location of each motor vehicle junk yard or business and a license fee therefor of \$100.00. No license shall be effective for more than one year from the date of issue.

71. R.S.39:11-9 is amended to read as follows:

Certification of vehicle's condition.

39:11-9. Every person holding a license issued in accordance with this chapter and a dealer's license issued in accordance with subtitle 1 of this title (R.S.39:1-1 et seq.), shall certify to the commission, upon the sale by him of a motor vehicle, that, at the time of the sale, the motor vehicle was or was not, as the case may be, in suitable condition to be operated on the highways.

72. R.S.39:11-10 is amended to read as follows:

Review of action.

39:11-10. A person aggrieved by the action of the governing body or zoning commission of a municipality under this chapter, or a person aggrieved by an action of the commission or its authorized representative under this chapter, may obtain a review in the Superior Court by a proceeding in lieu of prerogative writ.

73. R.S.39:11-11 is amended to read as follows:

Violations, penalties.

39:11-11. A person who violates any provision of R.S.39:11-3 or R.S.39:11-9 of this Title shall be fined not less than \$25.00 nor more than \$100.00 or be imprisoned not more than 90 days, or both.

The provisions of said sections shall be enforced and all penalties for the violation thereof shall be recovered in accordance with the provisions of "The Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.) and in addition to the provisions and remedies therein contained, the following provisions and remedies shall be applicable in any proceeding brought for a violation of any of the provisions of said sections:

a. The several municipal courts shall have jurisdiction of any such proceeding, in addition to the courts prescribed in "The Penalty Enforcement Law of 1999";

b. The complaint in any such proceeding may be made on information and belief by the commission, or any police or peace officer of any municipality, any county or the State;

c. A warrant may issue in lieu of summons;

d. Any police or peace officer shall be empowered to serve and execute process in any such proceeding;

e. The hearing in any such proceeding shall be without a jury;

f. Any such proceeding may be brought in the name of the commission or in the name of the State of New Jersey;

g. Any sums received in payment of any fines imposed in any such proceeding shall be paid to the commission and shall be paid by it into the State treasury;

h. The director or judge before whom any hearing under said sections is had may revoke the license of any person to maintain a motor vehicle junk yard when such person shall have been guilty of such willful violation of any of the said provisions as shall in the discretion of the commission or judge justify such revocation.

74. Section 2 of P.L.1983, c.360 (C.39:13-2) is amended to read as follows:

C.39:13-2 System for licensure of auto body repair facilities.

2. a. The commission shall establish a system for the licensure of auto body repair facilities. This system may provide for licenses based upon the type or types of motor vehicles repaired by the facility and the equipment required for repair of the vehicles. At a minimum, the commission shall provide for a full service auto body repair facility license, the qualifications for which are established under section 7 of this amendatory and supplementary act, and an automobile dealer sublet license, the qualifications for which are established under section 8 of this amendatory and supplementary act. All facilities licensed pursuant to this section may hold themselves out to the public as licensed auto body repair facilities.

b. No person may engage in the business of an auto body repair facility unless it is licensed by the commission. An auto body repair facility shall be licensed by the commission upon submission and approval of an application and payment of a reasonable application fee sufficient to cover the cost of implementing the provisions of this act and to be prescribed by the commission. The commission may require biennial renewal of applications for licensure and may stagger the renewal dates and adjust the application fees accordingly.

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

Motor vehicle inspections, exceptions.

39:8-1. a. Every motor vehicle registered in this State which is used over any public road, street, or highway or any public or quasi-public property in this State, and every vehicle subject to enhanced inspection and maintenance programs pursuant to 40 C.F.R. s.51.356, except historic motor vehicles registered as such, collector motor vehicles designated as such pursuant to this subsection, and those vehicles over 8,500 pounds gross weight that are under the inspection jurisdiction of the commission pursuant to Titles 27 and 48 (as amended by this legislation) of the Revised Statutes, shall be inspected by designated examiners or at official inspection facilities to be designated by the commission or at licensed private inspection facilities. The commission shall adopt rules and regulations establishing a procedure for the designation of motor vehicles as collector motor vehicles, which designation shall include consideration by the commission of one or more of the following factors: the age of the vehicle, the number of such vehicles originally manufactured, the number of such vehicles that are currently in use, the total number of miles the vehicle has been driven, the number of miles the vehicle has been driven during the previous year or other period of time determined by the commission, and whether the vehicle has a collector classification for insurance purposes.

b. The commission shall determine the official inspection facility or private inspection facility at which a motor vehicle, depending upon its characteristics, shall be inspected. The commission, with the concurrence of the Department of Environmental Protection, may exclude by regulation from this inspection requirement any category of motor vehicle if good cause for such exclusion exists, unless the exclusion is likely to prevent this State from meeting the applicable performance standard established by the United States Environmental Protection Agency. The commission may determine that a vehicle is in compliance with the inspection requirements of this section if the vehicle has been inspected and passed under a similar inspection program of another state, district, or territory of the United States.

76. Section 2 of P.L.1995, c.157 (C.39:8-60) is amended to read as follows:

C.39:8-60 Definitions relative to emissions inspections.

2. As used in this act:

“Diesel bus” means any diesel-powered autobus or motorbus of any size or configuration, whether registered in this State or elsewhere, that is designed or used for intrastate or interstate transportation of passengers for hire or otherwise on a public road, street or highway or any public or quasi-public property in this State, and shall include, but need not be limited to: autobuses under the jurisdiction of the commission pursuant to Titles 27 or 48 of the Revised Statutes; autobuses of the New Jersey Transit Corporation and its contract carriers that are under the inspection jurisdiction of the commission; autobuses that are subject to federal motor carrier safety regulations; autobuses under the authority of the Interstate Commerce Commission or its successor agency; school buses, as defined pursuant to R.S.39:1-1; hotel, casino, charter, and special buses; and any other diesel-powered autobus or motorbus as determined by rule or regulation adopted by the commission in consultation with the Department of Transportation;

“Diesel-powered motor vehicle” means a vehicle, whether registered in this State or elsewhere, that is self-propelled by a compression ignition type of internal combustion engine using diesel fuel and that (1) is designed or used for transporting persons or property on any public road, street or highway or any public or quasi-public property in this State, (2) is greater than 8,500 pounds gross vehicle weight, (3) is not a diesel bus or heavy-duty diesel truck, and (4) is not a heavy-duty diesel truck or other diesel-powered motor vehicle owned and operated by a county, municipality, fire district, or duly incorporated nonprofit organization for first aid, emergency, ambulance, rescue, or fire-fighting purposes. Diesel-powered motor vehicle shall also mean a vehicle that is designed or used for construction or farming purposes and is greater than 8,500 pounds gross vehicle weight, except that the commission, in consultation with the Department of Environmental Protection, may exempt from the requirements of this act diesel-powered motor vehicles that are registered as construction vehicles under Titles 39 and 41 of the Revised Statutes or that are greater than 8,500 pounds gross vehicle weight and are designed or used for construction or farming purposes;

"EPA" means the United States Environmental Protection Agency;

"Gross vehicle weight rating" or "GVWR" means the value specified by the manufacturer as the loaded weight of a single or combination (articulated) vehicle. The GVWR of a combination (articulated) vehicle, commonly referred to as the "gross combination weight rating" or "GCWR," is the GVWR of the power unit plus the GVWR of the towed unit or units;

"Heavy-duty diesel truck" means any diesel-powered motor vehicle, whether registered in this State or elsewhere, with a GVWR of 18,000 or more pounds that is designed or used for the transporting of property on any public road, street or highway or any public or quasi-public property in this State. Heavy-duty diesel truck shall not mean a heavy-duty diesel truck owned and operated by a county, municipality, fire district, or duly incorporated nonprofit organization for first aid, emergency, ambulance, rescue, or fire-fighting purposes;

"Periodic inspection program" or "periodic inspection" means a program in which diesel buses, heavy-duty diesel trucks, and other diesel-powered motor vehicles registered in this State are periodically inspected in accordance with the provisions of this act;

"Person" means a corporation, company, association, society, firm, partnership, or joint stock company, or an individual, and shall also include the State and all of its political subdivisions and any agencies, authorities, corporations, or instrumentalities of the State or any political subdivision thereof; and

"Roadside enforcement program" or "roadside inspection" means a roadside examination program conducted pursuant to this act for the inspection of exhaust emissions, emission control apparatus and such other items as the Department of Environmental Protection, in consultation with the commission and the Commissioner of Transportation, prescribes, of diesel buses, heavy-duty diesel trucks, and other diesel-powered motor vehicles along any public road, street or highway or any public or quasi-public property in this State or at such other locations as may be designated by the commission in consultation with the Commissioner of Transportation.

77. Section 3 of P.L.1995, c.157 (C.39:8-61) is amended to read as follows:

C.39:8-61 Exhaust emissions standards, test methods.

3. The Department of Environmental Protection, in consultation with the commission and the Department of Transportation, shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) establishing exhaust emissions standards and test methods, and standards for emission control apparatus and related items, in accordance with P.L.1966, c.16 (C.26:2C-8.1 et seq.) or as may be authorized or provided otherwise by federal law, rule or regulation, for diesel buses, heavy-duty diesel trucks, and other diesel-powered motor vehicles. The test methods shall be accurate, objective, and capable of being performed routinely in the periodic inspection program and the roadside enforcement program. In adopting such standards and test methods, the Department of Environmental Protection may consider, but need not necessarily adopt, exhaust control technology current at the time of adoption of the rules and regulations, as well as guidance, standards, directives, and other information issued by the EPA, any other state, or any governmental agency, scientific research entity, or industry. The Department of Environmental Protection may provide that the standards and test methods vary according to the age of the vehicle or according to other relevant factors, and the department may provide exemptions based upon good cause, including, but not limited to, whether the vehicle has been tested within the previous six months or other reasonable period of time in accordance with the law of another state or jurisdiction and has been found to be in compliance with the exhaust emissions standards of the state or jurisdiction in which the vehicle was tested. The provisions of this act shall not apply to any heavy-duty diesel truck or other diesel-powered motor vehicle owned and operated by a county, municipality, fire district, or duly incorporated nonprofit organization for first aid, emergency, ambulance, rescue, or fire-fighting purposes.

78. Section 5 of P.L.1995, c.157 (C.39:8-63) is amended to read as follows:

C.39:8-63 Violations, penalties.

5. a. The owner and the lessee, if any, of a heavy-duty diesel truck operated in violation of section 4 of this act shall be jointly and severally liable for a civil penalty of: \$700 for the first violation, except as otherwise provided in this subsection; and \$1,300 for the second or subsequent violation, except as otherwise provided in this subsection. A second or subsequent violation is one that occurs within one year of the occurrence of a previous violation committed with respect to the same heavy-duty diesel truck, without regard to the date of the hearing that adjudicated the violation and without regard to the identity of the defendant against whom it was adjudicated. The complaint and summons shall state whether the charges pertain to a first violation or to a second or subsequent violation, but if the complaint and summons fail to allege a second or subsequent violation, the civil penalty imposed shall be that for a first violation. The penalty for a first violation may be reduced to \$150 and the penalty for a second or subsequent violation may be reduced to \$500 if the defendant provides a certification of the repairs to the vehicle that is satisfactory to the court and in compliance with emissions standards. The commission may specify by rule or regulation the manner of the repairs and the certification necessary to effect a reduction of penalty. The commission may, by rule or regulation, provide that information pertaining to penalties, the repairs that may effect a reduction of penalty, and the certification necessary to substantiate those repairs and compliance with emissions standards be served with the complaint and summons. The commission may, by rule or regulation, prescribe a form for certifying repairs and compliance with emissions standards, with instructions as to how the form should be completed and certified. The commission may provide that the form be served with the complaint and summons.

Notwithstanding any other provision of law or any rule or regulation adopted pursuant thereto to the contrary, repairs to effect a reduction of penalty under the provisions of this subsection shall be made before the hearing date or within 45 days of the occurrence of the violation, whichever is sooner. A defendant who is permitted to waive appearance and plead guilty by mail shall also be permitted to submit the certification of repairs by mail; provided that if the court deems the certification to be inadequate, it shall afford the defendant the option to withdraw the defendant's guilty plea.

b. The owner and the lessee, if any, of a diesel bus operated in violation of section 4 of this act shall be jointly and severally liable for a civil penalty determined by a penalty schedule that the commission, in consultation with the Commissioner of Transportation, shall adopt by rule or regulation pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), but in no event shall the penalties established thereby exceed the penalties established by subsection a. of this section for heavy-duty diesel trucks. The penalty schedule may provide for a reduction of penalty if the defendant provides a certification of the repairs to the vehicle that is satisfactory to the court and in compliance with emissions standards. The commission, in consultation with the Commissioner of Transportation, may, by rule or regulation, specify the timing and manner of the repairs and compliance with emissions standards, and the certification necessary to effect a reduction of penalty. The commission, in consultation with the Commissioner of Transportation, may, by rule or regulation, provide whether information pertaining to repairs and compliance with emissions standards, and whether a form to certify those repairs and that compliance, should be served with the complaint and summons.

Notwithstanding the provisions of this subsection to the contrary, the New Jersey Transit Corporation shall not be liable for any civil penalty assessed for a violation of section 4 or a violation of any other provision of this act if the diesel bus that is the subject of the violation is operated by a lessee or contractor, or an employee or agent of a lessee or contractor, of the New Jersey Transit Corporation. However, if a diesel bus that is the subject of a violation is leased by the New Jersey Transit Corporation from another person, and the diesel bus is operated by the New Jersey Transit Corporation or an employee thereof, the New Jersey Transit Corporation as lessee, and not the owner of the diesel bus, shall be liable for any civil penalty assessed for the violation.

c. The owner and the lessee, if any, of a diesel-powered motor vehicle operated in violation of section 4 of this act shall be jointly and severally liable for a civil penalty determined by a penalty schedule that the commission shall adopt by rule or regulation pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), but in no event shall the

penalties established thereby exceed the penalties established by subsection a. of this section for heavy-duty diesel trucks. The penalty schedule may provide for a reduction of penalty if the defendant provides a certification of the repairs to the vehicle that is satisfactory to the court and in compliance with emissions standards. The commission may, by rule or regulation, specify the timing and manner of the repairs and compliance with emissions standards, and the certification necessary to effect a reduction of penalty. The commission may, by rule or regulation, provide whether information pertaining to repairs and compliance with emissions standards, and whether a form to certify those repairs and that compliance, should be served with the complaint and summons.

79. Section 6 of P.L.1995, c.157 (C.39:8-64) is amended to read as follows:

C.39:8-64 Periodic inspection, roadside enforcement programs.

6. a. The commission, in consultation with the Department of Environmental Protection and the Department of Transportation and with the approval of the Attorney General, shall establish and implement a periodic inspection program and a roadside enforcement program to implement the standards and test methods adopted pursuant to section 3 of this act. These programs shall be designed to measure exhaust emissions and to inspect emission control apparatus and related items on diesel buses, heavy-duty diesel trucks, and other diesel-powered motor vehicles. The programs shall include, at a minimum, diesel buses and heavy-duty diesel trucks subject to the rules and regulations adopted pursuant to section 3 of this act; provided that the commission, in consultation with the Department of Transportation, may exempt vehicles from either program for good cause, which may include that vehicles belonging to an exempted class are, by law, subject to emissions testing in another program. The commission, in consultation with the Department of Environmental Protection and with the approval of the Attorney General, may, by rule or regulation, expand the periodic inspection program and the roadside enforcement program to include other diesel-powered motor vehicles that are subject to the rules and regulations adopted pursuant to section 3 of this act. The commission, in consultation with the Commissioner of Transportation, may, by rule or regulation, impose upon every owner and lessee of a diesel bus, heavy-duty diesel truck, or other diesel-powered motor vehicle subject to periodic inspection the obligation to have the vehicle periodically inspected in a manner determined by the commission in consultation with the Commissioner of Transportation, to effect repairs or to abstain from operating or to limit the operation of a rejected vehicle or a vehicle overdue for inspection, and may take other action necessary or appropriate for implementation of the periodic inspection program. The commission, in consultation with the Commissioner of Transportation, may, by rule or regulation, impose upon every owner and lessee of a diesel bus, heavy-duty diesel truck, or other diesel-powered motor vehicle subject to roadside inspection the obligation to abstain from operating or to limit the operation of a vehicle that has been tested and found to be in violation of the rules and regulations adopted pursuant to section 3 of this act, or to effect repairs, and may take other action necessary or appropriate for implementation of the roadside enforcement program. A school bus, as defined pursuant to R.S.39:1-1, shall be exempt from the roadside enforcement program. However, nothing in this subsection allowing or mandating exemptions from the periodic inspection program or the roadside enforcement program shall be construed to limit any other enforcement actions permitted by law.

b. The commission shall exercise all authority, including but not limited to administrative, implementation, enforcement, and penalty authority, in connection with the periodic inspection program for diesel buses and the roadside enforcement program for diesel buses that are under the jurisdiction of the commission pursuant to Titles 27 and 48 of the Revised Statutes or any other law, rule, or regulation. The commission shall consult with the Department of Environmental Protection and the Department of Transportation in conducting the periodic inspection program for diesel buses and the roadside enforcement program for diesel buses that are under the jurisdiction of the commission. Any periodic inspection that may be required pursuant to this act for a diesel bus under the jurisdiction of the commission shall be conducted only in conjunction with any periodic safety inspection required for that diesel bus pursuant to law, rule, or regulation. Any suspension of registration privileges with respect to diesel buses

for a violation of this act or any rule or regulation adopted pursuant thereto shall be implemented by the commission.

80. Section 7 of P.L.1995, c.197 (C.39:8-65) is amended to read as follows:

C.39:8-65 Pilot roadside enforcement program.

7. In implementing the roadside enforcement program, the commission, in consultation with the Commissioner of Transportation, shall phase in roadside inspections by establishing a pilot roadside enforcement program providing a six-month grace period in which warnings shall be issued in lieu of the civil penalties established by this act or any rule or regulation adopted pursuant thereto. Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), procedures for the pilot program may be adopted immediately.

81. Section 8 of P.L.1995, c.157 (C.39:8-66) is amended to read as follows:

C.39:8-66 Procedures for conducting test methods.

8. a. The commission, in consultation with the Department of Environmental Protection and the Department of Transportation, shall establish procedures by which test methods established pursuant to section 3 of this act shall be conducted in the periodic inspection program and in the roadside enforcement program.

b. The commission, in consultation with the Department of Transportation and with the approval of the Attorney General, may, by rule or regulation, require that personnel from, and agents of, the commission and the Department of Transportation, and personnel from the Division of State Police, who perform the test methods utilized in the roadside enforcement program, and licensees and persons employed by licensees who perform the tests and test methods utilized in the periodic inspection program in accordance with the provisions of section 11 of this act, be trained to do so and be examined, periodically if the rule or regulation so provides, to ensure that their training and competence are adequate. Testing in the roadside enforcement program may be conducted by personnel from the commission, or the Division of State Police, or by agents appointed by or under contract with the commission.

c. The commission, in consultation with the Department of Environmental Protection and the Department of Transportation and with the approval of the Attorney General, shall designate one or more test methods among those established pursuant to section 3 of this act that shall be utilized in the roadside enforcement program established pursuant to section 6 of this act. The commission, in consultation with the Department of Transportation and with the approval of the Attorney General, shall establish a form or forms upon which the results of these designated tests or test methods shall be reported in the ordinary course. The form shall contain a statement or statements establishing the following: the type of test performed; the result achieved; that the person completing the form is the person who performed the test; that the tester has been certified by the commission as having adequate training and competence to perform the test; that the tester is an employee or agent of the State and was acting in an official capacity when the tester performed the test; and any other information that the commission may prescribe. The form shall contain a certification subscribed by the person performing the test and certifying that that person did perform the test in a proper manner and believes the test results to be valid and accurate. The presentation of a form prepared in accordance with the provisions of this subsection to a court by any party to a proceeding shall be evidence that all of the requirements and provisions of this subsection have been met and that the form has been prepared in accordance with the provisions of this subsection. The form shall be admissible evidence as proof of the statements contained therein in any civil penalty proceeding brought pursuant to the provisions of this act or any rule or regulation adopted pursuant thereto. A copy of the form shall be served, if practicable, with the complaint and summons upon the defendant or the defendant's agent for service of process; and, in any event, shall be served upon such person at least 20 days before the hearing. Whenever the form is served upon a defendant or a defendant's agent, together with the complaint and summons, the law enforcement officer serving the form

shall execute and file with the court a proof of service on a form prescribed by the Administrative Director of the Courts and in a manner consistent with the Rules Governing the Courts of the State of New Jersey. The form shall not be admissible if it is not served at least 20 days before the hearing, provided that the court, upon a showing of good cause and that the defendant is not prejudiced, may postpone the hearing, subject to the Rules Governing the Courts of the State of New Jersey.

d. A roadside inspection of a diesel bus to enforce standards adopted pursuant to section 3 of this act shall be conducted only in conjunction with a roadside safety inspection that is conducted pursuant to law, rule or regulation.

82. Section 9 of P.L.1995, c.157 (C.39:8-67) is amended to read as follows:

C.39:8-67 Provision of State Police officers.

9. The Superintendent of the State Police, in consultation with and subject to the approval of the Attorney General, shall provide State Police officers to assist the commission in conducting the roadside enforcement program and the pilot roadside enforcement program. The State Police officers shall have authority to direct diesel buses, heavy-duty diesel trucks, or other diesel-powered motor vehicles from the roadway for the purpose of inspection, and shall perform other police duties necessary for or helpful to the implementation of the programs.

83. Section 10 of P.L.1995, c.157 (C.39:8-68) is amended to read as follows:

C.39:8-68 Additional penalties.

10. In addition to any other penalties that may be applicable, the operator of a diesel bus, heavy-duty diesel truck, or other diesel-powered motor vehicle who fails to comply with any direction given pursuant to section 9 of this act, or who refuses to submit or resists submitting a vehicle under the operator's control for roadside inspection, or who fails to comply with any other obligation imposed upon that person as part of the roadside enforcement program shall be jointly and severally liable with the owner and the lessee, if any, of the vehicle for a civil penalty of \$500. The owner and the lessee, if any, of a diesel bus, heavy-duty diesel truck, or other diesel-powered motor vehicle subject to periodic inspections who violates any rule or regulation adopted pursuant to section 6 of this act pertaining to periodic inspections shall be liable for a civil penalty determined by a penalty schedule that the commission, in consultation with the Commissioner of Transportation, shall adopt by rule or regulation pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), but in no event shall a penalty established thereby exceed \$500.

Notwithstanding the provisions of this section to the contrary, the New Jersey Transit Corporation shall not be liable for any civil penalty assessed for a violation of this section if the diesel bus that is the subject of the violation is operated by a lessee or contractor, or an employee or agent of a lessee or contractor, of the New Jersey Transit Corporation. However, if a diesel bus that is the subject of a violation of this section is leased by the New Jersey Transit Corporation from another person, and the diesel bus is operated by the New Jersey Transit Corporation or an employee thereof, the New Jersey Transit Corporation as lessee, and not the owner of the diesel bus, shall be liable for any civil penalty assessed for the violation.

84. Section 11 of P.L.1995, c.157 (C.39:8-69) is amended to read as follows:

C.39:8-69 Licensing of diesel emission inspection centers.

11. a. The commission, in consultation with the Department of Transportation and after appropriate inquiry and investigation, shall issue licenses to operate diesel emission inspection centers to as many qualified and properly equipped persons, including owners or lessees of diesel buses, heavy-duty diesel trucks, or other diesel-powered motor vehicles, as the commission determines shall be necessary to conduct periodic inspections. A licensee shall inspect and pass or reject a diesel bus, heavy-duty diesel truck, or other diesel-powered motor vehicle presented to the licensee for inspection. Passing shall indicate that the licensee or the licensee's employee

has inspected the diesel bus, heavy-duty diesel truck, or other diesel-powered motor vehicle as prescribed by the commission and has found that the vehicle conforms to the standards established by law and rule or regulation. The commission, in consultation with the Department of Transportation and with the approval of the Attorney General, may establish by rule or regulation adopted pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) an application fee for the licensing of diesel emission inspection centers, which fee shall not exceed \$250 per year.

b. For the purpose of documenting compliance with periodic inspection requirements, the commission shall furnish official inspection forms to licensed diesel emission inspection centers. The commission shall require each diesel emission inspection center and each owner or lessee of a diesel bus, heavy-duty diesel truck, or other diesel-powered motor vehicle subject to periodic inspection to keep such records and file such reports regarding these inspections as the commission shall deem necessary. The commission may conduct such audits or inspections of these centers as the commission deems appropriate.

c. The commission may deny, suspend or revoke a diesel emission inspection center license or refuse renewal thereof for cause, including, but not limited to, one or more of the following:

(1) Violation of any provision of this act or of any rule or regulation adopted pursuant thereto; or

(2) Fraud or misrepresentation in securing a license or in the conduct of the licensed activity; or

(3) Conviction of a crime demonstrating that the applicant or licensee is unfit; or

(4) Improper, negligent, or fraudulent inspection of a diesel bus, heavy-duty diesel truck, or other diesel-powered motor vehicle; or

(5) Other good cause.

d. In addition to any other civil or criminal penalties that may be applicable, a person licensed by the commission to operate a diesel emission inspection center who commits fraud or misrepresentation in securing a license or in the conduct of the licensed activity or who improperly or negligently or fraudulently conducts an inspection of a diesel bus, heavy-duty diesel truck, or other diesel-powered motor vehicle shall be liable for a civil penalty of \$1,500. In addition to any other civil or criminal penalties that may be applicable, a person licensed by the commission to operate a diesel emission inspection center who otherwise violates any provision of this act or of any rule or regulation adopted pursuant thereto shall be liable for a civil penalty of \$500.

85. Section 12 of P.L.1995, c.157 (C.39:8-70) is amended to read as follows:

C.39:8-70 Civil penalty.

12. Any person who violates any provision of sections 2 through 20 of this act or any rule or regulation adopted pursuant thereto shall be liable for a civil penalty. The amount of the penalty shall be that specified in the other sections of this act or in the rules or regulations adopted pursuant to this act; but if no amount is otherwise specified, then the amount shall be \$200. Additionally, the commission may suspend the registration privileges of a vehicle registered in this State that is operated in violation of this act or any rule or regulation adopted pursuant thereto.

86. Section 13 of P.L.1995, c.157 (C.39:8-71) is amended to read as follows:

C.39:8-71 Issuance of ticket for violations; service.

13. a. A complaint and summons charging a violation of this act or any rule or regulation adopted pursuant thereto and seeking the imposition of a civil penalty in accordance with the provisions of this act or any rule or regulation adopted pursuant to this act shall be a ticket in the form prescribed by the Administrative Director of the Courts pursuant to the Rules Governing the Courts of the State of New Jersey and may contain information advising the persons to whom it is issued of the manner in which and time within which an answer to the alleged violation is required. The ticket may also advise that penalties may result from a failure

to answer, that the failure to answer or appear shall be considered an admission of liability, and that a default judgment may be entered. Service of the ticket shall be subject to the Rules Governing the Courts of the State of New Jersey. The ticket may be served personally upon the operator of a vehicle, and the owner's or the lessee's name may be recorded on the ticket, together with the plate number and state or jurisdiction as shown by the registration plates of the vehicle and the make or model of the vehicle. A ticket may be served upon the owner or the lessee of the vehicle by affixing the ticket to the vehicle in a conspicuous place. A ticket may be served by mail upon the owner or the lessee of the vehicle on file with the commission, or the licensing authority of another jurisdiction by mailing the ticket to the vehicle owner or lessee by regular or certified mail to the address on file with the commission, or the licensing authority of another jurisdiction. Service of a ticket by regular or certified mail shall have the same effect as if the ticket were served personally, subject to the Rules Governing the Courts of the State of New Jersey.

b. Subject to the Rules Governing the Courts of the State of New Jersey, the ticket shall contain sufficient information to identify the person or persons charged and to inform them of the nature, date, time and location of the alleged violation. Subject to the Rules Governing the Courts of the State of New Jersey, the original of the ticket shall be signed by the complaining witness, who shall certify to the truth of the facts set forth therein. Any person may serve as the complaining witness. For the purposes of the certification, the complaining witness may rely upon information from the commission, or the Division of State Police, upon official reports, and upon any form prepared in accordance with subsection c. of section 8 of this act. The original ticket or a true copy of the ticket shall be considered a record kept in the ordinary business of the commission and shall be prima facie evidence of the facts contained therein.

c. Any operator who drives a vehicle in this State when the owner or lessee of that vehicle causes, authorizes, or otherwise permits such operation shall be the owner's or lessee's agent for service of any ticket, process, or penalty or other notice against the owner or lessee arising out of any alleged violation of this act or any rule or regulation adopted pursuant thereto. The owner and the lessee, if any, of a vehicle driven by any operator in this State shall be the operator's agent or agents for service of any ticket, process, or penalty or other notice arising out of any alleged violation of section 10 of this act pertaining to a roadside inspection. Subject to the Rules Governing the Courts of the State of New Jersey, any service of ticket, process, or penalty or other notice served on an operator who operates in this State, or on an owner or lessee of the vehicle, shall also constitute service upon the remaining persons, so long as the ticket, process, or penalty or other notice advises the person actually served of that person's responsibility to notify the remaining persons.

d. Subject to the Rules Governing the Courts of the State of New Jersey, judicial proceedings under this act may be instituted on any day of the week, and the institution of the proceedings on a Sunday or a holiday shall not be a bar to the successful prosecution thereof. Subject to the Rules Governing the Courts of the State of New Jersey, any process served on a Sunday or holiday shall be as valid as if served on any other day of the week.

e. A municipal court before which proceedings pursuant to this act are instituted shall, subject to the Rules Governing the Courts of the State of New Jersey, immediately, upon expiration of the time for a defendant to answer or appear: (1) with respect to a resident of New Jersey, mail notice as provided in the Rules Governing the Courts of the State of New Jersey; or (2) with respect to a non-resident of New Jersey, mail notice as provided in the Rules Governing the Courts of the State of New Jersey. The notice shall be upon a form approved by the Administrative Director of the Courts that informs the defendant of the following: the infraction charged; the time and date of the infraction; the amount of penalties due; the defendant's right to have a hearing; and that a civil judgment may be entered against the defendant for failure to answer or appear or pay the amount of penalties due. Upon failure to answer or appear in response to the notice, the court shall give notice of that fact to the commission in a manner prescribed by the commission, and money judgment shall be entered and execution shall issue in accordance with the Rules Governing the Courts of the State of New Jersey. If the judgment has been docketed in the Superior Court pursuant to section 15 of this act, execution shall be under the jurisdiction of that court. In no case of an unsatisfied judgment

shall an arrest warrant or execution against the body of the defendant issue unless otherwise provided by the Rules Governing the Courts of the State of New Jersey. If notice has been given under this subsection of a person's failure to respond to a failure to appear notice and if the person appears or if the case is dismissed or otherwise disposed of, the court shall promptly give notice to that effect to the commission.

f. If the defendant is the owner or lessee of a vehicle that is the subject of the violation and if the defendant fails to respond to a failure to appear notice, the judge or the commission may suspend the registration privileges of the defendant in this State. The commission shall keep a record of a suspension ordered by the court pursuant to this subsection. If the registration privileges of the defendant have been suspended pursuant to this subsection and if the defendant appears or the case is disposed of and if the defendant satisfies all penalties and costs that are owing, the court shall forward to the commission a notice to restore the defendant's registration privileges. Upon receiving a notice to restore and upon the defendant's payment of the restoration fee in accordance with section 23 of P.L.1975, c.180 (C.39:3-10a), the commission shall record the restoration and notify the defendant of the restoration.

87. Section 14 of P.L.1995, c.157 (C.39:8-72) is amended to read as follows:

C.39:8-72 Action for recovery of civil penalty.

14. An action for the recovery of a civil penalty for violation of this act or any rule or regulation adopted pursuant to this act shall be within the jurisdiction of and may be brought before the municipal court in the municipality where the offense was committed or where the defendant may be found, or where the measurement of emissions was physically made. The municipal prosecutor shall proceed in the matter on behalf of the State, unless the county prosecutor or the Attorney General assumes responsibility for the prosecution. The civil penalties provided by this act or any rule or regulation adopted pursuant thereto shall be recovered in the name of the commission, as appropriate, and any money collected by the court in payment of a civil penalty shall be conveyed to the State Treasurer for deposit into the State General Fund. The civil penalties provided by this act or any rule or regulation adopted pursuant thereto shall be collected and enforced by summary proceedings pursuant to "The Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). If the ticket has not been marked to indicate that a court appearance is required, the defendant shall have the option to waive trial, enter a plea of guilty, and pay the penalty, either by mail or in person, to the violations clerk, subject to the Rules Governing the Courts of the State of New Jersey.

88. Section 15 of P.L.1995, c.157 (C.39:8-73) is amended to read as follows:

C.39:8-73 Docketing of judgments; enforcement.

15. a. The court administrator of the municipal court shall docket in the Superior Court a municipal court judgment imposing a civil penalty pursuant to this act, or any rule or regulation adopted pursuant thereto, that remains unpaid at the time of the judgment's entry in the municipal court. The court administrator shall give notice of the docketing to the commission in a manner prescribed by the commission. The provisions and procedures of N.J.S.2B:12-26 shall apply to the docketing, except that the court administrator of the municipal court, rather than the commission, shall effect the docketing; provided that nothing in this act shall be construed to prohibit the commission or its designee from docketing the judgment on behalf of the commission and in accordance with N.J.S.2B:12-26 if the court administrator of the municipal court fails to do so or if the commission or its designee chooses to do so for any other reason. No fee shall be charged to docket the judgment. The docketing shall have the same force and effect as a civil judgment docketed in the Superior Court, and the commission and its designee shall have all of the remedies and may take all of the proceedings for the collection thereof that may be had or taken upon recovery of a judgment in an action, but without prejudice to any right of appeal.

b. If the defendant is the owner or lessee of a vehicle that is the subject of the violation, and if the defendant fails to pay a civil penalty imposed pursuant to this act or any rule or regulation adopted pursuant thereto, the commission may suspend the registration privileges of the

defendant in this State.

c. Any vehicle that is registered or present in this State and for which a civil penalty has been assessed pursuant to this act or any rule or regulation adopted pursuant thereto may be placed out of service by the commission or the Division of State Police if the civil penalty remains unpaid after the date on which it became due and owing. A vehicle placed out of service pursuant to this act by either the commission or the Division of State Police shall not be operated until all civil penalties that are due and owing are paid to the commission. When a vehicle is placed out of service pursuant to this act, an administrative out-of-service order shall be prepared on a form or forms specified by the commission and a copy served upon the operator of the vehicle or upon the owner or lessee of the vehicle. The operator of a vehicle served with an out-of-service order pursuant to this act shall report the issuance of the out-of-service order to the owner and the lessee, if any, of the vehicle within 24 hours. When a vehicle is placed out of service pursuant to this act it shall be the responsibility of the owner or lessee of that vehicle to arrange for the prompt removal of that vehicle, by means other than operating the vehicle, and to pay all costs associated therewith. The vehicle shall be removed to a secure storage place where the commission and the Division of State Police can readily confirm its non-operation. If the owner or lessee fails to comply, or is otherwise incapable of complying with this subsection, the commission or the Division of State Police may make such arrangements for the removal of the vehicle to a secure storage place where the commission and the Division of State Police can readily confirm its non-operation, with all attendant charges and expenses to be paid by the owner, lessee, or bailee. No entity of government of this State or any political subdivision thereof shall be held liable for costs associated with or incurred in the enforcement of this subsection. Upon payment by cashier's check or money order, or in such other form as may be determined by the commission, subject to law or the Rules Governing the Courts of the State of New Jersey, of all unpaid civil penalties and attendant storage charges and expenses for a vehicle that has been placed out of service, the commission shall remove the out-of-service order. Any person who operates, and any owner or lessee who causes or allows to be operated, a vehicle in violation of an out-of-service order prepared and served in accordance with the provisions of this subsection shall be liable for a civil penalty of \$1,500, and, if the person has the vehicle registered in this State, the commission may suspend the registration privileges of the vehicle.

d. The commission shall exercise all duties, powers and responsibilities set forth in this section with respect to the periodic inspection program for diesel buses and the roadside enforcement program for diesel buses under the jurisdiction of the commission as set forth in subsection b. of section 6 of this act.

89. Section 16 of P.L.1995, c.157 (C.39:8-74) is amended to read as follows:
C.39:8-74 Distribution of fees.

16. Notwithstanding any other provisions of this title to the contrary, all fees and other monies that the commission, or the State Treasurer receives pursuant to the provisions of this act or any rule or regulation adopted pursuant thereto shall be paid to the Commercial Vehicle Enforcement Fund established pursuant to section 17 of this act; except that monies received for attendant storage charges and expenses as provided in subsection c. of section 15 of this act shall be paid to the entity that incurred those charges and expenses.

90. Section 19 of P.L.1995, c.157 (C.39:8-77) is amended to read as follows:
C.39:8-77 Rules, regulations.

19. Except as otherwise provided in this act, the commission, the Department of Environmental Protection, and the Department of Transportation may adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to effectuate the purposes of this act.

91. Section 20 of P.L.1995, c.157 (C.39:8-78) is amended to read as follows:
C.39:8-78 Report.

20. On the first day of the forty-eighth month after this act takes effect, the Attorney General, in consultation with the Commissioner of Environmental Protection, the commission, and the Commissioner of Transportation, shall submit to the Governor and to the members of the Legislature a report assessing the effectiveness of the programs required by this act and the necessity and feasibility of providing for periodic centralized emissions inspections of diesel buses, heavy-duty diesel trucks, and other diesel-powered motor vehicles.

92. Section 90 of P.L.1962, c.198 (C.48:4-2.1a) is amended to read as follows:

C.48:4-2.1a Discontinuance of operation of motor vehicle.

90. a. The commission may make rules, regulations and orders applicable to the construction, equipment and insurance required of every motor vehicle within the jurisdiction of the commission, and shall inspect, through its agents, inspectors and employees, any such motor vehicle to determine the manner of compliance with such rules, regulations and orders.

b. In the event of noncompliance with such rules, regulations and orders, or with statutory requirements, the commission may, through its agents, inspectors and employees, cause the immediate discontinuance of the operation of such motor vehicle, and no such motor vehicle shall be restored to service without the express approval of the commission.

c. Any person who shall remove or deface any notice of discontinuance that has been affixed or otherwise attached to the motor vehicle without approval of the commission is guilty of a crime of the fourth degree. In addition to any other penalties or remedies provided by law, a person who violates this subsection is subject to a civil penalty of \$1,000.

d. Any person who owns or causes to be operated a motor vehicle subject to this section without a valid certificate of inspection issued by the commission, or in violation of rules or orders made by the commission concerning insurance requirements of that vehicle, is a disorderly person. In addition to any other penalties or remedies provided by law, a person who violates this subsection is subject to a civil penalty of \$500 per day for each vehicle so operated.

e. Any person who operates a motor vehicle subject to this section without a valid certificate of inspection issued by the commission, or in violation of rules or orders made by the commission concerning insurance requirements of that vehicle, is a petty disorderly person.

f. Any inspection conducted pursuant to this section relating to emissions from a motor vehicle powered with diesel fuel that is also subject to the provisions of P.L.1995, c.157 (C.39:8-59 et al.) shall be conducted in accordance with the provisions of that act.

93. Section 1 of P.L.1987, c.373 (C.48:4-2.1b) is amended to read as follows:

C.48:4-2.1b Vehicle emission, brake tests, emissions inspections.

1. The commission may, in conjunction with any program of self-inspection established to ensure compliance with regulations adopted under section 90 of P.L.1962, c.198 (C.48:4-2.1a), and at the request of any owner or operator of a motor vehicle required to be self-inspected, authorize commission personnel to conduct vehicle emission tests and brake tests. The commission may adopt regulations setting the amount of and providing for the charging and collecting of a fee for each vehicle emission test and each brake test conducted pursuant to this section, which fee shall be in an amount necessary to cover only the actual costs of the program.

Any inspection conducted pursuant to this section relating to emissions from a motor vehicle powered with diesel fuel that is also subject to the provisions of P.L.1995, c.157 (C.39:8-59 et al.) shall be conducted in accordance with the provisions of that act.

94. Section 3 of P.L.1995, c.225 (C.48:4-2.1e) is amended to read as follows:

C.48:4-2.1e Definitions.

3. As used in this act:

"Bus" or "buses" means and includes all autobuses, of whatever size or configuration, under the jurisdiction of the commission; all autobuses of NJ Transit and its contract carriers which are under the inspection jurisdiction of the commission; all autobuses of whatever size or

configuration, that are subject to Federal Motor Carrier Safety Regulations, operated on public highways or in public places in this State; and all autobuses operated on public highways or in public places in this State under the authority of the Interstate Commerce Commission, or its successor agency.

"Bus safety out-of-service violation" means any serious mechanical, electrical or vehicular condition that is determined to be so unsafe as to potentially cause an accident or breakdown, or would potentially contribute to loss of control of the vehicle by the driver.

"Category 1 violation" means any bus safety out-of-service violation that should have been detected during the daily pre-trip inspection or during periodic repair and maintenance procedures conducted by the driver or the operator.

"Category 2 violation" means any bus safety out-of-service violation that may have occurred after the daily pre-trip inspection and therefore might not have been detected by the operator or driver during the daily pre-trip inspection or during periodic repair and maintenance procedures.

"Operator" means the person responsible for the day to day maintenance and operation of buses.

95. Section 4 of P.L.1995, c.225 (C.48:4-2.1f) is amended to read as follows:

C.48:4-2.1f Bus safety out-of-service violations; schedule, sanctions established.

4. a. The commission shall establish by regulation, in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), a schedule of bus safety out-of-service violations and applicable sanctions and penalties for buses operating with bus safety out-of-service violations. The regulations shall promote uniformity with national safety standards. The regulations shall establish penalties for category 1 and category 2 safety violations which shall be proportional with the severity of such violations as determined by the commission. The bus operator shall be responsible for all penalties.

b. The schedule of bus safety out-of-service violations shall establish and specify those violations which the commission determines to be category 1 violations, and shall further establish and specify the monetary civil penalty for category 1 violations. The monetary civil penalties established and specified by the commission in the schedule shall be proportional to the nature, severity and repetition of the violation. The minimum monetary civil penalty for a category 1 violation shall be \$300 and the maximum monetary civil penalty for a category 1 violation shall be \$5,000.

c. The schedule of bus safety out-of-service violations shall establish and specify those violations which the commission determines to be category 2 violations, and shall further establish and specify the monetary civil penalty for category 2 violations. The monetary civil penalties established and specified by the commission in the schedule shall be proportional to the nature, severity and repetition of the violation. The maximum monetary civil penalty for a category 2 violation shall be \$500.

96. Section 7 of P.L.1995, c.225 (C.48:4-2.1i) is amended to read as follows:

C.48:4-2.1i Inspection; penalty.

7. a. The commission or any duly authorized representative of the commission is authorized to direct any bus operated in this State to immediately proceed to a designated facility for inspection. If a driver fails to immediately report as directed to the designated facility, the operator shall be subject to a penalty of \$1,000.

b. At the time of inspection, the commission or any duly authorized representative of the commission is authorized to demand and examine the driver's operating credentials.

97. Section 9 of P.L.1995, c.225 (C.48:4-2.1k) is amended to read as follows:

C.48:4-2.1k Penalty enforcement; summons issued for violation of act.

9. Any penalty imposed pursuant to this act may be collected, with costs, in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10

et seq.). The Superior Court or Municipal Court of the county or municipality, respectively, wherein the violation occurs, or wherein the operator resides or has a place of business or principal office in this State, shall have jurisdiction to enforce the provisions of the "Penalty Enforcement Law," in connection with this act. The commission or any duly authorized representative of the commission may issue a summons and complaint returnable in a municipal court or other court of competent jurisdiction for a violation of this act and any rule or regulation adopted pursuant thereto, except that when conducting an inspection at the site of an owner or operator's business, the commission or a representative of the commission shall not issue a summons and complaint for a violation of this act, but shall take any other enforcement action authorized by law for that violation. Municipal, county, and State prosecutors are authorized to assist the commission in the enforcement of this act. The commission may institute an action in the Superior Court for injunctive relief to prevent or restrain any violation of this act, or any order issued, or rule of regulation adopted, pursuant to this act.

98. Section 2 of P.L.1983, c.517 (C.48:4-2.21) is amended to read as follows:

C.48:4-2.21 "Zone of rate freedom" established annually.

2. The commission shall establish annually a "zone of rate freedom" which will provide for a maximum permitted percentage adjustment to any rate, fare or charge for regular route autobus service. The commission shall promulgate this percentage within 60 days after the effective date of this act for the time remaining in the 1984 calendar year, and shall thereafter promulgate a percentage for each calendar year 60 days prior to the commencement of the calendar year. The commission shall consider all relevant factors, including but not limited to the availability of alternative modes of transportation, increases or decreases of the costs of bus operations, the interests of the consumers or users of bus services, and the rates, fares and charges prevailing in the bus industry, as well as in other related transportation services, such as rail services, in establishing the "zone of rate freedom" for each period.

99. R.S.48:4-11 is amended to read as follows:

Penalties.

48:4-11. a. Any person who shall operate an autobus, charter bus operation or special bus operation within the State of New Jersey without complying with the provisions of this article shall be subject to the penalties provided herein.

Proceedings to prevent a person from operating an autobus without a valid certificate of public convenience and necessity, and to recover damages for lost revenues caused by those operations, may be instituted by an autobus public utility, the business or revenues of which are adversely affected thereby.

Except for proceedings instituted by an autobus public utility, every civil penalty for violation of any provision of this article and for a violation of section 90 of P.L.1962, c.198 (C.48:4-2.1a) shall be sued for and recovered by and in the name of the commission and shall be collected and enforced by summary proceedings pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). Process shall issue at the suit of the commission, as plaintiff, and shall be in the nature of a summons and complaint returnable in the Law or Chancery Division of the Superior Court or in the various municipal courts. Every day that a violation exists shall be a separate violation for which a penalty may be recovered. Proceedings may be instituted on any day of the week including Sunday or upon a holiday, and any process issued pursuant to this article or pursuant to section 90 of P.L.1962, c.198 (C.48:4-2.1a) shall be deemed valid as if served or issued on any other day.

b. The commission may, in addition to seeking a civil penalty, seek injunctive relief in the Chancery Division of the Superior Court as to any person found to have violated any provision of this article or any provision of section 90 of P.L.1962, c.198 (C.48:4-2.1a).

100. Section 24 of P.L.1995, c.157 (C.39:3-6.14) is amended to read as follows:

C.39:3-6.14 Registration, administrative fees.

24. a. The registration fee for an apportioned vehicle shall be determined by the number of in-jurisdiction miles an apportioned vehicle drives in the State of New Jersey and in each of the jurisdictions in which it is authorized to travel by its registration. The formula used for the registration fee shall be in accord with the International Registration Plan and shall be set forth in regulation.

b. In addition to the registration fee, the commission shall set by regulation an administrative fee which will be collected from each registrant to subsidize the cost of the administration of the program.

c. The administrative fee collected pursuant to this act shall be forwarded to the State Treasurer and be deposited into the Commercial Vehicle Enforcement Fund established pursuant to section 17 of this act.

101. R.S.39:3-21 is amended to read as follows:

Motorcycle registration fee.

39:3-21. The applicant for registration for a motorcycle shall pay to the commission for each registration a fee of \$10.00.

102. Section 3 of P.L.1942, c.227 (C.39:3-23.1) is amended to read as follows:

C.39:3-23.1 Use of non-rubber tires.

3. The commission may in its discretion approve the use of any particular type of tire, of a material other than rubber, on vehicles operated upon the highways of this State, if it finds the said tire will not damage the public highways and that the use of said tire is not likely to be hazardous to the public safety.

103. R.S.39:3-43 is amended to read as follows:

Powers of commission.

39:3-43. The commission is hereby given authority to pass upon the construction and equipment of any vehicle, motor vehicle or motor-drawn vehicle with a view to its safety for use on a street or highway and it shall be lawful for the commission to refuse registration to any vehicle that in its estimation is not a proper vehicle to be used upon a highway. The commission is hereby authorized to promulgate regulations, not inconsistent with this chapter, concerning the construction and equipment of any vehicle, motor vehicle or motor-drawn vehicle. The commission may require the approval of any equipment or device and may set up the procedure which shall be followed when any equipment or device is submitted for approval. The commission may revoke or suspend for cause and after hearing any certificate of approval that may be issued under this article. The commission at its discretion is hereby authorized to disapprove any equipment or device.

104. R.S.39:3-46 is amended to read as follows:

Definitions relative to illuminating devices.

39:3-46. As used in this article, unless the context requires another or different construction:

"Approved" means approved by the commission and when applied to lamps and other illuminating devices means that such lamps and devices must be in good working order and capable of operating at least 50% of their designed efficiency.

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

"When lighted lamps are required" means at any time from a half-hour after sunset to a half-hour before sunrise; whenever rain, mist, snow or other precipitation or atmospheric moisture requires the use of windshield wipers by motorists; and during any time when, due to smoke, fog,

unfavorable atmospheric conditions or for any other cause there is not sufficient light to render clearly discernible persons and vehicles on the highway at a distance of 500 feet ahead.

"Headlamp" means a major lighting device capable of providing general illumination ahead of a vehicle.

"Auxiliary driving lamp" means an additional lighting device on a motor vehicle used primarily to supplement the headlamps in providing general illumination ahead of a vehicle.

"Single beam headlamps" means headlamps or similar devices arranged so as to permit the driver of the vehicle to use but one distribution of light on the road.

"Multiple-beam headlamps" means headlamps or similar devices arranged so as to permit the driver of the vehicle to use one of two or more distributions of light on the road.

"Asymmetric headlamps" means headlamps or similar devices arranged so as to permit the driver of the vehicle to use one of several distributions of light on the road, at least one of which is asymmetric about the median vertical axis.

"Clear road beam" means the beam from multiple-beam headlamps designed to be used when not approaching other vehicles and designed to provide sufficient candlepower ahead to reveal obstacles at a safe distance ahead under ordinary conditions of road contour and of vehicle loading.

"Meeting beam" means the beam from multiple beam or asymmetric headlamps designed to be used when other vehicles are approaching within 500 feet or when signaled and designed so that the illumination on the left side of the road is reduced sufficiently to avoid dangerous glare for the approaching driver.

"Lower beam" means the beam from multiple beam or asymmetric headlamps designed to be directed low enough to avoid dangerous glare on both sides of the roadway.

"Reflector" means an approved device designed and used to give an indication by reflected light.

C.39:2A-36 Revenues to be remitted to commission, General Fund.

105. a. The first \$200,000,000 of fees and surcharges thereon collected pursuant to the following statutes shall be considered service charges which are revenues to be remitted to the New Jersey Motor Vehicle Commission and the remainder shall be remitted to the General Fund, provided that if the total amount of such fees and surcharges collected, as verified by the relevant fiscal year New Jersey Comprehensive Annual Financial Report, produce more or less revenue than the sum of \$200,000,000 and the amount anticipated in the fiscal year 2004 Appropriations Act for those statutes, then the \$200,000,000 in revenue from those service charges to the commission shall be increased or lowered proportionately:

Section 4 of P.L.1995, c.401 (C.12:7-73); section 24 of P.L.1984, c.152 (C.12:7A-24); section 28 of P.L.1984, c.152 (C.12:7A-28); section 1 of P.L.1983, c.65 (C.17:29A-33); section 6 of P.L.1983, c.65 (C.17:29A-35); section 9 of P.L.1998, c.108 (C.27:5F-42); R.S.39:2-10; section 1 of P.L.1969, c.301 (C.39:3-4b); section 2 of P.L.1969, c.301 (C.39:3-4c); R.S.39:3-8; section 2 of P.L.1968, c.439 (C.39:3-8.1); section 1 of P.L.1992, c.87 (C.39:3-8.2); R.S.39:3-10; section 23 of P.L.1975, c.180 (C.39:3-10a); section 1 of P.L.1977, c.23 (C.39:3-10b); section 1 of P.L.1979, c.261 (C.39:3-10f); section 22 of P.L.1990, c.103 (C.39:3-10.30); R.S.39:3-13; R.S.39:3-18; R.S.39:3-19; section 2 of P.L.1974, c.162 (C.39:3-19.2); section 12 of P.L.1979, c.224 (C.39:3-19.5); R.S.39:3-20; section 1 of P.L.1973, c.319 (C.39:3-20.1); R.S.39:3-21; R.S.39:3-24; R.S.39:3-25; R.S.39:3-26; section 2 of P.L.1964, c.195 (C.39:3-27.4); section 2 of P.L.1968, c.247 (C.39:3-27.6); section 2 of P.L.1977, c.369 (C.39:3-27.9); section 2 of P.L.1979, c.457 (C.39:3-27.16); section 2 of P.L.1981, c.139 (C.39:3-27.19); R.S.39:3-28; R.S.39:3-30; R.S.39:3-31; section 1 of P.L.1961, c.77 (C.39:3-31.1); R.S.39:3-32; section 1 of P.L.1999, c.192 (C.39:3-33a); section 1 of P.L.2001, c.35 (C.39:3-33b); section 2 of P.L.1959, c.56 (C.39:3-33.4); section 4 of P.L.1959, c.56 (C.39:3-33.6); R.S.39:3-36; section 1 of P.L.1979, c.314 (C.39:3-54.14); section 2 of P.L.1999, c.308 (C.39:3-75.2); R.S.39:3-84; section 2 of P.L.1999, c.396 (C.39:3-84.7); section 3 of P.L.1973, c.307 (C.39:3C-3); section 10 of P.L. 1983, c.105 (C.39:4-14.3j); section 23 of P.L.1983, c.105 (C.39:4-14.3w); R.S.39:4-26; R.S.39:4-30; section 11 of P.L.1985, c.14 (C.39:4-139.12); section 1 of P.L.1972, c.38

(C.39:5-30.4); section 31 of P.L.1994, c.60 (C.39:5-36.1); section 20 of P.L.1952, c.173 (C.39:6-42); section 2 of P.L.1983, c.141 (C.39:6B-3); R.S.39:7-3; section 3 of P.L.1975, c.156 (C.39:8-11); section 8 of P.L.1975, c.156 (C.39:8-16); section 9 of P.L.1975, c.156 (C.39:8-17); section 15 of P.L.1975, c.156 (C.39:8-23); section 5 of P.L.1995, c.112 (C.39:8-45); section 7 of P.L.1995, c.112 (C.39:8-47); section 12 of P.L.1995, c.112 (C.39:8-52); section 11 of P.L.1995, c.157 (C.39:8-69); section 13 of P.L.1995, c.112 (C.39:8-53); section 14 of P.L.1995, c.112 (C.39:8-54); R.S.39:10-11; R.S.39:10-12; R.S.39:10-14; R.S.39:10-16; R.S.39:10-19; R.S.39:10-25; section 5 of P.L.1983, c.323 (C.39:10-35); section 8 of P.L.1983, c.455 (C.39:10A-15); R.S.39:11-8; section 2 of P.L.1951, c.216 (C.39:12-2); section 5 of P.L.1951, c.216 (C.39:12-5); and section 2 of P.L.1983, c.360 (C.39:13-2).

Proportional revenues remitted to the commission for the fiscal years beginning July 1, 2004 and thereafter shall have the same proportion as the proportional revenues remitted to the commission for the fiscal year beginning July 1, 2003.

b. In addition to the proportionately increased or lowered revenue provided for in subsection a. of this section, the commission shall receive 100 percent of the revenues collected from any new service charge and 100 percent of the increased revenues collected from any existing service charge increased by law. Any new or increased service charge shall not be included in the calculation of the proportional revenue remitted to the commission.

c. In addition to the revenues provided for in subsections a. and b. of this section, all fees collected pursuant to Chapter 3 of Title 39 of the Revised Statutes required to defray the costs of the commission with respect to producing, issuing, renewing, and publicizing license plates, or related computer programming shall be considered revenues of the commission notwithstanding any other provision of law.

d. Revenues of the commission shall not be subject to appropriation as direct State services by the Legislature. In addition, the revenues of the commission shall not be restricted from use by the commission in any manner except as provided by law. Revenues of the commission may be used in the furtherance of any purpose of the commission or as otherwise provided for by law.

106. Section 17 of P.L.1995, c.157 (C.39:8-75) is amended to read as follows:

C.39:8-75 "Commercial Vehicle Enforcement Fund."

17. a. There is established in the General Fund a separate, nonlapsing, dedicated account to be known as the "Commercial Vehicle Enforcement Fund." The Commercial Vehicle Enforcement Fund shall be administered by the commission. All fees and other monies collected pursuant to this act or any rule or regulation adopted pursuant thereto shall be forwarded to the State Treasury for deposit into the Commercial Vehicle Enforcement Fund account. The commission shall receive 40 percent of this fund annually, which monies shall be considered revenue of the commission. All remaining fees and other monies deposited in the Commercial Vehicle Enforcement Fund account shall be used to fund the costs of administering the programs and activities of the Department of Law and Public Safety, the Department of Transportation, the commission and the Department of Environmental Protection established or specified in this act and in subsection f. of R.S.39:3-20, subject to the approval of the Director of the Division of Budget and Accounting in the Department of the Treasury.

b. A municipality may be eligible for periodic grants from the fund in such amounts as the commission, in consultation with the Commissioner of Transportation, may determine pursuant to rule or regulation to subsidize costs of prosecuting and trying actions pursuant to this act.

107. R.S.39:8-2 is amended to read as follows:

Examiners of motor vehicles; rules; regulations; inspections; requirements, etc.

39:8-2 a. The commission may designate and appoint, subject to existing laws, competent examiners of motor vehicles to conduct examinations, other than the periodic inspections required pursuant to subsection b. of this section, of motor vehicles required to be inspected in accordance with the provisions of this chapter. The examiners may be delegated to enforce the provisions of the motor vehicle and traffic law.

b. (1) The commission shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations consistent with P.L.1966, c.16 (C.26:2C-8.1 et seq.) and with the requirements of the federal Clean Air Act with respect to the type and character of the inspections to be made, the facility at which the vehicle shall be inspected, the frequency of inspections of motor vehicles and the approval or rejection of motor vehicles as a result of these inspections. These rules and regulations shall require the use of inspection tests that are designed to meet the enhanced inspection and maintenance requirements of the federal Clean Air Act and that have been proven to be feasible and effective for the inspection of large numbers of motor vehicles, except that these tests shall not include the "I/M 240" test. Nothing in this subsection shall preclude the use of the "I/M 240" test in sampling for performance evaluations only or the use of the test at the option of a private inspection facility. The rules and regulations may distinguish between vehicles based on model year, type, or other vehicle characteristics in order to facilitate inspections or to comply with the federal Clean Air Act. A low mileage vehicle shall not be subject to a tailpipe inspection test utilizing a dynamometer but may be subject to an idle test and a purge and pressure test. For the purpose of this paragraph, "low mileage vehicle" means a motor vehicle that is driven less than 10,000 miles during the biennial inspection period, except that the commission may set the qualifying number of miles for this exemption at a lower number in order to meet the federal enhanced inspection and maintenance performance standard.

(2) The Department of Environmental Protection and the commission shall investigate advanced testing technologies, including but not limited to remote sensing and onboard diagnostics, and shall, to the extent permitted by law, pursue the use of such technologies, other than the "I/M 240" test, in motor vehicle emission inspections required by the United States Environmental Protection Agency pursuant to the federal Clean Air Act. The commission shall adopt, to the extent practicable, advanced technologies to facilitate the retrieval of testing and other information concerning motor vehicles, which technologies shall include but not be limited to the use of computer bar codes and personal cards containing encoded information, such as a person's operating license, motor vehicle registration, and motor vehicle insurance, the inspection status of a motor vehicle, and mass transit fares, that can be accessed quickly by a computer.

c. Except as modified by the commission to distribute evenly the volume of inspections, all motor vehicles required by the commission, in accordance with the provisions of R.S.39:8-1, to be inspected under this chapter shall be inspected biennially, except that (i) after certification by the commission of the federal approval by the Environmental Protection Agency of the State waiver request, model year 2000 and newer motor vehicles shall be inspected no later than four years from the last day of the month in which they were initially registered and thereafter biennially; and (ii) classes of vehicles that require more frequent inspections, such as school buses, shall be inspected at such shorter intervals as may be established by the commission after consultation with the Department of Environmental Protection. At any time, the commission may require the owner, lessee, or operator of a motor vehicle to submit the vehicle for inspection.

d. The commission shall furnish to designated examiners or to other persons authorized to conduct inspections or to grant waivers official certificates of approval, rejection stickers or waiver certificates, the form, content and use of which it shall establish. The certificates of approval, rejection stickers and waiver certificates shall be of a type, such as a windshield sticker or license plate decal, that can be attached to the vehicle or license plate in a location that is readily visible to anyone viewing the vehicle. If a certificate of approval cannot be issued, the driver shall be provided with a written inspection report describing the reasons for rejection and, if appropriate, the repairs needed or likely to be needed to bring the vehicle into compliance with applicable standards.

e. The commission may, with the approval of the State House Commission, purchase, lease or acquire by the exercise of the power of eminent domain any property for the purpose of assisting it in carrying out the provisions of this chapter. This property may also be used by the commission for the exercise of the duties and powers conferred upon it by the other chapters of this Title.

f. For the purpose of implementing the motor vehicle inspection requirements of the federal Clean Air Act and subject to the approval of the Attorney General, the State Treasurer, prior to January 1, 1997, may:

(1) Purchase, lease or acquire by eminent domain any property for vehicle inspection purposes. Any other provision of law to the contrary notwithstanding, no further approval shall be required for transactions authorized by this paragraph, except that a proposed purchase, lease or acquisition by eminent domain shall require the approval of the Joint Budget Oversight Committee, and shall be submitted to the Joint Budget Oversight Committee, which shall review the proposed purchase, lease or acquisition by eminent domain within 15 business days; and

(2) Sell or lease, or grant an easement in, any property acquired, held or used for vehicle inspection purposes or any other suitable property held by the State that is not currently in use or dedicated to another purpose. For the purpose of this paragraph and notwithstanding any provision of R.S.52:20-1 et seq. to the contrary, the sale or lease of, or the granting of an easement in, real property owned by the State shall be subject to the approval of the State House Commission, which shall meet at the call of the Governor to act on a proposed sale or lease or grant of an easement pursuant to this paragraph. A member of the State House Commission may permit a representative to act on that member's behalf in considering and voting on a sale or lease or grant of an easement pursuant to this paragraph. Any other provision of law to the contrary notwithstanding, any moneys derived from a sale, lease or granting of an easement by the State pursuant to this paragraph shall not be expended unless approved by the Joint Budget Oversight Committee for the purpose of purchasing, leasing or acquiring property pursuant to paragraph (1) of this subsection, except that any moneys derived therefrom and not approved for that purpose shall be appropriated to the Department of Transportation to provide for mass transit improvements.

g. The commission shall conduct roadside examinations of motor vehicles required to be inspected, using such inspection equipment and procedures, and standards established pursuant to section 1 of P.L.1966, c.16 (C.26:2C-8.1), including, but not limited to, remote sensing technology, as the commission shall deem appropriate to provide for the monitoring of motor vehicles pursuant to this subsection. At least 20,000 vehicles or 0.5 percent of the total number of motor vehicles required to be inspected under this chapter, whichever is less, shall be inspected during each inspection cycle by roadside examination teams under the supervision of the commission. The commission may require any vehicle failing a roadside examination to be inspected at an official inspection facility or a private inspection facility within a time period fixed by the commission. Failure to appear and pass inspection within the time period fixed by the commission shall result in registration suspension in addition to any other penalties provided in this Title. The commission shall conduct an aggressive roadside inspection program to ensure that all motor vehicles that are required to be inspected in this State are in compliance with State law.

h. The commission, and, when appropriate, the Department of Environmental Protection, shall conduct inspections and audits of licensed private inspection facilities, official inspection facilities and designated examiners to ensure accurate test equipment calibration and use, and compliance with proper inspection procedures and with the provisions of P.L.1995, c.112 (C.39:8-41 et al.) and any regulations adopted pursuant thereto by the commission or by the Department of Environmental Protection. These inspections and audits shall be conducted at such times and in such manner as the commission, upon consultation with the Department of Environmental Protection, shall determine in order to provide quality assurance in the performance of the inspection and maintenance program.

I. (1) The commission shall make a charge of \$2.50 for the initial inspection for each vehicle subject to inspection, which amount shall be paid to the commission or its representative when payment of the registration fees fixed in chapter 3 of this Title is made which inspection charge shall be considered a service charge and shall be subject to the calculation of proportional revenue remitted to the commission pursuant to section 105 of P.L.2003, c.13 (C.39:2A-36); provided however, that on and after January 1, 1999, a school bus as defined pursuant to section 3 of P.L.1999, c.5 (C.39:3B-20) and having a registration period commencing on or after January 1, 1999, shall be subject to an inspection fee for each in-terminal or in-lieu-of terminal

inspection in accordance with the following schedule:

School Bus Specification Inspection	\$50 per bus
School Bus Inspection	\$25 per bus
School Bus Reinspection	\$25 per bus subject to the conditions set forth below

The specification inspection is required when a school bus is put into service in New Jersey, whether a new bus or a bus from another state. The specification inspection is conducted to ensure that the school bus meets New Jersey specification standards. The school bus inspection fee shall be charged to the operator for each in-terminal or in-lieu-of terminal inspection. School Vehicle Type I and School Vehicle Type II buses shall be inspected semiannually. Retired school buses shall be inspected annually. No school bus inspection fee shall be charged for any reinspection conducted by the commission if the reinspection is conducted on the same day as the inspection that necessitated the reinspection. If an additional trip is required by the commission's inspectors, a fee of \$25 per bus shall be charged. School bus inspection fees shall be paid to the commission or the commission's designee subject to the terms and conditions prescribed by the commission and shall be considered service charges of the commission and not subject to the calculation of proportional revenue remitted to the commission pursuant to section 105 of P.L.2003, c.13 (C.39:2A-36). Any law or rule or regulation adopted pursuant thereto to the contrary notwithstanding, a registration fee authorized pursuant to chapter 3 of Title 39 of the Revised Statutes shall not be increased for the purpose of paying any costs associated in any manner with the establishment, implementation or operation of the motor vehicle inspection and maintenance program established pursuant to P.L.1995, c.112 (C.39:8-41 et al.).

(2) The commission shall establish by regulation a fee to cover the costs of inspecting any vehicle that is required, or has the option, under federal law to be inspected in this State but is registered in another state or is owned or leased by the federal government. In determining these costs, the commission shall include all capital and direct and indirect operating costs associated with the inspection of these vehicles including, but not limited to, the costs of the actual inspection, the creation and maintenance of the vehicle inspection record, administrative, oversight and quality assurance costs and the costs associated with reporting inspection information to the owner, the federal government and agencies of other states. All fees collected pursuant to this subsection shall be paid to the State Treasurer and deposited in the "Motor Vehicle Inspection Fund" established pursuant to subsection j. of this section.

j. There is established in the General Fund a special dedicated, non-lapsing fund to be known as the "Motor Vehicle Inspection Fund," which shall be administered by the State Treasurer. The State Treasurer shall deposit into the "Motor Vehicle Inspection Fund" \$11.50 from each motor vehicle registration fee received by the State after June 30, 1995. This fee shall be considered a service charge of the commission and shall be subject to the calculation of proportional revenue remitted to the commission pursuant to section 105 of P.L.2003, c.13 (C.39:2A-36). The Legislature shall annually appropriate from the fund an amount necessary to pay the reasonable and necessary expenses of the implementation and operation of the motor vehicle inspection program. The State Treasurer shall:

(1) Pay to a private contractor or contractors contracted to design, construct, renovate, equip, establish, maintain and operate official inspection facilities under a contract or contracts entered into with the State Treasurer pursuant to subsection a. of section 4 of P.L.1995, c.112 (C.39:8-44) from the fund the amount necessary to meet the costs agreed to under the contract or contracts; and

(2) Transfer from the fund to the commission as provided pursuant to section 105 of P.L.2003, c.13 (C.39:2A-36) and the Department of Environmental Protection the amounts necessary to finance the costs of administering and implementing all aspects of the inspection and maintenance program, and to the Office of Telecommunications and Information Systems in the Department of the Treasury the amount necessary for computer support upgrades;

Moneys remaining in the fund and any unexpended balance of appropriations from the fund

at the end of each fiscal year shall be reappropriated for the purposes of the fund. Any interest earned on moneys in the fund shall be credited to the fund.

108. Section 2 of P.L.1993, c.124 (C.48:2-56.1) is amended to read as follows:

C.48:2-56.1 Bus inspection fees, revenue of the commission.

2. Moneys received from fees collected by the commission pursuant to section 1 of P.L.1959, c.43 (C.48:2-56) for the bus inspection program shall be revenues of the commission and shall not be subject to the calculation of proportional revenue remitted to the commission pursuant to section 105 of P.L.2003, c.13 (C.39:2A-36).

C.39:2A-37 Fees concerning licenses, effective date, revenue of the commission, certain.

109. Notwithstanding any other provision of law, all fees established pursuant to P.L.2001, c. 391 shall take effect on the enactment of P.L.2003, c.13 (C.39:2A-1 et al.). The \$6 digitized picture fee shall be charged regardless of whether the license or identification card displays a picture, and shall be revenues of the commission for use in the furtherance of any commission purpose. This fee shall be considered revenues of the commission and shall not be subject to the calculation of proportional revenue remitted to the commission pursuant to section 105 of P.L.2003, c.13 (C.39:2A-36).

Revenues of the commission shall not be subject to appropriation as direct State services by the Legislature. In addition, the revenues of the commission shall not be restricted from use by the commission in any manner except as provided by law. Revenues of the commission may be used in the furtherance of any purpose of the commission or as otherwise provided for in law.

C.39:2A-38 Additional fees as security surcharge; commission revenue.

110. In addition to the vehicle registration fees imposed pursuant to the provisions of chapters 3, 4, and 8 of Title 39 of the Revised Statutes, the commission shall impose and collect an additional \$7 for each new and renewal vehicle registration as a security surcharge, which surcharge shall take effect on the enactment of P.L.2003, c.13 (C.39:2A-1 et al.) and shall expire ten years thereafter. The security surcharges collected pursuant to this section shall be revenues of the commission and shall not be subject to the calculation of proportional revenue remitted to the commission pursuant to section 105 of P.L.2003, c.3 (C.39:2A-36). The security surcharge shall not be imposed on the registration of passenger vehicles registered to persons possessing a valid handicapped person identification card issued pursuant to section 2 of P.L.1949, c.280 (C.39:4-205) or to persons aged 65 years of age or older at the time of registration or registration renewal. Revenues of the commission shall not be subject to appropriation as direct State services by the Legislature. In addition, the revenues of the commission shall not be restricted from use by the commission in any manner except as provided by law. Revenues of the commission may be used in the furtherance of any purpose of the commission or as otherwise provided for in law.

111. Section 4 of P.L.1994, c.57 (C.34:1B-21.4) is amended to read as follows:

C.34:1B-21.4 Issuance of Market Transition Facility, Motor Vehicle Commission bonds, notes.

4. a. The authority shall have the power to issue Market Transition Facility bonds or notes in an amount not to exceed \$ 750 million, pursuant to the provisions of this act, under the powers given to it by and pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.), for the purpose of providing funds for the payment of the current and anticipated liabilities and expenses of the facility, as such liabilities and expenses are certified by the commissioner. Bonds issued for the purpose of refinancing previously issued bonds or notes shall not be included in the calculation of the dollar amount limitation and bonds issued for the purpose of refinancing previously issued bonds or notes shall be approved by the Joint Budget Oversight Committee prior to the refinancing. The bonds or notes shall be secured wholly or in part by the monies in the Market Transition Facility Revenue Fund. The authority may establish a debt service reserve fund, which may be augmented or replenished from time to time from funds in the Facility Revenue

Fund. All Market Transition Facility bonds shall have a final maturity of not later than July 1, 2011.

b. The authority shall also have the power to issue New Jersey Motor Vehicle Commission bonds, notes or other obligations, pursuant to P.L.1994, c.57 (C.34:1B-21.1 et seq.) and to the powers given to it by and pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.), for the purpose of providing funds for the payment of the costs of any and all capital improvements to or for New Jersey Motor Vehicle Commission facilities, including, but not limited to, building improvements and the acquisition and installation of furniture, fixtures, machinery, computers and electronic equipment; provided, however, that bonds, notes or other obligations shall not be issued in an amount exceeding \$160 million in the aggregate without the prior approval of the Joint Budget Oversight Committee. Bonds issued for the purpose of refinancing previously issued bonds, notes or other obligations shall not be included in the calculation of the dollar amount limitation. The bonds, notes or other obligations shall be secured wholly or in part by the monies in the Market Transition Facility Revenue Fund from and after such time as all Market Transition Facility bonds, notes and obligations issued pursuant to the section and the costs thereof are discharged and no longer outstanding. The authority may establish a debt service reserve fund, which may be augmented or replenished from time to time from monies in the Market Transition Facility Revenue Fund.

c. Of the aggregate amount of New Jersey Motor Vehicle Commission bonds, notes or other obligations authorized to be issued in subsection b. of this section, \$10,000,000 of the proceeds of those bonds, notes or other obligations shall be transferred by the New Jersey Motor Vehicle Commission to the Administrative Office of the Courts for improvements to the Automated Traffic System, which improvements shall be deemed included in the purpose of providing for the payment of the costs of any and all capital improvements to or for the commission.

112. Section 5 of P.L.1994, c.57 (C.34:1B-21.5) is amended to read as follows:

C.34:1B-21.5 Powers of authority.

5. a. For the purpose of providing funds for payment of current and anticipated liabilities and expenses of the facility, the authority shall have the power to provide for the funding or refunding of any bonds or notes, incur indebtedness, borrow money and issue bonds or notes secured in whole or in part by the monies in the Facility Revenue Fund. The bonds or notes shall be payable from the monies in the Facility Revenue Fund. The bonds or notes shall be authorized by resolution, which shall stipulate the manner of execution and form of the bonds, whether the bonds are in one or more series, the date or dates of issue, time or times of maturity, which shall not exceed 30 years, the rate or rates of interest payable on the bonds, the denomination or denominations in which the bonds are issued, conversion or registration privileges, the sources and medium of payment and place or places of payment, and terms of redemption. The bonds may be sold at a public or private sale at a price or prices determined by the authority.

b. For the purpose of providing funds for payment of any and all capital improvements to or for New Jersey Motor Vehicle Commission facilities, including, but not limited to, building improvements and the acquisition and installation of furniture, fixtures, machinery, computers and electronic equipment, the authority shall have the power to provide for the funding or refunding of any bonds or notes, incur indebtedness, borrow money and issue bonds or notes secured in whole or in part by the monies in the Facility Revenue Fund from and after such time as all Market Transition Facility bonds, notes and obligations issued pursuant to section 4 of P.L.1994, c.57 (C.34:1B-21.4) and the costs thereof are discharged and no longer outstanding. The bonds or notes shall be payable solely from the monies in the Facility Revenue Fund. The bonds and notes shall be authorized by resolution, which shall stipulate the manner of execution and form of the bonds, whether the bonds are in one or more series, the date or dates of issue, time or times of maturity, which shall not exceed 30 years, the rate or rates of interest payable on the bonds, the denomination or denominations in which the bonds are issued, conversion or registration privileges, the sources and medium of payment and place or places of payment, and terms of redemption. The bonds may be sold at a public or private sale at a price or prices determined by the authority.

113. Section 6 of P.L.1994, c.57 (C.34:1B-21.6) is amended to read as follows:

C.34:1B-21.6 Payment of redemption of bonds, notes.

6. The authority may, in any resolution authorizing the issuance of the bonds or notes, pledge the Facility Revenue Fund or a portion thereof for payment of the redemption of the Market Transition Facility bonds or notes and, from and after such time as all Market Transition Facility bonds, notes and obligations issued pursuant to section 4 of P.L.1994, c.57 (C.34:1B-21.4) and the costs thereof are discharged and no longer outstanding, New Jersey Motor Vehicle Commission bonds or notes, and covenant as to the use and disposition of monies in the Facility Revenue Fund. All costs associated with the issuance of the bonds or notes by the authority for the purposes set forth in P.L.1994, c.57 (C.34:1B-21.1 et seq.) may be paid by the authority from the Facility Revenue Fund, which costs may include, but shall not be limited to, any costs related to the issuance of the bonds or notes, operating expenses of the authority attributable to the payment of facility current and anticipated liabilities and expenses, and costs of, and any payment due under, any agreement entered into pursuant to the provisions of subsection b. of section 8 of P.L.1994, c.57 (C.34:1B-21.8). Monies in the Facility Revenue Fund shall not be used for any other project of the authority.

114. Section 7 of P.L.1994, c.57 (C.34:1B-21.7) is amended to read as follows:

C.34:1B-21.7 "Market Transition Facility Revenue Fund."

7. There is created within the authority a special nonlapsing fund, to be known as the "Market Transition Facility Revenue Fund." The Facility Revenue Fund shall consist of:

a. Such monies as may be transferred to the Facility Revenue Fund by the State Treasurer, upon appropriation by the Legislature, pursuant to section 14 of this act;

b. Such monies as may be appropriated to the Facility Revenue Fund by the Legislature from surcharges levied pursuant to the provisions of subsection b. of section 6 of P.L.1983, c.65 (C.17:29A-35), except that any such monies in excess of the amounts required to be used by the authority pursuant to any bond resolutions authorizing the issuance of Market Transition Facility bonds and notes, the authority's agreement with the State Treasurer authorized by section 13 of this act and any bond resolutions authorizing the issuance of Motor Vehicle Commission bonds and notes shall be at least annually remitted to the General Fund;

c. Interest or other income derived from the investment of monies in the Facility Revenue Fund; and

d. Any other monies as may be deposited from time to time, except that such monies shall not be appropriated from the General Fund.

Monies in the Facility Revenue Fund shall be managed and invested by the Division of Investment in the Department of the Treasury.

115. Section 8 of P.L.1994, c.57 (C.34:1B-21.8) is amended to read as follows:

C.34:1B-21.8 Use of monies, agreements, exemption from taxation.

8. a. The authority may use the monies in the Market Transition Facility Revenue Fund to pay the principal and interest and premium, if any, on the Market Transition Facility bonds or notes issued by it pursuant to section 4 of P.L.1994, c.57 (C.34:1B-21.4) and, from and after such time as all Market Transition Facility bonds, notes and obligations issued pursuant to section 4 of P.L.1994, c.57 (C.34:1B-21.4) and the costs thereof are discharged and no longer outstanding, New Jersey Motor Vehicle Commission bonds or notes issued by it pursuant to section 4 of P.L.1994, c.57. The authority may create any other fund or funds by resolution of the authority which it deems necessary to further secure the Market Transition Facility bonds or notes or the New Jersey Motor Vehicle Commission bonds or notes or otherwise effectuate the purposes of this act, including a fund for the deposit of the proceeds from Market Transition Facility bonds or notes or the New Jersey Motor Vehicle Commission bonds or notes provided for in section 4 of P.L.1994, c.57.

b. The authority may, in connection with its duties and responsibilities under P.L.1994, c.57

(C.34:1B-21.1 et seq.), or in connection with any duties and responsibilities provided for in P.L.1974, c.80 (C.34:1B-1 et seq.), enter into any revolving credit agreement, agreement establishing a line of credit or letter of credit, reimbursement agreement, interest rate exchange agreement, insurance contract, surety bond, commitment to purchase bonds, purchase or sale agreement, or commitments or other contracts or agreements in connection with the authorization, issuance, sale or payment of bonds.

c. All Market Transition Facility bonds or notes and New Jersey Motor Vehicle Commission bonds or notes issued by the authority are deemed to be issued by a body corporate and politic of the State for an essential governmental purpose, and the interest thereon and the income derived from all funds, revenues, incomes and other monies received or to be received by the authority and pledged and available to pay or secure the payment on Market Transition Facility bonds or notes and the New Jersey Motor Vehicle Commission bonds or notes or pledged or available to pay or secure payment on such bonds or notes or interest thereon shall be exempt from all taxes levied pursuant to the provisions of Title 54 of the Revised Statutes or Title 54A of the New Jersey Statutes, except for transfer inheritance and estate taxes pursuant to Subtitle 5 of Title 54 of the Revised Statutes.

116. Section 9 of P.L.1994, c.57 (C.34:1B-21.9) is amended to read as follows:

C.34:1B-21.9 Bonds, notes as special, limited obligations.

9. Market Transition Facility bonds and notes issued by the authority shall be special and limited obligations which are payable only from monies on deposit in the Facility Revenue Fund. New Jersey Motor Vehicle Commission bonds and notes issued by the authority shall be special and limited obligations which are payable only from monies on deposit in the Facility Revenue Fund from and after such time as all Market Transition Facility bonds, notes and obligations issued pursuant to section 4 of P.L.1994, c.57 (C.34:1B-21.4) and the costs thereof are discharged and no longer outstanding. Neither the members of the authority nor any other person executing the Market Transition Facility bonds or notes or the New Jersey Motor Vehicle Commission bonds or notes provided for in section 4 of P.L.1994, c.57, shall be liable personally with respect to payment of interest and principal on these bonds or notes or obligations of the facility. Market Transition Facility bonds, notes, New Jersey Motor Vehicle Commission bonds or notes, or any other obligations issued pursuant to the provisions of P.L.1994, c.57 (C.34:1B-21.1 et seq.), shall not be a debt or liability of the State or any agency or instrumentality thereof, either legal, moral, or otherwise, and nothing contained in this act shall be construed to authorize the authority to incur any indebtedness on behalf of or in any way to obligate the State or any political subdivision, and all debt instruments issued by the authority shall contain a statement to that effect on their face.

117. Section 10 of P.L.1994, c.57 (C.34:1B-21.10) is amended to read as follows:

C.34:1B-21.10 State pledge regarding bonds, notes, other obligations.

10. The State hereby pledges and covenants with the holders of any Market Transition Facility bonds, notes or other obligations and New Jersey Motor Vehicle Commission bonds, notes or other obligations issued pursuant to the provisions of P.L.1994, c.57, that it will not limit or alter the rights or powers vested in the authority by this act, nor limit or alter the rights or powers of the State Treasurer in any manner which would jeopardize the interest of the holders or any trustee of such holders, or inhibit or prevent performance or fulfillment by the authority or the State Treasurer with respect to the terms of any agreement made with the holders of these bonds, notes, or other obligations. The State also pledges and covenants with the holders of any such bonds, notes, or obligations, that it will not act to prevent the authority from obtaining any of the revenues provided for in this act, which shall be sufficient to meet all costs and expenses in connection with the issuance of such obligations, until the bonds, notes, or other obligations, together with interest thereon, are fully met and discharged or payment thereof is fully provided for, except that the failure of the State to appropriate monies for any purpose of this act shall not be deemed a violation of this section.

118. Section 12 of P.L.1994, c.57 (C.34:1B-21.12) is amended to read as follows:

C.34:1B-21.12 "Division of Motor Vehicles Surcharge Fund."

12. There is created within the Department of the Treasury a special nonlapsing fund to be known as the "Division of Motor Vehicles Surcharge Fund," which, beginning September 1, 1996 or earlier as provided pursuant to this section, shall be comprised of monies transferred to the DMV Surcharge Fund from the Market Transition Facility which, notwithstanding the provisions of this section to the contrary, may be appropriated, immediately upon receipt from the Market Transition Facility, by the Legislature to the Facility Revenue Fund and all monies collected pursuant to subsection b. of section 6 of P.L.1983, c.65 (C.17:29A-35) and any interest or other income earned thereon. Monies in the DMV Surcharge Fund shall be managed and invested by the Division of Investment in the Department of the Treasury. Commencing September 1, 1996, or at such earlier time as may be certified by the commissioner that monies on deposit in the New Jersey Automobile Insurance Guaranty Fund created pursuant to section 23 of P.L.1990, c.8 (C.17:33B-5) are sufficient to satisfy the current and anticipated financial obligations of the New Jersey Automobile Full Insurance Underwriting Association, the monies in the DMV Surcharge Fund shall be disbursed from time to time by the State Treasurer, upon appropriation by the Legislature, to the Market Transition Facility Revenue Fund, for payment of principal, interest and premium on the Market Transition Facility bonds or notes and New Jersey Motor Vehicle Commission bonds or notes issued by the authority pursuant to section 4 of P.L.1994, c.57 (C.34:1B-21.4). From the amounts remaining in the fund after these payments are fully defrayed, there shall be remitted to the fund created in section 2 of P.L.2001, c.48 (C.26:2B-9.2), \$ 1.5 million in Fiscal Year 2002, \$ 3 million in Fiscal Year 2003, \$ 4.5 million in Fiscal Year 2004, \$ 6 million in Fiscal Year 2005, and \$ 7.5 million in Fiscal Year 2006 and each fiscal year thereafter.

119. Section 13 of P.L.1994, c.57 (C.34:1B-21.13) is amended to read as follows:

C.34:1B-21.13 Agreements between EDA and State; EDA and Motor Vehicle Commission.

13. a. The State Treasurer and the authority may enter into any agreements as may be necessary to effectuate the provisions of this act, which may include, but not be limited to, procedures for the transfer of monies from the DMV Surcharge Fund to the Market Transition Facility Revenue Fund as provided for in section 12 of this act, commencing with the fiscal year beginning July 1, 1994, with respect to the terms and conditions relative to the securing of Market Transition Facility bonds, notes, and other obligations of the authority and New Jersey Motor Vehicle Commission bonds, notes and other obligations of the authority, the pledge and assignment of any agreement or agreements authorized herein, or any payments to the trustees of these bondholders. Notwithstanding any provision of P.L.1974, c.80 (C.34:1B-1 et seq.), this act or any regulation of the authority to the contrary, the authority shall be paid only such fees as shall be determined by the agreement.

b. The commissioner and the authority shall also enter into an agreement relative to a procedure for the transfer of monies for the purpose of paying the current and anticipated liabilities and expenses of the facility, including private passenger automobile claims and other claims against the facility. The agreement shall contain a provision that the commissioner shall certify from time to time, but not more frequently than monthly, an amount necessary to fund payments made, or anticipated to be made by or on behalf of the Market Transition Facility. The commissioner's certification shall be deemed conclusive. The authority shall cause the transfer to be made to the designated transferee within 15 days of the receipt of the commissioner's certification.

c. The authority is authorized to enter into an agreement with the New Jersey Motor Vehicle Commission relative to the provision by the authority to the commission of the proceeds from the sale of the New Jersey Motor Vehicle Commission bonds for the purpose of providing funds for the payment of the costs of any and all capital improvements to or for New Jersey Motor Vehicle Commission facilities, including, but not limited to, building improvements and the acquisition and installation of furniture, fixtures, machinery, computers and electronic

equipment.

C.39:2A-39 Monies considered revenues of commission.

120. All monies paid to the commission pursuant to section 1 of P.L.1952, c.176 (C.39:6-58) are revenues of the commission and shall not be subject to the calculation of proportional revenues remitted to the commission pursuant to section 105 of P.L.2003, c.13 (C.39:2A-36).

C.39:3-37.1 Unlawful loan of license, vehicle; penalty.

121. a. A person who has been issued a driver's license shall not lend that driver's license for use by another person.

b. A person who owns, leases or otherwise has control or custody of a motor vehicle registered under the provisions of this title shall not allow that motor vehicle to be operated by an unlicensed driver.

c. The penalty for a violation of this section shall be a fine of not less than \$200 or more than \$500, imprisonment for not more than 15 days, or both.

C.39:2A-40 Prior law superseded.

122. All acts and parts of acts inconsistent with any of the provisions of this act are superseded to the extent of such inconsistencies.

C.39:2A-41 Severability; liberal construction.

123. The provisions of this act shall be deemed to be severable, and if any phrase, clause, sentence or provision of this act is declared to be unconstitutional or the applicability thereof to any person is held invalid, the remainder of this act shall not thereby be deemed to be unconstitutional or invalid.

This act shall be liberally construed to obtain the objectives and effect the purposes thereof.

124. Section 24 of P.L.1984, c.152 (C.12:7A-24) is amended to read as follows:

C.12:7A-24 Issuing agents.

24. The commission may designate any person to be its agent for the issuing and filing of certificates of origin, certificates of registration and certificates of ownership in accordance with the provisions of this act and regulations to be prescribed by the commission. The agent shall so act at the discretion of the commission until the agent's authority is revoked by the commission. All moneys received by the agents for the issuance and filing of certificates of origin and certificates of ownership under the provisions of this act shall forthwith be deposited upon receipt with the State Treasurer.

The commission shall prescribe the fee to be paid to the agent and the fee shall be paid to the agent by the State Treasurer upon the voucher of the commission in the same manner as other State expenses are paid.

125. R.S.39:10-25 is amended to read as follows:

Agency to issue certificates; fees.

39:10-25. The commission may designate any person to be its agent for the issuing and filing of certificates of origin, certificates of registration and certificates of ownership in accordance with the provisions of section 39:10-11 of this Title, subject to the requirements of chapter 10, and to any rules and regulations the commission shall impose. The agent shall so act until the agent's authority is revoked by the commission. All moneys received by such agents for the issuing and filing of certificates of origin and certificates of ownership under the provisions of this section shall forthwith be deposited as received with the State Treasurer. The fee allowed the agent for issuing and filing each certificate of ownership shall be fixed by the commission on the basis of the fees collected by the agent for the issuing and filing of such certificates. The commission may limit the fee so paid to a maximum. Such fee shall be paid to the agent by the State Treasurer upon the voucher of the commission in the same manner as other State expenses

are paid.

Repealer.

126. The following are repealed: R.S.39:2-5, R.S.39:2-12, R.S.39:4-3, R.S.39:4-4, and R.S.39:4-5.

127. Sections 1, 2, 3, 12, 38, 109, 110 and 121 shall take effect immediately, sections 105, 106, 107, 108, and 120 shall take effect on July 1, 2003 and the remainder of this act shall take effect on the date the Commissioner of Transportation certifies to the Governor (hereinafter the "date of certification") that a majority of the members of the commission have been appointed or are in office and that all necessary anticipatory actions have been accomplished, provided, that the amount of revenues received pursuant to sections 109 and 110 prior to the date of certification are hereby appropriated to the division. Upon the date of certification, all such collected revenue shall be revenue of the commission. The Commissioner of Transportation, the Director of the Division of Motor Vehicles and the commission may take such anticipatory administrative action in advance as shall be necessary for the implementation of the act.

Approved January 28, 2003.