

CHAPTER 131

AN ACT concerning highway safety, and amending and supplementing various parts of the statutory law.

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

1. Section 1 of P.L.1993, c.332 (C.39:4-203.5) is amended to read as follows:

C.39:4-203.5 Offenses in area of highway construction, repair or designated safe corridor.

1. a. For the purposes of this act:

"Area of highway construction or repair" means that segment of any highway which is identified by properly posted traffic control devices or signs as undergoing construction, reconstruction, repair, or maintenance operation. An area of highway construction or repair shall consist of that area between the first traffic control device or sign informing motor vehicle operators of their approaching highway construction or repair and the last traffic control device or sign indicating all restrictions are removed and normal motor vehicle operations may resume.

"Highway" means any highway under the jurisdiction of the State Department of Transportation, a county, a municipality or a toll road authority.

"Safe corridor" or "safe corridor area" means a segment of highway under the jurisdiction of the Department of Transportation which, based upon accident rates, fatalities, traffic volume and other highway traffic safety criteria, is identified by the Commissioner of Transportation as a segment warranting designation as a "safe corridor."

"Toll road authority" means the New Jersey Turnpike Authority, the New Jersey Highway Authority, or the South Jersey Transportation Authority.

b. The fine for a motor vehicle offense embodied in the following sections of statutory law, when committed in an area of highway construction or repair, or when committed in a designated safe corridor, shall be double the amount specified by law:

Subsection b. of R.S.39:3-20;

R.S.39:4-52;

R.S.39:4-57;

R.S.39:4-71;

R.S.39:4-80;

R.S.39:4-81;

R.S.39:4-82;

R.S.39:4-83;

R.S.39:4-84;

R.S.39:4-85;

R.S.39:4-86;

R.S.39:4-88;

R.S.39:4-89;

R.S.39:4-90;

R.S.39:4-96;

R.S.39:4-97;

R.S.39:4-98;

R.S.39:4-99;

R.S.39:4-105;

R.S.39:4-115;

R.S.39:4-119;

R.S.39:4-122;

R.S.39:4-123;

R.S.39:4-124;

R.S.39:4-125;

R.S.39:4-127;

R.S.39:4-129;

R.S.39:4-144;

P.L.1955, c.217 (C.39:5C-1);

Section 48 of P.L.1951, c.23 (C.39:4-66.1);

Section 41 of P.L.1951, c.23 (C.39:4-82.1);

Section 51 of P.L.1951, c.23 (C.39:4-90.1);
Section 1 of P.L.2000, c.75 (C.39:4-97.2);
Section 6 of P.L.1997, c.415 (C.39:4-98.7);
Section 5 of P.L.1951, c.264 (C.27:23-29);
Section 18 of P.L.1952, c.16 (C.27:12B-18); and
Section 21 of P.L.1991, c.252 (C.27:25A-21).

When an area of highway construction or repair is within a safe corridor, the fine for a motor vehicle offense embodied in the preceding sections of statutory law shall be doubled only once. When a safe corridor is within an area of highway construction or repair, the fine for a motor vehicle offense embodied in the preceding sections of statutory law shall be doubled only once. Fines for violation of section 6 of P.L.1997, c.415 (C.39:4-98.7) in a safe corridor or an area of highway construction or repair shall be doubled only once. Notwithstanding any other provision of law, the increase from the doubled fines imposed and collected in designated safe corridor areas shall be forwarded by the person to whom they are paid to the State Treasurer, who shall annually deposit those moneys in the "Highway Safety Fund" established pursuant to section 5 of P.L.2003, c.131 (C.39:3-20.4).

c. (1) Signs designed in compliance with the specifications of the Department of Transportation or, if appropriate, the toll road authority having jurisdiction over the appropriate highway, shall be appropriately placed, by order of the Commissioner of Transportation, the appropriate local official, or the affected toll road authority, as the case may be, to notify drivers approaching areas of highway construction or repair, or designated safe corridor areas, that the fines are doubled for motor vehicle offenses in those areas.

(2) In addition, all traffic control signs and devices erected or displayed by the State Department of Transportation, a county, a municipality or a toll road authority within an area of highway construction or repair or safe corridor area shall conform to the uniform system specified in the most current "Manual on Uniform Traffic Control Devices for Streets and Highways," prepared by the Federal Highway Administration in the United States Department of Transportation.

d. It shall not be a defense to the imposition of the fines authorized under the provisions of this act that a sign notifying drivers who are approaching highway construction or repair areas, or designated safe corridor areas, that fines are doubled for motor vehicle offenses in those areas was not posted, improperly posted, wrongfully removed or stolen, or that signs or devices were not placed in compliance with the most current "Manual on Uniform Traffic Control Devices for Streets and Highways" as required pursuant to paragraph (2) of subsection c. of this section.

e. The director shall include information concerning the penalties imposed pursuant to this act in any subsequent revision of the New Jersey Driver Manual and the New Jersey Motorist Guide.

f. Safe corridor areas shall be designated by traffic order issued pursuant to P.L.1998, c.28 (C.39:4-8.2 et seq.).

2. Section 5 of P.L.1983, c.401 (C.39:5B-29) is amended to read as follows:

C.39:5B-29 Violations, penalties.

5. a. Any person who violates the provisions of this act or any rule or regulation adopted pursuant thereto shall be subject to a penalty of not less than \$100 nor more than \$5,000.00 for the first offense, nor less than \$200 nor more than \$10,000.00 for the second offense, nor less than \$500 nor more than \$25,000.00 for the third or any subsequent offense. Notwithstanding any other provision of law, 50 percent of the penalty moneys collected pursuant to this paragraph shall be deposited into the "Highway Safety Fund" created pursuant to section 5 of P.L.2003, c.131 (C.39:3-20.4).

The complaint and summons shall state whether the charges pertain to a first offense, or to a second or subsequent offense, but if the complaint or summons fails to allege a second or subsequent offense, the penalty imposed shall be for a first offense. The penalty may be reduced to \$25 for a first offense, \$50 for a second offense, and \$125 for a third and subsequent offense for a non-out- of- service equipment violation if the defendant provides proof of repair to the

vehicle that is satisfactory to the court. Proof that the violation has been corrected shall be by a document certifying that the non-out-of-service equipment violation has been corrected. The Division of State Police, a diesel emissions inspection center licensed by the New Jersey Motor Vehicle Commission, a certified fleet mechanic approved by the New Jersey Motor Vehicle Commission, or any other entity approved by the New Jersey Motor Vehicle Commission shall be authorized to issue the requisite certifying documentation. The Division of State Police may, in its discretion, designate times and locations where a defendant may bring a vehicle for an inspection pursuant to which a requisite certifying document may be issued. Nothing in this act shall be construed as requiring the Division of State Police to conduct a vehicle inspection pursuant to which a requisite certifying document may be issued other than at the time and locations as the Division of State Police may provide.

Repairs to effect a reduction of penalty under the provisions of this section shall be made before the hearing date. A defendant may 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.

The Department of Transportation is authorized to adopt a schedule of penalties for any specific violation of P.L.1983, c.401 (C.39:5B-25 et seq.) or any rule or regulation adopted pursuant thereto. A penalty imposed pursuant to this act may be collected in a civil action by a summary proceeding under the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), or in a summary proceeding before a court of competent jurisdiction wherein injunctive relief has been sought. The State Police and police officers of the Port Authority of New York and New Jersey may issue a summons and complaint returnable in a municipal court or other court of competent jurisdiction for violations of P.L.1983, c.401 (C.39:5B-25 et seq.) and this amendatory and supplementary act or any rule or regulation adopted pursuant thereto. In addition to the jurisdiction conferred by the "Penalty Enforcement Law of 1999," the Law and Chancery Divisions of the Superior Court shall have jurisdiction of proceedings for the enforcement of the penalties provided in this act. The various municipal courts shall have jurisdiction of proceedings for the enforcement of penalties under \$5,000.00 provided in P.L.1983, c.401 (C.39:5B-25 et seq.).

b. Penalties imposed pursuant to this act shall in no way reduce or otherwise limit the liability of any person, pursuant to the laws of this State, for cleanup costs or other damages arising from a discharge of hazardous materials.

c. The Superintendent of the State Police, police officers of the Port Authority of New York and New Jersey and personnel of the Department of Transportation and of the Department of Environmental Protection duly authorized by the superintendent may, in addition to seeking a civil penalty, seek injunctive relief in the Chancery Division, General Equity Part of the Superior Court as to any person found to have violated any provision of P.L.1983, c. 401 (C. 39:5B-25 et seq.) or this amendatory and supplementary act or any rule or regulation adopted pursuant to either.

d. (Deleted by amendment, P.L.2003, c.131).

3. R.S.39:5-30 is amended to read as follows:

Suspension, revocation of registration, license certificates.

39:5-30. a. Every registration certificate, every license certificate, every privilege to drive motor vehicles, including commercial motor vehicles as defined in P.L.1990, c.103 (C.39:3-10.9 et al.), every endorsement, class of license, and commercial driver's license, may be suspended or revoked, and any person may be prohibited from obtaining a driver's license or a registration certificate, or disqualified from obtaining any class of or endorsement on a commercial driver's license, and the reciprocity privilege of any nonresident may be suspended or revoked by the director for a violation of any of the provisions of this Title or on any other reasonable grounds, after due notice in writing of such proposed suspension, revocation, disqualification or prohibition and the ground thereof.

He may also summon witnesses to appear before him at his office or at any other place he designates, to give testimony in a hearing which he holds looking toward a revocation of a

license or registration certificate issued by or under his authority. The summons shall be served at least five days before the return date, either by registered mail or personal service. A person who fails to obey the summons shall be subject to a penalty not exceeding \$100.00, to be recovered with costs in an action at law, prosecuted by the Attorney General, and in addition the vehicle registration or driver's license, or both, as the case may be, shall forthwith be revoked. The fee for witnesses required to attend before the director shall be \$1.00 for each day's attendance and \$0.03 for every mile of travel by the nearest generally traveled route in going to and from the place where the attendance of the witness is required. These fees shall be paid when the witness is excused from further attendance, and the disbursements made from payment of the fees shall be audited and paid in the manner provided for expenses of the department. The actual conduct of said hearing may be delegated by the director to such departmental employees as he may designate, in which case the said employees shall recommend to the director in writing whether the said licenses or certificates shall or shall not be suspended or revoked.

b. Whenever a matter is presented to the director involving an alleged violation of

(1) R.S.39:4-98, where an excess of 20 miles per hour over the authorized speed limit is alleged, and which has resulted in the death of another;

(2) R.S.39:4-50, and which has resulted in the death of another;

(3) R.S.39:4-96, and which has resulted in the death of another; or

(4) R.S.39:4-129, wherein the death of another has occurred, and the director has not determined to immediately issue a preliminary suspension pursuant to subsection e. of this section, the director shall issue a notice of proposed final suspension or revocation of any license certificate or any nonresident reciprocity privilege to operate any motor vehicle or motorized bicycle held by the individual charged or temporary order prohibiting the individual from obtaining any license to operate any motor vehicle or motorized bicycle in this State.

In the notice, the director shall provide the individual charged with an opportunity for a plenary hearing to contest the proposed final suspension, revocation or other final agency action. Unless the division receives, no later than the 10th day from the date the notice was mailed, a written request for hearing, the proposed final agency action shall take effect on the date specified in the notice.

Upon receipt of a timely request for a plenary hearing, a preliminary hearing shall be held by an administrative law judge within 15 days of the receipt of the request. The preliminary hearing shall be for the purpose of determining whether, pending a plenary hearing on the proposed final agency action, a preliminary suspension shall be immediately issued by the judge. Adjournment of such hearing upon motion by the individual charged shall be given only for good cause shown.

At the preliminary hearing, the parties shall proceed on the papers submitted to the judge, including the summons, the police reports and the charged individual's prior driving record submitted by the division, and any brief affidavits permitted by the judge from persons who shall be witnesses at the plenary hearing, and the parties may present oral argument. Based on the papers, on any oral argument, on the individual's prior driving record, and on the circumstances of the alleged violation presented in the papers, the judge shall determine whether the individual was properly charged with a violation of the law and a death occurred; and, if so, whether in the interest of public safety, a preliminary suspension shall be immediately ordered pending the plenary hearing on the proposed suspension or revocation. The administrative law judge shall transmit his findings to the director.

A plenary hearing shall be held no later than the 45th day following the preliminary hearing. Adjournment of the hearing shall be given only for good cause shown. If the hearing is otherwise postponed or delayed solely at the instance of the individual charged, the administrative law judge shall immediately issue a preliminary suspension of any license certificate or any nonresident reciprocity privilege held by the individual charged, or if any such preliminary suspension or order is in effect, he shall continue such suspension or order. Such preliminary suspension or temporary order shall remain in effect pending a final agency decision on the matter. If the hearing is otherwise postponed or delayed at the instance of anyone other than the individual charged, the judge shall immediately issue an order restoring the individual's license certificate or any nonresident reciprocity privilege pending final agency decision in the matter. The period of any preliminary suspension imposed under this section shall be deducted

from any suspension imposed by the final agency decision in the matter.

c. Whenever any other matter is presented to the director involving an alleged violation of this title, wherein the death of another occurred and for which he determines immediate action is warranted, he may proceed in the manner prescribed in subsection b. above.

d. Whenever a fatal accident occurs in this State, an investigation of the incident, whether performed by the State Police or by local police, shall be completed and forwarded to the director within 72 hours of the time of the accident.

e. Whenever a matter is presented to the director involving an alleged violation of

(1) R.S.39:4-98, where an excess of 20 miles per hour over the authorized speed limit is alleged, and which has resulted in the death or serious bodily injury of another;

(2) R.S.39:4-50, which has resulted in the death or serious bodily injury of another;

(3) R.S.39:4-96 or R.S.39:4-97, which has resulted in the death or serious bodily injury of another; or

(4) R.S.39:4-129, wherein the death or serious bodily injury of another has occurred, the director for good cause may, without hearing, immediately issue a preliminary suspension of any license certificate or any nonresident reciprocity privilege to operate any motor vehicle or motorized bicycle held by an individual charged or temporary order prohibiting the individual from obtaining any license to operate any motor vehicle or motorized bicycle in this State. For purposes of this subsection, "serious bodily injury" means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ. Along with the notice of preliminary suspension, the director shall issue a notice of proposed final suspension, revocation or other final agency action, and shall afford the individual the right to a preliminary hearing to contest the preliminary suspension and a plenary hearing to contest the proposed final agency action.

The preliminary suspension shall remain in effect pending a final agency decision on the proposed final agency action, unless a request for a preliminary hearing is received by the division no later than the 10th day from the date on which the notice was mailed. The proposed final agency action shall take effect on the date specified in the notice unless a request for a plenary hearing is received by the division no later than the 10th day from the date on which the notice was mailed.

Upon timely request by the individual, a preliminary hearing shall be held by an administrative law judge, no later than the 15th day from the date on which the division receives the request. The preliminary hearing shall be for the purpose of determining whether, pending a final agency decision on the matter, the preliminary suspension issued by the director shall remain in effect. Adjournment of the hearing shall be given only for good cause shown. If the preliminary hearing is otherwise postponed or delayed solely at the instance of someone other than the individual charged, the judge shall immediately order that the individual's license certificate or any nonresident reciprocity privilege be restored pending the rescheduled preliminary hearing.

At the preliminary hearing, the parties shall proceed on the papers submitted to the judge, including the summons, the police reports and the charged individual's prior driving record submitted by the division, and any brief affidavits permitted by the judge from persons who shall be witnesses at the final hearing, and the parties may present oral arguments. Based on the papers, on any oral argument, on the individual's prior driving record, and on the circumstances of the alleged violation presented in the papers, the judge shall immediately determine whether the individual was properly charged with a violation of the law and a death occurred; and, if so, whether in the interest of public safety, the preliminary suspension shall be continued pending the final agency decision on the matter. The administrative law judge shall transmit his findings to the director.

Any plenary hearing to contest the proposed final agency action shall conform to the requirements for a plenary hearing contained in subsection b. of this section.

f. In addition to any other final agency action, the director shall require any person whose privileges to operate a motor vehicle or motorized bicycle are suspended or who has been prohibited from obtaining a license, pursuant to this section, to be reexamined to determine the person's ability to operate a motor vehicle or motorized bicycle, prior to regaining or obtaining

any driving privileges in this State.

Any determination resulting from any preliminary or plenary hearing held pursuant to subsection b., c., or e. of this section shall not be admissible at any criminal or quasi-criminal proceedings on the alleged violation or violations.

g. In addition to any other requirements imposed by statute or regulation, as a condition for the restoration of a revoked or suspended license issued under the provisions of the "New Jersey Commercial Driver License Act," P.L.1990, c.103 (C.39:3-10.9 et seq.), the person whose commercial driving privileges are revoked or suspended shall successfully complete a commercial driver improvement program. The director, in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall promulgate rules and regulations prescribing the scope and content of the program, the qualifications of third parties that may offer a commercial driver improvement program, a fee schedule for persons attending a commercial driver improvement program and such other matters as the director may deem appropriate and necessary. The successful completion of a commercial driver improvement program pursuant to this subsection shall not entitle a person to any reduction in the points assessed and recorded under P.L.1982, c.43 (C.39:5-30.5 et seq.). In addition, the director may also require a person holding a commercial driver's license pursuant to P.L.1990, c.103 (C.39:3-10.9 et seq.) who receives 12 or more points during a 24-month period to complete a commercial driver improvement program successfully or face full suspension of the commercial driver's license driving privilege.

C.39:3-20.3 Weight limit for vehicles registered out-of-State; violations, penalties, fines.

4. It shall be unlawful for any vehicle or combination of vehicles registered as a commercial motor vehicle by another state or jurisdiction to operate on the highways of this State if it has a gross weight, including load or contents, which is in excess of the gross weight limit permitted on the registration certificate issued for it by that other state or jurisdiction.

The owner, lessee or bailee of any vehicle or combination of vehicles that is found or operated on any public road, street or highway or on any public or quasi-public property in this State with a gross weight in excess of the weight limitation permitted by the certificate of registration issued for it by that other state or jurisdiction shall be assessed a penalty of \$500 plus an amount equal to \$100 for each 1,000 pounds or fractional portion of 1,000 pounds of weight in excess of the weight limitation permitted by that certificate of registration.

For the purposes of enforcement, a vehicle or combination of vehicles for which there is no valid certificate of registration shall be deemed to have been registered for zero pounds.

All fines, penalties and forfeitures imposed and collected in the enforcement of this section shall be forwarded by the person to whom they are paid to the State Treasurer, who shall annually deposit those moneys in the "Highway Safety Fund" established pursuant to section 5 of P.L.2003, c.131 (C.39:3-20.4).

C.39:3-20.4 "Highway Safety Fund."

5. There is established in the General Fund a separate, nonlapsing, dedicated account to be known as the "Highway Safety Fund." All fines, penalties and forfeitures imposed and collected as a result of the enforcement of section 4 of P.L.2003, c.131 (C.39:3-20.3) and 50 percent of all fines and penalties imposed and collected in enforcement of section 5 of P.L.1983, c.401 (C.39:5B-29), and the increase from the doubling of fines imposed and collected pursuant to section 1 of P.L.1993, c.332 (C.39:4-203.5) in designated safe corridor areas shall be forwarded to the State Treasurer for deposit into the Highway Safety Fund account. The fund shall be administered by the Department of Transportation which shall establish a grant program to fund local law enforcement agencies for special enforcement efforts associated with this act. The department shall annually, in conjunction with the Division of State Police, submit a report on the results of the safe corridor areas and a list of highway safety projects and programs paid for by the fund within the past year to the Senate Transportation Committee and the Assembly Transportation Committee, the President and minority leader of the Senate, and the Speaker and the minority leader of the General Assembly. The moneys in the account shall be used exclusively for highway safety projects and programs, including education, enforcement, capital

improvements and such other related measures and undertakings as the Department of Transportation and the Division of State Police may deem appropriate to foster highway safety.

6. This act shall take effect on the 15th day of the seventh month following enactment, except that section 3 of this act shall take effect on the 15th day of the 10th month following enactment. The Department of Transportation, the New Jersey Motor Vehicle Commission, the Administrative Office of the Courts, the Department of Law and Public Safety and other relevant agencies may take such anticipatory administrative action in advance as shall be necessary for the implementation of this act.

Approved July 15, 2003.