

CHAPTER 147

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

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

1. 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 chief administrator 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 the deputy chief administrator.

"Director" means the chief administrator.

"Division" means the New Jersey Motor Vehicle Commission 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 combustible 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 chief administrator.

"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 the transportation of children to or from school for secular or religious education, which complies with the regulations of the New Jersey Motor Vehicle Commission affecting school buses, including "School Vehicle Type I" and "School Vehicle Type II" as defined below:

"School Vehicle Type I" means any vehicle designed to transport 16 or more passengers, including the driver, 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, summer residence camp, nursery school, child care center, preschool center or other similar places of education. Such vehicle shall comply with the regulations of the New Jersey Motor Vehicle Commission 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 designed to transport less than 16 passengers, including the driver, 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, summer residence camp, nursery school, child care center, preschool center or other similar places of education. Such vehicle shall comply with the regulations of the New Jersey Motor Vehicle Commission 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 chief administrator 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.

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

C.39:3-10.11 Definitions relative to commercial driver licenses.

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

For purposes of this act:

"Alcohol concentration" means:

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

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

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

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

- a. If the vehicle has a gross vehicle weight rating of 26,001 or more pounds or displays a gross vehicle weight rating of 26,001 or more pounds;
- b. If the vehicle has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds;
- c. If the vehicle is designed to transport 16 or more passengers including the driver;
- d. If the vehicle is designed to transport eight or more but less than 16 persons, including the driver, and is used to transport such persons for hire on a daily basis to and from places of employment;
- e. If the vehicle is transporting or used in the transportation of hazardous materials and is required to be placarded in accordance with Subpart F. of 49 C.F.R. s.172, or the vehicle displays a hazardous material placard; or
- f. If the vehicle is operated by, or under contract with, a public or governmental agency, or religious or other charitable organization or corporation, or is privately operated, and is used

for the transportation of children to or from a school, school connected activity, day camp, summer day camp, summer residence camp, nursery school, child care center, preschool center or other similar places of education.

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

This term shall not include recreation vehicles.

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

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

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

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

"Disqualification" means either:

- a. The suspension, revocation, cancellation, or any other withdrawal by a state of a person's privilege to operate a commercial motor vehicle;
- b. A determination by the Federal Motor Carrier Safety Administration under the rules of practice for motor carrier safety contained in 49 C.F.R. s.386, that a person is no longer qualified to operate a commercial motor vehicle under 49 C.F.R. s.391; or
- c. The loss of qualification which automatically follows conviction of an offense listed in 49 C.F.R.s.383.51.

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

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

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

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

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

"Gross vehicle weight rating" or "GVWR" means the value specified by a manufacturer as the loaded weight of a single or a 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. In the absence of a value specified for the towed unit or units by the manufacturer, the GVWR of a combination (articulated) vehicle is the GVWR of the power unit plus the total weight of the towed unit, including the loads on them.

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

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

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

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

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

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

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

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

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

c. Improper or erratic traffic lane changes;

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

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

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

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

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

This term shall not include vehicle weight or defect violations.

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

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

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

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

C.39:3-10.12 Tests for commercial driver license.

4. a. Notwithstanding any other provision of law to the contrary, the chief administrator shall adopt and administer a classified licensing system and a program for testing and ensuring the fitness of persons to operate commercial motor vehicles in accordance with the minimum federal standards established under the federal "Commercial Motor Vehicle Safety Act of 1986," Pub. L. 99-570 (49 U.S.C. s. 2701 et seq.) and the regulations promulgated pursuant to that law. The chief administrator shall not issue a commercial driver license to a person unless that person passes a knowledge and skills test for the operation of a commercial motor vehicle which complies with the federal standards. The chief administrator may issue commercial driver

examination or learner's permits, subject to such conditions and restrictions as deemed necessary, to carry out the provisions of this act.

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

c. Upon the request of an applicant for a commercial driver license, the chief administrator shall administer to the applicant oral knowledge tests for the commercial driver license and any endorsements if the applicant supplies sufficient proof or otherwise demonstrates to the satisfaction of the chief administrator his inability to comprehend a written test. The chief administrator shall provide an English and Spanish version of the knowledge tests for a commercial driver license and for any endorsements and shall be authorized to provide versions in such other languages as he, in his discretion, may deem appropriate.

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

e. (Deleted by amendment, P.L.2005 c.147).

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

g. No provision in this act, or in any manual, test, or administrative procedure developed to implement the provisions of this act, shall be deemed to expand the requirements for commercial motor vehicle operators concerning pre-trip inspection, after-trip inspection and inspection during a trip as such requirements are set forth in federal law or regulation. This subsection, however, shall not be deemed to limit the authority of the chief administrator, or the authority of any State department or agency, to promulgate, pursuant to other provisions of State law, standards and procedures on vehicle inspections which are consistent with federal law and regulation.

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

4. Section 6 of P.L.1990, c.103 (C.39:3-10.14) is amended to read as follows:

C.39:3-10.14 Request for and provision of driving record and license information.

6. a. Before issuing a commercial driver license to an applicant, the chief administrator shall notify the Commercial Driver License Information System of the proposed issuance and shall request driving record information from the Commercial Driver License Information System, the National Driver Register, and from any other state which has issued a commercial driver license, non-commercial motor vehicle driver license or basic driver license to the applicant to determine whether the applicant has a commercial driver license, non-commercial motor vehicle driver license or basic driver license issued by another state, whether the applicant's driving privilege has been suspended, revoked, cancelled, or whether the applicant has been disqualified from operating a commercial motor vehicle.

The chief administrator also shall provide driving record and other information to the licensing authority of any other state, or province or territory of Canada, which requests such information in connection with a commercial driver license. The chief administrator may charge such fees as are deemed appropriate to cover the costs of providing information, except that no fee shall

be charged if the other jurisdiction does not charge this State for similar requests.

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

5. Section 7 of P.L.1990, c.103 (C.39:3-10.15) is amended to read as follows:

C.39:3-10.15 Notification of moving violations, disqualification or suspension.

7. Within 10 days after receiving a report of the conviction of a holder of a commercial driver license for any violation of state law related to motor vehicle traffic control committed in a vehicle, other than a parking violation, or a report of the conviction of a person who is not the holder of a commercial driver license for any violation of state law related to motor vehicle traffic control committed in a commercial vehicle, other than a parking violation, or after the disqualification of the holder of a commercial driver license or suspension of privileges for a period of 60 days or more, the commission shall notify the driver licensing authority in the licensing state, if other than this State, and the Commercial Driver License Information System of the conviction, suspension, or disqualification. The notification shall include all information the chief administrator deems necessary.

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

C.39:3-10.18 Possession of valid commercial driver license mandatory.

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

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

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

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

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

(3) An employer shall not knowingly allow, require, permit or authorize a driver to operate

a commercial motor vehicle during the period of refusal, suspension, revocation, prohibition, disqualification, or during the period of the out-of-service order. An employer who is convicted of a violation of this subsection shall be subject to a fine of not less than \$2,750 or more than \$11,000.

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

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

C.39:3-10.20 Suspension of commercial motor vehicle driving privilege.

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

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

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

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

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

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

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

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

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

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

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

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

(2) The chief administrator shall suspend the commercial motor vehicle driving privilege of

a person for a period of not less than 60 days if the person is convicted of a violation of R.S.39:4-128; section 68 of P.L.1951, c.23 (C.39:4-127.1); or section 10 of P.L.2005, c.147 (C.39:4-128.11). The chief administrator shall suspend the commercial motor vehicle driving privilege for not less than 120 days if the conviction constitutes the second violation of R.S.39:4-128; section 68 of P.L.1951, c.23 (C.39:4-127.1); section 10 of P.L.2005, c.147 (C.39:4-128.11) or any combination of such violations in this or any other state arising from separate incidents occurring within a three-year period. The chief administrator shall suspend the commercial motor vehicle driving privilege for not less than one year if the conviction constitutes the third or subsequent violation of R.S.39:4-128; section 68 of P.L.1951, c.23 (C.39:4-127.1); section 10 of P.L.2005, c.147 (C.39:4-128.11) or any combination of such violations in this or any other state arising from separate incidents occurring within the past three years.

(3) The chief administrator shall suspend the commercial motor vehicle driving privilege of a person for a period of not less than 180 days or more than one year if the person is convicted of violating a driver or vehicle out-of-service order while driving a commercial motor vehicle transporting nonhazardous materials. The chief administrator shall suspend the commercial motor vehicle driving privilege of a person for a period of not less than one year or more than five years if the conviction constitutes the second conviction in a separate incident in this or any other state within a 10- year period of violating a driver or vehicle out-of-service order while driving a commercial motor vehicle transporting nonhazardous materials. The chief administrator shall suspend the commercial motor vehicle driving privilege for a person for a period of not less than three years or more than five years if the conviction constitutes the third or subsequent conviction in a separate incident in this or any other state within a 10-year period of violating a driver or vehicle out-of-service order while driving a commercial motor vehicle transporting nonhazardous materials.

(4) The chief administrator shall suspend the commercial motor vehicle driving privilege of a person for a period of not less than 180 days or more than two years if the person is convicted of violating a driver or vehicle out-of-service order while driving a commercial motor vehicle transporting hazardous materials required to be placarded under Subpart F of 49 C.F.R.s.172, or while operating a vehicle designed to transport 16 or more passengers, including the driver. The chief administrator shall suspend the commercial motor vehicle driving privilege of a person for a period of not less than three years or more than five years if the conviction constitutes a second or subsequent conviction in a separate incident within a 10-year period in this or any other state of violating a driver or vehicle out-of-service order while driving a commercial motor vehicle transporting hazardous materials required to be placarded under Subpart F of 49 C.F.R. s.172, or while operating a vehicle designed to transport 16 or more passengers, including the driver.

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

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

i. Notwithstanding any other provision of law to the contrary, a conviction under this section, or section 5 or 16 of this act, shall not merge with a conviction for a violation of

R.S.39:4-50 or section 2 of P.L.1966, c.142 (C.39:4-50.2).

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

- (1) R.S.39:4-50 while operating a non-commercial motor vehicle;
- (2) R.S.39:4-129 while operating a non-commercial motor vehicle;
- (3) Refusing to submit to a chemical test under section 2 of P.L.1966, c.142 (C.39:4-50.2) while operating a non-commercial motor vehicle; or

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

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

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

8. Section 14 of P.L.1990, c.103 (C.39:3-10.22) is amended to read as follows:

C.39:3-10.22 Waiver of skills test.

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

9. R.S.39:4-128 is amended to read as follows:

Vehicles required to stop at grade crossings; method of crossing; exceptions; notice to railroad of intention to cross with certain vehicles or machinery; violations; penalties.

39:4-128. (a) The driver of any omnibus, designed for carrying more than six passengers, or of any school bus carrying any school child or children, or of any vehicle carrying explosive substance or flammable liquids as a cargo or part of a cargo, or of any commercial motor vehicle specified in 49 C.F.R. s.392.10(a) (1) through (6), before crossing at grade any track or tracks of a railroad shall stop such vehicle within 50 feet but not less than 15 feet from the nearest rail of such railroad and while so stopped listen and look in both directions along such track or tracks, for any approaching train, and for signals indicating the approach of a train. After stopping as required herein and upon proceeding when it is safe to do so, the driver of any said vehicle shall cross only in such gear of the vehicle that there will be no necessity for changing gears while traversing such crossing and the driver shall not shift gears while crossing the track or tracks. This section shall not apply to grade crossings which are no longer used for railroad traffic and which have been abandoned by the railroad company provided that appropriate signs have been posted to indicate that such grade crossing has been abandoned or is no longer used for any railroad traffic. This section shall not apply to grade crossings where the railroad track has been removed or paved over and the warning signs erected by the railroad in accordance with R.S.48:12-58 have been removed, provided that in such case written notice is given to the Commissioner of Transportation and to the appropriate State or local authority having jurisdiction over the highway, road, or street prior to the undertaking of such removal or paving of railroad track. This section shall also not apply to grade crossings marked with a sign reading "Exempt Crossing."

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

promulgated by the commissioner.

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

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

Notice of any such intended crossing shall be given to the nearest superintendent or trainmaster of such railroad. Such notice shall specify the approximate time of crossing and a reasonable time shall be given to such railroad to provide proper protection at such crossing.

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

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

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

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

C.39:4-128.11 Regulations relative to certain commercial vehicles stopping at railroad crossings.

10. a. A driver of a commercial motor vehicle, other than a commercial motor vehicle that is required to stop at a railroad crossing in accordance with R.S.39:4-128, shall, upon approaching a railroad grade crossing, drive at a rate of speed that will permit the commercial motor vehicle to be stopped before reaching the nearest rail of the crossing. A driver shall not drive a commercial motor vehicle upon or over a railroad crossing until he has exercised due caution to ascertain that a train is not approaching the crossing.

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

c. An employer shall not knowingly allow, require, permit or authorize a driver to operate a commercial motor vehicle in violation of R.S.39:4-128, section 68 of P.L.1951, c.23 (C.39:4-127.1) or this section. An employer who is convicted of any such violation shall be fined not more than \$10,000.

C.39:5-25.1 Summons, identification of motorist as holder of commercial driver license.

11. Upon issuance of a summons or complaint charging a motorist with any violation, other than a parking violation, under Title 39 of the Revised Statutes, a law enforcement officer shall identify on the face of the summons or complaint, whether the motorist is a holder of a commercial driver license.

12. This act shall take effect September 30, 2005

Approved July 12, 2005.