

CHAPTER 234

AN ACT concerning intermodal chassis, requiring a systematic maintenance check program, allocating responsibility for equipment defects, and supplementing Title 39 of the Revised Statutes.

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

C.39:3-79.10 Definitions relative to intermodal chassis.

1. As used in this act:

"Department" means the New Jersey Department of Transportation.

"Equipment interchange receipt" or "interchange receipt" means the receipt exchanged between an intermodal equipment provider or its agent and a motor carrier or its driver confirming acceptance of an intermodal chassis by a motor carrier and indicating the name of the intermodal equipment provider for such equipment.

"Intermodal chassis" or "chassis" means a trailer designed to carry intermodal freight containers.

"Intermodal equipment facility" means any facility in New Jersey at which intermodal chassis are maintained and interchanged to motor carriers by or on behalf of an intermodal equipment provider.

"Intermodal equipment provider" or "equipment provider" means the person or entity that provides an intermodal chassis to a motor carrier pursuant to a written interchange agreement or has responsibility for maintenance of the intermodal chassis.

"Systematic maintenance check program" or "SMC" means the eight-point intermodal chassis inspection program established by this act.

C.39:3-79.11 Systematic maintenance check program required; violations, penalties.

2. a. An intermodal equipment provider shall not tender for interchange in New Jersey with a motor carrier an intermodal chassis that has not passed the systematic maintenance check program required by this act or that fails to meet the requirements set forth in the Federal Motor Carrier Safety Regulations, 49 C.F.R. sections 393 and 396. Any intermodal equipment provider tendering to, or interchanging with, a motor carrier such equipment shall provide certification that the chassis is currently in compliance with the SMC program set forth in this act.

b. An intermodal equipment provider that violates this section shall be assessed a civil administrative penalty by the department up to \$5,000, per occurrence, commensurate with the gravity of the offense. A civil administrative penalty imposed pursuant to this subsection may be recovered by a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

c. Nothing in this act is intended to supersede or interfere with the commercial motor vehicle inspection requirements and standards set forth in 49 C.F.R. sections 393 and 396. Rather, this act imposes an additional requirement that an intermodal equipment provider inspect chassis on a routine basis and as otherwise required by this act.

C.39:3-79.12 Establishment, implementation of systematic maintenance check program.

3. a. An intermodal equipment provider shall establish and implement a systematic maintenance check program for the intermodal chassis that it tenders for interchange to motor carriers. The SMC program shall be consistent with Federal Motor Carrier Safety Regulations set forth in 49 C.F.R. sections 393 and 396 and shall include, but not be limited to, the following components or actions:

- (1) tires;
- (2) brakes;
- (3) lights;
- (4) a twist lock and safety lock inspection which includes ensuring that twist locks are operational and safety locks are working;
- (5) wheel lubrication;
- (6) frame;
- (7) registration and federal and State inspection stickers; and
- (8) upon the satisfactory completion of the inspection and any required actions necessary to bring the chassis into compliance with the inspection standards, the application of

an SMC inspection sticker with the equipment provider's name, the inspector's name, and an expiration date set at six months following the inspection. Chassis which fail a SMC inspection shall be processed in accordance with section 4 of this act.

b. Each SMC inspection shall be recorded on a SMC inspection report that shall include, but not be limited to, all of the following:

- (1) Positive identification of the intermodal chassis, including company identification number and vehicle license plate number;
- (2) Date of and reason for each SMC inspection; and
- (3) Signature, under penalty of perjury, of the inspector that the SMC inspection has been performed and that the chassis is roadworthy or, if the chassis failed the inspection, the specific reason for the failure.

C.39:3-79.13 Identification of out-of-service intermodal chassis.

4. a. Intermodal equipment providers shall implement a process to positively identify by means of a tag those intermodal chassis that are out-of-service as a result of having failed an inspection required by this act. The tag shall contain the name of the intermodal equipment provider, the inspector and the date that the chassis failed inspection. The tag shall be supplied by the intermodal equipment provider and shall meet the specifications determined by the department.

b. A chassis which is out-of-service as a result of having failed an inspection required by this act shall be transported, without a container, to a facility where repairs and maintenance may be performed. Defects identified during an SMC inspection of a chassis shall be repaired, and the repairs shall be recorded on the chassis maintenance file and on the SMC inspection report.

A chassis subject to this section shall not be interchanged with a motor carrier or operated on a public road in New Jersey until all defects listed during the inspection have been corrected, the chassis passes an SMC inspection, and an authorized inspector attests to that fact and affixes an SMC inspection sticker to the chassis.

C.39:3-79.14 Additional events causing immediate inspection.

5. In addition to the routine SMC inspection which must take place at least once every six months in accordance with section 3 of this act, the following events shall cause a full SMC eight-point inspection to be done immediately:

- a. a repair is done to remedy a defect that would be the basis for failure of an SMC inspection other than a minor repair or minor equipment defect,
- b. a defect is noted on an in-gate interchange receipt that would be the basis for failure of an SMC inspection other than a minor repair or minor equipment defect, or
- c. an SMC inspection sticker has expired.

For purposes of this section, "minor repair or minor equipment defect" means any one of the following: the need to inflate tires; the need to replace lights, a lens or a reflector; a twistlock or safety lock inspection or a safety latch replacement; a simple confirmation of federal or State inspection stickers; or the reapplication of an SMC inspection sticker that has not expired.

C.39:3-79.15 Qualifications of inspectors.

6. Individuals performing SMC inspections pursuant to this act shall be qualified, at a minimum, as set forth in 49 C.F.R. sections 396.19 and 396.25. Evidence of each inspector's qualification shall be retained by the intermodal equipment provider at the intermodal equipment facility for the period of time during which the inspector is performing SMC inspections at that facility.

C.39:3-79.16 Request for repair, replacement prior to completion of interchange; violations, penalties.

7. a. Any motor carrier or driver who, as a result of the pre-trip inspection of the intermodal chassis, determines the intermodal chassis to be in an unsafe operating condition shall request that the intermodal equipment provider repair or replace the intermodal chassis prior to completion of the interchange. It shall be at the discretion of the intermodal equipment provider

whether to repair or to replace the chassis.

In the event a driver is forced to wait for more than one hour while the chassis is repaired or replaced, the intermodal equipment provider shall compensate the driver at an hourly rate to be set by the department based upon the average rate in comparable situations.

b. If a driver's request for repair or replacement is refused by the equipment provider, which shall be a violation of this section, the driver may file a complaint with the department. If, after an equipment provider has been afforded an opportunity for a hearing pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the department determines that the equipment provider has violated this section, that person shall be subject to a civil administrative penalty to be imposed by the department not to exceed \$1,000 for the first violation and not more than \$5,000 for each subsequent violation. A civil administrative penalty imposed pursuant to this subsection may be recovered by a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

C.39:3-79.17 Records maintained for three years, format.

8. Records of inspections, maintenance or repairs of chassis performed pursuant to this act shall be maintained for three years and made available upon request of the department or a motor carrier which has transported the chassis.

All records required by this act may be kept in a digital format or other media allowing for the storage and retrieval of data if printouts of those records can be provided upon request at the intermodal equipment facility.

C.39:3-79.18 Registration for intermodal equipment provider required.

9. a. Any intermodal equipment provider that tenders intermodal chassis for interchange in New Jersey with a motor carrier shall register with the New Jersey Department of Transportation in accordance with regulations promulgated pursuant to this act.

b. Every registered intermodal equipment provider shall certify to the department on an annual basis that the equipment provider is conducting a systematic maintenance check program for intermodal chassis that is in compliance with this act.

c. The department may conduct audits at an intermodal equipment facility as it deems necessary to effectuate the purposes of this act, including, but not limited to, when an intermodal equipment provider has demonstrated a history of non-compliance with any requirements of this act. The audit shall include, but not be limited to, SMC inspection, tagging and processing of failed chassis, repair, and record-keeping requirements. The department is authorized to enter any intermodal equipment facility for the purposes of conducting the audits.

As part of the audits, the department may request the New Jersey State Police or, if the chassis is tendered at a port, the police of the authority operating that port, to accompany the department and to conduct a limited number of chassis inspections in order to determine that SMC inspection and identification requirements are being met. Any New Jersey State Police officer trained to inspect intermodal chassis is authorized to enter any intermodal equipment facility for the purposes of conducting inspections as part of an audit by the department. Nothing herein shall limit the authority of an authorized member of the State Police or the police of the authority operating the port to enter upon and perform inspections of vehicles in operation upon the highways of this State or at the premises or places of business of the owner or lessee of such vehicles.

d. If, during an audit, the department determines that an intermodal equipment provider has failed to comply with any of the requirements of this act, the department shall:

(1) direct the intermodal equipment provider to comply immediately with the requirements of this act; and

(2) impose a civil administrative penalty on the intermodal equipment provider of up to \$5,000, commensurate with the gravity of the offense, for every day that the intermodal equipment provider fails to comply with the requirements of this act. A civil administrative penalty imposed pursuant to this subsection may be recovered by a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

C.39:3-79.19 Contents of summons, complaint, violation report.

10. a. When, upon roadside inspection of an intermodal chassis, there is found a violation of State law or regulations or Federal Motor Carrier Safety Administration Regulations, 49 C.F.R. sections 393 and 396, relating to the chassis, any summons, complaint, or violation report shall cite the motor carrier, the intermodal equipment provider, or the registered owner as follows:

(1) for latent equipment defects on the chassis, the summons, complaint, or violation report shall cite the intermodal equipment provider identified on the equipment interchange receipt; in the event there is no equipment interchange receipt, the summons, complaint or violation report shall cite the equipment provider shown on the SMC inspection sticker. If there is neither an interchange receipt or a SMC inspection sticker, the summons, complaint or violation report shall cite the registered owner of the chassis as determined by a registration document, a company identification number or the chassis license plate number. When the summons, complaint or violation report cites the registered owner because it is not possible to identify an equipment provider, the registered owner may seek reimbursement for any fine from the equipment provider; and

(2) for equipment defects when the equipment is one of the specific equipment components required to be inspected by the driver during the pre-trip inspection, the summons, complaint or violation report shall cite the motor carrier. The pre-trip inspection shall be conducted as part of the walk-around inspection required by federal law prior to use of the chassis.

The department, in conjunction with representatives of intermodal equipment providers, motor carriers and the New Jersey State Police, shall establish a list of the specific chassis equipment components to be inspected during the pre-trip inspection and for which the driver shall be cited on the summons, complaint or violation report.

b. (1) An intermodal equipment provider, registered chassis owner, or any other entity shall not seek reimbursement of a fine or penalty imposed by a municipal court for a violation of State law or regulations or Federal Motor Carrier Safety Administration Regulations, 49 C.F.R. sections 393 and 396, relating to the chassis from the motor carrier or its driver, or otherwise hold the motor carrier or its driver responsible for summons or complaint related to the chassis, unless the violation was caused by the negligence or willful misconduct of the motor carrier, its driver, agent, subcontractor or assigns.

(2) A motor carrier or its driver shall not seek reimbursement of a fine or penalty imposed by a municipal court for a violation of State law or regulations or Federal Motor Carrier Safety Administration Regulations, 49 C.F.R. sections 393 and 396, relating to the chassis from the intermodal equipment provider, registered chassis owner, or any other entity, or otherwise hold the intermodal equipment provider, registered chassis owner, or any other entity responsible for summons or complaint related to the chassis, unless the violation was caused by the negligence or willful misconduct of the intermodal equipment provider, registered chassis owner, or other entity.

c. (1) Whenever the act or omission of an intermodal equipment provider is deemed the cause for a violation report citing a motor carrier, the motor carrier may petition the appropriate authorities to request that the violation not be used or applied against the motor carrier's overall compliance record maintained in accordance with Federal Motor Carrier Safety Administration Regulations.

(2) Whenever the act or omission of a motor carrier or its driver is deemed the cause for a violation report citing an intermodal equipment provider, the intermodal equipment provider may petition the appropriate authorities to request that the violation not be used or applied against the intermodal equipment provider's overall compliance record maintained in accordance with Federal Motor Carrier Safety Administration Regulations.

(3) The State Police and the department shall establish a process whereby, upon application of a motor carrier, a violation report improperly citing a motor carrier may be administratively removed from its compliance record.

The State Police and the department shall establish a process whereby, upon application of an intermodal equipment provider, a violation report improperly citing an intermodal equipment provider may be administratively removed from its compliance record.

d. The provisions of this section shall apply only to a summons, complaint, or violation report issued on or after the effective date of this act.

e. This section is intended solely to determine which party shall be cited on a summons, complaint or violation report for a violation of State law or regulations or Federal Motor Carrier Safety Administration Regulations, 49 C.F.R. sections 393 and 396, relating to an intermodal chassis. Nothing in this section is intended to affect any indemnification agreement among an intermodal equipment provider, a motor carrier or any other entity concerning intermodal chassis.

C.39:3-79.20 Interference with act deemed violation; penalties.

11. It shall be a violation of this act to interfere with or attempt to interfere with the duties, obligations, rights or remedies of a motor carrier or its driver, an intermodal equipment provider, or an SMC inspector as provided in this act. If, after a person has been afforded an opportunity for a hearing pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the department determines that the person has violated this section, that person shall be subject to a civil administrative penalty to be imposed by the department not to exceed \$1,000 for the first violation and not more than \$5,000 for each subsequent violation. A civil administrative penalty imposed pursuant to this subsection may be recovered by a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

C.39:3-79.21 Rules, regulations.

12. The department shall adopt such rules and regulations pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) necessary to effectuate the purposes of this act.

13. This act shall take effect on the first day of the twelfth month following enactment. This act shall expire upon:

- a. the effective date of a federal statute to regulate the inspection and maintenance of intermodal chassis; or
- b. when final rules by the Federal Motor Carrier Safety Administration regulating the inspection and maintenance of intermodal chassis take effect.

Approved September 22, 2005.