

## CHAPTER 298

AN ACT concerning the New Jersey Motor Vehicle Commission, amending various parts of Title 39 of the Revised Statutes and repealing R.S.39:11-3.

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

1. Section 10 of P.L.2003, c.13 (C.39:2A-10) is amended to read as follows:

C.39:2A-10 Powers of deputy chief administrator.

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

The deputy chief administrator shall carry out all of the chief administrator's duties and responsibilities during the chief administrator's absence, disqualification or inability to serve, and shall perform such other duties and responsibilities as the chief administrator shall determine and assign. If a vacancy occurs in the office of the chief administrator for any reason, the deputy chief administrator shall become acting chief administrator to serve until a successor is appointed in accordance with section 13 of P.L.2003, c.12 (C.39:2A-12). The deputy chief administrator shall serve at the pleasure of the chief administrator and shall receive such salary as fixed by the chief administrator in accordance with the table of organization. The deputy chief administrator shall be in the State unclassified service.

2. Section 12 of P.L.2003, c.13 (C.39:2A-12) is amended to read as follows:

C.39:2A-12 Board; membership; appointment; terms, vacancies.

12. a. Except as otherwise provided by law, the commission shall be governed by a board which shall consist of the following eight members:

- (1) The Commissioner of Transportation, who shall serve as an ex officio voting member;
- (2) The State Attorney General, who shall serve as an ex officio voting member;
- (3) The Chair of the board who shall be a nonvoting member and who shall also be the person appointed and serving as the chief administrator. The chief administrator shall be appointed by the Governor with the advice and consent of the Senate. The chief administrator shall serve at the pleasure of the Governor during the Governor's term of office, and shall receive such salary as shall be fixed by the Governor which is not greater than the salary of a cabinet-level official of the State. Prior to nomination, the Governor shall cause the Attorney General to conduct an inquiry into the nominee's background, financial stability, integrity and responsibility and reputation for good character, honesty and integrity. The person appointed and serving as chief administrator shall devote full time to the performance of the duties of that position. The chief administrator shall be in the State unclassified service;
- (4) The State Treasurer, who shall serve as an ex officio voting member; and
- (5) Four public members who shall be appointed by the Governor with the advice and consent of the Senate, not more than two of whom shall be of the same political party. The public members shall be voting members and serve for a term of four years. These members shall be New Jersey residents who shall provide appropriate geographic representation from throughout the State and who shall have experience and familiarity with public safety, customer service, security, or business operations. At least one member shall reside in a northern county (Bergen, Essex, Hudson, Morris, Passaic, Union, Sussex and Warren), at least one member shall reside in a central county (Hunterdon, Mercer, Middlesex, Monmouth

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

b. Appointments of public members to the board shall be for terms of four years, except that in filling each vacancy, among the several public members, that first arises by expiration of the respective terms of those members following the effective date of P.L.2007, c.335 (C.39:2A-36.1 et al.), appointments shall be for terms as follows: one member for four years, one member for three years, one member for two years, and one member for one year. A public member may be appointed for any number of successive terms. The board may elect a secretary and a treasurer, who need not be members, and the same person may be elected to serve both as secretary and treasurer.

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

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

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

3. Section 13 of P.L.2003, c.13 (C.39:2A-13) is amended to read as follows:

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

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

- (1) Make, amend and repeal bylaws not inconsistent with State and federal law;
- (2) Adopt an official seal;
- (3) Maintain an office at such place or places within the State as it may designate;
- (4) Apply for and accept grants from the State or federal government, or any agency thereof, or grants, gifts or other contributions from any foundation, corporation, association or individual, or any private source, and comply with the terms, conditions and limitations thereof, as necessary and proper to carry out the purposes of this act;
- (5) Delegate to the chief administrator and any other officers of the commission such powers and duties as necessary and proper to carry out the purposes of this act;
- (6) Operate, lease, license or contract in such manner as to produce revenue for the commission, as provided in this act, including engaging in advertising services pursuant to section 35 of P.L.2003, c.13 (C.39:2A-33);
- (7) Accept and use any funds available to the commission;
- (8) Enter into agreements or contracts to pay for goods from and services rendered by any public or private entity, and receive payment for services rendered to any public or private entity, including advertising services provided pursuant to section 35 of P.L.2003, c.13 (C.39:2A-33); and
- (9) Enter into agreements or contracts, execute any and all instruments, and do and perform acts or things necessary, convenient or desirable for the purposes of the commission, or to carry out any power expressly or implicitly given in this act.

b. The board is further authorized to:

(1) Review and approve a statement of the vision, mission, and goals of the commission, as submitted by the chief administrator;

(2) Review and approve the strategic business plan of the commission which shall include the commission's long-term objectives, policies, and programs, including a facilities improvement and management plan and a table of organization, as submitted by the chief administrator;

(3) Review and approve the annual budget of the commission as submitted by the chief administrator and ensure that projected revenues and service charges are sufficient to adequately fund the commission both in the short and long-term;

(4) Receive reports and recommendations from any advisory council created pursuant to section 26 of P.L.2003, c.13 (C.39:2A-26) and provide policy direction related thereto to the chief administrator;

(5) Review and recommend all capital purchases and construction projects undertaken by the commission;

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

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

c. Except as provided in this section and section 21 of P.L.2003, c.13 (C.39:2A-21), all administrative functions, powers and duties of the commission may be exercised by the chief administrator and any reference to the commission in any law, rule or regulation may for this purpose be deemed to refer to the chief administrator.

4. Section 26 of P.L.2003, c.13 (C.39:2A-26) is amended to read as follows:

C.39:2A-26 Advisory council.

26. There is created within the commission one advisory council, which shall provide the board with advice, technical expertise, information, guidance, and recommendations in the area of security and privacy. The board shall designate the appropriate State and local government representatives, interest group representatives, technical experts, and constituent representatives as appropriate to serve on the council. Federal government representatives and representatives of national organizations shall be asked to serve, and if willing, may be designated by the board to serve. All council members shall be designated by board action. The Chair, or the Chair's designee, shall serve on the council. The council shall meet and report to the board as frequently as the board requests. The council is as follows:

a. (Deleted by amendment, P.L.2009, c.298).

b. (Deleted by amendment, P.L.2009, c.298).

c. The Security and Privacy Advisory Council, which shall: advise the board as to how to effectively maintain the commission's system and business processes in the securest manner; help the board to address the commission's most serious security breaches; advise as to new or modified programs needed to achieve heightened security; and recommend methods to curtail fraudulent and criminal activities that present threats to the State's security

as well as measures to protect the privacy of driver information, including but not limited to the Driver's Privacy Protection Act of 1994, Pub.L.103-322.

d. (Deleted by amendment, P.L.2009, c.298).

e. (Deleted by amendment, P.L.2009, c.298).

In addition to the council created above, the chief administrator may create and establish as necessary within the commission any other advisory council to examine issues affecting or identified by the commission. The members of such councils shall be designated, serve, meet and report to the board as provided for the members of the council created above. The Chair or Chair's designee shall serve on each council. The Safety Advisory Council, the Customer Service Advisory Council, the Business Advisory Council, and the Technology Advisory Council are abolished.

5. Section 35 of P.L.2003, c.13 (C.39:2A-33) is amended to read as follows:

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

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

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

c. The commission may also sell, lease, or otherwise contract for advertising in or on its equipment or facilities, in any mailing it conducts, or in any publication it produces, including, but not limited to, the New Jersey Driver Manual distributed pursuant to R.S.39:3-41.

d. The commission is authorized to receive funds from contracts entered into pursuant to subsections a. and c. of this section and shall have the right to use the same. The revenue shall not be subject to appropriation as Direct State Services by the Legislature. In addition, this revenue shall not be restricted from use by the commission in any manner except as provided by law. This revenue shall be used in the furtherance of commission purposes. This revenue shall be considered revenue of the commission and shall not be subject to the calculation of proportional revenue remitted to the commission pursuant to section 105 of P.L.2003, c.13 (C.39:2A-36).

e. In accordance with the "Administrative Procedure Act," P.L.1968, c.401 (C.52:14B-1 et seq.), the commission shall promulgate rules and regulations necessary to effectuate the purposes of this section, including, but not limited to, the criteria for determining the appropriateness of any advertising and the suitability of any advertising message.

6. Section 1 of P.L.1969, c.261 (C.39:5-30.2) is amended to read as follows:

C.39:5-30.2 Review by chief administrator, alternatives to suspension, revocation.

1. Any moving violation of the motor vehicle law which carries with it a penalty of suspension or revocation of a driver's license may be subject to review by the chief administrator. The chief administrator, in his or his designee's discretion, may permit a driver subject to suspension or revocation to elect to attend a New Jersey Motor Vehicle

Commission Driver Improvement Program in lieu of all or part of a period of suspension. This discretionary authority shall not apply to those sections of the motor vehicle law which require the imposition of a mandatory suspension term. In addition to, or in lieu of, the Driver Improvement Program offered by the commission, the chief administrator may authorize a drivers' school licensed pursuant to section 2 of P.L.1951, c.216 (C.39:12-2) or any statewide safety organization to provide a Driver Improvement Program, the course of which shall be subject to the oversight of, and any guidelines established by, the commission. The authority of the chief administrator to suspend, revoke, or deny issuance of an initial or renewal license to operate a driving school, or an instructor's license, and to assess fines, pursuant to P.L.1951, c.216 (C.39:12-1 et seq.) shall apply to any violations related to the administration of a Driver Improvement Program.

7. Section 1 of P.L.1972, c.38 (C.39:5-30.4) is amended to read as follows:

C.39:5-30.4 Driver Improvement Program; fee.

1. Persons attending a Driver Improvement Program offered by the New Jersey Motor Vehicle Commission, an approved drivers' school, or a Statewide safety organization, as approved by the commission, shall pay such fee therefor not to exceed \$100, as prescribed in regulations promulgated by the chief administrator. The driver's license of any person failing to pay the prescribed fee shall be subject to suspension or revocation.

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

“Motor vehicle junk business,” “motor vehicle junk yard” defined.

39:11-2. The terms "motor vehicle junk business" or "motor vehicle junk yard" shall mean and describe any business and any place of storage or deposit of two or more unregistered motor vehicles which, in the opinion of the commission, are unfit for reconditioning for use for highway transportation, or used parts of motor vehicles or material which has been a part of a motor vehicle, the sum of which parts or material shall, in the opinion of the commission, be equal in bulk to two or more motor vehicles, but shall not include a salvage pool or auto auction whose primary business is the sale of total loss vehicles on behalf of insurance companies.

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

Permit or certificate from municipality required.

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

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

Discretion of commission relative to junk yard, business.

39:11-7. The commission or its representative, in connection with a request for a hearing made by a municipal governing body or zoning commission pursuant to R.S.39:11-6, may examine the location of the motor vehicle junk yard or business proposed to be established or maintained. The commission may recommend such conditions as it deems advisable, having

regard to the depreciation of surrounding property and the health, safety, and general welfare of the public.

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

Fee.

39:11-8. A fee of \$50 shall be paid by the applicant to the commission for the examination of the proposed location of each motor vehicle junk yard or business.

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

Certification of vehicle's condition.

39:11-9. Every person owning or operating a motor vehicle junk business or motor vehicle junk yard and who is also licensed as a motor vehicle dealer pursuant to the provisions of R.S.39:10-19 shall certify to the commission, upon the sale by him of a motor vehicle, that, at the time of the sale, the motor vehicle was or was not, as the case may be, in suitable condition to be operated on the highways.

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

Violations, penalties.

39:11-11. A person who violates any provision of R.S.39:11-9 of this Title shall be fined not less than \$25 nor more than \$100 or be imprisoned not more than 90 days, or both.

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

- a. The several municipal courts shall have jurisdiction of any such proceeding, in addition to the courts prescribed in "The Penalty Enforcement Law of 1999";
- b. The complaint in any such proceeding may be made on information and belief by the commission, or any police or peace officer of any municipality, any county or the State;
- c. A warrant may issue in lieu of summons;
- d. Any police or peace officer shall be empowered to serve and execute process in any such proceeding;
- e. The hearing in any such proceeding shall be without a jury;
- f. Any such proceeding may be brought in the name of the commission or in the name of the State of New Jersey; and
- g. Any sums received in payment of any fines imposed in any such proceeding shall be paid to the commission and shall be paid by it into the State treasury.

14. Nothing in P.L.2009, c.298 shall be construed to permit the New Jersey Motor Vehicle Commission to increase fees and surcharges beyond the amounts authorized by law as of the effective date of P.L.2009, c.298.

Repealer.

15. R.S.39:11-3 is repealed.

16. This act shall take effect immediately.

Approved January 17, 2010.