

CHAPTER 72

AN ACT concerning the inspection of carriers of hazardous materials, and amending P.L.1983, c.401 and P.L.1985, c.415.

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

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

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

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

The complaint and summons shall state whether the charges pertain to a first offense, or to a second or subsequent offense, but if the complaint or summons fails to allege a second or subsequent offense, the penalty imposed shall be for a first offense. The penalty may be reduced to \$25 for a first offense, \$50 for a second offense, and \$125 for a third and subsequent offense for a non-out-of-service equipment violation if the defendant provides proof of repair to the vehicle that is satisfactory to the court. Proof that the violation has been corrected shall be by a document certifying that the non-out-of-service equipment violation has been corrected. The Division of State Police, a diesel emissions inspection center licensed by the New Jersey Motor Vehicle Commission, a certified fleet mechanic approved by the New Jersey Motor Vehicle Commission, or any other entity approved by the New Jersey Motor Vehicle Commission shall be authorized to issue the requisite certifying documentation. The Division of State Police may, in its discretion, designate times and locations where a defendant may bring a vehicle for an inspection pursuant to which a requisite certifying document may be issued. Nothing in this act shall be construed as requiring the Division of State Police to conduct a vehicle inspection pursuant to which a requisite certifying document may be issued other than at the time and locations as the Division of State Police may provide.

Repairs to effect a reduction of penalty under the provisions of this section shall be made before the hearing date. A defendant may be permitted to submit the certification of repairs by mail; provided that if the court deems the certification to be inadequate, it shall afford the defendant the option to withdraw the defendant's guilty plea.

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

enforcement of the penalties provided in this act. The various municipal courts shall have jurisdiction of proceedings for the enforcement of penalties under \$5,000.00 provided in P.L.1983, c.401 (C.39:5B-25 et seq.).

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

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

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

2. Section 2 of P.L.1985, c.415 (C.39:5B-31) is amended to read as follows:

C.39:5B-31 Inspection of vehicles.

2. a. Any State Police officer may inspect such vehicles, railroad cars, and places of origin or destination in the State with respect to compliance with motor carrier safety regulations or hazardous materials transportation regulations. Any State Police officer may also break such cargo seals on vehicles and railroad cars as may be necessary to inspect vehicles and railroad cars transporting hazardous materials to ascertain that packages as defined in 49 C.F.R.s.171.8 have been properly classified, described, packaged, marked, labeled, blocked and braced and are in proper condition for shipment.

Any State Police officer may stop and enter upon a commercial motor vehicle, as defined in the rules and regulations adopted pursuant to section 3 of P.L.1985, c.415 (C.39:5B-32), traveling the roads of the State for the purpose of performing safety inspections consistent with State law and as provided for under the rules and regulations adopted pursuant to section 3 of P.L.1985, c.415 (C.39:5B-32).

Any State Police officer may enter, during regular business hours, the commercial premises owned or leased by a commercial motor vehicle carrier, wherein the records, required to be maintained under State law and the rules and regulations adopted pursuant to section 3 of P.L.1985, c.415 (C.39:5B-32), are stored and maintained, and may inspect and copy the records for the purpose of enforcing State law and the rules and regulations adopted pursuant to section 3 of P.L.1985, c.415 (C.39:5B-32). If the records contain evidence of violations of State law or the rules and regulations adopted pursuant to section 3 of P.L.1985, c.415 (C.39:5B-32), a State Police officer shall produce and take possession of copies of the records. The Superintendent of State Police shall coordinate activities under this section with the Federal Motor Carrier Safety Administration to ensure compliance with all federal and State laws and regulations.

b. The powers exercised by the State Police pursuant to this section may also be exercised by police officers of the Port Authority of New York and New Jersey, police officers of the Delaware River Port Authority, and by personnel of the Department of Transportation duly authorized by the Superintendent of State Police. Appropriate personnel of the Department of Environmental Protection duly authorized by the superintendent may, consistent with federal regulations, inspect the contents of packages referred to in subsection a. of this section at places of origin prior to acceptance by the transporter or at places of

destination after acceptance by the consignee. In addition, personnel of the Department of Environmental Protection so authorized may conduct, in conjunction with and under the direction of State Police personnel, inspections and break cargo seals as described in subsection a. of this section when at off-highway facilities, including, but not limited to, public truck stops, public rest areas, State weigh stations, and commercial motor vehicle inspection stations.

c. The Commissioner of Transportation is authorized to adopt, in consultation with the Superintendent of the State Police and pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations governing inspection and breaking of cargo seals by those authorized to do so under this section. No person not given specific authority in this section to do so shall break cargo seals under this section or otherwise implement the provisions of this section.

3. This act shall take effect on the first day of the second month following enactment.

Approved December 3, 2012.