SENATE, No. 2456

STATE OF NEW JERSEY
210th LEGISLATURE

INTRODUCED MAY 8, 2003

Sponsored by:
Senator SHIRLEY K. TURNER
District 15 (Mercer)
Senator LEONARD LANCE
District 23 (Warren and Hunterdon)

SYNOPSIS
Outlines a program to improve highway safety.

CURRENT VERSION OF TEXT
As introduced.
AN ACT concerning highway safety, and amending and supplementing various parts of the statutory law.

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

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

   1. a. For the purposes of this act:

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

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

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

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

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

Subsection b. of R.S.39:3-20;
R.S.39:4-52;
R.S.39:4-57;
R.S.39:4-71;
R.S.39:4-80;
R.S.39:4-81;
R.S.39:4-82;
R.S.39:4-83;
R.S.39:4-84;
R.S.39:4-85;

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

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

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

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

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

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

(cf:  P.L.1993, c.332, s.1)

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

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 $50.00 nor more than $5,000.00 for the first offense, nor less than $100.00 nor more than $10,000.00 for the second offense, nor less than $250.00 nor more than $25,000.00 for the third or any subsequent offense. The difference, if any, produced by subtracting the aggregate amount of penalty moneys collected pursuant to this subsection in the fiscal year immediately preceding the effective date of P.L. , c. (C. ) (now pending before the Legislature as this bill) from the aggregate amount so collected for the current fiscal year shall be divided equally between the Department of Transportation and the Division of State Police.

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" (N.J.S. 2A:58-1 et seq.), or in a summary proceeding before a court of competent jurisdiction wherein injunctive relief has been sought. The State Police and police officers of the Port Authority of New York and New Jersey may issue a summons and complaint returnable in a municipal court or other court of competent jurisdiction for violations of P.L.1983, c.401 (C.39:5B-25 et seq.) and this amendatory and supplementary act or any rule or regulation adopted pursuant thereto.

In addition to the jurisdiction conferred by "the penalty enforcement law," the Law and Chancery Divisions of the Superior Court shall have jurisdiction of proceedings for the enforcement of the penalties provided in this act. The various municipal courts shall have jurisdiction of proceedings for the enforcement of penalties under $5,000.00 provided in P.L.1983, c.401 (C.39:5B-25 et seq.).

b. Penalties imposed pursuant to this act shall in no way reduce or otherwise limit the liability of any person, pursuant to the laws of this State, for cleanup costs or other damages arising from a discharge of hazardous materials.
c. The Superintendent of the State Police, police officers of the
Port Authority of New York and New Jersey and personnel of the
Department of Transportation and of the Department of
Environmental Protection duly authorized by the superintendent may,
in addition to seeking a civil penalty, seek injunctive relief in the
Chancery Division, General Equity Part of the Superior Court as to
any person found to have violated any provision of P.L.1983, c.401
(C.39:5B-25 et seq.) or this amendatory and supplementary act or any
rule or regulation adopted pursuant to either.

d. With respect to violations dealing with motor vehicle equipment
and inspection, the provisions and penalties of article 3 of chapter 3
and of chapter 8 respectively of Title 39 of the Revised Statutes and
rules and regulations adopted thereunder shall apply rather than the
provisions of P.L.1983, c.401 (C.39:5B-25 et seq.), this amendatory
and supplementary act and rules and regulations adopted pursuant
thereto.
(cf: P.L.1985, c.415, s.5)

3. Section 6 of P.L.1997, c.415 (C.39:4-98.7) is amended to read
as follows:
6. The fine for a motor vehicle offense shall be double the amount
specified by law when traveling 20 miles per hour or more over the
designated speed limit as set forth in R.S.39:4-98, except as provided
in [subsection b. of section 1 of P.L.1993, c.332 (C.39:4-203.5) and]
subsection a. of section 5 of P.L.1997, c.415 (C.39:4-98.6).
(cf: P.L.1997, c.415, s.6)

4. R.S.39:5-30 is amended to read as follows:
39:5-30. a. Every registration certificate, every license certificate,
every privilege to drive motor vehicles, including commercial motor
vehicles as defined in P.L.1990, c.103 (C.39:3-10.9 et al.), every
endorsement, class of license, and commercial driver license, may be
suspended or revoked, and any person may be prohibited from
obtaining a driver's license or a registration certificate, or disqualified
from obtaining any class of or endorsement on a commercial driver
license, and the reciprocity privilege of any nonresident may be
suspended or revoked by the director for a violation of any of the
provisions of this Title or on any other reasonable grounds, after due
notice in writing of such proposed suspension, revocation,
disqualification or prohibition and the ground thereof.
He may also summon witnesses to appear before him at his office
or at any other place he designates, to give testimony in a hearing
which he holds looking toward a revocation of a license or registration
certificate issued by or under his authority. The summons shall be
served at least five days before the return date, either by registered
mail or personal service. A person who fails to obey the summons
shall be subject to a penalty not exceeding $100.00, to be recovered
with costs in an action at law, prosecuted by the Attorney General, and
in addition the vehicle registration or driver's license, or both, as the
case may be, shall forthwith be revoked. The fee for witnesses
required to attend before the director shall be $1.00 for each day's
attendance and $0.03 for every mile of travel by the nearest generally
taveled route in going to and from the place where the attendance of
the witness is required. These fees shall be paid when the witness is
excused from further attendance, and the disbursements made from
payment of the fees shall be audited and paid in the manner provided
for expenses of the department. The actual conduct of said hearing
may be delegated by the director to such departmental employees as
he may designate, in which case the said employees shall recommend
to the director in writing whether the said licenses or certificates shall
or shall not be suspended or revoked.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

g. In addition to any other requirements imposed by statute or regulation, as a condition for the restoration of a revoked or suspended license issued under the provisions of the "New Jersey Commercial Driver License Act," P.L.1990, c.103 (C.39:3-10.9 et seq.), the person whose commercial driving privileges are revoked or suspended shall successfully complete a commercial driver improvement program. The director, in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall promulgate rules and regulations prescribing the scope and content of the program, the qualifications of third parties that may offer a commercial driver improvement program, a fee schedule for persons attending a commercial driver improvement program and such other matters as the director may deem appropriate and necessary. The successful completion of a commercial driver improvement program pursuant to this subsection shall not entitle a person to any reduction in the points assessed and recorded under P.L.1982, c.43 (C.39:5-30.5 et seq.). (cf: P.L.1990, c.103, s.33)

5. (New section) A complaint issued for an equipment violation, other than a violation involving an out-of-service order or a violation concerning the operation of any motor vehicle after it has been placed out-of-service, shall be dismissed by the court if the violation set forth in the summons is corrected not later than the end of the fifth business day following the issuance of the summons.

Proof that the violation has been corrected shall be by a document issued by the State Police and certifying that, upon reinspection, the equipment violation cited in the summons has been corrected. No fine shall be imposed for any complaint dismissed pursuant to this section.

For the purposes of this section, "business day" means any day other than a Saturday, Sunday or State or federal holiday.
6. (New section) It shall be unlawful for any vehicle or combination of vehicles registered as a commercial motor vehicle by another state or jurisdiction to operate on the highways of this State if it has a gross weight, including load or contents, which is in excess of the gross weight limit permitted on the registration certificate issued for it by that other state or jurisdiction.

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

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

All fines, penalties and forfeitures imposed and collected in the enforcement of this section shall be forwarded by the person to whom they are paid to the State Treasurer, who shall annually deposit those moneys in the "Highway Safety Fund" established pursuant to section 7 of P.L. , c. (C. ) (now pending before the Legislature as this bill).

7. (New section) There is established in the General Fund a separate, nonlapsing, dedicated account to be known as the "Highway Safety Fund." All fines, penalties and forfeitures imposed and collected as a result of the enforcement of section 6 of P.L. , c. (C. ) (now pending before the Legislature as this bill) shall be forwarded to the State Treasurer for deposit into the Highway Safety Fund account. The fund shall be administered by the Department of Transportation. The moneys in the account shall be used exclusively for highway safety projects and programs, including education, enforcement, capital improvements and such other related measures and undertakings as the Department of Transportation and the Division of State Police may deem appropriate to foster highway safety.

8. This act shall take effect July 1, 2003.

STATEMENT

The purpose of this bill is to improve highway safety in New Jersey. By virtually every measurement, traffic volume in New Jersey is
among the highest in the nation. Every year, more than 700 people
lose their lives in auto accidents and thousands more are injured on
New Jersey's highways. To make our highways safer, this bill outlines
a program involving new transportation policy initiatives, education,
enforcement and significantly stricter regulation of commercial
carriers.

The major elements of the bill include:

1. Authorizing the Commissioner of Transportation to designate
   segments of highways where there have been high numbers of
   motor vehicle accidents and fatalities as "safe corridors." The
   fines for motor vehicle violations in these areas would be
doubled, just as they are in construction zones.

2. Permitting the quadrupling of fines for persons driving 20 mph
   or more over the designated speed limit in a "safe corridors" or
   a "construction zone" area.

3. Increasing the fines for out-of-state overweight trucks. The
   current fines for overweight commercial vehicles (vehicles
   having a gross vehicle weight exceeding 80,000) are higher for
   New Jersey registered carriers than for those registered in
   other jurisdictions. This bill would make out-of-state violators
   subject to the same fine schedule as New Jersey based carriers.
   The new revenues generated by this change are to be deposited
   in a special "Highway Safety Fund." The moneys in this fund
   are to be used exclusively for highway safety projects and
   programs, including education, enforcement, capital
   improvements and other such measures that the Department of
   Transportation and the State Police deem appropriate to foster
   highway safety.

4. Raising the minimum penalties for commercial carriers cited for
   equipment violations. Currently, the minimum fine for a first
   offense is $50, $100 for a second and $250 for any subsequent
   violation. Those minimums are increased to $100, $200 and
   $500, respectively. Any increase in the aggregate fine
   collections resulting from these changes are to be shared by the
   Department of Transportation and the State Police.

5. Authorizing the courts to dismiss summonses issued to
   truckers for minor equipment violations if that violation is
   corrected within five business days. To secure a dismissal,
   truckers must present documentation from the State Police
   certifying that they have reinspected the truck and the
   correction has been made. Serious violations which require
   that a truck be taken out of service are not eligible for this
   program.

6. Requiring, as a condition for restoring a suspended or revoked
   commercial driver's license, that the licensee complete a
   commercial driver's improvement program. The content and
scope of the program are to be determined by the Director of
the Division of Motor Vehicles. With the approval of the
director, third parties may offer the program. Licensees may
be required to pay a fee for the program. The bill specifies,
however, that licensees who complete this commercial driver
improvement program are not entitled to any reduction in the
points they have been assessed.