

SENATE, No. 2283

STATE OF NEW JERSEY

INTRODUCED DECEMBER 1, 1997

By Senator CIESLA

1 AN ACT concerning traffic regulation, and supplementing chapter 4 of  
2 Title 39 of the Revised Statutes.

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

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7 1. As used in this act;

8 "Public highways" means public highways as defined in section 3 of  
9 P.L.1984, c.73 (C.27:1B-3).

10 "Transportation system" means transportation system as defined in  
11 section 3 of P.L.1984, c.73 (C.27:1B-3).

12 "Under the jurisdiction of the commissioner" means that which has  
13 been constructed, taken over, or is owned, controlled, or maintained  
14 by the Department of Transportation.

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16 2. a. Notwithstanding the provisions of any other law to the  
17 contrary, the Commissioner of Transportation, in accordance with the  
18 provisions of this act, may by written order provide for the regulation  
19 of traffic and parking on public highways or transportation systems  
20 under the jurisdiction of the commissioner and for the establishment,  
21 operation, control and maintenance of official traffic control devices  
22 thereon. The commissioner is authorized to issue such orders where  
23 the provisions of this Title authorize the commissioner to regulate such  
24 traffic and parking by rule or regulation, as provided in section 6 of  
25 this act, and such orders may include, but shall not be limited to,  
26 maximum and minimum speeds, permitted or prohibited passing of  
27 vehicles, parking and other restrictions which may be placed upon the  
28 use of intersections, entrances or exits to and from public highways,  
29 traffic lanes, shoulders, rights-of-way or parking lots or park-and-ride  
30 facilities under the jurisdiction of the commissioner or the State. An  
31 order issued pursuant to this act shall conform to the same  
32 requirements of this Title concerning examination, investigation or  
33 study as apply in the case of the rule or regulation in place of which  
34 the order is being issued.

35 b. An order issued pursuant to subsection a. of this section shall be  
36 binding and enforceable in accordance with the provisions of this act  
37 and any official traffic control device established thereby shall conform

1 to the "Manual on Uniform Traffic Control Devices."

2 c. The provisions of this act shall not apply to public highways or  
3 transportation systems under the jurisdiction of a county or  
4 municipality.

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6 3. a. An order to be issued pursuant to this act shall cite the public  
7 highway or transportation system under the jurisdiction of the  
8 commissioner to which it is to be applicable; an explanation in plain  
9 language as to why the order is needed at the location in question; a  
10 description in plain language of what the order requires; an  
11 identification of the individual or public body who or which requested  
12 the order or initiated a request leading to the order; the final date of  
13 the order; and any other information the commissioner deems  
14 necessary.

15 b. A copy of a proposed order shall be mailed to the governing  
16 body and chief uniformed law enforcement official of each county and  
17 municipality in which that portion of the public highway or  
18 transportation system under the jurisdiction of the commissioner  
19 affected by the order is located. On or after the date of mailing, the  
20 commissioner shall cause an informational notice of the proposed  
21 order, including therein a summary of the provisions of the proposed  
22 order, to be published in a newspaper or newspapers having general  
23 circulation in the municipality or municipalities affected by the order.  
24 The notice shall provide for a telephone number or address which a  
25 member of the public may use to receive a copy of the complete text  
26 of the proposed order and shall provide for a 30-day period from the  
27 date of publication for public comment. The order shall be final on the  
28 31st day after publication of the informational notice or on a later date  
29 if the commissioner so determines, except that if comments are  
30 received during the 30-day period the order shall be final after the  
31 commissioner reviews and responds in writing to the comments  
32 received but in no event shall the order be final earlier than the 31st  
33 day after publication. Nothing in this section shall be construed as  
34 prohibiting the commissioner from extending the comment period or  
35 from modifying or withdrawing the proposed order as a result of the  
36 review of public comment.

37 c. Notwithstanding the provisions of subsection b. of this section  
38 to the contrary, an order may be made final immediately or at a later  
39 date and without the requirement of mailing or publication by the  
40 commissioner if it is issued in response to a resolution from the  
41 governing body of a municipality and if the order pertains exclusively  
42 to a public highway or transportation system located within the  
43 boundaries of that municipality. Such a resolution shall be adopted by  
44 the governing body and shall memorialize the commissioner to issue  
45 an order regulating traffic or parking on a public highway or  
46 transportation system located within the boundaries of the

1 municipality. The governing body shall cause an informational notice  
2 of the proposed resolution to be published in the official newspaper if  
3 there be one or, if that is not the case, in a newspaper of general  
4 circulation in the municipality in question, in advance of a meeting at  
5 which the resolution is to be considered. A copy of the final order  
6 shall be mailed to the governing body and the chief uniformed law  
7 enforcement official of the county and municipality in which that  
8 portion of the public highway or transportation system under the  
9 jurisdiction of the commissioner affected by the order is located.

10 d. Notwithstanding the provisions of this section to the contrary,  
11 upon a finding by the commissioner that an emergent condition exists  
12 with respect to a public highway or transportation system under the  
13 jurisdiction of the commissioner, an order may be made final  
14 immediately. In such an event, a copy of the final order issued  
15 pursuant to this subsection shall be provided within 24 hours of  
16 issuance to the governing body and the chief uniformed law  
17 enforcement official of the county and municipality in which that  
18 portion of the public highway or transportation system under the  
19 jurisdiction of the commissioner affected by the order is located.

20 e. A final order shall be effective upon compliance with the notice  
21 and briefing provisions of R.S.39:4-198 and shall be binding and  
22 enforceable on that date.

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24 4. The commissioner shall maintain an official permanent record of  
25 orders issued pursuant to this act providing for the regulation of traffic  
26 and parking on public highways or transportation systems under the  
27 jurisdiction of the commissioner and of any rule or regulation removed  
28 from the New Jersey Administrative Code pursuant to subsection b. of  
29 section 5 of this act, which shall be made available upon request,  
30 pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.). In addition, an  
31 informational record concerning those public highways, or portions  
32 thereof, and transportation systems affected by the orders issued  
33 pursuant to this act shall be accessible in electronic form by members  
34 of the public without fee or charge.

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36 5. a. Rules or regulations adopted pursuant to this Title before the  
37 effective date of this act and dealing with the regulation of traffic or  
38 parking on public highways or transportation systems under the  
39 jurisdiction of the commissioner shall continue in effect and shall be  
40 enforceable under the provisions of Title 39 of the Revised Statutes  
41 and all other applicable Statutes, in any court of competent  
42 jurisdiction, until superseded by order of the commissioner pursuant  
43 to this act.

44 b. Sixty days after the effective date of this act, the Office of  
45 Administrative Law may remove from the New Jersey Administrative  
46 Code any rule or regulation which deals exclusively with the regulation

1 of traffic and parking on public highways or transportation systems  
2 under the jurisdiction of the commissioner.

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4 6. Any provision of this Title authorizing or requiring the  
5 commissioner to provide for the regulation of traffic or parking on  
6 public highways or transportation systems under the jurisdiction of the  
7 commissioner by means of rule or regulation shall on and after the  
8 effective date of this act be construed as authorizing or requiring the  
9 commissioner to proceed by order, as the case may be, pursuant to the  
10 provisions of this act. Such an order, however, shall not be considered  
11 a rule or regulation pursuant to the provisions of the "Administrative  
12 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

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14 7. This act shall take effect on the 90th day following enactment.

#### 15 16 17 STATEMENT

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19 This bill would authorize the Commissioner of Transportation to  
20 issue written orders for the regulation of traffic and parking on public  
21 highways and transportation systems under the jurisdiction of the  
22 commissioner. This bill would thus permit the commissioner to deal  
23 with such matters as maximum and minimum speeds, permitted or  
24 prohibited passing of vehicles, and parking and other restrictions  
25 which may be placed upon the use of intersections and various parts  
26 of the public highways or entrances or exits to them or parking lots or  
27 park-and-ride facilities under the jurisdiction of the commissioner or  
28 the State, as provided in Title 39 of the Revised Statutes. An order is  
29 to conform to the same requirements of Title 39 concerning  
30 examination, investigation or study as apply in the case of the rule or  
31 regulation in place of which the order is being issued. The bill does  
32 not apply to public highways or transportation systems under the  
33 jurisdiction of a county or municipality. The current procedure for the  
34 regulation of traffic and parking on State highways involves rule-  
35 making under the "Administrative Procedure Act," P.L.1968, c.410  
36 (C.52:14B-1 et seq.). Unless an emergency is declared by the  
37 Governor, mandated procedures under the "Administrative Procedure  
38 Act" add a minimum of three months of time to change any individual  
39 speed limit, traffic sign, parking zone, or other traffic regulation. This  
40 bill would provide for orders to be used where these administrative  
41 regulations are now permitted or required.

42 The vast majority of traffic and parking regulation changes are  
43 made in response to requests from municipal and county officials. The  
44 total length of time it takes to change such regulations is  
45 unsatisfactory and makes State Government appear unresponsive to  
46 traffic control concerns of the public and local officials.

1 An order issued pursuant to this bill is to cite the public highway or  
2 transportation system to which it is to be applicable; an explanation in  
3 plain language as to why the order is needed at the location in  
4 question; a description in plain language of what the order requires; an  
5 identification of the individual or public body which requested the  
6 order or initiated a request leading to the order; the final date of the  
7 order; and any other information the commissioner deems necessary.

8 A copy of a proposed order would be mailed to the governing body  
9 and the chief uniformed law enforcement officer of each county and  
10 municipality where that portion of the highway or transportation  
11 system affected by the order is located. An informational notice of the  
12 proposed order would be published in a newspaper or newspapers  
13 having general circulation in the municipality affected by the order,  
14 with a telephone number or address provided which a member of the  
15 public may use to receive a complete text of the order. The order  
16 would be final on the 31st day after publication or on a later date if the  
17 commissioner so determines. If comment is received during the 30-  
18 day period, the order would be final after the commissioner reviews  
19 and responds to the comment but not earlier than the 31st day after  
20 publication. However, if the order is proposed in response to a  
21 resolution from the governing body of a municipality and the order  
22 pertains exclusively to a highway or transportation system located  
23 within the municipality, the order may be made final immediately or at  
24 a later date. In addition, in emergent cases the order may be made  
25 final immediately.

26 A final order shall be effective upon compliance with the notice and  
27 briefing requirements of R.S.39:4-198 and shall be binding and  
28 enforceable on that date.

29 The commissioner is to maintain an official permanent record of the  
30 orders and of rules and regulations removed from the Administrative  
31 Code, which are to be made available upon request, pursuant to law.  
32 In addition, an informational record concerning those public highways,  
33 or portions thereof, and transportation systems affected by the orders  
34 shall be accessible in electronic form by members of the public without  
35 fee or charge, such as the Internet.

36 Finally, the bill provides for the continuation in effect of regulations  
37 adopted prior to the effective date of this bill and additionally provides  
38 that those provisions of existing law which may provide for the  
39 commissioner to proceed by rule and regulation with regard to the  
40 regulation of traffic and parking on public highways and transportation  
41 systems under the commissioner's jurisdiction shall henceforth be  
42 construed as permitting the commissioner to proceed by orders issued  
43 pursuant to this bill.

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3 Authorizes Commissioner of Transportation to issue orders for  
4 regulation of traffic and parking on public highways and transportation  
5 systems under commissioner's jurisdiction.