

SENATE CONCURRENT RESOLUTION No. 74

STATE OF NEW JERSEY

INTRODUCED MAY 30, 1996

By Senators SCOTT, CIESLA, McNamara, Matheussen, Haines, Littell, Connors, Kyrillos, Bubba, Singer, Ewing, Martin, Bennett, La Rossa, Palaia, Inverso, Schluter, Cafiero, Bassano, Kosco, Sinagra, Cardinale, Gormley, Lesniak, Casey, Adler, O'Connors, Sacco, Zane, Girgenti, DiFrancesco and Rice

1 A CONCURRENT RESOLUTION concerning the legislative review of Division
2 of Motor Vehicle regulations pursuant to Article V, Section IV, paragraph
3 6 of the Constitution of the State of New Jersey.

4
5 BE IT RESOLVED by the Senate of the State of New Jersey (the General
6 Assembly concurring):

7
8 1. Pursuant to Article V, Section IV, paragraph 6 of the Constitution of the
9 State of New Jersey, the Legislature may review any rule or regulation of an
10 administrative agency to determine if the rule or regulation is consistent with
11 the intent of the Legislature.

12
13 2. The Legislature enacted the "Federal Clean Air Mandate Compliance
14 Act," P.L.1995, c.112 (C.39:8-41 et al.), solely to comply with federal
15 requirements imposed by the federal "Clean Air Act Amendments of 1990,"
16 42 U.S.C. §7403 et al. The Legislature declared in section 2 of P.L.1995,
17 c.112 its intent that "this inspection and maintenance program shall be as
18 consumer-friendly as possible." The Legislature further expressed its intent to
19 comply with federal law but not exceed the requirements under federal law
20 by providing in section 17 of P.L.1995, c.112 that the Director of the Division
21 of Motor Vehicles, in consultation with the Department of Environmental
22 Protection, shall adopt rules and regulations necessary to implement P.L.1995,
23 c. 112, "or to place this State in substantial compliance with the motor vehicle
24 emission inspection and maintenance requirements established by federal law."
25 The Legislature finds that the confiscation of motor vehicles is the ultimate
26 inconvenience for the motor vehicle owners in the State who are the
27 consumers of the inspection and maintenance program, and that the
28 implementation of P.L.1995, c.112 in such a way as to result in the
29 confiscation of motor vehicles is not necessary to comply with the federal law.

30
31 3. The Legislature authorized in P.L.1995, c.112 a registration denial
32 system because the federal law specifically requires enforcement of the

1 required enhanced inspection and maintenance program through the denial of
2 vehicle registration for vehicles which do not pass the enhanced emissions test.
3 The Division of Motor Vehicles in the Department of Transportation adopted
4 regulations pursuant to P.L.1995, c.112, that are codified at N.J.A.C.13:20-
5 43.1 et seq.. N.J.A.C.13:20-43.16 requires the Division of Motor Vehicles
6 to deny or suspend the registration of a motor vehicle if the owner or lessee
7 of the vehicle does not present the vehicle for inspection, or reinspection,
8 within the period of time provided by the Division's notice. Although the
9 regulations adopted pursuant to P.L.1995, c.112 do not specifically provide
10 for the confiscation of motor vehicles, the Legislature finds that the
11 implementation of N.J.A.C.13:20-43.16 ultimately may result in the
12 confiscation of the motor vehicle by a State or local law enforcement official.
13

14 4. The Legislature did not provide for, require, authorize or condone in
15 P.L.1995, c.112 the confiscation of motor vehicles due to their failure to meet
16 federally mandated emissions standards imposed by the federally mandated
17 enhanced inspection and maintenance program, and the Legislature therefore
18 finds that the confiscation of a motor vehicle solely due to its lack of current
19 registration because the vehicle failed an emissions test is an enforcement
20 decision that may be made by State or local officials pursuant to the
21 implementation of regulations or enforcement of local ordinances that have
22 neither been required or authorized by P.L.1995, c.112.
23

24 5. The Legislature finds that because the regulations adopted pursuant to
25 P.L.1995, c.112 and codified at N.J.A.C.13:20-43.1 et seq. do not
26 specifically provide for the confiscation of motor vehicles but in their
27 implementation ultimately may result in the confiscation of motor vehicles,
28 because the federal law requires enforcement through denial of vehicle
29 registration but does not specifically require confiscation of motor vehicles to
30 accomplish this enforcement, and because the confiscation of motor vehicles
31 is the ultimate inconvenience for the motor vehicle owners in the State, the
32 regulations adopted pursuant to P.L.1995, c.112 and codified at
33 N.J.A.C.13:20-43.1 et seq. are inconsistent with the intent of the Legislature.
34 The Legislature further finds that N.J.A.C. 13:20-43.16 should provide
35 specifically a prohibition against the confiscation of a motor vehicle that has
36 been denied registration due to its failure to pass an emissions test required
37 under the enhanced inspection and maintenance program established pursuant
38 to P.L.1995, c.112, and any regulations adopted pursuant to P.L.1995, c.112
39 shall be inconsistent with the intent of the Legislature until such a prohibition is
40 provided.

