

J O I N T P U B L I C H E A R I N G

before

SENATE LAW, PUBLIC SAFETY AND DEFENSE
COMMITTEE

AND

ASSEMBLY COMMERCE AND REGULATED PROFESSIONS
COMMITTEE

SENATE BILL NO. 2549

(Establishes the "New Jersey Commercial Driver License Act")

and

ASSEMBLY BILL NO. 3258

(Establishes the "New Jersey Commercial Driver License Act")

April 19, 1990
Secaucus Municipal Government
Center
Secaucus, New Jersey

MEMBERS OF SENATE COMMITTEE PRESENT:

Senator Thomas F. Cowan, Chairman
Senator Ronald L. Rice, Vice Chairman
Senator Joseph Bubba

MEMBERS OF ASSEMBLY COMMITTEE PRESENT:

Assemblyman Anthony Impreveduto, Chairman
Assemblyman Jeffrey W. Moran

ALSO PRESENT:

New Jersey State Library

Aggie Szilagy
Office of Legislative Services
Aide, Senate Law, Public Safety and Defense Committee

Laurence A. Gurman
Office of Legislative Services
Aide, Assembly Commerce and Regulated Professions Committee

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Hearing Recorded and Transcribed by
Office of Legislative Services
Public Information Office
Hearing Unit
State House Annex
CN 068
Trenton, New Jersey 08625





Thomas F. Cowan

Chairman

RONALD L RICE
Vice-Chairman

C. LOUIS BASSANO
JOSEPH BUBBA

New Jersey State Legislature

SENATE LAW, PUBLIC SAFETY AND DEFENSE COMMITTEE

STATE HOUSE ANNEX, CN-068
TRENTON, NEW JERSEY 08625-0068
TELEPHONE: (609) 984-0231

NOTICE OF PUBLIC HEARING

The
Senate Law, Public Safety and Defense Committee
will join the
Assembly Commerce and Regulated Professions Committee
in a public hearing on
Thursday, April 19, 1990 at 1:00 p.m.
Secaucus Municipal Government Center
2nd Floor
1203 Paterson Plank Road
Secaucus, New Jersey

The purpose of this joint public hearing is to discuss the following identical bills:

A-3258 Improveduto/ Zangari	Establishes the "New Jersey Commercial Driver License Act."
S-2549 Cowan	Establishes the "New Jersey Commercial Driver License Act."

The public may address comments and questions to Aggie Szilagyi, Senate committee aide, and persons wishing to testify should contact Penny Hoffman, secretary, at (609) 984-0231. Persons presenting written testimony should provide 10 copies to the committee on the day of the hearing.

Issued 04/09/90



ANTHONY IMPREVEDUTO
CHAIRMAN
JOHN A. VILLAPIANO
VICE-CHAIRMAN
EDWARD H. SALMON
JEFFREY W. MORAN
THOMAS J. SHUSTED

New Jersey State Legislature

ASSEMBLY COMMERCE AND REGULATED PROFESSIONS COMMITTEE
STATE HOUSE ANNEX, CN-068
TRENTON, NEW JERSEY 08625-0068
(609) 984-0445

NOTICE OF PUBLIC HEARING

The Assembly Commerce and Regulated Professions Committee will hold a public hearing on the following legislation:

A-3258 Establishes the "New Jersey Commercial Driver
Impreveduto/ License Act."
Zangari

The hearing will be held on **Thursday, April 19, 1990 at 1:00 p.m.** on the **second floor of the Secaucus Municipal Government Center, 1203 Paterson Plank Road, Secaucus, New Jersey.**

Two additional public hearings on the bill will be scheduled. One of the hearings will be held in the central part of the State and the other will take place in southern New Jersey. The dates, times, and locations of these hearings will be announced at a later date.

The public may address comments and questions to Laurence A. Gurman, Committee Aide, and persons wishing to testify should contact Kathleen Lieblang, secretary, at (609) 984-0445. Those persons presenting written testimony should provide 10 copies to the committee on the day of the hearing.

Issued 04/02/90

STATE OF NEW JERSEY

INTRODUCED APRIL 5, 1990

By Senator COWAN

1 AN ACT concerning the licensing, testing, and regulation of
2 drivers of commercial motor vehicles, supplementing Title 39
3 of the Revised Statutes and amending and repealing various
4 parts of the statutory law.

5

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

8 1. (New section) This act shall be known and may be cited as
9 the "New Jersey Commercial Driver License Act."

10 2. (New section) The purpose of this act is to reduce or
11 prevent commercial motor vehicle accidents, fatalities, and
12 injuries by strengthening licensing and testing standards for
13 drivers of commercial motor vehicles, and by disqualifying those
14 drivers who have committed certain serious traffic violations or
15 other specified offenses. This act is also designed to
16 substantially conform the laws of this state to the requirements
17 and standards established under the federal Commercial Motor
18 Vehicles Safety Act of 1986, Pub. L. 99-570 (49 U.S.C. §2701 et
19 seq.) and the regulations promulgated pursuant to that federal
20 law. This act is a remedial law and shall be liberally construed to
21 promote the public health, safety, and welfare.

22 3. (New section) For purposes of this act, a term shall have
23 the meaning set forth in R.S.39:1-1 unless another meaning for
24 the term is set forth in this act, or unless another meaning is
25 clearly apparent from the language or context of this act, or
26 unless the meaning for the term set forth in R.S.39:1-1 is
27 inconsistent with the manifest intent of the Legislature in this
28 act.

29 For purposes of this act:

30 "Alcohol concentration" means:

31 a. The number of grams of alcohol per 100 milliliters of blood;

32 or

33 b. The number of grams of alcohol per 210 liters of breath.

34 "Commercial driver license" or "CDL" means a license issued
35 in accordance with this act to a person authorizing the person to
36 operate a certain class of commercial motor vehicle.

37 "Commercial Driver License Information System" or "CDLIS"
38 means the information system established pursuant to the federal
39 Commercial Motor Vehicle Safety Act of 1986, Pub. L. 99-570
40 (49 U.S.C. §2701 et seq.) to serve as a clearing house for locating

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.

1 information related to the licensing and identification of
2 commercial motor vehicle drivers.

3 "Commercial motor vehicle" or "CMV" means a motor vehicle
4 or combination of motor vehicles used or designed to transport
5 passengers or property:

6 a. If the vehicle has a gross vehicle weight rating of 26,001 or
7 more pounds or displays a gross vehicle weight rating of 26,001 or
8 more pounds;

9 b. If the vehicle has a gross combination weight rating of
10 26,001 or more pounds inclusive of a towed unit with a gross
11 vehicle weight rating of more than 10,000 pounds;

12 c. If the vehicle is designed to transport 16 or more passengers
13 including the driver, provided, the director may, by regulation,
14 include such vehicles designed to transport 15 or fewer
15 passengers including the driver as he deems appropriate; or

16 d. If the vehicle is transporting or used in the transportation of
17 hazardous materials and is required to be placarded in accordance
18 with subpart f. of 49 C.F.R. §172, or a vehicle displaying a
19 hazardous material placard.

20 "Controlled substance" means any substance so classified under
21 subsection (6) of the "Controlled Substances Act" (21 U.S.C.
22 §802), and includes all substances listed on Schedules I through V
23 of 21 C.F.R. §1308, or under P.L.1970, c.226 (C.24:21-1 et seq.)
24 as they may be revised from time to time. The term, wherever it
25 appears in this act or administrative regulation promulgated
26 pursuant to this act, shall include controlled substance analogs.

27 "Controlled substance analog" means a substance that has a
28 chemical structure substantially similar to that of a controlled
29 dangerous substance and that was specifically designed to
30 produce an effect substantially similar to that of a controlled
31 dangerous substance. The term shall not include a substance
32 manufactured or distributed in conformance with the provisions
33 of an approved new drug application or an exemption for
34 investigational use within the meaning of section 505 of the
35 "Federal Food, Drug and Cosmetic Act," (21 U.S.C. §355).

36 "Conviction" means an adjudication that a violation has
37 occurred, a final judgment on a verdict, a finding of guilt in a
38 tribunal of original jurisdiction, or a conviction following a plea
39 of guilty, non vult or nolo contendere accepted by a court. It also
40 includes an unvacated forfeiture of bail, bond or collateral
41 deposited to secure the person's appearance in court, or the
42 payment of a fine or court costs, or violation of a condition of
43 release without bail, regardless of whether the penalty is rebated,
44 suspended, or probated.

45 "Director" means the Director of the Division of Motor
46 Vehicles in the Department of Law and Public Safety.

47 "Disqualification" means either:

48 a. The suspension, revocation, cancellation, or any other
49 withdrawal by a State of a person's privilege to operate a

1 commercial motor vehicle;

2 b. A determination by the Federal Highway Authority under
3 the rules of practice for motor carrier safety contained in 49
4 C.F.R. §386, that a person is no longer qualified to operate a
5 commercial motor vehicle under 49 C.F.R. §391; or

6 c. The loss of qualification which automatically follows
7 conviction of an offense listed in 49 C.F.R. §383.51.

8 "Division" means the Division of Motor Vehicles in the
9 Department of Law and Public Safety.

10 "Driver license" means a license issued by this State or other
11 jurisdiction to a person authorizing the person to operate a motor
12 vehicle.

13 "Endorsement" means an authorization to a commercial driver
14 license required to permit the holder of the license to operate
15 certain types of commercial motor vehicles.

16 "Felony" means any offense under any federal law or the law
17 of a state, including this State, that is punishable by death or
18 imprisonment for a term exceeding one year. The term includes,
19 but is not limited to, "crimes" as that term is defined in
20 N.J.S.2C:1-1 et seq.

21 "Foreign jurisdiction" means any jurisdiction other than a state
22 of the United States.

23 "Gross vehicle weight rating" or "GVWR" means the value
24 specified by a manufacturer as the loaded weight of a single or a
25 combination (articulated) vehicle, or the registered gross weight,
26 whichever is greater. The GVWR of a combination (articulated)
27 vehicle, commonly referred to as the "gross combination weight
28 rating" or "GCWR," is the GVWR of the power unit plus the
29 GVWR of the towed unit or units. In the absence of a value
30 specified for the towed unit or units by the manufacturer, the
31 GVWR of a combination (articulated) vehicle is the GVWR of the
32 power unit plus the total weight of the towed unit, including the
33 loads on them.

34 "Hazardous material" means a substance or material
35 determined by the Secretary of the United States Department of
36 Transportation to be capable of posing an unreasonable risk to
37 health, safety, and property when transported in commerce and
38 so designated pursuant to the provision of the "Hazardous
39 Materials Transportation Act," (49 U.S.C. §1801 et seq.).

40 "Motor vehicle" includes all vehicles propelled otherwise than
41 by muscular power, except such vehicles as run only upon rails or
42 tracks. The term "motor vehicle" includes motorized bicycles.

43 "Out of service order" means a temporary prohibition against
44 operating a commercial motor vehicle.

45 "Representative vehicle" means a motor vehicle which
46 represents the type of motor vehicle that a driver applicant
47 operates or expects to operate.

48 "Secretary" means the Secretary of the United States
49 Department of Transportation or his designee.

1 "Serious traffic violation" means conviction for one of the
2 following offenses committed while operating a commercial
3 motor vehicle:

4 a. Excessive speeding, involving any single offense for a speed
5 of 15 miles per hour or more above the speed limit;

6 b. Reckless driving, as defined by State or local law or
7 regulation, including, but not limited to, offenses of driving a
8 commercial motor vehicle in willful or wanton disregard of the
9 safety of persons or property, including violations of R.S.39:4-96;

10 c. Improper or erratic traffic lane changes;

11 d. Following a vehicle ahead too closely, including violations
12 of R.S.39:4-89;

13 e. A violation, arising in connection with a fatal accident, of
14 State or local law relating to motor vehicle traffic control, other
15 than a parking violation. Serious traffic violations exclude
16 vehicle weight and defect violations; or

17 f. Any other violation of a state or local law relating to motor
18 vehicle traffic control, other than a parking violation, which the
19 director determines to be serious.

20 "State" means a state of the United States or the District of
21 Columbia.

22 "State of domicile" means that state where a person has a
23 true, fixed, and permanent home and principal residence and to
24 which the person intends to return whenever he is absent.

25 "Tank vehicle" means any commercial motor vehicle that is
26 designed to transport any liquid or gaseous material within a tank
27 that is either permanently or temporarily attached to the vehicle
28 or the chassis. Such vehicles include, but are not limited to,
29 cargo tanks and portable tanks as defined by the director.
30 However, this definition does not include portable tanks having a
31 rated capacity under 1,000 gallons.

32 "United States" means the fifty states and the District of
33 Columbia.

34 "Vehicle group" means a class or type of vehicle with certain
35 operating characteristics.

36 4. (New section) Notwithstanding any other provision of law
37 to the contrary, the director shall adopt and administer a
38 classified licensing system and a program for testing and ensuring
39 the fitness of persons to operate commercial motor vehicles in
40 accordance with the minimum federal standards established under
41 the federal Commercial Motor Vehicle Safety Act of 1986, Pub.
42 L. 99-570 (49 U.S.C. §2701 et seq.) and the regulations
43 promulgated pursuant to that law. The director shall not issue a
44 commercial driver license to a person unless that person passes a
45 written and driving test for operation of a commercial motor
46 vehicle which complies with the minimum established standards.
47 The director may issue commercial driver examination permits,
48 subject to such conditions and restrictions as deemed necessary,
49 to carry out the provisions of this act.

1 5. (New section) Notwithstanding any other provision of law
2 to the contrary, a person shall not operate a commercial motor
3 vehicle in this State with an alcohol concentration of 0.04% or
4 more.

5 6. (New section) a. Before issuing a commercial driver
6 license to an applicant, the director shall notify the Commercial
7 Driver License Information System of the proposed issuance and
8 shall request driving record information from the Commercial
9 Driver License Information System, the National Driver Register,
10 and from any other state which has issued a commercial driver
11 license to the applicant to determine whether the applicant has a
12 commercial driver license issued by another state, whether the
13 applicant's driving privilege has been suspended, revoked
14 cancelled, or whether the applicant has been disqualified from
15 operating a commercial driver license.

16 The director also shall provide driving record and other
17 information to the licensing authority of any other state, or
18 province or territory of Canada, which requests such information
19 in connection with a commercial driver license. The director
20 may charge such fees as are deemed appropriate to cover the
21 costs of providing information, except that no fee shall be
22 charged if the other jurisdiction does not charge New Jersey for
23 similar requests.

24 b. Within 10 days after the issuance of a commercial driver
25 license, the director shall notify the Commercial Driver License
26 Information System of that fact, providing all information
27 required to ensure identification of the licensee.

28 7. (New section) Within 10 days after receiving a report of the
29 conviction of a holder of a commercial driver license for any
30 violation of state law related to motor vehicle traffic control
31 committed in a commercial vehicle, other than parking
32 violations, or after the disqualification of the holder of a
33 commercial driver license or suspension of privileges for a period
34 of 60 days or more, the division shall notify the driver licensing
35 authority in the licensing state, if other than this State, and the
36 Commercial Driver License Information System of the
37 conviction, suspension, or disqualification. The notification shall
38 include all information the director deems necessary.

39 8. (New section) The director, in his discretion, may refuse to
40 grant a commercial driver license to a person who is, in his
41 estimation, not a proper person to be granted such a license. The
42 director may suspend or revoke a privilege to operate a
43 commercial motor vehicle, or may prohibit a person from
44 obtaining a commercial driver license. The director may suspend
45 or revoke the reciprocity privilege of a person for a violation of
46 any provision of Title 39 of the Revised Statutes or for any other
47 reasonable grounds.

48 9. (New section) The director shall issue a commercial driver
49 license only to a person who operates or will operate a

1 commercial motor vehicle and is domiciled in this State.

2 10. (New section) a. (1) Except as provided by the director by
3 rule or regulation, a person who has been issued a commercial
4 driver license shall not operate a commercial motor vehicle
5 unless the person is in possession of the valid commercial driver
6 license and endorsements for the class of vehicle being operated.
7 Such a person shall not operate a commercial motor vehicle if the
8 person is restricted from operating a commercial vehicle of that
9 type.

10 (2) Except when operating under a valid commercial driver
11 examination permit and accompanied by the holder of a
12 commercial driver license valid for the class of vehicle being
13 operated, a person shall not operate a commercial motor vehicle
14 unless the person has been issued and is in possession of a valid
15 commercial driver license and applicable endorsements for the
16 class of vehicle being operated. A person shall not operate a
17 commercial motor vehicle if the person is restricted from
18 operating a commercial vehicle of that type.

19 (3) A person violating this subsection shall be fined not less
20 than \$250 or more than \$500, or imprisoned for not more than 60
21 days, or both. This penalty shall not be applicable in cases where
22 failure to have actual possession of the commercial driver license
23 is due to an administrative or technical error by the division. If a
24 person charged with a failure to have possession of a valid
25 commercial driver license can exhibit the license to the judge of
26 the court before whom he is summoned to answer to a charge and
27 the license was valid on the day the person was charged, the
28 judge may dismiss the charge. However, the judge may impose
29 court costs.

30 b. (1) A person who has been refused a commercial driver
31 license, whose commercial motor vehicle driving privilege or any
32 endorsement has been suspended or revoked, who has been
33 prohibited or disqualified from operating a commercial motor
34 vehicle, who is subject to an out of service order, or whose
35 driving privilege is suspended or revoked, shall not operate a
36 commercial motor vehicle during the period of refusal,
37 suspension, revocation, prohibition, or disqualification, or during
38 the period of the out of service order.

39 (2) A person who violates this subsection shall, upon conviction,
40 be fined \$5,000 for each offense, or imprisoned for a term not to
41 exceed 90 days, or both. If a person is involved in an accident
42 resulting in personal injury to another person while operating a
43 commercial motor vehicle in violation of this subsection, the
44 court shall impose both a period of imprisonment for 90 days and
45 a fine of \$5,000.

46 In addition, the commercial motor vehicle driving privilege of a
47 person convicted under this subsection shall be suspended in
48 accordance with section 12 of this act.

49 11. (New section) Notwithstanding any other law to the

1 contrary, a person may operate a commercial motor vehicle in
2 this State if the person has received a waiver from the Secretary
3 of Transportation or the licensing authority of any other state or
4 jurisdiction; or has a commercial driver license issued by any
5 state, or issued by any province or territory of Canada, in
6 accordance with minimum federal standards for the issuance of
7 commercial motor vehicle driver licenses, provided that the
8 person's driving privilege is not suspended or revoked or
9 cancelled in this State or in the jurisdiction that issued the
10 commercial driver license, and that the person is not disqualified
11 from operating a commercial motor vehicle, or subject to an "out
12 of service" order.

13 Upon application for a transfer of a commercial driver license
14 from another state of domicile to this State, a person shall apply
15 to the director for a commercial driver license within 30 days
16 after establishing domicile in this State.

17 12. (New section) a. In addition to any other penalty provided
18 by law, a court shall suspend for not less than one year nor more
19 than three years the commercial motor vehicle driving privilege
20 of a person for a first violation of:

21 (1) R.S.39:4-50 if the motor vehicle was a commercial motor
22 vehicle or section 5 of this act.

23 (2) R.S.39:4-129 involving a commercial motor vehicle
24 operated by the person.

25 (3) Using a commercial motor vehicle in the commission of any
26 "crime" as defined in subsections a., c., or d. of N.J.S.2C:1-4.

27 (4) Refusal to submit to a chemical test as provided in section
28 2 of P.L.1966, c.142 (C.39:4-50.2) or section 16 of this act if the
29 motor vehicle was a commercial motor vehicle.

30 (5) Paragraph (1) of subsection b. of section 10 of this act.

31 b. If a first violation of any of the violations specified in
32 subsection a. of this section take place while transporting
33 hazardous material or take place in a vehicle displaying a
34 hazardous material placard, the court shall suspend the
35 commercial motor vehicle driving privilege of the person for
36 three years.

37 c. Subject to the provisions of subsection d. of this section, the
38 court shall revoke for life the commercial motor vehicle driving
39 privilege of a person for a second or subsequent violation of any
40 of the offenses specified in subsection a. or any combination of
41 those offenses arising from two or more separate incidents. For
42 purposes of this section, a violation committed in another state
43 but substantially similar to those enumerated in subsection a.
44 committed in another state shall be included.

45 d. The director may issue rules and regulations establishing
46 guidelines, including conditions under which a revocation of
47 commercial motor vehicle driving privilege for life under
48 subsection c. may be reduced to a period of ten years.

49 e. Notwithstanding any other provision of law to the contrary,

1 a court shall revoke for life the commercial motor vehicle driving
2 privilege of a person who uses a commercial motor vehicle in the
3 commission of a crime involving the manufacture, distribution, or
4 dispensing of a controlled substance or controlled substance
5 analog, or possession with intent to manufacture, distribute, or
6 dispense a controlled substance or controlled substance analog. A
7 revocation under this subsection shall not be subject to reduction
8 in accordance with subsection d. of this section.

9 f. A court shall suspend the commercial motor vehicle driving
10 privilege of a person for a period of not less than 60 days if the
11 person is convicted of a serious traffic violation and that
12 conviction constitutes the second serious traffic violation
13 committed in a commercial motor vehicle in this or any other
14 state arising from separate incidents occurring within a three
15 year period. A court shall suspend the commercial motor vehicle
16 driving privilege for 120 days if the conviction constitutes the
17 third or subsequent serious traffic violation committed in a
18 commercial motor vehicle in this or any other state arising from
19 separate incidents occurring within a three year period.

20 g. After suspending, revoking, or cancelling a commercial
21 motor vehicle driving privilege, a court shall make a report to the
22 director within three days in such form as the director may
23 require. The director shall notify the Commercial Driver License
24 Information System of the suspension, revocation, or
25 cancellation. In the case of non-residents, the director also shall
26 notify the licensing authority of the state which issued the
27 commercial driver license or the state where the person is
28 domiciled. The director shall provide these notices within 10
29 days after the suspension, revocation, cancellation, or
30 disqualification.

31 h. The director shall in accordance with this section suspend a
32 commercial motor vehicle driving privilege of a person holding or
33 required to hold a commercial driver license issued by this State
34 if the person is convicted in a another state or foreign
35 jurisdiction of a violation of a substantially similar nature to the
36 offenses specified in subsections a., e., or f. of this section. For
37 purposes of this section, a violation such as driving while
38 intoxicated, driving under the influence, or driving while ability is
39 impaired shall be considered substantially similar offenses.

40 i. Notwithstanding any other provision of law to the contrary,
41 a conviction arising under this section or sections 5 or 16 of this
42 act shall not merge with a conviction for a violation of
43 R.S.39:4-50 or section 2 of P.L.1966, c.142 (C.39:4-50.2).

44 13. (New section) The director may, by contract, by
45 appointment as a motor vehicle agent, or by licensing, authorize
46 qualified persons, including but not limited to an agency of this or
47 another state, an employer, a private driver training facility or
48 other private institution, or a department, agency or
49 instrumentality of local government to administer any portion of

1 a commercial motor vehicle driver examination. The director
2 may adopt such regulations as deemed necessary to establish.
3 oversee and regulate the administration of commercial motor
4 vehicle driver testing by third parties including establishment of
5 maximum fees that may be charged. The director may limit the
6 number of persons licensed to administer examinations and may
7 suspend or revoke an authorization on any reasonable ground.
8 The director may terminate third party testing at any time. A
9 person authorized to administer examinations by appointment as
10 a motor vehicle agent shall so act until this authority is revoked
11 by the director.

12 14. (New section) The director may waive the skills test for a
13 commercial driver license applicant who is licensed at the time
14 of an application and who provides proof in such form and of such
15 type as the director may require that it is appropriate to waive
16 the skills test, consistent with the purposes of this act and the
17 requirements under the federal Commercial Motor Vehicle Safety
18 Act of 1986, Pub. L. 99-570 (49 U.S.C. §2701 et seq.). The
19 burden in an application for a waiver shall be on the applicant.

20 15. (New section) The director may take such steps as are
21 necessary to provide for the efficient, timely and orderly
22 processing of persons required to obtain commercial driver
23 licenses under this act. The director may require a person who
24 operates or intends to operate a commercial motor vehicle to be
25 tested and licensed in accordance with the provisions of this act
26 at a time and place selected by the director. The director may,
27 after notice and an opportunity to be heard, suspend the privilege
28 to operate a commercial motor vehicle of a person who refuses to
29 be tested at the time and place selected by the director. The
30 suspension shall remain in effect until the person obtains a
31 commercial driver license in accordance with the provision of
32 this act.

33 16. (New section) a. A person who operates a commercial
34 motor vehicle on a public road, street, or highway, or
35 quasi-public area in this State, shall be deemed to have given his
36 consent to the taking of samples of his breath for the purposes of
37 making chemical tests to determine alcohol concentration;
38 provided, however, that the taking of samples shall be made in
39 accordance with the provisions of this act and at the request of a
40 police officer who has reasonable grounds to believe that the
41 person has been operating a commercial motor vehicle with an
42 alcohol concentration of 0.04% or more.

43 b. A record of the taking of such a sample, disclosing the date
44 and time thereof, as well as the result of a chemical test, shall be
45 made and a copy thereof, upon request, shall be furnished or
46 made available to the person so tested.

47 c. In addition to the samples taken and tests made at the
48 direction of a police officer hereunder, the person tested shall be
49 permitted to have such samples taken and chemical tests of his

1 breath, urine, or blood made by a person or physician of his own
2 selection.

3 d. The police officer shall inform the person tested of his
4 rights under subsections b. and c. of this section.

5 e. No chemical test, as provided in this section, or specimen
6 necessary thereto, may be made or taken forcibly and against
7 physical resistance thereto by the defendant. The police officer
8 shall, however, inform the person arrested of the consequences of
9 refusing to submit to such test including the penalties under
10 section 12 of this act. A standard statement, prepared by the
11 director, shall be read by the police officer to the person.

12 f. The court shall revoke for six months the right to operate
13 any motor vehicle of any person who, after being arrested for a
14 violation of section 5 of this act, shall refuse to submit to the
15 chemical test provided for in this section when requested to do
16 so, unless the refusal was in connection with a subsequent offense
17 under this section, section 5 of this act, R.S.39:4-50 or section 2
18 of P.L.1981, c.512 (C.39:4-50.4a), in which case the revocation
19 period shall be for 2 years. In addition, a court shall impose the
20 penalties provided in section 12 of this act.

21 The court shall determine by a preponderance of the evidence
22 whether the arresting officer had probable cause to believe that
23 the person had been operating or was in actual physical control of
24 a commercial motor vehicle on the public highways or
25 quasi-public areas of this State with an alcohol concentration at
26 0.04% or more, whether the person was placed under arrest,
27 whether he refused to submit to the test upon request of the
28 officer, and if these elements of the violation are not established,
29 no conviction shall issue. In addition to any other requirements
30 provided by law, a person whose driving privilege is revoked for
31 refusing to submit to a chemical test shall satisfy the
32 requirements of a program of alcohol education or rehabilitation
33 pursuant to the provisions of R.S.39:4-50. The revocation shall
34 be independent of any revocation imposed by virtue of a
35 conviction under the provisions of R.S.39:4-50 or section 12 of
36 this act.

37 In addition to imposing a revocation under this subsection, a
38 court shall impose a fine of not less than \$250 or more than \$500.

39 17. (New section) Chemical analyses of an arrested person's
40 breath, to be considered valid under the provisions of this act,
41 shall have been performed according to methods approved by the
42 Attorney General, and by a person certified for this purpose by
43 the Attorney General. The Attorney General is authorized to
44 approve satisfactory techniques or methods, to ascertain the
45 qualifications and competence of individuals to conduct analyses,
46 and to make certifications of such individuals, which
47 certifications shall be subject to termination or revocation at the
48 discretion of the Attorney General. The Attorney General shall
49 prescribe a uniform form for reports of the chemical analysis of

1 breath to be used by law enforcement officers and others acting
2 in accordance with the provisions of this act. Each chief of
3 police, in the case of forms distributed to law enforcement
4 officers and others in his municipality, or the other officer,
5 board, or official having charge or control of the police
6 department where there is no chief, and the Director of the
7 Division of Motor Vehicles and the Superintendent of State
8 Police, in the case of such forms distributed to law enforcement
9 officers and other personnel in their divisions, shall be responsible
10 for the furnishing and proper disposition of such uniform forms.
11 Each responsible party shall prepare or cause to be prepared the
12 records and reports relating to the uniform forms and their
13 disposition in the manner and at the times prescribed by the
14 Attorney General. Unless otherwise provided by the Attorney
15 General, the approval of methods and techniques, the
16 certification of persons and the prescription of forms of reports
17 pursuant to section 3 of P.L.1966, c.142 (C.39:4-50.3) shall
18 constitute approval, certification or prescription, as the case may
19 be, for purposes of this section.

20 18. (New section) A person who operates a commercial motor
21 vehicle shall not have more than one commercial driver license.

22 A person convicted of a violation of this section shall be
23 subject for each offense to a fine of \$5,000, or imprisoned for a
24 term not to exceed 90 days, or both.

25 19. (New section) The director may adopt any rules and
26 regulations, in accordance with the provisions of the
27 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
28 seq.), necessary to carry out the provisions of this act, including
29 the regulations necessary to place this State in substantial
30 compliance with the requirements of the federal Commercial
31 Motor Vehicle Safety Act of 1986, Pub. L. 99-570 (49 U.S.C.
32 §2701 et seq.) and the regulations promulgated pursuant to that
33 federal law.

34 20. (New section) The director may enter into or make
35 agreements, arrangements, or declarations to carry out the
36 provisions of this act. The director may also enter into an
37 agreement or arrangement with the duly authorized
38 representative of another state, the federal government, or
39 province concerning licensing or testing of commercial motor
40 vehicle operators, the exchange of information concerning
41 operators, and their operating history. Such arrangements shall,
42 in the judgment of the director, be in the best interest of this
43 State and its citizens, keeping in mind the public safety benefits
44 that flow to this State from a nationwide system for regulating
45 commercial motor vehicle operators.

46 21. (New section) Notwithstanding any other provision of law
47 to the contrary, the director may waive, in whole or in part, after
48 notice and an opportunity for comment, application of any
49 provision of this act or any regulation promulgated pursuant to

1 this act with respect to a class of persons or class of commercial
2 motor vehicles if the director determines that such waiver is not
3 contrary to the public interest and does not diminish the safe
4 operation of commercial motor vehicles. A waiver under this
5 section shall be published in the New Jersey Register, together
6 with reasons for the waiver. A waiver shall not be granted if the
7 granting of the waiver is likely to or will place the State in the
8 position of not being in substantial compliance with the
9 requirements set forth in the Commercial Motor Vehicle Safety
10 Act of 1986, Pub. L. 99-570 (49 U.S.C. §2701 et seq.). The
11 director may make such applications as he deems appropriate to
12 the Secretary to obtain any waiver permitted under federal law.

13 22. (New section) The required fee for a commercial driver
14 license for a 48 month period shall be \$17.50. The required fee
15 for an examination permit shall \$35. The required fee for an
16 endorsement for a 48 month period shall be \$12.

17 The commercial driver license shall expire on the last day of
18 the 48th calendar month following the calendar month in which
19 the license was issued, provided, however, that the director may,
20 at his discretion, issue licenses and endorsements which shall
21 expire on a date fixed by him. The fee for such licenses or
22 endorsements shall be fixed in amounts proportionately less or
23 greater than the fee otherwise established.

24 23. (New section) The provisions of this act shall be severable,
25 and if any of its provisions shall be held to be unconstitutional,
26 the decision of the court shall not affect the validity of the
27 remaining provisions of this act.

28 24. (New section) Receipts collected by the director pursuant
29 to this act shall be forwarded to the State Treasurer and be
30 deposited into a special fund. The division shall establish a
31 receivable account for the sole purpose of defraying the expenses
32 incurred for program implementation and administration. The
33 receivable account shall be relieved by monies deposited into the
34 special fund from fees derived pursuant to this act. Upon
35 completion of the implementation process, monies remaining in
36 the special fund in excess of the amount required to defray the
37 expenses of the program shall be deposited into the General State
38 Fund.

39 25. N.J.S.2A:82-10 is amended to read as follows:

40 2A:82-10. Copies of motor vehicle records

41 Copies of any act, rule, order or decision made by the director
42 of the division of motor vehicles, and of any paper filed in his
43 office when authenticated under his seal shall be evidence in like
44 manner, and with equal effect as the originals.

45 All transcripts and abstracts of the records of the division of
46 motor vehicles, the licensing authority of another state, the
47 Commercial Driver License Information System, or the National
48 Driver Register as to the names of owners of motor vehicles and
49 as to the holders of licenses to operate motor vehicles and their

1 operating records, certified by the director of the division, or
2 other appropriate official to be true copies of the record, shall be
3 received in any court as prima facie evidence of the matters and
4 facts therein stated. [Such] For the purposes of the division, such
5 transcripts and abstracts shall be copies of the original records
6 made or copies of the record thereof as recorded by the clerk or
7 other officer of the Division of Motor Vehicles.

8 For purposes of transcripts, abstracts and computer printouts
9 under this section, the seal of the director need not be impressed,
10 but such transcripts, abstracts, and computer printouts shall be
11 deemed to be sealed when there is affixed thereto, or printed or
12 marked thereon, the seal of the division.

13 (cf: P.L.1979, c.210, s.1)

14 26. Section 1 of P.L.1979, c.261 (C.39:3-10f) is amended to
15 read as follows:

16 1. In addition to the requirements for the form and content of
17 a motor vehicle driver's license under R.S.39:3-10, each initial
18 New Jersey license issued to a person under the age of 21 after
19 the effective date of this act shall have a color photograph of the
20 licensee. Each initial motor vehicle license issued to a person 21
21 years of age or older on or after May 1, 1982, shall have a color
22 photograph of the licensee. At the option of the licensee, a
23 renewal of any motor vehicle driver's license shall be either a
24 photo-license or a license that does not bear a photograph of the
25 licensee. All licenses bearing a color photograph of the licensee
26 as provided in this act shall be valid for a period of 48 calendar
27 months.

28 To replace a photo-license for a licensee who is temporarily
29 out of this State, the director may issue a "valid without photo"
30 photo-license for the unexpired term of the license.

31 The provisions of this act shall not apply with regard to driver
32 licenses issued pursuant to P.L. _____, c. _____)(C. _____)(now
33 pending before the Legislature as this bill).

34 (cf: P.L.1985, c.264, s.1)

35 27. R.S.39:3-10.1 is amended to read as follows:

36 39:3-10.1. No person shall drive any motor vehicle or trackless
37 trolley with a capacity of more than six passengers used for the
38 transportation of passengers for hire or for the transportation of
39 passengers to or from summer day camps or summer residence
40 camps or any bus as defined by the director used for the
41 transportation of passengers, except vehicles used in ride-sharing
42 arrangements, taxicabs, or any bus used to transport children to
43 and from school pursuant to N.J.S.18A:39-1 et seq. or when being
44 used by a private school to transport children to and from school,
45 unless specially licensed so to do by the director or in the case of
46 a nonresident, licensed pursuant to the laws of his resident state
47 with respect to the licensing of bus drivers. Such license shall not
48 be granted by the director until the applicant therefor is at least
49 18 years of age and has passed a satisfactory examination in

1 ascertainment of his driving ability and familiarity with the
2 mechanism of said vehicle and has presented evidence,
3 satisfactory to the director of his previous experience (including
4 proof that he has had at least three years of driving experience),
5 good character and physical fitness. Said license shall be
6 effective until suspended or revoked by the director; provided,
7 the special licensee is also the holder of a license as provided for
8 in R.S.39:3-10.

9 Every holder of a special license issued pursuant to this section
10 shall furnish to the director satisfactory evidence of continuing
11 physical fitness, good character and experience [once in every 24
12 months after the issuance of the special license] at the time of
13 application renewal or such other time as the director may
14 require, and in such form as the director may require. In
15 addition, any person applying for a special license pursuant to this
16 section for the transporting of children to and from schools,
17 pursuant to N.J.S.18A:39-1 et seq., shall comply with the
18 provisions of section 6 of P.L.1989, c.104 (C.18A:39-19.1).

19 The director may suspend or revoke a license granted under
20 authority of this section for a violation of any of the provisions of
21 this subtitle, or on other reasonable grounds, or where, in his
22 opinion, the licensee is either physically or morally unfit to retain
23 the same. Notwithstanding the provisions of any law to the
24 contrary the director shall, upon notice of disqualification from
25 the Commissioner of Education pursuant to section 6 of P.L.1989,
26 c.104 (C.18A:39-19.1), immediately revoke the special license
27 granted under authority of this section without the necessity of a
28 further hearing.

29 The director may make such rules and regulations as he may
30 deem necessary to carry out the provisions of this section.

31 (cf: P.L.1989, c.104, s.5)

32 28. R.S.39:3-13 is amended to read as follows:

33 39:3-13. The director may, in his discretion, issue to a person
34 over 17 years of age an examination permit, under the hand and
35 seal of the director, allowing such person, for the purpose of
36 fitting himself to become a licensed driver, to operate a
37 designated class of motor vehicles for a specified period of not
38 more than 90 days, while in the company and under the
39 supervision of a driver licensed to operate such designated class
40 of motor vehicles. An examination permit issued to a
41 handicapped person, as determined by the Division of Motor
42 Vehicles after consultation with the Department of Education,
43 shall be valid for nine months or until the completion of the road
44 test portion of his license examination, whichever period is
45 shorter. The permit shall be sufficient license for the person to
46 operate such designated class of motor vehicles in this State
47 during the period specified, while in the company of and under
48 the control of a driver licensed by this State to operate such
49 designated class of motor vehicles. Such person, as well as the

1 licensed driver, except for a motor vehicle examiner
2 administering a driving skills test, shall be held accountable for
3 all violations of this subtitle committed by such person while in
4 the presence of the licensed driver.

5 No examination for a driver's license shall be given unless the
6 applicant has first secured a special learner's permit or
7 examination permit and no road test shall be scheduled for an
8 applicant who has secured an examination permit until at least 20
9 days shall have elapsed following the validation of the
10 examination permit for practice driving, except that in the case
11 of an omnibus or school bus endorsement no road test shall be
12 scheduled until at least 10 days shall have elapsed.

13 Every applicant for an examination permit to qualify for an
14 omnibus endorsement or an articulated vehicle endorsement shall
15 be a holder of a valid basic driver's license.

16 The required fees for special learners' permits and
17 examination permits shall be as follows:

- 18 Basic driver's license \$ 5.00
- 19 Motorcycle license or endorsement 5.00
- 20 Omnibus or school bus endorsement 25.00
- 21 Articulated vehicle endorsement 15.00

22 The director shall waive the payment of fees for issuance of
23 examination permits for omnibus endorsements whenever the
24 applicant establishes to the director's satisfaction that said
25 applicant will use the omnibus endorsement exclusively for
26 operating omnibuses owned by a nonprofit organization duly
27 incorporated under Title 15 or 16 of the Revised Statutes or Title
28 15A of the New Jersey Statutes.

29 The specified period for which a permit is issued may be
30 extended for not more than an additional 60 days, without
31 payment of added fee, upon application made by the holder
32 thereof, where the holder has applied to take the examination for
33 a driver's license prior to the expiration of the original period for
34 which the permit was issued and the director was unable to
35 schedule an examination during said period.

36 (cf: P.L.1986, c.23, s.1)

37 29. Section 1 of P.L.1955, c.53 (C.39:3-17.1) is amended to
38 read as follows:

39 1. [Any] Except as provided in section of P.L. , c.
40 (C.)(now pending before the Legislature as this bill), any
41 person who becomes a resident of this State and who immediately
42 prior thereto was authorized to operate and drive a motor vehicle
43 or motor vehicles in this State as a nonresident pursuant to
44 sections 39:3-15 and 39:3-17 of the Revised Statutes, shall not
45 lose his right to so operate and drive such motor vehicle or motor
46 vehicles by becoming a resident of this State, but such right shall
47 continue to be in full force and effect for 60 days after the
48 establishment of his residence in this State in the same manner
49 and to the same extent as though he were a nonresident.

50 (cf: P.L.1955, c.53, s.1)

1 30. R.S.39:3-34 is amended to read as follows:

2 39:3-34. Application for certificate or license during
3 suspension, revocation or prohibition period forbidden

4 No person whose registration certificate or [driver's license]
5 driving privilege, including any privilege to operate a commercial
6 motor vehicle as defined in P.L. , c. (C.)(now
7 pending before the Legislature as this bill), has been suspended or
8 revoked, or who has been prohibited or disqualified from
9 obtaining a driver's license or registration certificate, shall apply
10 to an agent of the commissioner for a registration certificate or
11 license, or a learner's permit, as the case may be, during the
12 period of the suspension, revocation, or prohibition. A person
13 who violates this section shall be subject to a fine of not more
14 than five hundred dollars (\$500.00) or imprisonment for not more
15 than three months, or both, at the discretion of the court.
16 (cf: P.L.1945, c.222, s.1)

17 31. R.S.39:3-36 is amended to read as follows:

18 39:3-36. The registered owner of a motor vehicle or a
19 motorized bicycle and a licensed operator shall notify the
20 [commissioner, in writing,] director of a change in his residence
21 within one week after the change is made. Notice shall be in
22 such form and shall contain such information as the director may
23 require. A person who violates this section shall be subject to a
24 penalty of not more than ten dollars.
25 (cf: P.L.1983, c.105, s.3)

26 32. R.S.39:4-46 is amended to read as follows:

27 39:4-46. a. Every vehicle used for commercial purposes on a
28 street or highway, except for passenger automobiles, shall have
29 conspicuously displayed thereon, or on a name plate affixed
30 thereto, the name of the owner, lessee or lessor of the vehicle
31 and the name of the municipality in which the owner, lessee or
32 lessor has his principal place of business. Franchised public
33 utilities and operators of fleets of 50 or more commercial
34 vehicles, shall be exempted from displaying the name of the
35 municipality, provided that their vehicles display a corporate
36 identification number. The sign or name plate shall be in plain
37 view and not less than three inches high. Where available space
38 for lettering is limited, either by the design of the vehicle or by
39 the presence of other legally specified identification markings,
40 making a strict compliance herewith impractical, the size of the
41 lettering required by this section shall be as close to three inches
42 high as is possible, within the limited space area, provided the
43 name is clearly visible and readily identifiable. In the case of a
44 combination of two vehicles the requirements of this section will
45 be served when either unit of the combination conforms with the
46 above identification specifications. No person shall operate or
47 drive or cause or permit to be operated or driven on a road or
48 highway a commercial vehicle, except for passenger automobiles
49 which does not conform hereto.

1 For purposes of this section, a franchised public utility means a
2 public utility, as defined in R.S.48:2-13, that has a defined
3 geographical service territory approved by the Board of Public
4 Utilities.

5 b. Every owner of a commercial motor vehicle as defined in
6 P.L. _____, c. _____ (C. _____) (now pending before the legislature as
7 this bill) registered or principally garaged in this State shall
8 display the gross vehicle weight rating (GVWR) for the vehicle in
9 the manner set forth in subsection a. of this section. For
10 purposes of this subsection, GVWR means the value specified by
11 the manufacturer as the maximum loaded weight of a single or
12 combination (articulated) vehicle, or registered gross weight,
13 whichever is greater. Any person who knowingly displays or
14 causes to be displayed on a commercial motor vehicle a GVWR
15 less than the actual GVWR, or an owner who knowingly permits a
16 commercial motor vehicle owned by him to be operated in this
17 State with a displayed GVWR less than the actual GVWR shall,
18 for each offense, be fined \$5,000, or imprisoned for a term not to
19 exceed 90 days, or both.

20 (cf: P.L.1986, c.77, s.1)

21 33. R.S.39:5-30 is amended to read as follows:

22 39:5-30. a. Every registration certificate [and], every license
23 certificate, every privilege to drive motor vehicles, including
24 commercial motor vehicles as defined in P.L. _____, c. _____
25 (C. _____) (now pending before the Legislature as this bill), every
26 endorsement, class of license, and commercial driver license.
27 may be suspended or revoked, and any person may be prohibited
28 from obtaining a driver's license or a registration certificate, or
29 disqualified from obtaining any class of or endorsement on a
30 commercial driver license, and the reciprocity privilege of any
31 nonresident may be suspended or revoked by the director for a
32 violation of any of the provisions of this Title or on any other
33 reasonable grounds, after due notice in writing of such proposed
34 suspension, revocation, disqualification or prohibition and the
35 ground thereof.

36 He may also summon witnesses to appear before him at his
37 office or at any other place he designates, to give testimony in a
38 hearing which he holds looking toward a revocation of a license or
39 registration certificate issued by or under his authority. The
40 summons shall be served at least 5 days before the return date,
41 either by registered mail or personal service. A person who fails
42 to obey the summons shall be subject to a penalty not exceeding
43 \$100.00, to be recovered with costs in an action at law,
44 prosecuted by the Attorney General, and in addition the vehicle
45 registration or driver's license, or both, as the case may be, shall
46 forthwith be revoked. The fee for witnesses required to attend
47 before the director shall be \$1.00 for each day's attendance and
48 \$0.03 for every mile of travel by the nearest generally traveled
49 route in going to and from the place where the attendance of the

1 witness is required. These fees shall be paid when the witness is
2 excused from further attendance, and the disbursements made
3 from payment of the fees shall be audited and paid in the manner
4 provided for expenses of the department. The actual conduct of
5 said hearing may be delegated by the director to such
6 departmental employees as he may designate, in which case the
7 said employees shall recommend to the director in writing
8 whether the said licenses or certificates shall or shall not be
9 suspended or revoked.

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

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

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

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

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

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

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

42 At the preliminary hearing, the parties shall proceed on the
43 papers submitted to the judge, including the summons, the police
44 reports and the charged individual's prior driving record
45 submitted by the division, and any brief affidavits permitted by
46 the judge from persons who shall be witnesses at the plenary
47 hearing, and the parties may present oral argument. Based on the
48 papers, on any oral argument, on the individual's prior driving
49 record, and on the circumstances of the alleged violation

1 presented in the papers, the judge shall determine whether the
2 individual was properly charged with a violation of the law and a
3 death occurred; and, if so, whether in the interest of public
4 safety, a preliminary suspension shall be immediately ordered
5 pending the plenary hearing on the proposed suspension or
6 revocation. The administrative law judge shall transmit his
7 findings to the director.

8 A plenary hearing shall be held no later than the 45th day
9 following [receipt of a timely request] the preliminary hearing.
10 Adjournment of the hearing shall be given only for good cause
11 shown. If the hearing is otherwise postponed or delayed solely at
12 the instance of the individual charged, the administrative law
13 judge shall immediately issue a preliminary suspension of any
14 license certificate or any nonresident reciprocity privilege held
15 by the individual charged, or if any such preliminary suspension or
16 order is in effect, he shall continue such suspension or order.
17 Such preliminary suspension or temporary order shall [be
18 effective until the individual charged appears at the plenary
19 hearing] remain in effect pending a final agency decision on the
20 matter. If the hearing is otherwise postponed or delayed at the
21 instance of anyone other than the individual charged, the judge
22 shall immediately issue an order restoring the individual's license
23 certificate or any nonresident reciprocity privilege pending final
24 agency decision in the matter. The period of any preliminary
25 suspension imposed under this section shall be deducted from any
26 suspension imposed by the final agency decision in the matter.

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

32 d. Whenever a fatal accident occurs in this State, [wherein any
33 operator involved in the accident is charged with any of the
34 offenses enumerated in subsection b. of this section], an
35 investigation of the incident, whether performed by the State
36 Police or by local police, shall be completed and forwarded to the
37 director within 72 hours of the time of the accident.

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

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

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

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

47 (4) R.S.39:4-129, wherein the death or serious bodily injury of
48 another has occurred, the director for good cause may, without
49 hearing, immediately issue a preliminary suspension of any

1 license certificate or any nonresident reciprocity privilege to
2 operate any motor vehicle or motorized bicycle held by an
3 individual charged or temporary order prohibiting the individual
4 from obtaining any license to operate any motor vehicle or
5 motorized bicycle in this State. For purposes of this subsection,
6 "serious bodily injury" means bodily injury which creates a
7 substantial risk of death or which causes serious, permanent
8 disfigurement, or protracted loss or impairment of the function
9 of any bodily member or organ. Along with the notice of
10 preliminary suspension, the director shall issue a notice of
11 proposed final suspension, revocation or other final agency
12 action, and shall afford the individual the right to a preliminary
13 hearing to contest the preliminary suspension and a plenary
14 hearing to contest the proposed final agency action.

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

23 Upon timely request by the individual, a preliminary hearing
24 shall be held by an administrative law judge, no later than the
25 15th day from the date on which the division receives the
26 request. The preliminary hearing shall be for the purpose of
27 determining whether, pending a [plenary hearing on the proposed]
28 final agency [action] decision on the matter, the preliminary
29 suspension issued by the director shall remain in effect.
30 Adjournment of the hearing shall be given only for good cause
31 shown. If the preliminary hearing is otherwise postponed or
32 delayed solely at the instance of someone other than the
33 individual charged, the judge shall immediately order that the
34 individual's license certificate or any nonresident reciprocity
35 privilege be restored pending the rescheduled preliminary hearing.

36 At the preliminary hearing, the parties shall proceed on the
37 papers submitted to the judge, including the summons, the police
38 reports and the charged individual's prior driving record
39 submitted by the division, and any brief affidavits permitted by
40 the judge from persons who shall be witnesses at the final
41 hearing, and the parties may present oral arguments. Based on
42 the papers, on any oral argument, on the individual's prior driving
43 record, and on the circumstances of the alleged violation
44 presented in the papers, the judge shall immediately determine
45 whether the individual was properly charged with a violation of
46 the law and a death occurred; and, if so, whether in the interest
47 of public safety, the preliminary suspension shall be continued
48 pending the [plenary hearing on the proposed] final agency
49 [action] decision on the matter. The administrative law judge

1 shall transmit his findings to the director.

2 Any plenary hearing to contest the proposed final agency
3 action shall conform to the requirements for a plenary hearing
4 contained in subsection b. of this section.

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

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

16 (cf: P.L.1982, c.43, s.8)

17 34. R.S.39:5-42 is amended to read as follows:

18 39:5-42. Every judge or magistrate shall make a report, [in
19 writing] in such form as the director may require, to the
20 [commissioner] director (1) of all cases heard before him for
21 violation of this [subtitle] title, or for any other violation in
22 which a motor vehicle was used in any way, and (2) of the
23 conviction of any person of having committed a penal offense or
24 crime in the commission of which a motor vehicle was used,
25 within three days after the disposition of the case before him as a
26 judge or magistrate[, upon blanks provided by the commissioner
27 for that purpose]. The report shall state the nature of the
28 violation, the full facts concerning the use of the motor vehicle
29 in the commission of the penal offense or crime, the disposition
30 of the case by the judge or magistrate and any recommendations
31 which the judge or magistrate may deem of value to the
32 [commissioner] director in determining whether action should be
33 taken against the [license] driving, registration, or other privilege
34 of the driver or owner of the motor vehicle.

35 (cf: P.L.1942, c.334, s.10)

36 35. Section 3 of P.L.1979, c.97 (C.39:3-13.5) and section 30 of
37 P.L.1951, c.23 (C. 39:4-50.1) are repealed.

38 36. This act shall take effect immediately, except that
39 paragraph (1) of subsection a. of section 10 shall expire on March
40 31, 1992 and sections 5, 12, 16, 18, and paragraph (2) of
41 subsection a. of section 10 shall take effect April 1, 1992.

42

43

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STATEMENT

45

46 This bill establishes the New Jersey Commercial Driver
47 License Act. This bill was drafted in response to the
48 requirements imposed on states by the federal Commercial Motor
49 Vehicle Safety Act of 1986, Pub. L. 99-570 (49 U.S.C. §2701 et

1 seq.). The bill, when enacted into law, along with the regulations
2 to be adopted by the Director of the Division of Motor Vehicles.
3 will substantially conform New Jersey law to the standards and
4 requirements mandated by the federal Commercial Motor Vehicle
5 Safety Act of 1986 and the regulations promulgated by the
6 Federal Highway Administration pursuant to that federal law.
7 Failure to comply would result in the loss to New Jersey of \$30
8 million annually in federal highway monies. This bill is designed
9 to meet the special needs of this State in the licensing, testing
10 and regulation of operators of commercial motor vehicles.

11 This bill promotes the cause of safety by establishing new and
12 more comprehensive licensing and testing procedures which are
13 tailored to the type of vehicle a person will operate and standards
14 which will allow for a full evaluation of an applicant's
15 qualifications and which are in line with the uniform requirement
16 established by the federal government. The bill is also designed
17 to remove unqualified or poor drivers from the road and to curtail
18 the problems associated with drivers holding driver licenses from
19 more than one state, whereby a driver can avoid license
20 suspension and disciplinary action by spreading violations among
21 several licenses.

22 The provisions of the bill address six major areas of concern:
23 the single driver license requirement; the lack of uniform
24 licensing systems for commercial motor vehicle operators in the
25 various states; knowledge and skill examination standards;
26 positive driver identification methods; the need for information
27 system to maintain and access a complete single driver license
28 record; and penalties to remove unsafe commercial drivers from
29 the roads.

30 Highlights of the bill's provisions follow.

31 Section 3 sets forth the special definitions needed for the New
32 Jersey Commercial Driver License Act. While these definitions
33 are self-explanatory, a few brief comments on some terms are
34 appropriate. The term "alcohol concentration" in conjunction
35 with the offense defined in section 5 of the bill is designed to
36 forestall any questions concerning the "partition ratio
37 variability" (the rate at which alcohol is absorbed by different
38 individuals) dispute now pending before the courts.

39 The term "commercial motor vehicle" or "CMV" is defined to
40 aid the law enforcement community and prosecutors in their
41 enforcement efforts. Thus, a motor vehicle which displays a
42 gross vehicle weight rating or registration weight of 26,001 or
43 more pounds or displays a hazardous material placard is a
44 commercial motor vehicle and is subject to the provisions of the
45 bill. This will remove the need, in most instances, of breaking
46 bulk or weighing a CMV or conducting time consuming laboratory
47 tests in order to establish that a vehicle is a CMV.

48 The term "conviction" is defined broadly so as to include every
49 type of adjudication, civil or criminal, regardless of the nature of

1 a plea (non vult, guilty, or nolo contendere) and to include the
2 various types of forfeitures.

3 The term "felony" is used in order to have uniform terminology
4 with other states. It includes "crimes" as defined in Title 2C of
5 the New Jersey Statutes, as well as other offenses of the type
6 described in this State or any other state or jurisdiction.

7 The term "operate" is not specifically defined. The intent is
8 that the use of the term include the uses recognized by the New
9 Jersey Supreme Court in State v. Mulcahy, 107 N.J. 467 (1987)
10 and State v. Wright, 107 N.J. 488 (1987), and that the term be
11 given a meaning broader than mere "driving."

12 Section 5 establishes a 0.04% alcohol concentration standard
13 for commercial motor vehicle operators. This standard is
14 required in order to comply with the federal Commercial Motor
15 Vehicle Safety Act of 1986 and was adopted by the federal
16 government as the result of current scientific studies which
17 demonstrate significant impairment of visual, cognitive, and
18 psychomotor facilities necessary for safe operation of a motor
19 vehicle at levels well below the current established State 0.10%
20 alcohol concentration level. Many of these studies are outlined
21 and detailed in the Special Report 216 of the Transportation
22 Research Board of the National Research Council entitled "Zero
23 Alcohol and Other Options."

24 Section 10 sets forth the basic requirement that no person
25 operate a commercial motor vehicle unless the person possesses a
26 valid commercial driver license. This section provides for a
27 phase-in period to allow the director to test and license all
28 individuals who require a CDL, and that during that time licenses
29 will be issued both under R.S.39:3-10 and this act. Paragraph (1)
30 of subsection a. is designed to apply to those persons who have
31 been tested and licensed (in this or another state) and who have
32 already been issued a CDL. Once a person is licensed in
33 accordance with CDL requirements, the person may no longer
34 operate a commercial motor vehicle on a license or endorsement
35 issued under R.S.39:3-10, except as otherwise provided by the
36 director.

37 On April 1, 1992, paragraph (1) of subsection a. will have
38 expired and paragraph (2) of subsection a. will become effective.
39 Paragraph (2) contains the federal requirement that also becomes
40 effective on that date. The penalties in paragraph (3) of
41 subsection a. mirror the penalties in R.S.39:3-10. The penalties
42 in paragraph (2) of subsection b. mirror the penalties in
43 R.S.39:3-40.

44 Section 12 addresses the federal penalty requirements for
45 certain violations. It provides that a court must suspend a
46 person's CDL or reciprocity CDL privilege when a violation
47 occurs in this State, and that the director must issue the
48 suspension when the violation occurs in another state.

49 It is not the intent of this bill to supersede the motor vehicle

1 points system. Thus, drivers who commit "serious traffic
2 violations" may be held accountable under this section with
3 regard to the commercial driver license and under the points
4 system with regard to their basic driving privilege. It is also
5 important to note that the loss of a basic driving privilege results
6 in a loss of the commercial driver license privilege as well.
7 There is no intent to create a "work license." It is essential to
8 the substantial compliance with the federal law and its
9 regulations that the suspension periods set forth in section 12 be
10 imposed. Subsection i. of section 12 was added to clarify that a
11 person convicted of one of the specified violations under this bill
12 should receive the required commercial driver license suspension,
13 even though his conduct may also constitute a violation of a
14 similar statute. This language also is made applicable to section
15 16 of the bill and section 1 of P.L.1966, c.142 (C.39:4-50.2) even
16 though those sections are civil in nature. This was done to
17 remove any doubts and to forestall litigation on the question.

18 Sections 13 and 14 of the bill authorize commercial driving
19 testing by third parties if the director determines that such
20 testing is a sound and cost effective means of issuing commercial
21 driver licenses. This section also sets forth the requirements for
22 obtaining a waiver of the skills test as permitted under federal
23 law.

24 Section 15 grants the director authority to establish an orderly
25 means for testing all of those persons who will need commercial
26 driver licenses. The process cannot be accomplished by the April
27 1, 1992 deadline if scheduling of tests is left to the unconstrained
28 discretion of the licensees. Therefore, the act gives the director
29 the necessary control over all aspects of the licensing and testing
30 function needed to accomplish the task.

31 Section 35 repeals section 3 of P.L.1979, c.97 (C.39:3-13.5)
32 which concerns the issuance of omnibus endorsements without
33 examination. This section is repealed because it is incompatible
34 with the examination requirements established in the federal
35 Commercial Motor Vehicle Safety Act. Allowing this section to
36 remain in place will result in the State being not in substantial
37 compliance with the federal act.

38 In addition, section 35 repeals section 30 of P.L.1951, c.23
39 (C.39:4-50.1) which concerns the presumptions arising from the
40 percentage of alcohol in a person's blood. This section is
41 repealed because it is incompatible with the zero blood alcohol
42 concentration standard established for operators of commercial
43 motor vehicles under the federal act. It is also being repealed in
44 light of current scientific studies which demonstrate significant
45 impairment of visual, cognitive, and psychomotor faculties
46 necessary for the safe operation of motor vehicles at levels well
47 below the current 0.10% blood alcohol concentration. Repeal of
48 this section should not be taken as an indication that blood
49 alcohol concentration bears no significance to the question of

1 whether a person is operating a motor vehicle under the influence
2 of intoxicating liquors in violation of R.S.39:4-50. By repealing
3 section 30, the intent is to allow the finder of fact to give full
4 weight to the blood alcohol concentration level in light of recent
5 scientific studies in determining whether a violation has occurred.

6 The provisions of the bill not highlighted above set forth the
7 reciprocity, waiver, rulemaking, and severability provisions.

8

9

10 MOTOR VEHICLES

11

12 Establishes the "New Jersey Commercial Driver License Act."

ASSEMBLY, No. 3258

STATE OF NEW JERSEY

INTRODUCED MARCH 22, 1990

By Assemblymen IMPREVEDUTO, ZANGARI and Menendez

1 AN ACT concerning the licensing, testing, and regulation of
2 drivers of commercial motor vehicles, supplementing Title 39
3 of the Revised Statutes and amending and repealing various
4 parts of the statutory law.

5

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

8 1. (New section) This act shall be known and may be cited as
9 the "New Jersey Commercial Driver License Act."

10 2. (New section) The purpose of this act is to reduce or
11 prevent commercial motor vehicle accidents, fatalities, and
12 injuries by strengthening licensing and testing standards for
13 drivers of commercial motor vehicles, and by disqualifying those
14 drivers who have committed certain serious traffic violations or
15 other specified offenses. This act is also designed to
16 substantially conform the laws of this state to the requirements
17 and standards established under the federal Commercial Motor
18 Vehicles Safety Act of 1986, Pub. L. 99-570 (49 U.S.C. §2701 et
19 seq.) and the regulations promulgated pursuant to that federal
20 law. This act is a remedial law and shall be liberally construed to
21 promote the public health, safety, and welfare.

22 3. (New section) For purposes of this act, a term shall have
23 the meaning set forth in R.S.39:1-1 unless another meaning for
24 the term is set forth in this act, or unless another meaning is
25 clearly apparent from the language or context of this act, or
26 unless the meaning for the term set forth in R.S.39:1-1 is
27 inconsistent with the manifest intent of the Legislature in this
28 act.

29 For purposes of this act:

30 "Alcohol concentration" means:

31 a. The number of grams of alcohol per 100 milliliters of blood;

32 or

33 b. The number of grams of alcohol per 210 liters of breath.

34 "Commercial driver license" or "CDL" means a license issued
35 in accordance with this act to a person authorizing the person to
36 operate a certain class of commercial motor vehicle.

37 "Commercial Driver License Information System" or "CDLIS"
38 means the information system established pursuant to the federal

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.

1 Commercial Motor Vehicle Safety Act of 1986, Pub. L. 99-570
2 (49 U.S.C. §2701 et seq.) to serve as a clearing house for locating
3 information related to the licensing and identification of
4 commercial motor vehicle drivers.

5 "Commercial motor vehicle" or "CMV" means a motor vehicle
6 or combination of motor vehicles used or designed to transport
7 passengers or property:

8 a. If the vehicle has a gross vehicle weight rating of 26,001 or
9 more pounds or displays a gross vehicle weight rating of 26,001 or
10 more pounds;

11 b. If the vehicle has a gross combination weight rating of
12 26,001 or more pounds inclusive of a towed unit with a gross
13 vehicle weight rating of more than 10,000 pounds;

14 c. If the vehicle is designed to transport 16 or more passengers
15 including the driver, provided, the director may, by regulation,
16 include such vehicles designed to transport 15 or fewer
17 passengers including the driver as he deems appropriate; or

18 d. If the vehicle is transporting or used in the transportation of
19 hazardous materials and is required to be placarded in accordance
20 with subpart f. of 49 C.F.R. §172, or a vehicle displaying a
21 hazardous material placard.

22 "Controlled substance" means any substance so classified under
23 subsection (6) of the "Controlled Substances Act" (21 U.S.C.
24 §802), and includes all substances listed on Schedules I through V
25 of 21 C.F.R. §1308, or under P.L.1970, c.226 (C.24:21-1 et seq.)
26 as they may be revised from time to time. The term, wherever it
27 appears in this act or administrative regulation promulgated
28 pursuant to this act, shall include controlled substance analogs.

29 "Controlled substance analog" means a substance that has a
30 chemical structure substantially similar to that of a controlled
31 dangerous substance and that was specifically designed to
32 produce an effect substantially similar to that of a controlled
33 dangerous substance. The term shall not include a substance
34 manufactured or distributed in conformance with the provisions
35 of an approved new drug application or an exemption for
36 investigational use within the meaning of section 505 of the
37 "Federal Food, Drug and Cosmetic Act," (21 U.S.C. §355).

38 "Conviction" means an adjudication that a violation has
39 occurred, a final judgment on a verdict, a finding of guilt in a
40 tribunal of original jurisdiction, or a conviction following a plea
41 of guilty, non vult or nolo contendere accepted by a court. It also
42 includes an unvacated forfeiture of bail, bond or collateral
43 deposited to secure the person's appearance in court, or the
44 payment of a fine or court costs, or violation of a condition of
45 release without bail, regardless of whether the penalty is rebated,
46 suspended, or probated.

47 "Director" means the Director of the Division of Motor
48 Vehicles in the Department of Law and Public Safety.

49 "Disqualification" means either:

1 a. The suspension, revocation, cancellation, or any other
2 withdrawal by a State of a person's privilege to operate a
3 commercial motor vehicle;

4 b. A determination by the Federal Highway Authority under
5 the rules of practice for motor carrier safety contained in 49
6 C.F.R. §386, that a person is no longer qualified to operate a
7 commercial motor vehicle under 49 C.F.R. §391; or

8 c. The loss of qualification which automatically follows
9 conviction of an offense listed in 49 C.F.R. §383.51.

10 "Division" means the Division of Motor Vehicles in the
11 Department of Law and Public Safety.

12 "Driver license" means a license issued by this State or other
13 jurisdiction to a person authorizing the person to operate a motor
14 vehicle.

15 "Endorsement" means an authorization to a commercial driver
16 license required to permit the holder of the license to operate
17 certain types of commercial motor vehicles.

18 "Felony" means any offense under any federal law or the law
19 of a state, including this State, that is punishable by death or
20 imprisonment for a term exceeding one year. The term includes,
21 but is not limited to, "crimes" as that term is defined in
22 N.J.S.2C:1-1 et seq.

23 "Foreign jurisdiction" means any jurisdiction other than a state
24 of the United States.

25 "Gross vehicle weight rating" or "GVWR" means the value
26 specified by a manufacturer as the loaded weight of a single or a
27 combination (articulated) vehicle, or the registered gross weight,
28 whichever is greater. The GVWR of a combination (articulated)
29 vehicle, commonly referred to as the "gross combination weight
30 rating" or "GCWR," is the GVWR of the power unit plus the
31 GVWR of the towed unit or units. In the absence of a value
32 specified for the towed unit or units by the manufacturer, the
33 GVWR of a combination (articulated) vehicle is the GVWR of the
34 power unit plus the total weight of the towed unit, including the
35 loads on them.

36 "Hazardous material" means a substance or material
37 determined by the Secretary of the United States Department of
38 Transportation to be capable of posing an unreasonable risk to
39 health, safety, and property when transported in commerce and
40 so designated pursuant to the provision of the "Hazardous
41 Materials Transportation Act," (49 U.S.C. §1801 et seq.).

42 "Motor vehicle" includes all vehicles propelled otherwise than
43 by muscular power, except such vehicles as run only upon rails or
44 tracks. The term "motor vehicle" includes motorized bicycles.

45 "Out of service order" means a temporary prohibition against
46 operating a commercial motor vehicle.

47 "Representative vehicle" means a motor vehicle which
48 represents the type of motor vehicle that a driver applicant
49 operates or expects to operate.

1 "Secretary" means the Secretary of the United States
2 Department of Transportation or his designee.

3 "Serious traffic violation" means conviction for one of the
4 following offenses committed while operating a commercial
5 motor vehicle:

6 a. Excessive speeding, involving any single offense for a speed
7 of 15 miles per hour or more above the speed limit;

8 b. Reckless driving, as defined by State or local law or
9 regulation, including, but not limited to, offenses of driving a
10 commercial motor vehicle in willful or wanton disregard of the
11 safety of persons or property, including violations of R.S.39:4-96;

12 c. Improper or erratic traffic lane changes;

13 d. Following a vehicle ahead too closely, including violations
14 of R.S.39:4-89;

15 e. A violation, arising in connection with a fatal accident, of
16 State or local law relating to motor vehicle traffic control, other
17 than a parking violation. Serious traffic violations exclude
18 vehicle weight and defect violations; or

19 f. Any other violation of a state or local law relating to motor
20 vehicle traffic control, other than a parking violation, which the
21 director determines to be serious.

22 "State" means a state of the United States or the District of
23 Columbia.

24 "State of domicile" means that state where a person has a
25 true, fixed, and permanent home and principal residence and to
26 which the person intends to return whenever he is absent.

27 "Tank vehicle" means any commercial motor vehicle that is
28 designed to transport any liquid or gaseous material within a tank
29 that is either permanently or temporarily attached to the vehicle
30 or the chassis. Such vehicles include, but are not limited to,
31 cargo tanks and portable tanks as defined by the director.
32 However, this definition does not include portable tanks having a
33 rated capacity under 1,000 gallons.

34 "United States" means the fifty states and the District of
35 Columbia.

36 "Vehicle group" means a class or type of vehicle with certain
37 operating characteristics.

38 4. (New section) Notwithstanding any other provision of law
39 to the contrary, the director shall adopt and administer a
40 classified licensing system and a program for testing and ensuring
41 the fitness of persons to operate commercial motor vehicles in
42 accordance with the minimum federal standards established under
43 the federal Commercial Motor Vehicle Safety Act of 1986, Pub.
44 L.99-570 (49 U.S.C. §2701 et seq.) and the regulations
45 promulgated pursuant to that law. The director shall not issue a
46 commercial driver license to a person unless that person passes a
47 written and driving test for operation of a commercial motor
48 vehicle which complies with the minimum established standards.
49 The director may issue commercial driver examination permits.

1 subject to such conditions and restrictions as deemed necessary,
2 to carry out the provisions of this act.

3 5. (New section) Notwithstanding any other provision of law
4 to the contrary, a person shall not operate a commercial motor
5 vehicle in this State with an alcohol concentration of 0.04% or
6 more.

7 6. (New section) a. Before issuing a commercial driver
8 license to an applicant, the director shall notify the Commercial
9 Driver License Information System of the proposed issuance and
10 shall request driving record information from the Commercial
11 Driver License Information System, the National Driver Register,
12 and from any other state which has issued a commercial driver
13 license to the applicant to determine whether the applicant has a
14 commercial driver license issued by another state, whether the
15 applicant's driving privilege has been suspended, revoked
16 cancelled, or whether the applicant has been disqualified from
17 operating a commercial driver license.

18 The director also shall provide driving record and other
19 information to the licensing authority of any other state, or
20 province or territory of Canada, which requests such information
21 in connection with a commercial driver license. The director
22 may charge such fees as are deemed appropriate to cover the
23 costs of providing information, except that no fee shall be
24 charged if the other jurisdiction does not charge New Jersey for
25 similar requests.

26 b. Within 10 days after the issuance of a commercial driver
27 license, the director shall notify the Commercial Driver License
28 Information System of that fact, providing all information
29 required to ensure identification of the licensee.

30 7. (New section) Within 10 days after receiving a report of the
31 conviction of a holder of a commercial driver license for any
32 violation of state law related to motor vehicle traffic control
33 committed in a commercial vehicle, other than parking
34 violations, or after the disqualification of the holder of a
35 commercial driver license or suspension of privileges for a period
36 of 60 days or more, the division shall notify the driver licensing
37 authority in the licensing state, if other than this State, and the
38 Commercial Driver License Information System of the
39 conviction, suspension, or disqualification. The notification shall
40 include all information the director deems necessary.

41 8. (New section) The director, in his discretion, may refuse to
42 grant a commercial driver license to a person who is, in his
43 estimation, not a proper person to be granted such a license. The
44 director may suspend or revoke a privilege to operate a
45 commercial motor vehicle, or may prohibit a person from
46 obtaining a commercial driver license. The director may suspend
47 or revoke the reciprocity privilege of a person for a violation of
48 any provision of Title 39 of the Revised Statutes or for any other
49 reasonable grounds.

1 9. (New section) The director shall issue a commercial driver
2 license only to a person who operates or will operate a
3 commercial motor vehicle and is domiciled in this State.

4 10. (New section) a. (1) Except as provided by the director by
5 rule or regulation, a person who has been issued a commercial
6 driver license shall not operate a commercial motor vehicle
7 unless the person is in possession of the valid commercial driver
8 license and endorsements for the class of vehicle being operated.
9 Such a person shall not operate a commercial motor vehicle if the
10 person is restricted from operating a commercial vehicle of that
11 type.

12 (2) Except when operating under a valid commercial driver
13 examination permit and accompanied by the holder of a
14 commercial driver license valid for the class of vehicle being
15 operated, a person shall not operate a commercial motor vehicle
16 unless the person has been issued and is in possession of a valid
17 commercial driver license and applicable endorsements for the
18 class of vehicle being operated. A person shall not operate a
19 commercial motor vehicle if the person is restricted from
20 operating a commercial vehicle of that type.

21 (3) A person violating this subsection shall be fined not less
22 than \$250 or more than \$500, or imprisoned for not more than 60
23 days, or both. This penalty shall not be applicable in cases where
24 failure to have actual possession of the commercial driver license
25 is due to an administrative or technical error by the division. If a
26 person charged with a failure to have possession of a valid
27 commercial driver license can exhibit the license to the judge of
28 the court before whom he is summoned to answer to a charge and
29 the license was valid on the day the person was charged, the
30 judge may dismiss the charge. However, the judge may impose
31 court costs.

32 b. (1) A person who has been refused a commercial driver
33 license, whose commercial motor vehicle driving privilege or any
34 endorsement has been suspended or revoked, who has been
35 prohibited or disqualified from operating a commercial motor
36 vehicle, who is subject to an out of service order, or whose
37 driving privilege is suspended or revoked, shall not operate a
38 commercial motor vehicle during the period of refusal,
39 suspension, revocation, prohibition, or disqualification, or during
40 the period of the out of service order.

41 (2) A person who violates this subsection shall, upon conviction,
42 be fined \$5,000 for each offense, or imprisoned for a term not to
43 exceed 90 days, or both. If a person is involved in an accident
44 resulting in personal injury to another person while operating a
45 commercial motor vehicle in violation of this subsection, the
46 court shall impose both a period of imprisonment for 90 days and
47 a fine of \$5,000.

48 In addition, the commercial motor vehicle driving privilege of a
49 person convicted under this subsection shall be suspended in

1 accordance with section 12 of this act.

2 11. (New section) Notwithstanding any other law to the
3 contrary, a person may operate a commercial motor vehicle in
4 this State if the person has received a waiver from the Secretary
5 of Transportation or the licensing authority of any other state or
6 jurisdiction; or has a commercial driver license issued by any
7 state, or issued by any province or territory of Canada, in
8 accordance with minimum federal standards for the issuance of
9 commercial motor vehicle driver licenses, provided that the
10 person's driving privilege is not suspended or revoked or
11 cancelled in this State or in the jurisdiction that issued the
12 commercial driver license, and that the person is not disqualified
13 from operating a commercial motor vehicle, or subject to an "out
14 of service" order.

15 Upon application for a transfer of a commercial driver license
16 from another state of domicile to this State, a person shall apply
17 to the director for a commercial driver license within 30 days
18 after establishing domicile in this State.

19 12. (New section) a. In addition to any other penalty provided
20 by law, a court shall suspend for not less than one year nor more
21 than three years the commercial motor vehicle driving privilege
22 of a person for a first violation of:

23 (1) R.S.39:4-50 if the motor vehicle was a commercial motor
24 vehicle or section 5 of this act.

25 (2) R.S.39:4-129 involving a commercial motor vehicle
26 operated by the person.

27 (3) Using a commercial motor vehicle in the commission of any
28 "crime" as defined in subsections a., c., or d. of N.J.S.2C:1-4.

29 (4) Refusal to submit to a chemical test as provided in section
30 2 of P.L.1966, c.142 (C.39:4-50.2) or section 16 of this act if the
31 motor vehicle was a commercial motor vehicle.

32 (5) Paragraph (1) of subsection b. of section 10 of this act.

33 b. If a first violation of any of the violations specified in
34 subsection a. of this section take place while transporting
35 hazardous material or take place in a vehicle displaying a
36 hazardous material placard, the court shall suspend the
37 commercial motor vehicle driving privilege of the person for
38 three years.

39 c. Subject to the provisions of subsection d. of this section, the
40 court shall revoke for life the commercial motor vehicle driving
41 privilege of a person for a second or subsequent violation of any
42 of the offenses specified in subsection a. or any combination of
43 those offenses arising from two or more separate incidents. For
44 purposes of this section, a violation committed in another state
45 but substantially similar to those enumerated in subsection a.
46 committed in another state shall be included.

47 d. The director may issue rules and regulations establishing
48 guidelines, including conditions under which a revocation of
49 commercial motor vehicle driving privilege for life

1 under subsection c. may be reduced to a period of ten years.

2 e. Notwithstanding any other provision of law to the contrary,
3 a court shall revoke for life the commercial motor vehicle driving
4 privilege of a person who uses a commercial motor vehicle in the
5 commission of a crime involving the manufacture, distribution, or
6 dispensing of a controlled substance or controlled substance
7 analog, or possession with intent to manufacture, distribute, or
8 dispense a controlled substance or controlled substance analog. A
9 revocation under this subsection shall not be subject to reduction
10 in accordance with subsection d. of this section.

11 f. A court shall suspend the commercial motor vehicle driving
12 privilege of a person for a period of not less than 60 days if the
13 person is convicted of a serious traffic violation and that
14 conviction constitutes the second serious traffic violation
15 committed in a commercial motor vehicle in this or any other
16 state arising from separate incidents occurring within a three
17 year period. A court shall suspend the commercial motor vehicle
18 driving privilege for 120 days if the conviction constitutes the
19 third or subsequent serious traffic violation committed in a
20 commercial motor vehicle in this or any other state arising from
21 separate incidents occurring within a three year period.

22 g. After suspending, revoking, or cancelling a commercial
23 motor vehicle driving privilege, a court shall make a report to the
24 director within three days in such form as the director may
25 require. The director shall notify the Commercial Driver License
26 Information System of the suspension, revocation, or
27 cancellation. In the case of non-residents, the director also shall
28 notify the licensing authority of the state which issued the
29 commercial driver license or the state where the person is
30 domiciled. The director shall provide these notices within 10
31 days after the suspension, revocation, cancellation, or
32 disqualification.

33 h. The director shall in accordance with this section suspend a
34 commercial motor vehicle driving privilege of a person holding or
35 required to hold a commercial driver license issued by this State
36 if the person is convicted in a another state or foreign
37 jurisdiction of a violation of a substantially similar nature to the
38 offenses specified in subsections a., e., or f. of this section. For
39 purposes of this section, a violation such as driving while
40 intoxicated, driving under the influence, or driving while ability is
41 impaired shall be considered substantially similar offenses.

42 i. Notwithstanding any other provision of law to the contrary,
43 a conviction arising under this section or sections 5 or 16 of this
44 act shall not merge with a conviction for a violation of
45 R.S.39:4-50 or section 2 of P.L.1966, c.142 (C. 39:4-50.2).

46 13. (New section) The director may, by contract, by
47 appointment as a motor vehicle agent, or by licensing, authorize
48 qualified persons, including but not limited to an agency of this or
49 another state, an employer, a private driver training facility or

1 other private institution, or a department, agency
2 instrumentality of local government to administer any portion
3 of a commercial motor vehicle driver examination. The director
4 may adopt such regulations as deemed necessary to establish,
5 oversee and regulate the administration of commercial motor
6 vehicle driver testing by third parties including establishment of
7 maximum fees that may be charged. The director may limit the
8 number of persons licensed to administer examinations and may
9 suspend or revoke an authorization on any reasonable ground.
10 The director may terminate third party testing at any time. A
11 person authorized to administer examinations by appointment as
12 a motor vehicle agent shall so act until this authority is revoked
13 by the director.

14 14. (New section) The director may waive the skills test for a
15 commercial driver license applicant who is licensed at the time
16 of an application and who provides proof in such form and of such
17 type as the director may require that it is appropriate to waive
18 the skills test, consistent with the purposes of this act and the
19 requirements under the federal Commercial Motor Vehicle Safety
20 Act of 1986. Pub. L.99-570 (49 U.S.C. §2701 et seq.). The burden
21 in an application for a waiver shall be on the applicant.

22 15. (New section) The director may take such steps as are
23 necessary to provide for the efficient, timely and orderly
24 processing of persons required to obtain commercial driver
25 licenses under this act. The director may require a person who
26 operates or intends to operate a commercial motor vehicle to be
27 tested and licensed in accordance with the provisions of this act
28 at a time and place selected by the director. The director may,
29 after notice and an opportunity to be heard, suspend the privilege
30 to operate a commercial motor vehicle of a person who refuses to
31 be tested at the time and place selected by the director. The
32 suspension shall remain in effect until the person obtains a
33 commercial driver license in accordance with the provision of
34 this act.

35 16. (New section) a. A person who operates a commercial
36 motor vehicle on a public road, street, or highway, or
37 quasi-public area in this State, shall be deemed to have given his
38 consent to the taking of samples of his breath for the purposes of
39 making chemical tests to determine alcohol concentration;
40 provided, however, that the taking of samples shall be made in
41 accordance with the provisions of this act and at the request of a
42 police officer who has reasonable grounds to believe that the
43 person has been operating a commercial motor vehicle with an
44 alcohol concentration of 0.04% or more.

45 b. A record of the taking of such a sample, disclosing the date
46 and time thereof, as well as the result of a chemical test, shall be
47 made and a copy thereof, upon request, shall be furnished or
48 made available to the person so tested.

49 c. In addition to the samples taken and tests made at the

1 direction of a police officer hereunder, the person tested shall be
2 permitted to have such samples taken and chemical tests of his
3 breath, urine, or blood made by a person or physician of his own
4 selection.

5 d. The police officer shall inform the person tested of his
6 rights under subsections b. and c. of this section.

7 e. No chemical test, as provided in this section, or specimen
8 necessary thereto, may be made or taken forcibly and against
9 physical resistance thereto by the defendant. The police officer
10 shall, however, inform the person arrested of the consequences of
11 refusing to submit to such test including the penalties under
12 section 12 of this act. A standard statement, prepared by the
13 director, shall be read by the police officer to the person.

14 f. The court shall revoke for six months the right to operate
15 any motor vehicle of any person who, after being arrested for a
16 violation of section 5 of this act, shall refuse to submit to the
17 chemical test provided for in this section when requested to do
18 so, unless the refusal was in connection with a subsequent offense
19 under this section, section 5 of this act, R.S.39:4-50 or section 2
20 of P.L.1981, c.512 (C.39:4-50.4a), in which case the revocation
21 period shall be for 2 years. In addition, a court shall impose the
22 penalties provided in section 12 of this act.

23 The court shall determine by a preponderance of the evidence
24 whether the arresting officer had probable cause to believe that
25 the person had been operating or was in actual physical control of
26 a commercial motor vehicle on the public highways or
27 quasi-public areas of this State with an alcohol concentration at
28 0.04% or more, whether the person was placed under arrest,
29 whether he refused to submit to the test upon request of the
30 officer, and if these elements of the violation are not established,
31 no conviction shall issue. In addition to any other requirements
32 provided by law, a person whose driving privilege is revoked for
33 refusing to submit to a chemical test shall satisfy the
34 requirements of a program of alcohol education or rehabilitation
35 pursuant to the provisions of R.S.39:4-50. The revocation shall
36 be independent of any revocation imposed by virtue of a
37 conviction under the provisions of R.S.39:4-50 or section 12 of
38 this act.

39 In addition to imposing a revocation under this subsection, a
40 court shall impose a fine of not less than \$250 or more than \$500.

41 17. (New section) Chemical analyses of an arrested person's
42 breath, to be considered valid under the provisions of this act,
43 shall have been performed according to methods approved by the
44 Attorney General, and by a person certified for this purpose by
45 the Attorney General. The Attorney General is authorized to
46 approve satisfactory techniques or methods, to ascertain the
47 qualifications and competence of individuals to conduct analyses,
48 and to make certifications of such individuals, which
49 certifications shall be subject to termination or revocation at the

1 discretion of the Attorney General. The Attorney General shall
2 prescribe a uniform form for reports of the chemical analysis of
3 breath to be used by law enforcement officers and others acting
4 in accordance with the provisions of this act. Each chief of
5 police, in the case of forms distributed to law enforcement
6 officers and others in his municipality, or the other officer,
7 board, or official having charge or control of the police
8 department where there is no chief, and the Director of the
9 Division of Motor Vehicles and the Superintendent of State
10 Police, in the case of such forms distributed to law enforcement
11 officers and other personnel in their divisions, shall be responsible
12 for the furnishing and proper disposition of such uniform forms.
13 Each responsible party shall prepare or cause to be prepared the
14 records and reports relating to the uniform forms and their
15 disposition in the manner and at the times prescribed by the
16 Attorney General. Unless otherwise provided by the Attorney
17 General, the approval of methods and techniques, the
18 certification of persons and the prescription of forms of reports
19 pursuant to section 3 of P.L.1966, c.142 (C.39:4-50.3) shall
20 constitute approval, certification or prescription, as the case may
21 be, for purposes of this section.

22 18. (New section) A person who operates a commercial motor
23 vehicle shall not have more than one commercial driver license.

24 A person convicted of a violation of this section shall be
25 subject for each offense to a fine of \$5,000, or imprisoned for a
26 term not to exceed 90 days, or both.

27 19. (New section) The director may adopt any rules and
28 regulations, in accordance with the provisions of the
29 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
30 seq.), necessary to carry out the provisions of this act, including
31 the regulations necessary to place this State in substantial
32 compliance with the requirements of the federal Commercial
33 Motor Vehicle Safety Act of 1986, Pub. L.99-570 (49 U.S.C. §2701
34 et seq.) and the regulations promulgated pursuant to that federal
35 law.

36 20. (New section) The director may enter into or make
37 agreements, arrangements, or declarations to carry out the
38 provisions of this act. The director may also enter into an
39 agreement or arrangement with the duly authorized
40 representative of another state, the federal government, or
41 province concerning licensing or testing of commercial motor
42 vehicle operators, the exchange of information concerning
43 operators, and their operating history. Such arrangements shall,
44 in the judgment of the director, be in the best interest of this
45 State and its citizens, keeping in mind the public safety benefits
46 that flow to this State from a nationwide system for regulating
47 commercial motor vehicle operators.

48 21. (New section) Notwithstanding any other provision of law
49 to the contrary, the director may waive, in whole or in part, after

1 notice and an opportunity for comment, application of any
2 provision of this act or any regulation promulgated pursuant to
3 this act with respect to a class of persons or class of commercial
4 motor vehicles if the director determines that such waiver is not
5 contrary to the public interest and does not diminish the safe
6 operation of commercial motor vehicles. A waiver under this
7 section shall be published in the New Jersey Register, together
8 with reasons for the waiver. A waiver shall not be granted if the
9 granting of the waiver is likely to or will place the State in the
10 position of not being in substantial compliance with the
11 requirements set forth in the Commercial Motor Vehicle Safety
12 Act of 1986, Pub. L.99-570 (49 U.S.C. §2701 et seq.). The
13 director may make such applications as he deems appropriate to
14 the Secretary to obtain any waiver permitted under federal law.

15 22. (New section) The required fee for a commercial driver
16 license for a 48 month period shall be \$17.50. The required fee
17 for an examination permit shall \$35. The required fee for an
18 endorsement for a 48 month period shall be \$12.

19 The commercial driver license shall expire on the last day of
20 the 48th calendar month following the calendar month in which
21 the license was issued, provided, however, that the director may,
22 at his discretion, issue licenses and endorsements which shall
23 expire on a date fixed by him. The fee for such licenses or
24 endorsements shall be fixed in amounts proportionately less or
25 greater than the fee otherwise established.

26 23. (New section) The provisions of this act shall be severable,
27 and if any of its provisions shall be held to be unconstitutional,
28 the decision of the court shall not affect the validity of the
29 remaining provisions of this act.

30 24. (New section) Receipts collected by the director pursuant
31 to this act shall be forwarded to the State Treasurer and be
32 deposited into a special fund. The division shall establish a
33 receivable account for the sole purpose of defraying the expenses
34 incurred for program implementation and administration. The
35 receivable account shall be relieved by monies deposited into the
36 special fund from fees derived pursuant to this act. Upon
37 completion of the implementation process, monies remaining in
38 the special fund in excess of the amount required to defray the
39 expenses of the program shall be deposited into the General State
40 Fund.

41 25. N.J.S.2A:82-10 is amended to read as follows:

42 2A:82-10. Copies of motor vehicle records

43 Copies of any act, rule, order or decision made by the director
44 of the division of motor vehicles, and of any paper filed in his
45 office when authenticated under his seal shall be evidence in like
46 manner, and with equal effect as the originals.

47 All transcripts and abstracts of the records of the division of
48 motor vehicles, the licensing authority of another state, the
49 Commercial Driver License Information System, or the National

1 Driver Register as to the names of owners of motor vehicles and
2 as to the holders of licenses to operate motor vehicles and their
3 operating records, certified by the director of the division, or
4 other appropriate official to be true copies of the record, shall be
5 received in any court as prima facie evidence of the matters and
6 facts therein stated. [Such] For the purposes of the division, such
7 transcripts and abstracts shall be copies of the original records
8 made or copies of the record thereof as recorded by the clerk or
9 other officer of the Division of Motor Vehicles.

10 For purposes of transcripts, abstracts and computer printouts
11 under this section, the seal of the director need not be impressed,
12 but such transcripts, abstracts, and computer printouts shall be
13 deemed to be sealed when there is affixed thereto, or printed or
14 marked thereon, the seal of the division.

15 (cf: P.L.1979, c.210, s.1)

16 26. Section 1 of P.L.1979, c.261 (C.39:3-10f) is amended to
17 read as follows:

18 1. In addition to the requirements for the form and content of
19 a motor vehicle driver's license under R.S. 39:3-10, each initial
20 New Jersey license issued to a person under the age of 21 after
21 the effective date of this act shall have a color photograph of the
22 licensee. Each initial motor vehicle license issued to a person 21
23 years of age or older on or after May 1, 1982, shall have a color
24 photograph of the licensee. At the option of the licensee, a
25 renewal of any motor vehicle driver's license shall be either a
26 photo-license or a license that does not bear a photograph of the
27 licensee. All licenses bearing a color photograph of the licensee
28 as provided in this act shall be valid for a period of 48 calendar
29 months.

30 To replace a photo-license for a licensee who is temporarily
31 out of this State, the director may issue a "valid without photo"
32 photo-license for the unexpired term of the license.

33 The provisions of this act shall not apply with regard to driver
34 licenses issued pursuant to P.L. , c.)(C.)(now
35 pending before the Legislature as this bill).

36 (cf: P.L.1985, c.264, s.1)

37 27. R.S.39:3-10.1 is amended to read as follows:

38 39:3-10.1. No person shall drive any motor vehicle or trackless
39 trolley with a capacity of more than six passengers used for the
40 transportation of passengers for hire or for the transportation of
41 passengers to or from summer day camps or summer residence
42 camps or any bus as defined by the director used for the
43 transportation of passengers, except vehicles used in ride-sharing
44 arrangements, taxicabs, or any bus used to transport children to
45 and from school pursuant to N.J.S.18A:39-1 et seq. or when being
46 used by a private school to transport children to and from school,
47 unless specially licensed so to do by the director or in the case of
48 a nonresident, licensed pursuant to the laws of his resident state
49 with respect to the licensing of bus drivers. Such license shall not

1 be granted by the director until the applicant therefor is at least
2 18 years of age and has passed a satisfactory examination in
3 ascertainment of his driving ability and familiarity with the
4 mechanism of said vehicle and has presented evidence,
5 satisfactory to the director of his previous experience (including
6 proof that he has had at least three years of driving experience),
7 good character and physical fitness. Said license shall be
8 effective until suspended or revoked by the director; provided,
9 the special licensee is also the holder of a license as provided for
10 in R.S.39:3-10.

11 Every holder of a special license issued pursuant to this section
12 shall furnish to the director satisfactory evidence of continuing
13 physical fitness, good character and experience [once in every 24
14 months after the issuance of the special license] at the time of
15 application renewal or such other time as the director may
16 require, and in such form as the director may require. In
17 addition, any person applying for a special license pursuant to this
18 section for the transporting of children to and from schools,
19 pursuant to N.J.S.18A:39-1 et seq., shall comply with the
20 provisions of section 6 of P.L.1989, c.104 (C.18A:39-19.1).

21 The director may suspend or revoke a license granted under
22 authority of this section for a violation of any of the provisions of
23 this subtitle, or on other reasonable grounds, or where, in his
24 opinion, the licensee is either physically or morally unfit to retain
25 the same. Notwithstanding the provisions of any law to the
26 contrary the director shall, upon notice of disqualification from
27 the Commissioner of Education pursuant to section 6 of P.L.1989,
28 c.104 (C.18A:39-19.1), immediately revoke the special license
29 granted under authority of this section without the necessity of a
30 further hearing.

31 The director may make such rules and regulations as he may
32 deem necessary to carry out the provisions of this section.
33 (cf: P.L.1989, c.104, s.5)

34 28. R.S.39:3-13 is amended to read as follows:

35 39:3-13. The director may, in his discretion, issue to a person
36 over 17 years of age an examination permit, under the hand and
37 seal of the director, allowing such person, for the purpose of
38 fitting himself to become a licensed driver, to operate a
39 designated class of motor vehicles for a specified period of not
40 more than 90 days, while in the company and under the
41 supervision of a driver licensed to operate such designated class
42 of motor vehicles. An examination permit issued to a
43 handicapped person, as determined by the Division of Motor
44 Vehicles after consultation with the Department of Education,
45 shall be valid for nine months or until the completion of the road
46 test portion of his license examination, whichever period is
47 shorter. The permit shall be sufficient license for the person to
48 operate such designated class of motor vehicles in this State
49 during the period specified, while in the company of and under

1 the control of a driver licensed by this State to operate such
 2 designated class of motor vehicles. Such person, as well as the
 3 licensed driver, except for a motor vehicle examiner
 4 administering a driving skills test, shall be held accountable for
 5 all violations of this subtitle committed by such person while in
 6 the presence of the licensed driver.

7 No examination for a driver's license shall be given unless the
 8 applicant has first secured a special learner's permit or
 9 examination permit and no road test shall be scheduled for an
 10 applicant who has secured an examination permit until at least 20
 11 days shall have elapsed following the validation of the
 12 examination permit for practice driving, except that in the
 13 case of an omnibus or school bus endorsement no road test shall be
 14 scheduled until at least 10 days shall have elapsed.

15 Every applicant for an examination permit to qualify for an
 16 omnibus endorsement or an articulated vehicle endorsement shall
 17 be a holder of a valid basic driver's license.

18 The required fees for special learners' permits and
 19 examination permits shall be as follows:

20	Basic driver's license	\$ 5.00
21	Motorcycle license or endorsement	5.00
22	Omnibus or school bus endorsement	25.00
23	Articulated vehicle endorsement	15.00

24 The director shall waive the payment of fees for issuance of
 25 examination permits for omnibus endorsements whenever the
 26 applicant establishes to the director's satisfaction that said
 27 applicant will use the omnibus endorsement exclusively for
 28 operating omnibuses owned by a nonprofit organization duly
 29 incorporated under Title 15 or 16 of the Revised Statutes or Title
 30 15A of the New Jersey Statutes.

31 The specified period for which a permit is issued may be
 32 extended for not more than an additional 60 days, without
 33 payment of added fee, upon application made by the holder
 34 thereof, where the holder has applied to take the examination for
 35 a driver's license prior to the expiration of the original period for
 36 which the permit was issued and the director was unable to
 37 schedule an examination during said period.

38 (cf: P.L.1986, c.23, s.1)

39 29. Section 1 of P.L.1955, c.53 (C. 39:3-17.1) is amended to
 40 read as follows:

41 1. [Any] Except as provided in section of P.L. , c.
 42 (C.)(now pending before the Legislature as this bill), any
 43 person who becomes a resident of this State and who immediately
 44 prior thereto was authorized to operate and drive a motor vehicle
 45 or motor vehicles in this State as a nonresident pursuant to
 46 sections 39:3-15 and 39:3-17 of the Revised Statutes, shall not
 47 lose his right to so operate and drive such motor vehicle or motor
 48 vehicles by becoming a resident of this State, but such right shall
 49 continue to be in full force and effect for 60 days after the

1 establishment of his residence in this State in the same manner
2 and to the same extent as though he were a nonresident.
3 (cf: P.L.1955, c.53, s.1)

4 30. R.S.39:3-34 is amended to read as follows:

5 39:3-34. Application for certificate or license during
6 suspension, revocation or prohibition period forbidden

7 No person whose registration certificate or [driver's license]
8 driving privilege, including any privilege to operate a commercial
9 motor vehicle as defined in P.L. , c. (C.)(now
10 pending before the Legislature as this bill), has been suspended or
11 revoked, or who has been prohibited or disqualified from
12 obtaining a driver's license or registration certificate, shall apply
13 to an agent of the commissioner for a registration certificate or
14 license, or a learner's permit, as the case may be, during the
15 period of the suspension, revocation, or prohibition. A person
16 who violates this section shall be subject to a fine of not more
17 than five hundred dollars (\$500.00) or imprisonment for not more
18 than three months, or both, at the discretion of the court.

19 (cf: P.L.1945, c.222, s.1)

20 31. R.S.39:3-36 is amended to read as follows:

21 39:3-36. The registered owner of a motor vehicle or a
22 motorized bicycle and a licensed operator shall notify the
23 [commissioner, in writing,] director of a change in his residence
24 within one week after the change is made. Notice shall be in
25 such form and shall contain such information as the director may
26 require. A person who violates this section shall be subject to a
27 penalty of not more than ten dollars.

28 (cf: P.L.1983, c.105, s.3)

29 32. R.S.39:4-46 is amended to read as follows:

30 39:4-46. a. Every vehicle used for commercial purposes on a
31 street or highway, except for passenger automobiles, shall have
32 conspicuously displayed thereon, or on a name plate affixed
33 thereto, the name of the owner, lessee or lessor of the vehicle
34 and the name of the municipality in which the owner, lessee or
35 lessor has his principal place of business. Franchised public
36 utilities and operators of fleets of 50 or more commercial
37 vehicles, shall be exempted from displaying the name of the
38 municipality, provided that their vehicles display a corporate
39 identification number. The sign or name plate shall be in plain
40 view and not less than three inches high. Where available space
41 for lettering is limited, either by the design of the vehicle or by
42 the presence of other legally specified identification markings,
43 making a strict compliance herewith impractical, the size of the
44 lettering required by this section shall be as close to three inches
45 high as is possible, within the limited space area, provided the
46 name is clearly visible and readily identifiable. In the case of a
47 combination of two vehicles the requirements of this section will
48 be served when either unit of the combination conforms with the
49 above identification specifications. No person shall operate or

1 drive or cause or permit to be operated or driven on a road or
2 highway a commercial vehicle, except for passenger automobiles
3 which does not conform hereto.

4 For purposes of this section, a franchised public utility means a
5 public utility, as defined in R.S. 48:2-13, that has a defined
6 geographical service territory approved by the Board of Public
7 Utilities.

8 b. Every owner of a commercial motor vehicle as defined in
9 P.L. . c. (C.)(now pending before the legislature as
10 this bill) registered or principally garaged in this State shall
11 display the gross vehicle weight rating (GVWR) for the vehicle in
12 the manner set forth in subsection a. of this section. For
13 purposes of this subsection, GVWR means the value specified by
14 the manufacturer as the maximum loaded weight of a single or
15 combination (articulated) vehicle, or registered gross weight,
16 whichever is greater. Any person who knowingly displays or
17 causes to be displayed on a commercial motor vehicle a GVWR
18 less than the actual GVWR, or an owner who knowingly permits a
19 commercial motor vehicle owned by him to be operated in this
20 State with a displayed GVWR less than the actual GVWR shall,
21 for each offense, be fined \$5,000, or imprisoned for a term not to
22 exceed 90 days, or both.

23 (cf: P.L.1986, c.77, s.1)

24 33. R.S.39:5-30 is amended to read as follows:

25 39:5-30. a. Every registration certificate [and], every license
26 certificate, every privilege to drive motor vehicles, including
27 commercial motor vehicles as defined in P.L. . c.
28 (C.)(now pending before the Legislature as this bill), every
29 endorsement, class of license, and commercial driver license,
30 may be suspended or revoked, and any person may be prohibited
31 from obtaining a driver's license or a registration certificate, or
32 disqualified from obtaining any class of or endorsement on a
33 commercial driver license, and the reciprocity privilege of any
34 nonresident may be suspended or revoked by the director for a
35 violation of any of the provisions of this Title or on any other
36 reasonable grounds, after due notice in writing of such proposed
37 suspension, revocation, disqualification or prohibition and the
38 ground thereof.

39 He may also summon witnesses to appear before him at his
40 office or at any other place he designates, to give testimony in a
41 hearing which he holds looking toward a revocation of a license or
42 registration certificate issued by or under his authority. The
43 summons shall be served at least 5 days before the return date,
44 either by registered mail or personal service. A person who fails
45 to obey the summons shall be subject to a penalty not exceeding
46 \$100.00, to be recovered with costs in an action at law,
47 prosecuted by the Attorney General, and in addition the vehicle
48 registration or driver's license, or both, as the case may be, shall
49 forthwith be revoked. The fee for witnesses required to attend

1 before the director shall be \$1.00 for each day's attendance and
2 \$0.03 for every mile of travel by the nearest generally traveled
3 route in going to and from the place where the attendance of the
4 witness is required. These fees shall be paid when the witness is
5 excused from further attendance, and the disbursements made
6 from payment of the fees shall be audited and paid in the manner
7 provided for expenses of the department. The actual conduct of
8 said hearing may be delegated by the director to such
9 departmental employees as he may designate, in which case the
10 said employees shall recommend to the director in writing
11 whether the said licenses or certificates shall or shall not be
12 suspended or revoked.

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

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

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

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

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

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

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

46 At the preliminary hearing, the parties shall proceed on the
47 papers submitted to the judge, including the summons, the police
48 reports and the charged individual's prior driving record
49 submitted by the division, and any brief affidavits permitted by

1 the judge from persons who shall be witnesses at the plenary
2 hearing, and the parties may present oral argument. Based on the
3 papers, on any oral argument, on the individual's prior driving
4 record, and on the circumstances of the alleged violation
5 presented in the papers, the judge shall determine whether the
6 individual was properly charged with a violation of the law and a
7 death occurred; and, if so, whether in the interest of public
8 safety, a preliminary suspension shall be immediately ordered
9 pending the plenary hearing on the proposed suspension or
10 revocation. The administrative law judge shall transmit his
11 findings to the director.

12 A plenary hearing shall be held no later than the 45th day
13 following [receipt of a timely request] the preliminary hearing.
14 Adjournment of the hearing shall be given only for good
15 causes shown. If the hearing is otherwise postponed or delayed
16 solely at the instance of the individual charged, the
17 administrative law judge shall immediately issue a preliminary
18 suspension of any license certificate or any nonresident
19 reciprocity privilege held by the individual charged, or if any such
20 preliminary suspension or order is in effect, he shall continue
21 such suspension or order. Such preliminary suspension or
22 temporary order shall [be effective until the individual charged
23 appears at the plenary hearing] remain in effect pending a final
24 agency decision on the matter. If the hearing is otherwise
25 postponed or delayed at the instance of anyone other than the
26 individual charged, the judge shall immediately issue an order
27 restoring the individual's license certificate or any nonresident
28 reciprocity privilege pending final agency decision in the matter.
29 The period of any preliminary suspension imposed under this
30 section shall be deducted from any suspension imposed by the
31 final agency decision in the matter.

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

37 d. Whenever a fatal accident occurs in this State, [wherein any
38 operator involved in the accident is charged with any of the
39 offenses enumerated in subsection b. of this section], an
40 investigation of the incident, whether performed by the State
41 Police or by local police, shall be completed and forwarded to the
42 director within 72 hours of the time of the accident.

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

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

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

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

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

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

28 Upon timely request by the individual, a preliminary hearing
29 shall be held by an administrative law judge, no later than the
30 15th day from the date on which the division receives the
31 request. The preliminary hearing shall be for the purpose of
32 determining whether, pending a [plenary hearing on the proposed]
33 final agency [action] decision on the matter, the preliminary
34 suspension issued by the director shall remain in effect.
35 Adjournment of the hearing shall be given only for good cause
36 shown. If the preliminary hearing is otherwise postponed or
37 delayed solely at the instance of someone other than the
38 individual charged, the judge shall immediately order that the
39 individual's license certificate or any nonresident reciprocity
40 privilege be restored pending the rescheduled preliminary hearing.

41 At the preliminary hearing, the parties shall proceed on the
42 papers submitted to the judge, including the summons, the police
43 reports and the charged individual's prior driving record
44 submitted by the division, and any brief affidavits permitted by
45 the judge from persons who shall be witnesses at the final
46 hearing, and the parties may present oral arguments. Based on
47 the papers, on any oral argument, on the individual's prior driving
48 record, and on the circumstances of the alleged violation
49 presented in the papers, the judge shall immediately determine

1 whether the individual was properly charged with a violation of
2 the law and a death occurred; and, if so, whether in the interest
3 of public safety, the preliminary suspension shall be continued
4 pending the [plenary hearing on the proposed] final agency
5 [action] decision on the matter. The administrative law judge
6 shall transmit his findings to the director.

7 Any plenary hearing to contest the proposed final agency
8 action shall conform to the requirements for a plenary hearing
9 contained in subsection b. of this section.

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

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

21 (cf: P.L.1982, c.43, s.8)

22 34. R.S.39:5-42 is amended to read as follows:

23 39:5-42. Every judge or magistrate shall make a report, [in
24 writing] in such form as the director may require, to the
25 [commissioner] director (1) of all cases heard before him for
26 violation of this [subtitle] title, or for any other violation in
27 which a motor vehicle was used in any way, and (2) of the
28 conviction of any person of having committed a penal offense or
29 crime in the commission of which a motor vehicle was used,
30 within three days after the disposition of the case before him as a
31 judge or magistrate[, upon blanks provided by the commissioner
32 for that purpose]. The report shall state the nature of the
33 violation, the full facts concerning the use of the motor vehicle
34 in the commission of the penal offense or crime, the disposition
35 of the case by the judge or magistrate and any recommendations
36 which the judge or magistrate may deem of value to the
37 [commissioner] director in determining whether action should be
38 taken against the [license] driving, registration, or other privilege
39 of the driver or owner of the motor vehicle.

40 (cf: P.L.1942, c.334, s.10)

41 35. Section 3 of P.L.1979, c.97 (C.39:3-13.5) and section 30 of
42 P.L.1951, c.23 (C. 39:4-50.1) are repealed.

43 36. This act shall take effect immediately, except that
44 paragraph (1) of subsection a. of section 10 shall expire on March
45 31, 1992 and sections 5, 12, 16, 18, and paragraph (2) of
46 subsection a. of section 10 shall take effect April 1, 1992.

STATEMENT

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This bill establishes the New Jersey Commercial Driver License Act. This bill was drafted in response to the requirements imposed on states by the federal Commercial Motor Vehicle Safety Act of 1986, Pub. L.99-570 (49 U.S.C. §2701 et seq.). The bill, when enacted into law, along with the regulations to be adopted by the Director of the Division of Motor Vehicles, will substantially conform New Jersey law to the standards and requirements mandated by the federal Commercial Motor Vehicle Safety Act of 1986 and the regulations promulgated by the Federal Highway Administration pursuant to that federal law. Failure to comply would result in the loss to New Jersey of \$30 million annually in federal highway monies. This bill is designed to meet the special needs of this State in the licensing, testing and regulation of operators of commercial motor vehicles.

This bill promotes the cause of safety by establishing new and more comprehensive licensing and testing procedures which are tailored to the type of vehicle a person will operate and standards which will allow for a full evaluation of an applicant's qualifications and which are in line with the uniform requirement established by the federal government. The bill is also designed to remove unqualified or poor drivers from the road and to curtail the problems associated with drivers holding driver licenses from more than one state, whereby a driver can avoid license suspension and disciplinary action by spreading violations among several licenses.

The provisions of the bill address six major areas of concern: the single driver license requirement; the lack of uniform licensing systems for commercial motor vehicle operators in the various states; knowledge and skill examination standards; positive driver identification methods; the need for information system to maintain and access a complete single driver license record; and penalties to remove unsafe commercial drivers from the roads.

Highlights of the bill's provisions follow.

Section 3 sets forth the special definitions needed for the New Jersey Commercial Driver License Act. While these definitions are self-explanatory, a few brief comments on some terms are appropriate. The term "alcohol concentration" in conjunction with the offense defined in section 5 of the bill is designed to forestall any questions concerning the "partition ratio variability" (the rate at which alcohol is absorbed by different individuals) dispute now pending before the courts.

The term "commercial motor vehicle" or "CMV" is defined to aid the law enforcement community and prosecutors in their enforcement efforts. Thus, a motor vehicle which displays a gross vehicle weight rating or registration weight of 26,001 or more pounds or displays a hazardous material placard is a

1 commercial motor vehicle and is subject to the provisions of the
2 bill. This will remove the need, in most instances, of breaking
3 bulk or weighing a CMV or conducting time consuming laboratory
4 tests in order to establish that a vehicle is a CMV.

5 The term "conviction" is defined broadly so as to include every
6 type of adjudication, civil or criminal, regardless of the nature of
7 a plea (non vult, guilty, or nolo contendere) and to include the
8 various types of forfeitures.

9 The term "felony" is used in order to have uniform terminology
10 with other states. It includes "crimes" as defined in Title 2C of
11 the New Jersey Statutes, as well as other offenses of the type
12 described in this State or any other state or jurisdiction.

13 The term "operate" is not specifically defined. The intent is
14 that the use of the term include the uses recognized by the New
15 Jersey Supreme Court in State v. Mulcahy, 107 N.J. 467 (1987)
16 and State v. Wright, 107 N.J. 488 (1987), and that the term be
17 given a meaning broader than mere "driving."

18 Section 5 establishes a 0.04% alcohol concentration standard
19 for commercial motor vehicle operators. This standard is
20 required in order to comply with the federal Commercial Motor
21 Vehicle Safety Act of 1986 and was adopted by the federal
22 government as the result of current scientific studies which
23 demonstrate significant impairment of visual, cognitive, and
24 psychomotor facilities necessary for safe operation of a motor
25 vehicle at levels well below the current established State 0.10%
26 alcohol concentration level. Many of these studies are outlined
27 and detailed in the Special Report 216 of the Transportation
28 Research Board of the National Research Council entitled "Zero
29 Alcohol and Other Options."

30 Section 10 sets forth the basic requirement that no person
31 operate a commercial motor vehicle unless the person possesses a
32 valid commercial driver license. This section provides for a
33 phase-in period to allow the director to test and license all
34 individuals who require a CDL, and that during that time licenses
35 will be issued both under R.S.39:3-10 and this act. Paragraph (1)
36 of subsection a. is designed to apply to those persons who have
37 been tested and licensed (in this or another state) and who have
38 already been issued a CDL. Once a person is licensed in
39 accordance with CDL requirements, the person may no longer
40 operate a commercial motor vehicle on a license or endorsement
41 issued under R.S.39:3-10, except as otherwise provided by the
42 director.

43 On April 1, 1992, paragraph (1) of subsection a. will have
44 expired and paragraph (2) of subsection a. will become effective.
45 Paragraph (2) contains the federal requirement that also becomes
46 effective on that date. The penalties in paragraph (3) of
47 subsection a. mirror the penalties in R.S.39:3-10. The penalties
48 in paragraph (2) of subsection b. mirror the penalties in
49 R.S.39:3-40.

1 Section 12 addresses the federal penalty requirements for
2 certain violations. It provides that a court must suspend a
3 person's CDL or reciprocity CDL privilege when a violation
4 occurs in this State, and that the director must issue the
5 suspension when the violation occurs in another state.

6 It is not the intent of this bill to supersede the motor vehicle
7 points system. Thus, drivers who commit "serious traffic
8 violations" may be held accountable under this section with
9 regard to the commercial driver license and under the points
10 system with regard to their basic driving privilege. It is also
11 important to note that the loss of a basic driving privilege results
12 in a loss of the commercial driver license privilege as well.
13 There is no intent to create a "work license." It is essential to
14 the substantial compliance with the federal law and its
15 regulations that the suspension periods set forth in section 12 be
16 imposed. Subsection i. of section 12 was added to clarify that a
17 person convicted of one of the specified violations under this bill
18 should receive the required commercial driver license suspension,
19 even though his conduct may also constitute a violation of a
20 similar statute. This language also is made applicable to section
21 16 of the bill and section 1 of P.L.1966, c.142 (C.39:4-50.2) even
22 though those sections are civil in nature. This was done to
23 remove any doubts and to forestall litigation on the question.

24 Sections 13 and 14 of the bill authorize commercial driving
25 testing by third parties if the director determines that such
26 testing is a sound and cost effective means of issuing commercial
27 driver licenses. This section also sets forth the requirements for
28 obtaining a waiver of the skills test as permitted under federal
29 law.

30 Section 15 grants the director authority to establish an orderly
31 means for testing all of those persons who will need commercial
32 driver licenses. The process cannot be accomplished by the April
33 1, 1992 deadline if scheduling of tests is left to the unconstrained
34 discretion of the licensees. Therefore, the act gives the director
35 the necessary control over all aspects of the licensing and testing
36 function needed to accomplish the task.

37 Section 35 repeals section 3 of P.L.1979, c.97 (C.39:3-13.5)
38 which concerns the issuance of omnibus endorsements without
39 examination. This section is repealed because it is incompatible
40 with the examination requirements established in the federal
41 Commercial Motor Vehicle Safety Act. Allowing this section to
42 remain in place will result in the State being not in substantial
43 compliance with the federal act.

44 In addition, section 35 repeals section 30 of P.L.1951, c.23
45 (C.39:4-50.1) which concerns the presumptions arising from the
46 percentage of alcohol in a person's blood. This section is
47 repealed because it is incompatible with the zero blood alcohol
48 concentration standard established for operators of commercial
49 motor vehicles under the federal act. It is also being repealed in

1 light of current scientific studies which demonstrate significant
2 impairment of visual, cognitive, and psychomotor faculties
3 necessary for the safe operation of motor vehicles at levels well
4 below the current 0.10% blood alcohol concentration. Repeal of
5 this section should not be taken as an indication that blood
6 alcohol concentration bears no significance to the question of
7 whether a person is operating a motor vehicle under the influence
8 of intoxicating liquors in violation of R.S.39:4-50. By repealing
9 section 30, the intent is to allow the finder of fact to give full
10 weight to the blood alcohol concentration level in light of recent
11 scientific studies in determining whether a violation has occurred.

12 The provisions of the bill not highlighted above set forth the
13 reciprocity, waiver, rulemaking, and severability provisions.
14
15

16 MOTOR VEHICLES

17
18 Establishes the "New Jersey Commercial Driver License Act."

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ASSEMBLYMAN ANTHONY IMPREVEDUTO (Co-Chairman): Ladies and gentlemen, if anyone wishes to testify there are sheets on the witness table. Please indicate your name, the organization you represent, and whether or not you are going to testify in favor or in opposition to this legislation.

Ladies and gentlemen, could we ask everyone to please take your seats so we can begin the hearing? As you may realize, this is quite unusual. This is not on Assembly or Senate or legislative time; we are starting, actually, early. That is something unheard of. However, when you come north, things change. We move a little faster up here.

At this time I would like to thank everyone for attending. As you well know, this is an extremely important issue. It is an issue that will affect, certainly, the lives of many, many people in the State of New Jersey. This will be a joint hearing. Senator Tom Cowan, to my left, is the sponsor of the bill in the Senate; I am the sponsor of the bill in the Assembly. The bill is before the Commerce and Regulated Professions Committee in the Assembly. In the Senate, the bill is before the Senate Law and Public Safety Committee. We have chosen to do joint hearings so that nothing is duplicated; also in a timely fashion, we can get this bill out in the form that it should come out in -- in the fairest possible way.

To my right, is Assemblyman Jeff Moran from Toms River; myself, Assemblyman Anthony Impreveduto, Chairman of the Commerce and Regulated Professions Committee; to my left is Senator Tom Cowan, Chairman of the Senate Law and Public Safety Committee. I know that the good Senator has an opening statement that he would like to make, so Tom, it's all yours.

SENATOR THOMAS F. COWAN (Co-Chairman): Thank you very much. It is always a pleasure to hold a public hearing in your own legislative district.

Ladies and gentlemen, as Chairman of the Senate Law, Public Safety and Defense Committee-- Is that on now?

(referring to the microphone) I think you have to lock it in, don't you? Is there some way of locking that in?

ASSEMBLYMAN IMPREVEDUTO: Lock it. Just lock it in.

SENATOR COWAN: Lock it? Okay. Good afternoon ladies and gentlemen. As Chairman of the Senate Law, Public Safety and Defense Committee, I would like to thank all of the speakers in advance -- who will be testifying today. We, as legislators, appreciate the comments, analysis, concerns, and recommendations you bring to us on these two very important pieces of legislation. These bills directly and significantly affect your lives. Therefore, your input enables us to write and pass legislation that is as clear, precise, trouble free, and effective as we can make it.

I would like to also thank the Chairman and members of the Assembly Commerce and Regulated Professions Committee for consenting to joint public hearings on these bills. When there are two identical bills in the Senate and the General Assembly, joint public hearings are an excellent and efficient way of conducting legislative business.

In 1986, the Federal government enacted the Commercial Motor Vehicle Safety Act in response to the high cost, in both lives and money, of the increasing rate of accidents and fatalities involving commercial motor vehicles. The purpose of the Federal Act is to regulate heavy trucks and buses more strictly and ensure that trucks and bus drivers know the rules of the road and have the special skills necessary to operate their vehicles safely. The deadline for complying with the Federal regulations is fast approaching. We must restructure our commercial licensing laws to conform with the Federal Act. We must retest and relicense all of our commercial drivers by April 1, 1992.

Should we fail to accomplish this, the State will risk losing approximately \$30 million in Federal highway construction funds. Our purpose today is to gather information

by listening to your testimony and your answers to our questions. We want to know what provisions of these bills you favor, the problems you see with any of the provisions, what recommendations you have for solving these problems, how the bills will be implemented, and what impact the implementation will have on your lives. Thank you.

ASSEMBLYMAN IMPREVEDUTO: With that, ladies and gentlemen, if there is anyone else who wishes to speak, I would ask you please -- if they are still on the desk -- use the forms, fill them out and present them up here to the dais. Anything else? Jeffrey, do you have anything to say?

ASSEMBLYMAN MORAN: I just want to say that on behalf of all of us from Ocean County, I want to thank you, Senator, for joining with Assemblyman Impreveduto to have this joint hearing so that we can move a very, very important piece of legislation that I am very proud to be a co-sponsor of with Assemblyman Impreveduto. I hope that today's hearing and the next two hearings we have, will help make a good piece of legislation, better. Thank you very much.

ASSEMBLYMAN IMPREVEDUTO: I would like to call our first witness in testimony, Colonel Clinton Pagano, from the New Jersey Division of Motor Vehicles. Gentlemen, I'm not all that sure if those microphone you have before you are, in fact, amplified microphones, or in fact, just our tape recording things.

C O L O N E L C L I N T O N L. P A G A N O: I know you are making a record, so we had better get it straight beforehand.

ASSEMBLYMAN IMPREVEDUTO: Yeah, I think the two larger ones are, in fact, the ones that are going onto the record, which are on. The other one -- the one in the center -- is, I think, used for the local municipal court, which is for their recording system. There you go.

COLONEL PAGANO: Since we're not charged tonight-- I don't think anything is working right now, Tony.

SENATOR COWAN: Where is our technician?

ASSEMBLYMAN IMPREVEDUTO: It is not part of the PA, I don't think, so could I ask you to please speak loudly?

COLONEL PAGANO: Okay. All right, but you are recording?

ASSEMBLYMAN IMPREVEDUTO: Yes.

COLONEL PAGANO: Okay, all right. I would like, if I may, to thank you at the outset for giving us an opportunity to state the position of the Division of Motor Vehicle Services, and place, if I can, that Division on record formally, but even more -- understanding the variety of people that are going to be appearing here today -- offer the services of our Division in any area where there is a general concern rate.

I would like to start too by introducing the gentlemen who are with me. To my right is Michael Santaniello who is the Deputy Director of the Division of Motor Vehicle Services. Mike has just come back into State government after a hiatus of several years. But he is an individual who has a long record in State government.

To my left is Don Henry, who really for the Division -- as you know I have only been there a short time myself -- is the man who has been working through the years, with the particular issue that we are going to be discussing today, the CDL licensing, and programing in general. We have with us today then, the people who are most knowledgeable in the area of CDL and obviously, other issues that we are going to discuss.

We have Art Smith back there who has a number of copies of the testimony that will formally be entered into the record. I don't plan to read it specifically, but I would like to cover the major points then open ourselves up for questions that may be asked.

To begin with, I am not new to this legislation. I worked as general Chairman of the State Prevention Division of the International Chiefs for many years, in putting together,

with a variety of disciplines, the National Commercial Vehicle Safety Act, knowing full well that eventually one of the issues to be faced was the commercial driving license, and the interconnection, if you will, between the states to assure that the driving history of those particular individuals was recorded and reportable properly.

The Act itself goes as Senator Cowan has said. The general feeling on the part of the major public types -- the public in general -- regarding the loss of lives, the difficulty that we have had with large trucks, and the concerns that have been voiced through the years-- That is not meant as an attack on trucks, buses, or any other particular area of the motoring movement in this country, but facing, if you will, the problems that Congress had across the country, the problems we feel will be resolved by the Commercial Motor Vehicle Safety Act of 1986.

The goals of that Act in general are to improve the commercial driver quality on the highways of this nation: one test, essentially, consistent across the country with the individual states issuing the driver's license to assure that the standards were met. We are going to identify and remove problem drivers from the highways. This has always been a problem to law enforcement and certainly to people in my position in the states across the nation today. How do you really remove the problem drivers? How do you say who is a problem driver, when the trooper or the policeman stops a truck and the guy lays out 15 different licenses, and you wonder which one is which? How do you spread your way through the driver history of that individual?

So the Act is intended to remove problem drivers.. I think, given what we have seen, it will meet that test. We wanted to establish a system that was going to prevent drivers from having more than one license. That is what we are here to speak about today -- that commercial driver's license -- a one

license system for the entire nation. We wanted to ensure that all commercial drivers were tested properly and qualified to operate the vehicles that they drive.

As has already been stated, there is a requirement that compliance be met by October 1, 1993, or possibly each state would face the loss of Federal highway funding. But the drivers themselves have got to be licensed by April 1, 1992 or face a loss of work. Therein lies the heart of some of the issues that are going to be raised here today.

I know that there has been some discussion about the issue of waiver. From our perspective we see no concrete indication that there is going to be any waiver of that effective date of April 1, 1992. What that means, essentially, is that any New Jersey citizen will have a problem as of that date operating both within the State and out of the state -- inter and intrastate. So that target date, I think, is something we have to keep in mind as we go through our testimony and our questioning.

Under the new Federal standards, anyone who drives a tractor trailer, or any other truck or combination of vehicles with a gross vehicle weight rating of more than 26,000 pounds -- again an arguable issue understood -- or a bus -- including all school buses -- or any vehicle carrying hazardous material, must be retested and licensed for the specific type vehicle that they operate.

Our proposed legislation -- the legislation that you have in front of you -- addresses several major areas of concern. Probably the most important being the single license requirement. Beyond that, the lack of uniformed testing and licensing is inherent in that Act. The establishment of knowledge and skill testing is part of our proposal. The creation of a system to maintain and access individual commercial driver license records is a very important part of what we are talking about in melding into the New Jersey

system. The establishment of penalties to remove unsafe commercial drivers from the road-- Our proposal was written to allow New Jersey to meet the standards necessary for compliance.

The Federal Highway Administration has reviewed and stated to us that the current proposal meets the minimum standards of the Act. Should New Jersey fail to meet the Federal standards and deadlines, our drivers -- as I have already said -- are going to be prohibited from operating commercial motor vehicles after April 1, 1992. The State will face the loss of approximately \$30 million a year in Federal highway funding. This bill promotes safety by establishing a more comprehensive testing and licensing process; a process that is tailored to the type of vehicle that the person operates.

We have been planning in Motor Vehicle Services, for implementing the commercial driver's license since 1987. It has been a sleeper, I admit. I wasn't at Motor Vehicle Services during that period, but I certainly was part of the group that worked on some of the problems at Motor Vehicle. I don't remember any meeting we ever had that was really comprehensive where we didn't, at one point or another, touch on the commercial driver's license and what had to be done in order to meet the deadline set under the Act.

To date, we have identified the significant data base changes that are needed to allow classified licenses and the nationwide commercial driver license information system to work. CDLIS we call it. Don't ask me what CDLIS means, but it means Commercial Driver's License Information System. I'm glad to have it written in front of me because I get in trouble every time Mike and I talk about it.

We have laid the groundwork for transfer of driver records among the states, the development of driver disqualification standards, and development of an orderly plan to achieve and test drivers. However, despite the preliminary

work, much more has got to be accomplished before we will be able to issue our first commercial driver's license. We will probably need some outside technical assistance to help perform all of the numerous data base program changes that have got to be done in order to meet the deadline date.

The testing process has a number of major hurdles that we are going to have to clear. The written test, we approximate, will take about two hours. On the optimistic side, we will only have about 350,000 initial applicants. Given the failure rate in six-odd other states that have already issued the license, about 50% of the people fail the first time around. That means you have to reschedule and retest possibly up to half of the people that you are going to initially test. The written test ranges from a minimum of 50 to the possible 185 questions given, the attachments or the special qualifications that are part of the Act. A passing grade of 80%, by national standard, will have to be met. As already said, in other states the rejection rate that we are seeing now is approximately 50%. That means that time is paramount to us. We need to start the testing process as soon as possible, and we can't take that step until this legislation is in place.

We spoke this morning -- and I would like to inject into my testimony now -- at a meeting at Law and Public Safety regarding some of the budget issues that have got to be faced, and some of the money problems that we are going to have as we go about putting the CDL in place. One thing that I would like to inject right now -- one thought that I would like to inject to the Committee; we will work further with you, if you ask, or if you so desire -- is to put some language in the bill to give us the necessary authority to develop special fund processes -- a revolving fund or whatever it is, a dedicated fund -- in order that we overcome some of the budget problems that we are currently facing. What I am saying, in essence, is, in order

to implement this, we are going to have to go to outside vendors, in all probability. We are going to need up front money. Having spoken to the people who are now wrestling with the budget, we feel that your consideration of some modification to this bill to prevent or to permit a revolving fund would be a help.

The proposal that we are talking about includes provisions to utilize the private sector for skill, road tests, and does allow for a road test waiver based on this particular individual's driving history -- which is most important -- his experience, and other certifications that he may have. What we are saying is, there is a written test for everyone. That written test has to be timely, and it has got to be passed. But there is also a skills test -- a road test. We have the authority under the Act as proposed, to go on the basis of past driving history on the part of an individual, to determine whether or not he should submit to a driving test.

The legislative package as drafted, meets all of the minimum requirements of the Federal Act, and provides the necessary authorization to allow us to begin the major testing and licensing tasks. It also provides the funding necessary for the program, because each commercial driver applicant will pay a fee of \$35. We figure this will cover the estimated \$12 million which is a start-up cost for the program. I say that we ask that you look at how the bill is drafted to determine how we can arrange a funding source. I did not mean to imply at all that this bill is not a paid up bill, because eventually each of the commercial drivers involved will have to pay the cost individually -- or whatever is worked out beyond the purview of the Act -- by the company, or the employer.

I would like to say now, that significant changes in this proposal will cause delays. They will hamper our ability to meet the necessary deadlines. We are more than open to any suggestion, and we want to work with the affected parties and

with the Committee as best as we can. But understanding that the basic bill meets the standard that we developed to this point, and unnecessary deadlines being passed, or the necessary deadlines not being met are going to create problems for us in implementing the bill.

I think that we are facing a major task in identifying and testing upward of 350,000 commercial vehicle operators here in New Jersey. But it is a task that has been met in other states, and I feel confident, given the Act as it is currently structured, that we are going in the right direction. I am pleased that we have these public hearings. I am pleased that everyone who has an opportunity -- or who wants the opportunity -- will be given a chance to voice their problems. But I would say to you this, Assemblyman Impreveduto, we know that you have other hearings scheduled. When you look at scheduling those hearings, we would ask that you would always keep that April 1 deadline in mind, and know that as time goes by, we are shortening those time spans perilously.

I have, as I said, Mike and other people available here today. Don Henry can answer a lot of the technical questions. I will close, with that understanding.

ASSEMBLYMAN IMPREVEDUTO: Thank you Colonel. Just a quick statement. All of us sitting here appreciate the timely fashion which this bill needs to be presented. I think sometimes it's rather unfair to look to the Legislature and say, "Hey guys, we knew about this in 1986. Here we are in 1990 and want you guys to pass this tomorrow." That is not going to happen. We are going to do the best piece of legislation we can -- and that you would want us to do -- that is best for the people for the State of New Jersey who will be taking this test.

We will aim -- and certainly try our damndest -- to have this legislation done and have you guys testing long before that April 1 deadline. But I don't think what you are

asking us to do is put something out just for expedience sake that may not be fair. I know you wouldn't want that.

COLONEL PAGANO: I wouldn't even want to imply that. But after 38 years of State service, I know that we are all, on either one of the disciplines, legislative, executive, judiciary -- I can even remember them -- were always involved in crisis management. The difficulty here is that we are facing a situation where as of a certain date, unless there is some magic waiver from the Federal Highway Administration, the New Jersey operator is not going to be able to operate.

ASSEMBLYMAN IMPREVEDUTO: You are absolutely correct.

COLONEL PAGANO: I know that creates problems.

ASSEMBLYMAN IMPREVEDUTO: We are working toward that goal.

COLONEL PAGANO: Good.

ASSEMBLYMAN IMPREVEDUTO: Gentlemen? Senator?

SENATOR COWAN: I would just like to acknowledge to the audience the arrival of Senator Rice from Essex County, who serves on the Law and Public Safety Committee with me. Senator, would you like to make any comment at this point?

SENATOR RICE: I would just like to apologize for being a little late. We wanted to make sure we appropriated some dollars to expand the parking facilities here in Secaucus.

ASSEMBLYMAN IMPREVEDUTO: Senator, as a Councilman in this town, we would gladly appreciate taking that money.

COLONEL PAGANO: You have to remember though, if you don't pay that parking ticket, we are going to revoke your license within 24 hours. Then it costs you \$35 to us to get it back.

ASSEMBLYMAN IMPREVEDUTO: Questions? Jeffrey?

ASSEMBLYMAN MORAN: I just have one question. Colonel, it is always a pleasure to see you. I am very pleased to see you in the capacity you are at. I know we will have an excellent program once we get rolling.

I have one question that I wanted to ask you. Maybe Don Henry-- I could address it to him. We've been missing each other in conversation. On the area of the examination-- For those of you that have not had an opportunity to read the book, I have read the complete book. I consider myself a learned person, holding two master's degrees. I had a difficult time understanding some of the specifics of the instructions. I have taken the LSATs, the SATs, the Law Boards, and the Master's Degrees Boards. Looking at the suggested questions and the instructions for the manual reminded me of when I was 17 years old, going back and trying to understand whether-- One example, when I was 17 years old in the driver's manual was: if you are driving down the street and a lady falls out of a second story window, what do you do? Of course, you pull over to the side of the road and try to assist, call the police-- You do whatever. The real answer was: You should not have seen her, because you should not have been looking up there.

COLONEL PAGANO: That's the toughest test you are ever going to take. I mean, you could take your LSATs forever, but that driving test-- That's a winner, and you are 17 years old.

ASSEMBLYMAN MORAN: You need a masters to take it. So, in Ocean County, we are going to be starting a master's degree program at Ocean County College for terms and conditions of passing this particular test. But that is besides the point.

One particular question I had was, in the area where if I am, a company or a utility in New Jersey-- In the particulars of the bill it says that they may use their own testing facilities, we can have those people certified, they pay their \$35 to us, we get our money to make up for the \$12 million for cost. Why is it that we allow that now, and under the proposed conditions of the testing, we are proposing that we change it to "may" instead of "shall" as we normally do? Is there any logic in that?

COLONEL PAGANO: I think it gives us the best of both worlds. Some of the effective groups may well decide that they would rather go the route that everyone else is going. We use the word "may" instead of "shall" to give them that opportunity.

ASSEMBLYMAN MORAN: Okay, but in my--

COLONEL PAGANO: You're speaking about the utility companies?

ASSEMBLYMAN MORAN: Yes.

COLONEL PAGANO: Yes.

ASSEMBLYMAN MORAN: But in my five years as a legislator, I have always found that the "may" and the "shall" -- and chairing this Committee for four years -- many a time I have seen many good pieces of legislation pass, only to come back within six months to a year, to be redone -- amended -- to correct the "may" and the "shall." I have always found, and I am a strong supporter of "shall" instead of "may"-- I think wherever we can in legislation have it easier for the public to comply to regulations that we, in fact, institute that "shall" is a hell of a lot easier for them to deal with and work with than "may." Yes?

D O N A L D F. H E N R Y: Sir, if I may comment? Are you referring to the third party skill testing option?

ASSEMBLYMAN MORAN: Yes.

MR. HENRY: Since we have not pursued that to the final point, it provides the Director with the ability to use that, as well as matching the Federal standards. Third party testing for us, to do skill testing, we have never done that before. If the case were to be out there where no one had an interest in doing that on our behalf, if it was worded "shall" then we would be somewhat boxed into a corner. If the option was there, we would pursue that as an option for the employer, as one of many, perhaps, that would be able to do relative--

ASSEMBLYMAN MORAN: So it is open in your discussion, that amend that and change that to make it applicable so that

those that can, "shall," instead of those "may," at the discretion of you, me, or anybody else?

MR. HENRY: My only concern is that it does not lock us into doing third party testing, and no one out there wants to do third party testing in our behalf. It's the far end of the extreme. If no one wants to do a road test in our behalf, then we would have to do the road testing. If you are changing that legislation to reflect that third party shall be done in the private sector and no one wants to do it, that is what I hear you saying.

ASSEMBLYMAN MORAN: Okay. See, my interpretation through past legislation that I have dealt with in regulations, is that when we put "may," it means that people like you -- no disrespect to any of you gentlemen -- have the discretion to say whether they can or cannot.

COLONEL PAGANO: I think that given the special problems with the utilities, we are better served. It gives them the opportunity to go both ways, but it mostly gives us the opportunity to look for third party testers.

ASSEMBLYMAN MORAN: But it gives you-- Excuse me, Colonel. It gives you the opportunity to go one way. It gives them the opportunity to go two ways. What we have got to do is we have to make it fair so that it would give them the same opportunity both ways, as you.

COLONEL PAGANO: Well, if you were to change the language -- restructure the language -- and give us both the opportunities that we see now, I don't think we would have an objection to it.

ASSEMBLYMAN MORAN: Okay, good.

MR. HENRY: Our interest is to provide the-- But just don't get locked into it.

ASSEMBLYMAN MORAN: Other than that--

COLONEL PAGANO: But "shall" alone, as Mike is pointing out, probably wouldn't give us that.

ASSEMBLYMAN MORAN: Okay. The other point that I wanted to make-- I'll just make one example. At one time I taught testing -- test and measurement. I find the first question: "The air brake rate for straight trucks or buses, with the engine off and the brake on, should not be: a. one PSI in 60 seconds; b. one PSI in one minute -- when I went to school that was two in the same. Sixty seconds is one minute; c. two PSI in 45 seconds; d. two PSI in one minute."

ASSEMBLYMAN IMPREVEDUTO: The answer is "d."

ASSEMBLYMAN MORAN: Tony knows the answer. He has the answer book. He only gave us the questions. He didn't give us the answers. He told us--

ASSEMBLYMAN IMPREVEDUTO: That's why I am the Chairman.

ASSEMBLYMAN MORAN: It's true. He told us to read the book. But one of the first things they teach us, and we teach in test and measurement, is don't confuse the testee as to the right and wrong within the answer itself. The first question, and I read them all, Colonel-- There's a number of others like that. It becomes confusing.

COLONEL PAGANO: I think you can make the argument, Assemblyman, that virtually any test is going to have some area of confusion. In this particular legislation, we are proposing to adopt the test protocols developed by a private consultant, I believe called the Essex Corporation, that consultant having been hired by the Federal Highway Administration. The desirability of adopting the Essex program is that we would be joining in, if you will, with a standard that is being set virtually nationwide. We do have the latitude, in some respect, to adopt portions of the test which would be germane to New Jersey alone. But thereafter, we would have to have that particular modification approved by the Federal Highway Administration. So we have just pretty much, at this point, said we are going with the basic testing suggested and approved. It has been validated and attached to it; those

particular addenda that would particularize the skills needed, for instance, by a driver who is operating a vehicle with air brakes, as opposed to a guy who doesn't need the air brake attachment.

ASSEMBLYMAN MORAN: My last question-- I did find the answer.

ASSEMBLYMAN IMPREVEDUTO: Jeff, if you can. I have a letter here from the Secretary of Transportation in Washington, D.C., the Honorable Samuel Skinner, asking that very same question. What, if anything, do the states have leeway to do? The fourth paragraph -- actually the third paragraph -- of his letter states that our regulation -- the Federal regulation -- leaves the precise content of the knowledge test to the discretion to the individual states. Thus, as long as the minimum standards of section 383.111 are met, states have the option to prepare their own knowledge tests, using the non mandatory test models developed by the Essex Corporation, under contract with the State of Nebraska, representing the Committee of Interested States, or meld their own test questions with the Essex questions. It is my understanding that, in fact, Minnesota has just done that.

COLONEL PAGANO: I'm not sure that Minnesota has, Assemblyman. But I think what we are saying right now is that given the multitude of meetings that we involved ourselves in with all of the parties -- the bus companies, trucking companies, and highway regulators through the years, the best protocol we have seen to date is the Essex protocol, which was developed at substantial cost to the Federal government. Go that way. Have our drivers tested consistent with the drivers in the multitude of other states, understanding that we always have the option -- and you have the option in our stead -- to say, "Whoa, we don't have to deal with this. We want to develop all of our own tests." We recommend that is not the way to go. We recommend that the Essex protocol is going to be

a standard protocol adopted by the majority of the states. New Jersey ought to go right on down that road.

ASSEMBLYMAN IMPREVEDUTO: Jeff, do you have another question?

ASSEMBLYMAN MORAN: Yeah. I just have two more closing comments, if I may, Tony.

COLONEL PAGANO: Mike just pointed out, out of the 27 states we have looked at so far, Assemblyman, only one has not adopted the Essex protocol in toto.

ASSEMBLYMAN IMPREVEDUTO: That state was Virginia?

M I C H A E L A. S A N T A N I E L L O: No. Virginia is a mix of Essex and their own. I believe the state that is not doing it is Oklahoma, although I would have to--

ASSEMBLYMAN IMPREVEDUTO: What about California?

MR. SANTANIELLO: California is a mix of Essex, plus their own material.

ASSEMBLYMAN IMPREVEDUTO: There are a lot more than one, Michael.

MR. SANTANIELLO: No, we're talking about not using Essex. California, for example, is using Essex plus some of their own--

ASSEMBLYMAN IMPREVEDUTO: Right.

MR. SANTANIELLO: --which is, you know, an option they--

MR. HENRY: And that, too. We could do the same thing.

MR. SANTANIELLO: Right. We're addressing not using Essex at all.

ASSEMBLYMAN MORAN: Okay. I think that is what my point is, and I also think it is Assemblyman Impreveduto's point. If you take the example on this section of the test that has 30 questions, in order to get 80%, you have to get 24 correct. Three of the questions alone, in my experience of testing, have that problem in it. So the liability of those three particular questions are invalid. Now that brings it--

You are automatically striking three of the questions, out of the possible six that you could get wrong to get an 80.

COLONEL PAGANO: I think we could recognize that. I think what you have to recognize too, is although we have got the latitude to add to, modify, and develop singularly, we still have got to go back to the Federal Highway Administration to get their approval. We've worked for several years now, getting the approval jointly, of the Essex protocol. I think that if we modify, we don't go down the road we are currently going, we may create more problems than we might be curing in looking at those three particular questions.

ASSEMBLYMAN MORAN: My last comment is, and I think it is in relationship to what Assemblyman Impreveduto said-- If California, Oklahoma, Nebraska, and the others, can take this Essex, combine it and modify it through yourselves and various groups in the state, to come up with a modification of the existing and make that part of the package, I think it would be a much better piece of legislation and adoption of the regulations, than it would be to come back six months from now, or a year from now, or after we find out that not only 50% of the people failed it, as you presented in your testimony. But we are finding that 70% of the people are failing it, and we are sitting back and saying, "Why?" Let me explain why.

We have jointly chaired various committees, and I know the Senators have, on the various regulations for accountants -- CPAs, and PAs. You name it and we regulate those tests. The argument that I always hear from electricians, plumbers, CPAs, is that part of the test isn't relevant, and it is too old. Here we are adopting a test. The test should be relevant not just for people like you and I, that have our master's degree in various fields, and have done testing and measurement and can read and understand the book, but we are talking about people whether they are truck drivers, bus drivers, utility drivers, that are many cases in their upper 50s and lower 60s,

that were the backbone of society before Tony Impreveduto and I were born. Now we are saying to them the rules are going to change.

I think if we are going to sacrifice the rules to them, I think we are wrong. I think what we ought to do is review and evaluate, so that those people that have been there trucking and driving all of these years to provide us with a service, get the kind of respect and understanding that when they left school in the fourth grade, that we are not now punishing them.

COLONEL PAGANO: That is a major concern to us. I don't know that that essentially goes to the specific questions we are discussing, but it does go to a major issue that we are discussing; that being, what are we going to do with those drivers who earn their livelihood driving, but they are illiterate? How are we going to qualify them? There has got to be a way.

I would be of the opinion, Assemblyman, that although we may have more by way of advanced knowledge in a structured sense -- degrees -- that the average truck driver knows more about the numbers on that gauge, what it means, and whether that truck will stop or not, than we will ever know--

ASSEMBLYMAN MORAN: Yes.

COLONEL PAGANO: --because he has learned that the hard way. But we share the concern. I just don't know that we can run the risk of miring down the legislation or the process in view of a specific question. We have an open mind, as you say. But we have problems that are probably even more difficult when we look at the issue of the minority drivers with lesser, by way of the genteel skills: reading, writing, comprehension. But they are still good truck drivers. They are still good bus drivers. They still have to qualify and earn a living. Those are the things we are talking about now, trying to wend our way through. Oral testing is going to have

to be a consideration at some point in time. We just haven't reached that kind of plateau. What we are talking about now is giving us the basic authority to do these things, understanding that we have a social conscience also.

ASSEMBLYMAN MORAN: Do we wait until we get a 70% failure rate to decide we go into oral testing?

COLONEL PAGANO: I think if we get a 70% failure rate, we are going to know that we are in real trouble.

ASSEMBLYMAN MORAN: You know, any test that has more than 20% failure, is an invalid test. So if we are anticipating a 50% failure, it's invalid square. Yes?

MR. SANTANIELLO: Assemblyman, in terms of the testing, right now we are not waiting. We are exploring two things at this moment. One is trying to translate the manual and the test into Spanish, first of all. Also we are working on trying to develop a means and a mechanism for oral testing, because we recognize, especially in this State, that those two are very critical. If we cannot accomplish that, they are going to have a very significant impact. We're concerned about that so we are exploring ways to accomplish that.

California has translated the manual and the test into Spanish. We have looked at that. We cannot use that material because they've made a few changes -- add-ons -- to the Essex test, for example. Also from what I understand, their manual and their test has been geared to one Spanish dialect which is primarily for Mexicans coming into California, or living there. We have a different dialect here, so we can't just adopt theirs. But we are actively exploring that. We are extremely concerned about that and would like to accomplish both of those in terms of the testing process.

ASSEMBLYMAN MORAN: Mike, have we field tested this test in English yet, in our population?

MR. SANTANIELLO: We have not done it ourselves, no.

ASSEMBLYMAN MORAN: Have we considered it?

MR. HENRY: If I may interrupt? There were four states that did pilot testing of all of the Essex material. If I may also point out that the manual, with the exception of the first chapter, is Essex material that was produced. In the original four states that tested and field tested it -- two classified and two unclassified states -- the questions were more, and the materials were a little more complex. As a result of that field test, that manual and the test that we would encourage to use, have been reduced -- the writing and reading levels have been reduced as best as Essex is telling us it can be done. So that now currently reflects, as a result of a field test, changes both in road testing and in knowledge testing.

ASSEMBLYMAN IMPREVEDUTO: While we are on the testing if I may, we talked about the worry if we were to change the Essex test in the State of New Jersey. It takes us more time to validate that particular test and get the approval, certainly, of FHWA. Certainly I would be interested in looking into Virginia's test, which I understand was approved by FHWA?

MR. HENRY: That's correct.

ASSEMBLYMAN IMPREVEDUTO: California's test which was approved by FHWA along with Oklahoma's test, which was approved by FHWA. There was one other.

COLONEL PAGANO: You see though, some of those states, Assemblyman, having had the experience of driving in the states, we are speaking here of a very limited situation. For instance, we have double bottom trailers -- two trailers. They can only go on certain roads. I'm sure that states like Oregon or California are going to have to adapt their test because they have different situations. They have tractor trailers hauling redwood that look like trains, they have three trailers behind them. Those, I think, in the main you would find to be the adaptations that they have addressed themselves to. The test has got to be different because it is a whole different--

ASSEMBLYMAN IMPREVEDUTO: I agree. They need to adapt a test to fit their situation. Fortunately, you are saying that you don't want us to do that here.

COLONEL PAGANO: No, I'm not saying we don't. I'm saying that right now, given the studies that we have done and given the work we have done, our best judgment -- and what we say to you is our best judgment -- is that the core Essex program is desirable. We can always modify. You may modify for us. But I think, given the work that has been done, we are best advised to go along with the other states in the main, and adopt the Essex protocol.

ASSEMBLYMAN IMPREVEDUTO: Don, if I may? You talked about third party testing for the skills part.

MR. HENRY: Yes.

ASSEMBLYMAN IMPREVEDUTO: I have two questions related to that. Do we currently, when someone takes an articulate license test, do they take a road test with a tractor trailer?

MR. HENRY: Yes.

ASSEMBLYMAN IMPREVEDUTO: Who gives that road test -- that skills test?

MR. HENRY: Currently the State does -- the Division of Motor Vehicles administers that test.

ASSEMBLYMAN IMPREVEDUTO: So we do have experience then in giving an actual skills test?

MR. HENRY: Yes.

ASSEMBLYMAN IMPREVEDUTO: The problem would be what? Why couldn't we still do that?

MR. HENRY: I am not suggesting that we cannot do that. We had put the language to say "may" to allow us to that if we so choose, and also allow us to reach out to the private sector -- whomever -- and allow those individuals and groups to do road testing in our behalf. Obviously, options could go either way or a combination of both. That was the rationale for the word "may" in that section.

ASSEMBLYMAN IMPREVEDUTO: I see. Okay. Since this is a skills test, and I have forgotten whether this is in the bill or not, to be honest with you-- It's so darn large-- In the written test, are we looking at third party, or the possibility of third party?

COLONEL PAGANO: Yes we are. That is one of the reasons why I mentioned that it would be an assist to us if you were to consider a technical language change in the funding area, because we have requests for proposals outstanding right now, kind of mired down a little bit because of the budget situation -- but RFPs in request stage -- to permit attracting third party testing for the written phase.

ASSEMBLYMAN IMPREVEDUTO: Just a suggestion. I would like a response, and I know you will give it to me. If we're looking at third party giving the written test--

COLONEL PAGANO: Yes.

ASSEMBLYMAN IMPREVEDUTO: --certainly, it would expedite, you know, giving that test to the amounts of people that we need to give that test to. My question would be, if you had companies like the utilities, Public Service or Jersey Central-- Is it possible that the company could give that test with the security of one person from DMV walking in with the test under his arm on that Saturday morning?

COLONEL PAGANO: I think, Assemblyman, that is part of what we would propose in the RFP. We would propose in the written area, making the person to whom the bid is awarded an agent of the State. That's what Don is saying here.

ASSEMBLYMAN IMPREVEDUTO: You see, the thing I would hate to see with this-- In all honesty, I would hate to see somebody make tons of money on this thing -- you know, off the sweat of our drivers. We are looking at somebody like Taggerts -- and I'm not singling them out, I'm just using them as an example -- some for-profit operation that is going to go out there and all of a sudden bid in, and say, "Yeah, we can proctor this test," then make millions of dollars.

COLONEL PAGANO: One of the benefits that we have in New Jersey is that we have major testing companies within the State. One of the difficulties we have in New Jersey is the compacting of our State because we are so densely populated. They weigh against each other when you speak in terms of how we're going to handle these RFPs.

The first RFP is going to deal with the request for a proposal, the bid situation. It's going to deal with the written testing itself. There is right now, pending in our Division, a second RFP request that will deal with adding on to the data processing that has got to be accomplished -- to add to our data system to accommodate the CDL in toto. So we have got two of them pending right now. But New Jersey does have the kinds of people available to us in our marketplace, that can accomplish what we need.

ASSEMBLYMAN IMPREVEDUTO: Have we thought about the possibility, Don, of county colleges?

MR. HENRY: Yes. Yes we have. We have made some contacts with county college systems in terms of facilities and space to administer the written test or knowledge test, because knowledge would dictate that we could do both.

ASSEMBLYMAN IMPREVEDUTO: How long do you anticipate it would take from when this bill is signed by the Governor to the test day?

MR. HENRY: The actual start?

ASSEMBLYMAN IMPREVEDUTO: If the bill is signed tomorrow, when is test day?

MR. HENRY: Four to six months in order to gear up to be ready to actually administer the first written -- first knowledge test.

ASSEMBLYMAN IMPREVEDUTO: Some of the questions, and I've spoken to a number of groups on this issue over the past few weeks-- There are certain questions that have been raised, some legitimate, some not legitimate. Certainly we are going

to discard those not legitimate questions. I'm sure we are going to hear some of them today. But some are very legitimate questions.

For instance, the School Bus Associations -- the school bus drivers. There are no questions on this test that concern the school bus driver. Currently the school bus driver takes a test that is indigenous to his profession: driving school children. He is going to be required to take this test, and should be. But there are no questions on that test indigenous to his profession, driving school children.

COLONEL PAGANO: We recognize--

ASSEMBLYMAN IMPREVEDUTO: But there are questions--- Then you can answer the whole thing. However, there are questions on the test that a school driver has to take, that talk about loading cargo on a tractor trailer, in back of the truck. You know, certain specific questions that deal with a tractor trailer, in all honesty, a school bus driver need not know. I would rather see him answering questions about how to handle my daughter.

COLONEL PAGANO: Let me say this, then I will turn it over to Don and Mike. There are several ways that we can approach that issue. The one problem that I am sure the school bus group is facing, is just trying to get drivers at all.

ASSEMBLYMAN IMPREVEDUTO: Absolutely.

COLONEL PAGANO: We know that is a problem. But more than that, there are a couple of ways that we can-- I guess to say, we have an open mind in the area. Right now we are aiming toward the core testing protocol, understanding that we can in a couple of areas, modify-- Don or Mike, do you want to jump in now?

MR. SANTANIELLO: Yeah. We have been aware of this issue. What we are doing right now is looking at it. Our philosophy is still trying to use the Essex core test. We have -- and we are looking at several different things that have to

be accommodated, because it is simply not a matter of changing the written test by excluding the totally truck related questions, for this reason. If we exclude them, of course, we have to have the test approved and validated again, which is one issue. But also since there are no truck related questions on there, we have to change the classification or endorsement system proposed by the Act, because these people will only have taken a test geared to buses, not to trucks. Therefore, the present classification which would allow them to drive both vehicles would have to be changed.

ASSEMBLYMAN IMPREVEDUTO: I agree with you. They should be changed.

MR. SANTANIELLO: Right. But in changing it, we can do it on our system. We also have to be concerned too with the interface with the so-called CDLIS, the Commercial Driver License Information System, throughout the country. What we would have to do there is, if we created for example, another class -- let's say a Class E -- when we interface with CDLIS, that could not be recognized as a Class E. That would have to be equated with one of the existing classes.

ASSEMBLYMAN IMPREVEDUTO: Mike, currently right now if a bus driver-- If this test was given tomorrow and the bus driver took the test as is, he would have a license which would permit him to do what?

COLONEL PAGANO: To drive the bus.

ASSEMBLYMAN IMPREVEDUTO: Or a truck?

COLONEL PAGANO: To drive a truck. But there is a problem, too, that has to be addressed, Assemblyman. That is, that our school buses don't all operate just within their own locality.

ASSEMBLYMAN IMPREVEDUTO: Yeah, I know that.

COLONEL PAGANO: Frequently they will go over into Pennsylvania, New York, or down to Delaware or Maryland. If they don't have the proper license when they go there, there is

a difficult situation. We have already talked about some of the changes in the Maryland situation. I'm well aware of -- from my own background -- school buses going down to places to like Annapolis. I know that they are going to have to consider that.

ASSEMBLYMAN IMPREVEDUTO: Well, there are field trips even here in the north when they go to New York.

COLONEL PAGANO: Sure. I mean, we have got to be as consistent as we can with our surrounding states. I know that the school bus groups are thinking of that. I think that is something they will have to weigh and that's something that we are willing to talk to them about.

ASSEMBLYMAN IMPREVEDUTO: I think, in all honesty, that really is an important issue. Senator Cowan--

SENATOR COWAN: At the point in time now we will take a little recess and acknowledge the presence of Senator Joe Bubba from the 34th Legislative District, parts of Essex and Passaic. Joseph, would you like to make a few remarks?

SENATOR BUBBA: Well, first of all I apologize for being late. You know the Senate is a part-time job and sometimes we have to work for our employer that pays us -- where we earn a living at. I apologize to everyone for being late. But you know, I thank you Mr. Chairman. I would like to make some general comments and be a little bit specific in my general comments.

I fully understand -- I think I understand -- the onus that is on us. If we don't this -- if we don't pass this legislation, what is going to happen to us is that we are going to lose \$30 million a year from the Federal government for traffic assistance, I would imagine. Therefore, we had better do it right away.

I am very, very frustrated at that type of attack. I think all of us, at least on this Committee and most of the people in this room -- certainly I know you, Colonel, have been

diligent in your efforts, and we in our efforts to make this a safer State with respect to driving and DWI, and all of those factors. I don't think anybody wants to let anything slide. I think we want the safest State in the United States. But, you know, you start talking about the scope of this problem, we have to do it. We have to do it. We have to jump into it or we are going to lose \$30 million.

But, you know, we are talking about 350,000 drivers. This is April, and it has to be done before--

ASSEMBLYMAN IMPREVEDUTO: April 1.

SENATOR BUBBA: --April 1, 1992. We are talking about by the time we get past this stage and the Governor signs, then we take a look at it and we start developing the tests that are germane to the State of New Jersey, we are probably going to be in the neighborhood of 12 to 18 months, to get all of this done. If you talk about 12 months and 350,000 drivers, you are talking about 29,600 drivers a month. That's 1460 -- say there are 20 working days in a month -- drivers a month that have to be trained. It works down to 182 per hour, or three per minute.

I mean, I would like to have a safe State in the State of New Jersey, but I like to be realistic. You know, we talk about State mandates to the local municipalities from the State of New Jersey-- These poor councilmen, freeholders etc., get a directive from us and all they do is spend money. We make them spend money, then they raise taxes. You know, they get thrown out of office, and they can't blame us. Here is the Federal government saying to us that we have to do this or else we are going to lose \$30 million.

I think one of the paths that we have to take-- And again I repeat, everybody up here wants to save the State of New Jersey, everybody in the audience -- I would imagine -- wants a safe State of New Jersey. If you don't, there is no place for you here. So I think we have got to show a little leadership, and maybe approach our Governor to approach our

delegation -- our Federal delegation -- and have them slow this process down a little bit. I don't know how we can do it. I mean, I know that--

COLONEL PAGANO: I think there is one other impact that you have to consider, also. I know that the loss of Federal highway funds is both a carrot and a threat. On the other hand though, if we don't have it done effectively, you then have possibly upwards of 350,000 New Jersey operators who earn their living, that would have an economic impact personally, when they cannot drive in other states.

I don't disagree with what you are saying. I just say that you know we have to get going.

SENATOR COWAN: I think that Senator Bubba's remarks, as far as the classifications go, I would be interested in following up somewhat concerning the number. We are talking upwards of over 350,000 applicants. Do you have that broken down as to the categories that would be required in each test?

COLONEL PAGANO: We have some general information, Senator, that goes with those kinds of figures. We will provide them to the Committee.

SENATOR COWAN: I am just interested now in the numbers that you would have. Say what the truck--

COLONEL PAGANO: How many are bus drivers, how many are truck drivers, how many are--

SENATOR COWAN: How many bus drivers, and what you have on the classifications?

MR. HENRY: Senator, if I may? The estimations--

SENATOR COWAN: If you don't have that right off the top of your head-- But it is something, as you said, we would be interested in seeing. Also we would like to know what you propose to do as far as the testing of these individuals is concerned. I don't know whether you have given priorities to certain categories. There are three--

COLONEL PAGANO: We really can't give priorities to any category because we have got to figure out the categories, obviously. But all will be similarly affected when the effective date occurs.

SENATOR COWAN: Yes.

COLONEL PAGANO: They are all going to have to be tested and licensed by that point.

SENATOR COWAN: Another point in question: When you raise the issue of testing, and of course you are required by that date, April 1, 1992-- Everyone is supposed to be tested by then, correct?

COLONEL PAGANO: Correct.

SENATOR COWAN: What happens with that 50% that does not pass the test?

COLONEL PAGANO: Well, we're in a heap of trouble. What we are going to have to do--

SENATOR COWAN: Because what I got -- listening here -- was the point that these people will not be able to drive. Is that so?

COLONEL PAGANO: That is part of the urgency that we know we have foisted upon the Committee, because as Mike has properly pointed out, it all goes to the time line. There are going to be people-- There are going to have to be changes that will have to occur. There are going to be people who will fail this test. We don't want the impact for the loss of Federal funds to be either on the State or on the individual. But there will be a tremendous social impact, I would think, on those people who fail.

SENATOR COWAN: But the process is then, after that 50% we are talking about-- They fail the test. Don't you have some type of process where they can retake the test so that they will not lose the opportunity to work for a living, driving?

COLONEL PAGANO: We have a retesting process, sure. We have that retest option. We will exercise the option. But there is definitely that concern that we have that we get them tested and qualified.

SENATOR COWAN: I can understand your--

COLONEL PAGANO: There are going to be a good number of people, Senator, who are now driving trucks that won't drive trucks anymore.

SENATOR COWAN: I can understand your concern and the impetus that you are giving it, but the point is, I think, we don't want to frighten everybody either, to the extent that they will not be -- once they fail that test -- able to drive.

SENATOR BUBBA: Mr. Chairman?

SENATOR COWAN: Yes?

SENATOR BUBBA: Again. Please this is not a personal attack on you fellows, because you are trying to do your job. I admire the job that you are doing. But you just raised the ante. If we expect about 50% of the people to fail, my numbers then, dramatically increase to maybe, four-and-one-half a minute or five a minute. I don't know if it is humanly possible to do this. I would hate to see-- There are two things that I really would hate to see. You know what is going to happen, and I know that you are going to address this at some point in time. Today, we have centers that place inspection stickers on cars, other than the State facility. From time to time, there may be one or two in the State of New Jersey that sell the stickers -- for \$10 or \$20 you get one. You don't even have to pass the inspection.

I am afraid that what might happen, under these guidelines, is that a couple of little schools pop up and before you know it, there will be a specific school you go to if you can't pass this test. I don't know what in God's name we could do to prevent that. The other thing that really bothers me is that when we pass a piece of legislation here --

you know, I have specific horror stories with respect to the DEP -- we will pass a theory here. Then the rules and regulations are developed by the various departments. God only knows what happens between our desks and the departments', because we certainly don't know how the hell it ever got to be the way it is. I would really hate like hell to just dump this in the lap of Motor Vehicles and have them develop a process, in good conscience. I mean I don't think they would do anything to injure the people of the State of New Jersey. But before you know it, you will have a process that we don't even know what is going on. I really have a great deal of fear and trepidation over this.

ASSEMBLYMAN IMPREVEDUTO: Senator Rice?

SENATOR RICE: Yes. I was expressing the same concern quietly to staff. I am glad it was raised. If we say about 350,000 drivers -- we really don't know the figure -- but the assumption is that we are talking about those persons who are licensed drivers presently someplace in the State of New Jersey?

COLONEL PAGANO: Most of them-- I am sure all of them will already be licensed either as drivers or as articulated drivers.

SENATOR RICE: Right. The reason I am raising that is because that is almost like saying retesting. There is a category of retesting -- someone who has been tested and driving now would have to be retested. But then what is the impact on those who want to be drivers that have never been tested?

COLONEL PAGANO: Well there are several different ways you can go about it. Many of them, right now, go to driving schools that teach driving tractor trailers.

SENATOR RICE: Right.

COLONEL PAGANO: The New Jersey Motor Truck Association has been especially active in working along both in developing the Commercial Safety Act, and in preparing drivers

that belong to member companies, for taking the test. There are individual companies that have their own ways of teaching young people -- the unions or the company itself -- how to drive or to prepare them for this kind of testing.

SENATOR RICE: The point that I am trying to get at--

COLONEL PAGANO: There are just a variety of ways of doing it.

SENATOR RICE: I don't mean to cut you off, Colonel. The point I am trying to get to is that we know there are preparations out there, regardless of whether it is pop teaching son, the auto industry, or some of the schools. But they still have to be tested.

COLONEL PAGANO: They come to us currently, for testing.

SENATOR RICE: If you are talking about 350,000 approximately -- or someplace in that area -- that are almost a given and known, we don't know who is entering all of these schools. Whoever is entering all of these schools have to be tested. In other words, what I am trying to say is that the 350,000 is going to be compounded when it comes to testing. The numbers are probably going to be even more, because you broke your numbers down based on a possible known. It is the unknown that has got to be figured in, in some kind of a way. I don't know how many classes graduate from that school in Edison, you know, per year. I don't know how many people are in PSE&G or at New Jersey Bell who bid up, and get tested, or wind up in school. I don't know those numbers, but once they come out, can we properly say, "Look, we are retesting. So it will be a year or two before we can even test you in that category, although you submitted your dollars to go to school; although the industry elevated you and you have had your training"? Therefore, you lay back.

The other thing that concerns me is that if we talk about the economic loss to the State, right now we cannot

afford to lose any dollars at all. But if you weigh that against some of the things that I am starting to hear-- And when you take a good look at this, I have some grave concerns because you said if we don't move this thing within a reasonable period of time, not only does the State stand to lose Federal dollars that flow into the State to address our highway needs and roadways, but the individual driver will lose. No one said anything about the industries that have to bring the goods and services in and out of the State. So now when you start to weight the economic impact--

COLONEL PAGANO: When we get down to that economic impact, that economic impact is going to be far more onerous than the simple loss of Federal highway funds. I don't have \$30 million to give you myself, and I will admit that. But when you look at the impact at the driver who won't be able to drive, or the economy of the State that will slowed or be stopped because we are not prepared to comply with the Federal standard, there is a lot that is going to have to be looked at.

I think Senator Bubba made a very valid point. It may well come that we will have to prevail upon the Governor to speak to the delegation about stretching some of these time lines. I am not sure. I do know that right now, six states are on line with the testing. They are issuing commercial licenses. There are other states -- 30-odd states -- that are on-line with the information system that interconnects the driver history between the states. New Jersey is not on-line for anything. The first step is going to be getting this legislation moving. But we have inherent problems across-the-board that affect the State, the individual, and the economy of the State.

SENATOR RICE: What were the six states again?

COLONEL PAGANO: We will have to get that for you, Ronald.

SENATOR RICE: Can you name one or two?

MR. HENRY: California is currently testing; Washington is currently testing; Virginia is currently testing; Maryland is testing; Michigan is also testing; Delaware is either testing now or starting up. I have a list of those states that are testing and the various positions they are at.

SENATOR BUBBA: Because they were pilot states by the Federal government -- designated pilot states?

MR. HENRY: No, sir. They were not pilot states.

COLONEL PAGANO: They are in compliance.

ASSEMBLYMAN IMPREVEDUTO: Yes. The question with that is: of those states--

MR. HENRY: Yes, sir?

ASSEMBLYMAN IMPREVEDUTO: --how many of them have used the Essex core?

MR. HENRY: All of those have used the Essex core.

ASSEMBLYMAN IMPREVEDUTO: With alternates; with changes?

MR. HENRY: No, sir. Not necessarily alternates. They may have added some information to manuals. For example, California produces a manual that is nine chapters long. If you look at ours, I believe, it is seven.

ASSEMBLYMAN IMPREVEDUTO: Let's just talk about the test.

MR. HENRY: The test, likewise. They have added test questions to it, but they have used the Essex core.

ASSEMBLYMAN IMPREVEDUTO: Right. So none of them have, in fact, given the Essex test as originally drawn?

MR. HENRY: No, sir. I don't know that, some states are. I don't know which ones they are, though. I could get that.

ASSEMBLYMAN IMPREVEDUTO: Well, of the ones you have just mentioned, almost every one of them have, in some way, changed that test.

MR. HENRY: I have a list of those states that are using Essex.

ASSEMBLYMAN IMPREVEDUTO: The strict Essex test with no alterations?

MR. HENRY: Yes. I can provide the Committee with that, not necessarily today, but certainly as soon as we have that.

SENATOR RICE: Mr. Chairman?

ASSEMBLYMAN IMPREVEDUTO: Yes?

SENATOR RICE: Is it possible to try to provide-- I am not sure how new it is, I am not sure how the data is-- It is easy to provide information of how many are on-line, but I would like to know the impact on industry in those states, particularly the transportation industry. We know for a fact, that I happen to be fortunate to come from the City of Newark that has one of the largest ports around. We have a lot of trucks coming in and out of the City.

COLONEL PAGANO: Right now Senator--

SENATOR RICE: My point would be, is there someplace down the line, you know, we hear someone in government-- You see government always feels good about what we do, so we could get past them, but we implemented it. I would like to hear what UPS is saying.

ASSEMBLYMAN IMPREVEDUTO: We are going to. They are here.

SENATOR RICE: You know, we lost half of our drivers. I don't know. That is what I want to hear.

COLONEL PAGANO: Right now we don't have that impact. It is not measurable, because the effective date of the Act has not yet come.

SENATOR RICE: Okay.

COLONEL PAGANO: I think after April 1, 1992, you might be able to get a picture of that. But the impact here will be dependent upon how we comply with the Act.

ASSEMBLYMAN IMPREVEDUTO: Senator Cowan will ask one or two questions of the Colonel, then we're going to try to bring up some other folks, in the interest of time.

SENATOR COWAN: I think, as Senator Rice has stated, it would be good to hear from some of the transportation interests that are here. I'm sure, Colonel, you will probably be at all of our -- or at least have some representation at future public hearings. We intend to have two more public hearings.

But you did mention one thing earlier so far as dedicated funding. I have a number of other questions, but I'm not going to get into those now. Did you have some idea, or at least some concept as to how you would like to see this put into a package?

COLONEL PAGANO: Well to be very candid, we only talked about this this morning. Because this morning we figured out it had to do a lot--

ASSEMBLYMAN IMPREVEDUTO: You must have found out there was a million dollar surplus last night. You watched TV. (laughter)

COLONEL PAGANO: I don't know about a surplus, but I hear a lot about no money.

ASSEMBLYMAN MORAN: I know where it is.

COLONEL PAGANO: We can give you some language.

SENATOR COWAN: I have one suggestion for you, Colonel, because I am sure you can come up with some language and maybe accrue some of that \$30 million you said you didn't have before. If you go back to the moped legislation that was passed, I guess, approximately seven or eight years ago, you might find something in there as far as dedicated funding is concerned.

COLONEL PAGANO: I think, Senator, we can give you that language.

SENATOR COWAN: And that was the first dedicated fund that we had.

COLONEL PAGANO: The point that I think I did make, and I know you picked up on, we have two more public hearings

coming up. If we can expedite those hearings, it would be of great value to everyone.

ASSEMBLYMAN IMPREVEDUTO: We are going to try to do that.

SENATOR COWAN: We certainly will try to be most cooperative with you, Colonel, in working things out.

ASSEMBLYMAN IMPREVEDUTO: The next meeting will be--

ASSEMBLYMAN MORAN: April 10, of next year. (laughter)

ASSEMBLYMAN IMPREVEDUTO: Just Mike and Don: One thing from Secretary Skinner's letter that I received, talking about the bus-- After I read this statement, we will move on. This is the fourth paragraph of his letter about removing the cargo loading and hazardous materials stuff from the bus thing: "Given the flexibility inherent to our rule, a state could develop a basic knowledge test for bus drivers only by deleting the cargo handling and hazardous material questions from its normal basic knowledge test. In such a case the driver would still need to pass the specialized knowledge skills test for passenger endorsement. The state would restrict the CDL to bus operations only. Several groups have discussed this option with the FHWA. As a result, the FHWA will incorporate a discussion of its booklet available to states later this winter." This should have been here already.

COLONEL PAGANO: I going to ask Don to respond to that. But from the very outset, several of the major bus companies were part and parcel of the studies originally -- Greyhound being one. They adopted the Essex core test, but there are other dimensions.

ASSEMBLYMAN IMPREVEDUTO: Greyhound has its own problems right now.

ASSEMBLYMAN MORAN: That's why they have their problems. The union walked out because of the test. (laughter)

SENATOR COWAN: Colonel, Colonel, what we talked about before, as far as the breakdown on the classifications of buses whatever, could we get those figures, too, please?

COLONEL PAGANO: Yes.

SENATOR COWAN: And what I said before, as far as prioritizing, what I was looking at, not in the sense of moving some ahead, but the matter of how to deal with where the bigger masses are and just relating back to the transportation in our State. I will bet you they are able to expand.

COLONEL PAGANO: I am sure we could tell you right up front the mass is in the transportation area -- the truck drivers -- over the road and domestic.

SENATOR COWAN: So that you would have enough to handle that.

COLONEL PAGANO: But we will get that together for you. Now do you want to finish the response? (referring to Mr. Henry) Gentlemen, by your leave, I would like to go answer that page.

ASSEMBLYMAN IMPREVEDUTO: Thank you sir.

MR. HENRY: When it was developed, the Essex material was never required for any state to use. The substitution of test questions had an impact on the validity and reliability of the test. One of the rationales for hiring Essex was to get a valid and reliable test. What you have in this letter from Mr. Skinner is the fact that yes, there has been a lot of concern and conversation about removing those test questions. Substitutionwise, we do not know what we have to substitute, in terms of knowledge categories and how that would be weighted. It is an option that now FHWA is telling us we can pursue that. The document that they refer to was distributed in Boston about six weeks ago. It does not give us a whole bunch more information than what that letter does, quite frankly. It simply says that states have an option to so do that if they wish.

ASSEMBLYMAN IMPREVEDUTO: Don, I would advise that we begin to look at that option.

MR. SANTANIELLO: Assemblyman, we have been looking at the option.

MR. HENRY: Yes.

MR. SANTANIELLO: We are exploring it in terms of the mechanics of varying that test, also the impact on the changes to the data base that we have to make, and the interface with CDLIS. We are looking at all of those. That is why we don't have a specific answer for you right now. But as soon as we can finish that analysis, we can advise you of whether it is doable or not.

ASSEMBLYMAN IMPREVEDUTO: Gentlemen, thank you very much. We will surely see you at the next hearing which will be April 10. (laughter) I would like to at this time, call Mr. Anthony Rizzo from Local No. 945 of the Teamsters. Mr. Rizzo is Secretary/Treasurer of the Teamsters Local No. 945. Tony, how are you?

A N T H O N Y J. R I Z Z O: Fine, Anthony. How about yourself?

ASSEMBLYMAN IMPREVEDUTO: Fine.

MR. RIZZO: Mr. Chairman and members of the Committee. It would appear that most of my testimony was discussed by Assemblyman Moran. He seems to be a champion of my testimony with regard to the testing manner of which we choose to speak. However, I would like to read it into the record, and I would like to make some comments about it, then hopefully answer any questions that you might have.

As stated, I am Anthony Rizzo, Secretary/Treasurer of Teamsters Local No. 945, an affiliate of Joint Council No. 73. I would like to state that we are extremely pleased that you have formed a committee to review, and hopefully amend, what is earmarked to become law in 1992, dictating the rules and conditions to test drivers for commercial drivers' licenses of 26,000 pounds or more, as well as certain other vehicles listed in the bill.

As you can understand, this law will have a tremendous impact on teamsters throughout the State, as well as the

nation. Let me assure you and the public that Joint Council No. 73 and its affiliates are in full agreement that we must have safe vehicles and responsible drivers. In fact, we pride ourselves in having some of the best. We do understand the concern of the government to ensure the public's use of safer highways. It is possible that a commercial driver's license may be a step in that direction. We agree that drivers must have certain knowledge of their equipment and its proper use. However, we feel the responsibilities outlined in the bill as written, are too broad and must be addressed.

We must consider the need for testing drivers who have difficulty comprehending the written test. In fact, it may be necessary to consider and institute an oral test. It appears to me that testing procedures have been drafted by persons who are knowledgeable in theory alone.

We are prepared to form a committee to represent the teamsters affiliates throughout New Jersey, and to work in harmony with your Committee to draft practical and logical solutions for the test. It must be understood that many of our citizens of New Jersey and members of the Teamsters may not have the formal education needed to pass written tests in its present draft.

We as Teamster officials, and you as their representatives, must understand that their livelihoods must not be simply turned off like a light switch, which can and will, have a direct effect on the economy of the country.

With that, it appears that I was redundant in the conversation that Colonel Pagano had with Assemblyman Moran. We understand the need, and we are drivers. I am accompanied by several from UPS. I represent the trash haulers of the State. We do know the impact of driving those trucks and the seriousness of knowing how to handle them, and what should be expected of us to know how to take care of them.

We are not so convinced that the formality of the test is primary in a person who is an educated 12th grader or a person who holds a master's. I can assure you most of the people driving my garbage trucks do not hold degrees in anything of a college nature. We do in fact, agree with you and your Committee and those who sponsored the bill even in Washington, that safer roads are a must, and safer equipment is a must. It appears that the responsibility has been burdened to the driver. However, the drivers do not own or maintain the equipment they drive. At least the teamsters do not. There are those that do own and drive their own equipment who may see the dollar sign more valuable than the actual preservation of the equipment and the maintenance of it.

Again, to make it clear, the Teamsters Joint Council No. 73 of the State of New Jersey which represents some 80,000-plus teamsters, will work with you. We do not challenge the bill, but we do certainly see the need for it to be amended. We will put together a draft in writing and submit it to your Committee, for your review, and hope that you may respond to it. I thank you for your time.

ASSEMBLYMAN IMPREVEDUTO: Are there any questions? (no response) Tony if I understand you, you have no problem with the concept of the bill?

MR. RIZZO: That is correct.

ASSEMBLYMAN IMPREVEDUTO: Do you agree with .04 alcohol blood level, and all of that stuff?

MR. RIZZO: That is correct.

ASSEMBLYMAN IMPREVEDUTO: You have no problem with that stuff at all. Do you agree with the walk-around inspection and things like that, about the bill?

MR. RIZZO: That is a broad statement. We do agree that there is an inspection that should be made by the drivers themselves. I don't know how broad it should be. Certainly, a driver should inspect his vehicle.

ASSEMBLYMAN IMPREVEDUTO: How long does it take a driver to do an inspection currently? First of all, is there an inspection required by somebody -- the Department of Transportation -- of every tractor trailer?

MR. RIZZO: In theory -- and it is far from practical -- a driver is required to know that his lights and brakes work, his windshield wipers work, his horn works, the gauges on his dashboard work, and so on. However, in controlled conditions, and if I might cite UPS, they are very strict on that rule. Their drivers do have a walk around procedure. I believe there are representatives here from UPS that can probably expand on that a little more.

We are talking about a walk around of maybe, six to eight minutes, or 10 minutes on a truck, if it is a tractor trailer. The book dictates maybe, 45 minutes to one hour of a theoretical check, some which feel-- And I believe the over-the-road laws do not even permit you to check the brakes in the manner which is prescribed in this outline. We are not allowed to invade the braking system of a truck. That is a mechanic's duty. We are allowed to inspect it as far as application, but once you take a wrench or a screwdriver to an object on a truck, you are considered a mechanic, and certainly may be held liable should anything happen to that truck, causing an accident or something of that nature.

ASSEMBLYMAN IMPREVEDUTO: Assemblyman Moran?

ASSEMBLYMAN MORAN: Yes, thank you Tony. Tony, you had a question that I had. I was going to hold off, but maybe you would be an appropriate person to ask. It is concerning liability. I am a driver in your local. I drive for a contractor. I am delivering goods. In the process of that, I deliver the goods and I am on my way back to the facility where we keep the trucks. I do my routine inspection again. I walk around and take -- which they say is eight minutes-- When I talk to other people in the business, they told me under the

regulation, it appears it will take more like 40 minutes. Now, I do not recognize or see a broken spring or-- I am not a mechanic. I'm a truck driver or a bus driver. I don't realize that the front brake, on the left side, is not working properly. What do I know? It looks normal, based on the inspection tour that I am required to take. I am in an accident on the way back to the depot. Am I now going to be held liable for poor inspection of the vehicle, and is the company that I am working for -- the guys, by the way, that have the college graduate degrees, guys that have you working for them -- are they then going to sue you for negligence because you didn't recognize-- You have a license. The State has already said you are qualified to know whether that vehicle does or does not have springs that, in fact, are operating -- or brakes that, in fact, are operating.

ASSEMBLYMAN IMPREVEDUTO: Or U bolts--

MR. RIZZO: It's not an easy--

ASSEMBLYMAN MORAN: Excuse me. Or U bolts that--

MR. RIZZO: --a broken U bolt. There are certain things that are obvious on a truck to a practical truck driver, or long-term truck driver. They can look at a truck a certain way and see certain items that, maybe normally, any one of you gentlemen and some of the people in this room, may not see. However, to hold someone liable for assuming to check the brakes, it is impossible to visually check the lining of the brakes without mechanically disassembling a backing plate of that vehicle. Now you are not talking about 45 minutes any longer, you are talking about whatever it takes to open up that rusty bolt and take off the backing plate. You are talking about several hours, in fact.

To recognize a cracked spring-- Are there some times where you may recognize one? Yes, there are some times where you may recognize one, depending on the configuration of the spring. But the liability should not be that of the driver.

The driver certainly should be liable to know if his horn works, if his lights work, if his directionals work, if his windshield wipers work, or his mirror is properly set up, or if his tires are properly inflated in as far as obviously properly inflated.

To put the burden of the inspection that is outlined, you are talking that you should hire him first as a mechanic for four hours, then as a driver for the remaining four hours of the day. Then possibly, you might be able to hold him liable.

No, he should not be held liable. If the law is written as the bill dictates, I believe that there is a liability. I am not saying to anyone on this Committee or in this room, that we don't have our degree of liability when we get behind the wheel of that truck. Certainly, if that truck stops poorly when we step on the brakes, or doesn't have the turning ratio that we think it should have under our experience, we should not drive that truck and report it. But to go out and physically inspect things like, why is the steering box binding up, why aren't the batteries charging, why is the fan belt slipping-- These things seem minor to you, possibly, but a slipping fan belt may mean an overheated truck causing poor power failure coming down a hill when we cannot use the engine to slow down the vehicle.

So, yes, it is a long, drawn out answer. It is not an easy answer. I think the way it is written, we would be liable. Frankly, we don't know if we are ready to accept that liability as a Teamster group in New Jersey. I am sure once I speak in Washington to my affiliates there, I don't think they will be willing to accept that liability either.

ASSEMBLYMAN MORAN: So you are suggesting then that there should be something in the bill that is held harmless for those areas to be inspected by the driver?

MR. RIZZO: Well further than that, maybe certain items in that bill should be outlined that a mechanic's duty is to precheck the truck as much as an airline pilot has to do a walk around of his plane, but only to the obvious. He looks at his landing gear or such things of that nature, but he knows that plane was preflighted and he has a checkoff list that a mechanic had signed off on. Would I agree upon that? Yes I would. Let a mechanic preflight or precheck our equipment. Let us do the walk around. If the obvious is there, let us report it. Once we get in the truck and we drive it, whether it be 50 yards or 50 miles, if we feel something is wrong, we are liable to pull that piece of equipment over.

ASSEMBLYMAN MORAN: Yeah, but Tony, do you do that now?

MR. RIZZO: Do we do it now? As a whole, I don't believe every Teamster employer does that. The bigger companies-- Again UPS, to name one that I know of, has an excellent maintenance program. Some of my shops that I represent, do have excellent maintenance programs. I would say not the majority.

ASSEMBLYMAN MORAN: Okay. Thank you very much.

ASSEMBLYMAN IMPREVEDUTO: Since there are no other questions of Tony, I would like to call up Mr. Frank Carracino, who is the President of the Joint Council No. 73. Mr. Carracino?

F R A N K C A R R A C I N O: Gentlemen, I would like to thank this Committee for giving us this opportunity to air our views and our opinions on this bill. On my right is Charles LaMotta, Legislative Aide to Joint Council No. 73 in New Jersey. We represent approximately 90,000 Teamsters throughout the State.

I am here today, and not at this time, to suggest any additions or deletions to this bill. I am not prepared. We just received a copy of the bill. We went through it. There are things in there that are very sensible. There are some

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things that are not so sensible, as far as the Teamsters are concerned. I see that the bill says "commercial drivers." Does it include ambulances, fire trucks, emergency equipment? These people travel the roads of the State of New Jersey. Aren't our citizens just as liable to be killed by one of them, because they are exempt from this bill? Why is it just commercial?

I see this bill and the test that is required of all commercial drivers, was formulated someplace in California. I don't know. Why are we required to accept a test that was prepared by them which we have no say in? We were not a party to it. Our State legislators did not put this bill together. They are just looking at something that other states just accepted as a matter of fact. Because those states did it, we have to do it. Three states in this, that have larger motor vehicles on the road, have one thing in common, with the exception of New Jersey. How come they only have one license plate and we have two? Why don't we have one too?

ASSEMBLYMAN MORAN: We have been asking the same question. If you find out, let us know. (laughter)

MR. CARRACINO: I am trying to bring out a good point, not just to you as our elected officials, but to every citizen in the State of New Jersey. We are not part-time citizens. If this bill is good for commercial drivers, then it is good for all drivers who drive equipment in excess of so many thousands of pounds, period: no exemption. Why should an Army truck be exempt; or a government vehicle; or a municipal vehicle? None should be exempt, because a citizen is still at risk.

We are in favor of drug and alcohol free highways. We want them more than anyone else; more than the government, more than the police. It is our livelihood, it's not their livelihood. All Teamsters are in favor of safe equipment, because it is not their equipment. They have to drive it. Their lives are at stake. They realize that they have a deadly

weapon in their hands. They give -- as Tony Rizzo stated -- a visual inspection of their vehicle, not only of what is required, but in their good conscience they are looking that they want to drive a safe vehicle, so they can go home to their families safely. They check their tires, brakes, pressure, windshield, windshield washers, and windshield wipers.

But who came up with the idea that wheel bearing must be checked by the driver? Does he have to jack the truck up to check the wheel bearing?

Let me tell you, you are pretty well familiar with the history of the Teamsters and their negotiating prowess. We give no leeway to our employers. We look for everything for the benefit of our membership. But we have to side with the employer on this bill. We cannot let them give our drivers a good day's pay for a half a day's work. This bill is going to make our drivers stay in the yard for four hours inspecting their vehicles. It is just not feasible. It is not fair to the employer. If they are forced to do this, we are going to lose members, because a lot of them are going to close up. We will be in business because the gypsies -- the non-union guys -- the ones who don't look at their vehicles will go out of business. Or if they try to sneak through and stay in business, then it is up to our enforcement to get them off of the roads.

Just today I appointed a committee. They don't even know about it yet. They are in the process of being notified that they are on this committee. (laughter)

ASSEMBLYMAN MORAN: That's democracy. That's good government.

MR. CARRACINO: When they are notified, they will be shocked the way we were shocked that this bill came before us so suddenly. I will tell you why. Since 1986, when this became Federal law, I called Trenton monthly. They told me they weren't prepared; they have no knowledge; they don't know

what to do. If they didn't know what to do, how are we supposed to know what to do? We had to get our information from sister states who were so far ahead of the State of New Jersey that they were lonely. This is the problem.

Now you decided that, oh, we must do this immediately. You thrust this upon everyone, unexpectedly. No one is prepared for it. You have to get it through to save money so you could get so much money from Washington. But we are not going to sit here and accept something that we cannot live with, that our employers cannot live with, that the State of New Jersey cannot live with, just because you want money. We will delay it, we will ask for extensions. We must, because too much is at stake here.

ASSEMBLYMAN MORAN: Mr. Carracino, can I interrupt you for a second?

MR. CARRACINO: Certainly.

ASSEMBLYMAN MORAN: First of all, don't shoot the messenger, okay? Don't shoot the messenger.

MR. CARRACINO: Not yet.

ASSEMBLYMAN MORAN: No, let me finish. (laughter)

ASSEMBLYMAN IMPREVEDUTO: You missed a line, Jeff.

ASSEMBLYMAN MORAN: Not yet. I just want to say in support of-- I have to commend Assemblyman Impreveduto and Senator Cowan for taking this particular issue as soon as they had the opportunity to, and for having the hearing that we are having now, and the additional hearings. If you listen closely to what just about everybody up here has said already, I think we are echoing pretty much what you said. And you are talking to a conservative Republican legislator that doesn't have very many of your union representatives living in my legislative district. But your union members bring our goods to our district. We appreciate that. We understand the safety and how important it is. You can rest assured that through these hearings, pretty much a lot, if not everything of what you are saying, is going to be looked at. I like the way you appoint committees, maybe you should be a legislator. (laughter)

MR. CARRACINO: No. This committee is going to have the opportunity to go over this bill. They're going to have the opportunity to go to every Teamster local in the State of New Jersey to ask them for any suggestions that they may have -- pro or con -- on this bill, and to recommend to your Committee in writing, additions and deletions for your consideration. They will be prepared to do that, prior to your next public hearing.

But they're going to make suggestions and additions including audio, visual, and hands-on testing for our less fortunate members. Where Tony was kind when he said college, how about sixth grade? How about first grade? I am serious. How about no grade? How about our membership who came from a foreign country who did not have the opportunity for any type of education whatsoever, but yet they are excellent drivers? They were there and learned on the job. There is no better mechanic than one who learns on the job. To have his license revoked and be denied the right to earn a living because there was no other way to take this test outside of written, is unfair to him. This was said. I am only repeating it because this is what I have written down. If I couldn't read it, I would not have anything to say here. (laughter)

You know, equally important however, are the requirements for testing and licensing of drivers of heavy trucks are necessary for the protection of every person who travels on the streets and highways of the State of New Jersey. Clearly the vast majority of Teamster drivers and operators have proven, day in and day out, mile after mile, that they already have the skills to handle their rigs safely.

Any good truck driver within or without a union, can operate his rig safely. It is the maintenance of that truck -- the repair and inspection of that truck, is the important factor here. In all of the Teamster contracts that we have with our employers they have made this a necessity and a part

of their business -- a day-to-day activity, where the gypsy -- the man who hits that road daily and depends on that paycheck weekly -- doesn't have the time to do this.

This bill was designed to guard against the minority of truckers who do pose a threat to the public safety, by requiring all commercial operators to live up to a reasonable standard of competence and knowledge. As long as we say not all commercial, all drivers who operate equipment over the weights that you put in your bill, must take the same test-- It's not fair. You cannot discriminate against commercial drivers. You cannot discriminate against Teamsters.

Do you realize that the high percentage of accidents, injuries, and fatalities are not caused by the lack of competence, knowledge, and skill of the Teamster drivers? As I will repeat again, it is caused by the poorly maintained equipment that is forced consistently on the highways by employers who don't give a damn, and put the almighty dollar in front of everything.

Our Teamster drivers do inspect their vehicles. There is no question about that, because we get calls daily; that they refuse to take their truck out for an infraction so minute that I am proud of them. So is every delegate in this room. You won't hear that from a nonunion man who is forced to go on the road or lose his job, and forced not to make the report to the Labor Department. He has no union to go to. If you check your percentage of accidents, you will know I am telling the truth. That is all I have to say, gentlemen.

ASSEMBLYMAN IMPREVEDUTO: Mr. Carracino, I find it is rather interesting that the very people who are mandating this -- the Federal government -- are saying that their people who drive these trucks over the roads, need not take this test.

MR. CARRACINO: No way. Then the Teamsters Union of the State of New Jersey will fight this right down the line. If we are forced as commercial drivers -- not because we are

Teamsters, but as commercial drivers -- to submit ourselves to this commercial test, then everyone else has to take the same test.

SENATOR RICE: Mr. Chairman?

MR. CARRACINO: You mean to tell me if a fire-- Excuse me, if a fire bell rings off and a fireman gets on a hook and ladder, if he is not a competent driver -- only because the municipality says he is -- and he kills somebody, he is exempt? If I am walking across the street as a Teamster, and he hits me and kills me, he is exempt? Why? I could put any Teamster on a fire truck. He could wheel it around. He had to take the test. Why? Why is he exempt? He is a public servant. He should take the test before a Teamster.

ASSEMBLYMAN IMPREVEDUTO: Let us ask Senator Rice to pose his question. Senator?

SENATOR RICE: I am confused. I agree with everything you are saying. But I am confused because you were saying earlier that you put together a committee: They don't know it yet, but you did it. They are going to work on this bill, take a real good look at it and come back-- From what you said or implied, they will be working with us to try to make it better, if that is possible. Then you come back and say you are going to fight it. I just wonder where the Teamsters and-- I play both sides. I have to do that in order to give my position.

This bill started with the Federal government making some decisions. Let me tell you something. I watched those movies. I know drivers where, across this country locals come together are called "the Brotherhood" still -- right, Senator Cowan? -- could have tied this whole country up. There probably wouldn't have been any legislation. Now we have a task to do, either support the bill or don't support it, make it better if we can, or what have you. And we are talking about fighting already. You know, so I just wanted to kind of put that in perspective. I was a little confused because I

have to be leaving at 3:00-- Usually when I hear people say that they are going to work with us, and they don't even know my position, I smile because it makes me feel good. When I come here and someone says that they are going to fight us, then I get a little leery because there are so many people out there that are so well organized, that sometimes I think that they think some people are intimidated.

I don't like the bill. But the thing is my preference is going down the line with it, is to work with -- until we see where we are going -- because you are right, there are too many exclusions. But there are a lot of deaths out there too. There are some of us who drive on a highway just as much as those trucks. We have some concerns that the folks know how to operate those trucks. Some of them are Teamsters. Let's be for real. You don't follow them all.

But my point is that we shouldn't stereotype anyone. We have to recognize that of the millions of people in this State, all of them are not drivers. Some of them have to be in other vocations, but we all have families. So we need to look at this thing objectively. I don't like it. I mean, if I had to vote on it right now, you wouldn't have to worry about me. You could not get a vote for it. But let's see where the chairpeople, or the sponsors, or the Governor are going with this thing, because it could work out to benefit everybody, or it may not work out at all. I just wanted to say that before I left.

MR. CARRACINO: To answer the Senator, we support this bill as long as it applies to all. If you ask me, do we support or are we going to fight the bill the way it stands, that's like giving me a gun with no bullets. You cannot tell me I have to accept something just because there are some good points to it. But there are some bad points that you won't let me fight or object to. We like the bill, but we want to make some contribution to that bill, and maybe clarify it, and make it better for all.

SENATOR RICE: Yeah, I understand that. That's what I said. You started off by saying you want to make some contribution, then you end up by saying that you are going to fight this all of the way.

MR. CARRACINO: No, no. I said we will fight only if there is discrimination involved, and it does not include all people.

ASSEMBLYMAN RICE: Oh, yeah.

MR. CARRACINO: If you are saying just commercial drivers because they happen to drive vehicles of excessible weight, this means all drivers, not just commercial vehicles.

SENATOR RICE: I concur with you. As soon as you said the word discrimination--

MR. CARRACINO: That is all I meant.

SENATOR RICE: --you got me on your side. (laughter)

ASSEMBLYMAN IMPREVEDUTO: Thank you, Frank. Since United Parcel has been mentioned quite often, I would like to invite Mr. Tansey -- Jim Tansey -- from Local No. 177, Teamsters, who also represents the people who work for United Parcel.

J A M E S T A N S E Y: Mr. Chairman and Committee members, thank you very much for giving us this opportunity to be here. I would like to introduce my fellow business agent, William Hill. We represent Teamsters Local No. 177 and United Parcel.

The United Parcel Service -- we asked them to come to this Committee meeting, but as usual, they are working on things on a higher level in Washington.

We agree -- I agree with Frank and everybody else -- that we need this bill. There are certain parts of this bill that we do not agree with. We concur with Assemblyman Moran, you have to be a college graduate. This we agree with. There are parts in this bill, in section 2-21, regarding the pretrip-- We met with you earlier and gave you a copy of our pretrip. We feel United Parcel has some of the safest drivers

in the industry. First of all, you cannot get hired for United Parcel unless you have a safe driving record. You cannot drive a tractor trailer for United Parcel unless you had two years safe driving. We run double-fortys in New York State. You have to have five years safe driving to qualify to do that. We use double-bottoms, which is a new thing we are starting in New Jersey -- the Pup 28s -- you have to have two years safe driving for that.

What you are doing here is penalizing our drivers. First of all, we fill out a form that we send to the State of New Jersey every year to check on our drivers. They want to check their abstracts, which they do. Every day we pretrip our vehicles. We fill out a tractor condition report, leave one in the tractor and give one to the shop. We also fill out another car condition report for management.

In this bill you are asking us to pretrip our trucks, jack up the tractors, and everything. We disagree.

ASSEMBLYMAN IMPREVEDUTO: Let me talk to you about that for a second.

MR. TANSEY: Yes sir?

ASSEMBLYMAN IMPREVEDUTO: I know we have discussed this. In order to do this pretrip right now, that this book is telling us needs to be done-- How would you have to do that, Jim?

MR. TANSEY: Well, first of all, on the pretrip you want us to jack up the tractor and check belts and everything. We have mechanics to do that.

ASSEMBLYMAN IMPREVEDUTO: Why do you have to jack the tractor up?

MR. TANSEY: Because they are cab overs. The only way-- Everything is buried underneath the engine -- underneath the cab. The only way you can get to see the hoses and everything, and get a visual effect -- find out if the hose is worn or not -- is to jack the cab up. United Parcel allows 25

minutes for a pretrip to hook up a tractor and trailer. I would probably be in arbitration because they would be firing every tractor trailer driver up there. What you want us to do would take us at least an hour-and-a-half. What you are doing also, is jeopardizing the jobs of 200 mechanics, who we have to maintain this fleet. As you know, when most of you see the big brown machines on the road, you know they are up-to-date and one of best. We will give them credit where credit is due.

But in this thing you want to take jobs away from union people. We are against that. Our drivers do a visual pretrip. We gave you the form which we do, and we feel that is sufficient to do. What we are missing here, and with this testing, is that we are truck drivers. We started as truck drivers; we now represent truck drivers. This law, we believe was put into effect to get the owner/operator and the gypsy off of the roads.

Many years ago the people with wisdom in Washington deregulated the trucking industry, and that caused the nightmare we have today.

Recently most of us who are Teamsters got rooms in Chicago for this drug conference. Basically, you thought we should be lawyers. Here are the forms we have to fill out for drug testing. You are making it very hard for us to do our jobs, when all we want to do is drive trucks safely.

There was a question asked, Mr. Chairman, in Chicago-- The Department of Transportation was there. The question was asked, "How do we get the gypsy, how do we get the owner/operator, and drug test him?" The answer was, "Well, we really don't know. We are working on it."

I just hope this Committee doesn't take the same procedure and say -- when our question is, "How do get the gypsy and owner/operator tested?" We hope you can solve that problem, because when you get them off of the road, it will make it a lot safer for all of us. Thank you very much.

ASSEMBLYMAN IMPREVEDUTO: Thank you. Bill, do you have anything to add?

W I L L I A M H I L L: No. I just wanted to add that we are not against the bill as has been echoed by my colleagues. We appreciate the effort that is being put forward to make the highway safe. We just believe, like in the situation that Tansey and myself are in, as representatives of the United Parcel drivers-- There are 500 trailer drivers in the State of New Jersey that we represent. The company maintains a strict standard, because they have a reputation to live up to, also. In doing that, they maintain their vehicles. If a vehicle goes a certain amount of miles on the road, it is taken off, completely checked over by the mechanic, and put back in service again.

Our job as we start our day, is just to go out there individually and walk around to make sure the lights are working, the lug nuts are tight, the wheels are up, and that type of inspection. You don't get that much time according to their standards to get out of the yard. Judging on this test and the things that you have, I think somebody should have taken the initiative to talk to the people that are in the field to get a better understanding of what we have to do, and how we have to go about making our living.

I think, as you look at the test also, you will find that some of the things they are asking, as far as how to drive in foul weather, and what to do as you are shifting and driving, these are things that come naturally like walking, when it comes to driving a truck.

The way some of the questions are put forward to you, is kind of confusing. There was one particular question in the book -- in the Test Your Knowledge section -- concerning a pull up. I laughed to myself because I had to read the chapter to see what it was. It simply meant, if you back into a door and you didn't position the trailer right, you had to pull up to

reposition it. I mean, come on. They are playing games with this. I am hoping that the State and the Assembly can look at it as a serious matter, because we consider it to be a very serious matter. We are not against taking the test. We have a problem with how it is being implemented and the time limits of it. That is our basic concern. I want to thank you for your time.

MR. TANSEY: Mr. Chairman, one thing I would like to say. I have been trying to get in touch with Mr. Henry in Trenton. I have 500 tractor trailer drivers that Bill and myself represent. We would like to know, and they would like to know, how we are going to test 500 of them?

ASSEMBLYMAN IMPREVEDUTO: That is something that we will certainly be working on, and hopefully, at the finish of these hearings we will have that answer. I would also like to invite the Colonel, Mike, and Don-- United Parcel has been kind to us. Right up the road -- about a mile up the road -- from here they have their main facility. They have tractor trailers there. They will show us what needs to be done according to the pretrip in the book. So, if you would be willing to wait with us until after the testimony, we are going to take a ride up the road to view what needs to be done. You could see that firsthand, also.

SENATOR BUBBA: Mr. Assemblyman, just a question. Suppose that we got to a point -- this is more conjecture than anything else -- where there was an acceptable routine, a routine that is doable. Because I think we all want safety on the roads, you people more than anybody else because you are out there more than we are. It would seem to me that -- I'm still hung up on these five people a minute that have to be trained -- there could be a routine or method for a company, such as the company we are discussing, and the union, to get together to develop some program to test their own where maybe a Motor Vehicle person could review the testing procedure so

that whether it be New Jersey Bell or the gas company, or whatever company -- a credible company -- might be able to test their own, and maybe get this testing on line a lot quicker and a lot more efficiently. I would like you to think about that. Whomever the other gentleman was, when you come back to us with the report as to what changes and recommendations you want to make in this bill-- It would seem to me that might be a way to go.

MR. HILL: Senator if I might add, we have been talking to the companies because this is a joint venture situation. Our livelihoods are at stake here. We have suggested this over and over again to the employer -- that they should be involved in meetings such as this. I'm sorry they are not here to hear what is being said, because they are very much involved in it. We have been telling them the same thing that you suggested we ask them, over and over again; that they work with you to try to implement something of that nature.

SENATOR RICE: Mr. Chairman that is a good suggestion. I know we give public notice. Maybe that is the way to identify, through the unions, some of those individuals. At the other hearings, we could invite them, to ask them safety questions that are not even addressed in the book.

I have always supported UPS in my own way, even in Washington etc., but I have a UPS in my ward. I am trying to figure out, you know, why they keep parking those trailer rigs -- without the cabs -- on my overpass. When you talk to them you get no cooperation. They threaten to move. Not that I really care--

MR. TANSEY: You must be referring to 14th Street in Newark, sir.

SENATOR RICE: That's right, but I am going to tell them. They tell me I don't support the truck drivers. But that doesn't mean I don't support the companies. So maybe we

need to come, because a lot of this stuff you are talking about comes from legislators and government people being frustrated because of taxpayers and the people we represent. You have jobs. Your job is to ride. Sometimes you get so mean and mad about those jobs that some of the union folks go out there and bust heads. We have jobs too. I pay my mortgage by being a State Senator and City Councilperson. I don't bust any heads. I don't know if half of my colleagues could take all of you guys. But the thing is, seriously, we need to talk when we make regulations and things. It is not something a lot of us pull out of the air. I know once in awhile someone gets personal and has an attitude, but it is usually a reflection of things we see, hear, and get pressured through. So we need to maybe reach out to those company folks to come in and talk with us during these hearings.

ASSEMBLYMAN IMPREVEDUTO: Are there any other questions?

ASSEMBLYMAN MORAN: No.

ASSEMBLYMAN IMPREVEDUTO: No? Thank you, Jim and Bill.

MR. TANSEY: Mr. Chairman, thank you very much.

MR. HILL: Senator, thank you.

ASSEMBLYMAN IMPREVEDUTO: We have heard pretty much from Teamsters. Another group that is affected by this bill, certainly are the school bus drivers. I would like to call a Mr. Edward Van Duzer from the Greater Bergen County School Bus Owners' Association. Edward?

EDWARD J. VAN DUZER: Is that on? (referring to microphone; affirmative response) Okay.

ASSEMBLYMAN IMPREVEDUTO: Could we have it a little quiet please? Ed?

MR. VAN DUZER: Thank you and good afternoon. Speaking on behalf of bill A-3258, my name is Edward J. Van Duzer -- V-A-N D-U-Z-E-R -- for the record. Sitting with me is Mr. Vincent Corascio, a school bus contractor as well as an

official of the Greater Bergen County School Bus Owners' Association.

This group is comprised of 18 school bus transportation contractors in the Bergen and Passaic County areas. These 18 contractors employ approximately 900 drivers on a daily basis.

Due to the scope of the industry, the composition of personnel encompasses qualified drivers from varied walks of life. Included in this composition are homemakers, struggling to make ends meet in today's society, as well as older, stable citizens, living on a fixed income -- again caught in the economic turmoil that exists today.

Today's school bus operator has already undergone extensive training, testing, and even a comprehensive criminal history review, to determine their qualifications to operate a school vehicle in the State of New Jersey, according to existing guidelines.

We hereby state publicly that the Association supports the intent of the law, whereby the public health, safety, and welfare are enhanced. However, during the review of the proposed State legislation, we would respectfully request that careful consideration be given to the vast leeway offered by the Federal Highway Commercial Motor Vehicle Safety Act of 1986.

We strongly favor the third party testing concept, which is proposed in section 13 of the Act, on page eight. Due to the extreme time and personnel constraints currently facing the State of New Jersey and the Division of Motor Vehicles, we feel that qualified testing by a "third party" of more than 400,000 actual commercial drivers currently licensed and operating a motor vehicle, will facilitate a more orderly and efficient process.

We hereby also support the waivering of the skills test as outlined in section 14 of the proposed law, on page nine. Since the school bus drivers have previously been tested

by the State of New Jersey concerning their driving abilities, we feel that there is no need to repeat the process. This "waiver" should be extended to any and all drivers who possess a current valid New Jersey driver's license to operate the vehicle they would be operating according to the Commercial Driver's License standard. We respectfully request that the Division of Motor Vehicles not put undue constraints on the requirements to meet the conditions for this waiver.

As you are aware, prospective school bus drivers are presently examined on their knowledge and skills pertaining to the safe operation of a school vehicle. However, under the provisions and suggested examination procedures of the Commercial Driver's License, a school vehicle operator will require more knowledge of "cargo loading" and "hazardous materials" than pupil transportation. To overcome this inequity, we respectfully suggest that more consideration be given by the State to issues dealing with the safe transportation of school pupils, and that the examination reflect this consideration.

We further request that an exemption from the Commercial Driver License requirements be extended to service and repair technicians. A mechanic employed by a contractor or school district in the State of New Jersey does not operate a school vehicle while passengers are on board the vehicle. They would be operating it only when a road test of the vehicle is required, or a "breakdown" situation occurs.

We respectfully request that the time constraints issued by the Federal Highway Safety Motor Carrier Act of 1986 be extended past the April 1, 1992 deadline as imposed by the Act. Since the school bus industry enters into a contract with the local board of education in September -- which said contractual agreements extend to the following June -- there exists a good possibility that if the April 1, 1992 deadline is adhered to, a lack of qualified drivers could exist, thereby

forcing a contractor to be placed in default of existing contractual agreements. We suggest that the Director of Motor Vehicles be empowered to issue a temporary permit to all such drivers, that would expire at the conclusion of that school year.

In conclusion, on behalf of the Greater Bergen County School Bus Owners' Association, we thank you for this opportunity to be a part of the legislative process and to express our views here today. Thank you.

ASSEMBLYMAN IMPREVEDUTO: Thank you. Ed, if I understand what you just said, your contract runs from September to June, correct?

MR. VAN DUZER: Correct.

ASSEMBLYMAN IMPREVEDUTO: Okay. So that if, in fact, you are bidding for your route in September of 1991, and your people are not certified by April 1, 1992 -- which is within that bidding year -- you would not be able to complete your contract, and therefore, be held in default.

MR. VAN DUZER: Correct.

ASSEMBLYMAN IMPREVEDUTO: Colonel, do you have any idea on that one?

COLONEL PAGANO: Well, I think we've said already, Assemblyman, there are going to be a number of difficulties that we will have to face in this area. There are a couple of ways, I think, that we could work it out. We have an open mind. We will work together with the Committee and again with the associations to try and put it together. I see reflected here, a number of things that we have said that are indigenous to that group alone, that we have got to look at.

ASSEMBLYMAN IMPREVEDUTO: Thank you.

SENATOR BUBBA: Mr. Chairman?

ASSEMBLYMAN IMPREVEDUTO: Senator?

SENATOR BUBBA: Did you read this book -- this book that I have, that says Motor Vehicle Services, Commercial Drivers' Manual?

MR. VAN DUZER: Yes I did. Yes, I have a 135 copies of it.

SENATOR BUBBA: Is this book printed by the State of New Jersey?

COLONEL PAGANO: Yes.

SENATOR BUBBA: Okay. Now this is the book you are going to study to take the test, right?

MR. VAN DUZER: That's correct.

SENATOR BUBBA: The inspections in here-- Are they expected to do these inspections, or just to know them?

COLONEL PAGANO: The book-- I think that is something that we ought to make clear to everyone--

SENATOR COWAN: Colonel, could you come up so we could--

ASSEMBLYMAN IMPREVEDUTO: Yeah, why don't you come on up?

SENATOR COWAN: --get this on the minutes here?

COLONEL PAGANO: (complies) The booklet that we are looking at -- and we did listen to what the UPS group said prior to this -- tells you how to do it. The proposal -- the legislation -- does not require it. I think that is inherent in the Act itself -- the National Commercial Vehicle Safety Act. I think there is a bit of a misinterpretation there.

ASSEMBLYMAN IMPREVEDUTO: What we are saying is that we are going to test you on it, but you don't have to do it.

MR. HENRY: Yeah.

COLONEL PAGANO: Yeah, we are going to ask you questions about it, but that does not require that before you go to the road each time, you do it. Unlike a pilot who is going to fly an airplane, he has a mechanic that does the same thing. He doesn't fix the airplane. But the pilot himself has got to check that airplane before he takes off and flies it. We are saying here, we are going to ask you questions. We are going to tell you in the booklet what you ought to be doing.

We are going to be asking you questions about the safety of that vehicle, but we are not requiring, by the Act -- there are many, many reasons why you would not require that at this time -- that you do it each time you go out on the road.

ASSEMBLYMAN IMPREVEDUTO: Now I am confused.

ASSEMBLYMAN MORAN: I am getting nervous now.

ASSEMBLYMAN IMPREVEDUTO: If I can just think about this. What we are saying is that, in this book which tells me what I am supposed to know--

COLONEL PAGANO: Correct.

ASSEMBLYMAN IMPREVEDUTO: Okay. They are telling me in this book, that every time I take that truck on the road -- every morning when I go into my yard to pull that truck out, I need to do a pretrip inspection.

MR. SANTANIELLO: Assemblyman, you are right. The booklet does address the pretrip inspection. The bill itself though, does not require that to be done for a variety of reasons. You have to remember, we are talking about a large category of different types of drivers. That pretrip inspection, for example with the Teamsters, that can, under a collective bargaining agreement, be the responsibility of a mechanic, or only part of that pretrip inspection could be the responsibility of a driver.

But on the other hand, we are also talking about people who own their own trucks who don't have a mechanic handy so they should have the ability -- and not circumstance -- to do it. It is not unlike my law school exam, when I took that. I had to learn areas that I did not necessarily have to practice, and I was not required to practice in. It is giving you the ability and the knowledge, depending upon the circumstances when you are out there, you may have to do it if you are your own owner/driver, or if you are under a union contract, that may be the responsibility of the mechanic. The point is, it is giving you the knowledge-- It is testing you

on the knowledge, but it is not requiring every single driver under the bill, to do the pretrip inspection.

ASSEMBLYMAN IMPREVEDUTO: Assemblyman Moran?

ASSEMBLYMAN MORAN: I am more confused now than what I was two minutes ago, because the in the manual it has the legal requirements in bold print. I quote: "Federal and State law requires inspection by the driver." You can't negotiate this deal to--

MR. SANTANIELLO: Well, there are--

ASSEMBLYMAN MORAN: Okay, let me finish. "Federal and State inspectors also inspect commercial vehicles. An unsafe vehicle can be put 'out of service' until the driver or owner fixes it."

MR. SANTANIELLO: There are inspection standards under Federal law, in Title 49, but those are separate and apart from this legislation and the Federal Commercial Driver legislation. Those exist and they say what they say.

MR. VAN DUZER: Assemblyman those--

ASSEMBLYMAN MORAN: Let me just finish this last part. "You do a pretrip inspection before each trip to find problems that could cause a crash or a breakdown." Now it specifies exactly what the pretrip inspection is.

MR. SANTANIELLO: Assemblyman, yes--

ASSEMBLYMAN MORAN: And you are saying I can't, if I am an owner of a company and I have Local No. 73 working for me, have my mechanics do it.

COLONEL PAGANO: May I interrupt, Assemblyman?

ASSEMBLYMAN MORAN: Sure.

COLONEL PAGANO: I really think there is a bit of confusion here. The requirements that we are speaking about now, are part of Title 49 of the U.S. Code. They are not anything you are considering. They are there. They have got to be done now. That is not anything you are considering at all. Whether there is compliance or not, it is a different

story. But this is not something this Committee is looking at; Title 49 is already there.

ASSEMBLYMAN IMPREVEDUTO: Is the inspection that this book is talking about larger than the current inspection that is done right now under whatever regulations--

COLONEL PAGANO: No it is not.

ASSEMBLYMAN IMPREVEDUTO: I see people in the back from the Teamsters shaking their heads, "yes."

COLONEL PAGANO: Well, Mike is saying that he is not sure.

UNIDENTIFIED MEMBER OF AUDIENCE: I say, Mr. Impreveduto, there is quite a difference.

ASSEMBLYMAN IMPREVEDUTO: I think this is something that we will have to look into, certainly.

MR. SANTANIELLO: I think the point is, at least from our reading of the bill-- I have read the book, I know what you are talking about in terms of the manual.

ASSEMBLYMAN IMPREVEDUTO: Yeah.

MR. SANTANIELLO: It does emphasize the pretrip inspection. But we do not see that as the bill imposing a legal obligation on the driver to do that pretrip inspection every time. That obligation can very well, for example, under a collective bargaining agreement, be placed on the mechanic or some other person to do the appropriate pretrip inspection.

ASSEMBLYMAN IMPREVEDUTO: Yeah, I think that would be something we would specifically say in this piece of legislation when it is amended.

COLONEL PAGANO: I think that that would be a modification you might want to consider. The point is, the State of New Jersey has already adopted pertinent parts of Title 49. They are in place. They are required. That is what we are talking about when we speak in terms of there being a legal obligation. It is already there. It is not something that we are speculating on or moving on.

ASSEMBLYMAN IMPREVEDUTO: Does Title 49 require the driver to check the oil, transmission fluid, steering fluid if there is any, belts, and wires?

COLONEL PAGANO: Well, to be real honest, we would have to look at Title 49 to make the comparisons. But we know full well that Title 49 is already the law of the land.

SENATOR COWAN: How long ago was Title 49--

COLONEL PAGANO: We have been adopting Title 49, Senator, part by part over a number of years.

SENATOR COWAN: When was the last time? Was it with the bridgeways and stuff? Does that come into it?

COLONEL PAGANO: Bridgeways have a lot to do with it. Yes, sir.

SENATOR COWAN: Okay.

ASSEMBLYMAN IMPREVEDUTO: Senator Bubba?

SENATOR BUBBA: Yes, I guess I really opened a can of worms with that question.

COLONEL PAGANO: It's okay, Joe.

SENATOR BUBBA: The thing is that if I want to be-- I think most people that are on the road today, with the exception of the crazies, would like to be a legitimate driver and would like to follow the rules. But somebody has got to tell us what the rules are.

I started to read -- and I have to be honest with you, I have not read this book -- some of it as I was listening to your testimony. I have noticed that-- I am going to forgive you for being located in Passaic County and calling yourself the Greater Bergen County Bus Company.

MR. VAN DUZER: We accept.

SENATOR BUBBA: The thing is that I started thinking about how difficult it is to get bus drivers. Now if we require the bus drivers to do this-- I mean, I don't know too many women that could -- and I am not sexist -- check the lug on a bus. I don't know if I have the strength to check the lug

on a bus tire. That prompted the question about whether or not this is what is purports to be. The answer is that, well, you have to know about it, but you don't have to do it, basically. You have to know about it but don't have to do it, yet it is the Federal requirement. Well, if the Federal government doesn't want to do things the right way, then maybe we should do things the right way.

I would like to know, maybe at the next hearing, what really do we expect out of a school bus driver; what really do we expect out of a tractor trailer driver? I would imagine that if a school bus driver -- let me stay at that level -- were to walk around their vehicle and see puddles of something, they would say, "Hey, wait a minute, there is a puddle there. Somebody should come over and check that." I think that if we spell out specifically what we want of these particular drivers along the way, that we will set aside a great amount of fear that can build up very easily in the people that are trying to earn a living do this stuff right now.

Secondly, if we only have to know it, and we don't have to do it, then why the hell don't we just grandfather it, and require everybody to have-- (applause) I didn't know I was going to get a hand like that. (laughter) Why don't we grandfather it and require everybody-- You know, I work for the telephone company. I don't drive these kinds of vehicles -- couldn't drive these kinds of vehicles. I'm not bright enough--

MR. VAN DUZER: You're not trained.

SENATOR BUBBA: --and not trained. We have a process in the company for self-teaching. Today with computers, it is even easier. You could train the people to go through sections of the course and require it, between now and 1992. They could just check off to make sure that a person does this section and it is signed off by the union let's say, and management, then somehow gets into the person's record that they, in fact, have

been taught this, are aware of it, and let's move on and give them the ability to continue earning a living. If we did that, again, we could ameliorate some of the frustrations and excitement that is in this room.

COLONEL PAGANO: I hate to downgrade your round of applause, Senator, but the Federal Act does not permit grandfathering. It has been discussed in Washington--

SENATOR BUBBA: Okay.

COLONEL PAGANO: --but we can't do it.

SENATOR BUBBA: Then let me pursue the other end. Mr. Chairman, I apologize for taking so much time.

COLONEL PAGANO: Also I think, and Mike just added it so that the record is clear, the State of New Jersey made a specific request about grandfathering school bus drivers -- recognizing the difficulties they have. That was denied by the Federal Highway Administration.

SENATOR BUBBA: All right. Then let's approach it from a different angle.

SENATOR COWAN: Do you have another question, Senator?

SENATOR BUBBA: Yes, I want to pursue this test business. If we can get to the bottom of the anxiety that is being expressed about testing, then maybe we have the problem licked. We don't have to lose the \$30 million and we could move on to other things. Is there a specific requirement in the Federal legislation -- you may not know this answer, Aggie may have to do some research on this -- that we must read this whole book, set the book aside, and now take a test on the whole book? Is there a way for us to be able to -- step-by-step -- go through the various chapters and say, "Okay, he signed off on chapter one. Let's move on to chapter two. He signed off on chapter two," etc.?

COLONEL PAGANO: I will give you my response, then I will wait for the two guys behind me to stand up and jump. There is no specific requirement that you read the book. The

book is provided to give you the opportunity to bone up or to understand what you are facing with the test. I would imagine that if any individual felt he was competent enough, he could walk into a test center, sit down, and take the test. A good number of them probably-- Especially listening to the Teamsters, a good number of these drivers who may only have a fourth grade education would probably know more about that air brake gauge than the Assemblyman described. They could probably answer the questions.

SENATOR BUBBA: No question about it. Colonel--

ASSEMBLYMAN IMPREVEDUTO: But would he know-- I'm sorry, go ahead.

SENATOR BUBBA: Going through school-- Excuse me, just let me pursue this, because I think we are close--

ASSEMBLYMAN IMPREVEDUTO: Okay.

SENATOR BUBBA: --if I can pull it out. Going through school there are different ways to take tests.

COLONEL PAGANO: Sure.

SENATOR BUBBA: One is a closed book and the other one is an open book. Now, is there a specification that they cannot take an open book test?

MR. HENRY: Other states have asked for an open book test and have been denied. Other states have asked--

SENATOR BUBBA: Why do we have to ask anybody? Does the legislation say you can't?

COLONEL PAGANO: Well, if the Federal Highway Administration has already refused other states the open book opportunity, I am sure they would refuse New Jersey.

MR. HENRY: Our entire testing and licensing process must meet their standards. They must approve what we do. If we were to attempt to do that, the reality might be they would not approve our testing program and we might be back to block one and redoing it again.

ASSEMBLYMAN IMPREVEDUTO: They have, in fact, set minimum standards.

MR. HENRY: Yes.

SENATOR BUBBA: Mr. Chairman, I have tried, but it doesn't look like it is going to be successful. I turn it over to you.

SENATOR COWAN: Colonel, in relationship to what we are talking about here now, regarding the term used, grandfathering-- Of course, we are very familiar with that insofar as prior legislation-- We have had a lot of it in different things. Of course, that is just related to statewide issues. Here and now there is a section in the bill dealing with waivers. As I read it through here, regardless of any waiver you would look for, you would still have to get approval from the Federal Highway Administration.

COLONEL PAGANO: That is correct. We have under consideration certain waivers. But those waivers either are already permitted by the Act, or would have to be approved by the Federal Highway Administration.

SENATOR COWAN: Is there any classification of groups that you now-- I don't want you to identify such right now, but if you do have some, that you would let the Committee be aware of--

MR. HENRY: Excuse me, Senator. It is not necessary by class of drivers, as it is to driver history record and experience of driving which will allow us to waive the grandfathering to skill test only.

SENATOR COWAN: Skill test?

MR. HENRY: Yes. So that the grandfathering you have before you in that proposal, is for skill or road testing only.

ASSEMBLYMAN IMPREVEDUTO: So if I am a driver for 25 years and my record is clean?

MR. HENRY: There are some disqualifying events and there are some that are referred to as serious violations that came out of the rule making process. That is the information we have to review before we can grandfather it.

SENATOR COWAN: As a follow-up then: As was indicated, if you had someone who has a safe record--

MR. HENRY: Yes.

SENATOR COWAN: --you could waiver that part of the test?

MR. HENRY: Yes, and that is in our intention to do that.

COLONEL PAGANO: We would have to have our process approved by the Federal Highway Administration.

SENATOR COWAN: Right. But has that been done?

COLONEL PAGANO: No.

MR. HENRY: Not specifically. We would follow their guidelines which would then meet their approval.

SENATOR COWAN: Okay. Has it been done in any other states?

MR. HENRY: We have not-- In terms of grandfathering, yes.

SENATOR COWAN: Yeah, it has been done. The waivering of the skill test.

MR. HENRY: Waivering of road test -- skill test is being done in all states that I know of that are currently testing.

SENATOR COWAN: Right, okay.

ASSEMBLYMAN IMPREVEDUTO: We do have the school bus guys here. I would really like to address their concerns.

MR. VAN DUZER: Thank you.

ASSEMBLYMAN IMPREVEDUTO: Gentlemen if I may-- Right now, your people need to take a school bus driver's test?

MR. VAN DUZER: Correct.

ASSEMBLYMAN IMPREVEDUTO: The test that they currently take-- The written test that they currently take has specific questions indigenous to their occupation, which is bringing children to and from school, correct?

MR. VAN DUZER: That is correct.

ASSEMBLYMAN IMPREVEDUTO: Looking through this booklet, do you feel that this test adequately tests your people to be school bus drivers?

MR. VAN DUZER: No, it does not.

ASSEMBLYMAN IMPREVEDUTO: Why does it not?

MR. VAN DUZER: Again, dealing with the safe transportation of a school student, I fail to see where hazardous material transportation comes in, or cargo loading. I don't see anything in there that deals specifically with our, obviously, most valuable cargo that can be transported in the State. I fail to see that in there.

ASSEMBLYMAN IMPREVEDUTO: So you would--

MR. VAN DUZER: We are talking passenger endorsement. But I think what we are interested in is basically school pupil transportation issues, not the general charter bus, with due respect to those people.

ASSEMBLYMAN IMPREVEDUTO: Is your test different from the regular passenger bus?

MR. VAN DUZER: No it is not. Our test right now is not.

ASSEMBLYMAN IMPREVEDUTO: Right now, in other words--

MR. VAN DUZER: The regular motor vehicle test is not.

ASSEMBLYMAN IMPREVEDUTO: So right now the current written test, that you currently take -- to be a school bus driver is the same as if you were driving a big 45-passenger bus?

MR. VAN DUZER: That is correct.

ASSEMBLYMAN IMPREVEDUTO: So there are no questions then on your test pertaining to children on buses?

V I N C E N T C O R A S C I O: Yes there are.

MR. VAN DUZER: On the test that we currently take, yes, there are.

MR. CORASCIO: The operator of the charter bus would be required to have that basic knowledge of the school bus.

ASSEMBLYMAN IMPREVEDUTO: Okay, because they could also be driving children back and forth. Okay, I understand now.

MR. CORASCIO: They could also be driving school buses. But it's specific to buses, basic questions on buses and how to operate the buses, as opposed to the way this is now, there would be more on cargo loading. The passenger endorsement does not cover school buses at all, whatsoever.

SENATOR COWAN: Do you have any suggestions following up with that? If you had the removal of dealing with hazardous cargo loading and so forth, do you have any suggestions as to how we could make the proposal better for the school bus drivers themselves?

MR. VAN DUZER: Yes, I would. With due respect to the Committee, I would respectfully submit that the Committee consult with the New Jersey School Bus Owners' Association, of which there are legislative committees involved with that to -- along the lines of associating with the Teamsters -- try to develop a better test for everyone. I think that is imperative. Again, give us the input. We are the experts in the field, with no disrespect to anyone else. But we, as school bus drivers daily handle your children. We know school buses.

ASSEMBLYMAN IMPREVEDUTO: Let me ask you a question? Could you appoint a committee right now, without them knowing it? (laughter) Could you, in fact, have that committee work on something that they could give to us -- maybe at the next hearing -- some suggestions as to how they would suggest this could be a better situation?

MR. VAN DUZER: The answer to that is a qualified yes.

ASSEMBLYMAN IMPREVEDUTO: Okay, we would then ask you to do that for us.

MR. VAN DUZER: Thank you for the opportunity.

SENATOR COWAN: Very good.

ASSEMBLYMAN IMPREVEDUTO: Jeff?

ASSEMBLYMAN MORAN: You know, when we are listening to this -- and I respect what the Colonel is saying -- it reminds me so much of the meetings that I have gone to in the past, when I Chaired Higher Education in New Jersey. A Chancellor would come and sit on that side where the Colonel is sitting, and the college presidents would sit over there. Tony and I would usually sit here and try to figure out what they are saying. It would come to find out the college presidents was saying basically the same thing that the Chancellor was saying, but what happened was, in the translation we were getting a different story. We were the guys voting on it, and we were getting beat up after it was law or regulation, because the college presidents, now, did not agree with the Chancellor. The Chancellor then said that is what we agreed to.

I'm getting a better understanding now of what the Colonel is saying; that this is guideline of the rules and regulations. We have a test to take, and once we take the test, you go back and peace be with you. But you know, in real life it doesn't work that way.

MR. VAN DUZER: That's not what happens.

ASSEMBLYMAN MORAN: Senator Bubba stated that he is with the telephone company. I just so happen to be in a full-time job as a career for the last 20 years, an administrator with the Toms River schools, which is the single largest individual bus transporter in the State of New Jersey, for those of you that did not know that. I have 127 buses with 142 bus drivers. I had 142 bus drivers on my stoop in my office this morning, reminding me of how important it is that when I get here today I mention their names. (laughter) I am concerned about them and their interests. I am not necessarily really concerned about their interests, I am concerned about their cargos' interests. I think they are, too.

I think what confuses me-- I have gone through the transporting passengers final exam, and I do not doubt that any one of my drivers would get 100 on this. Looking at it, they are simple.

MR. VAN DUZER: We would agree.

ASSEMBLYMAN MORAN: Why do we have to go through something so stupid as asking them if you have to pull over to the side and empty the bus to fill up the gas tank? My God, how stupid. How many buses may have recapped or regrouped tires? Now if I am a bus driver, what the hell does it matter to me-- Should we buy U.S. Royal, Goodyear, or recapped? The important thing is that I know they cannot have recapped tires on the front wheels. How am I going to know this? How do I know that my Board of Education bought recaps, and the guy that is the mechanic that takes care of the tires, put the recaps on the front instead of putting them on the back? Now I am the driver, and I'm responsible? I am supposed to know that? Maybe I should know it, but should I be tested and be held accountable for, God forbid, if we wind up in court and someone says, "Mr. Moran, you are a bus driver. You took the test. As a matter of fact here is a copy of the test. You got that question right. Didn't you know what you were doing?"

You are guilty, I don't care what you say or think. The fact of the matter is you might win in a court of law, but when you have to go to the local A&P to go shopping and the neighbors know you were the driver that had the accident because they had recaps on the front of the bus, it is you who is going to be sacrificed in the community, not the mechanic or the school board, and/or this regulation that we have.

ASSEMBLYMAN IMPREVEDUTO: I think what the Colonel was saying, however, was though you should know you should not have recaps on the front, but you are not required to check it. Correct?

ASSEMBLYMAN MORAN: But you can have--

MR. VAN DUZER: Excuse me, excuse me.

ASSEMBLYMAN MORAN: Hold it, let him answer.

COLONEL PAGANO: I think the response would be, if you look at the-- Understand we are looking at the school bus drivers, and there's a lot more of them too. If you look at the questions in the booklet it would give you the entree necessary to respond to the question as Assemblyman Moran said. But the Act that you are contemplating -- that you are looking at does not require specifically that you do that every time you go out.

ASSEMBLYMAN IMPREVEDUTO: The checking of it. See I--

ASSEMBLYMAN MORAN: Could I say--

COLONEL PAGANO: But there is another Federal law that we have adopted almost in whole that already requires that.

ASSEMBLYMAN MORAN: Colonel, let me say this--

SENATOR COWAN: Before we go any further Assemblyman, I think it would be good if the Colonel or anyone who is going to answer, that we have this part of our minutes.

ASSEMBLYMAN IMPREVEDUTO: Yeah. Colonel why don't you just take the hot seat and stay there.

SENATOR COWAN: We are very dependent upon the minutes of a public hearing.

SENATOR BUBBA: You know, I overheard the Colonel saying as he walked in here today, that it was so much better having an easier job than being the Superintendent of the State Police. (laughter)

ASSEMBLYMAN MORAN: Colonel would it not be better for that particular type of question to read that bus drivers should be aware that the mechanic should be responsible for the following: the life and safety of the passengers, the safety of the tires on the vehicle, the traffic violations on 5th and 4th Avenue, or none of the above?

COLONEL PAGANO: For the purpose of what you are considering, that might well be the way it ought to be

phrased. But for the purpose of the law as it is currently in force, Title 49, it is a moot point, because you are already required -- possibly, I can't say for sure -- to know that. Title 49 is--

ASSEMBLYMAN MORAN: When I apply to the State for a bus driver's license--

COLONEL PAGANO: Right.

ASSEMBLYMAN MORAN: --do I take a test with similar questions to this on it?

COLONEL PAGANO: Currently yes, similar but maybe not the exact questions.

UNIDENTIFIED MEMBERS OF AUDIENCE: No, no, no.

ASSEMBLYMAN IMPREVEDUTO: Ladies and gentlemen, let's let the Colonel answer, please.

ASSEMBLYMAN MORAN: What type of-- Why not use the test that we presently use as the written for him or her? (applause)

ASSEMBLYMAN IMPREVEDUTO: Ladies and gentlemen, time-out. I would certainly like to be as orderly as possible. We will have no applause, jeering, cheering; none of that stuff, please.

ASSEMBLYMAN MORAN: You are embarrassing me.

COLONEL PAGANO: Now they are embarrassing me, but that's okay. The truth of the matter is in that particular area, I can answer the question. We have already made that request. It has been denied by the Federal Highway Administration.

ASSEMBLYMAN MORAN: Can we modify this test then, to incorporate that test?

COLONEL PAGANO: For the purpose of this Act we can modify a number of things. But those modifications: 1) are going to have to be approved by the Federal Highway Administration, and 2) they are going to stretch the time line involved. But I will agree that in the area of the school bus, we are going to have to look closer. We have open minds in that area.

ASSEMBLYMAN MORAN: My last question Tony. Could we not then have the New Jersey Bus Driver's Association-- Associates or whoever the heck they are -- in cooperation with your office, sit down and take the existing test -- the proposed test -- come up with out of the 20 questions--

COLONEL PAGANO: I have to be very candid with you very quickly. I do want to interrupt you.

ASSEMBLYMAN MORAN: Okay.

COLONEL PAGANO: I am somewhat concerned about the test documents you have in your hands. I don't know what you are looking at. If you are looking at--

ASSEMBLYMAN IMPREVEDUTO: The Essex. He is looking at the Essex test.

COLONEL PAGANO: You are looking at the Essex test?

ASSEMBLYMAN MORAN: Yes.

ASSEMBLYMAN IMPREVEDUTO: The one--

COLONEL PAGANO: The first question I am going to ask him is who gave you the test?

ASSEMBLYMAN IMPREVEDUTO: No, no. What we are looking at is the test that was put out as a sample by Essex that says, "If you can pass this, you are now ready to take the test."

ASSEMBLYMAN MORAN: Right.

COLONEL PAGANO: Okay, but it is not the test itself? All right, you had us all worried. We thought, "What does he have up there?"

ASSEMBLYMAN IMPREVEDUTO: But if you want the answers, we have those, too. (laughter)

ASSEMBLYMAN MORAN: They gave us the answers first, then the questions.

ASSEMBLYMAN IMPREVEDUTO: Just so that everybody is comfortable with this, at the bottom it says, "If you got a score of 16 or better, congratulations, you are now ready for the CDL transporting passenger test."

ASSEMBLYMAN MORAN: Right. It is only the sample.

COLONEL PAGANO: Okay. It is a sample test on protocol. You had me real worried, to be real honest. I was beginning to look at Don already and say, what in the world is going on here.

ASSEMBLYMAN MORAN: It came in Kelloggs, with a coupon. (laughter)

COLONEL PAGANO: But the general response is yes, we would be more than happy to sit down with the Association and try to come to a meeting of the minds so that we can prepare properly for the next public hearing, and give some responses that are going to be acceptable to the parties involved, everybody understanding that we are all bound by the time lines and by the approval process of the Federal Highway Administration.

SENATOR COWAN: What you could do in that regard, Colonel, along with the Association, as you are offering, is to have that sit-down. But we would also, I believe, like you to include our Assembly and Senate aides here.

COLONEL PAGANO: Well, as long as it doesn't violate separation of powers or something, certainly.

SENATOR COWAN: We have always worked close together, Colonel.

ASSEMBLYMAN IMPREVEDUTO: Or we could just do our own. (laughter)

ASSEMBLYMAN MORAN: It might be easier. We could appoint a committee.

ASSEMBLYMAN IMPREVEDUTO: Gentlemen, we have one other school bus person to come up, so I am going to ask you to take your leave, if you would.

COLONEL PAGANO: Thank you.

Mr. CORASCIO: Thank you.

MR. VAN DUZER: We appreciate it.

ASSEMBLYMAN IMPREVEDUTO: Following Theresa Dondrea, who is the Transportation Coordinator for the Marlboro Township

School District, we will then speak with Florence Nash from Mothers Against Drunk Drivers. Theresa welcome.

T H E R E S A D O N D R E A: Hello, my name is Theresa Dondrea. I guess I am a bus person. I am a Transportation Coordinator for a public school district in Central Jersey. We do quite a bit of busing down in the Monmouth, Ocean County area.

I have the same concerns expressed by everybody else that I spoke to here. I think as a group anybody in public school transportation looks forward to a CDL license procedure of some sort. New Jersey has been one of the leaders in school bus safety -- safe transportation -- for years. I guess it is because we do so much of it.

We zero percent pre-1977 school buses on the road. That became a big question a few months back with the accident that occurred in the Midwest. We have school districts that go out of their way to provide funds to make buses safer. We go over and above the Federal mandated laws, rules, and regulations. Most of the buses in the State have the stoparms that come out -- the lighted stoparms. Our district implemented the crossing gate and did a pilot program for two years. Now they have been approved for school buses. All of this provides for good transportation.

The question came up of what kind of a pretest is required? A walk around inspection. School bus drivers must check their buses before every run. It's in the Motor Vehicle book, Omnibus and School Bus Manual, that every driver must read before they take the test, otherwise you are not going to pass the test already given. This is a small one. It goes through before operating the vehicle, during warm-up, and during operation. It make a lot of sense. Anybody that follows this checkoff sheet can safely inspect their bus. It is a good training program. When we train a bus driver, the first thing they do is learn how to inspect it.

My problem with the CDL test is that it is going to cost my district taxpayers, and eventually State taxpayers, money to train school bus drivers for something they have no reason to know. A bus driver cannot do that pretrip inspection unless they want to crawl under the bus, or take our 60 buses one-by-one every morning and put them on the one available lift. It does not make sense. Rather than spend the funds I have available on teaching somebody something they don't have to know, I would rather spend it and teach them something they do have to know, and that is how to handle passengers -- little kids -- on school buses; how to do an efficient check; how to handle bus stops. There is not one -- not one -- reference to bus stop procedures in this manual. Not one. And yet children that are killed throughout the nation-- The big danger area in school bus transportation is at the school bus.

I don't want to take up a whole lot of time, but it is imperative that if we are going to have a CDL licensing procedure, that special consideration should be given to the specific area of school bus transportation. We don't transport people who are going to work and are quietly reading a newspaper.

ASSEMBLYMAN IMPREVEDUTO: I think basically the Department and we are sharing your concerns. I think the Colonel has said that. We are definitely going to be looking -- and they are keeping an open mind, which we are happy to hear -- with respect to what is required of the bus driver.

MS. DONDREA: Yeah. Again, when we first heard about this, we called quite a few of the State agencies including Motor Vehicles, trying to get some information on what the testing procedures were like. We were unable to get the information until recently. It appalls me that one of the manuals that we did send for -- thinking of it as a training aide -- specifically states, "Do not look for any information on school buses. The test is not for school bus drivers. It

is for truck drivers." The only purpose of the manual is to pass the test. It's not to make you a safer driver. It didn't come right out and say that, but that is what it is saying.

ASSEMBLYMAN IMPREVEDUTO: Well, Theresa we know that they will be required to take the test, and hopefully it will be a fair test. Thank you.

MS. DONDREA: Thank you very much.

ASSEMBLYMAN MORAN: Theresa, I have two questions real quick. First of all, a comment. When Tony Rizzo made a point and the President of his Local No. 73 said-- If they are still here, I can't see them. They said that everybody should be concerned about safety. I think the point you are making that is very, very important. It is that this does not look at safety aspects. Peace be with those of you that are bus drivers because in my school district in the last 20 years, we have had two deaths. They had been at the bus stop incidents. You know, those are the kinds of things that we-- I know in our district we run seminar workshops and examples, to the point that bus drivers come to me and say, "Hey Mr. Moran, it's about time. Cut us a break."

You know, the second thing is-- That booklet that you have, can I have that? I don't have one.

MS. DONDREA: Yes.

ASSEMBLYMAN MORAN: You can write away for another one.

MS. DONDREA: No we get them.

ASSEMBLYMAN MORAN: Oh you do, good.

ASSEMBLYMAN IMPREVEDUTO: Did you pay for them?

MS. DONDREA: No.

ASSEMBLYMAN MORAN: No, good.

ASSEMBLYMAN IMPREVEDUTO: You should. We have a budget deficit, you know.

ASSEMBLYMAN MORAN: Right.

MS. DONDREA: We do, too.

ASSEMBLYMAN MORAN: Also, the last question I had was: Are the test work examples in here and everything?

MS. DONDREA: Yes.

ASSEMBLYMAN MORAN: Okay. On the test, is there anything about the mechanical part of the bus, in the driver's exam, to get a school bus driver's license?

MS. DONDREA: Just that they must check gauges and things like that. The walk around inspection that is required, check wheels and tires-- It doesn't tell you how to go about it, but it shows you what has to be checked. When you are training a bus driver, the driver is trained to walk around with a crow bar -- which is part of the safety equipment -- and tap the tires to make sure that, you know, they are okay. Drivers are not required in our district, to check oil, antifreeze, or any fluid levels. That is handled on Tuesdays and Thursdays by mechanics -- every Tuesday and every Thursday. Every bus is pulled in at 2000 miles for a visual check, which means the wheels are pulled to check the brakes.

ASSEMBLYMAN MORAN: Okay. Would it then be better if a question for the test should be that the driver has a responsibility to check the trip sheet to make sure that the following things were done: air, tires, and the brakes were checked? On that trip sheet-- I know, we do them every day. If a driver comes in, he or she has to fill out a trip sheet stating where they went, the miles, and if they had any problems with the bus. Then they have to have that signed by the mechanic's office that they are in receipt of it. Then they keep a copy, God forbid, if anything happens in six months to a year from now.

MS. DONDREA: Right. They have to be kept by law.

ASSEMBLYMAN MORAN: Right.

MS. DONDREA: The PMs -- the quarterly reports -- on school buses must be kept for the life of the vehicle.

ASSEMBLYMAN MORAN: Right.

MS. DONDREA: School buses, because of funding problems for school districts and everything else, are usually

kept on the road with good preventive maintenance. We have to keep them running; we don't have a whole lot of spares. So there is a very low incidence of unsafe school buses in the State of New Jersey.

ASSEMBLYMAN MORAN: Okay. Thank you very much.

MS. DONDREA: Thank you.

ASSEMBLYMAN IMPREVEDUTO: Thank you. Next may we call Florence Nash from Mothers Against Drunk Driving? Florence Nash?

UNIDENTIFIED MEMBER OF AUDIENCE: I don't see Florence here, Assemblyman.

ASSEMBLYMAN IMPREVEDUTO: Okay. Mr. Donald Bates from Jersey Central Power and Light. Are you guys going to shed some light on this for us? (laughter)

G. DONALD BATES: Very good. Thank you Mr. Chairman and members of the Committee.

ASSEMBLYMAN IMPREVEDUTO: Don, while you are there -- if I can -- because what you are going to say I am sure, is going to be very similar to what Bill Walsh and Pat Downes have to say. Are Bill Walsh and Pat Downes from Public Service Gas and Electric here?

PATRICK DOWNES: Yes, we are.

ASSEMBLYMAN IMPREVEDUTO: Bill, why don't you come up and sit with us so we could do all of the utilities in one shot.

MR. DOWNES: Bill is in the hall at the moment. Someone will get him in here.

ASSEMBLYMAN IMPREVEDUTO: You are Pat?

MR. DOWNES: I am Pat Downes.

ASSEMBLYMAN IMPREVEDUTO: Okay. Pat Downes is with PSE&G. Don Bates is with Jersey Central Power and Light. You guys can start the bidding war now.

MR. BATES: Okay. You have copies of my testimony, so I will not go through that. I'll just kind of skip through it. I think it was stated in testimony today, that 350,000

vehicles need to be tested by the State. Of course, I think it was said that is a major task for the DMV, and I am sure it is. That is one of the concerns that we have. Senator Bubba brought up the time element and the amount of people that had to be tested in so many minutes.

Getting right to the point, my comments refer to section 13 of the bill. Assemblyman Moran referred to that in his earlier comments. We are looking, simply -- we say simply -- to take some of the burden off of the State in this massive testing program, that the third party testing not be held in limbo as I read the legislation. Right now it says that the DMV may formulate regulations allowing third party testing. We would like to change section 13 to say that they "shall."

Now that doesn't mean that everyone who doesn't have testing facilities-- This is generally Jersey Central, who does have full-time testing facilities -- modern facilities -- that could qualify as third party testing facilities.

The word "shall" doesn't mean that unqualified entities would, of course, do any testing. It would only be qualified entities that would have that right to do it. But we have concerns about our scheduling. That is why we want the change. We have 1500 employees that need the CDL testing. Of course, they might be called for their test -- or go for their test -- at times that would be inconvenient to our scheduling. If we could test them with qualified personnel in our facilities at times that are convenient to us, it would certainly save the State time, let their resources go to other areas of need, and of course, allow us to be more efficient and effective.

That is basically what I want to ask today, that the Committee consider. As Assemblyman Moran pointed out-- I think he did have dialogue with the Colonel-- It didn't seem that they would object, except that I got the impression they thought it would require testing. I didn't quite understand

what they were getting at, because this would simply mean that testing was available. The regulations were available for testing to go out to third party. Those are my comments.

ASSEMBLYMAN MORAN: Okay.

ASSEMBLYMAN IMPREVEDUTO: Okay. Just hang on there because I know there are going to be some questions.

MR. BATES: Sure.

ASSEMBLYMAN IMPREVEDUTO: Pat and Bill?

W I L L I A M J. W A L S H, JR.: Thank you Mr. Chairman, members of the Committee and staff, for this opportunity. My name is Bill Walsh from Public Service Electric & Gas. To my left is Pat Downes. Pat is also from PS, and has the overall responsibility for our entire fleet from specifications of the individual vehicles to maintenance, and also inspection requirements thereto. He will be available to answer any technical questions you may have about our comments today.

I would like to, rather than read my prepared testimony, try and go over issues that have not been addressed. Or if we are in conflict with other speakers before us, we would like to address those issues.

ASSEMBLYMAN IMPREVEDUTO: Thank you.

MR. WALSH: Our concern goes more toward interstate versus intrastate operations. Ours is exclusively intrastate. We have concerns about adopting interstate regulations for intrastate commercial vehicle operators. We are concerned about any attempt to establish a commercial driver's license specifically for the State. We have got to look out of specific operators that any sweeping sort of program may have some adverse effects on.

As far as we go, we are exclusively interstate, and our concern is for the effectiveness and the efficiency of any New Jersey program to identify those sorts of needs. Our vehicles that would come under this CDL Program are used

exclusively for our primary mission in life as a company, and that is to give gas and electric service. The majority of time that our vehicles are out of the company garages, they are parked at the job site -- at that location for the specified work. We are talking about vehicles that generally travel less than 7000 miles a year for our company; the larger vehicles, the ones subject to this program, even less than 7000 miles. The assumption that all vehicles over 26,000 pounds have the same utilization, and also the same operating characteristics, is somewhat flawed. We think it will lead to, in many cases, wasteful expenditures and unnecessary administration.

Based on what we have heard from Colonel Pagano and other members of the Division of Motor Vehicles, we feel that they are aware that there are some significant differences between those inter and intrastate operations. We hope, to the extent possible, that they would take that into consideration when adopting the regulations for our State.

I want to make it clear that we are not looking for exemptions from commercial driver's license program. We are not looking to have our operators exempted from taking those tests. We realize the responsibility, and we want to live up to that.

Specific areas that we would like to talk about are: within the regulations the preparation of the daily reports -- the checks -- that we have heard before. By and large, our vehicles subject to this Act, return to the same location every night for refueling and maintenance. It is our feeling that if a commercial vehicle operator can substantiate through maintenance records and inspection records that the vehicles are receiving proper maintenance and proper inspection, that the additional reporting on a daily basis, pre, post, and interim trip inspections, might in some cases, be redundant and a duplication of effort.

It is our understanding that Massachusetts and Virginia have waived, to some degree, the daily reporting requirements that the drivers are subject to. We would like to see New Jersey investigate that approach, if it is, in fact, feasible for us as a State.

Perhaps the biggest problem that we have with the adoption of the Federal regulations is in the area of the maximum driving and on-duty time regulations that the Federal regulations require -- the 15-hour work rule. Our concern is responding to emergency situations and how that might hamper our operations. Specifically, we've seen proposals introduced in the New Jersey Legislature to exempt emergency services personnel from certain portions of these requirements. We would like to see some consideration for utilities in emergency situations, responding to emergency storm restoration work, or what we refer to as mutual assistance programs between sister utilities. For example, we assisted both New York and New England utilities when they have had some natural disaster -- be it hurricane or heavy storm -- in order to help them restore service to their communities. We have a concern that the 15-hour work rule would hamper us, not only within our own franchised territories, but also if we were requested to go out-of-state and provide some assistance.

This point has been mentioned before that many drivers have been good drivers, and their driving records are testaments to their ability to operate safely. I believe this discussion has been gone over several times before. I won't belabor the point, but if New Jersey were to adopt some sort of exemption for those drivers who have been violation free, from the written and skills testing part -- violation free for some "X" number of years-- We have heard UPS talk about two-and-one-half, three, and five years, depending on the rigs that the drivers would be operating. We would like to see New Jersey investigate that possibility also.

One that I have not heard mentioned before, but we are aware that has been adopted in Wisconsin and Virginia, is the age requirement. As far as we understand, Wisconsin and Virginia have adopted 18 as opposed to 21 years, as the minimum age. This may or may not be appropriate for New Jersey. We just offer that as information we have been able to garner in our investigation of what is going on across the country.

In closing we are willing to work with this Committee to the extent that we can, and provide any information which will help draft an appropriate CDL Program for New Jersey.

We have estimated some costs associated with implementation of regulations, as we understand it. Our figures show a one time cost to set up a program for training and development and permitting in excess of \$3.5 million -- a onetime cost -- with annual costs exceeding \$2 million beyond that.

ASSEMBLYMAN IMPREVEDUTO: That is for whom?

MR. WALSH: That is for our 3000 or so drivers who would be subject.

ASSEMBLYMAN IMPREVEDUTO: Just for your utility people?

MR. WALSH: Yes, for our 3000 drivers only. That is assuming full adoption of Federal regulations. With that, if the Committee has any questions, we would be happy to address them.

ASSEMBLYMAN IMPREVEDUTO: You mean you are going to raise our rates? (laughter)

SENATOR COWAN: The only thing I would suggest with what you have already suggested yourselves, so far as working with the Department and the Committee here-- That is basically, as we indicated in our prefacing remarks, that we are looking to have your input. If you have specific areas there that you feel you can address, I would suggest that you make those suggestions and proposals in writing to the Committee.

MR. WALSH: Senator, some of those suggestions are embodied in the prepared statement.

SENATOR COWAN: Be in contact with Aggie or Larry here, and submit it to them, okay?

MR. WALSH: Certainly sir. Thank you.

MR. DOWNES: Thank you.

ASSEMBLYMAN IMPREVEDUTO: Mr. Michael Poko? Mike, I'm sorry. Is it SPECTRASERV?

M I C H A E L P O K O: Yes, SPECTRASERV.

ASSEMBLYMAN IMPREVEDUTO: --in South Kearny.

W I L L I A M P R E N T I C E: I'm Bill Prentice. I am representing Steve Townsend. I am going to testify along with Mike.

ASSEMBLYMAN IMPREVEDUTO: Very good Bill. Are you also from SPECTRASERV?

MR. PRENTICE: No, I am from The Marcus Group. We represent SPECTRASERV. Mr. Chairman, I am Bill Prentice and I am representing Steven Townsend who is the President of SPECTRASERV, which is a full service waste transportation disposal company located in Hudson County. I have with me Mike Poko who is the Personnel Manager for SPECTRASERV.

ASSEMBLYMAN IMPREVEDUTO: Within my district, by the way.

MR. PRENTICE: That is correct. We thank you for providing us with the opportunity to testify today. We also applaud you and Senator Cowan for sponsoring the legislation.

ASSEMBLYMAN IMPREVEDUTO: Also in his district.

MR. PRENTICE: Also in his district. The legislation which will ensure that New Jersey's commercial drivers meet the standards required by the Federal Motor Vehicle Safety Act of 1986. As the employer of 25 commercial drivers, we believe that the implementation of a commercial driver license will assist companies like SPECTRASERV in ensuring that we employ only qualified drivers.

However, we are extremely concerned that there are no plans to offer a Spanish version of the test. As it is our understanding that a large number of English-speaking applicants fail the test initially, we are very much concerned that drivers of Hispanic ancestry will be at a distinct disadvantage when faced with passing this examination.

Since 22 of SPECTRASERV's 25 drivers are Hispanic, it is likely that many of our drivers will fail this test despite the fact that we believe that they are excellent, knowledgeable drivers. The challenge of having to translate their driving knowledge into English will put them at a disadvantage the minute they sit down to take the CDL test. It is important to note that other states have already addressed this problem. California and Arizona have already decided to offer a Spanish version of the CDL test.

Now, it is our understanding that the CDL test devised by the New Jersey Division of Motor Vehicles, will be comprised of a general knowledge test, a tanker truck endorsement, an air brakes endorsement, and a hazardous materials test. A passing grade of 80% is required for each segment of the test. This means that SPECTRASERV drivers will have to correctly answer 116 out of 145 questions. A driver who has not passed this test by April 1, 1992, will not be permitted to drive a commercial vehicle.

We have been advised by an official from DMV that they are not offering a Spanish version of this CDL test because of budget restrictions. In addition, we were told that due to the high volume of New Jersey drivers to be tested and the limited capacity at existing DMV testing facilities, DMV cannot guarantee that every applicant who fails the CDL test the first time they take it will have an opportunity to take the test a second time, before the April 1, 1992 deadline.

Since it is our understanding that approximately half of the drivers who have taken this test in other states have

failed it initially, we would like to hear DMV's response to the following questions:

1) What are the costs associated with offering a Spanish version of the CDL test?

2) How do those costs compare with the costs of having drivers take the test a second or third time, as would likely be the case with Hispanic drivers if they are forced to take the CDL test in English?

3) If DMV cannot ensure that all who fail the CDL test the first time they take it will have the opportunity to take the test a second time before the April 1, 1992 deadline, we would like to know who will be driving our trucks?

In the final analysis, we believe that the lack of availability of a Spanish version of the CDL test will impose a severe and unnecessary burden upon commercial drivers of Hispanic ancestry. The purpose of the commercial driver license test is to improve commercial driver quality, not to ensure that commercial drivers speak English. Clearly all drivers on the road must be able to understand road signs. But must they be able to read a 109-page driver manual and answer 145 multiple choice questions in English?

When one looks at the diversified labor pool in New Jersey, the growing Hispanic population in northern New Jersey, and the important role that the trucking industry plays in the State's economy, we wonder whether it is a wise public policy decision to make the ability to speak English fluently such an important element of the CDL test? Particularly with the unemployment rate running so low in New Jersey, can we afford to be so discriminating?

We implore you to amend A-3258 and S-2549 so as to require DMV to offer a Spanish version of the CDL test. Without such an amendment, we fear that many drivers will unnecessarily be forced out of their jobs on April 1, 1992. Clearly, the thousands of Hispanic truck drivers in New Jersey

deserve a fair opportunity to obtain a commercial driver license test. Thank you.

I think Mike has a short statement that really answers some of the specific concerns that his drivers have.

MR. POKO: Okay. I am the Personnel Manager at SPECTRASERV. I have been in charge of our CDL training program for the last six months. When we began our program six months ago, the DMV said that there would be no Spanish version of the test. That is why I am very grateful today to hear that Don Henry said they are looking into a Spanish version of the test and a Spanish manual. I know the problem that I have had in the last six months trying to prepare our drivers to take this test in English.

I can tell you that they are very apprehensive about the prospect of having to take a test in English, which is a second language to them. This test is going to determine their economic future. Our drivers are homeowners and family men. Their whole lives revolve around bringing home a paycheck every week to pay their mortgages, and to feed, cloth, and educate their children. To deprive them of this opportunity, we think, would be a major inequity.

One other point I would like to make, too, concerns the CDL exam and the 80% pass for all parts of the exam. I would like to draw on an analogy to the New Jersey CPA exam, which only requires a 75% passing rate on all four parts of that. The point I would like to make about that is someone can be employed as an accountant in New Jersey even without a CPA license, but after April 1, 1992 someone will not be able to be employed as a commercial truck driver in New Jersey without a CDL license.

ASSEMBLYMAN IMPREVEDUTO: I guess the difference being that an accountant may not kill someone, and the guy in a truck might.

UNIDENTIFIED MEMBER OF AUDIENCE: A CPA could put me in jail.

ASSEMBLYMAN IMPREVEDUTO: You are right, I don't disagree with what you say.

SENATOR COWAN: Basically, that question came up before here at the hearing. I don't know whether you were here or not. Again, Colonel, we would defer to you for a response to that. So far as the actual elimination of the person from using a license or, should I say, having the capacity to drive after not passing the test, can he still continue to drive? What is the scheduling as it relates?

COLONEL PAGANO: Not at this time. I think there are a couple of responses that you would require, Senator. One is we are working to put together a Spanish version. There has to be. We have a large Spanish population, and that goes to the issue of the personal impact. I spoke to Don Henry-- Not to be redundant but really just to say again, there is only one Spanish version now that is in California, Arizona, and New Mexico. That is largely Mexican/Spanish. We are going to put together our Spanish version which will cover Puerto Rican/Spanish, Spanish/Castilian, I guess, and Cuban.

The second response Senator, is if they take the test, fail, and are not successful in passing a retest in time for the effective date, we have no way of waivering. They would not be able to drive.

ASSEMBLYMAN MORAN: That is to 90 days?

COLONEL PAGANO: Say it again?

ASSEMBLYMAN MORAN: That is to 90 days?

COLONEL PAGANO: I am speaking in terms of the April 1, 1992 date.

ASSEMBLYMAN MORAN: Okay, but then they take the test. They have 90 days to take the test. They take it three or four times, and they continue to fail. After the 90 days--

COLONEL PAGANO: I think when we get to that area, that is when we are going to have to look at the individual and how we are putting together the regulations. I think Senator

Bubba was absolutely right. You fellows pass laws that the bureaucracy can kill the public with if you are not careful putting together your regulations, somehow and somewhere, especially when we get into the minority areas. We refer to minority in the sense of their knowledge capacity, not necessarily as race, gender, or their ability to speak English. We are going to have to look at some form of oral testing. That is going to have to be there, and that authority is going to have to be by regulation.

ASSEMBLYMAN IMPREVEDUTO: On the oral test issue Colonel and Don, I am sure you are aware of it, or know something about it. Obviously, you know more about this than most of us. I was speaking with someone -- Red Skinner from a company called Wheels To Go who informed me that, I think it was the H. Ross Perot Company, does have an oral test that can be taken over the telephone.

MR. HENRY: There is a test that has been designed for oral examinations and can be used over the telephone system.

ASSEMBLYMAN IMPREVEDUTO: You might want to come up just a little bit.

MR. HENRY: (complies) Yes. We are aware of it. I know of its existence, and we have the literature on that test.

ASSEMBLYMAN IMPREVEDUTO: Has the FHWA ruled on that test?

MR. HENRY: I believe they have approved it to be used.

ASSEMBLYMAN IMPREVEDUTO: I also understand that test can be given in any language.

MR. HENRY: I don't know that it is in any language. My personal experience has been in English.

ASSEMBLYMAN MORAN: Gallic?

ASSEMBLYMAN IMPREVEDUTO: Not Gallic. Nobody speaks Gallic.

COLONEL PAGANO: Again, we have to be careful how we would structure that to be sure that it is not bastardized.

ASSEMBLYMAN IMPREVEDUTO: Yeah. The situation being as I understand it, you would have a bunch of people in a room with a group of telephones. You would have someone there to identify that each and every one of those people are who they are supposed to be, that they are, in fact, the person that is being tested, or about to be tested. I am just trying to remember now. I think he said the call went to California where the test would be given under certain security out there, in different languages.

Though as you well know, in Jersey City -- part of Tom's and my district -- there is a very large Indian population. You know, certainly the argument can be made that if you are going to do it in Spanish, what about Indian? In South Kearny, what about Portuguese?

COLONEL PAGANO: We have faced that issue on many occasions. We will be looking at the telephone proposition, provided safeguards are in place and costs are not too heavy. But again, when we get down to this area of special needs, we faced the issue of translations in the past. We have translated to Spanish, but we have not gone to Indian or Hindustani, or all of the other exotic languages. We have had to find ways to test those people so they can drive safely and be productive. We have done that successfully.

ASSEMBLYMAN IMPREVEDUTO: Yeah. I would suggest, Don, that if, in fact, this has been FHWA approved -- this telephone thing -- where actually you are just pushing numbers-- I mean, they would give you the thing over the telephone and you would push one, two, or three. If you want to back up, you could do certain things. Supposedly, as I understand it, it can be given in a number of different languages with the proper securities in place.

Again, I think that might be something that we should be looking into at this time.

MR. HENRY: It is one of the alternative methods we will be looking at, yes.

ASSEMBLYMAN MORAN: Don, following up on that. Why is it not then, that we cannot have New Jersey Bell, JCP&L--

ASSEMBLYMAN IMPREVEDUTO: PSE&G--

ASSEMBLYMAN MORAN: --and PSE&G--

MR. HENRY: To do their own test? Are you talking knowledge or skills, sir?

ASSEMBLYMAN MORAN: Both.

MR. HENRY: Skills are permitted. That is the provision that we have in there for third party.

ASSEMBLYMAN MORAN: Right, for the "may" and the "shall."

MR. HENRY: However, if you look at the rule making process, as they went through and defined testing and licensing standards for the states to use, it talks third party skill testing only.

ASSEMBLYMAN MORAN: Okay but then, when we--

COLONEL PAGANO: Not knowledge.

MR. HENRY: The written examination, as we have pursued it, and petitioned FHWA, was that as an agent of ours, we could appoint an agent on our behalf to administer the written test, because we currently have an agency system that does driver testing. We are unique in that.

ASSEMBLYMAN MORAN: Okay. I am JCP&L. I have 1400 drivers. We run a Saturday and Sunday workshop program. We put on workshops with all of our drivers to reenforce their skills. At the completion of that, we give them a test coordinated through you.

COLONEL PAGANO: No. The skills test, yes. The knowledge test, no. There is no waiver there.

ASSEMBLYMAN MORAN: But, can't we do the knowledge test over the telephone?

COLONEL PAGANO: Well--

MR. HENRY: That is a specific-- I may be wrong, but the outfit that does that may, in fact, be Essex. There may be

some people in the room that could verify that. If that is an approved process, we have not examined that process in the sense of what it does, where it goes, and security issues of that. It is an alternative that is out there as well as automated testing equipment. Some other alternatives are being developed in terms of a choice of four multiple type questions too -- a. or b., true or false. They are alternatives that we are looking at, but they are not all available to us at this point.

ASSEMBLYMAN MORAN: Okay. Let me back up one more second. We have this on JCP&L and we have these workshops. We have 100 people come to this workshop on Saturdays. All right, we have the skills test performed at our facility that we have. We have our designated representative, by you, that certifies that, in fact, this person passed this section -- that he or she knows it.

We also have a representative from your office there that -- in small groups or one at a time -- spends five or 10 minutes-- As Senator Bubba has said, you are going to have to do all of these in -- I forget -- 381 per minute, I think, is what it comes out to. We do this where they have this 100 people. They have gone through the mechanical test. Now for the written part of the test -- the knowledge test -- we do it verbally. We could say, "Okay, what are the kinds of things-- Here is the bus, what are the kinds of things a bus driver and/or--" If you do it in accordance with Teamsters Local No. 73 -- with their coordinating program -- wouldn't this basically suffice?

COLONEL PAGANO: I think you are overly simplifying the issue. We are not getting to the volume and what is realistically biddable with the RFP process that binds us. We are getting away, if you will, sir, from the basic requirements now set down by the Federal Highway Administration.

ASSEMBLYMAN MORAN: Let me just step back one second then, Colonel.

COLONEL PAGANO: It sounds great if we were--

SENATOR COWAN: Excuse me. How many licenses do you have issued in the State today; total number?

COLONEL PAGANO: Approximately 5.4 million.

SENATOR COWAN: Approximately 5.4 million. And you say you will have approximately 350,000--

COLONEL PAGANO: We approximate 350,000 of them falling within the commercial category.

SENATOR COWAN: Okay. How do you intend to reach them? I am talking about notification. How do you intend to notify those people?

COLONEL PAGANO: Well there is a general notice afield that is well known in the commercial area, that there is an effective date and that there is going to be a requirement for a commercial license. I mean, we are right back, Senator, to the issue of the law is passed, and everyone is supposed to know the law. But we have a variety of ways that we are pumping out publicly the fact that this commercial requirement is a national requirement, and will be a State requirement.

SENATOR COWAN: You know, I'm not trying to pin you down now, but do you have anything laid out as to notification for any number of people who could be out there driving vehicles today, who are not required to have a commercial license, so to speak?

COLONEL PAGANO: I will turn it back to Don.

MR. HENRY: If I may take a few minutes of time, and I don't want to go through a whole bunch of detail-- I will give you an idea of an operational plan that we are considering and working toward.

SENATOR COWAN: Right.

MR. HENRY: The known population as we would refer to it, are those people currently having a bus endorsement or an articulated endorsement. Those names and addresses reside on our data base. Our plan is to schedule and contact -- or

provide that information to schedule off our data base -- those individuals. We currently also have in existence a plan to register drivers who currently do not need a CDL license -- a straight body truck meeting the requirements, or whatever it happens to be. Those registrations are being mailed to us. We are sending those out in terms of registration renewals and license renewals. They are available in our agencies and a general distribution through phone centers that we have. That information comes back to us. That information gets compiled into our system, or a separate system as it may be, so that we can then notify those drivers based on the information coming back to us. We have pursued it through the industry in terms of registered drivers with us. We, in turn, will schedule or provide them information for scheduling in the future. We will notify them off those data bases so that we can reach out to the populations and get them in.

Our estimates of 350,000 are based on numbers coming in, plus what we know is already existing on the data base. So the schedule is: notify them by mail of time, place, and location--

SENATOR COWAN: So, those people that you have identified will be notified by mail?

MR. HENRY: Yes.

SENATOR COWAN: But there may be many others out there. That is the point.

COLONEL PAGANO: That may well be. Therein lies the problem.

SENATOR COWAN: Now, as you say, Colonel, ignorance of the law is no excuse. But also, it is part of our duty and responsibility -- all of us -- to make sure that we make every effort to reach people.

COLONEL PAGANO: Absolutely. Senator, part of what we are talking about with this second RFP, covers if you will, the implementation of the data system that Don is talking about

now. I am sure, as we structure that RFP, we will be paying attention to notification processes that go beyond what we have already contemplated. There will still, I am sure, be some category of citizen out there that is going to miss the boat. We will have to pick up on it as time goes by.

ASSEMBLYMAN IMPREVEDUTO: Jeff?

ASSEMBLYMAN MORAN: Could we back up to respond to one more thing?

MR. HENRY: Before we do that, can I respond to an earlier question that you had? Large facilities, mass testing-- Obviously as mentioned, we are talking about great numbers. We are looking to test, provide our staff to test, or provide the overseeing of testing in large facilities, whether it be any organization that has it, either in the private sector, public sector, or whatever it happens to be, where we can test en masse with a representative being there, as opposed to a third party written test to be given out.

ASSEMBLYMAN MORAN: Okay. Then could we then go one step further? Could we designate a representative from JCP&L as our agent for testing?

MR. HENRY: Probably not. I don't think FHWA will allow us to do that. In their approval process of the standards that we use -- that we go through -- if we had Don Henry present at that facility to oversee the testing, that is probably acceptable through FHWA. State employees, State personnel--

ASSEMBLYMAN MORAN: You know with college boards we do it that way.

MR. HENRY: That is the purpose of going out on a mass bid. If there is an agency -- a testing agency -- such as that, then you do it.

ASSEMBLYMAN MORAN: Why do we have to talk about bid? You know, let's use our existing personnel. Are your personnel--

COLONEL PAGANO: No, no, the existing personnel would never be able to handle the volume within the time span.

ASSEMBLYMAN MORAN: Well, deputize those people who know how to do it. Give them the hocus-pocus. (laughter)

COLONEL PAGANO: Well, I would like to deputize everybody and let the thing disappear. But I think the bottom line, Assemblyman, is that this lends itself to mass testing. When you speak in terms of mass testing and the cost that is inherent or that is provided for in the Act, you are getting beyond the point where we have to comply with bidding standards. There has to be a request for a proposal, they have to bid on it, and you have to look to the lowest bid.

ASSEMBLYMAN MORAN: Colonel, let me just tell you-- Maybe it is the hour. When I took my first SATs, I remember I took them at the Douglass campus in the gymnasium. To this day I go back there and I'm still amazed that there must have been a thousand people there that took the test.

ASSEMBLYMAN IMPREVEDUTO: You passed, huh?

ASSEMBLYMAN MORAN: When we took it, we went there and sat down. There were monitors there that were, you know, seniors in college or whatever they were. There was one director that directed it. She was from the testing service. When my daughter just went two years ago-- She just so happened to also go to Douglass to take it. It was exactly the same thing. There is no difference.

COLONEL PAGANO: I would guess that I could state for the record the name of the New Jersey based testing service that administered that test. But that New Jersey based testing service, by law, will have to bid along with colleges and other groups to get the contract to administer that test that eventually is going to be paid for through funds that you are going to authorize collectible through this Act.

ASSEMBLYMAN MORAN: Okay. The answer to that is no, that is not how it works. They do it and you contract -- the colleges contract with them to get the data.

COLONEL PAGANO: But you are not involved in a public process at all.

ASSEMBLYMAN MORAN: Okay. What I am saying is somebody from your department sets up a testing mechanism with JCP&L. They rent the gymnasium at Douglass. They run it there. You have a representative there that brings the test booklets with them that day, gives them out, and coordinates it through JCP&L. Jersey Central Power & Light has all of their driver employees there on that Saturday. We administer the test there that day with them through your office. Now after it is done, we go through and we collect them all. We take them, sort them, and find out that all of these people got 88s, 90s, and 100s on the test. Peace be with them; they get their license. Now, is that--

COLONEL PAGANO: Peace be with you, he saved me again. We are looking at that. But again, we need the Federal Highway Administration's authorization to do it.

ASSEMBLYMAN IMPREVEDUTO: Do you need their authorization to get ETS to give it?

COLONEL PAGANO: No, no we don't.

MR. SANTANIELLO: One thing that we have had discussions on that we started a couple of weeks ago, was we recognized that there is a benefit to us and also a benefit to large organizations if we can do the testing on their site. The benefit to them is obvious. The benefit to us, though, is obvious too because they can control the scheduling. They can get their people there. We recognize that dynamic. It's sort of a quid pro quo in getting the job done.

What we are looking at, but we haven't worked out all of the details -- and I won't pretend to tell you that we worked out all of the details -- is first, to identify the larger companies or organizations that we can do testing on their site. Then after they are identified-- Obviously, we can't do everybody. I mean, we are going to have to have a

cutoff. They are going to have to have over so many people that we can test where it makes it worthwhile for us to go to that site.

Then we will have to talk to those companies to see what we can work out about that sort of arrangement. But we haven't worked out all of the details. We don't know who is going to do the monitoring. It may be a separate third party provider that does the monitoring on that site, but it's handled on that site, and the company or the organization does the schedule. Those plans are being worked on.

I apologize that I cannot give you every one of the details, but we are very conscious of that, and we are going to try to accomplish that.

ASSEMBLYMAN IMPREVEDUTO: If I understand what you are saying then-- If I am Joint Council No. 73 with 50,000 members that are going to take this test. Okay, the Joint Council decides for its members that they will rent out Rutgers gymnasium. All 25,000 of them will show up there on Saturday, and Sunday 25,000 more will go. In comes one or two of your guys carrying the tests, they stay there and monitor what is going on. There are also some people there from different companies or whomever. Is that the way you are looking at doing this? Is that one of the possibilities?

MR. SANTANIELLO: Very simplistically, yes. I mean the emphasis here is, we are looking at a way to administer the written test on sites of big organizations, whether they be unions, employers, the PSE&Gs of the world whatever, under either our auspices or a third party auspices--

ASSEMBLYMAN IMPREVEDUTO: Well you see, we are trying to come back to say we don't to spend a whole lot of money. We are being cheap on this one.

COLONEL PAGANO: I know, but the--

ASSEMBLYMAN IMPREVEDUTO: We don't want to go out--

MR. SANTANIELLO: The other part of it is you simply cannot take-- A perfect example is Joint Council No. 73. If we use that organization and say we are going to test all of those, you have got to realize there is coordination. If we have one of the employers who says, "Okay, test us here." Now you have the same people in the same two organizations which makes coordinating it much more difficult.

ASSEMBLYMAN IMPREVEDUTO: Why don't you leave the coordination up to them and say, "Hey guys, get your act together. Joint Council, you talk to all of those companies that you represent. We are going to find one spot. You guys agree on it and come back to us and tell us where it is. If you don't do that, you guys don't get tested and don't drive"?

COLONEL PAGANO: There is another element -- another dimension here that we have got to be aware of. This is aside from the discussion to this point. The bottom line is we go forward in this mass testing effort, we have got to offer a business proposition to a major entity that is going to bid against proposition. If we undermine it too much and don't make it a profitable venture for them to bid against, we won't be able to accomplish the mass testing of these people.

ASSEMBLYMAN IMPREVEDUTO: See that is my problem with this whole thing.

ASSEMBLYMAN MORAN: I think what I am hearing is that somebody is going to make money on this.

COLONEL PAGANO: You are darn well right they are.

ASSEMBLYMAN MORAN: Why?

SENATOR COWAN: If you are going to hire a private entity to do the testing, they are not going to do it gratis.

COLONEL PAGANO: It is what drives the American system.

ASSEMBLYMAN IMPREVEDUTO: Yeah, but we are looking at a situation where we are trying to say if there is a way -- and I think that there is, if we put our collective heads together -- to do this without spending a lot of money. Would it make sense, given our current situation, not to spend money?

COLONEL PAGANO: The State is not contemplating spending any money at all. The State will require up front funding for this, but ultimately the costs are going to have to be borne by the individual licensee who is paying at this point, a contemplated \$35 fee.

ASSEMBLYMAN IMPREVEDUTO: Even better yet, the State could make the money.

ASSEMBLYMAN MORAN: We could save more money.

ASSEMBLYMAN IMPREVEDUTO: Florio would love us for that one. (laughter)

COLONEL PAGANO: I think Mike makes a good point, one I failed to mention. We do not have the wherewithall within the Division to go beyond what we currently do in testing drivers. We are talking about a mass application -- a one time application -- that is going to have to be done by an outside vendor. We would not have -- if you gave us today -- all the manpower we need. We would not have a need for that manpower once we did this mass testing.

SENATOR COWAN: Nonrecurring.

COLONEL PAGANO: It is a nonrecurring expense time. That is exactly what we are talking about. It is a one time event. At a point in the future, I am sure, the State will pick up what goes on in the future.

ASSEMBLYMAN MORAN: Colonel, are you familiar with the Minimum Basic Skills Test that we administer in public schools to our 11th graders now?

COLONEL PAGANO: My wife belongs to the school board, so I listen to it night after night.

ASSEMBLYMAN MORAN: That is exactly what we are talking about. And you know what?

COLONEL PAGANO: You are exactly right Assemblyman. But when those tests were first administered, they were administered en masse. Then the data base was built, and from there on, the districts have been administering those tests themselves. That is my understanding.

ASSEMBLYMAN MORAN: No.

ASSEMBLYMAN IMPREVEDUTO: No, that is wrong.

ASSEMBLYMAN MORAN: No, it is still en masse.

ASSEMBLYMAN IMPREVEDUTO: You are speaking to two educators. That wasn't the way it happened.

ASSEMBLYMAN MORAN: We get them delivered to us, sealed--

ASSEMBLYMAN IMPREVEDUTO: And counted.

ASSEMBLYMAN MORAN: --and counted. You have to sign in blood, that in fact-- In my case -- in my district -- we get like, you know, 1500 or 2000 of them at a time. We get them and I sign for them. Then I have them sent out to the schools. Then an inspector from the State goes around to inspect every single--

COLONEL PAGANO: From the State Department of Education. We lost some, if you remember correctly, up in East Orange a few years back.

ASSEMBLYMAN MORAN: Right, they haven't found them yet.

ASSEMBLYMAN IMPREVEDUTO: They didn't lose any this year though.

COLONEL PAGANO: We found the tests. My recollection though--

SENATOR COWAN: I think they went to the Regents in New York. (laughter)

COLONEL PAGANO: You have corrected me, but my recollection was that when they were first administered-- The first go around of those tests were done very similar to what you did with your college boards. Everybody went to a gymnasium, sat down, and they were administered.

ASSEMBLYMAN MORAN: Never.

ASSEMBLYMAN IMPREVEDUTO: No.

COLONEL PAGANO: Then I am wrong.

ASSEMBLYMAN IMPREVEDUTO: Absolutely not.

ASSEMBLYMAN MORAN: But getting back to this, what we do is we administer that once a year to 11th graders. Then what happens is that answer sheets get sent to the State. Again it gets sealed, packed, secured, signed off and recounted. The test books get recounted, sealed, packaged, inspected--

COLONEL PAGANO: But when you are all done you say to the kid who took the test, "Hey, you are bright, or you are a dummy." Here we have to say a person, "You can drive or can't drive." It is a different situation.

ASSEMBLYMAN MORAN: Correct. Okay, no no. Let me finish. Colonel, let me interrupt you for just one second.

So then what we do is send this package to Trenton. They put them through the answering process machine through the Commissioner's office. Then we get back, within two weeks, a total breakdown of every youngster -- what he or she did, what their score was, and whether they have to get minimum basic skills programs, within 30 days of the receipt of that.

COLONEL PAGANO: What Mike is pointing out to me is you are also dealing with a captive audience. You are dealing with a group of children in given schools. We are not dealing with that at all. We are dealing with a very broad constituency that has got to be brought into a location where they can be administered a test from which will come an authorization to drive.

ASSEMBLYMAN MORAN: What I am saying is, and maybe I am oversimplifying it--

COLONEL PAGANO: I think what you are saying--

ASSEMBLYMAN IMPREVEDUTO: We have one or two other speakers. I think we could address this--

COLONEL PAGANO: --later.

ASSEMBLYMAN IMPREVEDUTO: Yeah, I think that may help. We need to use this room to put people in jail in about an hour or so. So again, gentlemen--

MR. POKO: Mr. Chairman, could I just ask one question? I am just curious.

ASSEMBLYMAN IMPREVEDUTO: A short question.

MR. POKO: Does this mean that DMV would support amending your bills to authorize Spanish?

COLONEL PAGANO: We don't have to amend that bill.

MR. POKO: What I am saying is you wouldn't mind--

ASSEMBLYMAN IMPREVEDUTO: No, we are going to amend this bill.

COLONEL PAGANO: We are saying that it is impossible for us to administer this program at all, unless we have Spanish language.

MR. POKO: Okay. Since there is a budget restriction, I just wanted to make sure, because that is not authorized.

ASSEMBLYMAN IMPREVEDUTO: I think Don will certainly be looking into that situation with the oral test, the telephone, the languages, and all of that stuff.

MR. HENRY: There are three or four attorneys that are looking into the need to do it.

MR. POKO: Thank you. If I may present Senator--

ASSEMBLYMAN IMPREVEDUTO: We have Robert Fox. Is he here still? Bob Fox -- Robert Fox -- from the Driving School Association? Uh, oh. He is one of the guys that is going to make money on us.

R O B E R T F O X: Sitting back there, I was thinking of the same thing. (laughter)

ASSEMBLYMAN IMPREVEDUTO: Okay. Robert Fox is with the New Jersey Driving School Association from Cherry Hill. That was a hell of a trip.

MR. FOX: I am Vice President of the Driving School Association plus I own a driving school and a safety center, as well as an academy for SAT training -- SAT prep. I appreciate everything you were saying up there.

I will keep it short because the hour is getting late. What I am here for today is not to oppose the bill. We are for the bill 100%. But there is a mechanism out there for what we have been talking about all day, not training, but getting the testing done in the State. I think DMV has come up and said there is 350,000 drivers. I think they underestimated that by maybe, 400,000 drivers. We have taken a survey in this State, of the people that are not what we would call the articulated licensed drivers now, such as your oil companies that go to your homes and dump the oil and the trash collectors. So I think there is a number out there -- a hidden number -- that is double what we are looking at.

If, in fact, 50% of those people do fail the test, you have a major problem in this State. We have had a proposal that was sent up to the Division of Motor Vehicles sometime in August or September, giving them a couple of ideas on the written test, and how to do it on a third party. If the Committee would like, we could also send you the same thing.

ASSEMBLYMAN IMPREVEDUTO: Please do that.

MR. FOX: We have approximately 140 private schools in the State of New Jersey. Eighty of them are probably fairly good sized driving schools. We can open up sites in the State for testing seven days a week, 24 hours a day if need be, to get the people done. To make a whole lot of money, no, we do not have to charge a whole lot. You people can mandate how much you want to pay us. Put it right in the bill. They do it in New York, Texas, California, and Florida. They do this under what they call the Driver Improvement Program, where you have to take a defensive driving course to waive your ticket. In there, it states that the institute can only charge "X" amount of dollars.

ASSEMBLYMAN IMPREVEDUTO: Interesting.

MR. FOX: So there is a mechanism to do it that way. By putting up the sites and by doing it seven days a week, you

would certainly eliminate the cost that it will cost the taxpayers to: a) put more people in DMV; b) open up your sites seven days a week -- we don't close on holidays, at least not most of them; c) we can take care of the truckers who work nighttimes or weekends; d) the security mechanism certainly can be in place and worked on with the Division of Motor Vehicles as well as anybody in the State, or whoever would be controlling it.

I think the thing that we have to look at here, is that we have a great number of drivers out there. This is April, 1990. We are close right now to getting this thing in place. It is kind of hard to tell an individual in 1992 that he can no longer work. There is a real need here. You can do all the waiving you want I guess in this State, and maybe look the other way, but if he drives across the State line he will get locked up.

Basically, I had a lot of other things I wanted to go over, but the main thing to us is to try to give you the understanding that we can do the testing or certainly help in that area, and show you a mechanism that would save a lot of time.

SENATOR COWAN: Are there any questions?

ASSEMBLYMAN IMPREVEDUTO: Yeah I have. Can you hold on for two seconds? We are trying to get Beth back to Trenton. (laughter)

MR. FOX: I am trying to get back to Cherry Hill.

ASSEMBLYMAN MORAN: You can't get there from here.

MR. FOX: You got that right. It won't be easy. (laughter)

ASSEMBLYMAN IMPREVEDUTO: You certainly raised an interesting point. In one of the areas that has been used in-- I could just think of locally. When we do our electrical inspections here in this town, we do a deal with a middle department agency or something like that where for every

electrical inspection they do, they split the fee with the town. So if we are charging \$35 a test and we mandated that \$17.50 go toward the third party testing and \$17.50 go to the State, we may--

MR. FOX: Yeah. They are doing that with your reinspection stations now. They put a ceiling on how much they can charge for reinspecting your car or inspecting your car. I don't see a problem with doing this. The State would have a problem testing these people.

ASSEMBLYMAN IMPREVEDUTO: Jeffrey just figured out that \$35 a test times 350 tests-- (laughter)

ASSEMBLYMAN MORAN: --is 350,000 (sic).

MR. FOX: But what we are looking for here -- at least what the Driving School Association is looking at -- is trying to-- Like you said earlier, it's a short-term thing. You have to get these people in and get them done. After that it can be a normal process.

ASSEMBLYMAN IMPREVEDUTO: You are right. I think the Colonel raised that issue. I also think that was one thing I did not realize. Again, you are thinking this is an ongoing thing, but it is really a one-shot deal.

MR. FOX: Yeah. It's a one-shot deal. You know, there are a lot of people out there that depend on this license. Another thing is, you know-- There are a lot of people I have talked to in the industry. I have gone out on the road, and I have been all over the parts of the State of New Jersey. I also sit on the Board of Directors of the National Association. You have a lot of people out there who are fifth and sixth grade educated people. They are not going to pass this test the first time out. There is simply no way.

ASSEMBLYMAN IMPREVEDUTO: It is a problem.

MR. FOX: It certainly is.

ASSEMBLYMAN IMPREVEDUTO: Thank you.

MR. FOX: Thank you.

ASSEMBLYMAN IMPREVEDUTO: Do we have a Mr. William Collis here? (no response) Mr. Richard Schwartz, Safety Transportation Consultant?

R I C H A R D S C H W A R T Z: Yes.

ASSEMBLYMAN IMPREVEDUTO: For the Fleet Safety Services, Essex Corporation. Here is the guy who started this whole problem. (laughter)

MR. SCHWARTZ: I feel like the man with the wheelbarrow after the circus parade. (laughter) Obviously, I had a number of things to address the Committee about today, but most of it has already been said. But I did make a couple of notes as I listened.

Yes I do represent the Essex Corporation. I am a distributor in the State of New Jersey for Essex. I have been conducting seminars and I act as a consultant for PSE&G, New Jersey Motor Truck, and New Jersey Safety Council, on CDL issues and training. I have conducted at least 12 to 14 months of CDL seminars, and generally with Mr. Henry. We now have a pretty proficient road act that we could go into business with.

I think I want to address three issues that I have heard a great deal of ignorance and misinformation about today.

ASSEMBLYMAN IMPREVEDUTO: That is why we are having hearings.

MR. SCHWARTZ: It is not only here at this Committee hearing, it is in the general population -- trucking and industry. These three issues having to do with the pretrip inspection, third party testing, and oral and foreign language testing.

Yes, Essex does have an oral examination system. It is a computer generated, digital voice, oral examination system. I have a PC, a stand alone computer.

ASSEMBLYMAN IMPREVEDUTO: Is it a telephone one?

MR. SCHWARTZ: Yes. It is driven by a digital voice computer program. It can be conducted in multiple languages.

I can conduct eight examinations at one time -- separate examinations, separate voices and separate languages. I will have a system in Atlantic City at the Safety Expo at Trump Castle next week. The oral examination -- as I understand it, and I have been involved with CDL since its inception-- I was training members of Locals No. 153 and 125 in 1986 on CDL training.

Oral examination will not be a choice. It is an alternative test for low level readers, nonreaders, and those people who cannot pass a written test. To maintain the same reliability and validity of a multiple choice test, the ratio of questions has to be increased at least two to one. It will be a true and false test.

The basic system which I described using the telephone, is a simplistic method driven by a stand alone PC. We know drivers can use a touch tone telephone because they know how to call us at 3:30 in the morning when have a problem. Basically it is a true or false test. One is for true, three is for false, seven repeats the question and nine continues. It is driven at the speed of the test taker. It has the same degree of reliability and validity as the current CDL tests that have been written by the Essex Corporation.

The pretrip inspection-- You heard a lot of testimony that it is going to take anywhere from 45 minutes to four hours to do a pretrip inspection, which is entirely not true. The New Jersey Motor Truck Association in their annual competition scores drivers on a pretrip inspection and a maximum allowable time for a combination vehicle is seven minutes, and five minutes for a straight truck.

ASSEMBLYMAN MORAN: Is that doing basically what is--

MR. SCHWARTZ: It is doing basically the same thing that has been required of tractor trailer drivers for a number of years before CDL gave life to itself. Under 49 CFR, section 396, which is the inspection maintenance repair section, a

driver of a commercial vehicle -- an interstate commercial vehicle -- must satisfy himself that the vehicle he is about to drive is in safe operating condition. The motor carrier must require its drivers to prepare in writing a report at the end of the workday, on those defects that he finds, or is reported to him. That's a law that is already on the books. It has nothing to do with CDL. What CDL -- section 383, which has been patchwork legislation -- added to 49 CFR has done, is to identify another group of commercial drivers and make them responsible for all of these other issues -- 390 through 396 -- that tractor trailer drivers have been doing for years, Teamsters included. There has never been any argument or controversy over that section of the law that they already complied with.

We are going to bring into focus other commercial drivers now. There is a discrepancy between the 26,000 pounds GVW -- gross vehicle weight rating -- and the old section of the law, 390 through 396, which describes a commercial motor vehicle as one that operates in the State over 10,000 pounds. There is some resolution that has to be made between those two weight issues.

Currently there was a committee appointed at the Federal level to view that discrepancy and other issues in 49 CFR. I think they have already met twice over the last few years. So pretrip inspection in real numbers-- You have to understand that those people who are being examined in competition, are the cream of the crop. Yes, they can do it in seven minutes. It's going to take a real driver somewhere around 15 minutes to do a walk around. The 45-minute time that you heard was the time it takes to do a pretrip inspection examination by a DMV examiner -- 45 minutes to an hour -- not for a driver to do a pretrip of the vehicle that he is about to drive.

ASSEMBLYMAN IMPREVEDUTO: I see I think where the confusion is coming in, sir, if I might, is that when one sits down with this book as I did some time ago and looked through it, then went to my neighbor who is involved with trucking and said, "Pete, do this pretrip as described in this text. What do I need to do?" He said you can't do it. What you heard from the UPS guys that in order for me to get the motor, I have got to get the cab off and over, okay? Now, what you are saying to me-- And if this is taken from Essex-- Again that confusion is coming out. You are telling me that the driver does not have to do that -- what you are saying here -- but we are testing him on it. You are saying you shouldn't do it.

MR. SCHWARTZ: No, I didn't say you shouldn't do it. I quoted the laws that stood before section 383 of 49 CFR, which stated that every interstate driver must conduct an inspection of his vehicle.

ASSEMBLYMAN IMPREVEDUTO: Which they are supposed to do right now?

MR. SCHWARTZ: Right.

ASSEMBLYMAN IMPREVEDUTO: Right.

MR. SCHWARTZ: The guidelines are not there, but the equipment that he has to check is. There are specific items that he has to check in 49 CFR 396.

ASSEMBLYMAN IMPREVEDUTO: Currently?

MR. SCHWARTZ: Currently.

ASSEMBLYMAN IMPREVEDUTO: Right.

MR. SCHWARTZ: What this handbook has done, is presented graphically and in writing, guidelines. Guidelines are only standards. It is not a law book per se. It is a safety booklet by which the goals of the Act can be met. The goals of the Act are to reduce accidents, improve driver quality, and remove poor drivers from the road. If the goals of the Act are to be met -- and this is a safety bill -- then what you are looking at is a safety manual.

ASSEMBLYMAN IMPREVEDUTO: Right.

MR. SCHWARTZ: Okay. You don't have to jack the truck up. You don't have to check the wheel bearings, okay? Yes, you should know whether or not your brakes are in adjustment. There are some tests that you can perform to ascertain whether or not your brakes are in adjustment on an air brake system. They don't self-adjust as they do in a hydrolic system where you back up your car and they self-adjust. Air brakes do not work like that. But without a tool, you can conduct a proper pretrip inspection and ascertain whether or not your equipment is safe, your brakes are in adjustment, and your vehicle is safe, as it spells out in 396.

You can save approximately 15 to 20 minutes in your hours of service log by doing an adequate pretrip inspection. It is not counted against your overall driving time.

ASSEMBLYMAN IMPREVEDUTO: You are talking now for over-the-road guys. What about the local guy who is just going around New Jersey delivering his tractor trailer stuff? He doesn't have--

MR. SCHWARTZ: This is what Public Service was addressing in terms of their hours of service.

ASSEMBLYMAN IMPREVEDUTO: Right.

MR. SCHWARTZ: If they operate under the emergency agreement or compact and they go across State lines, that means that they are now subject to the provisions of 49 CFR, including hours and service. However, there is a relief paragraph, a relief section, in 49 CFR that will grant relief from the hours and service should they make a telephone request followed by a letter, within 24 hours to the Regional Office of the Federal Highway Administration. They will not give a blanket exemption or waiver, but they can be granted a waiver.

ASSEMBLYMAN IMPREVEDUTO: But just locally now-- There is a major hurricane right here in Secaucus. Public Services is right down the block. They send their truck from

there to the north end of town which is two miles away. A guy drives a truck from there to the north end of town -- two miles away -- at 8:00 in the morning. It's 3:00 in the morning, and he has just gotten off of the pole. Can he drive the truck back to the facility?

MR. SCHWARTZ: Is he engaged in interstate commerce?

ASSEMBLYMAN IMPREVEDUTO: No. Well, is the company engaged in interstate commerce, guys?

MR. SCHWARTZ: That is the big question.

MR. WALSH: By and large, I believe all of our operations are intrastate.

MR. DOWNES: We are intrastate because we do not leave the State. We do not have customers anyplace else other than New Jersey.

ASSEMBLYMAN IMPREVEDUTO: How about New Jersey Power and Light. Do you guys go into Pennsylvania at all?

MR. SCHWARTZ: Except when the truck--

COLONEL PAGANO: I am not an attorney and I don't even pretend to be, but there is virtually nothing that is not some way part of, impacted with, or involved with interstate commerce. Commerce is commerce. That is why we say you can't drive in the State or out of the State.

ASSEMBLYMAN IMPREVEDUTO: Well, that is my question, which raises the point of Public Service's -- which to me is a logical point. The guy has two miles to drive--

COLONEL PAGANO: I heard what they said and would never challenge what they said. I would tell them to speak to their lawyer because I bet a lot of the work from that grid goes from one state to another. That means they are going to be involved in interstate commerce.

SENATOR COWAN: You are on the grid..

MR. SCHWARTZ: He could also be involved in interstate commerce without ever leaving the State by continuing a shipment that originates out-of-state.

ASSEMBLYMAN IMPREVEDUTO: Just to come back to my question. We are saying the man cannot drive the truck back to the shop, correct?

MR. SCHWARTZ: I can tell you that DOT considers that as an interstate movement.

ASSEMBLYMAN IMPREVEDUTO: Therefore he could not drive the truck back?

MR. SCHWARTZ: He would be over his hours in service.

ASSEMBLYMAN IMPREVEDUTO: He would be in violation?

MR. SCHWARTZ: He would be over his hours in service.

ASSEMBLYMAN IMPREVEDUTO: He would be in violation?

MR. SCHWARTZ: Right, unless they asked for relief and were granted relief from the Office of the Federal Highway Administration.

ASSEMBLYMAN IMPREVEDUTO: When would you--

ASSEMBLYMAN MORAN: How would get that at 3:00 in the morning?

MR. SCHWARTZ: By telephone. There is an emergency number to call.

ASSEMBLYMAN MORAN: The Colonel won't take any calls at 3:00 in the morning. (laughter)

MR. SCHWARTZ: The Colonel cannot grant that waiver. Only the Federal Highway Administration can.

ASSEMBLYMAN IMPREVEDUTO: You can get that relief after it is done?

MR. SCHWARTZ: Yes.

ASSEMBLYMAN IMPREVEDUTO: My guy can drive the truck back. The company tomorrow morning, writes a letter or calls whomever they have to call and say, "Hey--"

MR. SCHWARTZ: I am only quoting what I know about 49 CFR. I am not an attorney.

ASSEMBLYMAN IMPREVEDUTO: No, no. I'm sure they will ask their attorneys to check it out too. They would be fools if they didn't.

MR. SCHWARTZ: We have talked about this. Pretrip inspection is not the boogeyman that a lot of people are making it out to be. A driver has to do three types of inspections: a pretrip, an inspection during the trip, and a post trip inspection. He must also complete a written report at the end of the workday. He merely has to do visual observations. There are some checks that must be conducted by hands-on, which is starting the truck and turning on the lights. There is even a provision for testing the air brakes, but he does not need tools.

ASSEMBLYMAN IMPREVEDUTO: No, he bleeds the system.

MR. SCHWARTZ: Well, you are referring to draining your air tanks. That is not testing the air brakes.

ASSEMBLYMAN IMPREVEDUTO: Oh, okay. What do I know?

ASSEMBLYMAN MORAN: You look at the gauge or something.

SENATOR COWAN: That's letting the water out.

ASSEMBLYMAN IMPREVEDUTO: I would fail the test then.

MR. SCHWARTZ: So I set out to do what I intended to do. I talked about pretrip, oral examination, and foreign language testing, which we can do now. It is on the desk.

ASSEMBLYMAN IMPREVEDUTO: FHWA approved?

MR. SCHWARTZ: Yes.

ASSEMBLYMAN IMPREVEDUTO: How do you maintain the security so that Don Henry is more comfortable?

ASSEMBLYMAN MORAN: Have legislators give it.
(laughter)

MR. SCHWARTZ: They would be licensed by Essex to use the software as the State administrator. They would hold a test. They would also run a hard copy in order to issue the license. There is a hard copy issued of the test.

ASSEMBLYMAN IMPREVEDUTO: And the test, I understand, is graded almost immediately that the guy takes it.

MR. SCHWARTZ: It gives you a review over the telephone. I can give you a demonstration on a touch tone telephone right now because I am into my computer.

ASSEMBLYMAN IMPREVEDUTO: No, we don't have the time. We're embarrassed. We'll fail.

MR. SCHWARTZ: That is on the table and up and running. The question about third party testing-- I can only hope that when the Committee investigates and considers those issues surrounding third party testing, that you keep in mind maintaining the same reliability and validity factors that were intended when the tests were written by Essex and AAMVA, and also that the same level of integrity has to be maintained by the testing facilities, whether it be employer driven or some other agency driven, and appointed by the State.

ASSEMBLYMAN IMPREVEDUTO: Some of the questions that we asked the Colonel and his troops before that really they would not -- and should not -- have had the answers to because they don't know and they shouldn't have known. In the states that are currently giving the test, how many of them have used the pure Essex test, unadulterated?

MR. SCHWARTZ: I'm not privileged to that information, because I do not have copies of the Essex -- the pure Essex -- test. They are in secured hands, either at Essex or in the hands of MVA administrators.

ASSEMBLYMAN IMPREVEDUTO: Okay so there is no way for us to know-- I guess there is if we contact each and every state.

MR. SCHWARTZ: Yes. I can contact the Essex home office in Virginia and find out who has them.

ASSEMBLYMAN IMPREVEDUTO: Would you do that for us and get the information to us?

MR. SCHWARTZ: Yes, sir.

ASSEMBLYMAN IMPREVEDUTO: You know, unadulterated and equivalent to the test we are looking at the possibility of giving here.

MR. SCHWARTZ: We are in a second writing of the Essex test. There is an Essex II.

ASSEMBLYMAN IMPREVEDUTO: In the second test, in Essex II, which I guess by the time we are ready to give this thing we will giving Essex II. Obviously you have picked up the weak points of the old Essex I, and you are improving it, correct?

MR. SCHWARTZ: I am not writing the tests. I wrote -- with Essex -- the training manuals.

ASSEMBLYMAN IMPREVEDUTO: No, no, no. I am just asking a general question. The reason for Essex II is probably to improve over Essex, I hope.

MR. SCHWARTZ: Or fine-tuning it.

ASSEMBLYMAN IMPREVEDUTO: Or fine-tuning it, which would be an improvement. The question I guess then would be-- I'm just thinking in my head. I have my own questions that I'm asking myself in my head. I suspect that you have found -- they have found or someone has found in Essex -- some problems with the original test. Let's fine-tune it. Let's make it better, which they are doing now.

MR. SCHWARTZ: Well, understand that this entire process has been an evolutionary process from its inception.

ASSEMBLYMAN IMPREVEDUTO: Absolutely. I don't disagree. That's the point I think we are trying to come to here. The point is what do you know of the problems that Essex has seen in other states that has prompted them to say hey, let's fine tune this?

MR. SCHWARTZ: Well, we have identified a couple of problem areas within the manual itself -- the model manual -- which we have corrected and sent out memos through AAMVA. Incidentally, the copyright of the model manual has been transferred to AAMVA. The particular problems in regard to testing, I can research for you and get back to the Committee and have an answer.

Of the states that are currently testing, there are about three states now using the oral examination system which is called "The Spoken System."

ASSEMBLYMAN IMPREVEDUTO: The telephone?

MR. SCHWARTZ: Yes. We have one system in Delaware. We are negotiating with Maryland and Virginia. Understand, you have to do so as the states come on-line with their testing mechanism. You cannot sell a system to a state that is not testing yet. They have a lot of problems getting their written examination on-line before they address the oral examination.

ASSEMBLYMAN IMPREVEDUTO: Do you know what the cost is for the oral?

MR. SCHWARTZ: Sorry?

ASSEMBLYMAN IMPREVEDUTO: The cost -- dollars? Do you know what the cost of the test is for the oral end of it?

MR. SCHWARTZ: Hardware and software -- a complete package -- to support eight different trunk lines is somewhere in the neighborhood of \$18,000. That seems like a high number for software and hardware, but this had to be built from the ground up -- chips, circuit boards, and programming.

ASSEMBLYMAN IMPREVEDUTO: If New Jersey decided that, "We have found this magnificent oral test that Essex is doing. We want to do it," it would cost us approximately \$18,000 for eight trunk lines?

MR. SCHWARTZ: It can be purchased, leased, or rented. The service can be contracted. Essex can do a contract test service for the State. When it's all over and you don't need it anymore -- down the road--

ASSEMBLYMAN IMPREVEDUTO: Each trunk line would permit how many telephones?

MR. SCHWARTZ: Each PC -- each stand alone PC -- would support eight lines.

ASSEMBLYMAN IMPREVEDUTO: Okay it would be--

MR. SCHWARTZ: You could conduct eight tests simultaneously.

ASSEMBLYMAN IMPREVEDUTO: Eight test simultaneously. If I have Jeffrey who speaks Gallic, Larry who speaks Hebrew, I

speak Italian, and Tom speaks Hindustani, we could all take the test at the same time?

MR. SCHWARTZ: It's merely a question of accessing the access code of the proper program.

ASSEMBLYMAN IMPREVEDUTO: I'm impressed.

ASSEMBLYMAN MORAN: We might let somebody make some money on this.

ASSEMBLYMAN IMPREVEDUTO: Yeah, maybe. (laughter)

ASSEMBLYMAN MORAN: Colonel, you are right. All right, as long as you have it in Gallic. (laughter)

MR. SCHWARTZ: Okay. The system will be up and running at the Safety Expo in Atlantic City next week. I intend to have it there for demonstration.

ASSEMBLYMAN IMPREVEDUTO: Is he inviting us down?

ASSEMBLYMAN MORAN: I don't know. (laughter)

MR. SCHWARTZ: That was not an invitation, but we will be there. I will have it in my office tomorrow afternoon.

ASSEMBLYMAN IMPREVEDUTO: Okay. Thank you. Is there anyone else-- I'm sorry. Is Mr. Robert Witkowski here? Bob Witkowski? (no response) Is there anyone else who would like to address us? Mr. Pogue, Tom Pogue from Assemblyman Salmon's office. By the way, Assemblyman Salmon could not be with us today. His truck broke down.

T H O M A S P O G U E: Thank you Mr. Chairman. In this process, I have noticed today, several things. One is an understanding that the Federal law has, in fact, been passed in 1986 -- a few years ago. The Federal Highway Administration is the one responsible, as I understand it, for setting up the regulations by which that law was to be implemented. I think that is true also.

Today you are having hearings as it relates to this law. I have been sitting over here writing and writing and writing, trying to find out from the witnesses that appear here today, what they object to in the law. I have come up with a

magic number of three. First they objected to an exception, as it related to firemen and farmers, which unfortunately you don't have any control over anyway, because the Federal legislation provides for it, if I understand that correctly. So that objection becomes somewhat -- nolocontendere -- or whatever the heck you all call it.

The second thing was over whether it shall be "may" or "shall" as it relates to the regulation whether he, as the administrator of the program or the director, "may" do it or he "shall" do it. Whew.

The third thing was over whether it was grandfathered, with a grandfather and waiver. You argued back and forth about that. Outside of that, everybody says you have a great piece of legislation here.

ASSEMBLYMAN IMPREVEDUTO: Except us. (laughter)

MR. POGUE: Except you all. Do you know what the problem is with that? I argue with a man named Ed Salmon about this too, okay? You forget that you are a legislator to make laws. All of a sudden you remember about being an administrator. Guess what? All of your questions and the witnesses got all concerned about how Pagano is going to do his job as it relates to the regulatory process, which as I understand it, is his responsibility and not yours.

I hoped that there was going to be a lot of things, as it relates to this law, that I could have come up here and really given you some help on. But you all want to talk about a manual. That is part of the regulations. That is not a part of your law. The discussions that have been held here today, have not been about your law. They have been about your regulations.

I'm not trying to tell you how to do your jobs, and I don't tell Ed -- all of the time -- how to do his because if I did, I wouldn't be around long. But there is one thing that he does value about me in that I tell him the truth whether he

likes it or not. Sometimes he gains from it. Other times I get knots on my head. Maybe what I have done right now is gathered a few knots on his behalf or yours from what I have said.

My recommendation is that you expedite the passing of this law just as quickly as you possibly can. Because if you honest to God believe what you wrote in the interduction to the purposes of this law-- What some of you said was to protect -- if I recall correctly -- to save lives, property, and this kind of thing. Is that what it is all about?

ASSEMBLYMAN IMPREVEDUTO: Absolutely.

MR. POGUE: If that is the case, then we should get it rolling just as fast as we possibly can. We should have gotten it done four years ago. But obviously, they did not have the regulations done by then either. If we let this process drag out, it could be another duplication of what happened here today, and another duplication down south of what happened here today. Then we are going to be, what, four or six months in arrears of where we are if you all act expeditiously and say, "Look, we held a hearing and guess what? We had three major objections. A man came up there and told us what they were." You all could review the tapes and find out. Outside of that, we tried to help Pagano administer the law before we ever got the damned thing passed.

ASSEMBLYMAN IMPREVEDUTO: I guess you aren't going to get a ticket driving back to Cape May today. (laughter)

MR. POGUE: Okay, I'm working on it. But that is the way I see it. We don't have to try to reinvent the wheel. The wheel has already been invented. We have several states out there -- of which we have 10 of them-- I can show you, man. I've written to all of them. I have the answers back from all but 12. Ten of them presently have it in operation. They are right as it relates to the figure rate. It is 35%, 50%, 22%. It varies, depending on the control groups that have been

tested. But if it is general, it is usually from 35% to 50%, depending upon the state.

Gentlemen, I recommend that you pass the damn thing just as fast as you possibly can. That's all I have to say.

ASSEMBLYMAN IMPREVEDUTO: Thank you, Tom.

COLONEL PAGANO: The only thing I could say is that I am glad Salmon is not here. (laughter)

ASSEMBLYMAN MORAN: You got it.

COLONEL PAGANO: We would have had three school teachers up there--

ASSEMBLYMAN IMPREVEDUTO: You would be in trouble, Colonel. (laughter)

COLONEL PAGANO: --and I know Salmon comes from below the Mason-Dixon line, but this man sounds like he is from a lot further south. (laughter)

ASSEMBLYMAN IMPREVEDUTO: He comes from the Kentucky side of Cape May. (laughter)

MR. POGUE: I was born in Kentucky and I grew up in southern Ohio, which is why I have lived in southern New Jersey since 1965.

COLONEL PAGANO: On one side of the river you can drink and on the other side you can't. (laughter)

ASSEMBLYMAN IMPREVEDUTO: Thank you very much. If there is no one further to speak--

ASSEMBLYMAN MORAN: Thank you very much for coming. Colonel, it's always a pleasure to see you.

(HEARING CONCLUDED)

APPENDIX



Motor Vehicle Services



CN 160

TRENTON, NEW JERSEY 08666

STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
Division of Motor Vehicles

Robert J. Del Tufo
Attorney General

Col. Clinton L. Pagano
Director

Colonel Clinton L. Pagano's Testimony on
The Proposed CDL Legislation

The tragic loss of lives, and to a lesser extent property, due to accidents involving large trucks and buses has been a major public concern for many years.

In response to that concern, Congress passed the Commercial Motor Vehicle Safety Act of 1986. The goals of this far-reaching Federal act are: to improve commercial driver quality; identify and remove problem drivers from the highway; establish a system that will prevent drivers from having more than one license; and assure that all commercial drivers are tested and qualified to operate the vehicles they drive. To accomplish this, the act establishes minimum standards for the testing and licensing of all commercial drivers.

The Federal statute specifies that all states must be in compliance by October 1, 1993 or risk the loss of federal highway funding. However, more importantly, it requires that all drivers must be licensed by April 1, 1992. The practical effect of the April deadline is that all states must establish approved testing and licensing programs well in advance of that date to guarantee that their drivers are correctly licensed so they may continue to work after the deadline.

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New Jersey Is An Equal Opportunity Employer

Under the new federal standards, anyone who drives either a tractor trailer or any other truck or combination of vehicles with a gross vehicle weight rating of more than 26,000 pounds, a bus -- including all school buses -- or any vehicle carrying hazardous materials must be retested and licensed for the specific type vehicle operated.

We propose three classifications of commercial licenses (A, B and C) ranging from tractor trailers and combination vehicles through single body trucks and large buses to small buses and vehicles carrying hazardous material.

There will also be five different endorsements to the basic A, B, or C commercial license. An endorsement is an additional authorization or approval to operate certain vehicles depending on the type of vehicle and cargo being hauled. The endorsements will each require a separate test, in addition to the basic commercial license test. The endorsements cover double or triple trailers (one tractor pulling two or three trailers), buses (both large and small), tank trucks (vehicles carrying cargos of liquid or gas), transportation of hazardous material (any type vehicle), and air brakes.

Our proposed New Jersey Commercial Driver License legislation addresses several major areas of concern: the single license requirement; the current lack of uniform testing and licensing standards for commercial motor vehicle operators; the establishment of knowledge and skill testing standards; the creation of a system to maintain and access individual commercial driver license records and the establishment of the necessary penalties to remove unsafe commercial drivers from the road.

This proposed bill was drafted in response to the specific requirements imposed on all states by the Federal Commercial Motor Vehicle Safety Act.

The bill was written to provide a basic approach that will allow New Jersey to meet the standards necessary for compliance. The Federal Highway Administration has reviewed the proposals contained in this bill and determined that they meet the minimum standards of the act and that they are an appropriate basis for the implementation of an approved Commercial Driver License Program.

Should New Jersey fail to meet the Federal standards and deadlines, our drivers will be prohibited from operating commercial motor vehicles after April 1, 1992 and the state will face the loss of approximately \$30 million a year in federal highway funding.

This bill addresses the specific needs of the state to test, license and regulate commercial vehicle operators. It also promotes the cause of safety by establishing a more comprehensive testing and licensing procedure, one which has already been approved by the Federal Highway Administration. This process is tailored to the type of vehicle that a person operates and is designed to establish standards that will allow for a complete evaluation of all applicants' qualifications. It provides the minimum acceptable level for the establishment of a classified commercial licensing system for large combination vehicles, single body trucks and buses. It also creates acceptable standards that commercial drivers must meet in order to transport passengers, carry hazardous materials, operate tank vehicles and double or triple trailers. It also sets special standards for drivers operating vehicles utilizing air brakes.

The tight time frame placed upon New Jersey to test and license its estimated 350,000 commercial drivers requires us to utilize all the training manuals and examinations previously approved by the Federal Highway Administration. These materials are considered to be valid and reliable for

determining a driver's qualifications. They were developed after approximately two years of testing by a private consultant working for a committee of states. The process was funded by a Federal Highway Administration grant in order to provide all states with valid, reliable testing methods. Many other states are also using or planning to use this same material, which will further standardize the testing process nationwide.

Motor Vehicle Services has been planning the implementation of the federal requirements since early 1987. Based on our analysis, significant changes have been defined for the redesign of our data base to allow for the conversion to a classified license system and participation in the required nationwide commercial driver license information system (CDLIS).

However, despite this preliminary work, much more must be accomplished before we will be able to issue our first commercial driver license. Outside technical assistance will be needed to help in designing this new system and in making the numerous program changes necessary. In terms of the amount of work yet to be accomplished, time is short. It is essential that this bill be acted on quickly so we can move forward and obtain the resources needed to meet the April 1, 1992 deadline.

Through our planning efforts, we have also laid the groundwork for the transfer of driver records among the states, the development of driver disqualification standards, and the establishment of an orderly plan to schedule and test those drivers needing the new commercial driver licenses.

That testing process will be one of the major hurdles we must clear in order to meet the Federal deadlines. Not only will we have to schedule and then administer written tests (approximately two hours) to what may be an overly optimistic 350,000 initial applicants, we also will probably have to reschedule and retest up to half of them. The required written test will

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range from a minimum of 50 questions up to 185 questions, depending on all of the various endorsements required. A passing grade of 80% is necessary on each of the required tests. In other states that have already started testing, the initial rejection rate has ranged around 50%. So time is of paramount importance. We need to start the testing process as soon as possible and we can't take that step until this legislation is in place.

Our proposal also includes a provision for Motor Vehicle Services to utilize the private sector for the administration of the required skill (road) tests and the flexibility to allow for a waiver of road tests for experienced drivers based on the individual's driving history, experience, and certification. This flexibility will assist in the transition to the new requirements with minimal impact to our residents, while at the same time insuring a valid and comprehensive testing and licensing program.

This proposed legislative package, as drafted, meets all the minimum requirements of the Federal act and provides the necessary authorization to allow us to begin the major testing and licensing tasks. It also provides the funding necessary for the program. The initial testing fee that we have proposed of \$35 per commercial driver will cover the estimated \$12 million start up cost of the program.

Let me warn you now, any significant changes to this proposal will cause delays and hamper our ability to meet the necessary deadlines. As I mentioned before, failure to meet those deadlines will not only have an economic impact on our 350,000 commercial drivers, it will also cost the state the loss of some \$30 million a year in highway funding. It also will have an inestimable impact on commerce in New Jersey. So I urge you to address our concerns carefully and approve this legislation as soon as possible so we may begin the tremendous task ahead.

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Jersey Central Power & Light Company
Public Affairs
Capital View
150 West State Street
Trenton, New Jersey 08608
(609) 393-4960
(609) 393-4973

April 19, 1990

Thank you Mr. Chairman, Members of this Joint Committee meeting. My name is Don Bates, State Government Affairs Manager for Jersey Central Power & Light. Jersey Central supports the purpose of A-3258 and S-2549 and we agree that it is imperative that everything possible be done to reduce, or prevent, commercial motor vehicle accidents, fatalities, and injuries. Certainly, the strengthening of licensing and testing standards for drivers of commercial motor vehicles, and disqualifying certain unfit drivers, will go a long way towards reaching our common goal. Jersey Central has always, and will continue, to put safety as the main ingredient of every work day.

Jersey Central also agrees that it's important that the Legislature adopt this legislation to bring New Jersey into conformance with the standards and regs. mandated by the Federal Commercial Motor Vehicle Safety Act of 1986. It's obviously also important that New Jersey be in compliance so that the State may receive \$30 million in federal highway grant money.

My comments today refer to third party testing, detailed in Section 13 of both bills. The bill's "Statement" describes third party testing as "A sound and cost effective means of issuing commercial drivers licenses." We definitely agree with this description. Our company, and we understand the entire public utility community, are desirous of participating in third party testing. We have the proper facilities and are prepared to assist the State in reducing some of the massive testing burden that the CDL program has brought about.

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Jersey Central Power & Light Company is a Member of the General Public Utilities System

With JCP&L, and others, acting as a third party, the State could better use its resources to concentrate on those entities that do not have in-house testing facilities. As I understand the legislation, the fee structure would remain the same for third party testing, therefore the State revenue's would not be diminished.

In fact, the State would gain by realizing large savings in time and resources. Third party testing is important to us because it would allow us to schedule the testing of our employees at times convenient to our operation schedules rather than be subjected to a schedule adopted by the State.

Jersey Central has approximately 1500 employees that will require a CDL.

To bring about a realization of third party testing, we are requesting a minor, but a very meaningful, amendment to Section 13 of the bills:

We are suggesting that the word "shall" (in two places) be substituted for "may" thus changing the reading to "the director shall, by contract, etc," and "the director shall adopt such regulations, etc.". We also ask that the words "knowledge or skills" be added between "administer any" and "portion of.", to make it read "to administer any knowledge or skills portion of Commercial Motor Vehicle drivers examinations."

Jersey Central's mission is to provide safe, adequate, and reliable service to the public. We maintain a separate modern up-to-date training and testing facility staffed by qualified trained personnel. We are ready and willing to assist the State of New Jersey, as a third party tester, in the CDL program. Our suggested amendment is needed, however, to bring about efficiency and effectiveness and to remove certain uncertainties that could interfere with our planning, programs, and goals. Thank you. Questions?

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SENATE LAW, PUBLIC SAFETY AND DEFENSE COMMITTEE
AND
ASSEMBLY COMMERCE AND REGULATED PROFESSIONS COMMITTEE
PUBLIC HEARING
THURSDAY, APRIL 19, 1990
SECAUCUS MUNICIPAL GOVERNMENT CENTER
"NEW JERSEY COMMERCIAL DRIVER LICENSE ACT"
A-3258/S-2549

Good afternoon, Chairmen, members of the Committees and Staff. My name is Bill Walsh, Manager of State Governmental Affairs for Public Service Electric & Gas Company. I appreciate the opportunity to come before you and provide comments on Assembly Bill 3258 and Senate Bill 2549.

Public Service Electric & Gas Company is a regulated utility providing electric and gas service to more than two million customers and more than five-and-a-half million residents in New Jersey. It is the State's largest utility and one of America's largest combined electric and gas companies.

PSE&G has more than 13,000 employees and operates more than 4900 vehicles. PSE&G recognizes that New Jersey law must, to some extent, reflect the standards and requirements mandated by the Federal Commercial Motor Vehicle Act of 1986 and the resulting federal regulations. Failure to do so not only will result in the loss of approximately 30 million dollars annually in federal highway funds but, New Jersey will also lose the opportunity to enact regulations that will result in safer roads and highways for all the citizens of this State.

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As an operator of over 4900 vehicles, PSE&G wants to see safer roads in New Jersey. We believe that the intent of the federal act is to improve driver quality and remove problem drivers from the highway. However, in an attempt to establish a commercial driver license program, the State must carefully weigh the adverse effects that any sweeping program may have on certain operators. Many intra-state commercial motor vehicle operators travel limited mileage in limited territory as our vehicles do. Is it necessary for them to fulfill the same requirements as inter-state commercial motor vehicle operators that travel much farther distances over a greater territory?

Most importantly, the effectiveness and efficiency of the New Jersey commercial driver license program needs to recognize that commercial motor vehicles operated by certain businesses are utilized differently than most over-the-road vehicles. For example, vehicles operated by public utilities travel fewer miles per trip, often at much lower speeds, than typical commercial motor vehicles. Also, the use of these vehicles is for work that is directly related to the utility's primary responsibility, which is to maintain safe and reliable service. The majority of the time that these vehicles are out of the Company garages, they are parked at the job location.

An average PSE&G vehicle travels less than 7,000 miles per year. The larger vehicles, over 26,000 gross vehicle weight, travel even less. The assumption that all vehicles over 26,000 pounds have the same utilization and the same operating characteristics is flawed. It will lead to wasteful expenditures and unnecessary administration.

PSE&G believes that New Jersey should follow the lead of other states who have recognized that most vehicles operated by utilities do not require the same level of attention as other commercial motor vehicles.

As a result of our discussions with representatives from the New Jersey Division of Motor Vehicles, it is our understanding that New Jersey does not intend to enact regulations for intra-state drivers that go beyond the scope of sections 383 and 387 of the federal regulations. We support this approach and commend the Division for recognizing that there are significant differences between inter- and intra-state operators. However, PSE&G recognizes that as New Jersey's commercial driver license program is being developed other federal inter-state regulations may be enacted for intra-state vehicles as well. Before the State considers such actions, we trust that these regulations will be carefully examined. We have outlined a few items that the State should carefully consider:

The Federal Motor Carrier Safety Regulations (Section

396.11) require drivers to prepare daily vehicle reports. These reports require the driver to inspect and insure proper operation of numerous parts and accessories on the vehicle. As long as the commercial motor vehicle operator can demonstrate through maintenance and inspection records that the vehicles are receiving proper maintenance and are being inspected regularly, preparation of these reports is an unnecessary duplication of effort.

As a general rule, our vehicles covered under this program return to the same location each night for refueling and maintenance. The preparation of daily vehicle reports (Section 391.11) and the pre-trip inspections (Section 392.7) are redundant when coupled with sound maintenance and inspection procedures. States such as Massachusetts and Virginia have waived daily vehicle report requirements under certain circumstances. We would like to see New Jersey investigate this approach.

It would be inappropriate for New Jersey to apply the federal maximum driving and on-duty time regulation (Section 395.3) to intra-state utility vehicles. Because of the nature of our operations, a work-rule requirement could hamper PSE&G's ability to respond to emergency situations. Even the federal regulations recognize that certain vehicles and operators should be exempt from this requirement. Several proposals have been introduced in the Legislature to

// X

exempt emergency services personnel from the federal requirements. Similar consideration should be given to operators of utility vehicles.

I would like to point out that there is currently an effort under way at the federal level for some recognition of the need to allow for discretion for utility vehicle operators in emergency service restoration work within a utility's specific franchise territory and also for mutual assistance programs with sister utilities. For example, PSE&G has assisted New York and New England utilities in restoring service to areas devastated by natural disasters. In these specific circumstances, limiting operation to a 15-hour work rule is not practical.

Many commercial motor vehicle drivers have been operating their vehicles for a number of years, and their driving records are a testament to their ability to operate a vehicle safely. The federal regulations (Section 391.61) allows for certain experienced drivers to be exempt from the requirements of the written and skills testing. New Jersey should consider adopting a similar exemption for intra-state drivers meeting some minimum violation-free time criterion.

The Federal Motor Carrier Safety Regulations (Section 391.11) indicate that the driver of a commercial motor vehicle must be at least 21 years old. We point out that states such as Wisconsin and Virginia have already adopted

18 years as the minimum age requirement, as opposed to 21 years of age. It may be appropriate for New Jersey to consider this in certain circumstances.

In closing, PSE&G thanks you for the opportunity to testify before you today. We stand willing to assist the Committees in any way possible to promote a workable Commercial Driver License Program for New Jersey. One final note, we have attempted to estimate the cost of implementing the Federal requirements. Our calculations show a one-time cost for program development, training and permitting of \$3.7 million plus an annual cost of approximately \$2 million. This concludes our testimony and we would be happy to address any questions you may have.

Merchandise Drivers Local No. 641

AFFILIATED WITH
INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN & HELPERS OF AMERICA



255 ROUTE 3 EAST, SUITE 204, SECAUCUS, N. J. 07094

Tel. 866-8770

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April 18, 1990

The Honorable Anthony Impreveduto
Chairman Commerce and Regulated Professions Committee

Dear Sir:

As outlined in your meeting on Thursday April 12, 1990 in regards to our input on your proposed legislation in reference to the Commercial Driver License law, the following are areas we feel should be clearly defined in your Bill, for the protection of our members.

1. The total number of questions combined should be reduced, including Hazardous Material Handling.
2. Passing grade for this test should be Seventy Percent (70%).
3. Naming of Mechanical parts and their function should be eliminated from test.
4. Some consideration should be given to length of service an applicant has in the industry, combined with his driving record.
5. Applicants with five (5) or more years of industry experience, and clean driving record, (verified by the Employer and State Division of Motor Vehicles) should continue to work until he successfully passes test.
 - 5a. Tests should be given by safety department of the applicants employer, with a person from the State Division of Motor Vehicles present, to safeguard the integrity of the test.

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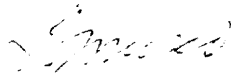
Page 2

6. Test should be given on different levels, based on proven level of applicants formal education.

7. If applicant fails, they should be retested on the questions they failed on initial test only. (This can be used as a method of educating applicants.)

Thanking you in advance for your efforts in regard to this matter.

Sincerely,,


Girolamo Sonny Musso
President Teamsters
Local 641

cc: Frank Carrasino/President Joint Council #73

15X

TESTIMONY

STEVEN A. TOWNSEND
PRESIDENT
SPECTRASERV

BEFORE A JOINT PUBLIC HEARING OF THE
SENATE LAW, PUBLIC SAFETY AND DEFENSE COMMITTEE
AND THE
ASSEMBLY COMMERCE AND REGULATED PROFESSIONS COMMITTEE

APRIL 19, 1990

New Jersey State Library

16X

Mr. Chairmen and Members of the Committees:

I am Steven Townsend, president of SPECTRASERV, a full-service waste transportation and disposal company located in Hudson County. Thank you for providing me with the opportunity to testify today on Assembly Bill No. 3258 and Senate Bill No. 2549, the "New Jersey Commercial Driver License Act."

I wish to applaud the sponsors of this legislation for their efforts to ensure that New Jersey's commercial drivers meet the standards required by the federal Commercial Motor Vehicle Safety Act of 1986. As the employer of 25 commercial drivers, I believe that the implementation of a commercial driver license (CDL) will assist companies like SPECTRASERV in ensuring that we employ only qualified drivers.

However, I am extremely concerned that there are no plans to offer a Spanish version of this test. As it is my understanding that a large number of English-speaking applicants fail this test initially, I am very much concerned that drivers of Hispanic ancestry will be at a distinct disadvantage when faced with passing this examination.

Since 22 of SPECTRASERV's 25 drivers are Hispanic, it is likely that many of our drivers will fail this test, despite the fact that we believe that they are excellent, knowledgeable drivers. The challenge of having to translate their driving knowledge into English will put them at a disadvantage the minute they sit down to take the CDL test.

It is important to note that other states have already addressed this problem. California and Arizona have already decided to offer a Spanish version of the CDL test.

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It is our understanding that the CDL test devised by the New Jersey Division of Motor Vehicles (DMV) will be comprised of the following:

- o a general knowledge test consisting of 70 multiple choice questions

- o a tanker truck endorsement consisting of 20 multiple choice questions

- o an air brakes endorsement consisting of 25 multiple choice questions

- o a hazardous materials test consisting of 30 multiple choice questions

A passing grade of 80 percent is required for each segment of the test, meaning that SPECTRASERV drivers will have to correctly answer 116 out of 145 multiple choice questions. A driver who has not passed the CDL test by April 1, 1992 will not be permitted to drive a commercial vehicle.

We have been advised by an official at DMV that they are not offering a Spanish version of the CDL test because of budget restrictions. In addition, we were told that, due to the high volume of New Jersey drivers to be tested and the limited capacity at existing DMV testing facilities, DMV cannot guarantee that every applicant who fails the CDL test the first time will have the opportunity to take the test a second time before the April 1, 1992 deadline.

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Since it is our understanding that approximately half of the drivers who have taken this test in other states have failed it initially, I would like to hear DMV's response to the following questions:

- o What are the costs associated with offering a Spanish version of the CDL test?
- o How do those costs compare with the costs of having drivers take the test a second or third time, as would likely be the case with Hispanic drivers if they are forced to take the CDL test in English?
- o If DMV cannot ensure that all who fail the CDL test the first time they take it will have the opportunity to take the test a second time before the April 1, 1992 deadline, who will drive our trucks?

In the final analysis, we believe that the lack of availability of a Spanish version of the CDL test will impose a severe and unnecessary burden upon commercial drivers of Hispanic ancestry. The purpose of the commercial driver license is to improve commercial driver quality, not to ensure that commercial drivers speak English. Clearly, all drivers on the road must be able to understand road signs, but must they be able to read a 109 page driver manual and answer 145 multiple choice questions in English?

When one looks at the diversified labor pool in New Jersey, the growing Hispanic population in northern New Jersey and the important role that the trucking industry plays in the state's economy, I wonder whether it a wise public policy decision to make the ability to speak English fluently such an important element of the CDL test. Particularly, with the unemployment rate running so low in New Jersey, can we afford to be so discriminating?

I implore you to amend A-3258 and S-2549 so as to require DMV to offer a Spanish version of the CDL test. Without such an amendment, I fear that many drivers will unnecessarily be forced out of their jobs on April 1, 1992. Clearly, the thousands of Hispanic truck drivers in New Jersey deserve a fair opportunity to obtain a commercial driver license.

Thank you.

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Appearance of
ROBERT WITKOWSKI, Business Manager
on behalf of
Local 194, I.F.P.T.E., AFL-CIO
concerning

N. J. Commercial Drivers License Act
(S-2549 and A-3258)

April 19, 1990

before

joint meeting of

Senate Law, Public Safety & Defense Committee

and

Assembly Commerce & Regulated Professions Committee

+ + + +

Gentlemen:

I am pleased to have the opportunity to appear on behalf of Local 194 which represents approximately 1,500 employees on the New Jersey Turnpike. Many of these employees have expressed grave concerns about the implementation of the testing of drivers as foreseen by the Division of Motor Vehicles.

Even before the enactment of enabling legislation, it appears that the DMV has published a lengthy manual concerning commercial drivers licensing. Having studied their book, I can only say that it is grossly unfair for them to believe that the average worker who drives a truck, tractor-trailer, or bus can understand and comply with its provisions.

Local 194 and its Members are greatly interested in Safety. We have been extremely active in Health & Safety matters concerning our Members since our very beginning. With the tremendous vehicle traffic on the Turnpike, we are familiar with the dangers and hazards. We work with them every day. I believe no one knows them better than we do. We're for safety!

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When the State of New Jersey proposed, and then required, articulated licenses and testing, Local 194 was in full support. We believe that it has contributed to reduced accidents, less dangers, and improved safety. All of our Members who work in Maintenance of the Turnpike qualified for and have articulated licenses.

Local 194 is not opposed to - and, in fact agrees with - the establishment of minimum standards under Federal Law. However, we believe that, as far as New Jersey is concerned, the Federal Government is a little late. Here in New Jersey, we already have minimum standards; we already have articulated licenses!

Now, in some areas it is possible that these standards are insufficient. We don't know what is required of an 18-wheeler or a public conveyer. We are not involved in those activities. But, insofar as roadway maintenance is concerned, our members have already qualified to operate their vehicles. You should know that not only are they required to have articulated licenses but they also must pass stringent operating tests to secure their jobs and/or get promoted to "operator" positions.

All of these employees are presently effectively performing their duties. You don't hear of-and I would challenge you to find-cases of improper operation of vehicles and equipment by Turnpike Maintenance workers.

It is patently unfair to require, as a condition of continuing employment, that these workers pass another "test." The very thought of their being subjected to such testing already has them nervous. How many more times, they ask, must they prove they can do their job?

In 1965, Laborers in the Highway Department who were driving trucks and operating equipment for years, were threatened with "Open Competitive" Civil Service testing. Previously, there were no "Truck Driver" or "Equipment Operator" titles but these men were paid 9 hours a day for driving and ten hours a day for operating. Some of them were in their 50's and 60's and had served 20 to 30 years. They would be put out of their jobs if they couldn't pass a "competitive" test or score higher than someone else. They were frightened - just as our Members are frightened, today. They joined Local 195 and Local 195 set up a meeting with Commissioner Palmer, Civil Service Chairman Sharpe, Attorney General Sills, and Governor Hughes.

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Governor Hughes, who was not involved in the "planning" of the Civil Service Commission, was aghast. He met some of those older men; loyal and hard workers from across the state, and said he would have none of it. He directed that those at the meeting work out a fair arrangement.

The solution was that those employees already driving trucks and operating equipment were "blanketed in," that is, given the positions in which they had been working and for which they were qualified. Thereafter, all new drivers or operators were required to pass the Civil Service testing on a competitive basis to secure permanent employment.

We believe that S-2549 and A-3258 should give appropriate recognition to those employees of the State, County, and Municipal governments and their political subdivisions, boards, bodies, agencies, and authorities who have qualified twice for their positions: Once as a result of employment testing and, the second time, by qualifying for articulated licenses.

Local 194 believes S-1549 and A-3258 should be amended to "blanket in" these employees. We urge you to do so.

I thank you for the opportunity to appear.

The Commercial Driver's License Information System (CDLIS)

Overview

I. Introduction

Congress established the Commercial Driver's License (CDL) requirement when it passed the Commercial Motor Vehicle Safety Act (CMVSA) of 1986 (P.L. 99-570). One of the requirements of the Act is the establishment of a "clearinghouse" for each jurisdiction to check before it issues a classified commercial driver's license. Major objectives of the CDL program are to:

- Ensure that only one commercial driver's license is issued anywhere to that individual; and
- Ensure that all convictions are reported to that licensing State and made a part of that driver's record.

Use of the clearinghouse is a critical link that facilitates sharing of driver's licensing information among licensing States.

The issuance of a driver's license has been and remains a State responsibility. Prior to the CMVSA, there was a variety of requirements among the States for obtaining a license to operate a commercial vehicle. With the establishment of the CDL program, States are required to adopt common minimum requirements for issuing commercial classified licenses, including checking with the clearinghouse prior to issuing such a license. The clearinghouse

being implemented to provide this capability is a distributed, interactive computerized information system.

The Federal Highway Administration (FHWA) is being assisted by the American Association of Motor Vehicle Administrators (AAMVA) in the design and implementation of the CDL program. AAMVA, through representatives of member States, is providing valuable assistance in development of the clearinghouse. The information system will be a centrally indexed, but distributed data base, and is referred to as the Commercial Driver's License Information System (CDLIS.)

The design of CDLIS is very similar to and is being coordinated with the National Highway Traffic Safety Administration's National Driver Register (NDR) Problem Driver Pointer System. This is appropriate because of another CMVSA requirement that States also check with the NDR prior to issuing a commercial license. The CDLIS requires use of a national telecommunications network. That need will be met by the network being developed by AAMVA, which is referred to as AAMVANet. Official operations of both CDLIS and AAMVANet were operational by January 1, 1989.

Essentially, the CDLIS is a computer-based system that allows the driver's licensing computer in each State to communicate with the CDLIS central computer. If a driver has been issued a commercial driver's license, the CDLIS central computer will then automatically request the State that issued the license to provide appropriate information back to the first State. The AAMVANet is the telecommunications network being used for this. In order to practically achieve this sharing of information, the States have developed a common set of data definitions.

The CDLIS and AAMVANet are both being developed and implemented by commercial vendors under contract to the States. Funding for these contracts is initially provided through grant assistance from FHWA. The grant funds are being augmented, and will eventually be replaced, by user fees. The State of New York has contracted with Electronic Data Systems (EDS) to develop and implement the CDLIS. The State of Nebraska has contracted with International Business Machines (IBM) to develop and implement the AAMVANet. These two contracts are being conducted on behalf of all States and are being closely coordinated and supervised through joint FHWA/AAMVA efforts.

The CMVSA requires all drivers of commercial vehicles to have a CDL issued in accordance with minimum standards by April 1992. This implies that all drivers of commercial vehicles at that time will have been added to the CDLIS central index.

II. Information

Information maintained in the CDLIS central system includes:

Central index

Only identifying data is maintained centrally in the clearinghouse, including:

- Driver's name and aliases
- Driver's license State and driver license number
- Social Security Number
- Date of Birth
- Sex
- Height
- Weight
- Eye color

Licensing State

All other data will be maintained by the licensing State. This will include:

- The same identifying data as in the central index;
- Data on status (e.g., valid, suspended, revoked, canceled);
- Indication of whether a record of medical problems/restrictions exists;
- Whether there is any action pending that could change current status of license;
- Endorsements (e.g., doubles/triples, passenger (bus), hazardous materials);
- Restrictions on use of license (e.g., air brakes);
- Any permits held;
- Driver's address;
- Convictions;
- Accidents; and
- Withdrawal history.

The issuing State's licensing process will operate basically as it does now. States

that have online computer access typically have the driver's license data entered on a branch office's terminal which communicates with the State's computer. That will continue, but the State's computer will now also communicate with the CDLIS central computer and, as needed, with another State's computer to get all of the relevant data about that driver. In this way the terminal at the driver's license branch office will be functionally connected to the CDLIS, and will provide updates or adding new information to the system.

The following types of interactions are defined for use of the clearinghouse.

Verification

Used when a driver is known to exist in CDLIS and further information, such as the license status, is desired.

Search Inquiry

Used when it is not known if a driver is in CDLIS or not and is used, for example, when a new driver is applying for a commercial license.

Create a New Driver

Used when adding a new pointer index for a driver to CDLIS.

Change State of Record

Used when a commercial driver changes his or her license from one State to another.

Change Data

Used to change the key driver data maintained in the central site.

Delete Master Pointer Record

Used by the State of Record to remove a driver and associated data from the central site data.

Report Out-of-State Conviction

Used by a State which convicted a commercial driver of an offense to notify the State of Record of its action.

State Driver History Request

Used by a State of Inquiry to request a complete driver history from the State of Record.

State Request for Status

Used by a State of Inquiry to request only the license status portion of the driver history record.

Other User Request for Motor Vehicle Record

Used by authorized parties other than a State of Inquiry to request information about a licensed driver.

III. Uses

States

The CDL program assisted by CDLIS will essentially enable States to effectively implement for commercial drivers the provisions they have been working toward for a number of years through the Driver's License Compact and the Non-Resident Violators Compact.

They will be able to track where a driver holds a commercial driver's license, report all convictions for that driver to the State that issued the license, and transfer information quickly among themselves when a driver moves from one State to another.

Employers

Current and prospective employers will have a means that, for the first time, will effectively enable them to verify the driving record of their drivers. Currently, this must be done on a State-by-State basis and each State must be separately requested to check its files.

Federal

The CDLIS will enable tracking of many things. These include: the total number of commercial driver's licenses issued; which State issued them; what license classifications are being issued; and how many licenses are disqualified, suspended, revoked or canceled.

IV. Future

AAMVA has canvassed all States on when they expect to implement their

CDL program and join CDLIS. The present schedule indicates nearly all of the States will join CDLIS in the first 2 years of operation, with only a handful waiting until early 1991.

States are giving a great deal of consideration to how they will issue new driver's licenses for commercial vehicles. Much of their effort involves changes in their computer operations and in State laws, and how to reissue licenses to all of their commercial vehicle operators within 2 or 3 years (the normal renewal cycle for most States is 4 years) in order to meet the April 1992 deadline.

It is expected that current contracts managed now by the States of New York and Nebraska for both the CDLIS and AAMVAnet will transition to AAMVA at some appropriate time in the

future, and be totally supported by user fees.

V. Conclusion

The cooperative spirit being displayed by all States in implementing the requirements of the CMVSA is obvious. They seem to all agree that the level of cooperation required to implement this system is something appropriate, and is probably the most significant highway safety initiative to come along in many decades. The efforts required by the States to get this system implemented in the short time allowed are very significant and display a similar kind of Federal-State partnership to the one that has been so successful in building the Interstate highway system.

For further information, write to the Motor Carrier Information Division, Federal Highway Administration, HIA-10, 400 7th Street, S.W., Washington, DC or call (202)366-4023.

November 1989

THE COMMERCIAL MOTOR VEHICLE SAFETY ACT OF 1986

THE ACT - WHY?

On October 26, 1986, Congress passed the Commercial Motor Vehicle Safety Act of 1986. The goal of the Act is to improve highway safety by insuring that drivers of large trucks and buses are qualified to operate those vehicles on the highway. The Act retained the State's right to issue a driver's license, but established minimum national standards which States must meet when licensing Commercial Motor Vehicle (CMV) drivers.

It is widely recognized that driving certain commercial motor vehicles requires special skills, knowledge, training and other qualifications. In 18 States and the District of Columbia, however, any person licensed to drive an automobile can also legally drive a tractor-trailer or a bus. As a result, too many drivers are operating motor vehicles they may not be qualified to drive. Also, many drivers have been able to obtain drivers' licenses from more than one State and hide or spread violations or convictions among several driving records and continue to drive. The Act attempts to correct these situations by making it illegal (effective July 1, 1987) to hold more than one license and requiring States to adopt testing and licensing standards for truck and bus drivers which check a person's ability to operate the type of vehicle he/she plans to operate.

It is important to note that the Act does not require that drivers obtain a separate Federal license; it merely requires that States upgrade their existing testing and licensing programs -- if necessary -- to conform with the Federal standards.

The licenses will continue to be issued by the States. The impact that these regulations will have on the commercial motor vehicle drivers will vary somewhat from State to State depending on how the States' current testing and licensing practices compare with the Federal Standards. Some

of the States, like New York, already test drivers in the type of vehicle the person intends to operate. As such, these States may not have to make significant changes to their testing procedures in order to meet the minimum standards. We believe that drivers who live in any of these States will see little or no changes from what they have been required to do in the past. Certainly drivers who live in States which now allow drivers to operate commercial vehicles without special testing requirements will see the greatest changes.

THE DRIVER

Drivers must have the new CDL in order to drive a Commercial Motor Vehicle after April 1, 1992.

The Federal penalty to a driver who violates this provision is a \$2,500 civil penalty or up to \$5,000 or imprisonment as a criminal penalty. An employer is also subject to these penalties, if he or she uses a driver to operate a CMV without the proper license.

During the last 18 months the FHWA has developed and issued the standards for testing and licensing CMV drivers. Among other things, the standards require that States issue Commercial Driver's Licenses (CDLs) to their commercial motor vehicle operators after the driver passes a knowledge and skills tests administered by the State about the type of vehicle to be operated. Drivers need CDLs if they are in interstate, intrastate, or foreign commerce and drive a vehicle that meets one of these definitions:

- A vehicle with a gross vehicle weight rating (GVWR) of 26,001 pounds or more;
- A vehicle designed to transport 16 or more persons including the driver;
- A vehicle regardless of size that is transporting hazardous materials in an amount that requires placarding under the Hazardous Materials Transportation Act.

THE DRIVER (continued)

A State may decide to waive firefighters and certain farmers from the CDL requirements. All active duty military drivers were waived by the Federal Highway Administrator.

The Federal Standard requires States to issue a CDL to drivers according to the following vehicle classification, referred to as **VEHICLE GROUPS**.

Group A - (Combination Vehicle) Any combination of vehicles with a gross combination weight rating of 26,001 or more pounds provided the GVWR of the vehicle(s) being towed is in excess of 10,000 pounds.

Group B - (Heavy Straight Truck) Any single vehicle with a GVWR of 26,001 or more pounds, or any such vehicle towing a vehicle not in excess of 10,000 pounds GVWR.

Group C - (Small Vehicle) Any single unit vehicle less than 26,001 pounds GVWR, or any such vehicle towing a vehicle not in excess of 10,000 pounds GVWR. Any size vehicle placarded for hazardous materials or designed to transport 16 or more persons, including the driver if the vehicle is not covered by Group A or B.

Drivers who operate special types of commercial motor vehicles will also need to pass additional tests and obtain an **ENDORSEMENT** on their CDL as follows:

T - Double/Triple Trailers.
(Knowledge test only)

P - Passenger.
(Knowledge & Skills tests)

N - Tank Vehicle.
(Knowledge Test only)

H - Hazardous Materials.
(Knowledge test only)

X - Combination of Tank Vehicle and Hazardous Materials.

RESTRICTIONS

"Air Brake" (Knowledge & Skills tests)

HOW STATES WILL IMPLEMENT THE FEDERAL REQUIREMENTS

Grandfathering Provision:

States will have the option to "grandfather" drivers with good driving records from the skills test according to these criteria:

Driver has a current license at time of application.

Driver has a good driving record and previously passed an acceptable skills test; OR Driver has a good driving record in combination with certain driving experience.

For "grandfathering" a Good Driving Record means:

A driver can certify that, during the two-year period immediately prior to applying for a CDL he/she:

- Has not had more than one license;
- Has not had any license suspended, revoked, or canceled;
- Has not had any violation of State or local law relating to motor vehicle traffic control arising in connection with any traffic accident, and has no record of an accident in which he/she was at fault.

For "grandfathering" Driving Experience means:

A driver can provide evidence and certify that:

- He/she is regularly employed in a job requiring operation of a CMV, and that either:

HOW STATES WILL IMPLEMENT THE FEDERAL REQUIREMENT (CONTINUED)

1) He/she has previously taken a behind-the-wheel skills test in a representative vehicle; or

2) He/she has operated a representative vehicle, for at least 2 years immediately preceding application for a CDL.

Third Party Testing: (This applies only to Skills Testing)

Other States, employers, training facilities, Governmental departments and agencies, and private institutions can serve as third party testers for the State.

- Tests must be the same as those given by the State.
- Examiners must meet same qualifications as State examiners.
- States must conduct an on-site inspection at least once a year.
- At least annually, State employees must evaluate the programs by taking third party tests as if they were test applicants, or by testing a sample of drivers tested by the third party and then comparing pass/fail rates.
- The State's agreement must allow FHWA and the State to conduct random examinations, inspections, and audits without prior notice.

Knowledge & Skills Tests:

States will develop their own tests which must be at least as stringent as the Federal standards. Model driver's manuals and tests have been prepared and distributed to the States to use, if they wish.

States shall determine specific methods of scoring the tests.

Basic knowledge test must contain at least 30 questions.

To pass, applicants must correctly answer at least 80 percent of the questions on the knowledge test. For the skills test, applicants must successfully perform all the skills (listed in Sec. 383.113).

The skills test must be taken in a vehicle representative of the type of vehicle that the applicant operates or expects to operate.

Commercial Driver's License Document:

A State will determine the license fee, how long the license is good for, most renewal procedures, and will also continue to decide the age and medical qualifications of its intrastate commercial drivers. Interstate drivers would need to meet the longstanding Federal age and medical qualification.

All CDL's must contain the following information:

- The words "Commercial Driver's License" or "CDL";
- The driver's full name, signature, and mailing address;
- The driver's date of birth, sex, and height
- Color photograph of the driver;
- The driver's State license number;
- The name of the State which issued the license;
- The date of issuance and the date of the expiration of the license;
- The group(s) of vehicles that the driver is authorized to drive;
- Notation of the "air brake" restriction, if issued;

HOW STATES WILL IMPLEMENT THE FEDERAL REQUIREMENT (CONTINUED)

- The endorsement(s) for which the driver has qualified;

States may issue learner's permits for purposes of behind-the-wheel training on public highways as long as learner's permit holders are required to be accompanied by someone with a valid CDL appropriate for that vehicle and the learner's permits are issued for limited time periods.

OTHER REQUIREMENTS

There are a variety of other requirements related to this legislation which affect the commercial drivers and their employers. These include:

Clearinghouse

States must arrange to "tie" into an information system and driver clearinghouse to exchange information about commercial motor vehicle drivers and traffic violations. A State would use the system to check a driver's record and make certain that the applicant does not already have a CDL. Employers can have access to this clearinghouse.

BAC Standards

The FHWA has also established 0.04 percent as the alcohol level at or above which a CMV driver is deemed to be driving under the influence of alcohol and subject to the disqualification sanctions in the Act.

Notifications

Within 30 days of a conviction of any traffic violation, except parking, drivers must notify employers, regardless of the nature of the violation or the type of vehicle which was driven at the time.

If a driver's license is suspended, revoked, or canceled, or if he/she is disqualified from driving, employers must be notified.

Employers must get information from prospective employees on all driving jobs they may have held for the past 10 years, if any.

Employers may not knowingly use a driver who has more than one license or whose license is suspended or revoked. Violation of this requirement may result in civil or criminal penalties.

Disqualifications

Drivers may be disqualified from driving a commercial motor vehicle for one year for convictions of:

- the first offense of driving a CMV under the influence of alcohol or a controlled substance; or

- leaving the scene of an accident; or

- Using a CMV to commit a felony.

If the conviction results from a violation received while the driver is operating a CMV that is placarded for hazardous materials, the minimum disqualification is 3 years. A second conviction of the above will disqualify the driver for life. If the CMV is used to commit a felony involving the manufacture, distribution, or dispensing of controlled substances the driver will also be disqualified for life.

Drivers may also be disqualified for serious traffic violations, which means conviction, when operating a commercial motor vehicle of:

- Excessive speeding, involving any single offense for any speed of 15 miles per hour or more above the posted speed limit;

- Reckless driving, as defined by State or local law or regulation including but not limited to offenses of driving a commercial motor vehicle in willful or wanton disregard for the safety of persons or property;

- Improper or erratic traffic lane changes;

- Following the vehicle ahead too closely; or

OTHER REQUIREMENTS (CONTINUED)

- A violation, arising in connection with a fatal accident, of State or local law relating to motor vehicle traffic control (other than a parking violation). (Serious traffic violations exclude vehicle weight and defect violations.)

The period of disqualification is as follows:

- a minimum of 60 days if the driver is found to have committed 2 serious traffic violations within a 3-year period involving a CMV.
- a minimum of 120 days for 3 serious traffic violations within a 3-year period.

State Program Verification

The following sequence describes a States' implementation of the entire CDL program, including issuing CDLs. While some States will be able to achieve this, many States may find it prudent or necessary to "phase in" parts of the program before they are ready to issue CDLs, using one of several options. These include:

A State may administer CDL knowledge and skills test to drivers prior to the completion of the CDLIS connection. The test results would be stored, and when the State is able to complete the CDLIS connection and check the driver in the system, the driver would be mailed a CDL. Some States may choose to issue an interim document, but such a document may not be marked "CDL" or "Commercial Driver's License." The license could later be endorsed as CDL or exchanged for the CDL when the CDLIS connection and driver checks are successfully completed.

A State may implement only the CDLIS Inquiry and Status Check functions to check drivers applying under the State's existing licensing program for commercial operators. This permits the State a longer time to identify and resolve any problems in development or installation of the State software and telecommunications. The State would begin issuing CDLs when the testing and licensing program and the remaining CDLIS transactions are ready.

These options help provide maximum flexibility under the Federal regulation and the Act. States are encouraged to use these and other options to progress toward compliance with the Act.

Sequence of CDL Implementation

Step 1 State Requests Testing Program Review

Explanation Ideally at least 30 days before testing is scheduled to begin.

Step 2 FHWA Completes Test Verification

Explanation FHWA reviews tests (knowledge and/or skills) the State plans to administer to verify they meet the standard. This must be completed for the State to claim credit for any CDL tests (knowledge and/or skills) in 90/91 Supplemental Grants.

Step 3 FHWA Completes CDL Confirmation

Explanation After FHWA meets with the State and reviews its testing and licensing program for compliance with the standards, a letter will be sent confirming compliance. If the State plans to issue CDLs at the same time they begin testing, the letter must precede activation of CDLIS for production.

Step 4 State Signs Network Contract With AAMVAnet

Explanation The State must sign a contract with AAMVAnet/Nebraska prior to getting an account ID to begin network/CDLIS testing.

Step 5 AAMVAnet Activates CDLIS

Explanation When testing with CDLIS is satisfactorily completed and the testing and licensing program is confirmed by FHWA, the State will be notified by New York, on behalf of AAMVAnet, that they can be a CDLIS production State.

Step 6 AAMVAnet Activates AAMVAnet for Production

Explanation When the State has satisfactorily completed testing with the network; has received notification from New York that they are ready to be a CDLIS production State; and their testing

**STATE PROGRAM VERIFICATION
(CONTINUED)**

and licensing program has been confirmed by FHWA, they will be activated in the network as a production State.

Step 7 State Issues CDLs

Explanation State tests and issues licenses according to the Federal standards, including checks and updates of CDLIS. Only CDLs issued according to the standard count in determining 90/91 Supplemental Grants.

Note: Step 4 - Network Contract - can occur at any time the State is prepared to begin CDLIS or network testing and not necessarily in the exact sequence shown.

