

NJ  
10  
A939  
1987c

PUBLIC HEARING

before

SENATE LAW, PUBLIC SAFETY AND DEFENSE COMMITTEE

SENATE BILL 2733

(Reduces the blood alcohol content level for driving a commercial motor vehicle under the influence of alcohol to 0.04%)

and

SENATE BILL 2741

(Prohibits the use or possession of radar detectors in commercial motor vehicles)

February 11, 1987  
Council Chambers  
Burlington Township Municipal Building  
Burlington Township, New Jersey

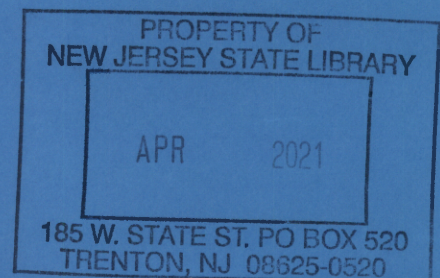
MEMBERS OF COMMITTEE PRESENT:

Senator Frank X. Graves, Jr., Chairman  
Senator Ronald L. Rice

ALSO PRESENT:

Senator Catherine A. Costa  
District 7

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



\* \* \* \* \*

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





**New Jersey State Legislature**

**SENATE LAW, PUBLIC SAFETY  
AND DEFENSE COMMITTEE**

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

**FRANK X. GRAVES, JR.**  
nan  
**PAUL CONTILLO**  
Vice-Chairman  
**Ronald L. Rice**  
**C. LOUIS BASSANO**  
**JOSEPH BUBBA**

**MEMORANDUM**

**TO:** Members of the Senate Law, Public Safety, and  
Defense Committee

**FROM:** Senator Frank X. Graves, Chairman

**DATE:** February 2, 1987

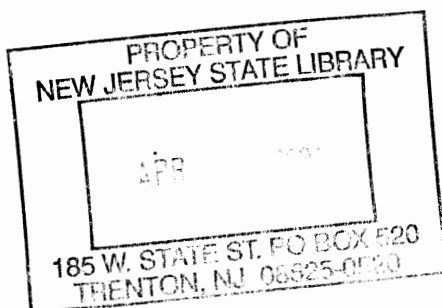
**SUBJECT:** PUBLIC HEARING ON WEDNESDAY, FEBRUARY 11, 1987

The Senate Law, Public Safety, and Defense Committee will hold a **PUBLIC HEARING** on Wednesday, February 11, 1987 at 1:00 p.m. in the Council Chambers of the Burlington Township Municipal Building in Burlington Township, New Jersey. The Burlington Township Municipal Building is located at 581 Old York Road in Burlington Township.

The purpose of this public hearing is to elicit information and to discuss a broad variety of issues concerning the activities and the regulation of the commercial trucking industry in this State. The subject matter of this hearing will include a discussion on prohibiting the use or possession of radar detectors in commercial motor vehicles (Senate Bill 2741 sponsored by Senator Costa), reducing to 0.04% the blood alcohol content level for operating a commercial motor vehicle while under the influence of alcohol (Senate Bill 2733 sponsored by Senator Costa), and proposals for laws or regulations to improve the safety of persons who operate motor vehicles upon the roads and highways of this State.

Anyone who would like to participate in this public hearing should contact the Committee Aide, Aggie Szilagyi, at (609) 984-0231. Directions to the Burlington Township Municipal Building are on the reverse side of this notice.

**OVER**





[SECOND OFFICIAL COPY REPRINT]

SENATE, No. 2733

STATE OF NEW JERSEY

INTRODUCED OCTOBER 30, 1986

By Senator COSTA

Referred to Committee on Law, Public Safety and Defense

AN ACT concerning the operation of motor vehicles by persons under the influence of intoxicating liquor or drugs and amending R. S. 39:4-50 and P. L. 1951, c. 23.

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

1 1. R. S. 39:4-50 is amended to read as follows:

2 39:4-50. (a) A person who operates a motor vehicle *or a com-*  
3 *mercial motor vehicle* while under the influence of intoxicating  
4 liquor, narcotic, hallucinogenic or habit-producing drug, or oper-  
5 ates a motor vehicle with a blood alcohol concentration of 0.10%  
6 or more by weight of alcohol in the defendant's blood *or operates a*  
7 *commercial motor vehicle with a blood alcohol concentration of*  
8 *0.04% or more by weight of alcohol in the defendant's blood* or per-  
9 mits another person who is under the influence of intoxicating  
10 liquor, narcotic, hallucinogenic or habit-producing drug to operate  
11 a motor vehicle *or a commercial motor vehicle* owned by him or in  
12 his custody or control or permits another to operate a motor ve-  
13 hicle with a blood alcohol concentration of 0.10% or more by weight  
14 of alcohol in the defendant's blood *or permits another person to*  
15 *operate a commercial motor vehicle with a blood alcohol concen-*  
16 *tration of 0.04% or more by weight of alcohol in the defendant's*  
17 *blood*, shall be subject:

18 (1) For the first offense, to a fine of not less than \$250.00 nor  
19 more than \$400.00 and a period of detainment of not less than 12  
20 hours nor more than 48 hours spent during two consecutive days of

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 printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

\*—Senate committee amendment adopted February 26, 1987.

\*\*—Senate committee amendments adopted May 21, 1987.

21 not less than six hours each day and served as prescribed by the  
22 program requirements of the Intoxicated Driver Resource Centers  
23 established under subsection (f) of this section and, in the discre-  
24 tion of the court, a term of imprisonment of not more than 30 days  
25 and shall forthwith forfeit his right to operate a motor vehicle over  
26 the highways of this State for a period of not less than six months  
27 nor more than one year.

28 (2) For a second violation, a person shall be subject to a fine of  
29 not less than \$500.00 nor more than \$1,000.00, and shall be ordered  
30 by the court to perform community service for a period of 30 days,  
31 which shall be of such form and on such terms as the court shall  
32 deem appropriate under the circumstances, and shall be sentenced  
33 to imprisonment for a term of not less than 48 consecutive hours,  
34 which shall not be suspended or served on probation, nor more  
35 than 90 days, and shall forfeit his right to operate a motor vehicle  
36 over the highways of this State for a period of two years upon  
37 conviction, and, after the expiration of said period, he may make  
38 application to the Director of the Division of Motor Vehicles for  
39 a license to operate a motor vehicle, which application may be  
40 granted at the discretion of the director, consistent with subsection  
41 (b) of this section.

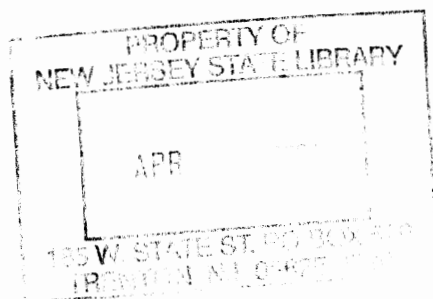
42 (3) For a third or subsequent violation, a person shall be sub-  
43 ject to a fine of \$1,000.00, and shall be sentenced to imprisonment  
44 for a term of not less than 180 days, except that the court may  
45 lower such term for each day, not exceeding 90 days, served per-  
46 forming community service in such form and on such terms as the  
47 court shall deem appropriate under the circumstances and shall  
48 thereafter forfeit his right to operate a motor vehicle over the high-  
49 ways of this State for 10 years.

50 If the driving privilege of any person is under revocation or  
51 suspension for a violation of any provision of this Title at the time  
52 of any conviction for a violation of this section, the revocation or  
53 suspension period imposed shall commence as of the date of termi-  
54 nation of the existing revocation or suspension period. A court  
55 that imposes a term of imprisonment under this section may  
56 sentence the person so convicted to the county jail, to the workhouse  
57 of the county wherein the offense was committed, to an inpatient  
58 rehabilitation program or to an Intoxicated Driver Resource Center  
59 or other facility approved by the Director of the Division of  
60 Alcoholism in the Department of Health; provided that for a third  
61 or subsequent offense a person shall not serve a term of imprison-  
62 ment at an Intoxicated Driver Resource Center as provided in  
63 subsection (f).

64 A person who has been convicted of a previous violation of this  
65 section need not be charged as a second or subsequent offender in  
66 the complaint made against him in order to render him liable to  
67 the punishment imposed by this section on a second or subsequent  
68 offender, but if the second offense occurs more than 10 years after  
69 the first offense, the court shall treat the second conviction as a  
70 first offense for sentencing purposes and if a third offense occurs  
71 more than 10 years after the second offense, the court shall treat  
72 the third conviction as a second offense for sentencing purposes.

73 (b) A person convicted under this section must satisfy the  
74 screening, evaluation, referral, program and fee requirements of  
75 the Division of Alcoholism's Intoxicated Driving Programs Unit,  
76 and of the Intoxicated Driver Resource Centers and a program of  
77 alcohol education and highway safety, as prescribed by the Direc-  
78 tor of the Division of Motor Vehicles. The sentencing court shall  
79 inform the person convicted that failure to satisfy such require-  
80 ments shall result in a mandatory two day term of imprisonment  
81 in a county jail and a driver license revocation or suspension and  
82 continuation of revocation or suspension until such requirements  
83 are satisfied, unless stayed by court order in accordance with Rule  
84 7:8-2 of the N. J. Court Rules, 1969, or R. S. 39:5-22. Upon sen-  
85 tencing, the court shall forward to the Bureau of Alcohol Counter-  
86 measures within the Intoxicated Driving Programs Unit a copy  
87 of a person's conviction record. A fee of \$80.00 shall be payable to  
88 the Alcohol Education, Rehabilitation and Enforcement Fund es-  
89 tablished pursuant to section 3, P. L. 1983, c. 531 (C. 26:2B-32)  
90 to support the Intoxicated Driving Programs Unit.

91 (c) Upon conviction of a violation of this section, the court shall  
92 collect forthwith the New Jersey driver's license or licenses of the  
93 person so convicted and forward such license or licenses to the  
94 Director of the Division of Motor Vehicles. The court shall inform  
95 the person convicted that if he is convicted of personally operating  
96 a motor vehicle during the period of license suspension imposed  
97 pursuant to subsection (a) of this section, he shall, upon conviction,  
98 be subject to the penalties established in R. S. 39:3-40. The person  
99 convicted shall be informed orally and in writing. A person shall  
100 be required to acknowledge receipt of that written notice in writing.  
101 Failure to receive a written notice or failure to acknowledge in  
102 writing the receipt of a written notice shall not be a defense to a  
103 subsequent charge of a violation of R. S. 39:3-40. In the event  
104 that a person convicted under this section is the holder of any out-  
105 of-state driver's license, the court shall not collect the license but  
106 shall notify forthwith the director, who shall, in turn, notify appro-



107 priate officials in the licensing jurisdiction. The court shall, how-  
108 ever, revoke the nonresident's driving privilege to operate a motor  
109 vehicle in this State, in accordance with this section. Upon convic-  
110 tion of a violation of this section, the court shall notify the person  
111 convicted, orally and in writing, of the penalties for a second, third  
112 or subsequent violation of this section. A person shall be required  
113 to acknowledge receipt of that written notice in writing. Failure to  
114 receive a written notice or failure to acknowledge in writing the  
115 receipt of a written notice shall not be a defense to a subsequent  
116 charge of a violation of this section.

117 (d) The Director of the Division of Motor Vehicles shall prom-  
118 ulgate rules and regulations pursuant to the "Administrative  
119 Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.) in order to  
120 establish a program of alcohol education and highway safety, as  
121 prescribed by this act.

122 (e) Any person accused of a violation of this section who is liable  
123 to punishment imposed by this section as a second or subsequent  
124 offender shall be entitled to the same rights of discovery as allowed  
125 defendants pursuant to the Rules Governing Criminal Practice, as  
126 set forth in the Rules Governing the Courts of the State of New  
127 Jersey.

128 (f) The counties, in cooperation with the Division of Alcoholism  
129 and the Division of Motor Vehicles, but subject to the approval of  
130 the Division of Alcoholism, shall designate and establish on a  
131 county or regional basis Intoxicated Driver Resource Centers.  
132 These centers shall have the capability of serving as community  
133 treatment referral centers and as court monitors of a person's  
134 compliance with the ordered treatment, service alternative or com-  
135 munity service. All centers established pursuant to this subsection  
136 shall be administered by a certified alcoholism counsellor or other  
137 professional with a minimum of five years' experience in treatment  
138 of alcoholism. All centers shall be required to develop indivi-  
139 dualized treatment plans for all persons attending the centers;  
140 provided that the duration of any ordered treatment or referral  
141 shall not exceed one year. It shall be the center's responsibility  
142 to establish networks with the community alcohol education, treat-  
143 ment and rehabilitation resources and to receive monthly reports  
144 from the referral agencies regarding a person's participation and  
145 compliance with the program. Nothing in this subsection shall bar  
146 these centers from developing their own education and treatment  
147 programs; provided that they are approved by the Division of  
148 Alcoholism.

149 Upon a person's failure to report to the initial screening or any  
 150 subsequent ordered referral, the Intoxicated Driver Resource  
 151 Center shall promptly notify the sentencing court of the person's  
 152 failure to comply.

153 (g) *As used in this section:*

154 "Commercial motor vehicle" means any self-propelled or towed  
 155 vehicle used on highways in commerce to transport passengers or  
 156 property if:

157 (1) The vehicle **"[has]"** **"is registered for"** a gross weight  
 158 **"[rating]"** of 18,000 or more pounds; or

159 (2) The vehicle is designed to transport more than 15 pas-  
 160 sengers, including the driver; or

161 (3) The vehicle is used in the transportation of materials  
 162 found by the Secretary of Transportation to be hazardous for  
 163 the purposes of the federal "Hazardous Materials Transporta-  
 164 tion Act," Pub. L. 93-633, (49 U. S. C. § 1801 et seq.).

165 Required detention periods at the Intoxicated Driver Resource  
 166 Centers shall be determined according to the individual treatment  
 167 classification assigned by the Bureau of Alcohol Countermeasures.  
 168 Upon attendance at an Intoxicated Driver Resource Center, a per-  
 169 son shall be assessed a per diem fee of \$50.00 for the first offender  
 170 program or a per diem fee of \$75.00 for the second offender pro-  
 171 gram, as appropriate.

172 The centers shall conduct a program of alcohol education and  
 173 highway safety, as prescribed by the Director of the Division of  
 174 Motor Vehicles.

175 The Director of the Division of Alcoholism shall adopt rules and  
 176 regulations pursuant to the "Administrative Procedure Act,"  
 177 P. L. 1968, c. 410 (C. 52:14B-1 et seq.), in order to effectuate the  
 178 purposes of this subsection.

179 **\*\* (h) Notwithstanding any provisions of this section to the con-**  
 180 **trary, a person who operates a commercial motor vehicle with a**  
 181 **blood alcohol concentration of 0.04% or more but less than 0.10%**  
 182 **by weight of alcohol in the defendant's blood or permits another**  
 183 **person to operate a commercial motor vehicle with a blood alcohol**  
 184 **concentration of 0.04% or more but less than 0.10% by weight of**  
 185 **alcohol in the defendant's blood shall forfeit only his right to oper-**  
 186 **ate a commercial motor vehicle over the highways of this State for**  
 187 **the periods specified in this section. This forfeiture shall not effect**  
 188 **his right to operate any other motor vehicle over the highways of**  
 189 **this State.\*\***

1 2. Section 30 of P. L. 1951, c. 23 (C. 39:4-50.1) is amended to  
 2 read as follows:

30. **a.** In any prosecution for a violation of R. S. 39:4-50 relating to driving a vehicle **[other than a commercial motor vehicle as defined in R. C. 39:4-50]** while under the influence of intoxicating liquor, the amount of alcohol in the defendant's blood at the time alleged as shown by chemical analysis of the defendant's blood, urine, breath, or other bodily substance shall give rise to the following presumptions:

(1) If there was at that time 0.05% or less by weight of alcohol in the defendant's blood, it shall be presumed that the defendant was not under the influence of intoxicating liquor:

(2) If there was at that time in excess of 0.05% but less than 0.10% by weight of alcohol in the defendant's blood, such fact shall not give rise to any presumption that the defendant was or was not under the influence of intoxicating liquor, but such fact may be considered with other competent evidence in determining the guilt or innocence of the defendant.

The foregoing provisions of this section shall not be construed as requiring that evidence of the amount of alcohol in the defendant's blood must be presented, nor shall they be construed as limiting the introduction of any other competent evidence hearing upon the question whether or not the defendant was under the influence of intoxicating liquor.

**b.** Notwithstanding any provisions of this section to the contrary, a person who operates a commercial motor vehicle as defined in R. S. 39:4-50 with a blood alcohol concentration of 0.04% or more but less than 0.10% by weight of alcohol in the defendant's blood or permits another person to operate a commercial motor vehicle with a blood alcohol concentration of 0.04% or more but less than 0.10% by weight of alcohol in the defendant's blood shall be deemed to be in violation of the provisions of R. S. 39:4-50.

3. This act shall take effect immediately.

---

#### MOTOR VEHICLE—OFFENSES

Reduces the blood alcohol content level for driving a commercial motor vehicle under the influence of alcohol to 0.04%.

---

**SENATE, No. 2741**  
**STATE OF NEW JERSEY**

INTRODUCED NOVEMBER 10, 1986

By Senators COSTA and GRAVES

Referred to Committee on Law, Public Safety and Defense

AN ACT concerning radar devices and supplementing Title 2C of  
the New Jersey Statutes.

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

1       1. Any person is a disorderly person if he operates a commercial  
2       motor vehicle on the highways of this State:

3       a. While using a device designed to give him advance informa-  
4       tion of the use of a radar speed-indicating instrument in the area  
5       of the highway which he is approaching; or

6       b. In which there is situated or affixed a device described in  
7       subsection a. of this section which is capable of being activated  
8       by the operator of the commercial motor vehicle.

1       2. As used in this act:

2       "Commercial motor vehicle" means any self-propelled or towed  
3       vehicle used on highways in commerce to transport passengers or  
4       property if:

5       a. The vehicle has a gross weight rating of 18,000 or more  
6       pounds; or

7       b. The vehicle is designed to transport more than 15 passengers,  
8       including the driver; or

9       c. The vehicle is used in the transportation of materials found  
10      by the Secretary of Transportation to be hazardous for the pur-  
11      poses of the federal "Hazardous Materials Transportation Act,"  
12      Pub. L. 93-633 (49 U. S. C. § 1801 et seq.).

1       3. This statute shall not be construed to authorize the forfeiture  
2       to the State of New Jersey or any political subdivision or instru-  
3       mentality thereof of any such electronic equipment. Any such  
4       electronic equipment may be taken by the arresting officer if  
5       needed as evidence and shall, when no longer needed, be returned

- 6 to the person charged with a violation of this act, or at the person's  
 7 request, and at his expense, mailed to an address specified by him.  
 1 4. This act shall take effect immediately.

---

### STATEMENT

Statistical data for 1984 compiled by the Division of State Police in the New Jersey Department of Law and Public Safety indicate that vehicles classified as either trucks or tractor-trailer combinations constituted only 6% of the total number of vehicles involved in accidents on New Jersey highways, but accounted for 13% of the number of vehicular accidents and 32% of the fatal accidents for that year. More recent statistical data compiled for the New Jersey Turnpike for the first eight months of 1986 indicate that vehicles classified as either trucks or tractor-trailer combinations constituted 12.5% of the traffic volume, but 38.8% of all vehicular accidents, 56% of the total number of fatal accidents and 62% of the fatalities on this through State toll road.

The compiled vehicular accident reports demonstrate that heavy trucks account for a disproportionately large number of serious accidents on the New Jersey highways and that many of these accidents involve trucks passing through New Jersey in interstate commerce.

National data compiled by the United State Department of Transportation, National Highway Traffic Safety Administration, for 1985 reveal that fatal accidents, as a percentage of all personal injury accidents, are  $2\frac{1}{2}$  times as great for heavy trucks as for all classes of vehicles.

The safe passage of motorists on the State's highways requires, at a minimum, that commercial motor vehicle operators, especially those involving heavy trucks and the transportation of hazardous materials, obey the State's speed limits.

Since the enactment of the 55 mph speed limit, the use of radar speed measuring equipment by the State and local enforcement agencies has increased significantly. At the same time, attempts by operators of commercial motor vehicles to avoid arrest have also intensified. One increasingly popular avoidance method is the use of radar detectors. The purpose of a radar detection device is to avoid apprehension for violating the speed limit. Therefore, law enforcement agencies strongly oppose the possession and use of these devices.

---

### MOTOR VEHICLE—OFFENSES

Prohibits the use or possession of radar detectors in commercial motor vehicles.

---

## TABLE OF CONTENTS

	<u>Page</u>
Samuel Cunningham, Esq. Executive Director New Jersey Motor Truck Association	4
Robert F. O'Brien, Esq. Tank Truck Workers' Union	8
Kenneth Sweeton, Vice President Tank Truck Workers' Union	11
Sgt. Walter V. Schwatka Division of State Police New Jersey Department of Law and Public Safety	17
Trooper James Barber Division of State Police New Jersey Department of Law and Public Safety	19
Roi Ann Morford Legislative Liaison Division of Motor Vehicles New Jersey Department of Law and Public Safety	26
Jayne P. Rebovich Special Assistant Legislative Liaison Unit New Jersey Department of Law and Public Safety	29
Mary Lou Sullivan Pennsauken, New Jersey	33
Renee Gast Radio Association Defending Airwave Rights	34
Janice Lee, President Radio Association Defending Airwave Rights	41
John P. Greeley, President Teamsters' Local 676; also Chairman, South Jersey Labor Council	44
Jack Miller, President Teamsters' Local 331	51
Joseph Stone Teamsters' Local 470	52

TABLE OF CONTENTS (continued)

	<u>Page</u>
Jerry McNamara Teamsters' Local 115	54
Leo Abruzzese CBL Trucking	55

\* \* \* \* \*

mjz: 1-60

SENATOR FRANK X. GRAVES (Chairman): Good afternoon. I am Senator Graves. I am Mayor of the City of Paterson, a Senator of the State of New Jersey, and I am Chairman of this particular Committee. We are going to open the public hearing at this time.

On my left is Senator Rice, a Councilman of Newark, a Senator of the State of New Jersey, and a member of this Committee. On my right is the sponsor of this particular legislation, and your Senator, to whom we have extended the courtesy of having the hearing in her home port, so to speak.

Senator Costa, please address us, and point out to us what your goals for this legislation are. We will then open the public hearing.

SENATOR COSTA: Thank you very much, Senator Graves. I want to extend my appreciation to you for holding this public hearing on this very important safety issue. The two bills we are addressing-- One concerns lowering the blood alcohol content from .10% to .04 for vehicles of over 18,000 pounds capacity, and the concerns the radar devices in the trucks.

When I put these bills into the hopper and they came before your Committee, I realized, in looking deeper into the trucking industry and what is happening on the roads, that there is much more to it than just these two bills address. That is why I asked Senator Graves to hold this public hearing, so we could look at all aspects of the trucking industry and what is happening on our roads. As I looked into the industry, I found out that tractor trailer trucks on the Turnpike account for 12.5% of the vehicles on the road, yet they are involved in 38.8% of the traffic accidents and 62% of the fatalities. I am speaking of the Turnpike. I am not speaking of any other state; I am speaking of the State of New Jersey.

So, I realized we are just scratching the surface with these bills and, therefore, with this public hearing, hopefully we will come out learning a lot more about what to do to make it safe for the driving public.

I have been doing a lot of research on the trucking industry. I guess you could say I have been burning the midnight oil, because I have had all of this stuff to read, and there is a lot involved. There are a lot of questions as yet unanswered, such as: Should a driver of a 26,000 pound vehicle be drinking at all? Should it be .04%? Are drivers trained to drive these large vehicles? These are some of the questions I will be asking the industry. Are they trained? What kind of training do they get before they get out on the roads with their big trucks?

The Federal Highway Administration Report states that driver failures cause 94.5% of all preventable accidents. What kind of testing standards are there? Are the trucks maintained properly? Again, the Federal Highway Administration Report states that 70% of all preventable accidents related to mechanical defects involving brake and tire failures. What kind of surveillance do we have on the roads? Do we need more policemen on the roads to see what is happening regarding the trucks on the roads? What about inspection of vehicles? Again, the Federal Highway Administration Report showed a significant reduction of commercial vehicle accidents when the number of inspections increased.

So, we hope to learn more at this hearing, and in learning more, we hope to appropriately address this problem with legislation and recommendations, so we can stop the slaughter on the highways and make New Jersey highways safe.

Thank you very much, Senator Graves.

SENATOR GRAVES: I think you should sum up the bills one at a time, and tell us what the goal of the bills is. You told us what your goal is, but what is the goal of the bills?

SENATOR COSTA: The goal of the bills is to stop accidents on the highways -- to stop the fatalities. I would like to ask staff to address the bills as they are. But, before I do that, may I take the time, Senator Graves, to just

introduce the students from Holy Cross High School and Burlington Township High School, who are here with us today? Will the students from Holy Cross High School please stand? Are they here yet? (negative response) Are you students from Burlington County High School? (affirmative response) It is nice to see all of you here. I hope you learn something from this hearing.

SENATOR GRAVES: Statistics compiled by the State Police and by the United States Department of Transportation reveal that fatal accidents, as a percentage of all personal injury accidents, are disproportionately higher for heavy trucks. The aim of this bill is to reduce the safety problems on the State highways, by reducing the blood alcohol content level standard to .04 for driving commercial vehicles while under the influence of alcohol, which is the national standard used in the railroad and airline industries.

For the purpose of this act, commercial motor vehicles include trucks having a gross weight of 18,000 pounds or more, vehicles designed to carry 15 or more people, and vehicles used in the transportation of hazardous materials. We are holding the public hearing on this particular bill. (consults with aide) It has been suggested that we combine the bills.

This bill number is S-2741: The safe passage of motorists on State highways requires at a minimum that commercial motor vehicle operators, especially those involving heavy trucks in the transportation of hazardous materials, obey the State's speed limits. Since the enactment of the 55 mile an hour speed limit, the use of radar speed measuring equipment by State and local enforcement agencies has increased sufficiently. At the same time, attempts by operators of commercial motor vehicles to avoid arrest, have also intensified. One increasingly popular avoidance method is the use of radar detectors. The purpose of a radar detection device is to avoid apprehension for violating the speed limit.

Therefore, law enforcement agencies strongly oppose the possession and use of these devices.

The public hearing is now open. Sam Cunningham, New Jersey Motor Truck Association, would you please step forward and address the Committee?

S A M U E L C U N N I N G H A M, E S Q.: Senator, I thought this was voluntary.

SENATOR GRAVES: They tell me there is room for you to sit right up here.

MR. CUNNINGHAM: Here?

SENATOR GRAVES: Right over here.

MR. CUNNINGHAM: Good afternoon. I am Sam Cunningham, Executive Director of the New Jersey Motor Truck Association. We represent 1300 member companies, that is, companies based in New Jersey.

I would like to address the fuzz-buster bill first. We feel that if the so-called fuzz-busters are used to circumvent enforcement, then they should be banned from all vehicles, not just commercial vehicles. We believe it should be a ban on all vehicles in New Jersey.

SENATOR GRAVES: Go ahead, sir.

MR. CUNNINGHAM: Now, on the blood alcohol reading--

SENATOR GRAVES: That was your complete input on that one particular bill?

MR. CUNNINGHAM: Yes.

SENATOR GRAVES: Okay. Let's elaborate on it for a little while. Let's not just drop it and walk away from it. Do you have a reason to believe it is good if your trucks have these? Are you willing to say that it may be a deterrent that holds the trucks in line, as far as speed is concerned, when their so-called fuzz-buster picks up and detects that there is a possible radar implement someplace down the road? Do you have anything to say on that?

MR. CUNNINGHAM: Well, certainly they are used to be alerted to radar, thereby circumventing enforcement. One of the benchmarks of enforcement, certainly, is the uncertainty of apprehension. That removes the uncertainty for those people.

SENATOR GRAVES: But it might also constrain them to slow up, the very fact that their so-called device alerts the driver that there is a radar apparatus within a distance of being detected by that. So, I mean, translated, it could have a good effect. Translated, it might have the effect, "Get yourself within the limits of the law, because the potential is there that you are going to be apprehended for breaking the law."

MR. CUNNINGHAM: Yeah, you could say that, but I don't believe that. It pretty much permits those people to behave the way they want to behave. When they are not being alerted to radar, they can perform one way, and when they are, they can certainly perform another.

SENATOR GRAVES: Well, even when he is not being monitored by radar, a driver still has to be alert, because a regular police vehicle -- a regular law enforcement unit -- could be visibly observing him, and may give chase based upon a speedometer clocking, or an observation that he is driving from one aisle to the other, or one lane to the other.

MR. CUNNINGHAM: Certainly.

SENATOR GRAVES: Okay. Take the next bill then.

MR. CUNNINGHAM: I think it all boils down to, they are truly used to circumvent enforcement, which we believe they are. If there is going to be a prohibition, then we would like to see it apply to all classes of vehicles.

SENATOR COSTA: Then, you wouldn't have any objection to a prohibition of the radar devices in the trucks? What you are saying is, it should be across-the-board, but you wouldn't have any objection to it being prohibited in trucks.

MR. CUNNINGHAM: No, I would not.

SENATOR GRAVES: You would not? You would not be against banning them from all vehicles? Is that what you're saying?

MR. CUNNINGHAM: No, I think the Senator said for banning from trucks alone.

SENATOR GRAVES: Yes, but you're saying, "Why just trucks? Why not ban them for all vehicles then?"

If we are going to do away with radar detectors on trucks and buses, then are you saying that will be all right if we ban them for all vehicles, too?

MR. CUNNINGHAM: Well, we say first, all vehicles. We say if that is not in the wording, that they are going to be banned on commercial vehicles only, we would support it. We don't like to be selected out; we don't like to be persecuted, you might say. But we also believe that because they are used to circumvent enforcement, we are against them. If it means commercial vehicles alone, so be it. We would rather have it be all vehicles.

SENATOR GRAVES: Senator Rice?

SENATOR RICE: What is the membership you represent, again, in terms of the numbers?

MR. CUNNINGHAM: Thirteen hundred.

SENATOR RICE: Thirteen hundred?

MR. CUNNINGHAM: Yes.

SENATOR RICE: Is that just in the State of New Jersey?

MR. CUNNINGHAM: Yes, sir.

SENATOR RICE: It's not national?

MR. CUNNINGHAM: No, New Jersey.

SENATOR RICE: And this is the feeling of your organization?

MR. CUNNINGHAM: Yes, sir.

SENATOR GRAVES: Okay, let's go to the next bill. Your comments on the other bill, sir?

MR. CUNNINGHAM: We understand that truckdrivers, particularly those driving heavy trucks, today are subject to the .10 blood alcohol reading. If the law is going to be opened up and an amendment created to read ".04" for trucks registered over 18,000 pounds -- and you might add "registered" to that bill, also; registered for 18,000, rather than weighing 18,000 pounds -- then we would support a reading down to .00. We really do not want any alcohol content in our drivers' blood at all.

SENATOR GRAVES: Any further questions?

SENATOR COSTA: Then, you would be in favor of the bill at a .00 level, rather than .04?

MR. CUNNINGHAM: At a .00 level, yes, ma'am.

SENATOR COSTA: You realize that the .04 was put in that bill because that is the standard used for the airline pilots and the railroad engineers. That is where we got the .04 from.

MR. CUNNINGHAM: Well, if I may make a graphic description of that, if I were getting on a plane with a young pilot who hadn't eaten, and perhaps hadn't had anything to drink for a few weeks, and he had a reading of .04, I would not get on the plane.

SENATOR GRAVES: While you are here, do you have any other trucking issues you would like to bring up?

SENATOR COSTA: The reason for this hearing, really, is to get your recommendations, as far as the trucking industry is concerned, because of the statistics we see on what is happening on the roads with the trucks. I believe your industry itself has told me how much room you would need to stop a truck that weighs 26,000 pounds, or 80,000 pounds, or whatever.

MR. CUNNINGHAM: Forty thousand.

SENATOR COSTA: Forty thousand pounds?

MR. CUNNINGHAM: Or, 40 ton -- 80,000 pounds.

SENATOR COSTA: All right, 80,000 pounds. How much room would you need to stop right away? I mean, there is no such thing as stopping right away. If an 80,000 pound truck was coming down the road and it had to stop, how much room would it need?

MR. CUNNINGHAM: Well, I don't have a chart with me, Senator, but I can assure you that it is significantly more, that is, greater stopping distance, than an automobile -- significantly greater.

SENATOR COSTA: I was told something like a football field. Would you need that much room?

MR. CUNNINGHAM: Well, I am not prepared to say that, but I will say it is a significantly longer stopping distance.

SENATOR COSTA: 'So, when we see trucks -- heavy-weighted trucks -- behind a car, really tailgating them, as we see on some of the highways, that is really a dangerous point, because if they had to stop -- if that car in front stopped for some reason -- they could never make it. That truck would be right up its back or right over it. Correct?

MR. CUNNINGHAM: Yes, ma'am. Now, in the area of following too close, about two months ago, we sent a letter to Colonel Pagano, pleading with him and his agency to more aggressively enforce the following-too-close infractions. That was about two months ago.

SENATOR GRAVES: Do you have anything else?

MR. CUNNINGHAM: I would like to reserve anything else, Senator, if I could, until other people speak, and maybe give me a better idea of what is being said here today.

SENATOR GRAVES: Okay. Thank you. Robert F. O'Brien, Tank Truck Workers' Union? Good afternoon. Please be seated.

R O B E R T F. O' B R I E N, E S Q.: Good afternoon, Senators.

Senators, I am an attorney with a law firm in Haddonfield, New Jersey. We represent a union, -- the Tank

Truck Workers' Union -- which represents hourly rated employees, particularly drivers for a large chemical tank line corporation -- Chemical Lehman Tank Lines. The union represents several hundred drivers employed in three different terminals of this company. The union is an independent union not affiliated with the Teamsters or the AFL-CIO. They have been around for about 30 years.

A couple of prefatory remarks, Senators: The entire problem Senator Costa referred to has probably been exacerbated in the last several years as a result of trucking industry deregulation. From our very narrow perspective of representing employees who are in unionized firms -- unionized trucking employers -- the specter of deregulation has been very, very hurtful, starting in the late '70s-early '80s, when the ICC's role was cut back and when the DOT role was cut back. Many more trucking companies appeared, and many more people who previously never drove trucks have now suddenly started driving trucks.

The union has found that many of its members' livelihoods have been endangered, simply as a result of people who have gone into the trucking industry -- the so-called independents, owner-operators, people who have very little experience in the industry, with under-capitalized equipment. In many instances, they are hauling for very, very low rates, particularly so-called load rates, where they are not paid hourly, or where they are not paid mileage, but rather so much to get a load from Point X to Point Y. The competition, particularly from the union's perspective, is really cutthroat. So, essentially what has happened is, their wages have been endangered, and these companies find themselves competing against really what are marginal employers, in many instances. Today, companies which ship products are finding they have a whole menu of other people they can go to, to essentially get the load delivered for a much cheaper price.

This particular employer -- Chemical Lehman -- is dealing in very hazardous commodities, running up and down the road. To require it to bid to the lowest bidder-- In other words, to make its prices so as to compete with people who, in many instances, are under-capitalized and do not have sufficient insurance, is very, very difficult. The union itself has found in talking -- and as Mr. Sweeton, who is here--

SENATOR GRAVES: What is the relationship to these two bills?

MR. O'BRIEN: I just wanted to give you some general background.

SENATOR GRAVES: Well, if we have time for background, I will take it, but--

MR. O'BRIEN: Okay, fine.

SENATOR GRAVES: --I would rather you get to the bills.

MR. O'BRIEN: Okay. On the bills themselves, the union feels very, very strongly that the idea of lowering blood alcohol rates is an excellent idea. The union, from its very selfish, narrow vantage point, will tell you that its employer, as well as all other unionized, regulated employers, already have rules against drinking. Those rules would interdict drinking by anybody on the job. Really, what you would be picking up, if you lowered the blood alcohol content requirement, would be marginals, or people who essentially shouldn't be in the business anyway. The union feels very strongly that if they are on the road and having two beers -- even two beers at lunchtime -- they should not be driving a truck. If they were in the employ of a reputable trucking company, they would probably be subject to discharge.

So, the union feels very strongly on that point. If the blood alcohol content is lowered, the people you will be directing that to, and the people who will be picked up in the net, so to speak, are people who shouldn't be on the road to begin with.

On the other point, relative to radar detectors, Mr. Sweeton, who is here with me, will address that, if that is okay with you, Senators.

SENATOR GRAVES: Sure.

MR. O'BRIEN: Kenny?

KENNETH SWEETON: Yes. I am the Vice President of the Tank Truck Workers' Union. On the radar detectors, they go off so often -- burglar alarms trip them off; an airport trips them off -- that they do not count on them to keep their speed up. To do away with that would not-- That would be counterproductive, because most guys set their speed at a certain limit, and when this goes off-- With the radar they have today, they can shoot it like a gun. When that radar detector goes off, he's already got your speed. You know, that is not going to benefit anybody.

MR. O'BRIEN: Frankly, it may have--

SENATOR GRAVES: What are you saying then? Are you saying that your--

MR. SWEETON: That that part of the bill is not going to help.

MR. O'BRIEN: It may have the reverse effect, Senator Graves--

MR. SWEETON: Right.

MR. O'BRIEN: ---of what you said. People who have that detector on find it going on very frequently, and are watching it, and it may actually keep your foot off the pedal more than it keeps it on. I am not sure that a radar detector bill, as such -- and the union isn't sure -- is really going to cut down on the incidence of speeding.

Thank you for hearing us.

SENATOR GRAVES: Senators?

SENATOR COSTA: Thank you very much, Senator. Thank you for your testimony, gentlemen. I know that since deregulation, though there are three things that should never

have been deregulated -- the airlines, the trucking industry, and the telephone industry-- They have done absolutely nothing for consumers. Our study has shown that that is part of the problem -- deregulation -- but I appreciate your statements.

I want to ask you about the radar. Why do people use them? Why do truckers want them, if they don't do any good? What good does it do for them to even have them in the trucks? Isn't it to see if there is a policeman up ahead, so they will know that ahead of time and can lower their speed?

MR. SWEETON: Yes. They also have CB radios. Most of them know they are out there anyway. In the days before CBs and before radar detectors, the guys would just blink their lights at each other. So, that is not going to hold people's speed down.

SENATOR GRAVES: What percentage of truckers do you think have radar implements in their vehicles -- 100%, 90%?

MR. SWEETON: No. At our terminal, probably 20%. We are paid hourly.

SENATOR COSTA: I would like to ask you some questions now: Regarding the training of truckers, is there a set training course? Do they have to go through a certain training period? Where do they get that in the State of New Jersey? How do they get their licenses? What do they need to know? Are they tested?

MR. O'BRIEN: Well, we can give you the experience of our employer that the union represents -- Chemical Lehman -- and perhaps Mr. Sweeton might want to address that.

MR. SWEETON: Yeah. We have a training trailer that travels from terminal to terminal. We all go in it about every six months. We have monthly films that we--

SENATOR COSTA: Do you have one here in New Jersey?

MR. SWEETON: Yes. In fact, they take it around to fire companies, chemical companies for spills, and all that. We have all of the equipment in there. It is mandatory that we go through there.

SENATOR COSTA: Do all truckers have to go through this?

MR. SWEETON: No. See, all of this costs money. With deregulation, they keep lowering the rates. A smaller company that is doing it for nothing now-- They can't afford that. They can't operate that.

SENATOR COSTA: So, not all truckers are trained? All truckers who go into a truck -- who have a license to drive a truck -- are not trained? Not all, only certain individuals -- like certain companies which feel they will train the men themselves?

MR. SWEETON: Yes.

SENATOR COSTA: Other than that, we can't be sure that any of them have any training. When they get behind that wheel, they have a license to drive. Does the State require you to have--

MR. SWEETON: Yes. We have articulated license now in the State of New Jersey.

SENATOR COSTA: Does the State of New Jersey have a place where it tests a driver before it gives him a license?

MR. SWEETON: Yes.

SENATOR COSTA: What does he have to know how to do?

MR. O'BRIEN: That is only for certain vehicles, Senator, the so-called articulated vehicles, which are essentially tractor-trailers. Well, in order to get that on your license, you have to be able to pass a test that the State of New Jersey gives. But for other trucks, other than tractor-trailers -- smaller vehicles -- there is no requirement of a special license in this State. As Mr. Sweeton points out, many truckers don't work for one company, particularly owner-operators or brokers, people who own their own equipment. They may work, in any given year, for various dozens of different employers. In most instances we are aware of, particularly as a unionized employee work force, those are

the people we are going head to head with. They are the people with no training. They are the people who simply fill out an application, bring their own tractor in, and go to work for an employer, with perhaps some references, and perhaps, if the employer does what he is supposed to do, a check of his motor vehicle license. The employer can get an abstract of that.

But, Mr. Sweeton, plus a lot of other people, work for one employer. They are employees of an employer, and they are subject, in most instances -- if it is a reputable employer -- to a training program.

SENATOR COSTA: How about the trucks themselves? Who sees to it that they are maintained?

MR. SWEETON: We have a maintenance department. The driver himself has to fill out a vehicle condition report at the end of a trip. He has to turn that in, and that gets sent down to the garage. They go over any defects, and then they must repair. The mechanic who does the repair work must sign it.

SENATOR COSTA: That's your company?

MR. SWEETON: Yes.

SENATOR COSTA: Now, does that apply to all, across-the-board?

MR. SWEETON: I think so.

SENATOR COSTA: Is there a standard for the maintenance of trucks?

MR. O'BRIEN: There are requirements under the Department of Transportation, Bureau of Motor Vehicle Safety. There are requirements relative to record keeping, both by the employer, as well as the driver, with logs and things of that nature. The problem, Senator, is that the Federal Department of Transportation, Bureau of Motor Carrier Safety, the last I heard, had three inspectors assigned to the entire State of New Jersey. Their force is substantially undermanned and substantially overworked. That is part of the problem, because

they are not checking. As I said, we have instances in the unionized trucking industry where employees report back to the union that some drivers keep two sets of logs. They have two sets of records for showing to the Federal Motor Vehicle people.

So, although there are record keeping requirements, whether they are enforced is something else again.

SENATOR COSTA: And the maintenance, therefore, is really negligible, because there are not enough inspectors to know whether they are being maintained or not.

MR. O'BRIEN: Unless the employer wants to do it, and in this instance, the employer does do it.

MR. SWEETON: He does do it.

SENATOR COSTA: With deregulation, the smaller independents that are trying to make it in the industry, do not have time. Is that correct?

MR. O'BRIEN: They don't have the resources; they don't have the money. If you are going to cut the--

SENATOR COSTA: So, there is a big gap there, as far as safety is concerned, and maintenance on the trucks?

MR. O'BRIEN: Very much so.

MR. SWEETON: They use equipment that we have gotten rid of -- that we have deemed unsafe to use.

SENATOR GRAVES: Senator Rice?

SENATOR RICE: Yes, just a couple of quick questions: Chemical Lehman has no base here in Newark, New Jersey?

MR. SWEETON: We have a terminal in Newark, yes. That is not where I am out of. I am out of Bridgeport.

SENATOR RICE: What is your membership?

MR. SWEETON: Our membership?

SENATOR RICE: Yeah.

MR. SWEETON: Bridgeport, New Jersey, Williamsport, Pennsylvania, and Wilkes-Barre, Pennsylvania.

SENATOR RICE: What number do you represent in your union?

MR. O'BRIEN: About 200 drivers, I guess.

MR. SWEETON: Yeah, about 200 drivers, and 50 to 75 mechanics.

SENATOR RICE: Based on what you are articulating, this is going to be the feeling of your membership -- as relates to both bills?

MR. O'BRIEN: Yes.

SENATOR RICE: Just one final question relating to the legislation dealing with radar detectors.

MR. O'BRIEN: Yes?

SENATOR RICE: Are you saying-- Is it implied in your statement that you don't care one way or the other -- at least your membership -- whether or not the radar detectors are banned or not banned?

MR. O'BRIEN: I don't think so, Senator. I think what we're saying is, if you outlaw them, you may err against safety. I think the union's position is that they are not against them, because having them now tends for the drivers to keep their foot off the pedal, and to be more careful and not to speed. If you take them away and outlaw them, I am not sure that you are going to increase safety in any appreciable way. That is the position of the union.

SENATOR RICE: It was implied in your statement that ownership of these devices-- Your gut feeling is that the intent is to circumvent the law.

MR. O'BRIEN: That is somewhat speculative. I don't know. We find -- I'll tell you this, Senator -- that since employees are paid, for the most part, on an hourly basis, they have no reason to speed. They have no reason to have to get from Point X to Point Y quickly. Therefore, the union finds that not that many of its members are using the devices to begin with.

SENATOR GRAVES: Okay, thank you.

MR. O'BRIEN: Thank you for hearing us.

SENATOR GRAVES: We will now have the representatives of the State Police, Sgt. Schwatka and Trooper Barber.

S G T. W A L T E R V. S C H W A T K A: Good afternoon. My name is Sgt. Walt Schwatka. I am representing the New Jersey State Police. This is Trooper Jim Barber, with the New Jersey State Police. I would like to comment on the two bills -- S-2733 and S-2741.

I will comment first on S-2733, which is the lowering of the blood alcohol content for commercial motor vehicle operators. I would like to say that I attended Northwestern for a while, and I did a research paper on truck accidents, or the overall involvement of truck accidents. Probably my statistics mirror what you have come up with.

On S-2733, we are obviously in favor of that bill. The only problem is, there may be an equal protection problem down the road. As far as I can tell, the bill itself would revoke the driving privileges of a commercial motor vehicle operator for all vehicles. We feel that the possibility of an equal protection problem should be addressed, and if there is going to be a problem, then the bill should be amended to read that a commercial motor vehicle operator would lose his driving privileges only for a commercial motor vehicle.

SENATOR GRAVES: Does that one license cover any type of a vehicle -- that articulated license, or whatever it is? Does that cover a person driving a car, a motorcycle, a truck, or what?

SGT. SCHWATKA: Yes, sir, it covers all.

SENATOR GRAVES: So, I would not need a different driver's license to drive my car? I can use the truck license I have to drive my car, right?

SGT. SCHWATKA: That's right. Well, the actual physical possession of the license is really, I think, immaterial. It is your privileges that are revoked. Well, perhaps it would be, because you are supposed to turn your

driver's license in at the time you are convicted of a drinking/driving offense.

SENATOR GRAVES: But, if I am stopped driving a truck, and I don't have a trucker's license to drive it -- all I have is my vehicle passenger, because I am already on the revoked list--

SGT. SCHWATKA: No, that one driver's license is for all vehicles.

SENATOR GRAVES: What would be the mechanism for him to get a passenger driver's license, after he suffered the revocation of his trucking license?

SGT. SCHWATKA: Well, that is a question I feel somebody -- maybe perhaps Senator Costa -- would have to address. We only feel that if there is an equal protection problem under the law, that it should be addressed. I am not in a position to address the equal protection problem, but we would recommend that there be--

SENATOR GRAVES: Okay. There are some members of the Attorney General's staff here; they will be able to work it out. They travel very slowly. I think they left yesterday to get here today

SENATOR COSTA: That has been taken care of in certain states. They do have separation of licenses, whereby if you lose one, you do not lose the other. That is a good point.

But, you are in favor of the lower -- or zero -- BAC?

SGT. SCHWATKA: Absolutely. That is correct, we are. Well, we are in favor of the bill as it is written. Whether or not we would be in favor-- I can't see why we would ever be against an even lower BAC.

SENATOR GRAVES: Are you in favor of both bills?

SGT. SCHWATKA: Yes, sir.

SENATOR GRAVES: What about saying a trucker can't have a radar detector, but not saying that a passenger vehicle can't have it? Would there be some constitutional problem

there? Or, would you be against any vehicle having a radar detector?

SGT. SCHWATKA: We, personally, would prefer to see the bill written so that radar detectors are outlawed, or forbidden, in all vehicles. If we are going to have that bill, why not apply it across-the-board?

SENATOR COSTA: I did not understand the rationale of the previous gentleman who spoke, regarding saying if you didn't have the radar, that would cause them to go faster than if they had it. I did not understand that. Perhaps someone else could tell me what he meant by that, or he could tell me what he meant by it.

UNIDENTIFIED SPEAKER FROM AUDIENCE: Ask him.

SENATOR COSTA: Yes, I will.

SENATOR GRAVES: We will have one person running the hearing, okay?

SENATOR COSTA: Is there anything else you wanted to say?

TROOPER JAMES BARBER: Yes. Good afternoon. My name is Jim Barber. I am a trooper in the State Police. I am here to comment on your bill, Senator Costa.

Again, as Sgt. Schwatka mentioned, we would have no objection to the bill as proposed, with, perhaps, two adaptations: One, to extend the bill to include not only commercial vehicles, but passenger vehicles as well.

SENATOR COSTA: The radar bill?

TROOPER BARBER: Yes. Secondly, that section 3 within the bill -- and this may be a technical term; this may be a little bit technical-- We would recommend that radar detectors not be confiscated, as the bill would allow. That would create logistical problems. We would recommend that instead of a disorderly persons offense, the bill specify a motor vehicle offense. Simply confiscating a radar detector would involve a tremendous logistical demand.

SENATOR GRAVES: Yeah, we understand that. Translate it from what you're saying. Points? Are you suggesting that we--

TROOPER BARBER: Yes, a motor vehicle offense.

SENATOR GRAVES: With the penalty being points?

TROOPER BARBER: Yes.

SENATOR GRAVES: Whatever the fine would be, plus points.

TROOPER BARBER: Yes.

SENATOR GRAVES: Okay.

SGT. SCHWATKA: Well, not necessarily just points. Perhaps an additional fine, in addition to any points that may have been rendered for the speeding violation.

SENATOR GRAVES: But not like the seat belt law? The seat belt law does not give you points. It does not give you that penalty. You can issue a summons for it, and we tell you what the fine will be, but you don't give points for not having a seat belt on.

SGT. SCHWATKA: That's correct, but whether or not points would be applied, that, again, is out of the realm of our authority. That would be with the Division of Motor Vehicles perhaps, or the Attorney General's office.

SENATOR GRAVES: Should we handle it the same way we handle a seat belt?

TROOPER BARBER: In other words, a secondary offense?

SENATOR GRAVES: A fine, sure.

TROOPER BARBER: A secondary offense. In other words, a person driving a vehicle while not seat belted, cannot be stopped for not wearing a seat belt.

SENATOR GRAVES: Right.

TROOPER BARBER: But, if in the course of being stopped for a moving violation, he or she is found not to be wearing a seat belt, then they can be issued a second summons.

SENATOR GRAVES: But there is no penalty of a point system on that?

TROOPER BARBER: No.

SENATOR GRAVES: It is a monetary fine.

TROOPER BARBER: That is correct.

SENATOR GRAVES: The same thing with the radar. If you are stopped, and a trooper is giving you a summons for excessive speed, or careless driving, or changing lanes without giving a proper signal, and he sees also that you have a radar detector, then he can give you a summons for that radar detector, which would transfer into a fine, but not points.

TROOPER BARBER: A fine, yes, sir.

SENATOR COSTA: May I ask one more question?

SENATOR GRAVES: Sure.

SENATOR COSTA: Sgt. Schwatka, you said you did a research paper on--

SGT. SCHWATKA: The involvement of trucks in accidents on the New Jersey Turnpike.

SENATOR COSTA: I wonder if I may have a copy of it?

SGT. SCHWATKA: If I can find it -- it has been about five years -- I will certainly send you a copy.

SENATOR COSTA: Thank you.

SENATOR GRAVES: Senator Rice?

SENATOR RICE: Yes, just a couple of questions. We're talking about a penalty for the possession of this radar device -- for its usage. How would we determine that? See, I am having a problem-- The way the bill is structured, I am having a problem with what you're saying. I probably have that problem for a number of reasons, but the primary reason-- I am a former police officer, and I know what it is when you talk about a logistic problem, and I also know what it is when you talk about citing. So, are we talking about two summonses for two different violations? If we are, and one is driving at an excessive rate of speed, and the other one is the radar detector, is that just for possession, or is it for possession if the device is, in fact, used?

SGT. SCHWATKA: We, as a matter of fact, had that same conversation just prior to coming in here. We were not sure whether it meant just if someone had it in his possession, was he then in violation of the law as it is written, or would there have to be actual usage of the machine in order to make it a violation of the law? I think Trooper Barber has looked at a couple of different states. I think some laws have been written for usage; some have been written for possession only. I think that would have to be addressed in the bill.

SENATOR RICE: How would you determine usage for the sake of a court hearing under Title 39, if that is the route you want to go? To me, it is no different than when I was a police officer. If we would chase a car, the court would say, "How do you know they were going 65 miles an hour? You don't have radar." In terms of making a substantial case -- or at least to argue a case on its merits before a magistrate -- how would you determine, if it were not for possession, but were for usage, if, in fact, the person used it? It seems to me that a reasonable-- Maybe that is the wrong term for a driver who is driving excessively fast. A driver who is driving scheming or thinking, once he sees an officer behind him, or pulling him over, is going to shut down that equipment.

SGT. SCHWATKA: I think frequently-- A lot of the radar detectors I have seen have a light on them. I would think that if you could see the radar detector with the light on, I think you would have a pretty good case of at least assuming he was using his radar detector. Outside of that, you're right, you would have a difficult time proving it.

SENATOR RICE: I guess my concern is, State troopers, in most instances -- from what I have seen -- unlike local municipalities and urban cities -- have a single-car operation. For you to go into court-- I mean, they may give deference to your authority, but if you say I had my radar on, and I say it wasn't on, but I did have possession of it-- I

think that would raise some real serious legal questions, and maybe some real constitutional issues in terms of police officers abusing authority. It does happen. I can say that, since I am a former cop. So, I think we need a clarification as to what the State Police are looking for in terms of such a bill, if, in fact, radar is to be banned.

My final question, Mr. Chairman -- and I will try not to take too much time-- I think one of you indicated that you read the bill. So, my question would be twofold: Number one, if you read the bill, the language, "while using a device--" I am concerned with that term "device," but certainly we can amend it. My concern would be, a device can also refer to a CB radio or other kinds of devices. I have found that the intent-- My gut feeling is that the intent of those individuals who have radar is to really circumvent the law. My gut feeling is that when CBs became a big thing, it was not necessarily the intent to circumvent the law, but it was really to, more or less, communicate and do other things.

So, my question is: Do you have a problem with the term "device," as it relates to due process, because CBs helped to save lives, and have done a lot of other good positive things?

SGT. SCHWATKA: I am sure CBs have saved some lives, and have probably done some very positive things. I think there are a number of truckdrivers who are honest, law-abiding individuals. I personally have been helped by truckdrivers on the Turnpike in assaults. They are quite dependable. But I am sure there are also those truckdrivers who are just as adamant about breaking the law, who are looking for ways to get to places faster. As one gentleman mentioned just before we came up, they are being paid for delivering a load, and they want to get there as fast as they possibly can. They are going to get there by any means that are available to them; any means that will expedite their trip. If it means using a CB radio, in

combination with a radar detector, or any other device or means they can use to get there quicker, they will do it.

SENATOR RICE: So, the term "device" should remain in the bill. That is your recommendation?

SGT. SCHWATKA: Well, the bill itself I thought was addressing simply radar detectors. I would suggest that the word "device" be removed, and the words "radar detector," or "device used to detect radar," be implemented in its place.

SENATOR RICE: Okay, Mr. Chairman.

SENATOR GRAVES: Go ahead, Senator Costa.

SENATOR COSTA: You are with the State Police, right?

SGT. SCHWATKA: That is correct.

SENATOR COSTA: How many State Police are there on the highways, like the Turnpike, to monitor the traffic?

SGT. SCHWATKA: I do not have that number readily available. We do run--

SENATOR COSTA: I understand that of date the State Police have been checking, but previous to that, I don't think there were that many. Can you give me an idea of what the program is by the State Police?

UNIDENTIFIED SPEAKER FROM AUDIENCE: Talk louder, please.

SENATOR COSTA: Can you give me an idea of what the State Police are doing right now, as far as monitoring the traffic flow and the speed of truckers -- large trucks -- on our Turnpike and our other highways, like 295?

TROOPER BARBER: Well, we have been watching the increasing involvement of commercial vehicles in serious injury and fatal accidents. One of the advantages -- as you mentioned -- with a CB, is the CB network. It allows a vast amount of information to exist. What we found, is that by the time a trooper makes a particular stop, that information is broadcast, for good or for bad, alerting motorists to the location of that trooper. So what we have done, in order to concentrate, or

focus on those types of violations that are generally not committed in the presence of a marked car -- such as following too closely-- Obviously, a trucker, or a person, is not going to tailgate someone if there is a trooper in a marked car right next to them. So, what we have done -- beginning in December-- We started to use unmarked police vehicles, hoping to catch truckers, passenger cars, any types of violations -- those hazardous violations -- that are usually not committed in the presence of a marked patrol car, such as following too closely, unsafe lane changes, and things of that nature.

SENATOR COSTA: It used to be that the truckers were the most polite, most helpful people on the roads, but I have witnessed, and have had personal experience, where they are right up tailgating you all the way, and they go beyond-- You know, the rules are there. They are supposed to go, to pass, into the second lane, but they go beyond that. They go into the third lane, and sometimes you find yourself in a position where you have a truck to your right and a truck to your left and a truck behind you. I don't know how you can ever get out of it at 55 miles an hour.

SGT. SCHWATKA: Well, if I may just comment from personal experience, just a little bit-- The New Jersey Turnpike is a very heavily traveled road. It is traveled by many different types of vehicles -- cars, buses, trucks; you have a whole myriad of vehicles out there. You certainly have a lot more vehicles than you have police officers to patrol the roads. A problem seems to exist -- and I know that while I was working out there-- In New Jersey, the left lane of a three-lane highway is restricted to trucks. They are not allowed out there. It seems that a lot of people just don't know that a truck can't go out into the left lane. A lot of people will ride the center lane, and it is unfortunate that we can't stop everybody on the New Jersey Turnpike coming down the road in the center lane. There are just too many of them, and too few of us.

From what I have witnessed, it seems as though a lot of people ride that center lane because that is where they feel safe. They will get out there and they will do 50, or perhaps 55, and here comes a truckdriver. Now, he wants them to move over. Perhaps he can't get around them on the right because he has some slower moving traffic. He can't go on the left, because he is not allowed out there. His only way of moving that car over -- if the car won't move over-- I think they feel, "Well, I will get closer, and try to scare them out of this lane." Then what happens is, the people in the car either tend to get scared and they will stay there -- they will just freeze in that position -- or, number two, they will get angry, hit their brakes, and slow down even more, which then, in turn, makes the truckdriver angry, and then he tries to get a little bit closer, and it goes on and on and on and on and on.

SENATOR GRAVES: All right, thank you, gentlemen. Is there a representative of the Division of Motor Vehicles here? (no response) Thank you, students. (addressed to departing students)

Do you have a written excuse for why you are late? Did you two stop at a motel or anything on the way down -- to rest up or something?

ROI ANN MORFORD: Absolutely.

SENATOR COSTA: You are being recorded.

SENATOR GRAVES: I didn't say anything wrong. Sometimes, on a long trip like this, it is best that you rest. I have been telling you that for years. You should rest. Please go ahead.

MS. MORFORD: Mr. Chairman, members of the Committee: I am Roi Ann Morford, Legislative Liaison for the Division of Motor Vehicles. We would like to be on record as supporting the concept of the legislation.

SENATOR GRAVES: There are two different bills.

MS. MORFORD: Right. We are in support of the radar detector bill. The Division, at this time, is neutral on the BAC level. I spoke to you, Senator, about the possibility of amending the bill to include all motor vehicles, rather than just commercial vehicles. We would like to see that as part of the bill, if you are so inclined to do so. I know we have discussed it, and you indicated you weren't sure which way you were going to go on that. But we do support the concept of the bill, and we would like to be on record as supporting it.

SENATOR COSTA: Thank you. Regarding the Division of Motor Vehicles, you know, Congress passed a law in 1965, permitting the states to require interstate carriers to register. I understand it was recognized that the state authorities have a legitimate interest in the commercial vehicles that are running on their highways, and this is their method of obtaining it. New Jersey is one of the few states that does not require carriers that are regulated by the ICC to register. Why is that?

MS. MORFORD: Quite honestly, Senator, I do not know. I would have to look into that for you.

SENATOR COSTA: They are supposed to register their ICC authority with the state authorities, and we do not ask for that in the State of New Jersey. I think we are one of only four states that are not requiring that.

MS. MORFORD: I will have to look into that for you.

SENATOR GRAVES: You have come well-prepared.

MS. MORFORD: As usual, for this Committee.

SENATOR GRAVES: That's right, this Committee just cannot have the right people assigned to it.

SENATOR COSTA: Also, does the Division have any recommendations for other legislation to do just exactly what I am trying to do, which is to stop accidents on the highways involving the trucking industry and the riding public?

MS. MORFORD: This is something we are going to have to look into. As you know, we have our own problems just trying to stabilize at this point within the Division. I know there has been discussion between the Director and others within the Division to look at this whole area. At this time, I am not prepared with written legislation, or drafts, but I do know it is being discussed.

SENATOR COSTA: I will be in touch with the Director, as well as with a few of the other directors of the other divisions. I think we can come up with a comprehensive package of legislation.

MS. MORFORD: Fine.

SENATOR COSTA: Thank you very much.

SENATOR GRAVES: Senator Rice?

SENATOR RICE: Yes, just a quick question. Has the Division of Motor Vehicles, to your knowledge -- since you said they support the concept -- looked into the language? Do you find any constitutional issues relating to possible litigation, which happen to involve taxpayers' dollars?

MS. MORFORD: Yes. In fact, I have been checking into that. I am not an attorney, so I have to defer to them. We have questioned the language of the word "device," as to how it is used in the bill, with regard to CBs versus radar detectors and, also, the possible constitutionality of requiring commercial motor vehicles to ban radar detectors and allowing passenger motor vehicles to be able to use them on the road. So that is something I have to look into. I have not gotten an answer-- I requested an answer, but I have not gotten it yet.

SENATOR RICE: My final question is, with reference to supporting the bills in concept, except for a problem with the language maybe, are you saying if the language-- Are you saying that because of the legal issues, the Division of Motor Vehicles is more concerned with banning radar detectors, or are you concerned with CBs and other devices, also?

MS. MORFORD: I understand the intent of Senator Costa's legislation, and we are more concerned about the radar detector's usage, rather than CBs.

SENATOR GRAVES: You are not an attorney, and you don't know the answers to anything. Would you please tell the Attorney General that I want him at all hearings from now on, not two substitutes.

MS. MORFORD: But, aren't we better looking?

SENATOR GRAVES: Than Cary Edwards? No, I think he is rather nice; really, I do. Does your partner have anything to say? (affirmative response) I didn't say I was going to let you say it. I just wanted to know if you had anything to say. (laughter) Come on.

J A Y N E P. R E B O V I C H: I just want to let you know that--

SENATOR GRAVES: State your name, address, and telephone number, in case we want to call you back.

MS. REBOVICH: No phone number. I am Jane Rebovich from the Department of Law and Public Safety. The Attorney General begged me to allow him to attend the hearing today, but I said I thought I could handle it.

SENATOR GRAVES: I heard about that. I was told by the Deputy Attorney General that you fought him.

MS. REBOVICH: You have already heard from two of our Divisions -- Motor Vehicles and the State Police -- in support of the radar detector bill. We support that. We would like to work further with you to get a good bill put together.

On the issue of blood alcohol content--

SENATOR GRAVES: Let's go slow on the first one. What would you suggest we do to make that bill something that you would--

MS. REBOVICH: We would prefer to see a bill that would prohibit the use of radar detectors in all vehicles. We would prefer that the violation be a motor vehicle violation, rather than a crime. We would also recommend taking out the

confiscation procedures that are authorized in the bill, for the reasons the State Police have already outlined.

SENATOR GRAVES: Would you be in favor of it if it were along lines of the seat belt law?

MS. REBOVICH: Excuse me?

SENATOR GRAVES: If it were the same as the seat belt law?

MS. REBOVICH: As a secondary offense? We haven't really considered that. It is something we would consider.

SENATOR GRAVES: That we will not waste the officer's time in pursuit of a vehicle he thinks-- He is just not going to go after it to check to see if his radar is on. It should be coupled with a primary offense, which might be any one of 100 motor vehicle laws.

MS. REBOVICH: We would certainly consider that, yes.

SENATOR GRAVES: This decision you are making on your own without calling the Attorney General?

MS. REBOVICH: I am allowed to do that.

SENATOR GRAVES: Okay. Would you have permission to do anything else while you are here?

MS. REBOVICH: No.

SENATOR GRAVES: Thank you. Senator Rice?

SENATOR RICE: Yes. Has anyone looked into whether or not these radar detectors are being manufactured in New Jersey and, if so, has anyone looked at the number of folks employed in the industry? I recognize that the Governor's Message indicated we are moving to, I believe, the third lowest unemployment rate in the nation, and I just wonder how many urban city people are among those numbers.

So, when we look at these bills, we must look at safety, but we also must look at the economic impact, and what it is going to do to employment. I am just wondering if anyone has researched that kind of information, to give us some balance?

MS. REBOVICH: No, we haven't. We were concerned more about the hazards we think radar detectors may cause on the roads.

SENATOR RICE: One final question. I keep reading, and I keep asking, but I don't see any statistics that say the hazards are caused by radar detectors.

MS. REBOVICH: Well, I think there is only one purpose for radar detectors, and that is to detect the use of police radar. I think you can make the assumption, then, that the person is trying to avoid the speed limits on the road. I think there is enough evidence to show that that is a hazardous condition.

SENATOR RICE: But, they tried to do that long before radar. Most drivers who drive frequently, like myself-- I can almost tell you where a police officer will be, in terms of likelihood. My point is, do the numbers indicate that since radar there have been more accidents, and has there been a correlation between that and the accidents themselves?

MS. REBOVICH: To my knowledge, I don't think we have any research on that.

SENATOR GRAVES: Okay, fine. After your stirring testimony, I have to take a five-minute break to call my office.

SENATOR COSTA: May I ask a question before she leaves?

SENATOR GRAVES: Sure.

SENATOR COSTA: Does the Attorney General's office offer any recommendations to making our highways safer for the driving public?

MS. REBOVICH: As Roi Ann, from the Division of Motor Vehicles, mentioned, we are working now on how our Department will implement the Federal commercial motor vehicle legislation. There is legislation that has been introduced to take the Office of Highway Safety out of the Division of Motor Vehicles and make it an in, but not of, commission in our Department, and slightly broadens its duties to concentrate--

SENATOR COSTA: The purpose of that would be to?

MS. REBOVICH: Concentrate on highway safety issues. As the State Police mentioned, we have a significant effort going on on the Turnpike to limit speeding.

SENATOR COSTA: Thank you. You can tell Cary Edwards that I will be in touch with him -- getting together with him and Glenn Paulsen.

SENATOR GRAVES: It is going to be impossible for them to tell him, because they are not going to get out of here.

SENATOR COSTA: Okay.

SENATOR GRAVES: Did you want to say something?

MS. REBOVICH: I would like to also address the other piece of legislation on the blood alcohol content, and say that our Department supports the concept of the legislation, because we think it is responsible public policy. There is much merit to a public policy that says that truckdrivers should be held to a higher level of sobriety than other drivers, due to the size and the weight of the vehicles they operate and the complexity of operating such vehicles. These same concerns are being addressed at the Federal level, as you are aware. The Federal legislation which was recently enacted would require the National Academy of Science to study the appropriateness of reducing the blood alcohol content at which operators of commercial motor vehicles are deemed to be driving under the influence of alcohol from .10 to .04%. The Secretary of Transportation would then determine whether the blood alcohol content for commercial motor vehicle operators should be reduced to some level below .10. We support all of those efforts.

SENATOR COSTA: I understand if the blood alcohol content is .00, that it would still be okay when that testing was at .1 or .2. That means that if you have it at .04, it actually could be at .5 or .6. Is that correct? That is from some of the things I have been reading -- this material I have received.

MS. REBOVICH: I have not seen that information.

SENATOR GRAVES: Five minutes, that's all. We will definitely reconvene in five minutes.

(RECESS)

AFTER RECESS:

SENATOR GRAVES: Mary Lou Sullivan? Good afternoon.

M A R Y L O U S U L L I V A N: Senators, my name is Mary Lou Sullivan. I am from Pennsauken. As an ordinary person, but a volunteer, I have the opportunity to travel our highways approximately 10,000 to 14,000 miles a year. For the past 10 years, I am a frequent traveler -- three or four times a week -- on the New Jersey Turnpike, and I have seen it get progressively worse, where it becomes a frightening experience entering Exit 4, wondering if later you will arrive back safely to your family.

I support the bill to prohibit the radar devices; however, I would like to see that changed to include all moving vehicles, because I really believe that the only purpose of having the radar detector is to detect the police radars.

I also support the bill for blood alcohol content. From the testimony I have heard today, I would consider seeing that even lower, because I believe that on the job no one should be drinking, especially when operating large moving vehicles.

SENATOR GRAVES: Good. Any questions?

SENATOR COSTA: Thank you very much. I certainly appreciate hearing from the average citizen who rides the highways just as I do. I appreciate your coming here today, Mary Lou.

MS. SULLIVAN: You're welcome. Thank you.

SENATOR GRAVES: Renee Gast?

SENATOR COSTA: How come you skipped her?

SENATOR GRAVES: Who?

SENATOR COSTA: Renee, before?

SENATOR GRAVES: Well, first we wanted to get the vigorous ones. We wanted to take the timid souls next, and she looked very--

R E N E E G A S T: Let me just see where I put my testimony.

SENATOR GRAVES: Did you want to borrow a copy? I'll give it to you.

MS. GAST: No, I have it.

SENATOR GRAVES: Come on, sit down and relax. You have all friends up here, except me.

MS. GAST: Thank you for allowing me to give testimony today on Senate Bill 2741. First of all, let me tell you who I represent. I represent the Radio Association Defending Airwave Rights, also known as RADAR. To my left is our President, who has traveled from Ohio, Janice Lee. You should have before you a packet of information, including my testimony. I have chosen to condense it somewhat. I am not going to speak on all of the issues I have included there. I am just going to try to hit the highlights, and then be available for your questions.

RADAR is a nonprofit corporation which was formed three years ago to preserve the legality of radio receivers across the country. Within the last few years, we have been instrumental in defeating at least 35 attempts throughout the country to ban radar detectors due to the constitutional issues, which I will present a little later.

I would like to take a few minutes to discuss the real facts concerning radar detectors and safety. We understand that the intent of Senate Bill 2741 is that by banning radar detectors, speeding on the highways will decrease, and there will be fewer fatalities involving commercial vehicles. In essence, Senate Bill 2741 implies that radar detector owners are speeders. RADAR challenges this point based on the fact

that there is no substantiated evidence to prove this assumption, and because of evidence I will discuss shortly.

It is significant to note an important court decision from the District of Columbia dealing with this issue. In the District of Columbia vs. McGee, the court explained a case which challenged the D.C. radar detector ban. The court, in dismissing charges brought against an alleged violator, stated as follows, and I am quoting: "The basis for the government's legislation is the police power interest of preventing speeding. In this case, there is no evidence that the defendant was speeding, or even had any intentions of speeding. In fact, it should be surmised that the possession of a radar detection device would discourage a citizen from exceeding the speed limit, and therefore render the citizen more likely to be law-abiding than not. No factual legislative finding was ever made to support a contrary presumption."

The purpose of police enforcement is to enforce the speed limits and promote safety, not to raise revenue through tickets and fines given to speeders. The use of radar detectors increases the awareness of the presence of police, thereby making drivers more likely to obey speed limits. I think we would all agree that motorists drive more carefully when they see a patrol car. Statistics show that motorists keep driving that way for the next one-half to five miles. Radar detectors effectively increase a patrol car's visibility. When drivers discover they are under police surveillance, they react by checking their speed more often, to ensure it is within the legal speed limit.

In addition, even drivers without detectors slow down when they see other cars and trucks slow down. This halo effect would be lost if detectors were banned. There are substantiated observations that the use of radar receivers do cause drivers to slow down and obey the posted speed limits. I have included these news clippings in your packets, so I will not quote from them now. They are behind the testimony.

Under recently passed congressional legislation, Kentucky was able to continue a research project, using unmanned radar on a dangerous stretch of highway. Police intermittently transmitted radar down the highway using unmanned radar units. Motorists with detectors slowed down, along with drivers around them. According to Kentucky highway officials, the result was safer driving. Bear in mind that this experiment would not have been a success if radar detectors were banned. They are doing this without the help of policemen.

The average driver does not desire to travel at excessive speed, and the detector is merely a tool that can be of assistance to him, because detectors keep people more alert. Drivers often forget to check their speedometers as frequently as they should, especially at long distance driving. When drivers discover they are under police surveillance, similar to being within the view of a patrol car, they react by checking their speed more often. The result -- safer driving. Rightly or wrongly, some people will continue to exceed the speed limit, with or without radar detectors, because they just disagree with the 55-mile-an-hour speed limit. Even without radar detectors -- as someone said earlier today -- drivers can use other methods ranging from CBs to the blinking of headlights to inquire about speed traps.

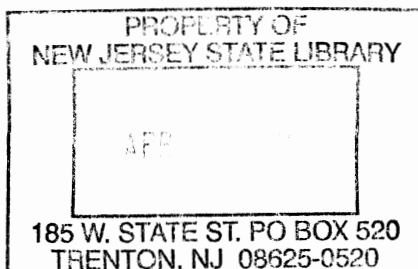
Well, let's answer the question, why are more trucks involved in fatal accidents today? Also included in your packet is a recent year-long study prepared by the Michigan AAA, entitled, "Cars and Trucks Sharing the Roads Safely." I know it is bulky, but I was under the impression that this Committee and Senator Costa wanted to look at various ways to promote safety on our highways. I think this will be useful information for you.

But, just briefly, the findings show that motorists are most often killed because trucks have become longer, wider,

and heavier, while cars have become smaller and lighter. Furthermore, inadequate truck maintenance, more overweight trucks, over-fatigued truckdrivers, speeding, and motorists who do not understand the limitations of trucks are the major reasons for the dramatic rise in truck-related accidents. The Michigan AAA study makes recommendations, and I will just mention a couple. One would be to restrict heavy trucks to the right lane of the highway, except when passing, entering, or leaving, or when facing a hazard. Another recommendation would be to require all heavy trucks to be equipped with tappagraphs, which are tamper-resistant devices to record information on speed, distance, time traveled, and rest periods. Tappagraphs would prevent truckdrivers from driving more than 10 hours in a 15-hour period, which is significant because driver fatigue has been linked to over two-thirds of heavy truck crashes nationally.

As this research shows us, speeding is only one, and not the most significant cause of fatalities involving commercial vehicles. Diverting traffic safety efforts by focusing on radar detectors would only detract from the legitimate and important efforts to promote highway safety.

What are the constitutional issues involving radar detectors? Well, if Senate Bill 2741 is enacted into law, a far-reaching effect other than what was intended by the sponsor would be realized by the citizens of New Jersey. Specifically, motorists' constitutional rights would be jeopardized. The First Amendment to the United States Constitution grants citizens the freedom of communication; thus the right to know whether or not government is monitoring their actions, and the right to listen to their radar receivers. There is no reasonable relationship between the police power objective of Senate Bill 2741, that being to prevent speeding, and the end sought by this legislation.



Even if there were a valid relationship, the chilling effect on personal rights and liberties guaranteed by the Bill of Rights far outweighs any such legislative purpose. In addition, the Fourth Amendment protects motorists from having their cars searched or their detectors seized, except upon probable cause. The Fifth Amendment affords all citizens protection against self-incrimination; therefore, the mere presence of a radar detector device in a vehicle should not be presumed to mean that the device is in use, or that the motorist is unlawful.

Furthermore, the Fourteenth Amendment guarantees that no state can deprive any person of life, liberty, or the property without due process of law.

Finally, Senate Bill 2741 discriminates against people who drive commercial vehicles. Both the United States and Michigan Supreme Courts have held that to withstand equal protection attacks, legislative classifications must be reasonable and not arbitrary, and must be rationally related to the object of the legislation.

In summation, if Senate Bill 2741 was enacted into law, this type of legislation would be vulnerable to legal attack based on the serious constitutional flaws I have outlined.

Let's talk about the problems relating to enforcing a radar detector ban. Section 1 of this bill, as was brought out by Senator Rice, bans devices that are designed to give a person -- and I am quoting from the bill -- "advance information of the use of a radar speed indicating instrument." Well, what is the meaning of "a device"? Is it a citizen band radio, an amateur radio, a broad band scanner, a garage door opener, a radar-based anti-pollution system, a radar detector, a pair of binoculars? Each of these devices would be outlawed by Senate Bill 2741, because this legislation bans equipment which is designed to give, quoting again,

"advance information on the use of a radar speed indicating instrument."

As you can see, the definition used in this bill is ambiguous, both in its description of the device and in the delineation of devices which are capable of performing the same function. Not only are we unclear about what constitutes a device, but the enforcement of a radar detector ban would be most difficult. At one time, when radar detectors first came on the market -- and that was in 1967 -- they were easily recognizable. A black box mounted on the dashboard which beeped and became lit in the presence of radar. Today, they can be in the shape of a fog light, a rear-view mirror, or the size of a cassette, all unrecognizable by a police officer.

And, who has the power to legislate radio receivers? Radio receiver legislation has long been preempted by congressional mandate. Under the Federal Communications Act of 1934, which guarantees the rights of all citizens to free radio communications -- and it is currently right -- the sole responsibility for legislation in the area of radio receivers rests with Congress. Additionally, states are prohibited from enacting such legislation, because of inherent conflicts with interstate commerce guarantees. Last year, the FCC reaffirmed that radar detectors are radio receivers. As such, they operate just like your AM/FM radios. They merely receive the transmission of police radar, and in no way interfere with the police officer performing his duties. Police radar operates on S and K band frequencies. These frequencies are not exclusive to police use. There are at least 24 other users on both of these bands. If the Federal government did not want motorists to receive these transmissions, they would be scrambling them.

The problems associated with traffic radar: Well, people purchase radar detectors for a very good reason. Motorists purchase detectors because they are a meaningful

defense against unreliable radar. A nationally funded study reveals that all types of radar are subject to erroneous readings, even under normal working conditions. Equipment malfunction, coupled with improperly trained officers, can result in numerous erroneous speeding citations. There is also some information on this issue provided in your packet -- three articles that really expand on the problems with traffic radar.

There are currently no industry-wide quality standards by which radar manufacturers must abide. In fact, as of this June, the Association of Radar Manufacturers -- known as ARM -- unilaterally withdrew from the International Association of the Chiefs of Police Testing Program. ARM claimed that the International Association of the Chiefs of Police was too specific in its standards, and that the industry would, from now on, test themselves. Well, in other words, despite a proven record of more than 20 years' worth of inaccuracies and problems, there are no government standards for traffic radar or for radar training, and the only testing of radar equipment is being done by its own industry.

SENATOR GRAVES: Okay.

MS. GAST: I am almost finished. Okay? Will you allow me?

SENATOR GRAVES: Go ahead.

MS. GAST: A positive step for New Jersey would be to consider initiating specifications on radar equipment, officer training, and equipment maintenance. Because of the inconsistencies and inadequacies of traffic radar, people have a right to protect themselves against unfair speeding summonses, by knowing that radar monitoring is being used.

Last page: It should come as no surprise that experts estimate that as many as one out of every five radar-backed traffic tickets is invalid. Surveys show that most of these drivers purchased detectors to help them in defending themselves against faulty and inaccurate radar. Therefore,

banning radar detectors would leave drivers with no defense, and would continue to let the many abuses of traffic radar go unchecked altogether.

I know this Committee is sincere in promoting legislation that will decrease fatalities involving commercial vehicles. But, as I stated previously, diverting traffic safety efforts by focusing on radar detectors would only detract from the legitimate and important efforts to promote highway safety. The citizens of New Jersey should not become scapegoats for traffic safety problems. The Federal Communications Commission has stated in clear and in certain terms that radio receivers are not regulated in this country, and that all citizens have the right to receive radio signals. Furthermore, Americans believe in their constitutional right to know when government has them under surveillance, particularly when the result may be an improper traffic citation based on inaccurate or poorly operated traffic radar.

I'm finished. Thank you.

SENATOR GRAVES: Are you sure?

MS. GAST: I'm sure, and I did cut it.

SENATOR GRAVES: One of the things for sure, is that there are only two members of the Committee here. It is a five-member Committee. So, three of them are going to have to read all that you have put forward.

Do you have something you would like to add?

J A N I C E L E E: Well, one thing I do want to say is, in the past, since 1979, there have been at least 31 states -- a total of 91 bills -- that have tried to ban radar detectors, and not one of them has passed. The only three areas in the country where a radar detector ban is in existence are Washington, D.C., Virginia, and Connecticut. Those three areas, currently this year, are trying to repeal their legislation on radar detectors.

SENATOR GRAVES: Repeal the laws that banned it?

MS. LEE: Right, because of all the problems with tourism, interstate commerce, and the effects it is having on the citizenry with the prosecution of the devices.

SENATOR GRAVES: Do you know how many legislators in New Jersey have radar devices in their car?

MS. LEE: Over 100,000.

SENATOR GRAVES: No, no, legislators that have radar devices in their cars?

MS. LEE: No, but I can tap our computer base and let you know.

SENATOR GRAVES: Would you?

MS. LEE: No, I might--

SENATOR GRAVES: I promise to freeze this bill.

SENATOR COSTA: We have a powerful lobby. When was this written? (referring to distributed material)

MS. GAST: This year. This is the study I mentioned to you that I was trying to get.

SENATOR COSTA: I appreciate it, because--

MS. GAST: I think it will be helpful.

SENATOR COSTA: If I have done nothing else, to get something like this-- You have already come up with the problems and the solutions.

MS. GAST: My suggestion would be--

SENATOR COSTA: I don't know how good your solutions are, but I am going to read it.

MS. GAST: Perhaps New Jersey needs to do that. The wrong kinds of statistics are here.

SENATOR GRAVES: You are not from New Jersey?

MS. GAST: No. My mother is from Passaic. I am from Richmond, Virginia.

SENATOR GRAVES: And I have been treating you so nice.

SENATOR COSTA: There is one thing I have been asking here, and they have radar legislation.

MS. GAST: Yeah.

MS. LEE: Where is that?

SENATOR COSTA: Virginia, and she said she is from Virginia.

I have been asking about how long it takes to stop a large vehicle, and you have something here that says for trucks to be able to stop-- The only standard the U.S. Bureau of Motor Carrier Safety requires is that a truck has to be able to stop at 40 feet at 20 miles per hour. We are speaking of way more than 20 miles per hour.

MS. GAST: Let me relate what happened to me on Route 1 yesterday.

SENATOR COSTA: Where?

MS. GAST: And it had nothing to do with speeding. I was on Route 1 traveling south in the left. I had just gotten in from the middle lane to the left lane, and there was a truck in front of me. I had already moved over, and was there, probably 20 seconds, when all of a sudden, this truck just goes right in front of me. Talk about being scared, I was furious. I mean, how I stopped, I don't know. When I caught him at the light, I was really angry. He got out of his truck. He knew I was angry. He apologized, and I said, "You could have killed me and my daughter." But that has nothing to do with speed, and it has nothing to do with radar detectors.

I really would like you to consider withdrawing your bill. I forgot to mention that in my testimony. At least, consider that.

SENATOR COSTA: I gathered that.

MS. GAST: Okay. We do believe you are sincere, and I think there really are ways for you to address the issues that you want to address. But I don't think this would be appropriate, especially to go expanding it now to all citizens. Cops can do their job. The way they can do it-- I am sorry they didn't testify to that, but they have a stand-by switch on their radar units, and all they have to do is

visually look at a person speeding, and they just flip that switch, and the radar detector has no use. Once the detector goes "beep, beep," it is too late, and then the radar detector is of no use. And that is what policemen should be doing anyway. They should be visually-- They should be trained, and they should know if a vehicle is speeding. So, they just have to be a little bit more creative.

MS. LEE: In the State of Virginia, where detectors have been banned since 1962, last year they had an increase of 15% in fatalities. So, it really doesn't get to the route of the problem. Only 3% of the drivers in the country have radar detectors, so you're really not addressing the whole problem.

SENATOR GRAVES: Thank you.

MS. LEE: Thank you very much.

MS. GAST: Thank you.

SENATOR GRAVES: John Greeley?

J O H N P. G R E E L E Y: Senators, ladies and gentlemen: My name is John P. Greeley, President of Teamsters' Local 676, Collingswood, New Jersey; also, Chairman of the South Jersey Labor Council in the southern New Jersey areas.

I am here today to speak on behalf -- or against -- Senate Bills 2741 and 2733. I would like to read a prepared statement I made up a few days ago concerning both of these bills.

I appreciate being here today to testify on behalf of teamsters' local unions that represent truckdrivers in New Jersey, concerning proposals by some of our State legislators, who are attempting to put restrictions on truckdrivers. I am referring, of course, to the elimination of radar detectors for New Jersey truckdrivers, and lowering the legal blood alcohol content level to .04 for truckdrivers in New Jersey.

It has been reported that State Police statistics show that tractor-trailers on the New Jersey Turnpike are involved in 38.8% of all accidents, and that 62% are involved in

fatalities. Further, it has been reported that 12.5% represent traffic volume. The 38.8% of accidents by truckdrivers, the 62% of traffic fatalities-- I cannot agree with these figures regarding New Jersey truckdrivers, the reason being that we do not know whether or not these accidents and fatalities involved New Jersey truckdrivers or whether or not the accidents and fatalities were caused by truckdrivers or by some other type of vehicle.

There have been many, many times where truckdrivers were involved in accidents where it was not their fault. I feel that if a study was made of truck accidents, you would find that the majority of truck accidents are caused by out-of-state truckers.

Since deregulation -- trucking deregulation -- went into effect in 1980, trucking companies are more concerned -- as they were prior to deregulation -- about safety and also about maintaining their trucks, in order to cut costs and beat the competition. This statement I disagree with very vigorously; however, it has been true to some extent for some very small, nonunion trucking companies from out-of-state; also, some owner-operators. Owner-operators are drivers who own their own tractor, and operate their own tractor. There are approximately 300,000 of them in the United States.

The drivers who own and operate their own equipment, as far as New Jersey carriers are concerned, have very strict rules and regulations for their drivers, particularly the union carriers. Most of the carriers in New Jersey and Pennsylvania have very strict rules and regulations for truckdrivers. In addition, all drivers are required, under the Federal Department of Transportation, to take a physical examination every two years. Teamster drivers working for a union company under the National Master Freight Contract -- which we have -- are also required by the employer to take a urine test every two years when they have their physical examination. Most New

Jersey carriers also have safety meetings with their drivers annually.

I would like to ask five questions:

1) Did anyone in the State of New Jersey conduct a study to ascertain how many out-of-state trucks are involved in accidents?

2) Did anyone conduct a study to see how many truckdrivers were involved in the accidents?

3) Has there ever been a study made on how many drivers, if any, were involved with alcoholic drinks while operating their trucks?

4) Were there any kinds of studies made to determine how many New Jersey truckdrivers were involved in accidents, and whether or not they were the drivers' fault?

5) Is there any information to determine how many automobiles and/or buses have contributed to truck accidents?

There are hundreds of trucks that pass through New Jersey highways everyday, every week, and every month. They are not required to pay any kind of compensation for using New Jersey highways, other than if they buy fuel in New Jersey. Of course, then they have to pay the fuel tax. The legitimate trucking companies, in particular the New Jersey trucking companies, not only pay a fuel tax, but they are also saddled with registration fees for their tractor-trailers, which fees have more than doubled over the last few years. And, most importantly, the trucking companies in New Jersey have been confronted with liability insurance, which has tripled over the last few years.

SENATOR GRAVES: Okay, but we are here about two aspects: One is radar, and one is alcohol.

MR. GREELEY: Well, the aspects have to do, sir, with the various things that are happening, and why the trucking companies and the truckdrivers are being picked on in New Jersey. Also, why they have the expense, and why they have to

go out and do this and do that. Everything that comes down the highway, the trucking companies and their drivers are at fault. That is why I am trying to bring these issues out.

SENATOR GRAVES: Let's stick with the two bills, okay? Talk about your alcohol; talk about your radar.

MR. GREELEY: I do not think it is fair and proper to ban radar detectors for truckdrivers only. This is discriminatory.

As far as the proposal to reduce the legal blood alcohol content level for truckdrivers from 0.10 to .04-- This is absolutely ridiculous, because truckdrivers in New Jersey, mainly union truckdrivers, do not consume alcoholic beverages while driving a truck. They know if they do, that they will be terminated by the company they are employed by. Therefore, I see no reason whatsoever why truckdrivers should be singled out as second-class citizens, by having one standard for the citizens of New Jersey and another standard for the truckdrivers. Once again, it is discriminatory.

In closing, I would like the Committee to give every consideration to this matter, and reject the proposals. Everyone in New Jersey should be treated equally. There should be no two sets of laws -- one for the motorist and one for the truckdriver.

Regarding the alcoholic content, you talk about reducing it to .04. If you take a 200-pound man, and he consumes 16 ounces of beer, he is at .04. We have studied this thing in the past. As I said before, the companies we represent have safety meetings; they also have periodic examinations. There have been some cases in the past where truckdrivers were terminated from their jobs because they drank one or two beers on their lunch hour. Of course, we had to process these; we had to go to arbitration. Some cases we won, based on the circumstances; some cases we didn't win.

There are some truckdrivers who occasionally stop and get a sandwich somewhere, and they have a beer, which has been going on ever since the trucking companies have been in business.

As I said before, you have about 300,000 owner-operators in this country, and I would venture to say that 40% or 45% of them have radar detectors. I would also venture to say that a lot of them drink alcohol, because the owner/operators are traveling from one part of the country to another. They go to truck stops looking for a load. They lay there for four or five days, sometimes two weeks, trying to get a load going south, north, east, or west. If they do get a load, and they did consume some alcohol while they were waiting, they would be in excess of .04, and these owner/operators would go out on the street.

In addition to that, you talk about the accidents. As I said before, I don't know of any study that was made to ascertain how many out-of-state trucks pass through New Jersey highways. With the radar detectors, I think it is something that is unconstitutional if you try to take them away. It is to the benefit of the driver -- as was testified to here today -- based on the fact that he can see if he is going over the limit -- if he sets the thing where he is going to go over, particularly if his speedometer is not working properly. In a lot of trucks today, the speedometers are not working properly. Why? Because they are not calibrated, as police cars are from time to time. If you put new tires on a truck, it is supposed to be calibrated to reach the exact amount the law has posted on the speed limit. As the tires wear, then it becomes uncalibrated.

Therefore, a driver who is going 45 miles an hour-- Actually, he could be going 55 miles an hour in a 50 miles an hour zone. So, the calibration is most important to the trucks. This is why the radar detector helps out in many

instances -- to let him know that a cop is down the road, and he is going over the speed limit, even though his speedometer might say 45 or 48 miles an hour.

Thank you.

SENATOR GRAVES: Thank you.

SENATOR COSTA: Mr. Greeley, you represent just the union truckdrivers, correct?

MR. GREELEY: That is correct, and bus drivers.

SENATOR COSTA: Then you would be in favor of the .00 alcohol--

MR. GREELEY: No, I am not in favor of it. I am against it. That is why I am here today.

SENATOR COSTA: What you said was, if they drink, and you find out, they are fired.

MR. GREELEY: If they drink on the job-- This has been going on for many, many years. If they are caught drinking, including lunch hour, yes, they are terminated. But we have not-- I can count on one hand -- in the past 15 years, maybe 20 years -- where anyone was terminated because they drank on their lunch hour. Just having one beer. I have seen where a man was caught in a bar having a sandwich with one beer-- The employer representative went in there, saw him drinking a beer, and he was fired. If he had a half a glass of beer he would be terminated. They are the cases I am talking about.

SENATOR COSTA: That is why, if you had .00, they would know they shouldn't take that beer. If you have .04, they don't know how to regulate one glass of beer -- how to equate that with .04. That is why I thought you would be in favor of it.

MR. GREELEY: Why be discriminatory? If you are going to have .04, have it for everybody, not just for truckdrivers.

SENATOR COSTA: The instruments they are riding in could be instruments of death. When you have an 80,000 pound

truck, it is not the same as a 5000 pound car. There is a difference -- a difference in stopping. That is why I asked about how long it takes to stop a truck of that magnitude. No one could really answer, but you know darned well it is going to take quite a bit of time before you can stop. A truck that is on a roll, that is of that size, cannot stop on a dime. It just can't.

MR. GREELEY: It is based on what the size of the truck is and how much weight is on the truck, as far as the stopping power. If a truck is going down the road with 40,000 pounds on the truck, grossing 75,000 pounds, an 18-wheeler, which is nine wheels on each side of the truck, which does have braking power, his brakes are about eight or nine inches in width, compared to a car, which is about two to two and a half inches, he can stop within 200 feet at 50 miles an hour -- going down the road with an 80,000 or 75,000 gross piece of equipment -- 200 feet.

SENATOR COSTA: I think we share a concern also, not only for the riding public, but for the truckdrivers themselves. I have spoken to truckdrivers at Paulsboro -- I was told by people who have spoken to them, anyway -- who stated they are afraid for themselves, with the speed and the maintenance of the trucks that are being driven nowadays.

MR. GREELEY: It is the owner-operators I speak about, Senator.

SENATOR COSTA: Yes, I know.

MR. GREELEY: They don't worry about the maintenance on the truck. They are thinking about keeping going, going, going, because the more miles they cover, the more money they make. If I run 15 hours from Point A to Point B, I get my money. I pick up a load, and run to Point C, another 200 or 300 miles. You are only legally allowed to drive 10 hours a day.

SENATOR COSTA: You are verifying what I am trying to do, Mr. Greeley.

MR. GREELEY: I understand what you're saying, but for the record, we are opposed to it.

SENATOR COSTA: Okay, thank you.

MR. GREELEY: Thank you.

SENATOR GRAVES: Jack Miller?

J A C K M I L L E R: Good afternoon. My name is Jack Miller. I am the President of Teamsters' Union Local 331 in Pleasantville, New Jersey.

I think Mr. Greeley made our case, and I do not think I should be repetitive. However, I would just like to address a question which, on three occasions, Senator Costa raised. I think maybe I can shed some light on the subject of maintenance of the trucks driven by Teamster truckdrivers.

Our collective bargaining agreement provides for a maintenance schedule of the vehicles. In the event a vehicle shows a problem at the end of a workday, it is recorded. It has to be repaired before the next day. Otherwise, the vehicle does not go on the road. So, there is a check on the maintenance of these vehicles.

In the case of the United Parcel Service, it is a very, very exquisite system. So, that is not an argument with regard to the--

SENATOR COSTA: Go on. How about the other truckdrivers?

MR. MILLER: We are speaking for the Teamster truckdrivers.

SENATOR COSTA: I know, but they are not the only ones on the road.

MR. MILLER: I can't speak-- I don't know those people. I can only--

SENATOR GRAVES: Confine your remarks to the two bills.

MR. MILLER: Yes, sir.

SENATOR GRAVES: On the .04--

MR. MILLER: But, I was answering Senator Costa. I'm sorry.

SENATOR GRAVES: What are your remarks on the .04?

MR. MILLER: As far as the alcoholic content--

SENATOR GRAVES: Go ahead.

MR. MILLER: On the difference between the .10 and .04, I feel the same way as Brother Greeley feels. It is a discriminatory act. If it good for one, it is good for the other. When you speak about a truck, and how lethal a truck is, there are just as many people killed by automobile accidents as there are if and when it would be a truck involved. So, I don't see where there is any analogy between the two.

Thank you.

SENATOR GRAVES: Joseph Stone?

J O S E P H S T O N E: Does the hearing mind if I stand here? I don't want to put my back to people.

SENATOR GRAVES: Go ahead.

MR. STONE: I think the eloquent speakers before me--

SENATOR GRAVES: Is there a problem with the microphones?

MR. STONE: No, no, that's all right. I will speak louder if you can't hear me.

MS. SZILAGYI (Committee Aide): No, it has to be recorded.

SENATOR GRAVES: They are recording what you are saying. (microphones are rearranged to accommodate Mr. Stone)

MR. STONE: I do not have a problem with all of the eloquent speakers who have preceded me. All I want to do is shed a little light on the hearing.

Are you people aware of the Federal rules that are coming in? Are you familiar with those? They would make obsolete whatever you are doing, in any event. I wouldn't want you to have wasted all of this time.

SENATOR GRAVES: Will the Federal law make it .04?

SENATOR COSTA: Not really.

MR. STONE: The Federal laws that are in--

SENATOR GRAVES: Just answer my question, if you will.

MR. STONE: I will.

SENATOR GRAVES: Does the Federal law deal with .04?

MR. STONE: Yes, it does. In fact, that is the exact number.

SENATOR GRAVES: Okay. Does the Federal law deal with radar detectors?

MR. STONE: It deals with numerous other subjects, also. You are just touching the tip of the iceberg. They are going to go to the bottom roots. The sponsor of your bills asked about commercial vehicles -- the stopping distance. It is quite possible today, in the State of New Jersey-- Senator Graves, did you say you were from the Paterson area?

SENATOR GRAVES: Yes.

MR. STONE: When you get up into the far end of the Jersey Turnpike, you will find out that the commercial vehicle is restricted from the third lane. It is quite possible that the Senator, driving in the second lane, running 55 miles an hour -- 50 or less -- and we allow a tolerance in this State, I think, of 3%-- In keeping with what John Greeley said about tires wearing, and calibrating speedometers, in which case if you were running 50 miles an hour in the second lane, you would now cause a commercial vehicle, which needs to run at that grade -- at Passaic-- He needs to run if he is running 73 thou, 280. You would then cause him to either create a hazard going to the right lane, to pass you on the wrong side when you fail to yield the right-of-way, or you would cause him to go into the left lane, and then be liable for restriction. I believe you suggested -- or asked -- was he suggesting -- the Sergeant-- Did he think that should bring in the point system, as opposed to an additional fine?

As far as stopping a Mack Screw, which is a 10-wheel tractor with a tandem trailer-- If I was standing in the

middle of Route 130, and you had 73,000, 280, I would prefer that you came at me 50 miles an hour, instead of the cars that are being put on the market today, which, when you hit the brake twice, the drum heats, the lining -- which they are going to guarantee for 20,000 or 30,000 miles without it wearing out-- The softer lining is used on the bonnet of our tandems. You will get much better brakage, and it will take more heat, in which case you would probably be a postage stamp on 130 if the car was coming at you, as opposed to the commercial rig.

I could talk for 40 minutes on how to thread a needle, but I don't want to hold this hearing up any further. I think they have about stated where we stand.

SENATOR GRAVES: You are against both pieces of legislation?

MR. STONE: You're talking about scratching a kitten, and the government is talking about killing the cat. You know, an awful lot of time has been consumed with this. I, for one, would ask you to either rescind your bill, or put it on hold or in committee, or whatever system you have.

Thank you.

SENATOR GRAVES: Senator Rice?

SENATOR RICE: Just for the record, Mr. Stone, who do you represent?

MR. STONE: Teamsters' Local 470. And I am on numerous committees, but rather than sound like I am blowing my own horn, I won't mention them.

SENATOR GRAVES: Jerry McNamara?

J E R R Y M c N A M A R A: Yes, Mr. Chairman. My name is Jerry McNamara. I am with Teamsters' Local 115 out of Philadelphia. I am a trustee and an agent of the union.

To cut it short, we agree with everything that Brother Greeley and Brother Miller have said. I would like to emphasize with the .04, if you people are going to do it, it should be done with everybody. A passenger driver out on the

Turnpike, if he just had that much-- It won't make any difference if he pulls in front of that rig, because he won't be able to handle himself either, and can cause an accident. So, it should be for everybody.

Thank you.

SENATOR GRAVES: Joseph Abruzzese, is it?

L E O A B R U Z Z E S E: It's Leo, sir.

SENATOR GRAVES: Oh, I'm sorry.. Good afternoon, Leo.

MR. ABRUZZESE: Good afternoon, Senator, Senator Costa. I would like to clear something up. We met, Senator Costa, as you know, on Friday at the New Jersey Motor Truck--

SENATOR COSTA: Yes.

SENATOR GRAVES: We don't go into personal relationships. (laughter)

MR. ABRUZZESE: It's not all bad, Senator. Let me clear something up.

SENATOR GRAVES: You made your acquaintance with her.

MR. ABRUZZESE: It was very pleasant.

SENATOR GRAVES: He looks like he wants to talk -- this guy -- so I better-- Go ahead.

MR. ABRUZZESE: I gave Senator Costa the stopping distance. An empty 45-foot trailer, with a tractor, another 10 feet, empty, with optimum rubber, on a clear, dry pavement, at 55 miles an hour, takes the length of a football field, plus both end zones. Now, if you just-- You can do your own arithmetic. If it is raining, if you have less than optimum rubber, and if you are carrying 48,000 pounds, draw your own conclusions.

SENATOR GRAVES: That is the length of a block.

MR. ABRUZZESE: That's it. They are the latest statistics. That is the videotape we are showing our drivers now in our latest film. That is precisely what it says. I would like to make that available to you, if you would like to see it.

SENATOR COSTA: Yes, I would.

MR. ABRUZZESE: We are right in your back yard. We are Burlington County's largest trucking company, with a payroll of \$4.2 million. We have a great interest in this.

Let me go over a couple of things. I am unalterably opposed -- we are, the regulated industry -- to both bills. You could characterize the radar device-- How do they advertise them? We all read newspapers and magazines. First of all, they call them fuzz-busters. The fuzz are the police. They say, "Buy these things, because they are going to keep you from being caught by the trooper who is behind you." I am, of course, paraphrasing. They are designed, they are manufactured, and they are used to circumvent the law. It's simple. The industry, which has a vested interest, can say whatever they want. I have spent 42 years in this business, and most of that time in safety, and let me tell you the position of regulated carriers.

First of all, Senator, I want to give you this -- "Federal Motor Carrier Safety Rules." The figures you have on the accidents, which I jotted down -- 12.5, 38.5, 62%-- Do you know why they are faulty? Because only the regulated carriers have to make reports by law. The threshold -- and I have it in my card so you can see it-- Any accident with property damage over \$4000 -- \$4200 -- must be reported to the Department of Transportation. That is only for we carriers who are regulated. The owner-operator with one truck, or two trucks, does not have to report his accidents. But we must, under pain of felony.

SENATOR COSTA: Don't the State troopers report accidents such as that, regardless?

MR. ABRUZZESE: I don't know what the troopers do. I am telling you what the regulated industry does. I'm saying that your figures are very, very low. They are probably much higher; they are much higher, because while the trooper may report that, that person owning one or two or three trucks does

not have to report to the Federal government. It isn't mandated by the rules. We have to.

SENATOR GRAVES: Go back to the bills.

MR. ABRUZZESE: Okay, I'm sorry. On the radar devices, I stated my opinion. On the blood alcohol, we have spent our entire lives telling our drivers -- and the Teamster contract, as Mr. Greeley said-- Let me read it, because it is germane. Very quickly, there is a long procedure to discipline a driver for a myriad number of offenses. You must do the warning letter; you must go through-- However, once this, what is called-- This has been in effect since at least 1958; maybe longer than that. It says: "Drinking during working hours, including lunchtime, subject to discharge without recourse."

Now, we are in the forefront of this. What is happening with your bill is, the layman, the driver especially, is reading The Trenton Times, and he says, "It is going to be okay to have .04." That is the way it is interpreted.

SENATOR COSTA: Then you are for the .00.

MR. ABRUZZESE: Absolutely. We say you simple cannot be driving-- What you are talking about is impairment. You are simply impaired.

SENATOR GRAVES: Fortunately, not too many of us read The Trenton Times.

SENATOR COSTA: Uh-oh.

MR. ABRUZZESE: I will hold for any questions.

SENATOR GRAVES: That was the end.

SENATOR COSTA: I read it, I read it. (laughter)

SENATOR RICE: So, technically what you are saying is that you, too, oppose both bills.

MR. ABRUZZESE: Absolutely.

SENATOR RICE: You represent who?

MR. ABRUZZESE: I represent a regulated carrier -- CBL Trucking. That just happens to be our position on the bills.

SENATOR GRAVES: Okay, thank you.

MR. ABRUZZESE: Thank you.

SENATOR GRAVES: That concludes the public hearing on this legislation.

Let me, in summary, as Chairman of this Committee, say that I firmly believe that Senator Costa has made a case that there is a problem. Whether this legislation -- both bills -- will relieve the problem or not-- I think a further inquiry will be necessary, but certainly her concern about two prevalent factors that could potentially lead to accidents is in these bills. Alcoholic beverages have a different reaction, practically as different as a fingerprint, on every human being -- time, weight, food. So many factors enter into it, but it is a problem. Even though the Teamsters' Manual may prescribe their solid belief in freedom from alcohol for their members, I don't think that is as strong as a law would be. A law would have much more effect. The very fact of the law raising the drinking age had an effect. So, that prescription is sometimes -- of necessity -- formulated by legislation. The driver isn't going to be as much afraid of his shop steward as he is of a law enforcement officer if he attempts to have a couple of drinks.

I also firmly believe there is no one here who believes-- They may be against the potential of this law, but there certainly is no one here who believes that one of their drivers -- whether it is a brother -- a member -- or a free driver -- should have an alcoholic beverage content within his system while driving, because of the hugeness of the vehicle. How much longer it takes to stop, how much more space it takes up, are what determines and predicates what will happen to him with factors of weather, rubber on the tires, etc.

So, there is a need for us to look into it, and that is what we were doing here today.

The radar is a different thing. It is a problem. It is a problem because if we are going to say you can't have it,

then maybe we should say that everybody else shouldn't have it either. It is a little bit different if you are detecting the potential of a sworn police officer who may nab you, whether you are a truck or a bus -- your vehicle, whatever it might be -- because anything that increases the volume of speed will tend toward your having an accident. I don't even necessarily correlate them into the same category -- drinking and the other thing.

Drinking is something we cannot negotiate. Drinking is something we cannot take into consideration, and say, "Well, we will give you a second chance." There can't be a second chance when a kid's life is wiped out because you don't have control of your faculties, and your faculties, in turn, do not allow you to have control of the vehicle that is under you.

So, I don't think we should hesitate with that one. I think we should get it into position as soon as everyone has had a chance to read it, and when Senator Rice gives his input. The five of us on this Committee are going to sit down together. But I want you to know firmly how the Chairman feels about it. To me, it is a nonnegotiable item. You do not drink and drive a vehicle of that weight, and jeopardize the potential of anyone -- not just members of my family, anyone -- being on the highway. That goes for me, too.

On the radar, I think we are going to have some debate on that. You know, "What's good for the goose, is good for the gander," or vice versa. In spite of the fact that we can't get the real, true input that I would like to get from the Attorney General's office, because both of his staff take this Chairman for granted, and they come and go when they want to-- They don't necessarily give me the attention they would give other chairmen of other committees, but we will suffer that. (laughter) It's no different than their boss. He treats me the same lousy way they do, so it's permissible. (laughter)

So, we will take it from there. Perhaps Senator Rice has a summary before we leave, too.

SENATOR RICE: I would just like to certainly commend Senator Costa for taking this act of interest, but enough interest to have a reasonable mind to try to get as much information as she can about the subject matter.

I have listened to all, and I have some experience, particularly in the law enforcement area. I try not to let my biases interfere. I will take them back, and will look at both bills objectively.

I have to agree with the Chairman that I find a difference in the relationship of alcohol and radar. Therefore, I will be looking at the bills, although objectively, at the same time I will be looking at them subjectively.

SENATOR COSTA: I would like to thank you, Senator Graves, and Senator Rice, for coming down here to my bailiwick and having this public hearing. I have learned a lot from all of you who have testified. We will be looking at these bills and, hopefully, will be coming forth with a more comprehensive package that will really take care of looking out for the truckers, looking out for the riding public, and making our highways in New Jersey safe.

I am doing an awful lot of reading. As I said, I have all of this stuff which I have been reading, plus what has been given to me today.

I want to thank you, one and all, for being here, and thank you once again to the Committee and the staff.

SENATOR GRAVES: Okay. The hearing is adjourned.

(HEARING CONCLUDED)