

CHAPTER 50**SMART MOVES PROGRAM****Authority**

N.J.S.A. 27:1A-5, 27:1A-6, 27:26A, and Section 182(d)(1) of the Clean Air Act Amendments of 1990 (42 U.S.C. § 7511a(d)(1)(B)).

Source and Effective Date

R.1997 d.407, effective October 6, 1997.
See: 29 N.J.R. 2794(a), 29 N.J.R. 4295(b).

Executive Order No. 66(1978) Expiration Date

Chapter 50, Smart Moves Program, expires on October 6, 2002.

Chapter Historical Note

Chapter 50, Railroad Transportation—Public Hearings, was filed and became effective prior to September 1, 1969. Chapter 50, Railroad Transportation—Public Hearings, was repealed by R.1989 d.607, effective December 18, 1989. See: 21 N.J.R. 3258(b), 21 N.J.R. 3929(b).

Chapter 50, Employer Trip Reduction Program, was adopted as R.1993 d.626, effective December 6, 1993. See: 25 N.J.R. 3132(a), 25 N.J.R. 5494(b). Subchapter 15, Employer Trip Reduction Program Tax Credit, was adopted as R.1995 d.75, effective February 6, 1995. See: 26 N.J.R. 756(a), 27 N.J.R. 521(a). Subchapter 11, Disclosure of Information, was adopted as R.1995 d.338, effective June 19, 1995. See: 27 N.J.R. 827(a), 28 N.J.R. 2436(b). Chapter 50, Employer Trip Reduction Program, was repealed and a new Chapter 50, Smart Moves Program, was adopted by R.1997 d.407. See: Source and Effective Date.

Law Review and Journal Commentaries

Employment Law Supplement Overview: Commuting Statute. Michael K. Furey, Lynne A. Anderson, Shelly A. Dean, Scott A. Ohnegian, 136 N.J.L.J. No. 15, S4 (1994).

Rules of Employer Trip Reduction Program. G. Thomas Reynolds, 138 N.J.L.J. No. 8, 10 (1994).

Gearing Up for the Employer Trip Reduction Program. Peter J. Herzberg, Brian Montag, 160 N.J.Law. 27 (Mag.) (April 1994).

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SUBCHAPTER 1. STATUTORY AUTHORITY**Law Review and Journal Commentaries**

Air Pollution Law Changes Target Nitrogen Oxides. Neale R. Bedrock, 136 N.J.L.J. S17 (1994).

16:50-1.1 Statutory authority

(a) As provided for by N.J.S.A. 27:26A-4.1 to 4.4 (P.L. 1996, c.121), the program established by this chapter is intended to replace sections of P.L. 1992, c.32, N.J.S.A. 27:26A-1 to 27:26A-14, known as the "New Jersey Traffic Congestion and Air Pollution Control Act" (Act), and to encourage New Jersey employers to develop and implement

voluntary employer trip reduction programs, now known as "Smart Moves for Business Programs," that will reduce vehicle trips and vehicle miles traveled to the site by encouraging employees to use public transit, share rides in carpools and vanpools, or use another commute alternative.

(b) In accordance with Section 182(d)(1) of the Clean Air Act (42 U.S.C. § 7511a(d)(1)(B) as amended by P.L. 104-70, the Commissioner of the New Jersey Department of Environmental Protection shall submit a revision to the State Implementation Plan submitted to the U.S. Environmental Protection Agency pursuant to the Clean Air Act replacing the provision that requires employers to reduce work-related vehicle trips and miles traveled by employees with one or more alternative measures that will achieve emission reductions equivalent to those that would have been achieved with the mandated employer trip reduction program.

(c) Consistent with the State and Federal laws referenced in (a) and (b) above, this chapter continues the travel demand management (TDM) program, now known as the "Smart Moves Program," established as a Statewide initiative to reduce vehicle trips and vehicle miles traveled through a variety of strategies and programs.

SUBCHAPTER 2. DEFINITIONS

16:50-2.1 Definitions

The following words and terms, as used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

"Act" means P.L. 1996, c.121, N.J.S.A. 27:26A-4.1 to 27:26A-4.4.

"Alternative fuel vehicle" means a vehicle solely powered by energy sources that are non-polluting or produce emissions substantially below those of gasoline-powered vehicles. Alternative fuels shall include: electricity, natural gas, propane, methanol, and other fuels as defined in The Comprehensive National Energy Policy Act of 1992, Title 3: Section 301, Public Law 102-486, approved October 24, 1992.

"Alternative work schedule" means a compressed work week schedule, flextime or other flexible work hours schedule, or staggered work hours schedule.

"Approved Smart Moves for Business Program" means a program of an employer that has voluntarily registered with the Department, has submitted the standard documentation and has been certified by the Department as eligible for the Smart Moves for Business Program Tax Credits or a Smart Moves for Business Program Challenge Grant.

"Buspool" means and includes the operation of an auto-bus or autobuses, with a seating capacity of 16 or more persons, on a regular schedule between fixed termini, which provide service to a predetermined group of employees pursuant to a written contract between the employer or their designated agent and an authorized motorbus operator.

"Carpool" means a group of two to six occupants commuting to and from a work location by means of a vehicle with a seating capacity of 15 or fewer occupants. The driver of a taxi or other livery service is not counted as a carpool occupant.

"Clean Air Act" means the Federal Clean Air Act, as ended by Pub. L. 101-549 (42 U.S.C. § 7401 et seq.) as amended by P.L. 104-70.

"Commissioner" means the Commissioner of Transportation of the State of New Jersey.

"Commute alternative" means the mode of travel between an employee's place of residence and place of employment, which is other than in a motor vehicle occupied by one person. Commute alternatives include, but are not limited to, public transportation, carpools, vanpools, buspools, ferries, bicycling, and walking, which may be used independent of or in conjunction with alternative work schedules, teleworking and like measures. For purposes of these rules, teleworking and telecommuting are considered commute alternatives.

"Commuter transportation benefit" means the cost to employers of providing benefits to an employee for utilizing commute alternatives and the cost of providing services and facilities which would encourage or facilitate use by employees of commute alternatives. The benefit shall include the costs of parking by employees at park-and-ride lots if used to benefit an employer's program.

"Compressed work week" or "compressed work schedule" means a schedule in which employees work either 35 or more hours in fewer than five consecutive week days or 70 or more hours in fewer than 10 consecutive week days. Compressed work schedules shall also include: "four day-40 hour", "three day-36 hour", "nine day-80 hour", nine day-72 hour" schedules, and other work schedules that reduce the number or frequency of commute trips.

"Cost" means the invoice cost, purchase price, or contract amount of an eligible Smart Moves for Business program expense, excluding interest on the debt of a capital improvement. The term does not, for example, include peripheral or indirect costs associated with the purchase, installation or construction of equipment, or the costs associated with the advertisement, solicitation of bids, and/or awarding of a contract. Ineligible costs, include, but are not limited to, sales tax and shipping costs.