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JOINT PUBLIC HEARING

before

SENATE LAW, PUBLIC SAFETY AND DEFENSE
COMMITTEE

and

ASSEMBLY COMMERCE AND REGULATED PROFESSIONS
COMMITTEE

SENATE BILL NO. 2549

and

ASSEMBLY BILL NO. 3258

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

May 25, 1990
Beachwood Community Center
147 Compass Avenue
Beachwood, New Jersey

MEMBERS OF SENATE COMMITTEE PRESENT:
Senator Thomas F. Cowan, Chairman

MEMBERS OF ASSEMBLY COMMITTEE PRESENT:

Assemblyman Anthony Impreveduto, Chairman
Assemblyman Jeffrey W. Moran

ALSO PRESENT:

Assemblyman Christopher J. Connors, District 9

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

* * * * *

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

JOINT PUBLIC HEARING

before

SENATE LAW, PUBLIC SAFETY AND DEFENSE
COMMITTEE

and

ASSEMBLY COMMERCE AND REGULATED PROFESSIONS
COMMITTEE

SENATE BILL NO. 1543

and

ASSEMBLY BILL NO. 3228

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

May 23, 1990
Bechtold Community Center
147 Compass Avenue
Bechtold, New Jersey

MEMBERS OF SENATE COMMITTEE PRESENT:
Senator Thomas F. Cowan, Chairman

MEMBERS OF ASSEMBLY COMMITTEE PRESENT:

Assemblyman Anthony Imperatore, Chairman
Assemblyman Jeffrey W. Moran

ALSO PRESENT:

Assemblyman Christopher J. Conners, District 9

Lawrence A. Gorman
Office of Legislative Services
Aide, Assembly Commerce and Regulated Professions Committee

Hearing Reported and Transcribed by
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State House Annex
CN 058
Trenton, New Jersey 08625

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New Jersey State Legislature

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

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

THOMAS F. COWAN
CHAIRMAN

RONALD L. RICE
VICE-CHAIRMAN

JOHN A. GIRGENTI
C. LOUIS BASSANO
JOSEPH BUBBA

NOTICE OF PUBLIC HEARING

The
Senate Law, Public Safety and Defense Committee
and the
Assembly Commerce and Regulated Professions Committee
will hold a public hearing on
Friday, May 25, 1990 from 9:30 a.m. to 1:30 p.m.
Beachwood Community Center
147 Compass Avenue
Beachwood, New Jersey

The purpose of this public hearing is to discuss the following identical bills. This will be the second joint public hearing on these bills.

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

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

DIRECTIONS

From Garden State Pkwy North or South or from Rte. 166 South (Old Rt. 9)
Use Exit 81. Go east onto Water Street. At the light on Rte. 166, turn right. At the second light, turn left onto South Admiral Avenue. Drive towards the water. At Compass Ave., turn right. The Community Center is at the end of the block on the left.

From Route 166 (Old Route 9) North
Go through Pine Beach. At junction where new Rte. 9 meets Rte. 166 in Beachwood, proceed straight on Rte. 166. Turn right onto Beachwood Blvd. Drive to the end of the Boulevard toward the water. Turn left. The Community Center is about 1/8 mile on the left.

Issued 5/14/90



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

New Jersey State Legislature

ASSEMBLY COMMERCE AND REGULATED PROFESSIONS COMMITTEE
STATE HOUSE ANNEX, CN-068
TRENTON, NEW JERSEY 08625-0068
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Issued 5/14/90

SENATE, No. 2549

STATE OF NEW JERSEY

INTRODUCED APRIL 5, 1990

By Senator COWAN

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

5

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

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

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

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

29 For purposes of this act:

30 "Alcohol concentration" means:

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

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

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

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

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

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

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

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

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

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

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

20 "Controlled substance" means any substance so classified under
21 subsection (6) of the "Controlled Substances Act" (21 U.S.C.
22 §802), and includes all substances listed on Schedules I through V
23 of 21 C.F.R. §1308, or under P.L.1970, c.228 (C.24:21-1 et seq.)
24 as they may be revised from time to time. The term, wherever it
25 appears in this act or administrative regulation promulgated
26 pursuant to this act, shall include controlled substance analogs.

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

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

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

47 "Disqualification" means either:

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

1 commercial motor vehicle;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 c. Improper or erratic traffic lane changes;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 commercial motor vehicle and is domiciled in this State.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 Basic driver's license \$ 5.00

19 Motorcycle license or endorsement 5.00

20 Omnibus or school bus endorsement 25.00

21 Articulated vehicle endorsement 15.00

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 shall transmit his findings to the director.

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

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

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

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

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

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

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

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

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

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STATEMENT

45

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

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

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

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

30 Highlights of the bill's provisions follow.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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MOTOR VEHICLES

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Establishes the "New Jersey Commercial Driver License Act."

ASSEMBLY, No. 3258

STATE OF NEW JERSEY

INTRODUCED MARCH 22, 1990

By Assemblymen IMPREVEDUTO, ZANGARI and Menendez

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

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

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

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

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

29 For purposes of this act:

30 "Alcohol concentration" means:

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

32 or

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

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

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

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

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

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

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

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

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

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

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

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

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

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

49 "Disqualification" means either:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 c. Improper or erratic traffic lane changes;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 accordance with section 12 of this act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 establishment of his residence in this State in the same manner
2 and to the same extent as though he were a nonresident.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

STATEMENT

1
2
3 This bill establishes the New Jersey Commercial Driver
4 License Act. This bill was drafted in response to the
5 requirements imposed on states by the federal Commercial Motor
6 Vehicle Safety Act of 1986, Pub. L.99-570 (49 U.S.C. §2701 et
7 seq.). The bill, when enacted into law, along with the regulations
8 to be adopted by the Director of the Division of Motor Vehicles,
9 will substantially conform New Jersey law to the standards and
10 requirements mandated by the federal Commercial Motor Vehicle
11 Safety Act of 1986 and the regulations promulgated by the
12 Federal Highway Administration pursuant to that federal law.
13 Failure to comply would result in the loss to New Jersey of \$30
14 million annually in federal highway monies. This bill is designed
15 to meet the special needs of this State in the licensing, testing
16 and regulation of operators of commercial motor vehicles.

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

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

36 Highlights of the bill's provisions follow.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14

15

16

MOTOR VEHICLES

17

18

Establishes the "New Jersey Commercial Driver License Act."

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ASSEMBLYMAN ANTHONY IMPREVEDUTO (Co-Chairman): Ladies and gentlemen, can I have your attention, please? I'd like to welcome you all to the joint hearings on the commercial driver's license. This is the second in a series of, probably, three hearings, and we certainly would like to welcome you and look forward to the input and your comments on this important piece of legislation.

With me at the dais, to my left, is Senator Tom Cowan. Senator Cowan is the sponsor of this particular piece of legislation over in the Senate. I'm Tony Impreveduto, Chairman of this Regulated Professions Committee, and I'm the sponsor of the bill in the Assembly. To my right is Assemblyman Jeff Moran, who I suspect most of you all know. Jeff is also a member and past Chairman of this particular Committee in the Assembly.

Again, we do look forward to your testimony. I would say that if you have written testimony, please present that written testimony to us, and I would ask that you not read that testimony if you are going to come up and testify. Please paraphrase it and summarize it for us in the interests of time.

We need, as I understand it, to end this meeting sometime around 12:30, so please, when you come up to testify, do get to the point. I'm sure that when questions are asked of you, you will be able to answer them to the best of your knowledge.

With that, I would like to turn it over to Tom Cowan. Senator Cowan?

SENATOR THOMAS F. COWAN (Co-Chairman): Thank you very much, Assemblyman. I'm pleased to see the turnout here this morning. Undoubtedly, the interest has reached the provocative stage following our first hearing April 19 up in Secaucus. As the Assemblyman has indicated, this is the second of three meetings that will be held. The next meeting will be held further down in South Jersey.

The main thing with these public hearings is that we are able to listen, and I think we become much more alert to what some of the needs are out there concerning this commercial driver's license, which we all know has to be in effect April 1, 1992. With that, I will not belabor the issue, but we are very interested to hear your testimony, and we would begin that now.

ASSEMBLYMAN IMPREVEDUTO: Jeff?

ASSEMBLYMAN MORAN: Thank you, Tony. I want to have, if I may, Betty Mastropasqua, our Borough Clerk from the Borough of Beachwood who would like to welcome everybody here on behalf of the Mayor and Council.

E L I Z A B E T H A. M A S T R O P A S Q U A: Good morning, welcome to Ocean County. On behalf of Mayor William Hornidge and members of the governing body of the Borough of Beachwood, we hope you have an interesting day and after, have a chance to look at our beautiful river and enjoy the sights.

ASSEMBLYMAN MORAN: Thank you, Betty. I just want to say thank you personally to Assemblyman Impreveduto and Senator Cowan, both coming down from Secaucus to share with us down here in Ocean County this particular public hearing.

It's very, very important. The last hearing we had in Secaucus, we found that a lot of the people from our section of the State of New Jersey did not have an opportunity to come up; as for the same reason that our next public hearing that we will be having will be taking place in Cape May County. So, we're looking forward to a very, very good meeting today, and hopefully that tomorrow or our next meeting will be even better, and we can finalize things to satisfy everybody.

Thank you, Tony.

ASSEMBLYMAN IMPREVEDUTO: Also joining us this morning is Assemblyman Chris Connors. Chris?

ASSEMBLYMAN CONNORS: Thank you, Mr. Chairman.

ASSEMBLYMAN IMPREVEDUTO: With that, we'd like to get started and ask that our first person to testify -- I did have your sign-up sheet before me -- Mr. Schwartz, are you here?

Mr. Schwartz is Fleet Safety Services, from the Essex Corporation. Mr. Schwartz?

R I C H A R D C. S C H W A R T Z: Good morning. I'd like to apologize first for our incorrect clerical error in addressing our letter to you earlier this week.

In Secaucus, we heard a lot of information from a lot of genuinely concerned people who have to consider the impact of CDL on their operations. It was clear that there was a lot of misinformation, a lot of confusion, and a lot of ignorance surrounding the CDL concept, the Federal law, and how it was going to be implemented, and specifically, Essex's role in the testing process.

The Committee had asked me several questions which I would like to respond to this morning. I understand that Mr. Henry from the Division of Motor Vehicles can elaborate on that a little later.

Currently, or as of May 4 of this year, there were 28 states now testing, using the Essex test. It is the first printing, the pure Essex test. Of those 28, 12 are issuing CDLs and there are 12 more scheduled to come on-line July 1. That information came from the American Association of Motor Vehicle Administrators, AAMVA.

Of those 28 that are currently testing, eight were nonclassified states as New Jersey is, not a nonclassified state.

ASSEMBLYMAN IMPREVEDUTO: Define for me what you mean by unclassified state, please?

MR. SCHWARTZ: Unclassified is a licensing system that has class 1, 2, 3, and 4. New Jersey, as you know, we have our auto-articulated, we have bus 1, bus 2, passenger car, and motorcycle endorsement. In some instances, that may be

considered a classified state, but it falls short of the commercial classification similar to our neighbors of New York and Pennsylvania that have class 1, 2, 3, and 4 licenses.

Only four states slightly modified the original Essex test: California, Virginia, Oregon, and Illinois. The reason California used a slightly different version is that they began over a year ago, and they actually used the rough draft, rather than the finished product. Essentially, the content of the test remained the same. They did eliminate one of the discriminators in the test, and they have a three-choice multiple test rather than a four-choice multiple test.

ASSEMBLYMAN IMPREVEDUTO: And that has been approved by the FHWA?

MR. SCHWARTZ: That's what they are currently using.

ASSEMBLYMAN IMPREVEDUTO: Okay. So, I don't know what we're looking to do here at this point, but we could go to three instead of four, should we choose to do that?

MR. SCHWARTZ: I would imagine, with FHA approval.

ASSEMBLYMAN IMPREVEDUTO: Have they already approved that?

MR. SCHWARTZ: They approved California. However, it is the only state that is doing a three-choice test. All of the states that are testing are using the four-choice, multiple-choice test.

ASSEMBLYMAN IMPREVEDUTO: Okay.

MR. SCHWARTZ: Virginia modified some of the language for a more simplified version, but maintained the same content. Oregon and Illinois made some minor changes in some of the questions, but again, maintained a significant part of the original Essex test.

There is not at this time any wholesale rewrite of the Essex CDL test due to experience, or any other reason. There was some reference to an Essex II, or a second project. That was really a misnomer. The second project that Essex is

working on is the oral examination -- the true-false version -- of the original test, so that it has not been fine tuned or changed to accommodate whatever difficulties there may have been.

ASSEMBLYMAN IMPREVEDUTO: The oral version, is that the version that we've heard about where one could dial or telephone and hook into a computer and push certain buttons, one for "true," and two for "false," and take the oral test and a test in different languages, in that fashion?

MR. SCHWARTZ: Yes. That's the SPOKEN, which is the Essex delivery system of an oral examination that is being developed by Essex for the AAMVA. Understand that Essex is developing the oral examination. SPOKEN is a delivery system that is being developed by Essex as a separate project.

ASSEMBLYMAN IMPREVEDUTO: Is there any oral test that you know of that is currently on board and approved by the FHWA?

MR. SCHWARTZ: There are four states that have committed to Essex for the SPOKEN oral examination, that is: Tennessee, Michigan, West Virginia, and Delaware.

ASSEMBLYMAN IMPREVEDUTO: And they have been FHWA approved, at this point?

MR. SCHWARTZ: The oral test has been approved.

ASSEMBLYMAN IMPREVEDUTO: And no one has used it yet except for those who have committed to using it?

MR. SCHWARTZ: These are the four states that I know of that are using the Essex SPOKEN system.

ASSEMBLYMAN IMPREVEDUTO: Do you know who they are going to use it for, or under what criteria they would use to determine who could take the oral test or the SPOKEN test instead of the--

MR. SCHWARTZ: No. No sir. Each state has their own set of criteria as to defining and identifying the low level readers, nonreaders, handicapped readers, those with learning disabilities.

ASSEMBLYMAN IMPREVEDUTO: Okay. So that would be left to the individual state to choose how they wish to do that?

MR. SCHWARTZ: That's to my understanding, that's correct.

ASSEMBLYMAN IMPREVEDUTO: One does not need then the FHWA approval to choose how they are going to do that?

MR. SCHWARTZ: FHWA said that we have to have an oral examination, a true/false version of the original test.

ASSEMBLYMAN IMPREVEDUTO: But there is no standard that they have set to say who is a nonreader, or who is a person with learning disabilities? That's left to the individual state?

MR. SCHWARTZ: Well, there is a guideline in terms of learning disabilities and physical handicaps. The problem comes in with the drivers who may be low level readers and are not readily willing to identify themselves. So, there has to be some mechanism put in place to identify them. Whether that's after two, three, or four failures of the written test, states have latitude in developing that criteria.

ASSEMBLYMAN IMPREVEDUTO: But, as far as you know, has the Federal government set up a criteria or standard for what is believed to be someone who is learning disabled?

MR. SCHWARTZ: No. As I understand it, and I think the way the act read, is that there must be an oral examination for physically handicapped and learning disabled drivers.

ASSEMBLYMAN IMPREVEDUTO: But, again have there--

MR. SCHWARTZ: No guidelines on these.

ASSEMBLYMAN IMPREVEDUTO: But there are no guidelines, so therefore would you assume, then -- and it's always dangerous to assume -- but would you assume then that it would be up to the state to determine what their definition of learning disabled would be for those people?

MR. SCHWARTZ: I can't make that assumption. I don't have that information.

ASSEMBLYMAN IMPREVEDUTO: Okay.

ASSEMBLYMAN MORAN: Tony, if I may? Am I lead to believe then that the oral is the substitute for the written?

MR. SCHWARTZ: It's not a substitute. The oral test can be used in place of a written test for those people who can't complete a written examination.

It's not an easier test. It's at least-- It has to maintain the same validity and reliability in design as the written test. In order to do that, you have to at least multiply it by two times the number of questions to be asked, to have the same number of choices as a written test has.

The standard-- The test that is being used in most states is a multiply choice with four discriminators, four choices for answers. A true/false version of that test obviously has to have twice as many questions.

ASSEMBLYMAN MORAN: Okay. But is this only for those who have been designated as handicapped?

MR. SCHWARTZ: Learning disabled, handicapped, physical disabilities, or those individuals with such low level reading skills, to the degree that they cannot complete a written test.

ASSEMBLYMAN MORAN: And does each state have to classify each one of these people?

MR. SCHWARTZ: To my knowledge they do. The gentleman from DMV might have some further information.

ASSEMBLYMAN IMPREVEDUTO: Mr. Schwartz, I'm looking here at the state of Minnesota, which I understand is giving the standard test, the standard CDL test. They have written the test to a lower grade level. Were they using the Essex test?

MR. SCHWARTZ: Yes.

ASSEMBLYMAN IMPREVEDUTO: Do you know offhand what grade level they've written the test to?

MR. SCHWARTZ: No, I don't. It's my understanding that some states have gone as far as the fourth grade.

ASSEMBLYMAN IMPREVEDUTO: Then Essex does have the capability, and the tests that are out there can be written to a lower grade level than--

MR. SCHWARTZ: Essex has not rewritten and does not intend to rewrite the original test.

ASSEMBLYMAN IMPREVEDUTO: Did Minnesota use your test?

MR. SCHWARTZ: They used the Essex test, but they changed some of the wording, as did, I think, Virginia, just to provide a more simplified version.

ASSEMBLYMAN IMPREVEDUTO: Okay. The Essex manual then was rewritten to a lower grade level. Was that just for Minnesota?

MR. SCHWARTZ: No. The Essex Model Manual was not rewritten, but the Essex Study Guide, which is a commercial product for CDL training, has been rewritten and reduced to a fourth grade level.

ASSEMBLYMAN IMPREVEDUTO: Okay. So, that's the Study Guide, not the manual?

MR. SCHWARTZ: Yes. If you look at the model manual as the text and the study guide as the workbook, that should differentiate between the two. The Study Guide was written, condensing the material to about 40% of the original in outline form, and also reducing the reading level to the fourth grade.

ASSEMBLYMAN IMPREVEDUTO: The current manual that I've seen here in New Jersey, do you know what grade level that's written at?

MR. SCHWARTZ: That was originally written at a sixth grade reading level.

ASSEMBLYMAN IMPREVEDUTO: Is that the current one that we're using?

MR. SCHWARTZ: Yes, it is.

ASSEMBLYMAN IMPREVEDUTO: Do you know what grade level the Essex test is written at?

MR. SCHWARTZ: Well, it's written on the same level as the manual.

ASSEMBLYMAN IMPREVEDUTO: The same level?

MR. SCHWARTZ: The testing is coming from the manual.

ASSEMBLYMAN IMPREVEDUTO: Okay. Another question I have for you which I think most -- not most of the people, but many of the people are certainly concerned about, and that concerns bus drivers. Last hearing, we heard a lot of testimony about bus drivers and parts of the test that they would be required to take as it stands now, and whether or not it was pertinent to their particular industry to know about the cargo loading and handling, and hazardous material handling.

Are there any states to your knowledge that have eliminated cargo loading and hazardous material handling from the test that bus drivers take, therefore creating a specialized bus driver license?

MR. SCHWARTZ: I don't have that information, so I don't know. Early on in the original research I do know that certain segments of the transportation industry participated in furnishing background for the writers of the manual, the model manual. It's my understanding that there were representatives of the bus transportation industry that were asked to participate. For some reason their participation was not as great as it was from the trucking industry or some other segments of the transportation industry.

ASSEMBLYMAN IMPREVEDUTO: I guess the next question that I have, and it's the question that is probably the most confusing part of the entire testimony the last time around, and to be quite honest with you, I am still confused. That pertains to, sir, the preinspection of the motor vehicle, truck, or bus.

I guess that has been the burning point of the Teamsters, and bus drivers and everybody else, wanting to know exactly what is it that one must do for preinspection of their vehicle before it hits the road?

MR. SCHWARTZ: I think that the comments that we heard in regards to the pretrip inspection were driven in part by fear and by ignorance, as you say, as to what is required. Pretrip inspection, as it has been presented in several of the video products that are in the marketplace, takes somewhere between 45 minutes and an hour, and I think the confusion is that that product is being misconstrued as the pretrip inspection. That video is of an examination conducted by a California DMV examiner, and it takes-- It took him approximately 45 minutes to an hour to conduct the examination. It also took 45 minutes to an hour to produce the information needed to make that video.

So, that is a production, produced to demonstrate what an examination procedure looks like. As we conduct truck competitions throughout the State, through the New Jersey Motor Truck Association -- and I've judged several of them -- we allow seven minutes to conduct a pretrip examination on a combination vehicle, that's a tractor and trailer. And it's to find, also, five defects that are planted in the truck and the tractor.

Now, obviously, these are the cream of the crop. These are drivers that excel in their profession, and that companies send to compete. But, an average time to do an adequate pretrip inspection shouldn't take anymore than 12 or 15 minutes. The more that one has done, the more one becomes proficient. A pretrip inspection is done without tools. We're not asking folks to be a mechanic. I'm not asking them to be anything, as a matter of fact. It's not intended that they be mechanics. It's just that they use their powers of observation to determine what, if anything, may be wrong with the vehicles before they load it, either with cargo, or children, or passengers.

ASSEMBLYMAN MORAN: Well, I'm hearing something different today than what I had heard at our last hearing in

Secaucus. I also read the manual where it specifically states the pretrip inspection, that is, does not appear to sound like what you are saying. Also, I saw the film, and the film was 45 minutes and they had no station breaks, no coffee breaks, and they went through it.

Why is it then that in the manual as well as in the sample example test that we've received, it makes such an important point of the pretrip inspection?

MR. SCHWARTZ: Because it's definitely very important. It should be the first thing to be considered before you turn the key.

ASSEMBLYMAN MORAN: But if you were to carry out what is designed in the manual for pretrip inspection, I have to agree with those who spoke in Secaucus that it would take 45 minutes.

MR. SCHWARTZ: Understand that the pretrip inspection is not new. Pretrip inspection has been part of the Federal Motor Carrier Safety Regulations since it was written. Tractor trailer drivers have been conducting these for years using basically the same format. And it's all based on 49 Code of Federal Regulations, part 396, which is your maintenance, inspection, and repair section.

ASSEMBLYMAN MORAN: Can I interrupt you right there for a second, please? Then why didn't we incorporate their suggestions and the bus drivers' suggestions under existing Department of Education regulations for bus drivers that have that in their regulations, that they must do every day? I've been there, and I've seen it. The Department of Highway, with the truckers-- Why did we have to reinvent the wheel?

MR. SCHWARTZ: I don't know that it was rewritten, but it has never been defined or clarified to such degree as AAMVA wrote in their manual, or Essex wrote for AAMVA.

49 CFR, part 396 is a Federal law. It is not a training device. It is not a training manual. It's a

requirement that every driver who is involved in interstate commerce has to comply with prior to operating his vehicle. Should that also apply to vehicles operating intrastate is the criteria? That's the question.

The manual, and in writing the manual it was felt that, yes it should, because there really isn't any difference if you operate from Atlantic City to Jersey City, or go from Camden to Philadelphia. The exposure is greater in terms of miles traveled.

Those things that have to be inspected. Those procedures that have to be followed and are already a matter of Federal law under 49 CFR part 396. CDL is applied to both inter and intrastate drivers. That brought in the Federal Motor Carrier Safety Regulations to a whole new population of drivers who have never seen it before.

Therefore, if you take 383, which is the commercial driver's license section of 49 CFR, and all of the other sections, 390 through 397 which comprises the motor vehicle safety regulations, yes, then, they would have to conform with those regulations.

The manual was the first attempt -- and I might say that there are many training courses both offered by the National Safety Council, New Jersey Safety Council -- that have been written by various transportation educators throughout the country that use very similar training audio-visuals and techniques in regards to the pretrip inspection. It is not addressed as a training manual in the Federal Motor Carrier Safety Regulations.

However, in teaching drivers how to do it you must have some format, and yes, it does take longer to teach somebody how to do it, than actually to perform it yourself. It wouldn't take me 45 minutes to an hour to do a pretrip inspection. It may take me somewhere between 7, 12, or 15 minutes, depending upon the configuration of the vehicle, the size of the vehicle.

ASSEMBLYMAN MORAN: How long does it take for pretrip inspection now, under the existing regulations?

MR. SCHWARTZ: How long should it take an average driver to do a competent pretrip? There's no time limitation set by law.

ASSEMBLYMAN MORAN: No, no, no. I'm saying, how long is it taking us now to do it?

MR. SCHWARTZ: Let me answer you this way. Drivers who belong to companies that are doing pretrip inspections are probably conducting them within 10 to 15 minutes.

ASSEMBLYMAN MORAN: Okay. We'll get that answered from them. One last question--

MR. SCHWARTZ: I'm only experienced with the drivers that I've trained. I know they can do it in 10 to 12 minutes.

ASSEMBLYMAN MORAN: Are they required to do the engine compartment inspection?

MR. SCHWARTZ: It's part of the -- Part 396 of the Code of Federal Regulations.

ASSEMBLYMAN MORAN: My recollection from reading the book and watching the film, it's everything from the brake fluid to the oil to the hoses--

MR. SCHWARTZ: You look for broken belts--

ASSEMBLYMAN MORAN: --belts.

MR. SCHWARTZ: --leaking hoses, and yes, it even requires that you check the oil. Not-- You don't do a tuneup.

ASSEMBLYMAN IMPREVEDUTO: I just--

MR. SCHWARTZ: You look at those obvious things that you can see.

ASSEMBLYMAN IMPREVEDUTO: I guess the question is, and it's the question that we started to get to the last time around, do-- Today, right now, if the CDL never existed, does our law require us -- not us but those people who are driving school buses, those people who are driving tractor trailers, those people who are driving passenger buses -- to check the engine compartment?

MR. SCHWARTZ: You have to separate interstate and intrastate. CDL is the first law that impacted upon both inter and intrastate drivers. The first time we've grabbed everyone and put them into one hat.

Several states have adopted certain sections of 49 CFR. Some states in its entirety, some states have just picked out certain sections to follow. There are states-- Pennsylvania has adopted 49 CFR in its entirety including physical requirements for intrastate drivers, okay? We have not.

The Federal Motor Carrier Safety Regulation was written for interstate operations, not intrastate operations.

ASSEMBLYMAN IMPREVEDUTO: Okay, so that under that regulation they are required to check the engine compartment?

MR. SCHWARTZ: If they are involved in interstate operations or foreign commerce, yes.

ASSEMBLYMAN IMPREVEDUTO: So, if they are going from New Jersey to New York or from New Jersey to Philadelphia--

MR. SCHWARTZ: That's interstate.

ASSEMBLYMAN IMPREVEDUTO: --that's interstate, therefore, the pretrip inspection for that vehicle, the morning that driver takes that vehicle out, that bus is going to take a field trip to New York City, the driver must check the engine compartment?

MR. SCHWARTZ: A strict interpretation would be yes.

ASSEMBLYMAN IMPREVEDUTO: Okay. My question then comes to the point that we got to again last time. In many of the vehicles it is problematic, because the engine is located in a situation where the whole cab has to get picked up in order to get to the engine.

I guess my question is, how do you do that?

MR. SCHWARTZ: It depends on the individual driver. The law requires that the driver be satisfied. That's how it reads -- that the driver be satisfied that the vehicle is safe before he operates it.

The driver can look back and see his vehicle and decide that it's safe to operate if he wants to take the responsibility of doing so.

ASSEMBLYMAN IMPREVEDUTO: Would it make sense to you -- I don't know if we can do this if you're telling me it is in the Federal law and we're going to be going interstate so that we have to abide by that particular law -- that the mechanic for the bus company, school bus or transportation company or the trucking company, do the engine compartment check and have a sign off sheet in that truck or bus the following morning that says it's been checked, and then the driver does his regular ICC or whatever you call it--

MR. SCHWARTZ: It doesn't relieve the driver of the responsibilities under the law. It doesn't relieve the employer of his responsibilities under the law. It does require that a certified signature be attached to the daily vehicle inspection report that a repair has been made or that a repair is not necessary for safe operation of the vehicle. So, whether somebody does it in lieu of someone else, it does not relieve that first party of his responsibilities.

ASSEMBLYMAN IMPREVEDUTO: No matter if the expert mechanic for the company signed off and said all the belts were fine, and the hoses were fine. The axles were fine and the exhaust system is fine. Everything is great, and he signs off on this. The trucker or the bus driver gets in the next morning, takes the sheet off of his sun visor and sees that everything has been checked by their certified mechanic and then says, "Okay, I'll do my regular check of the vehicle."

If something goes wrong, the driver has the responsibility, still?

MR. SCHWARTZ: The driver's always responsible for the vehicle.

ASSEMBLYMAN MORAN: At our last public hearing it was inferred, and it doesn't specifically state it in the

testimony, on page 120-- But what it does say in my interpretation is that if my company travels from Jersey City to Atlantic City and also has trucks going from Jersey City into New York City, that my trucks have to be inspected every day under the hood, as well. Now, you're saying then, only those trucks that go out-of-state have to, or in fact, the fleet of trucks that are involved in that enterprise?

MR. SCHWARTZ: When you take the entire Federal code, the Motor Carrier Safety Regulations, and understand that it's patchwork legislation, that 390 through 397 existed long before 383, which is the CDL section, 390 through 397 applied to a certain population of drivers and a certain number and design of trucks. That was not rewritten. There is even a section -- a description of a commercial vehicle prior to 383 which describes a commercial vehicle involved in interstate commerce as one weighing over 10,000 pounds.

ASSEMBLYMAN MORAN: Rich, can I just interrupt you, because I know what you're saying and I have no doubt that what you're saying is right. But, my point is if I'm a truck driver, and I have a mechanic who checks my truck from 5:00 to 6:00 in the morning, and he or she checks all of the trucks, why should I have to be responsible to check the oil, the water, the brakes -- I'm sorry, under the hood, now we're talking about interstate commerce?

MR. SCHWARTZ: Well, the answer is that you're required to by section 396. You're the driver. Your responsibilities are not relieved by someone doing them for you. You're taking somebody else's word that they are as competent as you are to do these jobs.

ASSEMBLYMAN MORAN: When I go to the doctor, I take his word for it. I don't go to a second and a third doctor, and I don't do what the doctor's licensed to do when I'm not licensed to do. In the essence of a mechanic, you would hope

that the company would have a licensed mechanic or someone that has the experience to be a mechanic, not me as a truck driver, or a bus driver.

MR. SCHWARTZ: But you're not required by law to do that. Under the Code of Motor Carrier Safety Regulations, a driver is responsible for doing those things. And while he is not responsible for doing a mechanic's check, he's responsible for making certain visual observations of his vehicle.

You don't have to be a mechanic, and you don't have to use tools to do a pretrip inspection. That's some of the misinformation. Use the powers that you've learned through experience of driving; feel, touch, smell, your physical ability to determine that your vehicle is either safe or not safe. You don't have to check-- You don't have to take a feeler gauge and go in and check the brakes to see what the clearance is, but there is a procedure where you can check the brakes without being a mechanic, without using a feeler gauge.

ASSEMBLYMAN MORAN: That doesn't say much for mechanics.

MR. SCHWARTZ: The mechanic has a certain responsibility under 396. The driver has a responsibility. In order to understand the questions that you are asking and for people to understand the answers, you have to be conversant -- which is also part of the law for motor carriers-- They have to be conversant with those sections which apply to motor vehicle inspection, maintenance, and repair.

Drivers should know, and should receive a copy of the Federal Motor Carrier Safety Regulations. He's responsible to know its content. I didn't write the message, I'm just delivering the message.

ASSEMBLYMAN MORAN: I know that. And what level is that written on?

MR. SCHWARTZ: That's not on a sixth grade level, that was written quite a few years ago.

One of the things Essex has validated in the last few months, even since our last hearings, is that the fear factor is being subsided considerably through the Essex Corporation training and testing. Of the states that are testing, Essex has representatives doing training using the Essex material.

Essex has validated a 98% passing rate after training in those states that have received training and have taken the Essex test. That's considerably better than the 40% to 60% failure rates that we've heard throughout the country.

ASSEMBLYMAN MORAN: Of the Essex test?

MR. SCHWARTZ: Of those drivers, experienced drivers taking tests in states that are testing, the average is 40% to 60% failure rate. Essex has validated that after training using Essex material, obviously, that we have had a 98% passing rate.

ASSEMBLYMAN MORAN: That is a training program put on by Essex?

MR. SCHWARTZ: Yes.

ASSEMBLYMAN MORAN: What does that cost?

MR. SCHWARTZ: It costs various amounts in various states. I can't answer for the-- I'm just a distributor of Essex products.

ASSEMBLYMAN MORAN: Okay, but what really concerns me is that here we have people who have been doing something for 20 years successfully, and now we're going to make them take a training course that is going to cost them "X" amount of dollars. If they don't take it, the chance of them failing this test that educated people like you and I participated in writing -- they did not -- and now if they fail that test, they're out of work.

MR. SCHWARTZ: Well, unfortunately the accident statistics and the insurance statistics do not support the fact that we've been doing things for a long time and doing it correctly. The reason for CDL, the reason for quantifying an

examination to make sure people understand what they are supposed to be doing -- and I'm not generalizing, I'm addressing myself to those drivers who have contributed to those statistics.

We also hear in the general public that insurance rates are climbing sky high. Why? Because of experience, accident experience. We've also heard that trucks are responsible for a good part of the accidents on our highways in which we kill 48,000 people a year. Something had to be done.

DOT on the Federal level indicated many years ago prior to CDL, that, "Industry, if you don't clean up your act and do something about it, we'll step in and we will do something about it."

Well, industry didn't do anything about it and the Federal government, the Department of Transportation, did. Hence, we have a CDL. We have a national manual, a manual that is standardized throughout the country requiring the same information of every driver doing the same job. We have a test that is standardized, that every driver in every part of the country will be required to know the same amount of information for the same job whether it's here or in California or in Florida.

So they have standardized the commercial manual, standardized the commercial test, and they have done so because statistics demanded that something be done. Constituents of Federal legislators complained that the highways were turning into blood baths, to carnage. Ask anyone who lives along Route 18 up in New Brunswick what the garbage trucks, the dump trucks, and other heavy equipment are doing to their roadways and passengers.

So, this is an effort by the government to standardize a safety manual and a means of testing each driver's knowledge of the safety procedures involved in operating the kind of trucks that they normally use on a day-to-day basis. There has

never been an attempt to standardize or to quantify. Many states have nothing more than an issuing procedure rather than a testing procedure.

So, it's not designed to put people out of work. The intent of the law is to improve the quality of drivers and remove the bad drivers from the road who were killing our children and our loved ones and creating the havoc in the insurance industry.

ASSEMBLYMAN IMPREVEDUTO: Mr. Schwartz, as I look at a chart given to me by the AAMVA, I notice that there are probably 46 states, if I read this correctly, that have given an oral test or are about to give an oral test. And the first one I see is Alabama, which uses all Essex material. They give an oral test. Do you know what oral test they are giving?

MR. SCHWARTZ: No. Many states were giving an oral examination for licensing prior to CDL to accommodate various language groups.

ASSEMBLYMAN IMPREVEDUTO: Well, what I am looking at is a state CDL implementation survey. It says Alabama gives an oral test. Alabama uses the Essex material test, they passed the legislation for the CDL on 10/1/90. (sic) The issuance of CDL was 10/90. (sic) They don't give a Spanish test. They do give an oral test. I don't know what this other category is, "all school buses," but I guess we'll find out a little later on.

MR. SCHWARTZ: You're looking at a different test than I have. I think you're looking at a chart that was prepared by DMV, by Don Henry.

ASSEMBLYMAN IMPREVEDUTO: I'm looking at a different chart, yeah.

MR. SCHWARTZ: No. I don't have that information. The chart I have from AAMVA just lists legislation, blood alcohol content, driver disqualification, knowledge and skill test, and CDL issuance. I think Don Henry went into greater detail with his chart.

ASSEMBLYMAN IMPREVEDUTO: I guess I come back to the point that a state like Alabama that has used the total Essex testing, all Essex, are using an oral test. Essex does -- and I need to just hear this again -- does or does not currently have an oral test that's approved by the FHWA?

MR. SCHWARTZ: Essex is developing and is continuing to develop an oral test, a true/false version of the written test. It is not completed. Funding was just approved recently to complete -- for Essex to complete -- the research on the Essex examination. In terms of percentages, it is about 98% or 99% complete.

ASSEMBLYMAN IMPREVEDUTO: So, to the best of your knowledge, would you anticipate the oral, the Essex oral test, being on board within the next six to eight months.

MR. SCHWARTZ: It will be on board within 30 days, of those states that have indicated to us that they are going to use it. That's not a choice of Essex. That's a choice of each state through AAMVA.

ASSEMBLYMAN IMPREVEDUTO: Right. If the State of New Jersey tomorrow told Essex we are interested in your oral test and would like to give it, how soon could Essex have a test that's FHWA approved for us to use?

MR. SCHWARTZ: Within a month.

ASSEMBLYMAN IMPREVEDUTO: Do you know of any other companies that are out there that are preparing tests?

MR. SCHWARTZ: Well, you have to separate the oral exam and the delivery systems that are used to conduct the oral exam. An oral exam can be, conducted as we are, one on one, orally, face to face with an examiner, terribly time-consuming.

What a lot of companies have done is to develop the technology to conduct an oral test to a broad scope of people, a multiple test, multiple people. Essex has developed one delivery system, SPOKEN, which it uses to conduct oral

examinations. There are a number of other companies that are working toward or either have some type of delivery system for the oral examination.

The contract that Essex has with AAMVA is to develop the oral examination, the true/false version, which is what they are doing for every core test, for every group of vehicle licensing, A, B, and C, and for each endorsement. They have not been asked to develop a delivery system.

Essex is developing SPOKEN, which is the Essex delivery system, which is technology developed by Essex outside of the AAMVA contract.

ASSEMBLYMAN IMPREVEDUTO: But as far as Alabama, Alaska, Arizona, Arkansas, California, and all of the-- Connecticut, New York, Delaware, we don't know what oral procedure they are using. They are not using Essex, I guess?

MR. SCHWARTZ: I don't think anyone is conducting oral examinations beyond those states that are now testing. We know that California and Arizona are. They are also conducting tests in Spanish. I know that there will be a Spanish version of the model manual available very shortly.

We have an oral examination that can be conducted in Spanish, but I can't tell you which states are using the oral examination that was developed by Essex for AAMVA.

ASSEMBLYMAN IMPREVEDUTO: Okay, because I'm looking at 46 states as I see it, that are using an oral test. Many of them are using an all Essex test, but we don't know if--

MR. SCHWARTZ: If they are using an all Essex test, then they are using the oral exam developed by Essex for AAMVA.

ASSEMBLYMAN IMPREVEDUTO: Okay, so you can put this thing on board quickly.

MR. SCHWARTZ: Well, it's available. It's a delivery system that is the difficult--

ASSEMBLYMAN IMPREVEDUTO: Yeah. I'm aware of that. And you can also do it-- Do you know how many languages you can do that test in?

MR. SCHWARTZ: We can currently do it in Spanish.

ASSEMBLYMAN IMPREVEDUTO: Only?

MR. SCHWARTZ: Right now the technology in the program is available in Spanish. We haven't gone beyond that because no one has come to Essex and said, "Do something in Russian," or, "Do a test in other languages." When that commitment is on the table, then we can develop the technology and the software to deliver a multilingual test.

ASSEMBLYMAN IMPREVEDUTO: I have no further questions for the witness.

SENATOR COWAN: Mr. Schwartz, you did mention earlier concerning the testing and with the individuals after 50% drop-off level, so to speak -- a 40% to 50% rate of failure -- that you had retested people. Now, was that retesting after you had given them your program, so to speak, your educational values that you insert with people? Was that a retesting of the same people who had failed?

MR. SCHWARTZ: No. That was testing conducted by the states of Georgia and Virginia after drivers had been trained by Essex trainers and using Essex training material. It wasn't a retest.

SENATOR COWAN: It wasn't a retest?

MR. SCHWARTZ: No. No sir. We validated-- In Virginia I had a client that had 100% passing rate. And in Georgia we had a representative train a number of drivers prior to testing, and they had a 98% passing rate after taking the test.

SENATOR COWAN: In comparison to other people in the same states who are taking the test before, and you have that rate of 40% to 50% drop-off--

MR. SCHWARTZ: On the average.

SENATOR COWAN: --or was this new testing?

MR. SCHWARTZ: No. On the average, drivers have been failing at the rate of 40% to 60%, across-the-board.

SENATOR COWAN: In Georgia?

MR. SCHWARTZ: Georgia, as well as other states.

SENATOR COWAN: And then you went into those two states with your testing--

MR. SCHWARTZ: We train drivers prior to testing. The drivers who failed were not the same groups that were trained.

SENATOR COWAN: No. I understand that part of it. What I'm trying to get at is did you have a comparison within the same state?

Maybe I'm not making myself clear enough? First of all, I wanted to know if they were retesting? You said, no, they weren't retesting. Now, I want to know, were they in the same state, where you had a 40% to 50% drop-off, and then you went in and took certain people out of there, and you educated them with your values, the Essex program training, and then in that state you come back with a 98% passage.

MR. SCHWARTZ: Yes. Understand, we are asked to come in and train by contract for certain employers.

SENATOR COWAN: No, but I'm not asking you that. I'm just asking you if you are in the same state; you know, in the same geographical area, let's put it?

MR. SCHWARTZ: The average for Georgia over the period of time that they were testing, on failures without our training -- or with someone else's training, I'm not just saying Essex training -- has been 43% to 46%. Of those drivers who were trained by contract to Essex by another representative in Georgia, he had a 98% passing rate. We had another client that trained prior to testing in Virginia had a 100% passing rate.

So, all of the frustrations that have been ventilated here at the prior meeting are really a combination of fear and misinformation, that what is in that manual is information that has been used by experienced drivers over a number of years. If the time was spent and the energy was spent to research and

to study, rather than to fight the manual and resist it, it would be learned that the information is not difficult. It's not new. It's information and procedures that they have been doing right along for a number of years. The difference now is that they have to identify and recognize it in question and answer form.

SENATOR COWAN: How long is the format for your process when you go in to train? How long is that format?

MR. SCHWARTZ: Depending on the number of endorsements needed, depending upon the educational level-- Understand that the time span is really a factor, or, the audience which you are addressing. We recommend a 16-hour training course to cover all of the training, the basic CDL, air brakes, and endorsements.

SENATOR COWAN: Thank you.

ASSEMBLYMAN IMPREVEDUTO: I need to come back to the vehicle inspection, again.

MR. SCHWARTZ: Okay.

ASSEMBLYMAN IMPREVEDUTO: I'm looking here at a check sheet, a vehicle inspection and basic controls skill test. This is from the examiner's manual. It talks about the examiner grading the person taking the test on the rims, you know, the front wheel rim. The hub oil seal-- I know on many trucks you can see that. The tires, the lug nuts, the slack adjusters -- I don't know what that is -- the chamber-- There is the front brakes, the slack adjuster chamber, the brake drum. How does one see the brake drum on a truck? Do you have to take the wheel off?

MR. SCHWARTZ: If you look on the backing plate, on the inside of the wheel, there is a little inspection port that you can see. Many of your inside wheels are right out in the open. There's no backing plate.

ASSEMBLYMAN IMPREVEDUTO: May I have some quiet, please? (referring to crowd noise)

MR. SCHWARTZ: It means getting down and looking. It means getting down and looking at your wheel. You know, if a driver is not willing to get down and inspect his tire and inspect his wheel, that's part of the pretrip inspection.

ASSEMBLYMAN IMPREVEDUTO: How does one check the axle seals? I don't even know what they are.

MR. SCHWARTZ: It's right on the front.

ASSEMBLYMAN IMPREVEDUTO: On the front?

MR. SCHWARTZ: The front of the hub.

ASSEMBLYMAN IMPREVEDUTO: You can see that easily?

MR. SCHWARTZ: No. You may have to even wipe it off to see it. It might be muddy.

ASSEMBLYMAN IMPREVEDUTO: But, I mean it's-- A rag, you can wipe it off? You can see it?

MR. SCHWARTZ: Sure, sure.

ASSEMBLYMAN IMPREVEDUTO: The springs, you can see?

MR. SCHWARTZ: The springs you can see in a bus or a truck as well as you can in your car.

ASSEMBLYMAN IMPREVEDUTO: Well, I-- In order to get to the springs in my car, I have to go underneath it, don't I?

MR. SCHWARTZ: You may have to get down on your hands and knees. You're not a commercial driver. Drivers being paid to transport--

ASSEMBLYMAN IMPREVEDUTO: No, no. I understand that. But, I just need to clarify what we said before just so that I can understand what needs to be done. I'm not a mechanic and when my car breaks, I leave it there and go get somebody who knows how to fix it.

MR. SCHWARTZ: Understand that these are all safety factors.

ASSEMBLYMAN IMPREVEDUTO: Yeah.

MR. SCHWARTZ: If your spring is broken, if a leaf spring is broken, if a push rod is not connected to a slack adjuster, your brake is not going to work. If you have an oil

leak coming from your seal-- All of these things can affect the safe operation of that vehicle, and the driver has to be willing to accept that responsibility to inspect that vehicle in order to transport passengers.

ASSEMBLYMAN MORAN: You know what I find interesting, is that there are by the New Jersey Highway, as well as the Department of Education, regulations -- not law, but regulations -- that we have that require us to do pretrip inspections. Why is it that we are not allowed to encompass our present regulation to comply with the CDL regulation, and make that part of the test itself?

MR. SCHWARTZ: I think if it meets the minimum standards or if it's greater than, you can. These are minimum standards by which a pretrip should be inspected as determined by the Department of Transportation. If your pretrip inspection requirements under state law are equal to or greater than, then yes, you can use those requirements, those standards.

Federal law has only given us minimum standards by which to comply. States also have the option of passing legislation which would require greater standards, but they cannot reduce the minimum standard as written by the Federal law.

ASSEMBLYMAN MORAN: Okay. But see, obviously we're missing something, because on the CDL it has front suspension, the springs, the spring mounts, the shock absorbers, the front wheels, the rims, the hub oil seals, the tires, the lug nuts, the front brakes, the slack adjusters, chambers, hoses, drums, driver fuel area, the door, the mirror, the fuel tank, leaks, rear wheels, and I could go on and on and on and on, all right. But under our existing regulation in New Jersey, before you operate the vehicle, you've got to check for any tampering and damage. You've got to check the safety equipment, the tires, the wheels and the lugs, the glass in the mirrors, the registration, the oil level checked -- not you check it, that

it's been checked -- seats loose or cut. During the warm-up, check the oil gauge, the gas gauge. I mean you're not pulling the oil stick out and checking it. You're not--

UNIDENTIFIED SPEAKERS IN AUDIENCE: Yes you are.

ASSEMBLYMAN MORAN: The brake light indicator. You're not checking the brake. You're not opening up, as it's described in the manual and in the film, in that you have to open up the clip, and you have to check it. They show you you use your pinkie and if it goes in and if it's more than a fingernail, then you have to have it checked. The warning lights, the oil pressure lights based on the gauges, the amp meters, the lights, the horn, emergency door lights, the passenger door, fuel gauge.

Now, during operation -- not prior to operation, but during operation -- you have to check the exhaust system. What I interpret that as, from my talking to people in the business, is that if they heard that it was making unnecessary noise when they were going back to the yard that day, they would note it that: Please check the exhaust system; it's obviously making more noise than what it is supposed to be making.

The brakes, if there's obviously something wrong with the brakes and their normal operating procedure, they bring it to the attention of the mechanic that's trained in dealing with that. You have the clutch if it's a standard shift. They bring that to their attention. The transmission, the steering, the instruments, the driver seat belt, and other things that--

MR. SCHWARTZ: What are you getting to? What's the point?

ASSEMBLYMAN MORAN: Well, the point is that there's-- We're talking apples and oranges. Under existing law, under existing code in New Jersey--

MR. SCHWARTZ: State law.

ASSEMBLYMAN MORAN: --which appears to be successful, now we're saying that they bring this attention to the

mechanic, that in fact, is responsible to make sure that they're driving a safe vehicle, as compared to the onus is put on them to recognize defects in the vehicle that they're not trained to recognize.

MR. SCHWARTZ: Maybe that's the point. Maybe the designers of the CDL law felt that they should be trained to recognize certain objects that will affect the safe operation of their vehicle. You see, you're looking at a State law as opposed to a Federal law. You're looking at requirements for a federally regulated vehicle as opposed to a State regulated vehicle. The provisions are that if your standard is -- and it doesn't matter what standard we're talking about -- if your standard is equal to or greater than the minimum Federal standard, then you can use whatever is greater.

ASSEMBLYMAN MORAN: You are the author; you tell me. Are the Department of Education's regulations as good as, and or better than what you have described in the manual?

MR. SCHWARTZ: The question shouldn't be is the regulation as good or better than. Are the drivers doing what the regulations demand?

ASSEMBLYMAN MORAN: I just have one last question. What is the cost of the training? Now you've said in Alabama you did the training for people with 40%, now you have 98% success. What does the training cost? And, if I'm going to run a training program for 150, 200, 300, 1000 people, I mean, is it \$10 a head, \$20 a head, \$50 a head.

MR. SCHWARTZ: No. It's significantly more than \$10 or \$20 a head, but I can't answer you.

ASSEMBLYMAN IMPREVEDUTO: Folks, can we please have some quiet, please. (referring to disturbance from audience)

MR. SCHWARTZ: I can't answer that question for you because you're asking me to make almost a proposal or a sales presentation. It depends upon the audience, the number of drivers to be instructed, the length of time that they choose

to instruct. We recommend a course of instruction. The consumer chooses what length of time he wants to instruct, based on his knowledge of his own drivers. Based on their educational level, based on their competence of driving level for the employer, we can recommend. But if you as a consumer, as a customer want an eight-hour training course, or a ten-hour training course, we'll make a presentation or a proposal based on your requirements or your needs.

I can't say here, and say in front of this Committee and this audience, that an Essex training course is going to cost "X" number of dollars because everybody will leave here expecting me to quote on that exact figure, and that's something that I can't do.

ASSEMBLYMAN MORAN: But do you know what I find interesting? I find that the same people who wrote the test are the ones now who are going to train people to pass the test.

MR. SCHWARTZ: They didn't write the test. They designed a test at the request of the Federal government through AAMVA. Now, as entrepreneurs, yes, they've developed a training course, and they are going to ensure that people have the information necessary to pass the test.

ASSEMBLYMAN IMPREVEDUTO: Mr. Schwartz, thank you for your insight. We do appreciate it. We've kept you on a little longer than we had anticipated.

MR. SCHWARTZ: But, there are a lot of other people doing the same thing, so we're not alone in that.

ASSEMBLYMAN IMPREVEDUTO: Thank you.

Is Bob Molofsky here yet? Bob Molofsky?

John, are you going to speak at all? (addressing member of audience)

UNIDENTIFIED SPEAKER FROM AUDIENCE: No.

ASSEMBLYMAN IMPREVEDUTO: Okay. Mr. Robert Molofsky is from the Amalgamated Transit Union, from Irvington, one of Jimmy Zangari's guys.

R O B E R T Y A C K E L: Good morning. Thank you for the opportunity to speak. I'm Robert Yackel with the New Jersey AFL-CIO. I have Vito Forlenza, from the ATU and Robert Molofsky, who is the Director of Legislation based in Washington. He has traveled all around the country on this subject, and I think he is more well versed than any of us are.

The State AFL-CIO, we've had meetings with these gentlemen and all of the transport unions combined. We've come up with some amendments, and we've asked Mr. Molofsky to come up here and explain them to you.

ASSEMBLYMAN IMPREVEDUTO: Very good. The amendments were passed out?

R O B E R T A. M O L O F S K Y: I have extra copies of my testimony if you need it.

ASSEMBLYMAN IMPREVEDUTO: No, we have it. Welcome, sir.

MR. MOLOFSKY: Thank you, thank you.

ASSEMBLYMAN IMPREVEDUTO: Please shed light.

MR. MOLOFSKY: I think the Committee sounds like they're well versed, but let me see if I could offer some perspective that might be of help.

ASSEMBLYMAN IMPREVEDUTO: Thank you.

MR. MOLOFSKY: The ATU represents, as you know, some 10,000 public and private employees in the State of New Jersey. We represent not only the TNJ transit workers, we represent interstate, Greyhound type drivers, as well as school bus employees.

Our comments are really focused on the impacts of this, the Federal legislation and the pending State law, as it affects the bus employees that we represent, mechanics who are also covered in the State.

ASSEMBLYMAN IMPREVEDUTO: Could you move that microphone closer to you so we can--

MR. MOLOFSKY: (complies) In many respects, I should tell you though, that the amendments would work equitably and be supported by the Teamsters and others who are affected in the trucking industry, and there's only a few -- and I'll note them -- areas that, they don't disagree with us, it's just that they may not be affected by the proposed amendments.

I'd like to do two things, if I may. I'd like to quickly go through my testimony on the amendments. Some of them are very technical and are very easily covered. Others address larger issues that I would like to devote more time to; primarily the nature of the exams and what should be done, what we would like to suggest the State consider in modifying the so-called Essex manual and the so-called Essex exams that are being distributed around the country and also in New Jersey.

ASSEMBLYMAN IMPREVEDUTO: You're not going to read it though, are you?

MR. MOLOFSKY: No. I'm going to quickly go through it.

Let me quickly say that under the Federal law and the Federal regulations which New Jersey is now trying to comply with, there is a degree of flexibility. I'd like to highlight that, because where things are permitted and not required by the Federal law, New Jersey can put its own imprint on how things should be handled in the State. It is those areas that I'm going to cover.

Nothing I'm saying here will be in violation of the regs. Everything here is permitted by the regs. It's been done in many other states either by regulation or by legislation, and we're just looking to build on that experience to make sure that the State, if it implements this stuff, does it in a fair way.

ASSEMBLYMAN IMPREVEDUTO: Are you getting him? (speaking to hearing reporter) Could you just turn that single microphone toward him so we can get you on tape? We need both of them.

MR. MOLOFSKY: Obviously we're here because we support passage of the bill that would put the State in compliance with the Federal regs and the law. We have 16 suggested amendments, let me quickly cover them and then get into some questions and answers and some other comments, and highlight our testimony.

Number one affects coverage. The bill, as it is proposed based on the Federal minimal requirements, would affect vehicles designed to transport 16 or more passengers, including the driver. We believe that throughout the State of New Jersey there's hundreds, indeed, thousands of vehicles operated in revenue service transporting school employees, handicapped, and other commercial transport commuters that are on the road on a daily basis, have extraordinary exposure, and are involved to the same degree in terms of risk as well as safety issues as the larger coach bus operators.

We have proposed, therefore, in the name of safety and in the name of making sure that the kind of safety improvements that this statute would effect would apply equally to our school children, to our handicapped persons, and to other individuals choosing to operate slightly smaller vehicles.

We are proposing -- it's permitted by the regs, certainly -- that the law be dropped to apply to vehicles of seven or more passengers, which would pick up a lot of vans, obviously.

More technical matter, on the definition of conviction: Convictions in the statute are used to define certain offenses, which, if you are convicted of, trigger certain sets of Federal penalties under the State is going to administer, license suspensions or disqualifications. It should apply though, only to final adjudication of those matters. That's why amendment number 2 just inserts that word.

If you have appeals rights, you shouldn't be suspended permanently until you have had a right to process your claim and the problem to conclusion with any appeals followed up.

There are several provisions that we are surprised about in the State law, that have appeared nowhere else to our knowledge in the country, appearing to afford the Motor Vehicle Director unlimited, unbridled, and undefined discretion to deny people licenses. They appear in sections four and sections eight and fifteen.

We have recommended that they be stricken. In striking those, the Director would still have within his discretion the authority to administer the statute under the Federal regs, to decide whether or not to issue licenses based on individual's records, but it would be -- his discretion and his authority would be based on more specific rules than his decision as to who's fit and who might not be fit to operate a vehicle.

Third party testing: Under the proposed State law there are provisions contemplated to allow the State to contract with third parties, nonstate entities under contract to the State, to perform the testing under the Federal requirements. The way the provision is written, it would appear to allow Jersey to contract with these outside companies for both the written and the skills tests. Our best opinion, that the contracting out of the third party skills testing is really permitted for the -- That third party testing is permitted only for the skills test and not for the written test. I don't know of any jurisdiction that's really sought to contract away the performance of the written tests.

I've asked for clarification on that. Our amendment would do that; amendment number 4 would clean that up.

There are some unions that obviously represent State employees, CWA in particular, that are making an argument that the State should really assume all of the testing within that agency.

ASSEMBLYMAN IMPREVEDUTO: Are you aware of any states that are currently using third party testing for the written test?

MR. MOLOFSKY: No.

ASSEMBLYMAN MORAN: Then all third party testing reports that we have are all only on skill testing?

MR. MOLOFSKY: I'm sorry?

ASSEMBLYMAN MORAN: They're all only on the skills part?

MR. MOLOFSKY: Yes, yes. And you know, there's a matter of control, confidence, and trust involved in all of this testing that really is at the heart of our concerns.

You're elected, you're going to add your wisdom to what the State should do, and we would trust that to be done in a fair way. You know, with outsiders, even with an overview authority, it raises questions as to how procedures, over time, would be handled.

ASSEMBLYMAN IMPREVEDUTO: Mr. Molofsky, are you familiar with any states that are doing oral testing?

MR. MOLOFSKY: Yes.

ASSEMBLYMAN IMPREVEDUTO: Are they using third parties to do their oral testing?

MR. MOLOFSKY: I know that the few states in the early game that have tried to -- have done oral testing. I think that Maryland comes to mind; their state employees are reading the multiple-choice questions out loud to groups. They are awaiting, anxiously, the approval of the true and false oral exam. But, I'm not aware -- it may exist -- I'm not aware of any third parties doing the oral testing. I'm just not aware of it.

And there's only about four or five states that have been in a position-- That have been testing for months that would be in-- The universe that is now testing orally is not large, and I don't know of any. I don't think California is. I know Maryland is not, and of the six or eight states that have been intensively involved in testing: Washington, Oregon, California, Nebraska, West Virginia, Maryland and a few others,

if they are doing oral, it's ad hoc. It's a system that's developing within their state procedures and none of it's third party.

In all of these areas, let me quickly say, we are prepared to work with the Committee as it goes forward today in both finalizing the legislation, and under your direction, the regulations that are implemented, we'd be prepared to, on an ongoing basis, find out and answer questions about other states' practices to amplify today's remarks.

Number six is another technical definition, just to modify the reasonable-- The probable causes, change it to-- Reasonable grounds is referenced in section 16 as the basis for a State officer stopping an individual. I think it should be reasonable cause, as opposed to reasonable grounds. It really conforms with the way those terms are used legally already in the State and in other states. As the basis upon which an officer can stop someone for testing or for other purposes, alleged crime commitments, or otherwise.

ASSEMBLYMAN IMPREVEDUTO: You skipped number five.

MR. MOLOFSKY: Oh. I'm sorry, yes. That's quite important. Under the Federal regs the states are permitted to waive the skills tests for individuals who meet certain criteria. Basically, it's two years of prior driving experience, not necessarily full-time, it can include part-time. There's been no hours definition applied to what qualifies as the two years experience. I know many of our bus drivers, and perhaps many here today, don't operate buses full-time, and yet they would still be able to qualify under a two year experience of operating on a regular basis. That doesn't mean 40-hour week basis, a regular basis, the vehicles that they are seeking to get their licenses for assuming also that they haven't committed any of the Federal violations that are referenced in the chapter here, any of the serious traffic violations, or disqualifying offenses.

The statute, however, as it is written, permits the Director to waive that for the class affected, and we would require him. We believe that there's no reason not to. The requirements are stringent; you can't have committed any of those offenses. There's just no reason from an economic, from a fairness, from a safety point of view, not to almost automatically, if you meet the numbers and the standard, to be waived.

I know that you are concerned about the pretrip inspection and other aspects of the road test, the skills test. If you apply the waiver on a mandatory basis, upwards of 80% or more of the current drivers will end up being waived from having to take the skills test. So, you will narrow, all at once, the class that's exposed to that difficult part of the exam. We would insert the word "mandatory," there.

Public hearing: This is just an insert that there should be public hearings and perhaps oversight by your Committee on the provisions that are referenced in section 20; the rules and regulations that would be issued under that provision.

ASSEMBLYMAN MORAN: Can I interrupt you? Can we go back to the skills test waiver? How many other states are presently doing the waiving of this skills test?

MR. MOLOFSKY: Every state has state legislation allowing for the skills test waiver. We have been successful in every state that we have raised this issue, from Florida, Pennsylvania, Wisconsin, you know, to get the change from "may" to "shall" issue the regulations. We don't want the discretion.

It doesn't make any sense to give any outs to the agency. And I don't raise these comments and points because of any personal or institutional disagreement with the MVA in terms of their record in the past. We just are saying if that's the way the law can be administered, then why remove any

unknown discretion? Just get it on the books. It will improve the safety and confidence of the workers as they have to comply with this stuff.

ASSEMBLYMAN MORAN: Okay, good. Thank you.

MR. MOLOFSKY: I know that I'm going through this quickly. I'm just trying to get to the question and answer stage. If I'm speaking too quickly or covering it too fast, just let me know.

ASSEMBLYMAN MORAN: No. You're doing good.

MR. MOLOFSKY: The medical requirements: We had proposed an amendment but it was proposed, I think, on a misreading of it. We want to be assured, however, that this-- That is, the State administers the Federal requirements, that they don't impose any new or additional medical testing requirements.

The CDL law that the State is looking at requires absolutely no change in the State procedures affecting medical exam requirements as a condition for licensing.

ASSEMBLYMAN IMPREVEDUTO: Are your people required to take periodical medical exams currently?

MR. MOLOFSKY: Yes, yes. That's under the interstate provisions, every two years. And the State by practice, or our employers by practice can institute them on an annual basis and many of them have, but the minimal requirement is once every two years. And it's a very comprehensive physical, drug test. It has blood pressure, you know, diabetes, the whole range of things that are tested for very comprehensively under the Federal regs.

Number nine, one time testing provision: The statute's not quite clear, and we want to make sure -- and the Federal requirements certainly permit this -- that once you've satisfied the written knowledge and skills test, that that's the last time that you have to walk into that exam room unless you have in the interim had your license suspended, canceled,

or revoked under the Federal penalties that are out there. There's just no reason for it. No one is contemplating it from a cost point of view. Everyone-- You'll benefit, the State will benefit-- You know, there's no reason to recharge that.

ASSEMBLYMAN IMPREVEDUTO: Yeah, but, can we charge every year anyway, just for the hell of it?

MR. MOLOFSKY: What?

ASSEMBLYMAN MORAN: He said that, I didn't.

MR. MOLOFSKY: You can have a separate--

ASSEMBLYMAN MORAN: We're calling for a repeal of it. We want to pay you.

MR. YACKEL: He's from Hudson County.

MR. MOLOFSKY: That does not apply, however, for the hazardous material. So, those truck drivers who operate vehicles that are placarded under Federal law, they have to come in every three years and take the hazmat endorsement, and we recognize that.

Item 10, oral and Spanish exams: We believe that the State should absolutely mandate provisions allowing these exams immediately, not based on Essex, because who knows when the Feds are going to get into that.

You have the discretion. You can look at the written multiple choice exam. You know, we don't want to have testing going on for six months or a year before oral exams are available. There's just no reason that you can't have developed, based on the materials out there, the draft true and false questions that have been tested now, and the multiple choice questions.

You can read the multiple choice questions. You can have a combination of true and false; make it all true and false. But I believe that the implementation date for the oral exam should be coextensive with when the testing begins, for all of the obvious reasons based on the range of people who are going to be exposed to this.

Similarly with the Spanish exam. California and most states, either by regulation or legislation where this is an issue, are doing it. California's exam is available. California is finishing up a translation of the Essex exam and that will be available.

It's doable. We're getting a Federal grant to translate our training program into Spanish, so that will be done within the next four months or so. It's wise to do.

And I wouldn't necessarily want to say that you should limit your language to Spanish. You know, it's just perhaps the predominant language other than English in the State, and maybe I'm wrong. But, I would say that there are other -- Portuguese -- there are other languages that people speak and read, and without-- Except for the hazardous material exam which has to be in writing, there is no reason that, given the size of the populations affected, people should have the option of taking these, the knowledge exam, certainly in Spanish, or in other languages as you deem appropriate in the State.

SENATOR COWAN: Most of these states that are testing now, did they start both programs, both the written and the oral, at the same time, or was that something they learned about later?

MR. MOLOFSKY: Everyone was aware of it at the same time.

SENATOR COWAN: Did they start at the same time?

MR. MOLOFSKY: Maryland did it at once. I can't say for everybody.

SENATOR COWAN: Okay.

MR. MOLOFSKY: I think California did it at once. I'll tell you why. They don't want lawsuits. There's a whole separate issue that I'm not going to raise today, but I'll just quickly comment about, as to the potential effect these exams can have on defined population groups. So there is a lot of interest in making sure that that's headed off at the pass.

Number 11: I think if I had to give priority to any one, it is certainly number 11. That raises a host of issues, and I would like to cover the other ones and come back to that. But, let me just quickly state it because it affects us most directly and raises some of the issues that you are already discussing.

The Secretary of Transportation, Skinner, the Federal law, the Federal regulations, all permit -- indeed Skinner has put his stamp on it -- that the states are permitted to modify in their discretion the so-called Essex exam. They can eliminate questions, they can substitute questions, and furthermore, they can issue a modified exam so that drivers seeking a class "B" license -- and under the Federal scheme you have class "A," "B," and "C," now that you're going to have, and "D" would be a personal car. Class "A" is your combination trucks, 26,000 pounds or more trucks. Class "B" are your 26,000 pound solid trucks, like your dump trucks and your heavy duty sanitation vehicles and others -- telephone company vehicles to some degree, heavy mail trucks. And also within that class "B" are your buses of all sorts. Your school buses, your--

ASSEMBLYMAN IMPREVEDUTO: Passenger buses.

MR. MOLOFSKY: --passenger buses, and your coach buses.

It is permitted for the State to issue what I would call a filter exam; an exam that filters out the so-called truck questions that are now merged into the general knowledge exam, and issue a class "B" license with a "C" endorsement, since every bus operator has to take the passenger endorsement.

They would take the general knowledge exam, the passenger endorsement, and also the air brake, and get a "BP" license. Like the gas station, "BP" license. And the "P" on their license would indicate that they have taken a restricted license. That they can only operate the buses within that class.

That would address a world of problems. We would no longer have to argue about whether or not a school bus driver has to know about loading tie downs on a flatbedded truck, and other similar kinds of issues.

Similarly, I would go a step further. It's not in our amendment, but I know that you are concerned about the pretrip inspection and other aspects of the skills test.

ASSEMBLYMAN IMPREVEDUTO: I'm sorry, I just told Larry, (referring to Committee Aide) I wanted to hear what you were going to say.

MR. MOLOFSKY: There is flexibility in the design of the skills test as well. The State can modify the skills test. It's not committed, it's not required that it adhere, you know, step by step, inch by inch, to the prescription that's in the Essex materials. I think the Committee--

ASSEMBLYMAN IMPREVEDUTO: Where can we get-- I mean, I'm still trying to get a copy of the damned thing that tells me what it is we can do, and what it is we can't do.

MR. MOLOFSKY: Okay.

ASSEMBLYMAN IMPREVEDUTO: Where can I get that?

MR. MOLOFSKY: I can tell you two ways to proceed: This is the letter that Secretary Skinner wrote to Senator Exon.

ASSEMBLYMAN IMPREVEDUTO: I've seen that letter.

MR. MOLOFSKY: It outlines the "BP" license. It only went so far as to address cargo and hazmat issues. That was because that's only as far as they went. The State can go further, okay? The State can go further and strike 15 or so questions. The standard Essex exam is 50 questions. The regs only require that you ask 30 questions on the general knowledge exam, okay? So, even if you look at the 50 question Essex exam, and eliminated the cargo and the hazmat, and a lot of the other operational test questions that are out there that make no sense for school bus, transit, or coach drivers, you'll

still be over 30 as a minimum. And by no means does 50 questions cover every paragraph in this 150 page Essex manual. You can filter it out, and have a good exam for bus drivers.

ASSEMBLYMAN MORAN: Okay, so if we have the bus driver exam, now be it your bus drivers or school bus drivers, is there a difference, or would it be the same? We take the 50 question exam, eliminate the transport, the explosives, the cargo, and everything else out, we get down to 30. They would have to take the exam only on those 30 particular questions, plus if they have more than two years, they would be exempt from the skills test, and then, that's it?

MR. MOLOFSKY: They would also have to take the passenger transport endorsement exam.

ASSEMBLYMAN MORAN: Right, right, right. Well, that's normal.

MR. MOLOFSKY: And the air brake exam.

ASSEMBLYMAN MORAN: Right.

MR. MOLOFSKY: The Feds have not issued anything in writing, anything that says these questions on the air brake exam must be there or must not be there, okay? They have just approved one exam as satisfactory. It doesn't mean that's the only way to go.

One way to proceed, certainly, is that you can look at Exon and you can see that this Senate letter, and you see that certainly cargo and hazmat give you flexibility. There are other questions, written questions and skills test issues that can be changed.

The way to change it, I would recommend, is to have a Committee of your Committee -- representative of your Committee and the House and Senate Committees, the AFL-CIO would select people from the truck and bus -- the bus industry if it was the bus side we were looking at, and school bus and transit, okay? And industry people, safety experts with TNJ. The TNJ Safety Director, he would testify. We know from conversations with

those people and almost every director of safety of the major systems around the country, that people can easily agree that this stuff doesn't have to be there. This stuff can get out of there.

You'd still be within the basic requirements of the Federal regs, and you would be doing the right thing. In other words, why include in the skills test for bus drivers a lot of stuff that has absolutely no relevance to the safe operation of their bus vehicle? Indeed, not only does some of that stuff have no relevance, they can't do it. The day after they take that exam, they would be fired if they did it in the State of New Jersey.

ASSEMBLYMAN IMPREVEDUTO: That's been our question all along, to be quite honest with you.

MR. MOLOFSKY: By contract, by company practice, and by impossibility, because the State would have to pay them extra funds to come in that much earlier on the clock to do the kind of pretrip inspection if they were to do it on a daily basis.

Now, the Feds don't require that that test be done on a daily basis, okay? Once you passed the test you don't have to turn around under the Federal rules and do it everyday. So, the question arises, if that's true, then why get tested on it in the first place? And if you have to get tested on it in the first place because the Feds require it and you have to comply, then let's make it a fairer exam, something that's more relevant. And you have that flexibility.

ASSEMBLYMAN IMPREVEDUTO: All right. Let me clarify this part. You're not saying-- I know you're not saying, that a bus driver shouldn't do a preinspection of his bus?

MR. MOLOFSKY: No, I am saying this, sir. I am saying that there's no bus driver that does that kind of preinspection.

ASSEMBLYMAN IMPREVEDUTO: No. I'm talking about whatever--

MR. MOLOFSKY: They do a more general inspection. They walk around--

ASSEMBLYMAN IMPREVEDUTO: A bus driver today does a preinspection, and should, as a truck driver should?

MR. MOLOFSKY: Absolutely.

ASSEMBLYMAN IMPREVEDUTO: But, I don't think you're asking-- What you are saying is that they shouldn't be opening the hood of the truck and playing with the motor and--

MR. MOLOFSKY: As a practical matter, even though you pass this law, they're not going to do more than they now do. They will get tested on more than they now do, but the impact of your State law is not going to result in them doing more than they now do, because it doesn't require-- This State law doesn't require, on penalty of censure, or loss of license, or penalty points, that you do that Federal inspection. Whatever inspections that now occur under Federal and State law and regulations or company practice will go on. The question is: Should they have to do all of the stuff that's included in the Federal standards? And there is flexibility there to meet the basic requirements.

ASSEMBLYMAN IMPREVEDUTO: In order to do these things that you're saying, remove the hazmat questions, remove any questions that you wish to remove, and bring it down to 30, in order to do that-- Once you've done that-- Let's say we put a committee together and we do that. We get what we feel is the fairest test for bus drivers, the fairest test for Teamsters, the fairest test for everyone who is required to take this test; we then do what? We take that test, and the FHWA must approve of that test?

MR. MOLOFSKY: Well, I would suggest that it be submitted to them for approval. I don't think the regs require advance approval for testing. It's--

ASSEMBLYMAN IMPREVEDUTO: They do require advanced approval?

MR. MOLOFSKY: No, I don't think so. But, you know, I met yesterday with the FHWA people in preparation, in part, for today's hearing, and I think as a result of that meeting I would recommend--

Now, this is not what they said. I can recommend that the wise way to go is to do exactly what you say, and say that this is what the State of New Jersey believes meets the minimum requirement, and unless you direct us otherwise, this is how we are going to conduct our program.

ASSEMBLYMAN IMPREVEDUTO: That's what New York has done.

MR. MOLOFSKY: That may be what New York has done.

ASSEMBLYMAN IMPREVEDUTO: As I understand it, according to something here, that New York has given a test, or, and it has not been approved by FHWA?

MR. MOLOFSKY: No. They're not testing yet in New York.

ASSEMBLYMAN IMPREVEDUTO: Well, they've done something that's not approved by FHWA. Maybe they don't care.

ASSEMBLYMAN MORAN: They're exempt.

ASSEMBLYMAN IMPREVEDUTO: They're exempt, okay. Go ahead. I'm sorry.

MR. MOLOFSKY: No, no, no. That's the way to go, I think. And you know this law is not going to-- It's not a question of timing in terms of the State law. I think you could put a provision together that the final versions of these exams will result -- will be derived from -- a meeting of these officials, subject to final approval by the State and on rejection by the Feds. I mean, you just put a general provision there. We don't need legislation to address questions 14, 22, and 18.

SENATOR COWAN: Bob, you said you were going to go through most of these and then come back to that, if I recall, right?

MR. MOLOFSKY: Let me do that. Good point, you got me.

Number 12, sir. Number 12, advanced notice: We want by statute -- some states have done it by regulation -- that all the affected drivers who now have the bus licenses or truck licenses -- and I used S-1, and S-2, I'm not sure that's the correct term, I think it's Bus-1 and Bus-2-- Right now our bus drivers have Bus-1 and Bus-2 licenses, and I don't know the term for the truckers. But the point is that the State should distribute a notice to the individuals prior to their license expiration that these are the requirements that they now have to meet.

It's only fair. It would trigger them into the different training programs that are going to be developed and maximize their ability to take and pass the exams.

SENATOR COWAN: Does the Federal require that?

MR. MOLOFSKY: No.

SENATOR COWAN: You want it mandated?

MR. MOLOFSKY: Most states have it, anywhere from 30-, 60-, 90-day notice.

Number 13, the credit for passing exams: You take the typical bus driver has to take three written exams, and if he is not waived, the skills test. The skills test, you take it and you pass it all at once, there's no-- You go in for the day and you're done, pretrip, and then the road test. Eighty percent required to pass, and you pass. If you do 80% right, you pass.

Similarly, on the written test though, you can take anywhere from three to six endorsements'. Everybody -- everybody, truck, bus -- takes general knowledge and air brakes, and then the passenger buses will take passenger endorsement. There will be a small percentage of mechanics that might have to take the combination vehicle and/or the hazmat endorsement exam. And then there will be those truckers who have to take the tankers and the doubles and triples endorsements.

Each of those-- Right now, the Feds have minimal number of question requirements on each of those five or six exams. Knowledge has to have 30, and the other endorsements range from 15 to 20, on each of which you have to get 80%.

This amendment would simply say this: If you take one or more of those written tests, like accountants, you know, if you pass one, you got credit, go to the next. Let's not fool around and have to keep coming back.

SENATOR COWAN: Separate them out. Once you've passed one, if there's three required--

MR. MOLOFSKY: So, if you have to come back next week, and take the rest.

SENATOR COWAN: --and one is passed, the next time you sit, you go to two, or three.

MR. MOLOFSKY: Training.

SENATOR COWAN: Separate them out.

MR. MOLOFSKY: Training: We are uniformly -- the AFL and all its unions -- in support of some State funds being made available to cover training. Now, whether that goes to--

ASSEMBLYMAN IMPREVEDUTO: We don't have any money, we're broke.

MR. MOLOFSKY: I know you don't. That's why I put no provision in it.

ASSEMBLYMAN IMPREVEDUTO: Go on to the next one.

ASSEMBLYMAN MORAN: Wait a second. What is it going to cost. One billion, two billion, could we raise--

MR. MOLOFSKY: I just say, the session's not over yet, so you have many ways of dealing with that.

ASSEMBLYMAN IMPREVEDUTO: If Jeff votes for the budget, we'll put that in.

ASSEMBLYMAN MORAN: It will be the first time.

MR. MOLOFSKY: Well, if the Feds come out of the White House with any taxes, maybe that will -- maybe Jersey can pick up on that.

We're serious about this. This is going to be an enormous problem. It's an enormous problem for our union, and every union. How do you reach out, you know? The State is going to do a certain degree of publication of the requirements, but for us, it's really an extraordinary thing of training. It's our jobs, our livelihood, our careers, and nobody wants to lose their job because of these exams. Nobody should.

ASSEMBLYMAN IMPREVEDUTO: You're absolutely right.

MR. MOLOFSKY: They might end up losing their license because of actions they commit, accidents or other criminal violations, offenses. But why should they suffer from this.

You probably all know, we, in part with a Federal grant, put together a very comprehensive training program involving workbooks. We took the Essex manual and we reduced the so-called sixth grade reading level to sixth grade. Believe me, if you've looked at the Essex manual you might agree that some parts of it are at the sixth grade level, but it rises from 9, 10, 12, to first year college. Their idea in the Essex manual of a sample question is an essay telling what you did last summer. Tests are multiple choice, and true and false.

What we did is we took that material, we broke it down into separate sections based on the exams that you take. We reduced the reading level. We put improved and expanded graphics in it. We put sample kinds of questions that are comparable to those included on the state exams.

We produced a 60-minute video that covers the material, and an audio cassette tape. We're offering it to our members at cost. Just to give a sense of the money involved, we're selling it for \$15. It's available. It covers everything a person needs to know to take and pass these exams as they are now drafted.

ASSEMBLYMAN MORAN: Pass the exam which includes the knowledge, the air brake, the passenger, the whole shooting match?

MR. MOLOFSKY: The only thing we didn't cover were tankers and doubles and triples.

ASSEMBLYMAN MORAN: Okay.

MR. MOLOFSKY: So, this sells for \$15. I'm not promoting it, I'm just saying that there's a couple of hundred thousand that went into the investment into producing that. It's being offered to our members.

The next step is either using this one-- The State of New Jersey has training materials developed. There is a lot of effort that is going to have to take place in order to put these materials to use; whoever's a person wants to use.

Since a majority of the people affected work for companies or are represented by unions, the State should give some consideration to offering funding programs that allow-- This is an open-ended question, really, for some training to take place. It will improve safety, it will get people through the exams, and let you go about your business.

If there's any money available, I would urge you to think carefully about it.

ASSEMBLYMAN IMPREVEDUTO: Can we go on to the next one?

MR. MOLOFSKY: Yeah. Testing deadlines: In amendment 15 it was really an effort to ask you to take a look at the three different types of people coming in to take the tests.

You have new applicants, no license. This statute will be implemented on day one. Anyone coming in after that seeking a license will have to meet the requirements. We know that.

Then you have people, assuming that the testing for argument sake were to start in September of '90-- I don't know when it's going to start. Maybe it won't start until January of '91. You're going to have people whose licenses expire

sometime between now and April 1 of 1992. April 1 of 1992, anyone currently holding a license or seeking one has to comply with these new requirements. There's no reason why someone whose license doesn't expire until six months or a year after the statute takes effect, that he should be made to take it any sooner than the few weeks or so prior to his license expiration.

It should be optional. In other words, I don't want a system developed by the Director that commands people to come in at an earlier point in time than the period immediately prior to their license expiring. It should be their option to come in, but they shouldn't be commanded to come in, okay?

Then, there's a second issue. Those are people whose licenses expire between now and '92. It's a four-year license in New Jersey, so some people's licenses will expire after April 1, of 1992. When do those people get called in to take the exam? There's no reason they have to come in tomorrow, or in September, or in December. As a matter of regulation -- and maybe the State should think about it -- there's no reason that those people should be commanded to come in, for argument's sake, prior to January 1 of 1991. And you have given them three months to get through that system in that way.

It's something that can be handled by regulation as well as by legislation, and that was the purpose of putting this on paper: To get those issues before you and to ask that we work together to come up with something that addresses that kind of a problem. We just don't want anyone having to come in before their time.

Item 16 is-- This is an interesting issue. You know, for those people, 20% more or less who have to take the skills test, where do they get the bus? Where do they get the bus?

ASSEMBLYMAN MORAN: Essex rents them out. (laughter)
I'm only kidding. They don't.

MR. MOLOFSKY: Pennsylvania has put a provision in, which I think is a wise one, that unless it's otherwise made

available by the testing site for free, that the employer is going to be obligated for the current workers to make that bus available so you can have it and go down and take the test.

ASSEMBLYMAN IMPREVEDUTO: Well, when someone takes an articulated driver's license test, where do they get their bus now?

MR. MOLOFSKY: I don't know the answer. I guess the State provides.

UNIDENTIFIED SPEAKERS FROM AUDIENCE: We bring our own.

MR. MOLOFSKY: That makes no sense.

SENATOR COWAN: Well, we have an answer right here. There's DMV sitting right over there.

ASSEMBLYMAN IMPREVEDUTO: DMV? Don? When someone takes a test now, a driving test to learn how to drive a bus or a truck, where does the bus or truck come from?

D O N A L D F. H E N R Y: (speaks from audience) They have to provide it--

ASSEMBLYMAN IMPREVEDUTO: They bring it with them?

MR. HENRY: Yes. We do not have a fleet of--

ASSEMBLYMAN IMPREVEDUTO: I didn't think you did.

MR. MOLOFSKY: So here is the issue. The majority of the people affected by this, certainly other than new applicants, work for somebody. It makes sense.

ASSEMBLYMAN IMPREVEDUTO: No. I think the company or owner or whoever that person is going to go to work for should supply the vehicle. It makes sense. There's no other way to do it.

MR. MOLOFSKY: That's the purpose of this provision.

UNIDENTIFIED SPEAKER FROM AUDIENCE: What does somebody do if they are unemployed?

MR. MOLOFSKY: I'm not, I'm not-- I think there is also a problem for new applicants--

UNIDENTIFIED SPEAKER FROM AUDIENCE: You got to work with the unemployed, too. What if the guy ain't got a job. He's got an articulated license, and he hasn't got a job.

ASSEMBLYMAN IMPREVEDUTO: Excuse me. The questions come from here.

MR. MOLOFSKY: That was the next question, really. Then I think the State ought to think about what to do about new applicants, and if they are seeking to do third party testing for the skills test, and/or keep it in-house, I don't think it should be the continued obligation of the applicant or the individual to have to come down there with a \$200,000 bus. It's absolutely ridiculous.

I think one of the conditions, one of the specs in your contracts, one of the requirements that the State do is that there be on-site vehicles available for individuals coming down there to take the exam.

It allows for greater control, you know. Someone doesn't come in there with a jalopy, you know. There's uniform testing based on vehicles that the people who are doing the testing are familiar with and know what's right or wrong with them. That only makes sense.

ASSEMBLYMAN MORAN: I had one question. First of all, I think your presentation was excellent. I appreciate it.

Are there any states that have the written exam and/or part of the written exam exempt? Similar to the theory that we use in the skills test that you've been driving for two years.

MR. MOLOFSKY: Well, I can tell you this. Florida eliminated about eight or ten questions, okay? In terms of the legislative proposal today, no, it doesn't occur anywhere else.

ASSEMBLYMAN MORAN: Okay. Now let me ask you--

MR. MOLOFSKY: I'm not aware, but I know Wisconsin is struggling with this right now, and I think it is moving toward doing something comparable.

ASSEMBLYMAN MORAN: Would it be better if we did a mass testing where we had groups of-- Let's say each county took on their own county, and they did it through DMV and we used schools, very similar to the way we do the SAT exams with

youngsters. The instructions we do on TV in a classroom of 30, and we have 30 classrooms full of 30 kids, and they watch the instructions, and those students -- and we've done it through Princeton Testing -- where they've had language barriers. We've done it on TV for them, orally, and they've taken it. Is that possible that we could do that?

MR. MOLOFSKY: It is certainly possible, and I think one of the hard questions is, how are you going to organize the testing system in the State? There are a lot of options, and I think if there is to be any legislative requirement, it should be that whatever is going to be developed, it should be in consultation with the affected parties as well as your Committee, so that we're not having something jammed down our throat.

There's a provision in here-- One of those provisions that I move to strike for example, that gave too much authority to the Director, was a provision that said he could remove a person or deny him a license if they didn't want to take the test on the corner of 14th and 5th, at 2:00. If for some reason that was inconvenient, that gave him the discretion to deny him the chance to take that license. That makes no sense, you know. I think that's provision number 15.

But I think there is a way of going that's fair, that has many site locations-- You know, it's a question of how much you can afford; you know, how many site locations you want? You know, it's either the State's going to have 20,000 of them, or the driver's going to have to come 50 miles-- You know, come to the nearest site, but certainly making them available in community settings, in the way that you described is something to work toward.

It's a question of how much money you want to spend and how you put that system together.

ASSEMBLYMAN IMPREVEDUTO: Do you have any models of any of the other states that have already some of the things that--

MR. MOLOFSKY: Yes. I can-- You might want to look at Maryland. I think Maryland is using-- They're testing, and I don't think it's that much of a-- They've answered those questions about site locations, the oral exam, the Spanish exam. We haven't had any problems. We represent the City of Baltimore's transit workers, and our people have been going through it that way, and others in Maryland. I think it would be helpful from a staff level, or otherwise, to contact a few states, and we could suggest certainly Maryland and a couple of others.

ASSEMBLYMAN IMPREVEDUTO: Larry will be in touch with you.

MR. MOLOFSKY: California has had the most extensive experience, obviously; Washington and Oregon also.

Back to the nature of the exam. I would like to leave with you, I don't have the ten copies but, this is a version of the exam that was used in California. We circled some of the questions that came to our mind as being troublesome; ones that seemed to have no relevance for bus drivers that may be more appropriate for trucks. It would give you an easy feel.

Some of them have to do with driving maneuvers, the correct way to make a turn. Others have to do with cargo and loading issues that school buses and over the road transit buses have nothing to do with. Some have to do with downshifting, the actual physical operation of the vehicle that don't exist in buses as they may exist: double clutching, you know. I don't know of any buses in the State of New Jersey -- am I wrong?-- that double clutch. I don't mean to be cavalier. I apologize, I apologize.

I would like to leave you with that, if I may. I'd like to leave you with a copy of a letter that you may or may not have seen, that goes through the Essex manual, and section by section raises these issues about what's right for a bus and wrong for a truck. Our view in all this, obviously, is a truck is not a bus, and I think the test should reflect that.

ASSEMBLYMAN IMPREVEDUTO: I think we agree with that. You'll provide us with that?

MR. MOLOFSKY: Yeah. I would like to leave it with you, and I have a copy of the manual that is highlighted, based on that letter. So, you could easily look at the letter and reference to sections in the manual that need to be changed, or at least have footnotes added to, so that people know that they will never need to know it but for the exam, or maybe you should no longer include it in the material.

With that, unless there are any other questions, that basically is it, in a nutshell. I appreciate your time this morning.

ASSEMBLYMAN IMPREVEDUTO: We thank you, and I certainly feel that your testimony has been extremely enlightening to us all.

SENATOR COWAN: Very, very good, Bob.

MR. MOLOFSKY: Thank you.

SENATOR COWAN: Both Bobs.

MR. MOLOFSKY: I would be happy to leave these materials, if you would like. The video gives you a very easy overview of what all of the material is about, so if you didn't want to review the written -- and the audio, similarly-- You may have already had this made available to you, I don't know, but this is an extra set if you want it.

SENATOR COWAN: How would we be in touch with you, Bob, if we--

MR. YACKEL: You can go through me or I can get to him.

ASSEMBLYMAN IMPREVEDUTO: Larry will definitely be in touch.

SENATOR COWAN: Okay, very good. I'll be in touch.

ASSEMBLYMAN IMPREVEDUTO: Thank you, again.

SENATOR COWAN: Thank you.

ASSEMBLYMAN IMPREVEDUTO: Okay. Can we ask Mr. John Beherns, and Mr. Lightbody, please, from Beachwood Public Works.

ASSEMBLYMAN MORAN: Is Rodin (phonetic spelling) still here?

UNIDENTIFIED SPEAKER FROM AUDIENCE: No.

ASSEMBLYMAN MORAN: No. Okay.

ASSEMBLYMAN IMPREVEDUTO: Good morning.

J O H N B E H R E N S: Good morning. I'm John Behrens, Department of Water, also representing the Public Works Department for the Borough of Beachwood.

ASSEMBLYMAN IMPREVEDUTO: Folks, could we have just a little bit of quiet? The double mike is the-- Yeah, both of them. One is for the recorder, and one is for the PA.

MR. BEHRENS: A couple of the items that we wanted to cover would be, from a municipality's standpoint would be the financial burden that the municipalities would have, especially the training aspect, the licensing, the purchasing of manuals, and other items involved.

Is there the possibility of the State looking towards some sort of, not necessarily financial help, but revamping something for our type of employees, for our type of agencies? It would be quite a burden on the public.

ASSEMBLYMAN IMPREVEDUTO: Well, as I understand, the manuals are free.

MR. BEHRENS: Well, the training involved, depending on how extenuating we have to get into; then there's a time element involved on loss of labor.

ASSEMBLYMAN IMPREVEDUTO: It is certainly something that we need to look into, a point that has not been raised before.

ASSEMBLYMAN MORAN: Here, John. You can have this one. (offers witness copy of manual)

MR. BEHRENS: Thanks.

ASSEMBLYMAN MORAN: It will save Beachwood a lot of money.

MR. BEHRENS: Okay. Also another area we wanted to look into is the civil service for the promotional aspect of truck drivers. How will this affect it, if it will affect it at all?

ASSEMBLYMAN IMPREVEDUTO: I don't see how the person-- Right now if your drivers who are driving don't have an articulated license and they are driving an articulated vehicle, they can't drive it. I don't see a change there. I mean, I don't know what your promotional scheme is, but in order for someone to drive an articulated vehicle, he must have an articulated license, currently. I don't see, really, how that would change? The guy would have to go out and get that license, and now he would have to get this license.

MR. BEHRENS: Well, if they already had that. If they got the license-- In other words, if we, through the means that we have, would there be civil service action needed for a promotional type thing?

ASSEMBLYMAN IMPREVEDUTO: I don't-- Still? Sure.

ASSEMBLYMAN MORAN: You know, Tony, John is bringing up a good point. If I am presently a municipal truck driver, and I do not qualify, or I do not get the CDL license, do I, in fact, lose my job? Do I go down to the next level? And I think the answer is probably going to be, "Yes."

I don't think it's any different than if you worked for McCullum trucking and you did not pass it, then you would be put back into the position next to, or lower to that particular position. I think you've got to feel comfortable with this Committee, and with the Senator, and with the Assemblymen, and the DMV, that every effort is going to be made to make sure that that doesn't happen.

If it does happen, it's going to be very few and far between. It's not the objective. The objective is to have everybody licensed properly so that we don't lose the Federal moneys.

ASSEMBLYMAN IMPREVEDUTO: Which would be that much more costly to our municipalities and the State, quite honestly. We're looking at about a \$30 million loss in Federal funds.

ASSEMBLYMAN MORAN: John, it's \$35 for the test, for the fees and everything, per person, estimated. So, it would be approximately what this gentleman had said -- Bob had said -- that the manuals are going to be made available with tapes for \$15. So, if the Borough takes \$15 and buys one set of tapes and manuals, and let's say that you or John or Jay runs a workshop for all of our employees, not just our truck drivers, but our other employees, God forbid, should have the license, if they had to move the vehicles. With the sewage authority, we're all going to be licensed, because with our (indiscernible) we're going to have to have it. God forbid, if one guy has it and he's out sick that day, and the truck has to sit there idly, so we're going to be working on that.

MR. BEHRENS: But as far as looking towards a different type of training or a revamping of what you're going to propose for municipalities, is that a subject that you might ponder?

ASSEMBLYMAN MORAN: Say that question again?

MR. BEHRENS: In other words, the format as you have it, going through the procedure that we're going to have to face, is there a possibility of it being revamped for governmental agencies?

ASSEMBLYMAN MORAN: I don't think it would be any different. I think it would be basically the same. I mean, of those levels, the general area for the exam tapes would be for everybody. The air brakes would be for everybody. Your people, obviously, would not be taking the passenger designation. What's the other one? You have the general, you have air, you have the passenger, you have the tanker. You wouldn't be taking the tanker, you wouldn't be taking the passenger. You'd be taking the general, the air, and the cargo.

MR. BEHRENS: Okay, that's all I have.

ASSEMBLYMAN MORAN: Okay. Thank you, John.

ASSEMBLYMAN IMPREVEDUTO: Thank you. I want to call Mr. Vincent Corascio, from the Greater Bergen County School Bus Owners' Association.

Vin, you and your people obviously did a lot of work in preparing this, and I'll tell you, it was very concrete and to the point.

EDWARD J. VAN DUZER: Thank you. We'll speak on that, if we may. I am Edward J. Van Duzer. I am the Executive Director of the Bergen County School Bus Owners' Association, and we spoke to you gentlemen in Secaucus, as you recall.

Since then, as you have remarked, we have been very, very busy. The Association put together a legislative committee involved with the Commercial Driver's License Act, and the result is what you have in front of you.

We would like to acknowledge the committee at this point. It was made up of Mr. Vincent Corascio, to my left, and another contractor, Mrs. Frances Finkel, who is in the audience, and several other members of the Association.

We appreciate the opportunity to again address these Committees concerning the pending legislation. As you are aware from our previous testimony, there are several points contained in the present bill which we feel could have been adjusted. We have endeavored in the following pages to offer some possible solutions and suggestions to the problems which will again rise in implementing such an ominous program.

Particular items we have discussed include: one, small passenger vehicle operator licensing, two is, the guidelines concerning, "the serious traffic violations," three is, the mechanic/driver licensing, four is, the grandfathering of the test skills, and five is, the ever popular third party testing.

While these five items do not express all of our apprehension with the Federal legislation -- the Federal regulations that followed -- they will provide for a smoother and less painful implementation of the CDL program for New Jersey drivers.

At the end of all this text there is an appendix for the reference material issued. We have done so, so your Committee can research that. We have attempted to use the latest material available in presenting our arguments. Again, you will have to forgive any redundancy in that matter if we have used it again.

In conclusion, we don't feel that any of the opinions offered would negatively affect New Jersey substantial compliance with the intent of the Federal law. Most importantly we don't believe that these options would lessen the safety concerns for New Jersey citizens, especially the school children, whom we transport.

We would hope that the information provided will be of assistance to the Committee, and again, state to the Committee our complete willingness and ability to work with you, the gentlemen from Motor Vehicle, and any committee in particular.

We'll open it up to Mr. Corascio.

V I N C E N T C O R A S C I O: You have before you, I believe -- everyone on the Committee has received a copy of our suggestions. The five points that we cover are items that may have been mentioned in our previous testimony. If you like, I can entertain any questions, or I can review the five items quickly for you.

ASSEMBLYMAN IMPREVEDUTO: You were here for Mr. Molofsky's testimony?

MR. CORASCIO: Yes.

ASSEMBLYMAN IMPREVEDUTO: I think many of the concerns that you have probably were touched on in his testimony, which I think was good.

There is on page one of your yellow booklet-- You talk about small passenger vehicle operating licenses. In Mr. Molofsky's testimony we heard that many small vans are now acting as kind of little buses, specifically up in the northern end of our State. As you well know in Bergen County, we have these little vans going back and forth to New York. Currently they would not be required to take this test. I think what you're saying is that you don't see the need for small passenger vehicles. A school bus--

MR. CORASCIO: What we're pointing out there is that under the Federal regulation, the minimum standards require vehicles carrying 16 passengers or more to be licensed under the CDL program. New Jersey currently has a program in effect which we feel covers that as far as the Bus II type licensing.

As far as the particular interest that we have in the school bus industry, these small vehicle operators would, under the current legislation as we see it, be put into a situation where they would have to obtain a CDL license.

ASSEMBLYMAN IMPREVEDUTO: For 16 or more-- For 15 or more-- Well, 14 or more, actually, according to this.

MR. CORASCIO: Well, no, actually, for any vehicle that carries school children.

ASSEMBLYMAN IMPREVEDUTO: Well, you need your regular school bus license now.

MR. CORASCIO: Right. Now, we're required that we must go under a written test and a skills test for the school bus license.

ASSEMBLYMAN IMPREVEDUTO: Right.

MR. CORASCIO: What we're saying is maintain that system under the New Jersey statutes, but we don't see any reasons to bring them into a commercial driver's license type situation where they will have to know about how much small arms ammunition and how much cargo loading that's contained in

the CDL testing information, when they are only going to be driving a vehicle which would be similar to a Dodge Caravan, or a small passenger car.

ASSEMBLYMAN IMPREVEDUTO: Yeah. I think the original premise on that was that once you got this license as a bus driver, you were able to drive not only a school bus, but another bus, should you choose to do that.

MR. CORASCIO: Okay. The area lacking in the CDL program as we see it outlined in the New Jersey driver's manual, is that there is no reference to anything, any particular areas covering the operation of a school vehicle in a sense that it has been covered in previous New Jersey manuals.

ASSEMBLYMAN IMPREVEDUTO: As a specialty item.

MR. CORASCIO: As a specialty item. There was information provided to the bus driver if he carried school children, and there were questions related to this, I believe, on the test.

What we're saying here is that since the CDL program as such, does not contain any of that information pertinent to the operation of a school bus in particular, we offer the option: 1) of setting up a program where first of all these small vehicle operators will not be required to have a CDL -- Looking into a pretrip inspection and whatnot.

In the manual, again, it requires you to inspect brake drums and shock absorbers. If it is going to be required in the manual, and it is going to be required knowledge of our drivers, then this must be done as part of the pretrip inspection. Otherwise you will be opening yourself up to liabilities, and negligence areas.

ASSEMBLYMAN IMPREVEDUTO: Yeah. I think that was addressed by Mr. Molofsky, also.

MR. CORASCIO: Now, it's kind of impossible to do that with a car without physically getting underneath the car. That's one area.

The other area is if we have the options as stated in the New Jersey manual right now, that the taxi and limousine drivers and the other operators of these small vehicles would be exempt from having to obtain a CDL. Then the other point is, once you change those over to a school vehicle -- you take the same vehicle with the same driver and put two school children in the back -- now the driver must know about small arms ammunition, but according to the-- There's no information in the manual having to do with the safety of the children.

If you take that small portion of the current New Jersey test, possibly between five to ten questions, and according to the problems that DMV has mentioned that they would have with FHWA approval of testing procedures etc. and just clip it to the New Jersey test, just take an extra 10 questions and clip it on there, having to do specifically with school buses. Then you're getting a school bus qualified driver at the same time that they would be getting the CDL.

Also, you can take the same test and apply it to New Jersey drivers who operate the small passenger vehicles, without having them having to go through the entire CDL process. In that way, you're killing two birds with one stone, and you're still getting the same quality of drivers that we've had in the past.

ASSEMBLYMAN IMPREVEDUTO: I think what we need to know -- and I don't know if you can give us that answer, but it's something that we are going to have to research, and it's going to be Larry's job when we leave here today -- is finding out what exactly the Feds will allow us to do in those circumstances? I think that's the gray area. The last one was the pretrip. Now we're getting a little more finite, and saying really, what is it the Feds are saying? What's the regulation? What's the minimum? What is it that we can do, and what is it that we can't do?

Certainly, if we are permitted to do that, I would have no trouble with that. I think the question is, though, are we or are we not permitted to do it?

MR. CORASCIO: I think previous testimony today has indicated that there is a possibility that we might be able to do it.

ASSEMBLYMAN IMPREVEDUTO: Yeah. That's what we need to look into.

MR. VAN DUZER: Just a little aside, if I may, also. In my other wearing of another hat with my employer, I am a driver trainer/instructor. I have heard testimony concerning a pretrip check of a vehicle. All new applicants who are currently training with me, are strenuously checked on that pretrip by me. It is taught to them. However, we do not go underneath the hood. We do not lay on our back and crawl under the bus. We do not test vigorously the steering knuckle, otherwise known as the kingpin, which there are very, very few ways to do that. They get a very general walk-around knowledge of the vehicle itself having to do with the safe operation of the vehicle.

That pretrip, walk-around test by the driver of the vehicle, the operator, takes approximately 25 to 30 minutes after he has observed me do it. I do it once, he does it. I check him on what he does. We go over that vehicle from stem to stern. If, in my opinion, it is not safe to drive or there are deficiencies on it, it's noted.

Again, the bottom line there is the operator of the vehicle. He is responsible for it. So, we make sure that vehicle is in compliance and in good operating condition.

ASSEMBLYMAN IMPREVEDUTO: Do you check the engine compartment?

MR. VAN DUZER: I'm sorry?

ASSEMBLYMAN IMPREVEDUTO: Do you check the engine compartment?

MR. VAN DUZER: No, we do not.

ASSEMBLYMAN MORAN: When it's running you check it?

MR. VAN DUZER: When it's running we observe the gauges, which are telling us what is going on, basically, under the hood.

ASSEMBLYMAN IMPREVEDUTO: But you don't physically open the hood?

MR. VAN DUZER: Absolutely not. I would not allow that to happen for the possible liability side of that, as Mr. Corascio has stated.

MR. CORASCIO: There is one other area in the pretrip inspection. It is noted in the air brake section that you should check your slack adjusters for so much travel, okay? On a coach bus or a school bus, the only physical way to do that would be to get under the vehicle in the area of the rear wheels. You can check the fronts by turning the steering mechanism sharply from one direction to the other, to check each side. But in the rear it is virtually impossible to check that unless you actually, physically go underneath the vehicle.

Now, if that's mandated in the guidelines set up in the testing procedure, that these drivers should have knowledge in this area and that this should be done as part of the pretrip inspection, then if you go out and use a vehicle that you have not done that and something happens, then you are negligent for not checking it. Therefore, you are negligent for not crawling under that vehicle.

ASSEMBLYMAN IMPREVEDUTO: Yeah. I think that's the problem we saw.

ASSEMBLYMAN MORAN: That's scary.

MR. VAN DUZER: It's very scary. To the point where I don't want to say that it's distracting the driver, but I'll say that: It is distracting the driver, because they've got this cloud of gloom over their heads. What if? And I don't do this, and I don't do that? Do I really want this job? Do I really need this job?

And the answer to that is, yes. We really do need that job and we really do need that qualified school bus operator. As we stated in our previous testimony, the guy next door, the den mother, the upstanding pillar of the community; that's the type of guy we're looking for. And yes, we do need them.

And they're coming in and applying for these jobs and we're training them, basically, from scratch. Everybody within the last month that I have had in is coming in as a -- I say it in due respect -- as a rookie. The only thing they know about a school bus is it's that darn thing that gets in front of them on the road, and they can't get around it. It makes a stop every three hundred feet, and I'm late. That's all they know about a school bus.

So, we attempt to reeducate those people in particular, and we attempt to also reeducate the general public that way. However, along that line also, this is something that I know you gentlemen are not privy to at this point, but this is something that the Director of our State Association attended a meeting, I believe down in South Jersey the other night. I don't know whether you have that with you or not, but this was something that was telefaxed up to me yesterday by Mr. Earl Madison.

It's a petition to be signed by school bus drivers and if I may, maybe read it into the record at this point?

ASSEMBLYMAN IMPREVEDUTO: Can you just present it to us? We'll make it part of the record. We're really getting short on time.

MR. VAN DUZER: Sure. It's nothing official at this point, but I'd be happy to present that to you. Again, it's-- The basic school bus driver is petitioning something here against the unfair testing of a professional school bus driver.

These are the guys who have been out there for 20 years. They have been in the trenches, and they feel that they

are being discriminated against at this point. I'm speaking as a trainer, at this point, for the driver that I am training.

ASSEMBLYMAN IMPREVEDUTO: Please understand that we need to do what the Feds say we have to do.

MR. VAN DUZER: I understand that.

ASSEMBLYMAN IMPREVEDUTO: We are going to make it the purpose of this Committee and the hearings, to make this as fair as it possibly can be. The actual-- We want no one, or as least amount of people as possible, to be hurt by this--

MR. VAN DUZER: Absolutely.

ASSEMBLYMAN IMPREVEDUTO: --and I think, please understand, that's our prime message here.

MR. VAN DUZER: And you gentlemen are to be commended for that. That's your lot in life at this point, I guess, from now until April 1, 1992. I would enter this -- give this to you gentlemen for reference, then.

ASSEMBLYMAN IMPREVEDUTO: We have a copy now, as part of the record.

MR. VAN DUZER: You do?

ASSEMBLYMAN IMPREVEDUTO: We do.

MR. VAN DUZER: That's the one.

MR. CORASCIO: If I may, I'd like to touch on the-- Mr. Van Duzer had mentioned about the training. A driver coming in now, looking for a school bus operator's license -- Bus-I. If they come into your organization with an auto license, requesting a job as a school bus driver, I would just like to review with you the cost of setting something up under the CDL program.

First of all, you would have approximately a \$25 medical fee for the physical examination of the driver. Then you would have, in the State of New Jersey, a \$32 fingerprinting fee. Add to that a \$35 test fee for the testing process of the CDL license. Training-- A lot of opinions vary on training. There are different vendors out there now as far

as training for the written test, somewhere in the area of \$75 to \$125 per driver to have them coached in the knowledge that's contained in this manual in order to pass the written testing. Approximately, if you are looking at the skills test portion -- and the new drivers coming into the system would have to go through this -- you're looking probably at another 10 hours of training, at least, probably at the cost of another \$100, which would be \$200 for the training of the driver.

If you are going to pay these drivers and have them on the payroll while you're in the process of training them, at the rate in the area of \$10 per hour, that would be approximately another \$100 for ten hours of training. Add to that if you're mandated to have any type of drug testing program or anything like that, approximately \$50 for a drug test.

The total, from the time that driver walks in the door of my operation, to the time New Jersey certifies him with a CDL passenger endorsement, would be \$442 under the way I just explained it.

ASSEMBLYMAN IMPREVEDUTO: That would be the investment?

MR. CORASCIO: That would be the investment in that driver.

ASSEMBLYMAN IMPREVEDUTO: Again, please, we don't-- Unfortunately, we can't control that.

MR. CORASCIO: We realize that.

MR. VAN DUZER: And again, just backtracking on that, that would be a minimum that would be invested.

ASSEMBLYMAN IMPREVEDUTO: I would think-- We do have a number of other speakers who wish to speak, so if you could just sum up.

MR. VAN DUZER: Fine.

MR. CORASCIO: Well, I believe you have our testimony in written form in front of you. We appreciate the opportunity, once again, to address the Committee. We would

hope that when the New Jersey legislation does come through, that it does not have the ferocious impact that it would appear to have from the outset.

ASSEMBLYMAN IMPREVEDUTO: Let's hope not. We're going to be probably calling on you guys. We are going to set up a small committee, so we'll need somebody from your organization.

MR. CORASCIO: Correct. Thank you.

MR. VAN DUZER: Thank you.

ASSEMBLYMAN IMPREVEDUTO: Can we now bring up in tandem, please, members from the Teamsters? Mr. Robert Marra, Joint Council No. 73, and Mr. Jim Tansey, Teamsters Joint Council No. 73, United Parcel. Anybody else from the Teamsters want to come up.

Mr. James Tansey and Bob Marra.

R O B E R T M A R R A: Good morning, gentlemen. Thank you for giving us the opportunity to come down. Before I start, what I would like to do is-- I listened very carefully to the AFL's presentation. I would like to compliment them on an excellent presentation. We agree with every one of their proposals.

Gentlemen, Teamsters Joint Council No. 73 is on record as supporting this bill, with some exceptions. Let us assure you and the public that we are in full agreement that we must have safe vehicles and responsible drivers. In fact, we the committee, pride ourselves in having over 140 years of Commercial Safe Driving Experience. We do understand the concern of State government to insure the public use of safer highways. By the way, there's five of us on the Committee so that 140 years breaks down to a little better--

We feel the responsibilities outlined in the bill as written are too broad and must be addressed:

First we must call your attention to the need of having a State administrator serving on the CDL Committee with a minimum of 10 years commercial driving experience.

We feel the following issues are very important to the members of organized labor in the State of New Jersey:

1) The deadline of April 1992 is unreasonable and should be addressed. It is not within the grasp of the State's capability to complete testing by 1992. It is our feeling that 1993 may be a realistic goal. We came to that conclusion from the meeting in Secaucus on the testimony of the representatives of the Division of Motor Vehicles.

ASSEMBLYMAN IMPREVEDUTO: Unfortunately, we're stuck with the Feds, on that.

MR. MARRA: I understand, but as I go further down I still can't see how the State can complete it on a timely basis. This one, I think you gentlemen will like:

2) To reduce the financial burden on the taxpayers of the State of New Jersey, we feel on-site testing should be implemented.

ASSEMBLYMAN IMPREVEDUTO: Could you amplify that, Bob?

MR. MARRA: Yes. As a matter of fact, to my understanding, I was at Red Star Express Line Thursday morning, yesterday, speaking with their safety director. He informed me that in the State of Virginia they have completed the CDL testing and they used on-site testing. They went to the trucking companies, under supervision, and tested them right there.

If I remember, when we were in Secaucus at the last meeting, there was a lot of conversation on how we were going to test the truck drivers and the bus drivers and so forth throughout the State: the use of armories, the use of colleges, and so forth. To do that, I think, it's almost an impossibility to complete it by the schedule. If it was done on-site testing and supervised, I think it would expedite it. It would cause less inconvenience to the drivers and the public, and I think it would save the State a lot of money.

ASSEMBLYMAN IMPREVEDUTO: What you're saying is that we would bring the test to United Parcel, to Red Star-- All the drivers would be there and we would give the test and boom, they're gone; they're done.

MR. MARRA: And then Public Service, and then on and on. Yes, yes, Mr. Impreveduto.

ASSEMBLYMAN IMPREVEDUTO: And then those people who failed the test the first time around there-- Would you be opposed to saying, "Okay, if you passed it, you're done. If you didn't pass it, now we've narrowed it down to a smaller group of people. We're going to have testing sites at four or five places throughout the State. You have to go there to take the retest."

MR. MARRA: Yes, I'm positive that would be agreeable:

3) Testing should be done on a sixth grade level with a 70% passing grade.

ASSEMBLYMAN MORAN: Is the percentage regulated by the Federal government?

UNIDENTIFIED SPEAKER FROM AUDIENCE: Eighty percent.

ASSEMBLYMAN IMPREVEDUTO: Eighty percent. That's what the Feds want on that?

MR. MARRA: Excuse me, sir. I think the last time was 80%. We feel the sixth grade level because reading the booklet -- and Mr. Schwartz testified before and I think everybody in the room well understood it -- some parts of that book might be at a sixth grade level.

ASSEMBLYMAN IMPREVEDUTO: Some are at freshman college level.

MR. MARRA: Others are at a college level. So, it is very difficult:

4) When necessary, oral or visual testing should be available. This might be--

ASSEMBLYMAN IMPREVEDUTO: This I'm interested in, yeah, the cargo.

MR. MARRA: Yes. This might be a little confusing:

5) Cargo under seal. Responsibility should be removed from drivers.

Now we're into a general freight area here. Every day you could have a road man leaving from a facility, say in Newark, New Jersey going to the compound at Suffern, New York to the Thruway, and picking up a second trailer. Now, that second trailer is under seal.

ASSEMBLYMAN IMPREVEDUTO: What does that mean, under seal?

MR. MARRA: Now, it could be under three different types of seals.

ASSEMBLYMAN IMPREVEDUTO: Define for us what, "under seal" means?

MR. MARRA: Yes, I will. It could be under a company seal, or a shipper's seal. That's only a very thin piece of aluminum with a number on it. It's a security seal. When they leave that terminal the guard will mark down that seal. At final destination that seal will be broken, and for security reasons, it better be the same and the same number.

ASSEMBLYMAN IMPREVEDUTO: In other words, what you're saying is that goes through the backdoor handle.

MR. MARRA: It goes through the backdoor lock.

ASSEMBLYMAN IMPREVEDUTO: So that in order for you to open that door, you must break that seal?

MR. MARRA: Absolutely. Now, there's a second type seal. The second type is what they call a security seal. This is for high value loads. It could be televisions, it could be arms, it could be guns, it could be anything of high value. That seal is made of steel and it is roughly about a quarter of an inch thick.

There is no way that driver going to pick up that second unit or at a closed terminal with no one around could

open that seal to check the load to see if it's properly balanced out according to weight. He would have to have heavy cutters in order to do that.

ASSEMBLYMAN IMPREVEDUTO: Is he allowed to do that?

MR. MARRA: No, he is not. The company will not allow them to do that. You are not allowed to break a seal. In an emergency situation on the road, yes. If there's a fire in the trailer or something to that extent, yes, at that time you could break it.

ASSEMBLYMAN IMPREVEDUTO: Well, Bob--

MR. MARRA: Now, there's another seal which is more of a problem for the driver and for the company. That's what we call an in bond seal. Now, in bond is cargo, the majority of times coming from a foreign country -- in bond through customs, which is put on by the customs. That cannot be broken except by another customs inspector at final destination.

So, there is-- If a driver broke that seal, the company and the driver would be liable for a very heavy fine that's in the area of \$5000, split between. So, how we get around that, gentlemen, I don't know. We're looking for a little help on that.

Any questions on the seal?

ASSEMBLYMAN IMPREVEDUTO: Bob, under your current rules and regulations that the trucking industry operates under now, the testing procedures, everything else, certainly, a truck is supposed to be loaded in a certain manner?

MR. MARRA: Of course.

ASSEMBLYMAN IMPREVEDUTO: I guess that's addressed right now. Is that addressed anywhere -- current legislation, Federal government, State of New Jersey, anywhere -- that says what you do in those situations where -- how do you know if that truck is loaded properly?

MR. MARRA: By eye. By actually looking at it. By actually looking at it you could see if it's leaning over to one side or to the other side.

ASSEMBLYMAN IMPREVEDUTO: Okay. So you can still do that now, correct?

MR. MARRA: Yes. You can do that by visually looking at it this way, on the outside. But as far as actually opening up and looking into it, no you can't. Only at the company facility, if the facility is open.

Now you could have another example. You could have dangerous cargo in there. You could have hazardous material.

ASSEMBLYMAN IMPREVEDUTO: Would you--

MR. MARRA: Now, the driver's bill of lading might state it's number so and so of the hazardous material code. Everything is there, the labels are on it, yet the contents-- It might be drums. The contents itself might not be labeled properly.

Here, the driver stands the responsibility of this in that event that something-- If there was an accident or a leakage. We feel that that driver should not be responsible for that if he cannot actually, visually see it.

ASSEMBLYMAN MORAN: Tell me in 22 words or less how do your drivers handle it now?

UNIDENTIFIED SPEAKER FROM AUDIENCE: Very carefully.

MR. MARRA: Very carefully is correct.

ASSEMBLYMAN MORAN: No. I'm a driver and I have, you know, I'm driving TVs. And I'm driving and I hear, when I make a turn, my cargo is shifting. The second time I make another turn I start getting concerned that there's something wrong inside there. Do I pull over and call up and have somebody come out to redo the--

MR. MARRA: Yes. You would have to call the company and you would have to have a company representative to come up to break the seal.

ASSEMBLYMAN MORAN: Okay.

MR. MARRA: Or be authorized, but only on the one class seal. On the other two we couldn't.

ASSEMBLYMAN MORAN: And that's the way it should be.

ASSEMBLYMAN IMPREVEDUTO: What would he do in that case. If you've got cargo that's custom sealed and the load is shifting? What would you do?

MR. MARRA: And the load is shifting? Just pull it over to the side.

ASSEMBLYMAN IMPREVEDUTO: And leave it there?

MR. MARRA: You just have to stay there with it until the company comes up. The company would get a hold of a customs official to come, to be authorized to break that seal.

ASSEMBLYMAN IMPREVEDUTO: I guess my next question would be: You're the driver, you go to wherever you have to go and you pick up one of these custom-- Port Newark, okay, and you go to pick up one of these loads. You look at the trailer and you see that it is not sitting properly. Can you say to them, "I'm not taking that trailer"?

MR. MARRA: Yes. Absolutely.

ASSEMBLYMAN IMPREVEDUTO: That's ideally. Pragmatically, practically, what would happen if you say, "I don't want to take that trailer"?

MR. MARRA: What would happen is, using that example of the custom seal, you would be at Port Newark, or Port Elizabeth, where they do have a customs office, okay? Then you would bring it to the customs office and the customs office would have to cut the seal and check it for you:

6) Pretrip inspection, we agree, in accordance with the Federal Motor Carrier Safety Regulations, DOT Section 392.7 which has been brought up numerous times today.

As far as Mr. Schwartz' testimony, I think Mr. Tansey would like to comment on--

J A M E S T A N S E Y: I would like to comment after you're done, please.

MR. MARRA: Okay, Jimmy:

7) Applicants with two or more years of industry experience, and a clean driving record verified by the employer and State Division of Motor Vehicles should continue to work until he successfully passes the test.

8) If an applicant fails, he or she shall be retested only on the portion of the test that the applicant failed.

I think we went through that before. I hate to be redundant, but--

We have been informed that the following was passed overwhelmingly in the Pennsylvania Senate and House of Representatives recently. Therefore, we feel that these points should also be incorporated into the New Jersey bill:

1) Occupational "Bread and Butter" License: Permits drivers of commercial vehicle to continue to drive a commercial motor vehicle if his or her personal driving privileges are suspended unless the reason for the suspension is a disqualification under Federal law;

2) Employee protection: This provision says that drivers cannot be disciplined for refusing to drive an unsafe commercial vehicle. It provides intrastate protection identical to protection already contained in Federal law applying to interstate drivers.

3) Indemnification of drivers for vehicle violations: This provision would relieve drivers of penalties and fines due to vehicle violations, not driving violations, and places penalties and fines with owners or operating companies;

4) One version of written test: There will be only one version of the CDL general knowledge test and each endorsement test. The use of one test should reduce confusion in the testing procedure and emphasize that what is being tested is driving knowledge and not literacy skills.

We, the Committee, reserve the right to add to or delete or amend anything herein. We, the Committee, who

represent the Teamsters affiliates throughout New Jersey, will work in harmony with your Committee and draft practical, logical solutions for this test.

Thank you, gentlemen.

ASSEMBLYMAN IMPREVEDUTO: Jim?

MR. TANSEY: Yes, Assemblyman Impreveduto. In response to Mr. Schwartz's pretrip inspection, and I know, Mr. Moran, I hate to correct you because you're a guy who is going to have a lot to say in this.

In regards to pretrip vehicle, it is the driver's responsibility to check the gas and the oil in the vehicle. That is part of his pretrip inspection.

ASSEMBLYMAN MORAN: With the gauges.

MR. TANSEY: No, literally check the oil. Pull the dip stick out and check the oil, because the gauge could be faulty. If there is no oil in that vehicle and you drive down the highway, and that engine seizes up, the employer is coming after you.

In another case, if you're driving down, and you run out of fuel -- all you have to do is open the tank and look. If you run out of fuel, they're coming after you, also. That's part of your pretrip responsibility.

Mr. Schwartz made a statement -- and I hope he's here because he can get up and take a shot at me -- but he made a statement that he's seen people do pretrip in seven minutes. Well, I'll be down there tomorrow and walk on water for him and teach him another trick.

There's no way anybody can pretrip a vehicle properly, walking around, checking the outside of the vehicle, getting in, checking the gauges, and doing what's in this so-called manual in less than 20 to 30 minutes.

Right now we represent United Parcel and we have 500 trailer drivers in northern New Jersey. Our biggest tractor

trailer operation is the double bottoms. On an average of 50 to 55 minutes to hook up and pretrip these vehicles properly, that is what it takes.

Mr. Schwartz also made a statement about the difference if we run locally or in a district. What is the difference? If I run from Secaucus to Edison or if I run from Secaucus to Baltimore, I have to pretrip that vehicle the same way as if I was going on a long trip, because safety is the number one factor here.

If I ride down the highway going to Edison and a stoplight doesn't work, a trooper pulls me over. I say, "Well, I wasn't going on a long trip so I didn't have to check it." That's crazy. The law doesn't work that way. Safety is the issue here, and you have to do the same thing every day. That is part of the pretrip, and that's a thing that we are into.

Another question which was very disturbing to me, and I hope I don't offend anybody out here, but we represent the Teamsters. We're union carriers, drivers, and we take pride in being Teamsters. We pride ourselves on safety. We get a lot of bad publicity about truck drivers, and I'd like to read a little statement I got from the International in Washington.

It says: "No overall figures exist on which to compare accident rates for Teamster drivers versus nonunion drivers. However, I have one piece of information which you may find helpful in preparing for your New Jersey hearing.

"The National Safety Transportation Safety Board recently released reports on studies on fatigue, alcohol, and other drugs and medical factors in fatal to the driver heavy truck crashes. Enclosed is a table which shows--" What it shows is that 12% of nonunion drivers tested positive for alcohol, where none of the Teamsters tested positive for alcohol.

One out of eleven Teamsters tested positive for drugs where 35% of the nonunion professional drivers tested positive for at least one drug, including alcohol.

The fact is, that the figures for individual drugs add up to more than 35%, reflect the abuse of more than one drug at a time among nonunion drivers.

That's our biggest concern. Is this test-- We're a captive audience, you have us. We're the Teamsters, union drivers. We work in a shop. You have us. How do you get the owner/operator?

That's always been our question. How are you going to police him? Is he going to do a seven-minute pretrip, whatever Mr. Schwartz-- He's going to get in his truck, start it up, the lights work, he's going. He could care less if the springs are broken.

We're your audience. And I think, you are beating up on us too much. You're taking too much advantage of the Teamsters and these laws should be amended so we get some help. Thank you.

ASSEMBLYMAN IMPREVEDUTO: I think, Mr. Tansey, one of the things, that the penalties, I hope, are going to be so severe that someone who does not have this kind of a license, and is caught driving that truck in our State--

MR. MARRA: We hope so, Mr. Impreveduto. We just hope that what doesn't come out of this is -- came out of deregulation. Because, prior to deregulation you did not have the wrecks on the road without the brakes or without the lights. You did not have the high percentage of accidents that you have now currently on the road.

Deregulation caused this monster. Let's not have more government intervention that's going to make it worse. That's all we ask.

ASSEMBLYMAN IMPREVEDUTO: We are going to set up a small committee. I asked the bus drivers, and I'm asking you as Teamsters to join us in this little committee to look over this testing procedure and look at some of the things that Mr. Molofsky raised. We will be contacting you within the next few days or weeks.

MR. MARRA: Thank you very much, gentlemen.

MR. TANSEY: Thank you for your time.

MR. MARRA: One more shot at Mr. Schwartz. I would love to see him check the front brakes of a tractor who has dust covers on it without a screwdriver and without getting under there to do it. He's pretty damned good if he can do that.

Thank you.

ASSEMBLYMAN IMPREVEDUTO: Thank you gentlemen.

Okay. Fran Finkel?

MR. YACKEL: That was the bus owners.

ASSEMBLYMAN IMPREVEDUTO: Jeannine LaRue? Come on up. Teachers are required to take this license by the way. Jeannine is from the NJEA, representing all the teachers who are required to take CDL. Thank you, Jeannine.

J E A N N I N E F R I S B Y - L a R U E: Good morning Chairman Cowan and Chairman Impreveduto. As has already been stated, but for the record, my name is Jeannine Frisby-LaRue. I am the Associate Director of the NJEA Government Relations Division.

Needless to say, these bills have created a lot of controversy within our organization among our school bus drivers. As you know, we represent over 130,000 school employees throughout the State, and about 9000 of them are school bus drivers.

You have a written statement from me -- a four-page written statement that I am not going to read to you today.

ASSEMBLYMAN IMPREVEDUTO: Thank you.

MS. FRISBY-LaRUE: But, I am going to touch on the major points of our concerns with the legislation. I think that it is fair to say that we realize that this has basically been thrust upon the State of New Jersey through enactment of a Federal law. So, we're not going to reinvent the wheel and try

to make suggestions that we don't like with the Federal law itself. We'll talk about the bills and the implementation of that law in the State.

I want to say first that we have really been working closely with the Division of Motor Vehicles. I want to commend the staff there. We have met with members of the staff. They have been most accommodating in trying to answer a lot of the questions that we have.

There are four areas that we are going to make suggestions to members of the Committee this morning, as they relate to school bus drives only.

The first would be in the area of the testing fees. Now, I understand that the fee itself will be approximately \$35. That's what you're looking at for the test. As you know already, the school bus drivers must pay for the fingerprinting upon renewal of their licenses. That has just gone up to \$32. They must pay in many districts for their physical examinations, and also some of them are even required to undergo drug testing.

In order to become a school bus driver in the State, it could run anywhere between \$200 and \$300, just to be qualified to drive the bus. With that qualification, they get a big \$140 to \$160 a week pay. Most of them are part-time, and we're really concerned about one more fee being put upon our school bus drivers.

We're making a suggestion that right in the bill, that it say "for currently employed bus drivers" -- we're not talking about those people who will apply to be bus drivers after the changes -- but "for the currently employed bus drivers, that the employer pick up the tab for the testing fee."

We knew that would be noncontroversial, that's why we put that in there. (laughter)

ASSEMBLYMAN MORAN: Outside the cap?

MS. FRISBY-LARUE: Anywhere you want to put it, Assemblyman, inside or outside the cap. But we are making that recommendation and it has come forth from our members. Loads of phone calls. They just don't want to have to pay one more dime.

In fact, what we're finding out now that because of the increase of fee for the fingerprinting that has just gone up, a lot of bus drivers are just saying forget it. It's just too costly to keep paying this kind of money for \$120, \$130, \$140 a week. So, we're making that recommendation to you this morning.

The other area -- probably the most controversial with our members and I would say the most intimidating -- the components of the test. We're really concerned about what kind of tests the school bus driver will have to take.

From what we're finding out in a lot of the districts, the rate could be as high as 70% of our bus drivers are housewives. They want to work part-time. They like the flexibility of the hours. They are not mechanically inclined. They don't want to become mechanically inclined, and they're really worried as to what the components are going to be on this test -- on this skills test.

We're wondering if the Committee has given any consideration at all as far as designing a test just for school bus drivers? We think that is appropriate. We're not trying to yank us out of the whole process and make things easier, but we think that is appropriate. We think that perhaps the rules are a little different.

We believe strongly that yes, they should know the safety features. They should know all the rules and should be able to demonstrate that, but to have to take a test that commercial drivers are taking-- The whole concept is intimidating for our members.

We already have a school bus driver shortage throughout the State. We think that this skills test will add

to that shortage. We're asking the Committee to give that consideration as you move forward in the process.

The other area -- still on the test-- We're happy to hear through the Division of Motor Vehicles that two considerations are being given as far as languages. One, that they're looking at designing an oral test, and also they're looking at a test that would be for Spanish speaking people.

We have in one of our districts, I believe it's up in Hudson County, where 90% of the bus drivers speak and read only Italian.

ASSEMBLYMAN IMPREVEDUTO: Sure, pick on the Italians.

MS. FRISBY-LARUE: Now, unless we're going to send Assemblyman Impreveduto to sit with them as they take this test, we're asking if the Committee would give some consideration-- And we know it's a difficult charge to look at those most commonly used languages in the State and to come up with a test that will accommodate everyone, but we're asking you to give close consideration to go beyond the oral and the Spanish speaking test, as you develop it.

The third area-- The fourth area, which will probably also be controversial -- and it's a major, major concern of ours -- that is the training component. There are all kinds of rumors out there already, that our members are calling in and asking, "Is it true that I'm going to have to be able to know all the mechanics of an 18 wheeler?" or, "Is it true that if I fail the test one time, I lose my license? I won't be qualified to get a renewal of my license?"

We've been digging around. We've sat with staff of the State Department of Education and also the Division of Motor Vehicles to get some of the answers to these questions to help allay the fears. I have handed you, on the blank sheet, two sides, a flyer that we've developed, a "Q" and "A" that will run with a lot of art work, of course, but it will run in our newspaper for the June issue; just the basic questions that keep coming through our shop.

We're also going to mail this out to all school bus drivers who are NJEA members in the State, and that will go out the second week in June. But still, we don't think it's enough. We feel that there should be a required component of this bill that would provide a comprehensive training session for all currently employed bus drivers; whether it's set up on a regional basis, or whether the people from the State would actually come into the different school districts throughout the State and give a presentation on the components on the new law to answer the questions, so that we don't lose any potential applicants once the bill has been signed into law.

We think it's important. As I mentioned before, already we have a shortage. I am hearing from some people who are calling in and they are saying that they are just not going for renewal of their license. They're afraid to take the test. The information is not out there. We know that there have been workshops presented throughout the State but they haven't been as organized through local school boards as we would like to see them.

We are -- and I guess it's more work on other agencies -- but we're recommending that perhaps the Department of Education and the Division of Motor Vehicles cosponsor such a training effort and have that training effort commencing as soon as the bill has been signed into law.

Those are the only four areas that we have concerns about today. I understand that you're going to be having more hearings, and I'm sure we will be there to make further comment.

ASSEMBLYMAN IMPREVEDUTO: Jeannine, thank you.

MS. FRISBY-LARUE: All right.

ASSEMBLYMAN IMPREVEDUTO: I think that--

MS. FRISBY-LARUE: You're not beating up on me today.

ASSEMBLYMAN IMPREVEDUTO: No. I'm going to go easy on you today. But, a lot of the points that you raised are certainly valid and have been raised along the way by the school bus people, and we certainly are interested.

MS. FRISBY-LARUE: Okay. Thank you very much.

ASSEMBLYMAN IMPREVEDUTO: Let's give the other end of Jeannine's-- Jeannine's counterpart, John Henderson, from the School Boards.

MS. FRISBY-LARUE: Who will agree with everything I said.

ASSEMBLYMAN IMPREVEDUTO: John? I should have brought you guys up. It's the first time you've ever agreed on anything.

UNIDENTIFIED SPEAKER IN AUDIENCE: Let's go to lunch.

ASSEMBLYMAN MORAN: Yeah, you can say that.

J O H N M. H E N D E R S O N: Thank you, Mr. Chairman and members of the Committee. I'm John Henderson of the New Jersey School Boards Association. I do not have prepared remarks. We came today largely to listen and to learn more in-depth about this topic. We certainly have.

We will take those comments and have a prepared statement at the last hearing. There are several issues that I just wanted to briefly allude to.

First of all, I just -- sort of a personal comment. I am the primary staff person from the School Boards Association charged with transportation issues. There are two people that I learned an awful lot about transportation from. One of those is Gus Kakavas, the transportation coordinator and supervisor from Toms River. I'm very happy to say -- happy to have -- to see Assemblyman Moran on this Committee, because that is part of my assurance that the school bus drivers' interests will be very, very well represented on this Committee as you work through your deliberations.

In speaking for the School Boards Association, we have long familiarity with the Toms River transporting district; not only one of the largest, but one of the best run throughout the State of New Jersey, Assemblyman.

ASSEMBLYMAN MORAN: Thank you.

MR. HENDERSON: He has that-- Toms River has that, and Gus in particular, has that kind of statewide reputation.

ASSEMBLYMAN IMPREVEDUTO: For the record, Jeff Moran drives a school bus at night. (laughter)

ASSEMBLYMAN MORAN: Tony taught me.

MR. HENDERSON: The second general comment is that as a lobbyist I'm here before a lot of Committees, and I also hear a lot of gratuitous, "We thank you for the introduction of this bill," kind of comments. I don't know how to say it more sincerely. We really believe that no bill will get out of this Committee without every paragraph being torn apart and flipped up in the air. Every pronoun will be thought through, and while we may not agree with the final product, we're absolutely convinced that this bill will be one of the finest crafted bills, when it finally does get out of this Committee.

The issues that I wanted to address can be broken down into several areas. Paradoxically, Toms River being one of the best transporting districts in the State, I understand, after talking to a few of the drivers, and this had been my impression that there really isn't a shortage of drivers in Toms River. There apparently is a waiting list.

Let me tell you how rare that phenomenon is, statewide. There is a tremendous shortage. This is one of the emerging issues in public education, the shortage of school bus drivers throughout the State. CDL, no matter what version comes out, we anticipate may have or cause a 5% to 10% attrition rate on top of that; that is, there will be bus drivers who say, "I don't want to take any test," and go and work at K-Mart. That, if anything, is going to raise the bus driver shortage issue even higher.

That having been said, CDL has to be done. Through today's other testimony, we hear that there is flexibility built into the test. You don't need a 50 question test. You can drop 20 of the questions off. Probably you can drop off

the cargo shifting questions. Maybe you can put in 10 questions -- hopefully you can put in 10 questions that have to do with loading and unloading of pupils and some of the other safety issues involved in pupil transportation, and we look forward to that.

We hope to be involved. We hope, through the Chair, to be involved in any committee meetings with or meetings with any subgroups that the Chair appoints to meet with DMV to work out these test items. We would like to help in the development of that.

Fees: Given that fact that there is a bus driver shortage, school districts will soon have to come around to the position of paying for these things. In particular I want to express agreement with Jeannine's point of view -- the NJEA's point of view -- about districts picking up the \$35 fee for the current drivers.

These are some of the poorest paid people in the school district. A lot has to do with the fact that they are part-time, but a lot has to do with the fact that they are only now coming into their own in being appreciated as the conveyors of the most precious cargo that any of us know. And that these drivers have 40 to 50 children at a time on a bus with them needs to be recognized, given more recognition. If picking up the fees helps do that, fine.

ASSEMBLYMAN IMPREVEDUTO: John, if I understand what you said, you represent the School Boards--

MR. HENDERSON: That's right.

ASSEMBLYMAN IMPREVEDUTO: --and you're saying that the school boards should pay for this?

MR. HENDERSON: Let me put it this way, Mr. Chairman. School Boards will not oppose their picking up the fees. I'm sure for individual districts, this will be a somewhat controversial-- I'll be very honest with you. It will be somewhat controversial. But, this driver shortage is such,

that if this serves as an inducement to keep somebody driving, then it's something that the school board is going to have to deal with.

ASSEMBLYMAN IMPREVEDUTO: Just a short--

MR. HENDERSON: I checked with one of the drivers, I believe, in one of the school districts, one of the smaller school districts. It would come to \$1000 a year. If that's what it takes to keep the drivers driving--

ASSEMBLYMAN IMPREVEDUTO: I've just instructed Larry to make that part of the bill.

MR. HENDERSON: Okay. Next, the gentlemen from the Amalgamated -- let me check here-- Bob Molofsky, made a very interesting observation which we believe deserves some attention. That has to do with the smaller buses and dropping the number of drivers -- the threshold at which the drivers would have to take this test. For local school districts you often interchange drivers. They may drive the small vans. You do not even have to have a yellow school bus. Station wagons have been used to transport drivers.

You'd say now, would a coach taking the golf team to a match have to have CDL? Should that question be addressed? I think it's something the Committee should look at.

But certainly drivers transporting any number of children should probably have to be subject to CDL, whatever it is.

ASSEMBLYMAN IMPREVEDUTO: But what you're saying is, that person driving that station wagon, later on in the day may also be driving a school bus.

MR. HENDERSON: There's a practical reason, and there's a safety reason. The safety reason is that while you have fewer students in the car, the station wagon or the van, you also have a smaller van, you also have a smaller vehicle with less sheet metal, less safety built into the van. So what

you gain by having fewer children at risk, you lose by having a less sturdy vehicle. So, for that reason, they should be included.

The other reason is, you move drivers around. They may drive a Type 1 bus for eight months and then have to do a smaller van. So, just for simplicity sake, we believe that the drivers transporting pupils generally should have the CDL.

It simplifies things. If there is a crash and they didn't have CDL, wouldn't the school district be liable for a lawsuit?

ASSEMBLYMAN MORAN: John, under the Federal regulation there, maybe Mr. Pagano, the Colonel, could answer that, or Don Henry. If you have one youngster in an automobile and you're transporting that youngster as the golf coach, do you need a CDL license?

MR. HENRY: (speaking from audience) If you're transporting, you need to have the endorsement based on the design of the vehicle to carry passengers, yes.

ASSEMBLYMAN MORAN: So, if it's my car, then I'm exempt. I just need my regular license.

MR. HENRY: It's a passenger car. It's not a school bus 2 or one of those vehicles. That's one of the areas that we have to look at in a sense of, we currently allow school bus 2, a smaller version, to be a station wagon for transporting children. Our concerns were that they have the responsibility, based primarily on the comments about cargo, they would need to have the CDL as we perceive it.

If you or I were driving a passenger car, and we were transporting our own child, then it is not a requirement for passenger endorsement, so you and I would not have to then have a CDL. When you are transporting other children under contract to schools to school related activities, you have now entered into what we now currently endorse as a license with a bus endorsement, or a passenger endorsement, as the CDL would describe it.

ASSEMBLYMAN MORAN: So the answer is then, if we're using a van and a coach is driving the tennis team to a match, he or she needs a CDL license.

MR. HENRY: Yes.

MR. HENDERSON: But also Assemblyman, there is this other area that was just discussed; that is, the station wagon. There are some school districts that have station wagons that are not painted yellow--

ASSEMBLYMAN MORAN: Yeah, sure.

MR. HENDERSON: --that don't have the safety lights on--

ASSEMBLYMAN IMPREVEDUTO: But what he's saying is that that would be included, right Don?

MR. HENRY: I didn't hear the first part. A yellow bus has a seating capacity for the most part, of 16. You're transporting--

ASSEMBLYMAN IMPREVEDUTO: We're talking about a station wagon; a normal, everyday station wagon, blue, that's printed Toms River School on it.

MR. HENRY: If it has Toms River School on it now, it's a school bus II, and that driver currently needs a bus endorsement.

SENATOR COWAN: Is that what you're referring to, John? Does that clarify your question?

MR. HENDERSON: My question, and it wasn't a question so much as -- and it looks like they're doing this, is that they need to address that. Because there is this: The public typically thinks that the only two buses out there are the Type 1, the big bus; and the Type 2, small van. But there are station wagons that are used by school districts.

SENATOR COWAN: From what I understand from what he's saying, if you're under contract to a school district, and transporting pupils, you're required to have it.

MR. HENDERSON: And CDL.

ASSEMBLYMAN IMPREVEDUTO: What about-- Another question that Jeff raised, which is-- Don?

MR. HENRY: Yes, sir?

ASSEMBLYMAN IMPREVEDUTO: Another question that we just spoke about here, what about those districts that still use driver's ed cars?

MR. HENRY: No. Not required.

ASSEMBLYMAN IMPREVEDUTO: Even though you're transporting students?

MR. HENRY: That's behind the wheel driving experience, and it comes under the driver's education program whether it would be pulled into the health education program or whatever--

ASSEMBLYMAN IMPREVEDUTO: So that teacher would not need--

MR. HENRY: Currently no endorsements are required for--

SENATOR COWAN: If it's being used for the purpose that it's set up for -- driver's education.

MR. HENRY: Yes.

ASSEMBLYMAN MORAN: So what you're saying, John, is basically the problem that we're presently having throughout the State for bus drivers is going to escalate because now we're not going to be able to use the-- We have coaches now with their license that are not going to get their license under the CDL, and we're not going to have regular school bus drivers to fill in?

MR. HENDERSON: Right. It's a tremendous emerging problem. That's why the \$35 issue is-- You know, if that could solve it, if \$100 per driver could solve it, fine, but it-- I mean, whether the \$35 is in the bill or out of the bill, this is going to be a tremendous problem.

ASSEMBLYMAN IMPREVEDUTO: The tennis coach would be required to have a CDL, as we see it right now?

MR. HENDERSON: Well, what's confusing and perhaps we can get further clarification, is that in the bill, you now have the 15 pupil exclusion, which has been suggested to you to be reduced to seven, which we agree with, but what I started this line of discussion on was perhaps there shouldn't be any pupil number at all if the golf coach is taking, or if the golf team has to -- and there's five of them -- and they have to be at place "X," shouldn't there be a CDL person? Again, this is an open question: Shouldn't there be a CDL person transporting them?

ASSEMBLYMAN IMPREVEDUTO: I think what we're going to do is to ask Don Henry to come up in a few minutes, just to sum up. So hopefully we'll get some of these answers.

Don, we're going to ask you to sum up at the end of this in a few minutes.

MR. HENRY: Okay. Thank you.

MR. HENDERSON: Finally, Mr. Chairman and members of the Committee, you have a bill in front of you by Senator Bubba. This bill recently was released by the Senate Education Committee. It is based on a model of training from the National Highway Traffic Safety Administration. It calls for 10 hours of bus driver training.

It is in response to the fact that despite efforts, and again-- By the way, contract busing and local district busing like Toms River does not need this Bubba bill, but there are districts out there that are not providing adequate training for bus drivers.

There are 38 other states that require at least this Federal 10-hour program. New Jersey is not one of them. What I'm asking the Committee to do is to take a look at the Bubba bill and not follow it-- It is not necessary to follow it that closely, but it suggests to you several areas that could be melded into your bill. It calls on the Department of Education to take the lead in bus driver training. It's entirely appropriate that they do so.

One of the other people, by the way, that I learned a lot about transportation from is in this room, Mr. Steve Lovett, who is now retired from the Department of Education. Mr. Lovett and I worked very closely over the years on bus driver training ideas. Mr. Lovett has assured me that the Department of Education is entirely able to train trainers, and as Jeannine suggested, to set up, on a regional area -- perhaps through RCSUs, perhaps through county offices of education -- the necessary training for these drivers to pass the CDL. We certainly urge the Committee to involve the Department of Education very directly in this bill, and make them do the training of the trainers.

Thank you.

ASSEMBLYMAN IMPREVEDUTO: Thank you. Ladies and gentlemen, we have about five more speakers left to go. I would ask that you would please limit your testimony to about five minutes. Then we are going to bring up Mr. Henry and the good Colonel to sum up.

Can I have a Mr. Joseph Lomonico? Joe Lomonico? Joe is with the Driving School Association of New Jersey, in Fair Lawn. Down at the shore here for a Memorial Day weekend, right Joe?

J O S E P H L O M O N I C O: That's right. I have some papers I would like to give to the Committee.

ASSEMBLYMAN IMPREVEDUTO: Joe, please try to limit it to five minutes. We're really running out of time.

MR. LOMONICO: My name is Joe Lomonico, President of the Driving School Association of New Jersey. I'm here this morning to indicate our support for the whole concept of CDL testing, and yet we understand, as you have already heard, that there are some serious concerns and some need for modification.

We're here to make the State aware of a system of testing that may assist them in meeting their deadline requirements quickly and with less expense. It would also put

into place a system that would enable them to continue to be effective beyond the range of the immediate need.

The form you have in front of you deals with the third party testing concept. I won't read down it, but I can go over the ideas quickly. First, let me add that I did speak to the gentleman who previously spoke, indicating he was against the third party testing, and he indicated to me that he didn't really mean for it to come out that way. He said that they would be agreeable to the concept, especially where it would allow them to meet the deadlines necessary so that their drivers would not be threatened with the loss of their job as a result of not passing the State test.

We feel that we can provide, immediately, a series of sites, from 50 to 75 sites overnight.

ASSEMBLYMAN IMPREVEDUTO: Free of charge?

MR. LOMONICO: Run by driving schools who would be the logical person to conduct tests. It's our job to do traffic safety.

We feel that this system would provide you with the versatility of having the hours on a flexible basis; weekdays, evenings, weekends, even holidays as necessary. We also feel that this would put you in a position to have this serious problem, dealing with the 50%-plus failure rate that we've heard about throughout the other states already using the program, put that under more control.

Once again, there would be a sufficient number of vendors involved who would be able to provide the opportunity for the people who are taking the test, including those who passed it, to hear the correct answers to the information that they missed.

This is a safety test, I might add. It's not a test to determine academic capability. It's a test to make sure that our drivers, especially our commercial drivers in this

case, are fully aware and fully understand the information that they must know, to protect themselves and the rest of the motoring public.

We're not trying to keep answers from people. We want them to know the answers. Once we've gone over the answers, those who have passed, of course, would have their vouchers sent into the State. Those who have failed would have to come in for a retest. But again, this can be done on the spot. An immediate appointment can be made. It need not go through the mails.

When they come in, it is at that point that we would be sending the vouchers into the State for payment with regards to the test that we have given and have certified that someone has passed.

This whole procedure would be handled with the Motor Vehicles Agencies selling the original document as an application form to the people taking the test, giving them a voucher showing that they have paid, and then, of course, the system would work with us handling it; giving the test and moving on from there.

If you read our document, it points out that the State would probably provide start-up materials, but in the future there would be an opportunity for other materials to be used by each of the independent vendors, approved by the State, of course, again, saving the State some substantial sums.

We are also in a better position to provide an oral test capability on a multiple vendor basis of this type, especially with educators -- private educators if you will in this case -- dealing with that problem, and taking the time to read the questions.

Even the linguistics problem can be dealt with more effectively. Many of us have multiple language people working for us. We have Spanish speaking, we have Italian speaking. I have both Italian and Spanish speaking, and they could provide

an opportunity to immediately correct misunderstandings, and they can also give the test in their own language.

I think the suggestions made by others are very good when they state that you should try and provide the reasonable test questions required for their particular fields. We think this is sensible, and we also endorse that concept.

The pretrip inspections, I think again, has been said by the appropriate people. You have to take a look at and consider what is reasonable and what is viable and what is really going to be done. To require something by law and mandate, doesn't assure that it will be done any differently.

The question that we have to keep before us is what is the major contributing factor in the automobile accidents of a commercial nature? Is it equipment failure? If it is, then you have to place the emphasis on it that is being placed in some areas. If it is not, then we should be thinking of our test reflecting it in terms of driver error problems that we feel they should be dealing with and correcting.

That would fall into two categories: Where the truck drivers, bus drivers, and other commercial drivers may not be interacting with the motoring public because they lack an understanding of the ineptitude or lack of knowledge, if you will, of the typical driver, in relation to a commercial vehicle.

This throws another door open, that perhaps if this is so very important, maybe somewhere in our regular driver testing we should incorporate some information that helps the typical driver understand what he does when he pulls in front of a tractor trailer suddenly, slows down rapidly, and creates the problems. I have a feeling that many of the jackknifing problems we hear, are related to that type of thing.

So these are the thoughts that we express to you, and we hope that you'll look upon them favorably, and we hope that you'll be able to react quickly for the benefit of the people in our State.

ASSEMBLYMAN IMPREVEDUTO: Thank you very much.

MR. LOMONICO: You're welcome.

ASSEMBLYMAN IMPREVEDUTO: Can we please bring up Susan Resch and Frank Caizzo, from the Transport Workers Union. You must be Frank, because you're not Sue.

W I L L I A M E R N S T:: I'm not Sue.

ASSEMBLYMAN IMPREVEDUTO: Gentlemen, if you could give us no more than five minutes, please. And I'm sorry for that, truly.

F R A N K C A I Z Z O: Good afternoon, gentlemen. My name is Frank Caizzo. I'm President of Local No. 225, the Transport Workers Union, Hackensack, New Jersey. But, I also sit here as a representative of the International Transport Workers Union in regard to responding to the CDL problem, as we see it.

As a representative of several thousand transit employees, over the road, and school bus drivers in New Jersey, we wish to state the position of TWU concerning the approach of our State and how they should take into implementing the requirements of the Commercial Motor Vehicle Act of 1986.

From the onset, opposition is based on two fundamental principles. The Act's requirements should broadly cover commercial passenger transport. There should not be a class of itinerant carriers or drivers not subject to the Act's standards. Second, the licensing standards should realistically focus on the true requirements of safe commercial drivers.

The State should avoid excluding fully qualified drivers based on requirements not related to the job or requirements which are difficult for persons with limited educational backgrounds to handle.

With these principles in mind, TWU agreed with all other affected New Jersey AFL-CIO unions to support a series of amendments at the latest State convention. These amendments have been outlined by the representative from the Amalgamated

Transit Union, and we support the ATU's testimony and position. We believe that all suggestions are practical and hope that they will be adopted.

And if I may, without being formal or bureaucratically minded, having sat here and having sat at the Secaucus hearing some weeks back, and I must say, I don't seem to be repeating myself regarding patronizing; that I'm not. I want to say that we are well pleased with what the Committee has viewed at the Secaucus hearing, and we're pleased today with what we see as the response from the participants that were preceding us.

However, there is one thing that I do find lacking. I think it is something that should be a concern for, and that is with all of the transit operators -- I'm speaking of the employers in the State of New Jersey -- I have been seeing very few, if any, representations taken place here or at the Secaucus hearing. We've heard from all of the unions involved, those that are real concerned, and we've heard from individual enterprise, those people who I call that professional, who have a professional interest, and so I believe that some of the factors that have been brought forth before the Committee at both sessions are not true.

I don't want to sound egotistical or whatever, and I don't want to sound like I'm an expert, but I have 43 years in the business. I'm on my 43rd year. I've traveled. I've operated buses all over the country, including Canada. And I would say for the type of exposure and experience that I have, it's lead me to the administrative job that I have now, but in regard to the input by the so-called experts -- and in particular, one person mentioned here about a Mr. Schwartz-- And with all due respect, I regard any person with a background of his to be respectful and interested in the subject that he's dealing in. However, he's giving views that I can't accept as a former bus driver and one who is involved in the transit business.

We are lacking concern for those who, out of necessity, need a program that is bilingual; if not bilingual, for sure multilingual, because for the first time in the two hearings I heard somebody use another ethnic culture background in reference to the subject. Heretofore we only spoke of the Spanish background. But we need multilingual assistance. We need a program that's going to be able to handle the kind of person who seeks a job in a profession.

We have a lot of influx of, in filtering of people from other countries, particularly the Caribbean countries. They may have an educational background of their own ethnic culture and their language, but they don't fully understand what this test or the proposed testing program will show.

Aside from that, I implore you to give some of the considerations to that which has been proposed by those who preceded me. We believe that there is an essential need for complete modification in the format that we propose, as well as what others are proposing; complete modification of the initial bill.

In closing, there's only one thing that I want to make you mindful of. The Act is classified as a remedial law to the problems that the Federal government has foreseen, and in assistance with the program that is proposed by the Federal government, the State is trying to develop one of their own. But the Act is a remedial law, it should be liberally construed to promote the public health, safety, and welfare. Some of the things that we are looking forward to may very well impact on the safety, health, and welfare of the public.

So, we ask you to very seriously consider all of the recommendations that were given here this very day. Thank you.

ASSEMBLYMAN IMPREVEDUTO: Thank you.

MR. CAIZZO: By the way, excuse me for failing to introduce my colleague here, Mr. Bill Ernst, he is President of Branch 4, Local No. 225. His office is located in Lakewood,

New Jersey. He deals in public employment throughout the central and southern part of the State for our International.

ASSEMBLYMAN IMPREVEDUTO: We were kind of hoping for Sue, but we'll take you.

MR. ERNST: I know, but duty called.

MR. CAIZZO: Thank you.

ASSEMBLYMAN IMPREVEDUTO: Okay, someone who has come a very long distance to be with us today is Ms. Lynne J. Stanlick (phonetic spelling) from Lake Hopatcong. Lynne, are you still here? (no response)

Okay, Gene Crummy, from the Township of East Brunswick. Gene?

G E N E C R U M M Y: Right.

ASSEMBLYMAN IMPREVEDUTO: I'm sure you're just down here for your Memorial Day weekend.

MR. CRUMMY: Beautiful scenery, what else, right? Mr. Chairman, my name is Gene Crummy. I work for the Department of Public Works in the Township of East Brunswick, New Jersey.

Many of the things that I came prepared to talk about, I've heard discussed here, so I'm not going to take more of your time.

ASSEMBLYMAN IMPREVEDUTO: Thank you.

MR. CRUMMY: I'd only like to make it known to you that even though I'm speaking solely for a small contingent of people -- some 45 drivers, it does represent though, a much larger, possibly 5000 to 7000 drivers who, like us, are out taking care of public works, removing snow and ice from the roads, and many other tasks. So, we do have a concern.

Number one, safety is paramount in our operations. We think that what you're involved in is very, very necessary, and we support it. But I think that -- at least I hope -- that you would consider that to throw so many different operations into one bag, can be self-defeating. What I mean by that is this:

I would like to paint just a little profile of our operations. We have some 45 drivers, as I mentioned, in our department. Of those 45 drivers, I can tell you that we have four people who are impaired either physically or mentally. Now, these four people have been loyal employees of ours over the years, very faithful. They do their job well; they do it in a safe manner.

To disregard the human side of this would just not be called for. These people I can assure you, right now, cannot handle the testing that you are speaking about here. One person in particular has dyslexia and he's trying his darnedest to survive. We've got him going to school to overcome, as best he can, this problem. He's been burdened with this all of his life, and people didn't recognize it until just recently. I might add that I take a little bit of pride in the fact that I was able to address his problem and put him on the right track; but just a great person, you would love to know him.

We have another person on our staff who has a mental disability. Please bear in mind that we are encouraged, and we do hire people with these problems. That being the case, it seems once again a contradiction to do that and then put them in a situation that they can't handle. And unfortunately, we don't have the flexibility that if they can't handle these tests, to put them off somewhere else. We just don't have that flexibility. So we would ask that you please consider that aspect of it. I'm sure there are many others that fall into the same bag.

Another item that we would like to bring to your attention is that this whole licensing process is going to develop a market. It's been expressed here this morning. But like all markets, the supply follows the demand. And in this case here, we, knowing the time, the effort, the costs, the expense that we've given to our employees, we believe that we run the risk of seeing some of those employees going to a job

where it is going to pay more. That's the nature of the game; that's the way it's played. So, here again, this is another element that we're dealing with in this whole Act -- is a market developing.

Another item that I would like to address, or suggest that you give consideration to, is that presently our shop is licensed to test our vehicles under the Motor Vehicle Act. It might be considered that the same legislation that permits that also be permitted to handle the testing, both verbal and skills testing of our drivers. With the proper overseeing with the authorities, I'm sure that it's a practical application that could be carried out.

Another consideration we have is that the environment that our people work in-- If you would for a moment, just picture this. Our drivers work on an average of actual work, seven hours a day. The actual time that they spend behind the wheel, traveling over the road, averages no more than an hour to an hour-and-a-half a day. So, when you put the person like that in the same classification as an interstate trucker who is driving six hours, or whatever the time is at a clip at high speed on the New Jersey Turnpike and so forth, you can readily see where there is an imbalance here if we're trying to classify all people into the same testing.

Ladies and gentlemen, that's all that I want to bring to your attention here. I feel very confident that you're going to come up with a workable bill, but please consider some of those things that we have mentioned. Thank you.

ASSEMBLYMAN IMPREVEDUTO: We'll certainly do our best to do that, Gene, thank you.

Linda Bradley, please. Oh, I'm sorry.

Gene?

SENATOR COWAN: Gene, your testimony I respect greatly. You're the first one to come up here to talk about some of the people who have such problems, and I know it's a

very serious one, particularly yours. But, what we will be doing is reaching out for some of the associations that represent such people, because we haven't heard anything from them.

MR. CRUMMY: I'll certainly get them in touch with you. Thank you, sir.

ASSEMBLYMAN IMPREVEDUTO: Linda Bradley?

L I N D A B R A D L E Y: I am Linda Bradley, a Toms River School Bus driver, and I'm speaking for Gus Kakavas, who is the Director of Transportation of Toms River Schools, also Transportation Committee Chairman for the New Jersey Association of School Business Officials, known as New Jersey ASBO. He regrets not being here today and asks me to speak for him.

He feels that the CDL will promote professionalism throughout the industry, but the real need is to have instruction provided to the drivers. California and Michigan and many other states have gone through the process without lowering the grade of the test. There should be less worry about the type of test, and more concern about providing instruction.

He feels that a mandated specified time of instruction with the cost being taken care of through the raising of the present fee by \$5 or \$10. Possibly some of that could be reimbursed from the boards of education.

Thank you.

ASSEMBLYMAN IMPREVEDUTO: Thank you, Linda.

SENATOR COWAN: Thank you.

ASSEMBLYMAN IMPREVEDUTO: Okay. Mr. Peter Murphy, Murphy's Bus Service? Peter we have heard quite a bit about--

P E T E R M U R P H Y: Yeah. I don't want to beat a dead horse.

ASSEMBLYMAN IMPREVEDUTO: So, please sum up.

SENATOR COWAN: No, it's horsepower.

ASSEMBLYMAN IMPREVEDUTO: It's horse power. That was very good, Tom.

MR. MURPHY: Basically, our company, Murphy Bus Service, is a private contractor in the Monmouth and Ocean County areas. We have well over 100 school bus drivers employed. Our concern, basically, on the CDL is that we're being lumped together with many other drivers.

In my written statement there which you can read later I'm sure, I pointed out that there is room in legislation to have a separate school bus driver endorsement. We can have a separate test that is for a school bus driver. Our drivers do need to know how to drive a bus. They have to know how to handle children, how to unload them, discharge them, use safety equipment that a bus has. They don't need to know how to unload cargo, or load cargo.

Our concern right now is that Motor Vehicle has already put out a booklet that is supposed to be for our CDL test. It doesn't train a bus driver. It doesn't say much of anything about bus driving. We are all for training bus drivers, but we need to focus the training and not waste our time training them about other things that we don't feel are useful.

That about sums up our major concerns. We would like to see a school bus driver endorsement separate of all other endorsements. This can be done and has been pointed out by the Federal Highway Authority. In there I have that Dominic Spatero, in charge of the first region of the Federal Highway Authority, and in particular the Motor Vehicle Carrier Standards Division, confirms that the State does have the latitude to create a separate class of a CDL, limited to school bus drivers.

ASSEMBLYMAN IMPREVEDUTO: Thank you for your input.

MR. MURPHY: Thank you.

ASSEMBLYMAN IMPREVEDUTO: Brian Libby. New Jersey Motor Truck Association. No? Oh, Brian's here.

B R I A N L I B B Y: Mr. Chairman, on behalf of Sam Cunninghame and the New Jersey Motor Truck Association, thank you very much for inviting us here this morning. He regrets that he could not be here but asked me to point out to the Committee a few things that he feels needed to be pointed out before the Act is passed in its entirety.

Under Assembly Bill No. 3936, on page 1 line 29, the exemptions for volunteer fire companies, the New Jersey Guard, and farmers: Will the Committee be including the paid fire departments and all active service personnel, inasmuch as in this area of the State, there's a lot of active service personnel driving government vehicles?

ASSEMBLYMAN IMPREVEDUTO: I agree with you on that, by the way.

MR. LIBBY: Pardon?

ASSEMBLYMAN IMPREVEDUTO: I agree with you on that.

MR. LIBBY: Thank you very much.

ASSEMBLYMAN IMPREVEDUTO: But, that's a Federal waiver.

MR. LIBBY: Pardon?

ASSEMBLYMAN IMPREVEDUTO: The Feds waive that.

MR. LIBBY: On Assembly Bill No. 3258, on page 2, lines 15, 16, and 17, by regulation includes such vehicles designed to transport 15 or fewer passengers. What some people feel now is that they can remove the seats in some of these vehicles and come into compliance, and I think we should maybe address that in the Act.

ASSEMBLYMAN IMPREVEDUTO: It's definitely going to be addressed-- lowered by a lot.

MR. LIBBY: Okay. Another thing that was a concern was the gross vehicle weight rating. There are many companies today that buy a vehicle that's maybe specced at 29,000 pounds and they are registering that vehicle for 35,000 or 36,000 pounds. That is a concern, and I think it would be a concern of the State that if we're allowing these people to register

these vehicles for more than the gross vehicle weight rating suggested by the manufacturer, are we or are we not putting the State in a catch-22 situation if that vehicle was involved in say, God forbid, in a fatal accident.

Should we not address to Motor Vehicles to say that no vehicle shall be registered greater than the manufacturer's gross vehicle weight rating?

SENATOR COWAN: You say they are registering people that way, today?

MR. LIBBY: Yes, they are, sir.

SENATOR COWAN: Over and above what the specs, the manufactured specs are?

MR. LIBBY: Yes, they are. I'm sure it's not the Motor Vehicles fault. People are going into Motor Vehicle and registering their trucks for-- They're buying a 29,000 pound truck and they're registering it for maybe 35,000 or 40,000 pounds. The manufacturer says that this truck is only good for 29,000 pounds.

SENATOR COWAN: Aren't those figures all on the title of ownership and so forth?

MR. LIBBY: Well, when the vehicle gets sold from one to another, I don't know what happens in that area, but I have-- I can bear witness that one of my clients had me come and do safety inspections on every vehicle that entered his terminal. I did 569 inspections personally in four weeks.

SENATOR COWAN: And they were all overweight?

MR. LIBBY: Well--

SENATOR COWAN: A good number of them were overweight?

MR. LIBBY: --a lot of them were overweight.

ASSEMBLYMAN IMPREVEDUTO: I think we're going to have Don Henry address that, when he comes up.

MR. LIBBY: But, more importantly, what we found out was there is a need for pretrip inspection. As we pulled these vehicles out from their loading, we explained to them what we

were going to be doing, and why we were going to be doing it. It was just a safety inspection and education.

Specifically, one driver, I asked him, "Is there anything wrong with your vehicle?" He says, "Well, not really, but it's been steering a little funny the last couple of days."

ASSEMBLYMAN IMPREVEDUTO: But isn't-- I mean, the steering wheel play when a guy drives-- You can see that. You don't have to open up the hood or tilt the cab to see that.

MR. LIBBY: Well, I think once you hear what I have to say, you'll understand exactly what I'm getting to.

ASSEMBLYMAN IMPREVEDUTO: Okay.

MR. LIBBY: This particular driver, I asked him, again, "Is there anything wrong with your vehicle?" "No, no. Just, it's hard to steer once in a while, but that's okay."

We pulled the vehicle over onto the inspection pad, opened up the hood, and right where you check the oil, if the driver had looked down, he could see that the shock absorber was broken off of the main leaf of the spring and that whole mounting plate was dragging on the tie rod. Keep in mind, this vehicle had 9000 gallons of gasoline on it.

Do we need good pretrip inspections by all of our people? I feel yes, we do.

Had that vehicle been allowed to leave that yard, and that shock absorber had -- the hydraulics in it had allowed it to go down a little further or he had hit a bump and it had raised and jammed that steering, gentlemen, I ask all of you, would you want your family in front of that truck, with 9000 gallons of gasoline on it? There is a need.

This CDL has been coming, as many of us in the industry know, since 1982 or 1983. I have a copy of the original one at home, and I think we should all be glad we didn't get that.

Another thing that we would like to point is that the blood alcohol content. The New Jersey Motor Truck Association

would recommend that you would go to a .0000, right straight across-the-board.

ASSEMBLYMAN IMPREVEDUTO: No problem with that.

MR. LIBBY: I have received a communication from one of my suppliers that the National Transportation Safety Board is also in the process of rewriting theirs -- a memo to the Federal Highway Administration recommending that they go down to a .01. This is to do away with the one beer lunch, or the two beer lunches.

One of the things that the Motor Truck Association would like to see in the future, and I'm sure that it is going to come, based on conversations that I've had with people at the Federal Highway Administration is that a reduction of the CDL from 26,001 pounds to 10,000. I don't suggest that we do it now--

ASSEMBLYMAN IMPREVEDUTO: We're not.

MR. LIBBY: --because there's enough confusion as there is now.

ASSEMBLYMAN IMPREVEDUTO: Don't even raise it. Go on.

MR. LIBBY: No. But, anyhow, that concludes mine. I thank you very much for inviting us.

ASSEMBLYMAN IMPREVEDUTO: Thank you very much. We appreciate that.

Can we bring these people up in tandem, please? Sue White and Emily Cook, from the Drivers Against Unfair Testing.

E M I L Y C O O K: Sue White had to go back to work. I'd like to have someone else speak in my place, if I may, please?

ASSEMBLYMAN IMPREVEDUTO: Sure. Be my guest. You are, ma'am?

F R A N C E S O ' L E A R Y: Frances O'Leary.

ASSEMBLYMAN IMPREVEDUTO: Sit down, Frances, and join us.

MS. O'LEARY: Sir, I have to agree with Jeannine. It would be a very fine thing if all of our employers could pick

up the extra amount of money it's going to cost us for this test. But, I work for a very small contractor.

ASSEMBLYMAN IMPREVEDUTO: A school bus?

MS. O'LEARY: A school bus, well, we have just vans. We don't have the big buses, just minibuses and vans. We transport mostly handicapped children. The thing is we can't expect our employer to pick it up. I know, myself, I'm in a position to pay my own way, but there are a lot of people that I know who work for contractors that don't have the money. They're self-supporting, young people. They don't have an education. We're lucky if they can read on a sixth grade level.

But they still do their job. They're there every day. They're good with the kids. They know what they're doing. It's not really fair, because the contractors don't have the taxpayers' money to play around with to pay for the extra testing or whatever they have to pay out, fingerprinting and all.

I know that a lot of these people can't afford to do it. If the State wants it, the State should pay it.

Thank you.

ASSEMBLYMAN IMPREVEDUTO: Thank you, Frances. We appreciate your testimony.

I've heard that before down in the Assembly, where they call it State mandate, State pay. We all agree with that.

MS. O'LEARY: It's not really fair, because our taxes are going to go up no matter which way we go.

ASSEMBLYMAN IMPREVEDUTO: Okay. I think with that, last and certainly not least, our folks from the DMV, who have gotten beat-up on occasion. Don Henry and company.

Okay, you've got 32 seconds, and that's it.

M I C H A E L A. S A N T A N I E L L O: We can do it in fifteen.

ASSEMBLYMAN IMPREVEDUTO: Want to bet?

MR. SANTANIELLO: Mr. Chairman, Members of the Committee, my name is Mike Santaniello. I'm the Deputy Director of the New Jersey Division of Motor Vehicles, and on my left, you know the CDL guru, Mr. Don Henry.

Colonel Pagano was here for most of today's session and he did have another appointment so he had to leave recently, or else he would be making this statement.

A lot of issues were covered here today, and a lot of those issues dealt with, really, concern over the implementation of the Act as opposed to the requirements of the Act itself. I believe that people should be concerned with the implementation because it affects a lot of people's livelihoods in this State, and a lot of people are going to have to be tested and meet these requirements.

One thing, though: I would like to assure the Committee -- and I will just hit some of the highlights here -- is that we, too, are concerned with implementation. We have done and are continuing to do a lot of planning to implement the requirements that we believe this Committee and the Legislature and the Governor will finally decide upon.

That implementation, as we have noted before, is a very major project. But we share a lot of the concerns that have been expressed here. We not only share them, we have been trying to work on solutions to them. We've been trying to work on the most efficient and the fairest approach we can in terms of some of the issues that have been expressed.

For example, the oral and Spanish testing. We have committed -- and we committed at the hearing in Secaucus to do both oral testing and Spanish testing. Since that hearing we have taken steps to get the test and the manual translated into Spanish, and we are pursuing that.

We've explored and have looked at various equipment to do oral testing on, and we're hoping to come to a decision on the best way to do that very shortly.

The written testing itself: The plan has always been to use a third party tester to do that. However, that is not the only alternative that we are exploring at this point in time. We are looking at other alternatives to see if they would be more efficient in terms of how to proceed with that sort of testing.

The issue of the tests having to do with bus drivers, or the questions having to do with trucks being applicable to bus drivers: Very frankly, we have looked at that test since the last hearing. We have identified three, at most four, questions that we have concluded are unrelated to bus drivers. We have a meeting with the Owners Association on May 30 to talk about that issue, and we're looking at ways to accommodate that issue.

ASSEMBLYMAN IMPREVEDUTO: Was that strictly school bus drivers you're talking about?

MR. HENRY: It's the School Bus Owners Association.

MR. SANTANIELLO: So we have not sat back on that issue, and we're still--

ASSEMBLYMAN MORAN: Are you going to be discussing with them the three questions?"

MR. SANTANIELLO: No, no. We're not going to tell them what the questions are.

ASSEMBLYMAN MORAN: No, no, no. The interest of the cargo, and--

MR. SANTANIELLO: Yes. We're going to--

ASSEMBLYMAN MORAN: Could you also include on your list Gus Kakavas, from the School Bus Drivers Association?

MR. SANTANIELLO: Sure. But we may have a couple of practical ways to meet that concern without modifying the Act or the basic classification system too radically. So, we're trying to meet that concern and yet come to some sort of a balance, without causing administrative chaos in doing that either.

ASSEMBLYMAN IMPREVEDUTO: Why don't I just run down-- To make this thing go a little easier, why don't I just run down some of the points that I've made that I felt were kind of important?

You certainly were here for Mr. Molofsky's testimony, in which he raised some very interesting issues: To reduce the questions from 50 to 30. It's 50 now, and 30-- Setting up a small committee to go through it to make sure that the questions we're asking are, in fact-- I think the Teamsters raised some issues with the fact that somebody who has been a truck driver for a number of years and knows the trucking industry, putting together a small committee, including myself to meet and sit down and go over this thing to make it as fair as possible and yet maintain the integrity of what the government wants us to do.

What's your feeling as to that?

MR. SANTANIELLO: Well, we think right now that possibly the easiest thing to do to accommodate the concern about the truck questions is, we have done some talking with the appropriate people and the easiest thing to do may be to substitute those questions for more generic questions that are applicable to both bus and truck operators.

To be very candid with you, too, there are some questions, aside from the three or four, that use the word "truck" in them. But, when you look at the substance of the question, the concept and the principle of the question applies to both truck and bus equally. One of the solutions there may be simply to not use the specific word "truck" but use the word "vehicle," since the question would apply to both truck and bus operators.

Our reaction right now is that it may be possible to do a simple substitution without having to go through an elaborate approval process for a whole new test or major revisions to the test. We may be able, if we use that approach, to get the appropriate approvals very expeditiously.

ASSEMBLYMAN IMPREVEDUTO: We've heard testimony from Mr. Molofsky -- for some reason I have a mental block on the pronunciation of his name, and I shouldn't, with my last name, but-- You know, he made some interesting points talking to the fact that the Feds require a 30 question test, not a 50 question test, and why-- You know, our job here, I think, is to help save as many jobs, and protect the people who are in those jobs, as we possibly can. We're not out to put people out of work, certainly. And yet, we need to maintain the integrity of the intent of the legislation which was to provide safety. Now if we can do it in 30 questions and protect our people and yet provide the safety that's required by the Feds, why aren't we looking to do that?

MR. SANTANIELLO: Well, I'm not too sure that the assumption underlying that is correct; and that is, that a 30 question test would be easier than a 50, or 60, or 80 question test.

ASSEMBLYMAN IMPREVEDUTO: Well, a 30 question test with the proper questions. You know, if they're bus driver questions, they're bus driver questions. If they're truck driver questions, they're truck driver questions. Take out the cargo loading, take out the hazardous material for the bus driver. I don't know how many questions there are, but--

MR. SANTANIELLO: What we're saying is, after we looked at the test, there are not that many questions--

ASSEMBLYMAN IMPREVEDUTO: Oh, I see.

MR. SANTANIELLO: We're talking three or four questions that are in that category. As I said, there are other questions that have the word "truck," but when you look at it really, and read the question, it's not really a truck question because the principle applies to both truck and bus, even though it uses the word "truck."

Those questions are easy. Since it applies to both, you just take the word "truck" out and put the word "vehicle"

or a more generic term in there, and they would be valid. There are three or four of those though, that are strictly truck related. We believe we can substitute those questions for more generic questions that would be applicable to both trucks and buses. That may be one of the most efficient ways to solve that concern.

ASSEMBLYMAN IMPREVEDUTO: We've also heard testimony that some states, Maryland in particular, has a bus driver only endorsement. Are we looking at that?

MR. SANTANIELLO: We are looking at that also, and we've had some discussions on that. It's possible. It's a little bit more difficult way to go, but we've had some discussions, especially with our computer individuals. We believe we can, with the system we're contemplating, put another endorsement on the CDL license.

Also, we're going to have to work out, if we want to go that route, the interface with CDLIS, which is the national computer interface.

The other thing though, that we've had discussions about, is if we do the endorsement, then what would be the procedure from let's say, going from that bus only endorsement to let's say a truck and--

ASSEMBLYMAN IMPREVEDUTO: They'd have to take a test. They'd have to get the endorsements on that. What I would recommend-- You know, the general knowledge part is the general knowledge part, so you would have passed that. If one wanted to come back then and get an endorsement to be a truck driver, he could come back and take the truck driver part of the test.

ASSEMBLYMAN MORAN: Only. He doesn't have to take the general knowledge.

ASSEMBLYMAN IMPREVEDUTO: He already passed that.

MR. SANTANIELLO: Well, we would have -- you would actually have two tests then, which would be a bus test and a truck driver, and that's what we're talking about.

ASSEMBLYMAN IMPREVEDUTO: Well, as I understand it right now, everybody has to take the general knowledge, correct?

MR. SANTANIELLO: Yes.

MR. HENRY: Right.

ASSEMBLYMAN IMPREVEDUTO: Okay. And then if I wanted to drive hazardous materials-- If I'm a truck driver I take air brakes and I take something else, I don't know what it is. But then if I want to drive hazardous materials I get another endorsement that says hazardous materials. What we're saying is, they can do the same thing. The bus driver takes the general knowledge part and then the only thing he would take would be the bus driver endorsement. Should at some later point he wants to come back and drive a truck, he would then have to come back and take the truck endorsement part and whatever goes with that.

MR. SANTANIELLO: Well, I think the simple answer is that we have not excluded that alternative, and we're pursuing that one also. We are just, at this point, not ready to make a recommendation, or we haven't reached a decision as to what the best course would be to go, but we're also interested in that meeting we have scheduled for the 30th. So, we're working on it.

ASSEMBLYMAN IMPREVEDUTO: Lowering the passengers from 16 down to 6 or 8, what's your feeling on that?

MR. SANTANIELLO: We had really contemplated doing that eventually because the Act as -- or the bill -- as is worded right now, basically gives the Division of Motor Vehicles the discretion to go below 16, and the plan was to exercise that discretion. The one reservation we had was, do we do it initially, considering we have 350,000 people we're estimating, initially, to test and to license?

So, do we make that group larger from the get-go, or do we first of all tackle the initial 350,000 people we're

projecting, and then at some later date expand the category to go below 16? That's one of our major concerns since it's a massive project as it is.

ASSEMBLYMAN IMPREVEDUTO: That is a problem up in North Jersey. I don't suspect it's as much of a problem here, but up in North Jersey, we do have many, many vans which are acting as buses; you know, taking six people or seven people into New York City and back again. They are transporting people, and I think that would be an interesting way to go.

SENATOR COWAN: I think in that regard, as the Assemblyman has said, as far as the North Jersey area and, of course, they're running into New York, particularly coming out of Bergen County, Hudson County, and if you-- Regardless of what you may be thinking of in the future, you're dealing with tremendous numbers I understand, but I think for the general populace out there, we'd better put it right in the bill today, so that everyone is aware of where we're at and what we're going to be dealing with.

Now, as to how you go about the testing, you know, that would be something more at your discretion. But, I think, if you're going to lower the number rather than have it as something as discretionary in the future, the way you think to go, I'd prefer to see it in the bill today. I think the general populace would, too.

MR. SANTANIELLO: Senator, normally I would agree with you on something like that, except we are very concerned about the time limits that we have to face already, about the number of people in the present category that we have to test. It would be our position that the bill remain flexible on this issue and that as we progress, we can make a determination as to whether we can handle the additional population.

I don't think we disagree in concept. We agree with you that it should be brought below 16.

SENATOR COWAN: We're all--

MR. SANTANIELLO: The problem is, when to do it?

SENATOR COWAN: We're all praying for the same thing. What I'm saying is that it should be in there somehow so that the general populace knows -- I don't care if you put it in saying that it's going to happen 12 months from now or whatever -- but there should be something there so that everyone knows that it's coming and puts them on the alert, too.

MR. SANTANIELLO: We probably can agree on some suitable wording on that one.

SENATOR COWAN: Okay.

ASSEMBLYMAN MORAN: I have a question, Mr. Chairman, if I may. What are your feelings on the skill test after two years of successful driving?

MR. SANTANIELLO: We have basically taken the position that we are going to exercise the authority that we have to implement the waiver provision on the skill test provided--

ASSEMBLYMAN MORAN: So you would have no objection to that in the bill when we finalize it?

MR. SANTANIELLO: We would have no objection to putting it in in some fashion. I mean, there has to be certain standards that have to be met that have to be either mentioned in the bill then, or the regulations.

ASSEMBLYMAN MORAN: Now, it was mentioned to us--

ASSEMBLYMAN IMPREVEDUTO: Could you just move that other microphone closer to you, so that everybody could hear you?

MR. SANTANIELLO: Sure.

ASSEMBLYMAN MORAN: It was mentioned to the Committee by some members that there were some states that, in fact, exempt its members with a minimum of two years and good driving record from the actual written exam. Are there any states, or is there anyone, or is there any reference to the Federal statute that we would be able to do that?

MR. HENRY: Not for the knowledge test, there is not. That only relates to skills road testing.

ASSEMBLYMAN MORAN: There is no one that has -- no state that -- in fact, has. And the fact of the matter is, it's a Federal regulation that says that you can't.

MR. SANTANIELLO: The only thing that we have right now is, we have explored with the Federal Highway Administration whether we can exempt out those drivers that have already taken our articulated test and are licensed articulated drivers. They have told us that our articulated test is acceptable as a substitute to the core CDL, and that we can exempt those people from taking the core part of the CDL.

ASSEMBLYMAN IMPREVEDUTO: What is the core part of the CDL?

MR. HENRY: That's the basic general knowledge test. The current articulated test we administer and have, meets the minimum standards under the Federal CDL for that population.

ASSEMBLYMAN IMPREVEDUTO: Just so I know exactly what we're talking about: If I'm a truck driver today working for Local No. 000, and I drive a tractor trailer and I have a New Jersey articulated drivers license--

MR. SANTANIELLO: And you took and passed the articulated test, because at one point in time -- I think it was 1977 or 1978-- Before that, it was a different situation.

ASSEMBLYMAN IMPREVEDUTO: Okay, so what you're saying is that anybody who has an articulated license that they obtained since 1980, let's say, could be exempted from the general knowledge part of the test?

MR. SANTANIELLO: Yes. And it's our intention to exempt those individuals.'

ASSEMBLYMAN IMPREVEDUTO: That's something new that we haven't heard before, which is interesting.

MR. HENRY: But that's a waiver that we have gotten as a State, no one else has gotten that.

ASSEMBLYMAN MORAN: How about the other portions of it, let's say for bus drivers, would that--

MR. HENRY: No. The test for the articulated driver and the test that we currently administer for a bus driver were both tests we pursued with the FHWA for a waiver as meeting minimum standards. We were given approval on the articulated. We did not get approval on the bus. It did not meet minimum standards.

ASSEMBLYMAN IMPREVEDUTO: Don, could you get us the exact date of when that articulated license test changed so that we know that and we can--

MR. HENRY: We will have that, yes, sir.

ASSEMBLYMAN IMPREVEDUTO: So that we know if it was 1975 or '76, or '74 or 1978, or whatever it was so that we now know that there is a certain population out there that would be reduced.

MR. HENRY: It's reduced in the number of test questions they'll have to answer.

ASSEMBLYMAN IMPREVEDUTO: Oh. Okay. Because they still need hazardous materials and--

MR. HENRY: Because they're in that class of vehicles that they are going to have to deal with air brakes -- for the most part those vehicles have only air brakes -- and any other endorsement that they need to take. They will still have to come in and take those portions of the exams or test. So, they're not exempt from any testing, they're exempt from some questions--

ASSEMBLYMAN IMPREVEDUTO: From the general knowledge section.

MR. HENRY --50 questions or whatever it happens to be.

ASSEMBLYMAN IMPREVEDUTO: But they still have to take the air brakes. They still have to take the--

MR. HENRY: Yes.

ASSEMBLYMAN IMPREVEDUTO: If they want to drive hazardous material, that part?

MR. HENRY: Yes.

ASSEMBLYMAN IMPREVEDUTO: Now, the cargo loading thing, that's in the general loading part or is that a separate section?

MR. HENRY: The cargo and the hazardous material are in the general knowledge test.

ASSEMBLYMAN IMPREVEDUTO: Okay. So, if I'm already an articulated driver, then--

MR. HENRY: Yes. The questions-- I don't want to cut you off. The questions in the general knowledge test are, in fact, general to cargo and general to hazmat, in that hazardous materials may be identified by a placard or whatever.

ASSEMBLYMAN IMPREVEDUTO: So you don't get the endorsement for that?

MR. HENRY: You don't get the endorsement for that. If you need the endorsement there's specific separate test questions, 20 or 25, whatever that number happens to be, that you need to answer with 80%.

ASSEMBLYMAN IMPREVEDUTO: Could that -- just an offshoot-- Could that same person then come in and say, okay I want to take the hazardous materials part so I can drive my hazardous materials stuff, and I also want to get -- if we do this -- a special bus driver's endorsement, and just take the bus driver's endorsement because I already have the general knowledge under my articulated.

MR. SANTANIELLO: Well, that's one of the problems, because once we play around with that general knowledge part, and if we dissect it with bus drivers having to take one test and truckers having to take another test, one thing we would have to work out is, what do you have to take if you're in the one category and want to go to the other? Do you have to take the whole truck test over, let's say, if you're in the bus category? That's one of the problems that we have in creating that separate endorsement, and we really haven't worked out how you would flip categories.

ASSEMBLYMAN MORAN: I have faith in you that you will be able to work it out.

MR. SANTANIELLO: Thank you, Assemblyman.

ASSEMBLYMAN MORAN: But what I can't understand is why is it that the articulated was approved to be exempt from the general, yet the bus driver's-- Is there that much of a difference between a bus driver's license and an articulated license?

MR. HENRY: The method which they used to compare the tests to meet the standard is based on the rule-making process which says, we, or states' tests must meet certain knowledge categories in so many test questions within each of those domains. So that when we presented the articulated test, we broke down each question and placed it in a domain as we felt it would fall, and it met a minimum standard.

We did likewise on the bus end of it. It was decided by Federal Highway that, no, it did not have enough questions number one, nor did those questions meet the domains that were necessary for us to accept that as a basic core test for the passengers.

SENATOR COWAN: Diverting away from that for a couple of minutes: You've heard testimony here today -- I assume you heard it -- with some people with disabilities. Have you given that any consideration at all as to in the process of this testing? Some people with dyslexia, some people do not have that-- Well, of course, the oral may fill in for some of them, but then again it may not.

And I just pop it-- I don't want an answer, you know. You're doing your thing.

MR. HENRY: We've only considered it up until the oral testing. Obviously we're going to have to consider situations that that will not accommodate.

SENATOR COWAN: I haven't heard anyone here yet from the construction industry, except some of the Teamsters who

might be involved out there, that I'm aware of, nor from any of the people in public works that may be involved. I come from that industry.

I would like to know -- and I'm not looking for an answer now -- how this will affect the construction industry with various vehicles, different type of equipment they use which they transport throughout the State?

MR. HENRY: To reference it--

SENATOR COWAN: Also, now, I'm not asking for-- I'm just throwing the question at you now. I'm not looking for an answer now, because I don't know how much you want--

The other thing is will you have any problem as the Assemblyman has mentioned in putting together a small work task force on this, generating from us here, serving as the two committees. Would you have any problem, and I would certainly like you to participate in it?

MR. SANTANIELLO: I would have no problem in meeting with any part, or all of the Committee to really -- even to talk some more nuts and bolts of this whole process. I would actually--

SENATOR COWAN: All right, because as you can see there's more coming up, and if we keep up this, we're going to be holding hearings for another eight months, okay? So, we've got to get something together.

MR. SANTANIELLO: I think that type of meeting would be very useful between us.

ASSEMBLYMAN IMPREVEDUTO: Well, I think what we're thinking about is something, again, based on what Bob said earlier, was, maybe one person from a couple of the different groups together sit down with us and go over this thing and get it nailed.

SENATOR COWAN: With staff and yourselves, and break it out where we have certain groups and other groups that you don't try to mesh what we're trying to mesh at this hearing.

MR. SANTANIELLO: No. There's been a lot of things raised here that are hard to deal with in this context, also, that I'm sure you'd be interested in.

SENATOR COWAN: Okay?

ASSEMBLYMAN IMPREVEDUTO: I think with that, what I'm going to do is ask you to sum up. I think we've said pretty much everything we needed to say. There's still a question of third party testing, which I think we can address, but I think the most important thing that we can come out of here today with is that we can put together this small group of people to actively work towards getting this in final fashion. Maybe we can begin to meet before the-- The next meeting will be at this point, it's still tentative but it's just about definite, it's June 27, somewhere down in the Cape May area. I think it's Vineland.

UNIDENTIFIED SPEAKER IN AUDIENCE: That's in Atlantic County.

ASSEMBLYMAN IMPREVEDUTO: Well, it's going to be down in District One someplace.

SENATOR COWAN: Mays Landing.

ASSEMBLYMAN IMPREVEDUTO: Mays Landing. So with that, gentlemen, what we'll do is, we'll get in touch with you gentlemen, and if we can get just maybe five people plus us, and that will be it. The smaller the group actually, I think the better the working conditions will be. To throw some of this stuff around and hopefully--

MS. O'LEARY: Can I just--

ASSEMBLYMAN IMPREVEDUTO: Yeah.

MS. O'LEARY: Why couldn't just one meeting be in the evening so that more of the bus drivers could get there? We cannot desert these kids.

ASSEMBLYMAN IMPREVEDUTO: Well, we're not deserting the bus drivers, believe me. You're represented by your different unions, the school bus owners have all of the--

MS. O'LEARY: We don't have unions for contractors.

ASSEMBLYMAN IMPREVEDUTO: Believe me, your contractors have come. School bus owners have been here. You will not be neglected, believe me.

MR. TANSEY: (speaking from audience) Anthony, excuse me, a question, sir?

ASSEMBLYMAN IMPREVEDUTO: Yes, Jim.

MR. TANSEY: Mr. Henry? The question was brought up, but we never got an answer. We asked you last time, and you (indiscernible) on-site testing?

ASSEMBLYMAN IMPREVEDUTO: Oh yeah. I'm sorry. On-site testing.

MR. HENRY: The Deputy Director would like to answer that one.

MR. SANTANIELLO: Mr. Chairman, we are right now looking at about five different alternatives. Some of those alternatives include on-site testing. Some do not. It's very hard to answer that question very specifically. We're looking at it. Some of the alternatives, believe it or not -- and I can't go into a lot of detail -- may be more efficient and because of their characteristics, may preclude on-site testing. But that decision has not been made.

We're very conscious of the fact that there is going to need to be coordination between the large organizations, the trucking companies, the unions, and we're trying to accommodate that in our testing plan. One way to accommodate it in certain plans may be on-site testing, but there are other ways to accommodate if we do not do on-site testing.

I apologize but that's as specific as I can be because it would be premature to give you, or at least publicly, details of some of the alternatives that we're looking at, since they may not work out, but that is under very, very active exploration.

ASSEMBLYMAN IMPREVEDUTO: Let me ask you this question, because this may short-circuit everything we plan to do with the small committee. When we do put this little committee together, what's going to be hopefully next week at some point in time, I will be in touch or Larry will be in touch with some of the unions and owners. If we're going to sit down we're going to need to know, I guess up-front, how much of what we can talk about, can you talk to us about, or how much is going to be, well, we can't talk to you about that, because if there's a lot of it you can't talk to us about, there's no sense in doing it. We'll do it alone.

MR. SANTANIELLO: No, no, no. That will not be the case at that meeting. I'm reluctant here because--

ASSEMBLYMAN IMPREVEDUTO: Okay. That's all I wanted to know.

MR. SANTANIELLO: --it's premature to make some of these alternatives public.

ASSEMBLYMAN MORAN: Can I just say one thing? You know, one thing that we have talked about, but maybe nobody is listening, or maybe nobody is hearing, is that for third party-- We had talked about it at our last meeting that maybe the county colleges or someone getting involved, and since then, I've met with some bus drivers' groups that have come into my office and it just so happens that since I'm employed by the Toms River Schools, we have -- and we do testing all the time at our schools -- and we've been using our classrooms with 35 students with the-- We have little TV monitoring programs in every classroom. Where we have a central center where we put a tape on to give instructions, and we have one monitor for 35 or 40 people, and we test.

Now, is it possible that you have been looking at even DMV doing it, and/or a third party doing it in that fashion?

MR. SANTANIELLO: We have been looking at a third party doing it. We have been looking at DMV doing it. We have

been looking at other agencies doing it. We have been looking at a combination of the three, and we've been looking at other fashions than the one you just described.

ASSEMBLYMAN MORAN: Because when I think of the way, you know -- and I have run it on occasion, and we've had as many as a thousand people at one time being tested on a Saturday morning, and everything runs fine. Our only problem is parking.

MR. SANTANIELLO: One of the difficulties is, Assemblyman-- and I don't want to try to evade the question -- is that, your assumption is the traditional written testing approach. Some of our alternatives include some nontraditional approaches that may be more efficient.

ASSEMBLYMAN IMPREVEDUTO: And that would be something that we could talk about in our little community of a small group of people?

MR. SANTANIELLO: Yes.

ASSEMBLYMAN IMPREVEDUTO: Okay.

ASSEMBLYMAN MORAN: Blue eyes.

ASSEMBLYMAN IMPREVEDUTO: Must come from South Jersey. Thank you gentlemen.

UNIDENTIFIED SPEAKER IN AUDIENCE: Just for clarification, Mr. Chairman. As it relates to the endorsements, some people are under the impression that there's not going to be any cost. In other words, it's \$35, and that's it.

ASSEMBLYMAN IMPREVEDUTO: There are additional costs for each endorsement. We know that.

UNIDENTIFIED SPEAKER IN AUDIENCE: Thirty-five dollars is for the general, and \$12 for each additional endorsement.

ASSEMBLYMAN IMPREVEDUTO: Right. That's explicitly spelled out in the manual.

UNIDENTIFIED SPEAKER IN AUDIENCE: And number two, as it relates to the desire to have a bus endorsement. That would be-- Just for school buses, that would be in addition to the passenger endorsement; not in place of it, but in addition to it.

ASSEMBLYMAN IMPREVEDUTO: Well, that's something that we need to look at.

UNIDENTIFIED SPEAKER IN AUDIENCE: And that needs to be very well understood. Is that correct?

ASSEMBLYMAN IMPREVEDUTO: Well, that's something we can talk about a little later on.

John? Last question.

SECOND UNIDENTIFIED SPEAKER IN AUDIENCE: I understand that the skills test and the preinspection test have to be taken by a certain number of people; those with two years experience or less or those with major infractions on their license.

If Mr. Henry could explain just what those major infractions would be?

MR. HENRY: The general acceptance on disqualifying events and serious violations are: reckless driving, leaving the scene of an accident, following too close, erratic lane changes, exceeding any posted speed limit by 15 miles per hour. And then there are some -- one or two violations involving an accident which results in a fatal accident, and there are some criminal and drug activities tied up with that, along with driving under the influence.

That's it in a real quick summary.

ASSEMBLYMAN IMPREVEDUTO: Yeah. If I drive a tractor trailer and I go through a stop sign and get three points on my license, am I allowed to still be waived?

MR. HENRY: Yeah. That's not one of the serious violations that are identified, so at that point, no. Yes.

ASSEMBLYMAN IMPREVEDUTO: Just a last question I would have for you. What is your opinion on the .000 blood alcohol?

MR. SANTANIELLO: That is a very tough one, for this reason. That is or can be a very controversial issue obviously, in terms of getting this legislation through. The reservation we have is that we need the legislation passed and underway as quickly as possible so it can be implemented so that we can--

ASSEMBLYMAN IMPREVEDUTO: Well, that's our job.

MR. SANTANIELLO: --meet the deadlines. I realize that.

ASSEMBLYMAN IMPREVEDUTO: We'll get the legislation through. I'm asking for your opinion on .000. Leave the passage of it to Tom and myself and Jeff. We'll worry about that end of it.

MR. SANTANIELLO: Our opinion at this stage is that the alcohol level that's in the bill should be adopted and that is something that should be addressed later on, since it is not -- .000 is not federally mandated at this point in time.

ASSEMBLYMAN IMPREVEDUTO: Thank you.

(HEARING CONCLUDED)

APPENDIX



Position Statement

New Jersey Education Association 180 W. State Street P.O. Box 1211 Trenton, NJ 08607-1211 (609) 599-4561 FAX: (609) 392-6321

Statement by Jeannine Frisby-LaRue, Associate Director,
Government Relations, on Assembly bill 3258 and Senate bill 2549
before the Senate Law, Public Safety and Defense Committee and
the Assembly Commerce and Regulated Professions Committee on May
25, 1990 at the Beachwood Community Center, Beachwood, New Jersey

My name is Jeannine Frisby-LaRue, Associate Director of the New
Jersey Education Association, which represents more than 130,000
public school employees throughout this State.

As many of you are aware, several thousands of our members
include educational support personnel. These members serve in
various capacities from classroom aides, secretaries, maintenance
persons, and bus drivers.

Today we are here to zero in on the school bus drivers.

These two bills before you today, A-3258 and S-2549, will have a
major impact on the employment status of our bus drivers. They
establish a comprehensive licensing system to be known as the
"New Jersey Commercial Driver License Act."

Needless to say, these new requirements have created extreme
anxiety within the ranks of our bus drivers because of a myriad
of factors, including the administering of a skills test.

NJEA is sensitive to the fact that the Commercial Driver License
Act has basically been thrust upon this State through a law
enacted by Congress in 1986. That law calls for every State to
have the same commercial driver licensing system by April 1,
1992.

However, the Association would like to address the method by
which this State implements the Federal Commercial Motor Vehicle
Safety Act of 1986, particularly as it relates to school bus
drivers.

We want to share with you those questions that have been
repeatedly asked by our members relative to these two bills as
they relate to the new commercial driver license.

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Before we raise those questions, we feel it only fair to commend the Division of Motor Vehicles for their response to us on these two bills up to this present time. We have sat with staff members of the Division to better understand the impact that the new requirements will have on our members, and the Division has been most accommodating.

Having said this, let me move on to our immediate concerns.

Testing fees

First of all, the new licensing system requires payment of a testing fee. You probably realize that school bus drivers are paid low salaries because many of them are employed part time.

Already, school bus drivers could expend as much as \$200-300 to be licensed to drive after they have gotten required physical examinations, fingerprinting and background checks, and sometimes drug tests. We feel that the additional cost burden to this group of school employees is unfair.

We would ask this committee to consider requiring the employer to pay the testing fees for those currently employed drivers seeking renewal of licenses.

Components of the test

This brings us to the whole issue of what will actually be on the test. While we recognize the fact that licenses can be acquired in three different areas and all applicants need not take the same test, we still have unanswered questions about the two license groups that will most affect our members.

Is it really necessary for school bus drivers to be administered the same type of test as is administered to other commercial driver applicants? Has any thought been given to developing a category that would be more relative to those who operate only regular school buses and mini-buses?

A shortage of school bus drivers already exists in some local school districts. We are afraid that complicated tests that have very little meaning to those who are interested in operating a school bus may add to the shortage.

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No doubt, school bus drivers should be able to demonstrate competency in areas of safety features, familiarity of the school bus/mini-bus, and other areas pertaining to driving a school bus.

Yet, we are still not satisfied that components of the test administered to other single-unit and smaller commercial vehicles will be appropriate for school bus drivers.

Multi-languages

NJEA has been informed that efforts are being made to provide the test both orally and in Spanish. We commend the Division of Motor Vehicles for acknowledging the fact that bilingual persons should be given a fair opportunity to pass this test. However, we still have concern about those test-takers who are not Spanish-speaking.

We would urge the committee to consider administering the test in languages other than Spanish.

Training

We have raised the question with the New Jersey Department of Education as well as the Division on Motor Vehicles as to whether or not training on the new license requirements will be provided for those currently employed bus drivers. To date, we are not completely satisfied with the responses we've received.

We believe in order to avoid an increased shortage of school bus drivers, local school districts should provide some type of training for its currently employed school bus drivers. The training could be co-sponsored by the New Jersey Department of Education and the Division of Motor Vehicles offered in regional settings throughout the State.

The Association readily admits that these bills will greatly impact upon many commercial drivers throughout this State. Yet, we believe the impact it could have on a school district might be a little more dramatic. Imagine a local school district with properly-maintained and available buses but not enough licensed drivers to transport children to and from school.

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This could become a reality in New Jersey if the test failure rate is anywhere near what it was when Californians first administered the test.

In closing, NJEA fully accepts that the intent of these bills is admirable and in the best interest of safety on the highways. We simply want assurances that those pitfalls already experienced by other states be studied carefully as this Legislature moves to comply with the Federal Act.

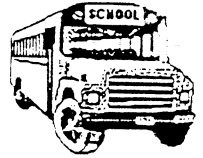
Thank you very much for letting me share the Association's concerns with you.

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ASSEMBLY'S COMMERCE AND REGULATED PROFESSIONS COMMITTEE
AND
SENATE'S LAW, PUBLIC SAFETY AND DEFENSE COMMITTEE

Public Hearing "New Jersey Commercial Driver License Act"
May 25, 1990 Submitted by Peter Murphy

Over the past few years, news of a new "Commercial Driver License" has become a common subject at meetings and driver training sessions. Most people in the industry applauded the chance to better train our school bus drivers. Many also expressed their concerns over the ill effects that a new licensing program might have on what is now a very safe industry. As the date of April 1, 1992 approaches, our concerns grow rapidly.

Earlier this year Motor Vehicle Services published its CDL booklet. The CDL booklet, as it reads now, should not be used to train our school bus drivers. Much of its contents is not applicable and would ~~consume~~ too much valuable training time. We do not need drivers that can double as mechanics. We do not need to teach them about hazardous materials and packing cargo. We do need to train school bus drivers to transport our most precious cargo - our children. They must know how to safely discharge passengers, properly use mirrors and other safety devices, and how to handle disciplinary problems.

We need legislation that will motivate Motor Vehicle Services to upgrade the school bus drivers tests. For the safety of our children, we need to improve the tests for school bus drivers. We believe that there is enough leeway in the Federal Requirements to institute a separate endorsement of the CDL specifically for school bus drivers. Dominic Spatero, in charge of the first region of the Federal Highway Authority in particular, the Motor Carrier Standards Division, confirmed that a state does have the latitude to create a separate class of the CDL limited to school bus drivers.

Motor Vehicle Services can, without doubt, easily institute a separate school bus drivers endorsement. They already have bus drivers separated in their systems. Each of the 16,000 bus drivers in the state has a separate bus endorsement on his/her existing license (Bus I or Bus II). The separate school bus drivers endorsement would help eliminate much confusion and more importantly, it could give all bus drivers the best training possible to make them the safest professional drivers on the road.

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STATEMENT OF
AMALGAMATED TRANSIT UNION
ON NEW JERSEY COMMERCIAL DRIVERS LICENSE LEGISLATION
BEFORE THE NEW JERSEY STATE LEGISLATURE

MAY 25, 1990

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SUMMARY OF LABOR SUPPORTED AMENDMENTS TO
NEW JERSEY'S COMMERCIAL MOTOR VEHICLE ACT

My name is Robert A. Molofsky. I serve as Legislative Director of the International Amalgamated Transit Union. I am pleased to appear here along with the officers of our New Jersey State Council and State Legislative Conference Board, representing over 10,000 public and privately employed drivers and mechanics covered by the Federal Commercial Motor Vehicle Safety Act of 1986.

We recognize the necessity for and support passage of state legislation designed to ensure that New Jersey is in conformance with the federal statute and its requirements.

Our purpose today is to offer suggested amendments to the pending legislation. In each case our proposed revisions are designed to ensure that the New Jersey statute reflects the requirements of the federal law; establishes fair and equitable procedural and administrative practices for carrying out the Act's new requirements; and most especially ensures that employees affected by the Act's new knowledge and skills testing requirements are properly informed and afforded every opportunity to successfully complete these new requirements.

Our proposals were developed under the auspices of the New Jersey State AFL-CIO reflect the views of its affiliated organizations, and involve 16 suggested revisions.

PROPOSED AMENDMENTS

1. COVERAGE

This amendment redefines the definition of Commercial Motor Vehicle to include the Act's application to equipment capable of carrying seven or more persons including the driver. This will serve to improve safety for vans carrying the elderly, handicapped persons or children by applying the regulations and requirements to an additional group of drivers responsible to the riding public. In proposing this amendment we intend to reach only those vehicles involved in the commercial passenger transport operated by drivers required to obtain a Class B license with a "P" endorsement. The statute currently applies to vehicles designed to transport 16 or more passengers including the driver. ?

2. Definition of Conviction

Amends the definition of "Conviction," line 38, page 2 by inserting the word "final" before the word adjudication. The purpose of this amendment is to ensure

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that the Act's penalty requirements apply only to final adjudications and/or judgments issued within the state.

3. Modify Authority of Commercial Motor Vehicle Director to Restrict License Issuances

Amend Section 4 page 4, and strike Section 8, page 5, and Section 15 page 9 to limit the authority of the Director to determine which individuals are not qualified to be issued Commercial Drivers' Licenses. These provisions as drafted provide too much discretionary authority to the Director based on his own undefined view of whether or not a person is fit to receive a license.

4. Third-Party Testing

Questions have been raised regarding the eligibility of certain organizations and/or entities to qualify as third-party testers, for purposes of the skills test. It is our understanding that third-parties may not be used to administer the written test. This intent must be clarified as well as the specifications for qualifying as a third-party tester. Also we seek to limit Third Party testers to organizations based in New Jersey.

5. Skills Test Waiver

Amend Section 14 to require the Director to waive the skills test for a CDL applicant who meets the minimum federal requirements. The provision in this Section permitting the Director of the Motor Vehicle Agency to establish any additional skills test waiver requirements should also be omitted as exceeding the minimum federal requirements in this area.

6. Reasonable Grounds/ Probable Cause

Amend Section 16 to define the grounds by which a police officer may request a commercial motor vehicle operator to submit to an alcohol breathalyzer test based on a finding of "reasonable cause" as opposed to "reasonable grounds."

7. Public Hearing

Amend Section 20 to include a requirement for public hearings.

8. Medical Requirements

OMIT

9. One-time Only Testing Provision

Mandates that applicants for new or renewed commercial drivers licenses satisfy the testing requirement on a one-time only basis unless their CDL license is subsequently cancelled, suspended or revoked.

10. Oral/Spanish Exams

Incorporate a provision mandating the State Department of Transportation to offer, upon an applicants request, an oral or spanish exam in satisfaction of the mandated knowledge test requirements. The only possible exemption to this section requiring a written exam would apply to applicants seeking a hazardous materials endorsement, if required under the existing federal regulations. Provisions implementing this request have been incorporated into California's testing regulations.

11. Separate Bus Driver's Exam

Include an amendment mandating the State Department of Transportation to formulate and administer, at an applicants request, separate knowledge tests and manuals for Class B applicants seeking a passenger ("P") endorsement. This exam would be designed to filter out and/or minimize the extraneous "trucking" information currently present in the proposed state exams and model federal manual. Regulations interpreting this section would restrict Class B drivers with this "P" endorsement to only operate the passenger vehicles included within this class. We are also prepared to provide expertise to amend existing general knowledge exam if only one exam is to be used.

12. Advance Notification of Test Requirements

Mandates the State Department of Transportation to send current S-1, S-2 commercial drivers license holders at least 90 days advance notice of the necessary license application exams.

13. Credit for Passed Exams

This amendment would give applicants credit for previously passed knowledge exams to prevent applicants from having to take a complete set of general knowledge exams and endorsements with each sitting if they are unable to successfully pass all exam and endorsement requirements at once.

14. Training

The ATU supports provisions authorizing funds to the State Department of Transportation to provide education and training materials to affected employees to prepare for these mandated exams.

15. Implementation Deadlines for Testing

We can support requirements allowing testing to commence at an earlier date on a voluntary basis for current license holders seeking renewal, or for new applicants. This time table will enable affected employees to be properly trained to take and pass their exams.

16. Provision of Vehicles for Skills Test

This amendment will insure that affected employees are provided representative vehicles to comply with the skill test requirements. A similar provision was included in Pennsylvania state law.

Let me assure you that we are prepared to work with you and your committee to refine these amendments. We share your concern for improving to safety on the state's highways and roads and believe this bill will make a significant contribution in this area. We thank you for your consideration of these important matters and stand ready to respond to your questions.

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Amendment No. 1

Definition of Commercial Motor Vehicle

Amend the definition of "commercial motor vehicle" on page 2, line 14 by striking "16" and inserting "7".

Comments

This amendment would conform the commercial motor vehicle definition to that of a school bus. It is intended to apply to only commercial motor vehicles operated by drivers required to have a Class B license with P endorsement. Interpretative questions and answers concerned DOT's regulations issued by the American Association of Motor Vehicle Administrators indicate that this is permitted.

It is important to note that the New Jersey Bill as drafted would provide the Director of Motor Vehicles with the authority to include vehicles designed to transport 15 or fewer passengers. (See p. 2, line 16). This amendment would reflect the determination of the state legislative that smaller vehicles should also be covered for safety reasons. Because the federal regulations do not reach vehicles designed to transport 15 or less passengers, the Director would be permitted to exempt all non-profit carriers not engaged in revenue service from this provision.

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Amendment No. 2

Definition of Conviction

Amend the definition of "conviction" line 38, page 2 by inserting the word "final" before the word adjudication.

Comments

The purpose of this amendment is to ensure that the Act's penalty requirements apply only to final adjudications and/or judgments issued within the state following all appeals.

Amendment No. 3, a, b, c

To limit undefined authority of Commercial Motor Vehicle Director to Restrict License Issuance.

- a) Strike the sentence beginning on page 4 line 49 through line 2 on page 5. ?
- b) Strike section 8 page 5, lines 41-49.

Comments

(a, b) These provisions are not required by Federal regulation, nor are they included in model legislation drafted by American Association of Motor Vehicle Administrators, and approved by FHWA. As drafted they would provide extensive, open ended and undefined authority to the Director to refuse to issue commercial drivers' license. Their omission would not impact on the state's obligation to otherwise adhere to the federal standards established under the Federal Commercial Motor Vehicle Safety Act of 1986. Existing state standards and requirements would still apply.

- c) Strike Section 15, page 9, lines 22-34

Comments

(c) This section is not needed based on the regulatory authority granted the Director under Section 19. Further, there is no federal requirement to authorize the director to limit the test location and/or time of an individual seeking a commercial drivers license under this Act. There is no demonstrative needed to allow the director to suspend an individual's license because they either refused or are unable to take the required exams at locations stated by the Director. Striking this provision would properly limit Director's discretion while retaining individual employee licensing requirements.

Amendment No. 4

Third Party Testing - Skills Test Only

- a) Insert the following "where principle place of business is in this state after the word "persons" on page 8, line 48. Strike the word "another" on page 8 line 49.

Comments

This amendment is designed to insure that only New Jersey organizations administer the skills test to New Jersey CDL applicants.

- b) Strike the words "any portion of a commercial motor vehicle driver examination." on page 9 lines 2-3, and substitute the words "the skills tests required by this Act, provided: a) the test is the same which would otherwise be administrated by the state; and b) The third party has entered into an agreement with this state unlike complies with the requirements of 49 C.F.R. part 383.75."

Comments

This provision was recommended by the American Association of Motor Vehicle Administrators in their model CDL legislation, and reflects the Federal regulatory requirement that third party testers are permitted for the administration of only the skills test. (See 49C.F.R. 383.73 (Section 12005 (c) (3) of the Act.) The New Jersey statute as drafted authorizes third party testing for any part of the CDL exam.

Amendment No. 5

Mandate Skill Test Waiver Requirements

Strike Section 14, lines 14-21, page 9, and substitute the following:

"14. The Director shall waive the Skills test for a commercial driver license applicant who meets the requirements of 49 C.F.R. part 383.77.

Comments

This provision requires the Director to enact and apply the regulatory waiver in conformance with specified Federal Standards, rather than make the waiver optional as under the current draft provision.

Amendment No. 6

Reasonable Grounds/Reasonable Cause

Amend Section 16, line 42, page 9 by striking the words "grounds" and substituting "cause".

Comments

Conforms definitions to standard usage.

Amendment No. 7

Public Hearing

Amend Section 20, page 11, by inserting after the word "may" on line 36 the following ",after public hearings,".

Comments

Provides for public hearing prior to implementation of this section affecting the administration of the Act.

Amendment No. 8

Medical Requirements

Omitted based on clarification of provision's intent.

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Amendment No. 9**One-Time only Testing Provision**

Amend Section 4, Page 4, line 48 by adding the following sentence after the word "standards;" persons applying for renewal of a commercial drivers license issued pursuant to this Act shall take and successfully pass the knowledge and skills test only if the person has been subject to the penalty provisions set forth in Section 12 of this Act. If the person(s) wishes to retain an endorsement authorizing the transport of hazardous materials, the person shall take and successfully complete the knowledge test for that endorsement.

Comments

This provision, permitted under the Federal regulations, was recently adopted in Ohio. In addition most other states do not require repeat testing upon renewal of an applicant's CDL license issued in conformance with the CDL requirements unless the license has been suspended, cancelled or revoked. Applicants under this section must still fulfill all testing requirements to obtain their initial CDL and adhere to the special rules applicable to the transport of hazardous materials.

Amendments 9 (A) (B)

- A) Strike the word "written" in Section 4, line 47, page 4 and substitute the word "knowledge."
- B) Strike the word "driving" in Section 4, line 47, page 4 and substitute the word "skills".

Comments

Conforms these testing requirements to Federal regulations. Knowledge tests can be administered orally, and skills test involve procedures other than driving, i.e. inspection techniques.

Amendment No. 10**Alternative Oral and Spanish Language Knowledge Tests**

Amend Section 4, page 4, by adding subsection (a) as follows:

(a) The Director shall offer upon a commercial driver license applicant's request an oral or spanish oral or written exam in satisfaction of the knowledge test requirements which comply with the minimum federal standards established by Federal regulation and all other requirement of the Commercial Motor Vehicle Safety Act of 1986 and promulgated thereafter. These tests shall be prescribed and conducted by the Director.

Comments

This requirement has been incorporated into the procedures currently in use in California, Pennsylvania, Ohio, Florida and other states. It is permitted by Federal regulations. The ATU is going to secure a Federal UMTA grant to translate our CDL training materials into spanish. New Jersey may also want to translate the exams and manuals into other languages as deemed appropriate.

Amendment No. 11

Special Class B Exams

Amend Section 4 on page 4 by adding new subsection (b).

(b) The Director shall formulate and administer at an applicant's request separate knowledge exams for Class B applicants seeking a "P" passenger endorsement designed exclusively for persons operating passenger vehicles. The Department shall issue regulations restricting such Class B applicants with a "P" endorsement to only operate passenger vehicles included within the class unless they have satisfied all requirements necessary to operate other vehicles in the class. Such examinations shall comply with the minimum Federal standards established by Federal regulations issued pursuant to the Commercial Motor Vehicle Safety Act of 1986 (Public Law 99-570, 490 U.P.C. app. Section 2701 et Seq.)

Comments

This provision is permitted under current regulations and statutory requirements. See DOT Secretary Skinner's letter to Senator Exon authorizing this approach. We are also prepared to provide expertise to amend existing general knowledge exam, if only one exam is to be used.

Amendment No. 12

Advance Notice of License Requirements

Amend Section 4, page 4 by adding subsection (c).

c) The Director shall send notice of such standards and testing requirements, including specific license and test requirements, to all holders of valid S-1, S-2 commercial drivers' licenses, at least 90 days prior to the applicant's license expiration date.

Comments

An equitable amendment permitted under the Federal Regulations to insure proper notice of new state standards and test requirements to all holders of S-1, S-2 commercial drivers' license, seeking new CDL licenses under the new state requirements.

Amendment No. 13

Credit for Partial Completion of Knowledge Exam Requirements

Amend Section 4 by adding subsection (d).

d) Drivers subject to this section shall receive credit for the partial satisfaction of the tests required for Class A, B or C license applicants. The Director shall issue regulations enabling drivers to receive credit for satisfying one or more of the knowledge test requirements under this Act.

Comments

This procedure has been incorporated into California's requirements allowing applicants to receive credit for passing one or more of the knowledge or endorsement exams.

Amendment No. 14
Training Funds

State Provision of Training Funds to affected individuals,
including authorized representatives of employees required to
obtain commercial drivers licenses under the Act. ?

Comments

To be drafted after appropriate consultations.

Amendment No. 15

Extension of Knowledge Testing Deadline for Person's Holding Valid S-1, S-2 State Licenses.

Amend Section 36 on page 21 by inserting a new sentence at the end of line 46.

Section 4 shall take effect immediately provided, however, that for persons holding valid class S-1, S-2 licenses who do not transport materials required to be placarded under the Hazardous Material Transportation Act, and who meet the requirements of Section 14 concerning the waiver of skills test, this section shall take effect on December 31, 1991. Persons subject to this waiver shall be required only to make the appropriate application and certification concerning the issuance of Class A, B and C licenses, and pay the appropriate fees. The Director shall issue regulations implementing this provision, and also permitting such persons to satisfy the knowledge testing requirements prior to December 31, 1991.

Comments

The CMVSA/86 does not require compliance until April 1, 1992. This provision is based on legislation enacted in Tennessee and would provide time for individuals to properly prepare for the testing.

Amendment No. 16

Provision of Vehicles for Skills Tests

Amend Section 4, page 4, by adding new subsection (e).

(e) Test vehicles -- Each employer shall provide a representative vehicle to any currently licensed driver or employee who must operate a commercial motor vehicle to fulfil the duties of their position and is required to satisfy the skills tests required under this Act. The Director shall issue regulations to implement this provision.

Comments

This amendment will insure that affected employees are provided representative vehicles to comply with the skills test requirements. A similar provision has been included in Pennsylvania.

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