

CHAPTER 50
SMART MOVES PROGRAM

Authority

N.J.S.A. 27:1A-5, 27:1A-6 and 27:26A, specifically 27:26A-4.3 and 27:26A-15; and 42 U.S.C. §7511a(d)(1), specifically §182(d)(1).

Source and Effective Date

R.2008 d.255, effective July 29, 2008.
See: 40 N.J.R. 2214(a), 40 N.J.R. 5062(a).

Chapter Expiration Date

Chapter 50, Smart Moves Program, expires on July 29, 2013.

Chapter Historical Note

Chapter 50, Railroad Transportation—Public Hearings, was adopted and became effective prior to September 1, 1969.

Chapter 50, Railroad Transportation—Public Hearings, was repealed by R.1989 d.607, effective December 18, 1989. See: 21 N.J.R. 3258(b), 21 N.J.R. 3929(b).

Chapter 50, Employer Trip Reduction Program, was adopted as R.1993 d.626, effective December 6, 1993. See: 25 N.J.R. 3132(a), 25 N.J.R. 5494(b).

Subchapter 15, Employer Trip Reduction Program Tax Credit, was adopted as R.1995 d.75, effective February 6, 1995. See: 26 N.J.R. 756(a), 27 N.J.R. 521(a).

Subchapter 11, Disclosure of Information, was adopted as R.1995 d.338, effective June 19, 1995. See: 27 N.J.R. 827(a), 28 N.J.R. 2436(b).

Chapter 50, Employer Trip Reduction Program, was repealed and a new Chapter 50, Smart Moves Program, was adopted as R.1997 d.407, effective October 6, 1997. See: 29 N.J.R. 2794(a), 29 N.J.R. 4295(b).

Chapter 50, Smart Moves Program, was readopted as R.2003 d.168, effective March 31, 2003. As a part of R.2003 d.168, Subchapter 1, Statutory Authority, and Subchapter 4, Employer Notification, were repealed, effective May 5, 2003. See: 34 N.J.R. 3580(a), 35 N.J.R. 1921(a).

Chapter 50, Smart Moves Program, was readopted as R.2008 d.255, effective July 29, 2008. As a part of R.2008 d.255, Subchapter 1, General Provisions, was adopted as new rules; and Subchapter 3, Entities Eligible to Participate; Information Resources, and Subchapter 8, Smart Moves for Business Challenge Grants, were repealed, effective September 2, 2008. See: Source and Effective Date. See, also, section annotations.

Law Review and Journal Commentaries

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

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

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

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SUBCHAPTER 1. GENERAL PROVISIONS

16:50-1.1 Purpose and scope

This chapter governs the administration of the Smart Moves for Business Program which encourages all New Jersey employers to voluntarily implement programs that reduce work-related vehicle trips and vehicle miles traveled to the worksite. Additionally, the rules articulate the criteria and procedures that make employers eligible for tax credits when implementing voluntary trip reduction programs. Participation in the Smart Moves for Business Program is voluntary. Employers that offer commute options to their employees are encouraged to register and report their activities to the Department to help the State document reduc-

tions in traffic congestion and air pollution resulting from the Smart Moves for Business Program. Employers that intend to apply for the Smart Moves for Business Program Tax Credit must register with the Department and submit a Smart Moves for Business Program Narrative.

16:50-1.2 Information resources

Information about the program described in this chapter is available from the Department upon request directed to the following address: Smart Moves for Business Program, Division of Multimodal Services, NJ Department of Transportation, 1035 Parkway Avenue, PO Box 600, Trenton, NJ 08625-0600; and on the Internet at: www.state.nj.us/transportation/commuter/smartmoves/.

SUBCHAPTER 2. DEFINITIONS

16:50-2.1 Definitions

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

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

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

“Approved Smart Moves for Business Program” means a program of an employer that has voluntarily registered with the Department, has submitted the required documentation and has been certified by the Department as eligible for the Smart Moves for Business Program Tax Credits.

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

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

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

“Commissioner” means the Commissioner of Transportation of the State of New Jersey.

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

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

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

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

“Department” means the New Jersey Department of Transportation.

“Division of Taxation” means the New Jersey Department of Treasury, Division of Taxation.

“Dual fuel vehicle” means a highway vehicle with the capability to be powered by either of two fuels, one of which is gasoline and the other of which is an alternative fuel, such as natural gas, propane, methanol, or other fuel as defined in The Comprehensive National Energy Policy Act of 1992, Title 3, Section 301, Public Law 102-486, approved October 23, 1992, (42 U.S.C. § 13211).

“Eligible expense” means a direct expenditure made by a tax credit employer to provide commuter transportation benefits in support of its Smart Moves for Business Program. The expenses must be outlined in the employer’s Smart Moves for Business Program Narrative and approved by the Department of Transportation as eligible for the Smart Moves for Busi-