

SENATE, No. 3087

STATE OF NEW JERSEY
217th LEGISLATURE

INTRODUCED MARCH 13, 2017

Sponsored by:

Senator RAYMOND J. LESNIAK

District 20 (Union)

SYNOPSIS

Establishes DEP Statewide program to reduce heavy-duty diesel truck emissions.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the reduction of air pollutants and emissions
2 from heavy-duty diesel vehicles, and supplementing Title 26 of
3 the Revised Statutes.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. (New section) The Legislature finds and declares that New
9 Jersey is the state with the highest number of vehicles passing
10 through it every day of any other state in the nation; that a
11 significant and large number of these vehicles are diesel trucks that
12 are not registered in the State and therefore are difficult to regulate
13 and contribute to an oppressive diesel particulate problem in the
14 State; that the federal government has recently acknowledged the
15 serious health and environmental risks of diesel emissions, calling
16 for a 25 percent reduction in these emissions over the next 10 years;
17 and that the extent of the diesel particulate problem behooves the
18 State to do all that it can to ensure the diesel trucks operating in the
19 State are as clean diesel as possible to reduce the diesel particulate
20 emissions in the State.

21 The Legislature therefore determines that it is crucial for the
22 State to require Statewide reduction of diesel emissions by
23 requiring compliance with the California heavy duty diesel vehicle
24 standards.

25
26 2. (New section) a. The Department of Environmental
27 Protection shall revise, incorporate, or adopt by reference into the
28 rules and regulations established pursuant to section 3 of
29 P.L.1995, c.157 (C.39:8-61) the following emissions and exhaust
30 standards and test methods adopted by the California Air Resources
31 Board:

32 (1) the “California Exhaust Emission Standards and Test
33 Procedures for 2004 and Subsequent Model Heavy-Duty Diesel
34 Engines and Vehicles,” Part 86, Subpart A, section 86.001-1 of
35 Title 13 of the California Code of Regulations et al., as amended;
36 and

37 (2) the California “Regulation to Reduce Emissions of Diesel
38 Particulate Matter, Oxides of Nitrogen and Other Criteria
39 Pollutants, from In-Use Heavy-Duty Diesel-Fueled Vehicles,”
40 section 2025 of Title 13 of the California Code of Regulations et al.,
41 as amended.

42 b. The department shall require all heavy-duty diesel trucks
43 operating in the State to comply with the emissions standards
44 established for model year 2007 and later pursuant to the standards,
45 rules, and regulations adopted pursuant to subsection a. of this

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 section within three years after the effective date of P.L. , c. (C.
2 (pending before the Legislature as this bill).

3 c. The department, pursuant to the "Administrative Procedure
4 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt any rules
5 and regulations necessary for the implementation of this act.
6

7 3. Section 2 of P.L.1995, c.157 (C.39:8-60) is amended to read
8 as follows:

9 2. As used in **[this act]** P.L.1995, c.157 (C.39:8-59 et al.) and
10 P.L. , c. (C.) (pending before the Legislature as this bill):

11 "Diesel bus" means any diesel-powered autobus or motorbus of
12 any size or configuration, whether registered in this State or
13 elsewhere, that is designed or used for intrastate or interstate
14 transportation of passengers for hire or otherwise on a public road,
15 street or highway or any public or quasi-public property in this
16 State, and shall include, but need not be limited to: autobuses under
17 the jurisdiction of the commission pursuant to Titles 27 or 48 of the
18 Revised Statutes; autobuses of the New Jersey Transit Corporation
19 and its contract carriers that are under the inspection jurisdiction of
20 the commission; autobuses that are subject to federal motor carrier
21 safety regulations; autobuses under the authority of the Interstate
22 Commerce Commission or its successor agency; school buses, as
23 defined pursuant to R.S.39:1-1; hotel, casino, charter, and special
24 buses; and any other diesel-powered autobus or motorbus as
25 determined by rule or regulation adopted by the commission in
26 consultation with the Department of Transportation**[:]**.

27 "Diesel-powered motor vehicle" means a vehicle, whether
28 registered in this State or elsewhere, that is self-propelled by a
29 compression ignition type of internal combustion engine using
30 diesel fuel and that (1) is designed or used for transporting persons
31 or property on any public road, street or highway or any public or
32 quasi-public property in this State, (2) is greater than 8,500 pounds
33 gross vehicle weight, (3) is not a diesel bus or heavy-duty diesel
34 truck, and (4) is not a heavy-duty diesel truck or other diesel-
35 powered motor vehicle owned and operated by a county,
36 municipality, fire district, or duly incorporated nonprofit
37 organization for first aid, emergency, ambulance, rescue, or fire-
38 fighting purposes. Diesel-powered motor vehicle shall also mean a
39 vehicle that is designed or used for construction or farming
40 purposes and is greater than 8,500 pounds gross vehicle weight,
41 except that the commission, in consultation with the Department of
42 Environmental Protection, may exempt from the requirements of
43 this act diesel-powered motor vehicles that are registered as
44 construction vehicles under Titles 39 and 41 of the Revised Statutes
45 or that are greater than 8,500 pounds gross vehicle weight and are
46 designed or used for construction or farming purposes**[:]**.

47 "EPA" means the United States Environmental Protection
48 Agency**[:]**.

1 "Gross vehicle weight rating" or "GVWR" means the value
2 specified by the manufacturer as the loaded weight of a single or
3 combination (articulated) vehicle. The GVWR of a combination
4 (articulated) vehicle, commonly referred to as the "gross
5 combination weight rating" or "GCWR," is the GVWR of the power
6 unit plus the GVWR of the towed unit or units【;】.

7 "Heavy-duty diesel truck" means any diesel-powered motor
8 vehicle, whether registered in this State or elsewhere, with a GVWR
9 of 18,000 or more pounds that is designed or used for the
10 transporting of property on any public road, street or highway or
11 any public or quasi-public property in this State. Heavy-duty diesel
12 truck shall not mean a heavy-duty diesel truck owned and operated
13 by a county, municipality, fire district, or duly incorporated
14 nonprofit organization for first aid, emergency, ambulance, rescue,
15 or fire-fighting purposes【;】.

16 "Periodic inspection program" or "periodic inspection" means a
17 program in which diesel buses, heavy-duty diesel trucks, and other
18 diesel-powered motor vehicles registered in this State are
19 periodically inspected in accordance with the provisions of 【this
20 act;】 P.L.1995, c.157 (C.39:8-59 et al.).

21 "Person" means a corporation, company, association, society,
22 firm, partnership, or joint stock company, or an individual, and shall
23 also include the State and all of its political subdivisions and any
24 agencies, authorities, corporations, or instrumentalities of the State
25 or any political subdivision thereof 【; and】.

26 "Roadside enforcement program" or "roadside inspection" means
27 a roadside examination program conducted pursuant to this act for
28 the inspection of exhaust emissions, emission control apparatus and
29 such other items as the Department of Environmental Protection, in
30 consultation with the commission and the Commissioner of
31 Transportation, prescribes, of diesel buses, heavy-duty diesel
32 trucks, and other diesel-powered motor vehicles along any public
33 road, street or highway or any public or quasi-public property in
34 this State or at such other locations as may be designated by the
35 commission in consultation with the Commissioner of
36 Transportation.
37 (cf: P.L.2003, c.13, s.76.)
38

39 4. Section 3 of P.L.1995, c.157 (C.39:8-61) is amended to read
40 as follows:

41 3. The Department of Environmental Protection, in
42 consultation with the commission and the Department of
43 Transportation, shall adopt rules and regulations pursuant to the
44 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
45 seq.) establishing exhaust emissions standards and test methods,
46 and standards for emission control apparatus and related items, in
47 accordance with P.L.1966, c.16 (C.26:2C-8.1 et seq.) , section 2 of

1 P.L. , c. (C.) (pending before the Legislature as this bill),
2 or as may be authorized or provided otherwise by federal law, rule
3 or regulation, for diesel buses, heavy-duty diesel trucks, and other
4 diesel-powered motor vehicles. The test methods shall be accurate,
5 objective, and capable of being performed routinely in the periodic
6 inspection program and the roadside enforcement program. In
7 adopting such standards and test methods, the Department of
8 Environmental Protection may consider, but need not necessarily
9 adopt, exhaust control technology current at the time of adoption of
10 the rules and regulations, as well as guidance, standards, directives,
11 and other information issued by the EPA, any other state, or any
12 governmental agency, scientific research entity, or industry. The
13 Department of Environmental Protection may provide that the
14 standards and test methods vary according to the age of the vehicle
15 or according to other relevant factors, and the department may
16 provide exemptions based upon good cause, including, but not
17 limited to, whether the vehicle has been tested within the previous
18 six months or other reasonable period of time in accordance with
19 the law of another state or jurisdiction and has been found to be in
20 compliance with the exhaust emissions standards of the state or
21 jurisdiction in which the vehicle was tested. The provisions of this
22 act shall not apply to any heavy-duty diesel truck or other diesel-
23 powered motor vehicle owned and operated by a county,
24 municipality, fire district, or duly incorporated nonprofit
25 organization for first aid, emergency, ambulance, rescue, or fire-
26 fighting purposes.

27 (cf: P.L.2003, c.13, s.77)

28

29 5. Section 4 of P.L.1995, c.157 (C.39:8-62) is amended to read
30 as follows:

31 4. No owner or lessee of a diesel bus, heavy-duty diesel truck,
32 or other diesel-powered motor vehicle shall operate, or cause or
33 allow the operation of, that diesel bus, heavy-duty diesel truck, or
34 other diesel-powered motor vehicle in this State in violation of the
35 standards established by the Department of Environmental
36 Protection and determined in accordance with test methods and
37 procedures established pursuant to **【this act】** P.L.1995, c.157
38 (C.39:8-59 et al.) and section 2 of P.L. , c. (C.) (pending
39 before the Legislature as this bill).

40 (cf: P.L.1995, c.157, s.4)

41

42 6. Section 5 of P.L.1995, c.157 (C.39:8-63) is amended to read
43 as follows:

44 5. a. The owner and the lessee, if any, of a heavy-duty diesel
45 truck operated in violation of section 4 of **【this act】** P.L.1995, c.157
46 (C.39:8-62) or section 2 of P.L. , c. (C.) (pending before
47 the Legislature as this bill) shall be jointly and severally liable for a
48 civil penalty of: \$700 for the first violation, except as otherwise

1 provided in this subsection; and \$1,300 for the second or
2 subsequent violation, except as otherwise provided in this
3 subsection. A second or subsequent violation is one that occurs
4 within one year of the occurrence of a previous violation committed
5 with respect to the same heavy-duty diesel truck, without regard to
6 the date of the hearing that adjudicated the violation and without
7 regard to the identity of the defendant against whom it was
8 adjudicated. The complaint and summons shall state whether the
9 charges pertain to a first violation or to a second or subsequent
10 violation, but if the complaint and summons fail to allege a second
11 or subsequent violation, the civil penalty imposed shall be that for a
12 first violation. The penalty for a first violation may be reduced to
13 \$150 and the penalty for a second or subsequent violation may be
14 reduced to \$500 if the defendant provides a certification of the
15 repairs to the vehicle that is satisfactory to the court and in
16 compliance with emissions standards. The commission may specify
17 by rule or regulation the manner of the repairs and the certification
18 necessary to effect a reduction of penalty. The commission may, by
19 rule or regulation, provide that information pertaining to penalties,
20 the repairs that may effect a reduction of penalty, and the
21 certification necessary to substantiate those repairs and compliance
22 with emissions standards be served with the complaint and
23 summons. The commission may, by rule or regulation, prescribe a
24 form for certifying repairs and compliance with emissions
25 standards, with instructions as to how the form should be completed
26 and certified. The commission may provide that the form be served
27 with the complaint and summons.

28 Notwithstanding any other provision of law or any rule or
29 regulation adopted pursuant thereto to the contrary, repairs to effect
30 a reduction of penalty under the provisions of this subsection shall
31 be made before the hearing date or within 45 days of the occurrence
32 of the violation, whichever is sooner. A defendant who is permitted
33 to waive appearance and plead guilty by mail shall also be
34 permitted to submit the certification of repairs by mail; provided
35 that if the court deems the certification to be inadequate, it shall
36 afford the defendant the option to withdraw the defendant's guilty
37 plea.

38 b. The owner and the lessee, if any, of a diesel bus operated in
39 violation of section 4 of **[this act]** P.L.1995, c.157 (C.39:8-62)
40 shall be jointly and severally liable for a civil penalty determined by
41 a penalty schedule that the commission, in consultation with the
42 Commissioner of Transportation, shall adopt by rule or regulation
43 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
44 (C.52:14B-1 et seq.), but in no event shall the penalties established
45 thereby exceed the penalties established by subsection a. of this
46 section for heavy-duty diesel trucks. The penalty schedule may
47 provide for a reduction of penalty if the defendant provides a
48 certification of the repairs to the vehicle that is satisfactory to the

1 court and in compliance with emissions standards. The
2 commission, in consultation with the Commissioner of
3 Transportation, may, by rule or regulation, specify the timing and
4 manner of the repairs and compliance with emissions standards, and
5 the certification necessary to effect a reduction of penalty. The
6 commission, in consultation with the Commissioner of
7 Transportation, may, by rule or regulation, provide whether
8 information pertaining to repairs and compliance with emissions
9 standards, and whether a form to certify those repairs and that
10 compliance, should be served with the complaint and summons.

11 Notwithstanding the provisions of this subsection to the contrary,
12 the New Jersey Transit Corporation shall not be liable for any civil
13 penalty assessed for a violation of section 4 or a violation of any
14 other provision of **[this act]** P.L.1995, c.157 (C.39:8-59 et al.) if
15 the diesel bus that is the subject of the violation is operated by a
16 lessee or contractor, or an employee or agent of a lessee or
17 contractor, of the New Jersey Transit Corporation. However, if a
18 diesel bus that is the subject of a violation is leased by the New
19 Jersey Transit Corporation from another person, and the diesel bus
20 is operated by the New Jersey Transit Corporation or an employee
21 thereof, the New Jersey Transit Corporation as lessee, and not the
22 owner of the diesel bus, shall be liable for any civil penalty assessed
23 for the violation.

24 c. The owner and the lessee, if any, of a diesel-powered motor
25 vehicle operated in violation of section 4 of **[this act]** P.L.1995,
26 c.157 (C.39:8-62) shall be jointly and severally liable for a civil
27 penalty determined by a penalty schedule that the commission shall
28 adopt by rule or regulation pursuant to the "Administrative
29 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), but in no
30 event shall the penalties established thereby exceed the penalties
31 established by subsection a. of this section for heavy-duty diesel
32 trucks. The penalty schedule may provide for a reduction of
33 penalty if the defendant provides a certification of the repairs to the
34 vehicle that is satisfactory to the court and in compliance with
35 emissions standards. The commission may, by rule or regulation,
36 specify the timing and manner of the repairs and compliance with
37 emissions standards, and the certification necessary to effect a
38 reduction of penalty. The commission may, by rule or regulation,
39 provide whether information pertaining to repairs and compliance
40 with emissions standards, and whether a form to certify those
41 repairs and that compliance, should be served with the complaint
42 and summons.

43 (cf: P.L.2003, c.13, s.78)

44

45 7. Section 6 of P.L.1995, c.157 (C.39:8-64) is amended to read
46 as follows:

47 6. a. The commission, in consultation with the Department of
48 Environmental Protection and the Department of Transportation and

1 with the approval of the Attorney General, shall establish and
2 implement a periodic inspection program and a roadside
3 enforcement program to implement the standards and test methods
4 adopted pursuant to section 3 of **[this act]** P.L.1995, c.157 (C.39:8-
5 61). These programs shall be designed to measure exhaust
6 emissions and to inspect emission control apparatus and related
7 items on diesel buses, heavy-duty diesel trucks, and other diesel-
8 powered motor vehicles. The programs shall include, at a
9 minimum, diesel buses and heavy-duty diesel trucks subject to the
10 rules and regulations adopted pursuant to section 3 of **[this act]**
11 P.L.1995, c.157 (C.39:8-61) and section 2 of P.L. , c. (C.)
12 (pending before the Legislature as this bill); provided that the
13 commission, in consultation with the Department of Transportation,
14 may exempt vehicles from either program for good cause, which
15 may include that vehicles belonging to an exempted class are, by
16 law, subject to emissions testing in another program. The
17 commission, in consultation with the Department of Environmental
18 Protection and with the approval of the Attorney General, may, by
19 rule or regulation, expand the periodic inspection program and the
20 roadside enforcement program to include other diesel-powered
21 motor vehicles that are subject to the rules and regulations adopted
22 pursuant to section 3 of this **[act]** P.L.1995, c.157 (C.39:8-61).
23 The commission, in consultation with the Commissioner of
24 Transportation, may, by rule or regulation, impose upon every
25 owner and lessee of a diesel bus, heavy-duty diesel truck, or other
26 diesel-powered motor vehicle subject to periodic inspection the
27 obligation to have the vehicle periodically inspected in a manner
28 determined by the commission in consultation with the
29 Commissioner of Transportation, to effect repairs or to abstain from
30 operating or to limit the operation of a rejected vehicle or a vehicle
31 overdue for inspection, and may take other action necessary or
32 appropriate for implementation of the periodic inspection program.
33 The commission, in consultation with the Commissioner of
34 Transportation, may, by rule or regulation, impose upon every
35 owner and lessee of a diesel bus, heavy-duty diesel truck, or other
36 diesel-powered motor vehicle subject to roadside inspection the
37 obligation to abstain from operating or to limit the operation of a
38 vehicle that has been tested and found to be in violation of the rules
39 and regulations adopted pursuant to section 3 of **[this act]**
40 P.L.1995, c.157 (C.39:8-61) or section 2 of P.L. , c. (C.)
41 (pending before the Legislature as this bill), or to effect repairs, and
42 may take other action necessary or appropriate for implementation
43 of the roadside enforcement program. A school bus, as defined
44 pursuant to R.S.39:1-1, shall be exempt from the roadside
45 enforcement program. However, nothing in this subsection allowing
46 or mandating exemptions from the periodic inspection program or
47 the roadside enforcement program shall be construed to limit any
48 other enforcement actions permitted by law.

1 b. The commission shall exercise all authority, including but
2 not limited to administrative, implementation, enforcement, and
3 penalty authority, in connection with the periodic inspection
4 program for diesel buses and the roadside enforcement program for
5 diesel buses that are under the jurisdiction of the commission
6 pursuant to Titles 27 and 48 of the Revised Statutes or any other
7 law, rule, or regulation. The commission shall consult with the
8 Department of Environmental Protection and the Department of
9 Transportation in conducting the periodic inspection program for
10 diesel buses and the roadside enforcement program for diesel buses
11 that are under the jurisdiction of the commission. Any periodic
12 inspection that may be required pursuant to this act for a diesel bus
13 under the jurisdiction of the commission shall be conducted only in
14 conjunction with any periodic safety inspection required for that
15 diesel bus pursuant to law, rule, or regulation. Any suspension of
16 registration privileges with respect to diesel buses for a violation of
17 this act or any rule or regulation adopted pursuant thereto shall be
18 implemented by the commission.

19 (cf: P.L.2003, c.13, s.79)

20

21 8. Section 7 of P.L.1995, c.157 (C.39:8-65) is amended to read
22 as follows:

23 7. In implementing the roadside enforcement program, the
24 commission, in consultation with the Commissioner of
25 Transportation, shall phase in roadside inspections by establishing a
26 pilot roadside enforcement program providing a six-month grace
27 period in which warnings shall be issued in lieu of the civil
28 penalties established by **[this act]** P.L.1995, c.157 (C.39:8-59 et
29 al.) or any rule or regulation adopted pursuant thereto.
30 Notwithstanding the provisions of the "Administrative Procedure
31 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), procedures for the pilot
32 program may be adopted immediately.

33 (cf: P. L.2003, c.13, s.80)

34

35 9. Section 8 of P.L.1995, c.157 (C.39:8-66) is amended to read
36 as follows:

37 8. a. The commission, in consultation with the Department of
38 Environmental Protection and the Department of Transportation,
39 shall establish procedures by which test methods established
40 pursuant to section 3 of **[this act]** P.L.1995, c.157 (C.39:8-61) shall
41 be conducted in the periodic inspection program and in the roadside
42 enforcement program.

43 b. The commission, in consultation with the Department of
44 Transportation and with the approval of the Attorney General, may,
45 by rule or regulation, require that personnel from, and agents of, the
46 commission and the Department of Transportation, and personnel
47 from the Division of State Police, who perform the test methods
48 utilized in the roadside enforcement program, and licensees and

1 persons employed by licensees who perform the tests and test
2 methods utilized in the periodic inspection program in accordance
3 with the provisions of section 11 of **【this act】** P.L.1995, c.157
4 (C.39:8-69), be trained to do so and be examined, periodically if the
5 rule or regulation so provides, to ensure that their training and
6 competence are adequate. Testing in the roadside enforcement
7 program may be conducted by personnel from the commission, or
8 the Division of State Police, or by agents appointed by or under
9 contract with the commission.

10 c. The commission, in consultation with the Department of
11 Environmental Protection and the Department of Transportation and
12 with the approval of the Attorney General, shall designate one or
13 more test methods among those established pursuant to section 3 of
14 **【this act】** P.L.1995, c.157 (C.39:8-61) that shall be utilized in the
15 roadside enforcement program established pursuant to section 6 of
16 **【this act】** P.L.1995, c.157 (C.39:8-64). The commission, in
17 consultation with the Department of Transportation and with the
18 approval of the Attorney General, shall establish a form or forms
19 upon which the results of these designated tests or test methods
20 shall be reported in the ordinary course. The form shall contain a
21 statement or statements establishing the following: the type of test
22 performed; the result achieved; that the person completing the form
23 is the person who performed the test; that the tester has been
24 certified by the commission as having adequate training and
25 competence to perform the test; that the tester is an employee or
26 agent of the State and was acting in an official capacity when the
27 tester performed the test; and any other information that the
28 commission may prescribe. The form shall contain a certification
29 subscribed by the person performing the test and certifying that that
30 person did perform the test in a proper manner and believes the test
31 results to be valid and accurate. The presentation of a form
32 prepared in accordance with the provisions of this subsection to a
33 court by any party to a proceeding shall be evidence that all of the
34 requirements and provisions of this subsection have been met and
35 that the form has been prepared in accordance with the provisions
36 of this subsection. The form shall be admissible evidence as proof
37 of the statements contained therein in any civil penalty proceeding
38 brought pursuant to the provisions of this act or any rule or
39 regulation adopted pursuant thereto. A copy of the form shall be
40 served, if practicable, with the complaint and summons upon the
41 defendant or the defendant's agent for service of process; and, in
42 any event, shall be served upon such person at least 20 days before
43 the hearing. Whenever the form is served upon a defendant or a
44 defendant's agent, together with the complaint and summons, the
45 law enforcement officer serving the form shall execute and file with
46 the court a proof of service on a form prescribed by the
47 Administrative Director of the Courts and in a manner consistent
48 with the Rules Governing the Courts of the State of New Jersey.

1 The form shall not be admissible if it is not served at least 20 days
2 before the hearing, provided that the court, upon a showing of good
3 cause and that the defendant is not prejudiced, may postpone the
4 hearing, subject to the Rules Governing the Courts of the State of
5 New Jersey.

6 d. A roadside inspection of a diesel bus to enforce standards
7 adopted pursuant to section 3 of **【this act】** P.L.1995, c.157 (C.39:8-
8 61) this act shall be conducted only in conjunction with a roadside
9 safety inspection that is conducted pursuant to law, rule or
10 regulation.

11 (cf: P.L.2003, c.13, s.81)

12

13 10. Section 10 of P.L.1995, c.157 (C.39:8-68) is amended to
14 read as follows:

15 10. In addition to any other penalties that may be applicable, the
16 operator of a diesel bus, heavy-duty diesel truck, or other diesel-
17 powered motor vehicle who fails to comply with any direction
18 given pursuant to section 9 of **【this act】** P.L.1995, c.157 (C.39:8-
19 67), or who refuses to submit or resists submitting a vehicle under
20 the operator's control for roadside inspection, or who fails to
21 comply with any other obligation imposed upon that person as part
22 of the roadside enforcement program shall be jointly and severally
23 liable with the owner and the lessee, if any, of the vehicle for a civil
24 penalty of \$500. The owner and the lessee, if any, of a diesel bus,
25 heavy-duty diesel truck, or other diesel-powered motor vehicle
26 subject to periodic inspections who violates any rule or regulation
27 adopted pursuant to section 6 of **【this act】** P.L.1995, c.157 (C.39:8-
28 64) this act pertaining to periodic inspections shall be liable for a
29 civil penalty determined by a penalty schedule that the commission,
30 in consultation with the Commissioner of Transportation, shall
31 adopt by rule or regulation pursuant to the "Administrative
32 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), but in no
33 event shall a penalty established thereby exceed \$500.

34 Notwithstanding the provisions of this section to the contrary,
35 the New Jersey Transit Corporation shall not be liable for any civil
36 penalty assessed for a violation of this section if the diesel bus that
37 is the subject of the violation is operated by a lessee or contractor,
38 or an employee or agent of a lessee or contractor, of the New Jersey
39 Transit Corporation. However, if a diesel bus that is the subject of
40 a violation of this section is leased by the New Jersey Transit
41 Corporation from another person, and the diesel bus is operated by
42 the New Jersey Transit Corporation or an employee thereof, the
43 New Jersey Transit Corporation as lessee, and not the owner of the
44 diesel bus, shall be liable for any civil penalty assessed for the
45 violation.

46 (cf: P.L.2003, c.13, s.83)

1 11. Section 12 of P.L.1995, c.157 (C.39:8-70) is amended to
2 read as follows:

3 12. Any person who violates any provision of sections 2 through
4 20 of **【this act】** P.L.1995, c.157 (C.39:8-59 et al.) or section 2 of
5 P.L. , c. (C.) (pending before the Legislature as this bill),
6 or any rule or regulation adopted pursuant thereto, shall be liable
7 for a civil penalty. The amount of the penalty shall be that
8 specified in the other sections of **【this act】** P.L.1995, c.157 (C.39:8-
9 59 et al.) or in the rules or regulations adopted pursuant to 【this
10 act】 P.L.1995, c.157 (C.39:8-59 et al.) or section 2 of P.L. , c.
11 (C.) (pending before the Legislature as this bill); but if no
12 amount is otherwise specified, then the amount shall be \$200.
13 Additionally, the commission may suspend the registration
14 privileges of a vehicle registered in this State that is operated in
15 violation of **【this act】** P.L.1995, c.157 (C.39:8-70) or section 2 of
16 P.L. , c. (C.) (pending before the Legislature as this bill),
17 or any rule or regulation adopted pursuant thereto.
18 (cf: P.L.2003, c.13, s.85)

19

20 12. Section 13 of P.L.1995, c.157 (C.39:8-71) is amended to
21 read as follows:

22 13. a. A complaint and summons charging a violation of **【this**
23 **act】** P.L.1995, c.157 (C.39:8-59 et al.) or section 2 of P.L. , c.
24 (C.) (pending before the Legislature as this bill), or any rule or
25 regulation adopted pursuant thereto, and seeking the imposition of a
26 civil penalty in accordance with the provisions of **【this act】** section
27 32 of P.L.1995, c.157 (C.39:8-59 et al.), or any rule or regulation
28 adopted pursuant to 【this act】 P.L.1995, c.157 (C.39:8-59 et al.) or
29 section 2 of P.L. , c. (C.) (pending before the Legislature
30 as this bill), shall be a ticket in the form prescribed by the
31 Administrative Director of the Courts pursuant to the Rules
32 Governing the Courts of the State of New Jersey and may contain
33 information advising the persons to whom it is issued of the manner
34 in which and time within which an answer to the alleged violation is
35 required. The ticket may also advise that penalties may result from
36 a failure to answer, that the failure to answer or appear shall be
37 considered an admission of liability, and that a default judgment
38 may be entered. Service of the ticket shall be subject to the Rules
39 Governing the Courts of the State of New Jersey. The ticket may be
40 served personally upon the operator of a vehicle, and the owner's or
41 the lessee's name may be recorded on the ticket, together with the
42 plate number and state or jurisdiction as shown by the registration
43 plates of the vehicle and the make or model of the vehicle. A ticket
44 may be served upon the owner or the lessee of the vehicle by
45 affixing the ticket to the vehicle in a conspicuous place. A ticket
46 may be served by mail upon the owner or the lessee of the vehicle
47 on file with the commission, or the licensing authority of another

1 jurisdiction by mailing the ticket to the vehicle owner or lessee by
2 regular or certified mail to the address on file with the commission,
3 or the licensing authority of another jurisdiction. Service of a ticket
4 by regular or certified mail shall have the same effect as if the ticket
5 were served personally, subject to the Rules Governing the Courts
6 of the State of New Jersey.

7 b. Subject to the Rules Governing the Courts of the State of
8 New Jersey, the ticket shall contain sufficient information to
9 identify the person or persons charged and to inform them of the
10 nature, date, time and location of the alleged violation. Subject to
11 the Rules Governing the Courts of the State of New Jersey, the
12 original of the ticket shall be signed by the complaining witness,
13 who shall certify to the truth of the facts set forth therein. Any
14 person may serve as the complaining witness. For the purposes of
15 the certification, the complaining witness may rely upon
16 information from the commission, or the Division of State Police,
17 upon official reports, and upon any form prepared in accordance
18 with subsection c. of section 8 of **[this act]** P.L.1995, c.157
19 (C.39:8-66). The original ticket or a true copy of the ticket shall be
20 considered a record kept in the ordinary business of the commission
21 and shall be prima facie evidence of the facts contained therein.

22 c. Any operator who drives a vehicle in this State when the
23 owner or lessee of that vehicle causes, authorizes, or otherwise
24 permits such operation shall be the owner's or lessee's agent for
25 service of any ticket, process, or penalty or other notice against the
26 owner or lessee arising out of any alleged violation of this act or
27 any rule or regulation adopted pursuant thereto. The owner and the
28 lessee, if any, of a vehicle driven by any operator in this State shall
29 be the operator's agent or agents for service of any ticket, process,
30 or penalty or other notice arising out of any alleged violation of
31 section 10 of **[this act]** P.L.1995, c.157 (C.39:8-68) pertaining to a
32 roadside inspection. Subject to the Rules Governing the Courts of
33 the State of New Jersey, any service of ticket, process, or penalty or
34 other notice served on an operator who operates in this State, or on
35 an owner or lessee of the vehicle, shall also constitute service upon
36 the remaining persons, so long as the ticket, process, or penalty or
37 other notice advises the person actually served of that person's
38 responsibility to notify the remaining persons.

39 d. Subject to the Rules Governing the Courts of the State of
40 New Jersey, judicial proceedings under this act may be instituted on
41 any day of the week, and the institution of the proceedings on a
42 Sunday or a holiday shall not be a bar to the successful prosecution
43 thereof. Subject to the Rules Governing the Courts of the State of
44 New Jersey, any process served on a Sunday or holiday shall be as
45 valid as if served on any other day of the week.

46 e. A municipal court before which proceedings pursuant to this
47 act are instituted shall, subject to the Rules Governing the Courts of
48 the State of New Jersey, immediately, upon expiration of the time

1 for a defendant to answer or appear: (1) with respect to a resident
2 of New Jersey, mail notice as provided in the Rules Governing the
3 Courts of the State of New Jersey; or (2) with respect to a non-
4 resident of New Jersey, mail notice as provided in the Rules
5 Governing the Courts of the State of New Jersey. The notice shall
6 be upon a form approved by the Administrative Director of the
7 Courts that informs the defendant of the following: the infraction
8 charged; the time and date of the infraction; the amount of penalties
9 due; the defendant's right to have a hearing; and that a civil
10 judgment may be entered against the defendant for failure to answer
11 or appear or pay the amount of penalties due. Upon failure to
12 answer or appear in response to the notice, the court shall give
13 notice of that fact to the commission in a manner prescribed by the
14 commission, and money judgment shall be entered and execution
15 shall issue in accordance with the Rules Governing the Courts of
16 the State of New Jersey. If the judgment has been docketed in the
17 Superior Court pursuant to section 15 of **[this act]** P.L.1995, c.157
18 (C.39:8-73), execution shall be under the jurisdiction of that court.
19 In no case of an unsatisfied judgment shall an arrest warrant or
20 execution against the body of the defendant issue unless otherwise
21 provided by the Rules Governing the Courts of the State of New
22 Jersey. If notice has been given under this subsection of a person's
23 failure to respond to a failure to appear notice and if the person
24 appears or if the case is dismissed or otherwise disposed of, the
25 court shall promptly give notice to that effect to the commission.

26 f. If the defendant is the owner or lessee of a vehicle that is the
27 subject of the violation and if the defendant fails to respond to a
28 failure to appear notice, the judge or the commission may suspend
29 the registration privileges of the defendant in this State. The
30 commission shall keep a record of a suspension ordered by the court
31 pursuant to this subsection. If the registration privileges of the
32 defendant have been suspended pursuant to this subsection and if
33 the defendant appears or the case is disposed of and if the defendant
34 satisfies all penalties and costs that are owing, the court shall
35 forward to the commission a notice to restore the defendant's
36 registration privileges. Upon receiving a notice to restore and upon
37 the defendant's payment of the restoration fee in accordance with
38 section 23 of P.L.1975, c.180 (C.39:3-10a), the commission shall
39 record the restoration and notify the defendant of the restoration.

40 (cf: P.L.2003, c.13, s.86)

41

42 13. Section 14 of P.L.1995, c.157 (C.39:8-72) is amended to
43 read as follows:

44 14. An action for the recovery of a civil penalty for violation of
45 **[this act]** P.L.1995, c.157 (C.39:8-59 et al.) or section 2 of P.L. ,
46 c. (C.) (pending before the Legislature as this bill), or any
47 rule or regulation adopted pursuant **[to this act]** thereto, shall be
48 within the jurisdiction of and may be brought before the municipal

1 court in the municipality where the offense was committed or where
2 the defendant may be found, or where the measurement of
3 emissions was physically made. The municipal prosecutor shall
4 proceed in the matter on behalf of the State, unless the county
5 prosecutor or the Attorney General assumes responsibility for the
6 prosecution. The civil penalties provided by **【this act】** P.L.1995,
7 c.157 (C.39:8-59 et al.) or section 2 of P.L. , c. (C.)
8 (pending before the Legislature as this bill), or any rule or
9 regulation adopted pursuant thereto, shall be recovered in the name
10 of the commission, as appropriate, and any money collected by the
11 court in payment of a civil penalty shall be conveyed to the State
12 Treasurer for deposit into the State General Fund. The civil
13 penalties provided by **【this act】** P.L.1995, c.157 (C.39:8-59 et al.)
14 or section 2 of P.L. , c. (C.) (pending before the
15 Legislature as this bill), or any rule or regulation adopted pursuant
16 thereto, shall be collected and enforced by summary proceedings
17 pursuant to "The Penalty Enforcement Law of 1999," P.L.1999,
18 c.274 (C.2A:58-10 et seq.). If the ticket has not been marked to
19 indicate that a court appearance is required, the defendant shall
20 have the option to waive trial, enter a plea of guilty, and pay the
21 penalty, either by mail or in person, to the violations clerk, subject
22 to the Rules Governing the Courts of the State of New Jersey.
23 (cf: P.L.2003, c.13, s.87)

24
25 14. Section 15 of P.L.1995, c.157 (C.39:8-73) is amended to
26 read as follows:

27 15. a. The court administrator of the municipal court shall
28 docket in the Superior Court a municipal court judgment imposing a
29 civil penalty pursuant to **【this act】** P.L.1995, c.157 (C.39:8-59 et
30 al.) or section 2 of P.L. , c. (C.) (pending before the
31 Legislature as this bill), or any rule or regulation adopted pursuant
32 thereto, that remains unpaid at the time of the judgment's entry in
33 the municipal court. The court administrator shall give notice of the
34 docketing to the commission in a manner prescribed by the
35 commission. The provisions and procedures of N.J.S.2B:12-26
36 shall apply to the docketing, except that the court administrator of
37 the municipal court, rather than the commission, shall effect the
38 docketing; provided that nothing in **【this act】** P.L.1995, c.157
39 (C.39:8-59 et al.) or section 2 of P.L. , c. (C.) (pending
40 before the Legislature as this bill) shall be construed to prohibit the
41 commission or its designee from docketing the judgment on behalf
42 of the commission and in accordance with N.J.S.2B:12-26 if the
43 court administrator of the municipal court fails to do so or if the
44 commission or its designee chooses to do so for any other reason.
45 No fee shall be charged to docket the judgment. The docketing
46 shall have the same force and effect as a civil judgment docketed in
47 the Superior Court, and the commission and its designee shall have
48 all of the remedies and may take all of the proceedings for the

1 collection thereof that may be had or taken upon recovery of a
2 judgment in an action, but without prejudice to any right of appeal.

3 b. If the defendant is the owner or lessee of a vehicle that is the
4 subject of the violation, and if the defendant fails to pay a civil
5 penalty imposed pursuant to **[this act]** P.L.1995, c.157 (C.39:8-59
6 et al.) or section 2 of P.L. , c. (C.) (pending before the
7 Legislature as this bill), or any rule or regulation adopted pursuant
8 thereto, the commission may suspend the registration privileges of
9 the defendant in this State.

10 c. Any vehicle that is registered or present in this State and for
11 which a civil penalty has been assessed pursuant to **[this act]**
12 P.L.1995, c.157 (C.39:8-59 et al.) or section 2 of P.L. , c. (C.)
13 (pending before the Legislature as this bill), or any rule or
14 regulation adopted pursuant thereto may be placed out of service by
15 the commission or the Division of State Police if the civil penalty
16 remains unpaid after the date on which it became due and owing. A
17 vehicle placed out of service pursuant to this act by either the
18 commission or the Division of State Police shall not be operated
19 until all civil penalties that are due and owing are paid to the
20 commission. When a vehicle is placed out of service pursuant to
21 **[this act]** P.L.1995, c.157 (C.39:8-59 et al.) or section 2 of P.L. ,
22 c. (C.) (pending before the Legislature as this bill), an
23 administrative out-of-service order shall be prepared on a form or
24 forms specified by the commission and a copy served upon the
25 operator of the vehicle or upon the owner or lessee of the vehicle.
26 The operator of a vehicle served with an out-of-service order
27 pursuant to **[this act]** P.L.1995, c.157 (C.39:8-59 et al.) or section 2
28 of P.L. , c. (C.) (pending before the Legislature as this bill)
29 shall report the issuance of the out-of-service order to the owner
30 and the lessee, if any, of the vehicle within 24 hours. When a
31 vehicle is placed out of service pursuant to **[this act]** P.L.1995,
32 c.157 (C.39:8-59 et al.) or section 2 of P.L. , c. (C.)
33 (pending before the Legislature as this bill), it shall be the
34 responsibility of the owner or lessee of that vehicle to arrange for
35 the prompt removal of that vehicle, by means other than operating
36 the vehicle, and to pay all costs associated therewith. The vehicle
37 shall be removed to a secure storage place where the commission
38 and the Division of State Police can readily confirm its non-
39 operation. If the owner or lessee fails to comply, or is otherwise
40 incapable of complying with this subsection, the commission or the
41 Division of State Police may make such arrangements for the
42 removal of the vehicle to a secure storage place where the
43 commission and the Division of State Police can readily confirm its
44 non-operation, with all attendant charges and expenses to be paid by
45 the owner, lessee, or bailee. No entity of government of this State
46 or any political subdivision thereof shall be held liable for costs
47 associated with or incurred in the enforcement of this subsection.

1 Upon payment by cashier's check or money order, or in such other
2 form as may be determined by the commission, subject to law or the
3 Rules Governing the Courts of the State of New Jersey, of all
4 unpaid civil penalties and attendant storage charges and expenses
5 for a vehicle that has been placed out of service, the commission
6 shall remove the out-of-service order. Any person who operates,
7 and any owner or lessee who causes or allows to be operated, a
8 vehicle in violation of an out-of-service order prepared and served
9 in accordance with the provisions of this subsection shall be liable
10 for a civil penalty of \$1,500, and, if the person has the vehicle
11 registered in this State, the commission may suspend the
12 registration privileges of the vehicle.

13 d. The commission shall exercise all duties, powers and
14 responsibilities set forth in this section with respect to the periodic
15 inspection program for diesel buses and the roadside enforcement
16 program for diesel buses under the jurisdiction of the commission
17 as set forth in subsection b. of section 6 of **[this act]** P.L.1995,
18 c.157 (C.39:8-64).

19 (cf: P.L.2003, c.13, s.88)

20

21 15. Section 16 of P.L.1995, c.157 (C.39:8-74) is amended to
22 read as follows:

23 16. Notwithstanding any other provisions of this title to the
24 contrary, all fees and other monies that the commission, or the State
25 Treasurer receives pursuant to the provisions of **[this act]** P.L.1995,
26 c.157 (C.39:8-59 et al.) or section 2 of P.L. , c. (C.)
27 (pending before the Legislature as this bill), or any rule or
28 regulation adopted pursuant thereto, shall be paid to the
29 Commercial Vehicle Enforcement Fund established pursuant to
30 section 17 of **[this act]** P.L.1995, c.157 (C.39:8-75); except that
31 monies received for attendant storage charges and expenses as
32 provided in subsection c. of section 15 of **[this act]** P.L.1995, c.157
33 (C.39:8-73) shall be paid to the entity that incurred those charges
34 and expenses.

35 (cf: P.L.2003, c.13, s.89)

36

37 16. Section 17 of P.L.1995, c.157 (C.39:8-75) is amended to
38 read as follows:

39 17. a. There is established in the General Fund a separate,
40 nonlapsing, dedicated account to be known as the "Commercial
41 Vehicle Enforcement Fund." The Commercial Vehicle Enforcement
42 Fund shall be administered by the commission. All fees and other
43 monies collected pursuant to **[this act]** P.L.1995, c.157 (C.39:8-59
44 et al.) or section 2 of P.L. , c. (C.) (pending before the
45 Legislature as this bill), or any rule or regulation adopted pursuant
46 thereto, shall be forwarded to the State Treasury for deposit into the
47 Commercial Vehicle Enforcement Fund account. The commission

1 shall receive 40 percent of this fund annually, which monies shall
2 be considered revenue of the commission. All remaining fees and
3 other monies deposited in the Commercial Vehicle Enforcement
4 Fund account shall be used to fund the costs of administering the
5 programs and activities of the Department of Law and Public
6 Safety, the Department of Transportation, the commission and the
7 Department of Environmental Protection established or specified in
8 this act and in subsection f. of R.S.39:3-20, subject to the approval
9 of the Director of the Division of Budget and Accounting in the
10 Department of the Treasury.

11 b. A municipality may be eligible for periodic grants from the
12 fund in such amounts as the commission, in consultation with the
13 Commissioner of Transportation, may determine pursuant to rule or
14 regulation to subsidize costs of prosecuting and trying actions
15 pursuant to **[this act]** P.L.1995, c.157 (C.39:8-59 et al.) or section 2
16 of P.L. , c. (C.) (pending before the Legislature as this
17 bill).

18 (cf: P.L.2003, c.13, s.106)

19

20 17. Section 18 of P.L.1995, c.157 (C.39:8-76) is amended to
21 read as follows:

22 18. The State Treasurer shall establish a receivable account for
23 the sole purpose of defraying the expenses incurred for program
24 implementation and administration of **[this act]** P.L.1995, c.157
25 (C.39:8-59 et al.) or section 2 of P.L. , c. (C.) (pending
26 before the Legislature as this bill). The receivable account shall be
27 relieved by monies deposited into the Commercial Vehicle
28 Enforcement Fund established pursuant to section 17 of **[this act]**
29 of P.L.1995, c.157 (C.39:8-75).

30 (cf: P.L.1995, c.157, s.18)

31

32 18. Section 19 of P.L.1995, c.157 (C.39:8-77) is amended to
33 read as follows:

34 19. Except as otherwise provided in this act, the commission, the
35 Department of Environmental Protection, and the Department of
36 Transportation may adopt rules and regulations pursuant to the
37 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
38 seq.) to effectuate the purposes of **[this act]** P.L.1995, c.157
39 (C.39:8-59 et al.) or section 2 of P.L. , c. (C.) (pending
40 before the Legislature as this bill).

41 (cf: P.L.2003, c.13, s.90)

42

43 19. This act shall take effect immediately.

44

45 STATEMENT

46

47 This bill directs the Department of Environmental Protection
48 (DEP) to do all that it can to ensure the diesel trucks operating in

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19

1 the State are as clean diesel as possible to reduce the diesel
2 particulate emissions in the State. To this end, the bill directs DEP,
3 within three years after enactment of the bill into law, to require all
4 heavy-duty diesel trucks operating in the State to comply with the
5 California Air Resources Board emissions and exhaust standards for
6 model year 2007 and later, and to incorporate the implementation
7 and enforcement of these standards and the relevant testing.