



STATE OF NEW JERSEY

NEW JERSEY LAW REVISION COMMISSION

INTRODUCTION TO THE FINAL REPORT

Relating to

Title 39 - Motor Vehicles and Traffic Regulation

July 2010

The NJLRC released Title 39 as a Final Report in May 2010. The full Final Report is not available on the Commission's website since the number of changes to the law in this area cause it to be quickly out-of-date without frequent updating. The Report is available on request.

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Introduction

General Information

Title 39 includes Motor Vehicles and Traffic Regulation. The scope of the Title is broad. It contains provisions pertaining to the organization and structure of the Motor Vehicle Commission and motor vehicle requirements regarding licensing, registration, equipment and operation. It also includes traffic regulation, enforcement, interstate operation of vehicles, motor vehicle insurance, motor vehicle inspection, the transfer of vehicles, junk yards and driving schools.

Sections of the law have been revised and updated, but the updating has not been consistent. At this time, there are statutory sections in effect that were enacted in every decade beginning in the 1920s. As a result of the size and scope of the Title, changes to the law have resulted in numerous instances of duplicative and inconsistent provisions.

Additionally, as the body of law in this area has grown over time, it is no longer easy to determine where new provisions should be added when the law is changed. As a result, recently enacted language has been inserted in the statute in places not adjacent to related provisions, making it difficult to locate and review all of the potentially applicable law. Also, when the law is revised, it is far more common to add language, rather than remove sections that may no longer be accurate or appropriate. This has resulted in the retention of statutory requirements which no longer have practical application, or have been superceded or rendered superfluous.

In its current form, Title 39 is less accessible than it should be, given its wide application to residents of New Jersey and other states, and the significance of its impact on those individuals.

The focus of this revision of the Title was not substantive change, although some of the substance has been changed. Instead, the focus of the revision was to consolidate the language, eliminate duplication and inconsistencies, and rearrange the statutes so that related provisions are grouped together. Some portions of the current statute have been combined; others have been split into more than one section.

Throughout the report, efforts were made to modify the current statutory language to make it both more accessible and easier to understand. Certain lengthy sections lack subsection lettering and numbering, making it difficult both to locate relevant language within the section and to cite it. This was addressed in the report. The current statute also contains many instances of repetitive language and efforts were made to remove those without changing the substance of the law.

Because the law developed over so many years, there are also stylistic differences between the language in various sections that may interfere with the interpretation and application of the statute. Efforts were made to improve the consistency of the language

in order to avoid inconsistent application of the statute. Efforts were also made to increase consistency in the division of language into statutory sections. There were time periods in which it was more common to make each sentence or each paragraph a different statutory section and other periods in which it was more common to include all provisions being inserted at the same time into one large section of the statute. The report is an attempt to make the division of language into statutory sections more consistent. Throughout the report, references to “the act” or “this act” have been removed and replaced with references to the chapter or section, since it can be difficult for a reader of the current statute to determine what provisions fall within the scope of a particular act. The report also modifies the manner in which the statute is cited, changing the statutory references within the text to include only the number of the statute rather than including references to C., R.S. or N.J.S.A. Those references have historic, rather than practical, significance but the different citation forms may mislead a reader to believe otherwise.

As is explained below, some parts of the Title have been modified more than others. At all times, the goal has been to improve the clarity and usability of the statute. The comments following each section of the revised statute are used to explain and track the changes.

Brief History of Traffic Laws in New Jersey

The New Jersey Legislature recognized as early as in 1915, when it adopted the State Traffic Act, that the traffic laws must be uniform throughout the state. Before that Act was adopted, the Governor of New Jersey appointed special commission to investigate existing traffic laws in New Jersey.

That Commission issued a Report,¹ in which it analyzed existing traffic statutes and made recommendations for legislative action. The Commission found that:

The statutes affecting traffic are fragmentary, and in many cases cumbersome and unenforceable, and appear to have been a gradual accretion, commencing with the Act of 1813 and ending with the Motor Vehicle Act of 1906, with its supplements and amendments.

As each new condition arose, efforts were apparently made to meet the condition without very much reference to previous regulations.

...

In an adjustment of such a situation, there would appear to be no other solution possible except to repeal all existing traffic ordinances by a State law on the subject which will *standardize* traffic regulations by combining the local ordinances now existing and the traffic statutes now among our laws into one system.²

¹ Report of Special Commission to Investigate Traffic Laws and Ordinances and the Enforcement Thereof in New Jersey, MacCrellish & Quigley Co., State Printers (1915).

² Id. at 4, 6 (emphasis supplied).

The Commission proposed a new statute to govern all traffic on New Jersey roads. It stated:

If the proposed statute be adopted the present motor vehicle act will not in any wise conflict with the traffic statute, thus providing under the two acts which co-ordinate for the regulation of traffic by State laws which will be *uniform in their application throughout the whole State*. New Jersey with this system will have the most complete and effective regulations of any State.³

That early Commission also suggested that enforcement of the proposed statute should be “placed in the hands not alone of the local authorities, but of the inspectors . . . [of] the Motor vehicle Department,” and “before a local ordinance is passed . . . it shall be submitted to the Department of Motor Vehicles for examination.”⁴ The Commission explained: “[t]his is suggested in order that some central authority might be in a position to protect the provisions of this traffic act from the encroachments on the part of the local municipalities to which the motor vehicle act has been subjected in the past.”⁵

In 1918, the New Jersey Supreme Court observed that this statute “is founded on a wise public policy, viz. to promote a *uniformity* of regulating traffic throughout the state.”⁶ Less than ten years later, the same public policy was applied on federal level to the relationship between traffic laws of different States. Indeed, a Committee on Uniformity of Laws and Regulations was appointed in March 1925 to draft a Uniform Vehicle Act or Code to be adopted by all States.⁷ The Congress passed Federal Uniform Vehicle Code in July 1926, which consisted of four acts: (1) a uniform motor vehicle registration act; (2) a uniform motor vehicle anti-theft act; (3) a uniform motor vehicle operators’ and chauffeurs’ license act; and (4) a uniform act regulating the operation of vehicles on highways.⁸ During the legislative session of 1927, New Jersey passed supplementary bill to bring its laws into closer harmony with the Uniform Code, especially with the vehicle operation act.⁹

Since that time, there have been numerous revisions to the Title; some broader in scope than others.

There were more than 100 modifications to the Title in 1951, for example, including changes to: registration and licensing, bicycles and rollerskates, horses, vehicles of unusual size and weight, pedestrians, operation or acts affecting operation of vehicles, law of the road and right of way, speed, traffic signals, parking, highway and traffic signs, and purchase, sale and transfer of motor vehicles.

³ Id. at 59-60, (emphasis supplied).

⁴ Id. at 60.

⁵ Id.

⁶ Id. (emphasis supplied).

⁷ A.B. Barber, *Making Our Traffic Laws Uniform*, 133 *Annals of the American Academy of Political and Social Science* 128, 131 (Sept. 1927).

⁸ Id. at 132.

⁹ Id.

In 1965 an Act requiring seat safety belts on passenger automobiles manufactured after July 1 was adopted.¹⁰

In 1983, the law was changed to abolish certain positions in the Division of Motor Vehicles, transfer personnel in those positions, and to amend, supplement and repeal various parts of the law.¹¹

In 2001, the law as it pertains to graduated driver licensing and driving schools was modified¹² and in 2003 the Motor Vehicle Security and Customer Service Act,¹³ abolishing the DMV and creating the New Jersey Motor Vehicle Commission (MVC) 'in but not of' the DOT, was adopted. Prior to that time, the

FIX DMV Commission, established by the Governor's Executive Order No. 19 of 2002, recommended that the DMV be "ripped up by its roots" and replaced with a [MVC]. Of particular importance in the study was the need to improve customer services. Some of this improvement is expected to come with the upgraded facilities, additional parking, computers and on-line technology...

The ending of privatized motor vehicle agencies, criminal history background checks for employees and certain specialized vehicle operators, such as those holding hazmat licensees, are recommended to ensure the integrity of the State's motor vehicle documents and data base and to protect the public safety.¹⁴

This proposed revision to the statute appears to be consistent with the recent efforts to significantly improve the relationship between the MVC and the citizens of this State.

Summary of Current Revision

Volume I

The definitions section of the Title has been modified only slightly. The next sections of the Title, pertaining to the Department of Motor Vehicles and the Motor Vehicle Commission, have not been changed to any great extent. Sections within those chapters have been rearranged, consolidated or divided into separate sections for ease of review and reference. Since the entire Title was revised, it seemed most logical to combine these chapters rather than retaining an unnecessary separation.

The licensing and registration sections of Title 39 are two of the sections that have been heavily revised. In the existing Title, registration and licensing requirements are

¹⁰ 1966, 39:3-76.2.

¹¹ L.1983, c. 403, eff. Dec. 23, 1983.

¹² L.2001, c. 420, eff. Jan. 8, 2002.

¹³ 39:2A-1 to 39:2A-41 and scattered provisions. The legislative findings that led to enactment of this bill are included in 39:2A-2.

¹⁴ Committee statement to Assembly, No. 3058-L.2003, c. 13.

mixed together throughout approximately 120 sections of the statute and are no longer in any particular order. Provisions regarding commercial driver licenses, touring privileges, tires and other issues are interspersed throughout the licensing and registration provisions. An effort was made in the report to reorganize the licensing provisions by consolidating them and ordering them. Modest additional modifications were made to include statutory language that sets forth current requirements as practiced that are not presently included in the statute. The current statute does not, for example, set forth the requirement of a license for driving in this State in clear and direct terms. The current statute also does not describe the two available driving permits. Sections were added to do so.

The substance of the statutory sections pertaining to the commercial driver's license was not changed since that language is tied to the federal Commercial Motor Vehicle Safety Act of 1986.

The license plates sections have been revised to consolidate provisions with identical language. After comments from the Motor Vehicle Commission, the sections were again revised to accommodate concerns expressed by the Commission regarding potential confusion of the reader. In the current statute, any new specialty funding license plate is added by way of one or several new statutory sections. One goal of consolidating the sections is to limit future modifications to a maximum of two sections of the statute so that the requirements for any new plate are easy to locate.

Sections pertaining to touring privileges, documents and the transfer, destruction or loss of documents, license plates, and vehicles were not substantially revised.

The equipment provisions of the statute, including those pertaining to lamps and reflectors, specialized lights, and other vehicle equipment (brakes, horns, mufflers, mirrors, window glass, safety belts, tires, etc.) were reviewed and, where appropriate, references to controlling federal regulations were included in the statute. This was done in order to alert readers of the statute that the state statutory provisions, where they differ from federal regulatory language, are not controlling (certain of the state equipment standards are older than the federal provisions, and include lower standards).

Sections pertaining to the dimensions and weight of vehicles were not substantively changed, but were divided into additional sections for ease of review. Likewise, substantive changes were not made to sections pertaining to specific vehicle types, including motorcycles, tow trucks, school buses, snowmobiles and all-terrain vehicles and limousines. These sections were streamlined, consolidated and rearranged where it seemed appropriate to do so. The compressed or liquefied gaseous fuel and the motor vehicle theft sections also were not substantively changed.

The general prohibitions section was changed to include references to the new penalty classification system described in detail in Volume II and some of the penalties for particular offenses were modified to bring those penalties in line with penalties for comparable offenses and to address concerns raised by law enforcement officers.

Volume II

The initial sections in this volume, pertaining to the application of the Title, the powers and duties of the Commissioner of Transportation, and the powers of municipalities and counties remain substantively the same as the original language. The sections pertaining to highways owned by public or semi-public entities and traffic signs and signals also contain the substance of the original sections.

The accidents and reports chapter, the operation of a vehicle under the influence chapter, and the law of the road chapter are also largely unchanged in substance, although the penalty provisions in the accidents and reports chapter were modified to include references to the new penalty classification system.

The chapters pertaining to operation or acts affecting operation, and speed were changed to include references to the new penalty classification system and some of the penalties for particular offenses were modified to bring those penalties in line with penalties for comparable offenses and to address concerns raised by law enforcement officers.

The changes to the general penalty chapter are the most significant changes in this volume of the Title. One of the difficulties associated with the penalties in the current statute is that they appear to have more to do with the time at which the statute was enacted than with the severity of the offense for which the penalty is imposed. The Commission, during the pendency of this project, received numerous requests to rationalize the penalties. An effort has been made to do so. The classifications included in the report are based on the tables originally prepared which grouped the offenses by the fines assigned to them in the current statute. The classifications were, however, modified to reflect comments of the Commission after review and comparison of the offenses in the various categories.

The classes included in the report indicate the fine, jail time and community service associated with a particular category of offenses. No suggestion is made regarding whether or not points are assigned as a result of any class of offenses since points are handled by regulation, not statute (with the exception of 39:4-97.2, which refers to the imposition of points, but does not say how many).

To the extent that the fines have a rational basis and are reasonable in relation to the fines charged for other offenses, the same cannot be said about the imposition of jail time, or the intermittent references to community service, in the current statute. There are, for example, statutory sections that call for 90 days of imprisonment for an offense calling for a \$100 fine. There are other offenses that call for up to a \$500 fine and make no mention of incarceration. In the present statute, the periods of incarceration called for do not appear to correspond to the fine imposed. In the report, the new classification system calls for periods of jail time and community service time increasing in length with the perceived severity of the offense as indicated by the amount of the fine.

There are potential issues inherent in the proposed classification system. In an effort to limit the number of classes, the fines were divided into the following categories: up to \$50; between \$50 and \$100; between \$100 and \$500; between \$500 and \$1,000; and between \$1,000 and \$10,000. One of the issues presented by the classification system is found in Class C, which provides for fines between \$100 and \$500. Some offenses have, under the current law, stepped-up provisions pertaining to first, second and, in some cases, subsequent offences. As a result, Class C it interferes with the current statutory hierarchy. 39:4-97.2 (operation of a vehicle in an unsafe manner likely to endanger a person or property), for example, currently calls for a fine of \$50-\$150 for a first offense, \$100-\$250 for a second offense, and \$200-\$500 plus motor vehicle penalty points for a subsequent offense. Under the current classification system, the penalty for a second offense and a subsequent offense are in the same class. Similarly, 39:4-129 calls for a fine of \$200-\$400 for a first offense and \$400-\$600 for a subsequent offense. Including items like these in the classification system opens the fines at each level (first, second, subsequent) to the discretion of an individual judge and upsets the scheme created by the Legislature and incorporated in the existing statute.

There are, however, benefits to a classification system. A Title like this one, which contains sections that are frequently revised, results a system of irrational penalties by its nature. Since penalty provisions are modified individually and increasing the penalty for a single offense causes it to be disproportionate to penalties for offenses deemed similar or of similar severity. A classification system for penalties may be used to maintain proportionality and consistency.

The statutory sections pertaining to turns, signals, railroad tracks, and parking were largely unchanged in substance, although the penalty provisions were modified to include references to the new penalty classification system. Similarly, the statutory sections pertaining to pedestrians, street cars, bicycles, rollerskates, skateboards, motorized bicycles, electric personal assistive mobility devices and horses were largely unchanged in substance, although the penalty provisions were modified to include references to the new penalty classification system and there were some modest changes to the substance of the law in these areas.

The sections pertaining to handicapped individuals as well as the sections concerning vehicles of unusual dimensions, loads, display of information on commercial vehicles and enforcement were largely unchanged in substance, although the penalty provisions were modified to include references to the new penalty classification system. The Interstate Compact and the Nonresident Violator Compact were also unchanged in substance.

Volume III

To this time, no substantive changes have been made to Volume III, which includes: the motor vehicle security-responsibility law; the unsatisfied claim and judgment fund law; New Jersey automobile reparation reform; compulsory motor vehicle insurance; service of process on non-residents; inspections; hours of service; purchase, sale and transfer of vehicle; abandoned and unclaimed vehicles; motor vehicle component parts; junk yards; driving schools; and auto body repair facilities.

Participation of Various Individuals and Groups in Revision

Throughout the revision, efforts were made to achieve widespread distribution of the project and to obtain as much feedback as possible, particularly from individuals and entities who work with Title 39 on a regular basis, and to incorporate that information as appropriate.

Members of the New Jersey Police Traffic Officer's Association, a voluntary organization of traffic officers throughout the State, graciously provided comments on various aspects of the project. Comments were also provided by individuals representing departments within the State, as well as various counties, municipalities and private entities. Some of the individuals and organizations that reviewed sections of the report and provided comments include:

1. State of New Jersey Motor Vehicle Commission (various individuals focused on different aspects of the project and an overall line-by-line review of the entire project was conducted by Staff in the Legal Department)
2. State of New Jersey Department of Transportation
3. State of New Jersey Department of Law & Public Safety, Division of Highway Traffic Safety
4. State of New Jersey Department of Human Services, Division of Addiction Services, Intoxicated Driving Program
5. New Jersey Police Traffic Officers Association
6. New Jersey State Safety Council
7. New Jersey Safe Passage Task Force
8. Rutgers University Center for Advanced Infrastructure and Transportation (CAIT)
9. Rutgers University Edward J. Bloustein School of Planning and Public Policy, Alan M. Voorhees Transportation Center
10. State Police Officers
11. Municipal Police Officers
12. Mounted Police Officers
13. Presiding Municipal Court Judges
14. Municipal Prosecutors
15. Municipal Engineers
16. Private motor vehicle inspection facilities and auto body repair facilities
17. Automobile dealers