



**NEW JERSEY LAW REVISION COMMISSION**

**Final Report**

**Relating to**

**Traffic on Marked Lanes**

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# TRAFFIC ON MARKED LANES

## Introduction

This project resulted from the New Jersey Supreme Court decision in *State v. Regis*, 208 N.J. 439 (2011), which addressed the issue of whether the first and second clauses of *N.J.S.A. 39:4-88(b)* identify two separate, independent offenses or combine to describe a single offense. The confusion regarding the language in *N.J.S.A. 39:4-88(b)* is noted by the New Jersey Supreme Court in *Regis*, which acknowledged that courts have adopted two alternative interpretations of *N.J.S.A. 39:4-88(b)*. After considering the issue, the Supreme Court held that the better construction of the statute is that it consists of two separate, independent clauses, each of which addresses a distinct offense.

In *Regis*, the defendant was charged with failure to maintain a lane, in violation of *N.J.S. 39:4-88(b)*, and later convicted of the offense in municipal court. *Id.* at 442. Defendant appealed his conviction to the Law Division, contending that a driver's conduct does not constitute an offense under *N.J.S. 39:4-88(b)* unless he failed to maintain a single lane of travel and shifted from one lane to another without first ascertaining the safety of the maneuver. *Id.* The Law Division rejected defendant's argument, construing *N.J.S. 39:4-88(b)* to identify two independent offenses, the first of which was committed by defendant because he failed to maintain a single lane of travel. *Id.* The Appellate Division reversed the determination of the Law Division, holding that the two clauses of the statute "clearly" describe only one offense: failing to maintain a lane of travel by changing lanes without first ascertaining that the lane change can be conducted safely. *Id.* at 444. The New Jersey Supreme Court considered the case and explained that the first clause imposes a continuous requirement upon the driver: to maintain his or her vehicle in a single lane, by not swerving in and out of neighboring lanes. *Id.* According to the Supreme Court, the statute's second clause addresses a related, but discrete mandate of the Code, requiring a driver to ascertain the safety of switching lanes before conducting a lane change. *Id.*

Title 39, including the provisions contained in Chapter 4, applies to the owners and drivers of vehicles in a variety of circumstances. *N.J.S. 39:4-1*. The statute in question pertains to all drivers on a roadway divided into clearly marked lanes for traffic. *N.J.S. 39:4-88*. Since there was a difference of opinion among the courts that considered this issue, it is of concern to Staff that drivers responsible for following the law may not properly interpret the two independent requirements created by the one sentence in *N.J.S. 39:4-88(b)*. It is vital that the language used to regulate travel is clearly constructed and easily interpreted by laypersons.

While the New Jersey Supreme Court has addressed the ambiguity in the rule, the possibility of misapplication still exists. A clear delineation of the offenses described in *N.J.S. 39:4-88(b)* will decrease the chance of further confusion.

## Draft

### 39:4-88. Traffic on marked lanes

When a roadway has been divided into clearly marked lanes for traffic, drivers of vehicles shall obey the following regulations:

a. A vehicle shall normally be driven in the lane nearest the right-hand edge or curb of the roadway when that lane is available for travel, except when overtaking another vehicle or in preparation for a left turn.

b. A vehicle shall be driven as nearly as practicable entirely within a single lane, ~~and~~

c. A vehicle shall not be moved from a lane until the driver has first ascertained that the movement can be made with safety.

~~e.~~ d. Upon a highway which is divided into 3 lanes, a vehicle shall not be driven in the center lane except when overtaking or passing another vehicle or in preparation for a left turn or unless the center lane is at the time allocated for traffic moving in the direction the vehicle is proceeding and is signposted to give notice of that allocation.

~~d.~~ e. The State Highway Commissioner may by regulation or local authorities may by resolution or ordinance with respect to highways under their jurisdiction designate right-hand lanes for slow moving traffic and inside lanes for traffic moving at the speed designated for the district as provided under this chapter, and when the lanes are signposted or marked to give notice of the designation a vehicle may be driven in any lane allocated to traffic moving in the direction in which it is proceeding, but when traveling within the inside lanes the vehicle shall be driven at approximately the speed authorized in such lanes and speed shall not be decreased unnecessarily so as to block, hinder or retard traffic.

~~e.~~ f. When such roadway had been divided in such a manner that there are three or more lanes for traffic in any one direction, no truck of 10,000 pounds registered gross weight or over shall be driven in the farthest left-hand lane, except:

(1) when and to the extent necessary to prepare for a left turn; a truck may be driven in the farthest left lane for up to one mile to prepare for a left hand turn as authorized under this paragraph;

(2) when necessary to enter or leave such roadway by entrance or exit to or from the left lane ; a truck may be driven in the farthest left lane for up to one mile to prepare to enter or leave the roadway as authorized under this paragraph;

(3) when reasonably necessary in response to emergency conditions; for the purposes of this paragraph, “emergency conditions” shall include, but not be limited to: poor visibility, snow, accidents, or the presence of emergency vehicles.

**COMMENT**

This section has been revised to comport with the intent of legislature and clearly outline the two independent offenses purported by *N.J.S. 39:4-88(b)*. Police officers offering informal comments based on their law enforcement experiences did not object to the proposed change to the statute.