

CHAPTER 110

AN ACT concerning municipal and county authority over roads and amending R.S.39:4-8, R.S.39:4-197, R.S.39:4-201, P.L.1945, c.284, and P.L.2004, c.107 and supplementing Title 39 of the Revised Statutes.

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

1. R.S.39:4-8 is amended to read as follows:

Commissioner of Transportation's approval required; exceptions.

39:4-8. a. Except as otherwise provided in this section, no ordinance, resolution, or regulation concerning, regulating, or governing traffic or traffic conditions, adopted or enacted by any board or body having jurisdiction over highways, shall be of any force or effect unless the same is approved by the commissioner, according to law. The commissioner shall not be required to approve any such ordinance, resolution, or regulation, unless, after investigation by the commissioner, the same shall appear to be in the interest of safety and the expedition of traffic on the public highways. The commissioner's investigation need not include more than a review of the ordinance, resolution, or regulation, and the supporting documentation submitted by a board or body having jurisdiction over highways, unless the commissioner determines that additional investigation is warranted.

Prior to the adoption of any municipal or county ordinance, resolution, or regulation, which places any impact on roadways in an adjoining municipality or county, the governing board or body of the municipality or county shall provide appropriate notice to the adjoining municipality or county.

Notwithstanding any other provision of this section to the contrary, any municipal or county ordinance, resolution, or regulation which places any impact on a State roadway shall require the approval of the commissioner.

Where the commissioner's approval is required, a certified copy of the adopted ordinance, resolution, or regulation shall be transmitted by the clerk of the municipality or county, as applicable, to the commissioner within 30 days of adoption, together with: a copy of the municipal or county engineer's certification, a statement of the reasons for the municipal or county engineer's decision, detailed information as to the location of streets, intersections, and signs affected by the ordinance, resolution, or regulation, and traffic count, crash, and speed sampling data, when appropriate. The commissioner may invalidate the provisions of the ordinance, resolution, or regulation if the commissioner finds that the provisions of the ordinance, resolution, or regulation are inconsistent with the Manual on Uniform Traffic Control Devices for Streets and Highways, inconsistent with accepted engineering standards, are not based on the results of an accurate traffic and engineering survey, or place an undue traffic burden or impact on the State highway system, or affect the flow of traffic on the State highway system.

b. (1) A municipality may, without the approval of the commissioner, and consistent with the current standards prescribed by the Manual on Uniform Traffic Control Devices for Streets and Highways, establish by ordinance, resolution, or regulation, any of the provisions contained in R.S.39:4-197.

- (a) (Deleted by amendment, P.L.2008, c.110)
- (b) (Deleted by amendment, P.L.2008, c.110)
- (c) (Deleted by amendment, P.L.2008, c.110)
- (d) (Deleted by amendment, P.L.2008, c.110)

(2) A county may, without the approval of the commissioner, and consistent with the current standards prescribed by the Manual on Uniform Traffic Control Devices for Streets and Highways, establish by ordinance, resolution, or regulation, any of the provisions contained in R.S.39:4-197.

(a) (Deleted by amendment, P.L.2008, c.110)

(b) (Deleted by amendment, P.L.2008, c.110)

(c) (Deleted by amendment, P.L.2008, c.110)

(d) (Deleted by amendment, P.L.2008, c.110)

(3) The municipal or county engineer shall, under his seal as a licensed professional engineer, certify to the governing body of the municipality or county, as appropriate, that any designation or erections of signs or placement of pavement markings has been approved by the engineer after investigation of the circumstances, appears to the engineer to be in the interest of safety and the expedition of traffic on the public highways, and conforms to the current standards prescribed by the Manual on Uniform Traffic Control Devices for Streets and Highways, as adopted by the commissioner.

The provisions of the ordinance, resolution, or regulation shall be consistent with the Manual on Uniform Traffic Control Devices for Streets and Highways, consistent with accepted engineering standards, based on the results of an accurate traffic and engineering survey, and not place an undue traffic burden or impact on streets in an adjoining municipality or negatively affect the flow of traffic on the State highway system.

Nothing in this subsection shall allow municipalities to designate any intersection with any highway under State or county jurisdiction as a stop or yield intersection or counties to designate any intersection with any highway under State or municipal jurisdiction as a stop or yield intersection.

c. Subject to the provisions of R.S.39:4-138, in the case of any street under municipal or county jurisdiction, a municipality or county may, without the approval of the commissioner, and consistent with the current standards prescribed by the Manual on Uniform Traffic Control Devices for Streets and Highways, by ordinance, resolution, or regulation:

(1) prohibit or restrict general parking;

(2) designate restricted parking under section 1 of P.L.1977, c.309 (C.39:4-197.6);

(3) designate time limit parking;

(4) install parking meters;

(5) designate loading and unloading zones and taxi stands;

(6) approve street closings for periods up to 48 continuous hours;

(7) designate restricted parking under section 1 of P.L.1977, c.202 (C.39:4-197.5);

(8) establish angle parking; and

(9) reinstate or add parking on any street.

d. A municipality or county may, without the approval of the commissioner, and consistent with the current standards prescribed by the Manual on Uniform Traffic Control Devices for Streets and Highways, by ordinance, resolution, or regulation, regarding any street under its jurisdiction, install or place an in-street pedestrian crossing right-of-way sign at a marked crosswalk or unmarked crosswalk at an intersection. The installation shall be subject to guidelines issued by the commissioner after consultation with the Director of the Division of Highway Traffic Safety in the Department of Law and Public Safety. The guidelines shall be aimed at ensuring safety to both pedestrians and motorists including, but not limited to, the proper method of sign installation, dimensions, composition of material, proper placement points and maintenance. A claim against the State or a municipality or county for damage or injury under this subsection for a wrongful act or omission shall be

dismissed if the municipality or county is deemed to have conformed to the guidelines required hereunder.

e. A municipality or county may, without the approval of the commissioner, and consistent with the current standards prescribed by the Manual on Uniform Traffic Control Devices for Streets and Highways, by ordinance, resolution, or regulation in any street under its jurisdiction, designate stops, stations, or stands for omnibuses. The designation shall be subject to guidelines issued by the commissioner. The guidelines shall be aimed at ensuring safety to both pedestrians and motorists including, but not limited to, the proper method of sign installation, dimensions, composition of material, proper placement points, and maintenance. A claim against the State or a municipality or county for damage or injury under this subsection for a wrongful act or omission shall be dismissed if the municipality or county is deemed to have conformed to the guidelines required hereunder.

2. R.S.39:4-197 is amended to read as follows:

Ordinance, resolution, regulation on matters covered by chapter.

39:4-197. Except as otherwise provided in R.S.39:4-8, no municipality shall pass an ordinance or resolution on a matter covered by or which alters or in any way nullifies the provisions of this chapter or any supplement to this chapter; except that a municipality may pass, without the approval of the commissioner, and consistent with the current standards prescribed by the Manual on Uniform Traffic Control Devices for Streets and Highways, ordinances or resolutions, or by ordinances or resolutions may authorize the adoption of regulations by the board, body, or official having control of traffic in the public streets, regulating special conditions existent in the municipality on the subjects and within the limitations following:

(1) Ordinance:

- a. Altering speed limitations as provided in R.S.39:4-98;
- b. Limiting use of streets to certain class of vehicles, except that nothing in this paragraph shall permit a municipality to pass an ordinance or resolution limiting use of streets by commercial motor vehicles without the approval of the commissioner;
- c. Designating one-way streets;
- d. Regulating the stopping or starting of street cars at special places, such as railroad stations, public squares or in front of certain public buildings;
- e. Regulating the passage or stopping of traffic at certain congested street corners or other designated points, including the establishment of multi-way stop controls;
- f. Regulating the parking of vehicles on streets and portions thereof, including angle parking as provided in R.S.39:4-135;
- g. Regulating the parking of vehicles upon land owned or leased and maintained by the municipality, a parking authority or the board of education of a school district, including any lands devoted to the public parking of vehicles, the entrances thereto and exits therefrom;
- h. Regulating the entrances to and exits from parking yards and parking places which are open to the public or to which the public is invited, except that this shall not apply to entrances or exits to and from State highways;
- i. Designating streets or roads upon which buses and trucks over four tons gross weight may be required not to exceed specially fixed limits based on engineering and traffic investigation and to use a lower gear in descending steep declivities having a grade in excess of 5% fixing such special speed limits and providing for the use of such a gear thereon; and

j. Designating any intersection as a stop intersection and erecting appropriate signs, on streets under municipal jurisdiction if that intersection is located within 500 feet of a school, or of a playground or youth recreational facility and the street on which the stop sign will be erected is contiguous to that school, playground, or youth recreational facility. The municipal engineer shall certify to the following in regard to the designated site in which a stop intersection is being designated: (i) that both intersecting streets are under municipal jurisdiction; (ii) that the intersection is within 500 feet of a school, playground, or youth recreational facility as defined herein; and (iii) that the intersection is on a street contiguous to a school, playground, or youth recreational facility. A claim against a municipality for damage or injury under this subparagraph for a wrongful act or omission shall be dismissed if the municipality is deemed to have conformed to the provisions contained in this subparagraph.

(2) Ordinance or resolution:

a. Designating through streets, as provided in article 17 of this chapter (R.S.39:4-140 et seq.); and

b. Designating and providing for the maintenance as "no passing" zones of portions of highway where overtaking and passing or driving to the left of the roadway is deemed especially hazardous.

(3) Ordinance, resolution, or regulation:

a. Designating stops, stations, or stands for omnibuses and taxis;

b. Designating curb loading zones; and

c. Designating restricted parking spaces for use by persons who have been issued special vehicle identification cards by the New Jersey Motor Vehicle Commission pursuant to the provisions of P.L.1949, c.280 (C.39:4-204 et seq.) and section 1 of P.L.1977, c.202 (C.39:4-197.5). Any person parking a motor vehicle in a restricted parking space without a special vehicle identification card shall be liable to a fine of \$250 for the first offense and, for subsequent offenses, a fine of at least \$250 and up to 90 days' community service on such terms and in such form as the court shall deem appropriate, or any combination thereof.

3. R.S.39:4-201 is amended to read as follows:

Resolutions, ordinances, regulations pertaining to traffic on county roads; notice; penalties.

39:4-201. Except as otherwise provided in R.S.39:4-8, no governing body of any county in this State may adopt resolutions, ordinances, or regulations on a matter covered by or which alters or in any way nullifies the provisions of this chapter or of any supplement thereto, except that, without the approval of the commissioner, and consistent with the current standards prescribed by the Manual on Uniform Traffic Control Devices for Streets and Highways, ordinances, resolutions, or regulations may be passed by a governing body for the supervision and regulation of traffic on any county roads of the county upon the subject matter and within the limitations prescribed in R.S.39:4-197, and the governing body may prescribe penalties for violations of the resolutions, ordinances, or regulations; provided, however, that a fine of not less than \$50.00 be imposed upon the violator of an ordinance, resolution, or regulation, as the case may be, establishing parking spaces for the handicapped.

Matters pertaining to the supervision and regulation of traffic, to be established by ordinance, resolution, or regulation pursuant to R.S.39:4-197, shall in counties operating under the "Optional County Charter Law," P.L.1972, c.154 (C.40:41A-1 et seq.) be established by ordinance.

No ordinance, resolution, or regulation adopted pursuant to this section shall be effective unless due notice to the public is given as provided in R.S.39:4-198.

The penalties may be enforced by the proper method of procedure before a magistrate. In default of the payment of the penalty, the magistrate may commit the offender to the county jail for a period not exceeding 5 days.

4. Section 1 of P.L.2004, c.107 (C.39:4-8.9) is amended to read as follows:

C.39:4-8.9 Definitions relative to speed humps.

1. As used in this act:

"Department" means the Department of Transportation.

"Private roads" means semipublic or private roads, streets, driveways, parkways, parking areas, or other roadways owned by a private person, corporation or institution open to or used by the public for the purposes of vehicular travel by permission of such persons, corporations or institutions and not as a matter of public right.

"Speed hump" means one of several traffic calming measures which use forces of vertical acceleration to discourage speeding. For purposes of this chapter, speed humps means all vertical speed deflectors, including but not limited to, speed tables, raised crosswalks, raised intersections, and modified speed humps.

"Vertical speed deflector" means a raised area in the roadway pavement surface extending transversely across the travel way.

5. Section 2 of P.L.2004, c.107 (C.39:4-8.10) is amended to read as follows:

C.39:4-8.10 Construction of speed humps, traffic calming measures by municipality, county.

2. a. Pursuant to the provisions of section 3 of P.L.2004, c.107 (C.39:4-8.11), a municipality or county may, without the approval of the commissioner, construct a speed hump on two-lane residential streets and on one-way residential streets under municipal or county jurisdiction with a posted speed of 30 mph or less and which have fewer than 3,000 vehicles per day. The board of directors of any corporation, or the board of trustees of any corporation or other institution of a public or semipublic nature not for pecuniary profit, having control over private roads, may construct or provide for the construction of a speed hump on any private road subject to the provisions of Title 39 of the Revised Statutes, pursuant to P.L.1945, c.284 (C.39:5A-1 et seq.).

b. Pursuant to the provisions of section 3 of P.L.2004, c.107 (C.39:4-8.11), a municipality or county may, without the approval of the commissioner, construct traffic calming measures where appropriate, which may include, but are not limited to, speed humps on streets under municipal or county jurisdiction with a posted speed of 30 mph or less and which have fewer than 3,000 vehicles per day when any road construction project or repair of a street set forth in this subsection is undertaken and located within 500 feet of that street is a school or any property used for school purposes.

c. Prior to a municipality or county constructing a speed hump which places any impact on roadways in an adjoining municipality or county, the governing board or body of the municipality or county shall provide appropriate notice to the adjoining municipality or county.

d. Prior to a municipality or county constructing a speed hump which places any impact on a State roadway, the county or municipality shall obtain the approval of the commissioner.

6. Section 1 of P.L.1945, c.284 (C.39:5A-1) is amended to read as follows:

C.39:5A-1 Written request; provisions made applicable.

1. Upon the filing of a written request by a person, or by the board of directors of any corporation, or by the board of trustees of any corporation or other institution of a public or semipublic character not for pecuniary profit, incorporated under Title 15 of the Revised Statutes, with the clerk of any municipality of this State within which the property of such person, corporation or institution is situate, that the provisions of subtitle 1, Title 39, of the Revised Statutes shall be made applicable to the semipublic or private roads, streets, driveways, trails, terraces, bridle paths, parkways, parking areas, or other roadways open to or used by the public, tenants, employees, and the members of such institutions for purposes of vehicular travel by permission of such persons, corporations, or institutions and not as matter of public right, the provisions of subtitle 1, Title 39, of the Revised Statutes, shall, in the discretion of the municipal authorities vested with the police powers in the locality within which the property of such persons, corporations, or institutions is situate, be made applicable thereto. Such written request shall contain the name and post office address of the person, corporation or institution and shall designate with reasonable accuracy the semipublic or private roads, streets, driveways, trails, terraces, bridle paths, parkways, parking areas, or other roadway open to or used by vehicular traffic, to be affected thereby.

C.39:4-8.19 Request for commissioner's review; fees; rules, regulations.

7. a. Notwithstanding the provisions of R.S.39:4-8, a municipality or county may request the commissioner's review and non-binding recommendation regarding any proposed municipal or county ordinance, resolution, or regulation that would concern, regulate, or otherwise govern traffic or traffic conditions, and for which the approval of the commissioner is not required pursuant to R.S.39:4-8, prior to the adoption or enactment of that proposed ordinance, resolution, or regulation. Any ordinance, resolution, or regulation submitted for the commissioner's review shall include a municipal or county traffic engineer's recommendation regarding the proposed traffic regulation. The commissioner shall assess a municipality or a county a non-refundable fee for the commissioner's review. All fees collected by the commissioner for the review shall be utilized by the department to offset costs incurred by the department in processing the request.

b. The commissioner shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), any rules and regulations necessary to effectuate the purposes of this section, including but not limited to, establishing guidelines for the review process and applicable fees.

8. This act shall take effect immediately.

Approved December 4, 2008.