

§§2-5 -
C.27:26A-16 to
27:26A-19
§5 –
Note to 34:1-5
§6 - Note

P.L. 2019, CHAPTER 38, *approved March 1, 2019*
Senate, No. 1567 (*First Reprint*)

1 AN ACT concerning pre-tax transportation fringe benefits, and
2 amending and supplementing P.L.1992, c.32.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Section 3 of P.L.1992, c.32 (C.27:26A-3) is amended to read
8 as follows:

9 3. As used in this amendatory and supplementary act:

10 "Alternative means of commuting" means travel between a
11 person's place of residence and place of employment or termini near
12 those places, other than in a motor vehicle occupied by one person.
13 Alternative means of commuting include, but are not limited to,
14 public transportation, car pools, van pools, bus pools, ferries,
15 bicycling, telecommuting, and walking, which may be used in
16 conjunction with such strategies as flextime, staggered work hours,
17 compressed work weeks, and like measures.

18 "Clean Air Act" means the federal Clean Air Act, as amended by
19 Pub.L.101-549 (42 U.S.C. s. 7401 et seq.) and as subsequently
20 amended or supplemented.

21 "Commissioner" means the Commissioner of Transportation.

22 "Commuter transportation benefit" means the cost to employers
23 of providing benefits to an employee for utilizing an alternative
24 means of commuting and the cost of providing services and
25 facilities which would encourage or facilitate use by employees of
26 alternative means of commuting. The benefit shall include the costs
27 of parking by employees at park-and-ride lots.

28 "Department" means the New Jersey Department of
29 Transportation.

30 "Employee" **【**means an employee hired or employed by the
31 employer and who reports to the employer's work location, as
32 specified by regulation of the department**】** shall have the same
33 meaning as provided in the "unemployment compensation law,"
34 (R.S.43:21-1 et seq.).

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly floor amendments adopted December 17, 2018.

1 "Employer" **【**means any person, partnership, association,
2 corporation, trust, legal representative or any organized group of
3 persons which hires or employs employees and shall also include all
4 public and quasi-public employers, including without limitation the
5 United States and any of its governmental instrumentalities, the
6 State of New Jersey and its instrumentalities and subdivisions, and
7 all State and bi-State authorities, corporations, commissions, boards
8 and like bodies**】** shall have the same meaning as provided in the
9 "unemployment compensation law," (R.S.43:21-1 et seq.).

10 "Pre-tax transportation fringe benefit" means a pre-tax election
11 transportation fringe benefit that provides commuter highway
12 vehicle and transit benefits, consistent with the provisions and
13 limits of section 132(f)(1) of the United States Internal Revenue
14 Code of 1986 (26 U.S.C. s.132(f)(1)) at the maximum benefit levels
15 allowable under federal law, to be deducted for those programs
16 from an employee's gross income pursuant to section 132(f)(2) of
17 the United States Internal Revenue Code of 1986 (26 U.S.C.
18 s.132(f)(2)).

19 "Program" means the Travel Demand Management Program
20 established pursuant to section 5 of P.L.1992, c.32 (C.27:26A-5)
21 and continued pursuant to P.L.1996, c.121 (C.27:26A-4.1 et al.).

22 "Transportation management association" or "TMA" means a
23 nonprofit corporation approved by the department as coordinating
24 transportation services, including but not limited to public
25 transportation, van pools, car pools, bicycling, and pedestrian
26 modes, as well as strategies such as flex time, staggered work
27 hours, and compressed work weeks, for corporations, employees,
28 developers, individuals, and other groups.

29 "Travel demand management" or "TDM" means a system of
30 actions whose purpose is to alleviate traffic-related problems
31 through improved management of vehicle trip demand. These
32 actions, which are primarily directed at commuter travel, are
33 structured to reduce the dependence on and use of single occupancy
34 vehicles, or to alter the timing of travel to other, less congested time
35 periods or both.

36 (cf: P.L.1996, c.121, s.5)

37
38 2. (New section) a. Every employer in the State of New Jersey
39 that employs at least 20 persons shall offer to all of that employer's
40 employees¹**【**, that are not covered by a collective bargaining
41 agreement,**】**¹ the opportunity to utilize a pre-tax transportation
42 fringe benefit.

43 b. ¹**【**If an employer employs persons covered by a collective
44 bargaining agreement and employs less than 20 employees who are
45 not covered by the collective bargaining agreement, the employer
46 shall not be required to provide the opportunity to utilize a pre-tax
47 transportation fringe benefit**】** Notwithstanding the provisions of

1 subsection a. of this section, an employer shall not be required to
2 offer the opportunity to utilize a pre-tax transportation fringe
3 benefit to employees covered by a collective bargaining agreement
4 until the expiration of any collective bargaining agreement covering
5 those employees that is in effect on the effective date of P.L. ,
6 c. (C.) (pending before the Legislature as this bill)¹.

7 c. If an employee is employed by the federal government and
8 that employee is eligible for a benefit through the person's
9 employment with the federal government for a transit benefit that is
10 equal to or greater than a pre-tax transportation fringe benefit, then
11 the federal government shall not be required to provide those
12 employees the opportunity to utilize a pre-tax transportation fringe
13 benefit.

14
15 3. (New section) Any employer found to be in violation of the
16 requirement provided in section 2 of P.L. , c. (C.) (pending
17 before the Legislature as this bill) shall be liable for a civil penalty
18 of not less than \$100 and not more than \$250 for a first violation.
19 An employer shall have 90 days to offer a pre-tax transportation
20 fringe benefit before the civil penalty is imposed. After 90 days,
21 each additional 30 day period in which an employer fails to offer a
22 pre-tax transportation fringe benefit shall constitute a subsequent
23 violation and a civil penalty of \$250 shall be imposed for each
24 subsequent violation. A civil penalty shall not be imposed on any
25 individual employer more than once in any 30 day period. Any
26 penalty incurred under this section may be recovered with costs,
27 and, if applicable, interest charges, in a summary proceeding
28 pursuant to the "Penalty Enforcement Law of 1999" P.L.1999,
29 c.274 (C.2A:58-10 et seq.).

30 The Commissioner of Labor and Workforce Development shall
31 ensure compliance with the requirement provided in section 2 of
32 P.L. , c. (C.) (pending before the Legislature as this bill)
33 and may issue citations for violations as provided for in this section.
34

35 4. (New section) The New Jersey Transit Corporation shall
36 conduct a public awareness campaign in conjunction with the New
37 Jersey Turnpike Authority and the South Jersey Transportation
38 Authority, encouraging the public to contact employers about pre-
39 tax transportation fringe benefits. The campaign shall include signs
40 in public buildings and on roadways of the New Jersey Turnpike
41 Authority and the South Jersey Transportation Authority, as well as
42 the New Jersey Transit Corporation's stations and terminals, and
43 may also include public service announcements on radio, television,
44 and the websites and social media of the New Jersey Transit
45 Corporation, New Jersey Turnpike Authority, and the South Jersey
46 Transportation Authority.

1 5. (New section) The Commissioner of Labor and Workforce
2 Development, pursuant to the “Administrative Procedure Act,”
3 P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules and
4 regulations, in consultation with TMAs, transit agencies in the
5 State, and third-party transit benefit providers concerning the
6 administration and enforcement of the pre-tax transportation fringe
7 benefit requirements of P.L. , c. (C.) (pending before the
8 Legislature as this bill) in a manner that is most compatible with
9 current practices for providing pre-tax transportation fringe
10 benefits.

11
12 6. This act shall take effect immediately but shall remain
13 inoperative for 365 days following the date of enactment or upon
14 the effective date of rules and regulations adopted pursuant to
15 section 5 of this act, whichever occurs first.

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21 Requires certain employers to provide certain pre-tax
transportation fringe benefits.