

[First Reprint]

**SENATE, No. 1567**

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**STATE OF NEW JERSEY**  
**218th LEGISLATURE**

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INTRODUCED FEBRUARY 5, 2018

**Sponsored by:**

**Senator LORETTA WEINBERG**

**District 37 (Bergen)**

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**District 14 (Mercer and Middlesex)**

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**District 34 (Essex and Passaic)**

**Assemblyman ANTHONY M. BUCCO**

**District 25 (Morris and Somerset)**

**Co-Sponsored by:**

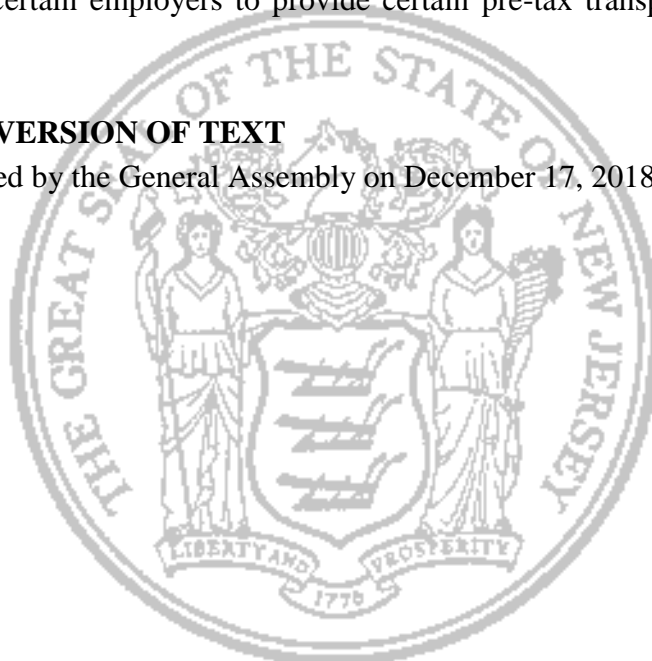
**Assemblymen McKeon, Kennedy and Assemblywoman Vainieri Huttle**

**SYNOPSIS**

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

**CURRENT VERSION OF TEXT**

As amended by the General Assembly on December 17, 2018.



**(Sponsorship Updated As Of: 2/1/2019)**

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.).

35 "Employer" **【**means any person, partnership, association,  
36 corporation, trust, legal representative or any organized group of  
37 persons which hires or employs employees and shall also include all  
38 public and quasi-public employers, including without limitation the  
39 United States and any of its governmental instrumentalities, the  
40 State of New Jersey and its instrumentalities and subdivisions, and  
41 all State and bi-State authorities, corporations, commissions, boards  
42 and like bodies**】** shall have the same meaning as provided in the  
43 "unemployment compensation law," (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:

<sup>1</sup>Assembly floor amendments adopted December 17, 2018.

1       “Pre-tax transportation fringe benefit” means a pre-tax election  
2 transportation fringe benefit that provides commuter highway  
3 vehicle and transit benefits, consistent with the provisions and  
4 limits of section 132(f)(1) of the United States Internal Revenue  
5 Code of 1986 (26 U.S.C. s.132(f)(1)) at the maximum benefit levels  
6 allowable under federal law, to be deducted for those programs  
7 from an employee’s gross income pursuant to section 132(f)(2) of  
8 the United States Internal Revenue Code of 1986 (26 U.S.C.  
9 s.132(f)(2)).

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

13       "Transportation management association" or "TMA" means a  
14 nonprofit corporation approved by the department as coordinating  
15 transportation services, including but not limited to public  
16 transportation, van pools, car pools, bicycling, and pedestrian  
17 modes, as well as strategies such as flex time, staggered work  
18 hours, and compressed work weeks, for corporations, employees,  
19 developers, individuals, and other groups.

20       "Travel demand management" or "TDM" means a system of  
21 actions whose purpose is to alleviate traffic-related problems  
22 through improved management of vehicle trip demand. These  
23 actions, which are primarily directed at commuter travel, are  
24 structured to reduce the dependence on and use of single occupancy  
25 vehicles, or to alter the timing of travel to other, less congested time  
26 periods or both.

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

28

29       2. (New section) a. Every employer in the State of New Jersey  
30 that employs at least 20 persons shall offer to all of that employer’s  
31 employees<sup>1</sup>], that are not covered by a collective bargaining  
32 agreement,]<sup>1</sup> the opportunity to utilize a pre-tax transportation  
33 fringe benefit.

34       b. <sup>1</sup>][If an employer employs persons covered by a collective  
35 bargaining agreement and employs less than 20 employees who are  
36 not covered by the collective bargaining agreement, the employer  
37 shall not be required to provide the opportunity to utilize a pre-tax  
38 transportation fringe benefit] Notwithstanding the provisions of  
39 subsection a. of this section, an employer shall not be required to  
40 offer the opportunity to utilize a pre-tax transportation fringe  
41 benefit to employees covered by a collective bargaining agreement  
42 until the expiration of any collective bargaining agreement covering  
43 those employees that is in effect on the effective date of P.L. \_\_\_\_\_,  
44 c. (C. \_\_\_\_\_) (pending before the Legislature as this bill)<sup>1</sup>.

45       c. If an employee is employed by the federal government and  
46 that employee is eligible for a benefit through the person’s  
47 employment with the federal government for a transit benefit that is

1 equal to or greater than a pre-tax transportation fringe benefit, then  
2 the federal government shall not be required to provide those  
3 employees the opportunity to utilize a pre-tax transportation fringe  
4 benefit.

5  
6 3. (New section) Any employer found to be in violation of the  
7 requirement provided in section 2 of P.L. , c. (C. ) (pending  
8 before the Legislature as this bill) shall be liable for a civil penalty  
9 of not less than \$100 and not more than \$250 for a first violation.  
10 An employer shall have 90 days to offer a pre-tax transportation  
11 fringe benefit before the civil penalty is imposed. After 90 days,  
12 each additional 30 day period in which an employer fails to offer a  
13 pre-tax transportation fringe benefit shall constitute a subsequent  
14 violation and a civil penalty of \$250 shall be imposed for each  
15 subsequent violation. A civil penalty shall not be imposed on any  
16 individual employer more than once in any 30 day period. Any  
17 penalty incurred under this section may be recovered with costs,  
18 and, if applicable, interest charges, in a summary proceeding  
19 pursuant to the "Penalty Enforcement Law of 1999" P.L.1999,  
20 c.274 (C.2A:58-10 et seq.).

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

25  
26 4. (New section) The New Jersey Transit Corporation shall  
27 conduct a public awareness campaign in conjunction with the New  
28 Jersey Turnpike Authority and the South Jersey Transportation  
29 Authority, encouraging the public to contact employers about pre-  
30 tax transportation fringe benefits. The campaign shall include signs  
31 in public buildings and on roadways of the New Jersey Turnpike  
32 Authority and the South Jersey Transportation Authority, as well as  
33 the New Jersey Transit Corporation's stations and terminals, and  
34 may also include public service announcements on radio, television,  
35 and the websites and social media of the New Jersey Transit  
36 Corporation, New Jersey Turnpike Authority, and the South Jersey  
37 Transportation Authority.

38  
39 5. (New section) The Commissioner of Labor and Workforce  
40 Development, pursuant to the "Administrative Procedure Act,"  
41 P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules and  
42 regulations, in consultation with TMAs, transit agencies in the  
43 State, and third-party transit benefit providers concerning the  
44 administration and enforcement of the pre-tax transportation fringe  
45 benefit requirements of P.L. , c. (C. ) (pending before the  
46 Legislature as this bill) in a manner that is most compatible with  
47 current practices for providing pre-tax transportation fringe  
48 benefits.

**S1567 [1R] WEINBERG**

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1       6. This act shall take effect immediately but shall remain  
2 inoperative for 365 days following the date of enactment or upon  
3 the effective date of rules and regulations adopted pursuant to  
4 section 5 of this act, whichever occurs first.