

# ASSEMBLY, No. 2887

## STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED FEBRUARY 20, 2020

**Sponsored by:**

**Assemblywoman NANCY F. MUNOZ**

**District 21 (Morris, Somerset and Union)**

**SYNOPSIS**

Creates motor vehicle offenses related to special paratransit vehicles.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning special paratransit vehicles and amending  
2 various parts of statutory law.

3

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

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7 1. Section 6 of P.L.2003, c.66 (C.39:3-10.32) is amended to  
8 read as follows:

9 6. a. In addition to any other penalty provided by law, a  
10 **[school bus driver]** a driver of a school bus as defined in R.S.39:3-  
11 1, who violates section 5 of P.L.1990, c.103 (C.39:3-10.13) or  
12 section 16 of P.L.1990, c.103 (C.39:3-10.24) while transporting  
13 school children shall be guilty of a disorderly persons offense.

14 b. In addition to any other penalty provided by law, a driver of  
15 a special paratransit vehicle as defined in R.S.48:4-1, who violates  
16 section 5 of P.L.1990, c.103 (C.39:3-10.13) or section 16 of  
17 P.L.1990, c.103 (C.39:3-10.24) while transporting persons who are  
18 at least 60 years of age or persons with disabilities shall be guilty of  
19 a disorderly persons offense.

20 c. Notwithstanding any other provision of law to the contrary,  
21 a conviction under this section shall not merge with a conviction for  
22 a violation of R.S.39:4-50, section 2 of P.L.1981, c.512 (C.39:4-  
23 50.4a), section 5 of P.L.1990, c.103 (C.39:3-10.13), or section 16 of  
24 P.L.1990, c.103 (C.39:3-10.24).  
25 (cf: P.L.2003, c.66, s.6)

26

27 2. Section 1 of P.L.2002, c.120 (C.39:3B-25) is amended to  
28 read as follows:

29 1. a. (1) It shall be unlawful for the driver of a school bus,  
30 as defined in R.S.39:1-1, to use a cellular or other wireless  
31 telephone while operating the school bus.

32 (2) It shall be unlawful for the driver of a special paratransit  
33 vehicle, as defined in R.S.48:4-1, to use a cellular or other wireless  
34 telephone while operating the special paratransit vehicle.

35 b. The prohibition contained in subsection a. of this section  
36 shall not apply:

37 (1) when the school bus or special paratransit vehicle is parked  
38 in a safe area off of a highway; or

39 (2) in an emergency situation.

40 c. A person who violates this section shall be fined not less  
41 than \$250 or more than \$500.

42 d. No motor vehicle points or automobile insurance eligibility  
43 points pursuant to section 26 of P.L.1990, c.8 (C.17:33B-14) shall  
44 be assessed for this offense.

45 (cf: P.L.2002, c.120, s.1)

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.

1       3. R.S.39:4-128 is amended to read as follows:

2       39:4-128. (a) The driver of any omnibus, designed for carrying  
3 more than six passengers, **[or]** of any school bus carrying any  
4 school child or children, or of any special paratransit vehicle  
5 carrying any person or persons at least 60 years of age or any  
6 person or persons with disabilities, or of any vehicle carrying  
7 explosive substance or flammable liquids as a cargo or part of a  
8 cargo, or of any commercial motor vehicle specified in 49 C.F.R.  
9 s.392.10(a) (1) through (6), before crossing, at grade, any track or  
10 tracks of a railroad shall stop **[such]** the vehicle within 50 feet but  
11 not less than 15 feet from the nearest rail of **[such]** the railroad, and  
12 while **[so]** stopped, the driver shall listen and look in both  
13 directions along **[such]** the track or tracks**[,]** for any approaching  
14 train, and for signals indicating the approach of a train. After  
15 stopping **[as required herein]** , and upon proceeding when it is safe  
16 to do so, the driver of **[any said]** the vehicle shall cross only in  
17 **[such]** a gear of the vehicle that there will be no necessity for  
18 changing gears while traversing **[such]** the crossing and the driver  
19 shall not shift gears while crossing the track or tracks. This section  
20 shall not apply to grade crossings which are no longer used for  
21 railroad traffic and which have been abandoned by the railroad  
22 company, provided that appropriate signs have been posted to  
23 indicate that **[such]** the grade crossing has been abandoned or is no  
24 longer used for any railroad traffic. This section shall not apply to  
25 grade crossings where the railroad track has been removed or paved  
26 over and the warning signs erected by the railroad, in accordance  
27 with R.S.48:12-58, have been removed, provided that **[in such**  
28 **case]** written notice is given to the Commissioner of Transportation  
29 and to the appropriate State or local authority having jurisdiction  
30 over the highway, road, or street prior to the undertaking of **[such]**  
31 the removal or paving of railroad track. This section shall also not  
32 apply to grade crossings marked with a sign reading "Exempt  
33 Crossing."

34       The Commissioner of Transportation is hereby vested with the  
35 exclusive authority to designate and mark any railroad grade  
36 crossings across any street or highway in this State with a sign  
37 "Exempt Crossing." The commissioner shall hold a public hearing  
38 before designating any crossing as exempt with notice of **[such]** the  
39 hearing to be served in accordance with regulations promulgated by  
40 the commissioner.

41       The commissioner shall designate a grade crossing an exempt  
42 crossing when the potential for damage and injury from accidents  
43 between motor vehicles required to stop at grade crossings and  
44 other motor vehicles traveling in the same direction exceeds that  
45 between a train and the vehicles required to stop by law. Crossings  
46 designated as exempt crossings may include, but shall not be  
47 limited to, industrial, spurline, and secondary crossings. The

1 commissioner shall promulgate **【such】** regulations as are necessary  
2 to effectuate the purpose of the establishment of exempt crossings.

3 (b) No person shall operate or move any crawler-type tractor,  
4 wheel tractor, tractor engine with or without trailer or trailers  
5 attached, steam shovel, derrick, roller, self-propelled concrete  
6 mixer, or any self-propelled vehicle, commercial motor vehicle,  
7 equipment, machinery, apparatus, or structure having a normal  
8 operating speed of 10 or less miles per hour or a vertical body or  
9 load clearance of less than 1/2 inch per foot of the distance between  
10 any two adjacent axles or in any event of less than 9 inches,  
11 measured above the level surface of a roadway, upon or across any  
12 track or tracks at a railroad grade crossing without first complying  
13 with the following requirements.

14 Notice of any **【such】** intended crossing shall be given to the  
15 nearest superintendent or trainmaster of **【such】** the railroad. **【Such**  
16 **notice】** Notice shall specify the approximate time of crossing and a  
17 reasonable time shall be given to **【such】** the railroad to provide  
18 proper protection at **【such】** the crossing.

19 After concluding satisfactory arrangements with the proper  
20 officer of the railroad and before making any **【such】** crossing, the  
21 person operating or moving **【any such】** the vehicle or equipment  
22 shall first stop the same not less than 15 feet nor more than 50 feet  
23 from the nearest rail of **【such】** the railroad, and while so stopped,  
24 shall listen and look in both directions along **【such】** the track or  
25 tracks for any approaching train and for signals indicating the  
26 approach of a train, and shall not proceed until the crossing can be  
27 made safely.

28 No **【such】** crossing shall be made when warning is given by  
29 automatic signal or crossing gates or a flagman or otherwise of the  
30 immediate approach of a railroad train or car. If the flagman is  
31 provided by the railroad, movement over the crossing shall be made  
32 under **【his】** the flagman's jurisdiction.

33 (c) Any person violating the provisions of this section shall be  
34 punished by a fine of not more than **【\$50.00】** \$50 for the first  
35 offense and for the second offense a fine of not more than  
36 **【\$100.00】** \$100, or by imprisonment for not more than 30 days, or  
37 by both **【such】** fine and imprisonment.

38 (d) This section shall not be construed as limiting the authority  
39 of any municipality to adopt police regulations governing the  
40 operation of omnibuses and to provide penalties for their violation,  
41 or to relieve the owner or operator of **【such】** the omnibus subject to  
42 the jurisdiction of the Board of Public Utilities from any penalty  
43 prescribed by the laws of this State for violation of orders of **【such】**  
44 the board.

45 (cf: P.L.2005, c.147, s.9)

1       4. This act shall take effect immediately.

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STATEMENT

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6       The bill creates enhanced penalties for certain motor vehicle  
7 offenses when those motor vehicle offenses are committed by  
8 drivers of special paratransit vehicles.

9       Under current law, a special paratransit vehicle is defined as any  
10 motor vehicle which is used exclusively for the transportation of  
11 persons who are at least 60 years of age or who have disabilities or  
12 who are the clients of social service agencies, provided, that the  
13 motor vehicle is used in a service provided by a county either  
14 directly or by contract, or provided by a nonprofit organization, and  
15 the service is included by a county as part of its county plan,  
16 regardless of whether a fare is charged or donations are accepted.

17       Under the bill, a driver of a special paratransit vehicle that  
18 operates the vehicle with an alcohol concentration of 0.4 percent or  
19 more, refuses to provide a breath sample for the purpose of taking  
20 chemical tests to determine alcohol concentration, or operates the  
21 vehicle while under the influence of a controlled substance may be  
22 found guilty of a disorderly persons offense in addition to the  
23 current fines and penalties applicable to the violation.

24       The bill prohibits a driver of a special paratransit vehicle from  
25 using a cellular phone while operating the vehicle, except when the  
26 vehicle is parked in a safe area off of a highway or in an emergency  
27 situation. A driver who violates this provision may be subject to a  
28 fine of not less than \$250 or more than \$500.

29       The bill requires a driver of a special paratransit vehicle to stop,  
30 not less than 15 feet but no more than 50 feet, then look and listen  
31 in both directions along railroad tracks before crossing. A driver  
32 may be subject to a fine of not more than \$50 for the first violation  
33 of this provision. A driver may be subject to a fine of not more than  
34 \$100, 30 days imprisonment, or both for a second violation.