

Highways and Roads—State Highway Access Management Act—1989
N.J. Sess. Law Serv. 772 (West) (to be codified at N.J. Stat. Ann.
§§ 27:7-1 to -3, -4.1, -5, -6, -8, -9, -89 to -98).

The purpose of the Act is to provide for safe and efficient movement of people and goods in the travel corridors of the state.¹ It also provides improved access management for streets and highways to avoid excessive driveway openings, traffic congestion, accident rates, and undesirably low rates of speed.² The Act provides that the Department of Transportation will manage the highway system to mitigate these nuisances.³

Within one year of the enactment of the Act, the Commissioner of Transportation must adopt a state highway access management code, which will provide for the regulation of access to state highways.⁴ Before the adoption of the access code, the Commissioner must hold at least five public hearings throughout the state.⁵ The Commissioner must also submit the draft access code to the Access Code Advisory Committee prior to the hearing which is established by the bill.⁶ The committee will consist of eleven members appointed by the Governor, three recommended by the Senate President, three by the Assembly Speaker, and five by the Governor.⁷ The five Governor's appointees will include professionals within the construction and traffic industry.⁸

For each access code classification, the code will establish guidelines for the geometric design of driveways and intersections, the desirability of constructing driveways and interchanges with grade separations, and the spacing of driveways, intersections, and interchanges.⁹ Any person seeking to connect a driveway, public street, or highway entering into a state highway must obtain an access permit from the Commissioner.¹⁰ This does not

¹ N.J. STAT. ANN. § 27:7-90(a).

² *Id.* § 27:7-90(i).

³ *Id.*

⁴ *Id.* § 27:7-91.

⁵ *Id.*

⁶ *Id.* § 27:7-91(i).

⁷ *Id.*

⁸ *Id.*

⁹ *Id.* § 27:7-91(b)-(d).

¹⁰ *Id.* § 27:7-92(g).

apply to any driveway or public street which was in existence before January 1, 1970.¹¹ An assumption exists that these access roads were constructed in accordance with an access permit, even if no permit was issued.¹² In addition, the Act provides that projects for which access permit applications have been made, and which have received preliminary site plan or subdivision approval from the municipal planning authority as of the date the State adopted the access code, will be subject to any permit requirements in effect prior to that date.¹³

The Act allows the Commissioner to revoke an access permit after determining that there are alternative means of access available to a property owner.¹⁴ The Commissioner is responsible to a property owner for assistance in establishing alternative access, including any funding of improvements by the Department of Transportation.¹⁵ A permit may not be revoked until alternative means of access are available and ready for use.¹⁶ This will also apply to any property which is zoned or used for commercial purposes.¹⁷ For these purposes, access must be available onto any parallel or perpendicular street which is able to support commercial traffic.¹⁸ There are other standards which govern property used for residential, agricultural, and industrial purposes.¹⁹

The revocation of an access permit by the Commissioner is final.²⁰ The Commissioner may impose a condition that an access permit expire when the particular use of the property served by the access permit results in a substantial increase in traffic.²¹ The Act does not require that a zoning ordinance establish minimum lot sizes or minimum frontage requirements for lots which

¹¹ *Id.* § 27:7-92(c).

¹² *Id.*

¹³ *Id.* § 27:7-92(d). See Municipal Land Use Law, N.J. STAT. ANN. § 40:55D-1 (West 1975) (municipal approval authority).

¹⁴ *Id.* § 27:7-94(a).

¹⁵ *Id.* § 27:7-94(d).

¹⁶ *Id.*

¹⁷ *Id.* § 27:7-94(c)(1).

¹⁸ *Id.* "Property used for commercial purposes" includes, but is not limited to, property used for wholesale facilities, retail facilities, service establishments, or office or research buildings. *Id.*

¹⁹ *Id.* § 27:7-94(c)(2)-(3).

²⁰ *Id.* § 27:7-95(b).

²¹ *Id.* § 27:7-95(a).

are adjacent to, but restricted from, access to a state highway.²² The Act provides for standards suitable for county and municipal roads and streets.²³

The Act amends the law dealing with the management of freeways and parkways.²⁴ A limited access highway is defined as a roadway designed for through traffic over which abutters have no easements or rights of life, air or direct access because the property abuts this way.²⁵

The Act also amends sections of the Municipal Land Use Law.²⁶ The Act requires that zoning ordinances conform with the state highway access management code.²⁷

Pamela O. Anderson

²² *Id.* § 49:55D-62(d).

²³ *Id.* § 27:7-91(e).

²⁴ *Id.* § 27:7A-1.

²⁵ *Id.* § 27:7A-1(a).

²⁶ *Id.* § 40:55D-1.

²⁷ *Id.* § 27:7-1.