

TO: Fund Commissioners
Risk Management Consultants
Police Chiefs
Public Safety Directors

FROM: Chief Keith F. Hummel (Ret.)

TOPIC: Law Enforcement Support Organization (LESO) 1033 Program

DATE: March 23, 2018

The U.S. Department of Defense (DoD) 1033 Program permits the Secretary of Defense to transfer excess DoD supplies and equipment to state and local law enforcement agencies for use in their law enforcement duties. This property is procured at no cost to the agency with the exception of any shipping or transportation costs.

The acquisition of military-style vehicles for special operations creates some unique challenges that must be addressed by the agency. Strict accountability is required, and when the vehicles are no longer needed, agencies must request permission for turn in, transfer, or disposal.

Some of the challenges that must be taken into consideration:

- Participation in the program and financial assistance for the delivery of the equipment is approved by the governing body
- Registration, Licensing, Driver Training, and Insurance
- Storage, Security, and Maintenance
- Response Policies
- Repairs, mechanic's qualifications, experience, and competency

Under the New Jersey Motor Vehicle Code 39:3-10j. Legislative findings and declarations. The Legislature finds that:

- a. On September 20, 1988, the United States Department of Transportation granted the states of this nation the authority to exempt certain drivers from the licensing provisions of the "Commercial Motor Vehicle Safety Act of 1986. Pub.L.99-570 (49 U.S.C. §2701 et seq.).
- b. The "Commercial Motor Vehicle Safety Act of 1986" requires a commercial driver's license for anyone who operates a vehicle that has a gross weight rating in excess of 26,000 pounds, carries 15 or more passengers or transports hazardous materials
- c.
- d. Unless the State of New Jersey, in accordance with the Secretary of the United States Department of Transportation's directive, exercises its exemption authority, certain operators of firefighting apparatus, operators of emergency or rescue equipment operated for the purposes of first aid, ambulance or rescue squad or for disaster control, non-civilian operators of military vehicles owned or operated by the United States Department of Defense or the National Guard, and farmers operating farm vehicles will be obliged to secure commercial driver's licenses under that act.

In 1989, and then in 1997, the New Jersey State Legislature adopted and then modified the New Jersey Motor Vehicle Code to exempt certain operators of vehicles that were in excess of 26,000 pounds or carried 15 or more passengers. See 39:3-10K.

Under the New Jersey Motor Vehicle Code 39:3-10k. Exemptions from Commercial Motor Vehicles Safety Act of 1986.

Unless otherwise required by federal law or regulation, and subject to any rules and regulations promulgated pursuant to the provisions of this act, no

- (1) designated operator of firefighting apparatus,
- (2) non-civilian operator of a military vehicle owned or operated by the United States Department of Defense or the National Guard,
- (3) operator of a farm vehicle controlled and operated by a farmer, used to transport agricultural products, farm machinery or farm supplies to or from a farm, operated within 150 miles of a person's farm, and not used in the operation of a common or contract motor carrier, or
- (4) operator of emergency or rescue equipment operated for the purposes of first aid, ambulance or rescue squad or for disaster control,

shall be subject to the licensing provisions of the "Commercial Motor Vehicle Safety Act of 1986."

Under the New Jersey Civilian Defense and Disaster Control Act

App.A:9_33.1. Definitions

The following words and phrases as used in this act shall have the following meanings:

1. "Disaster" shall mean any unusual incident resulting from natural or unnatural causes which endangers the health, safety or resources of the residents of one or more municipalities of the State, and which is or may become too large in scope or unusual in type to be handled in its entirety by regular municipal operating services.
2. "Local disaster emergency" shall mean and include any disaster, or the imminence thereof, resulting from natural or unnatural causes other than enemy attack and limited to the extent that action by the Governor under this act is not required.
3. "War emergency" shall mean and include any disaster occurring anywhere within the State as the result of enemy attack or the imminent danger thereof.
4. "Emergency" shall mean and include "disaster" and "war emergency" as above in this section defined. *L.1953, First Sp.Sess., c. 438, p. 2405, s. 3.*

Adherence to these statutes is an important part of your "Risk Management Program." These specialized vehicles that are obtained through the Federal 1033 Program may not have airbags that are regulated by Federal Law or have approved safety belts under current New Jersey Seat Belt Law: (NJS 39:3-76.2f)

Before assigning personnel to operate these vehicles:

- Review the Commercial Motor Vehicle Safety Act of 1986
- Review N.J. Title 39: 3-10k. Exemptions from the Commercial Motor Vehicle Safety Act of 1986
- Consult with your Solicitor
- Evaluate the safety devices or the lack thereof of these devices
- Policies - Determine how and when these vehicles will be used (disasters and emergencies?)
- Provide the appropriate driver training

These are just a few of the areas that should be taken into consideration when acquiring and assigning personnel to operate vehicles under the 1033 Program.

This bulletin is intended for general information purposes only. It should not be construed as legal advice or legal opinion regarding any specific or factual situation. Always follow your organization's policies and procedures as presented by your manager or supervisor. Please consult with your County Prosecutor or Borough Attorney before making any policy or operational changes.

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