

ASSEMBLY, No. 3114

STATE OF NEW JERSEY 211th LEGISLATURE

INTRODUCED JUNE 21, 2004

Sponsored by:

Assemblyman PETER J. BARNES, JR.

District 18 (Middlesex)

SYNOPSIS

Increases motor vehicle insurance surcharge for drivers accumulating six or more penalty points; imposes surcharges for "unsafe driving" convictions.

CURRENT VERSION OF TEXT

As introduced.



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2

1 AN ACT concerning motor vehicle insurance surcharges and amending
2 P.L.1983, c.65.

3

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

6

7 1. Section 6 of P.L.1983, c.65 (C.17:29A-35) is amended to read
8 as follows:

9 6. a. (Deleted by amendment, P.L.1997, c.151.)

10 b. There is created a New Jersey Merit Rating Plan which shall
11 apply to all drivers and shall include, but not be limited to, the
12 following provisions

13 (1) (a) Plan surcharges shall be levied, beginning on or after
14 January 1, 1984, by the New Jersey Motor Vehicle Commission
15 (hereafter the "commission") established by section 4 of P.L.2003,
16 c.13 (C.39:2A-4) on any driver who, in the preceding 36-month
17 period, has accumulated six or more motor vehicle points, as provided
18 in Title 39 of the Revised Statutes; except that the allowance for a
19 reduction of points in Title 39 of the Revised Statutes shall not apply
20 for the purpose of determining surcharges under this paragraph. The
21 accumulation of points shall be calculated as of the date the point
22 violation is posted to the driver history record and shall be levied
23 pursuant to rules promulgated by the commission. Surcharges
24 assessed pursuant to this paragraph shall be ~~[\$100.00]~~ \$150.00 for six
25 points, and \$25.00 for each additional point. No offense shall be
26 selected for billing which occurred prior to February 10, 1983. No
27 offense shall be considered for billing in more than three annual
28 assessments.

29 (b) (Deleted by amendment, P.L.1984, c.1.)

30 (2) (a) Plan surcharges shall be levied annually for a three-year
31 period for convictions for unsafe driving under section 1 of P.L.2000,
32 c.75 (C.39:4-97.2) in an amount of \$200.00 for a first offense,
33 \$350.00 for a second offense occurring within a ten-year period, and
34 \$500.00 for a third offense occurring within a ten-year period of a
35 prior unsafe driving conviction;

36 (b) Plan surcharges shall be levied for convictions ~~[(a)]~~ under
37 R.S.39:4-50 for violations occurring on or after February 10, 1983,
38 and ~~[(b)]~~ under section 2 of P.L.1981, c.512 (C.39:4-50.4a), or for
39 offenses committed in other jurisdictions of a substantially similar
40 nature to those under R.S.39:4-50 or section 2 of P.L.1981, c.512
41 (C.39:4-50.4a), for violations occurring on or after January 26, 1984.
42 Except as hereinafter provided, surcharges under this paragraph shall
43 be levied annually for a three-year period, and shall be \$1,000.00 per

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.

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1 year for each of the first two convictions, for a total surcharge of
2 \$3,000 for each conviction, and \$1,500.00 per year for the third
3 conviction occurring within a three-year period, for a total surcharge
4 of \$4,500 for the third conviction. If a driver is convicted under both
5 R.S.39:4-50 and section 2 of P.L.1981, c.512 (C.39:4-50.4a) for
6 offenses arising out of the same incident, the driver shall be assessed
7 only one surcharge for the two offenses.

8 If, upon written notification from the commission or its designee,
9 mailed to the last address of record with the commission, a driver fails
10 to pay a surcharge levied under this subsection, the driving privilege
11 of the driver shall be suspended forthwith until the minimum payment
12 requirement as set forth by rule by the commission is paid to the
13 commission; except that the commission may authorize payment of the
14 surcharge on an installment basis over a period not to exceed 12
15 months for assessments under \$2,300 or 24 months for assessments of
16 \$2,300 or more. If a driver fails to pay the surcharge or any
17 installments on the surcharge, the total surcharge shall become due
18 immediately, except as otherwise prescribed by rule of the commission.

19 The commission may authorize any person to pay the surcharge
20 levied under this section by use of a credit card, debit card or other
21 electronic payment device, and the administrator is authorized to
22 require the person to pay all costs incurred by the commission in
23 connection with the acceptance of the credit card, debit card or other
24 electronic payment device. If a surcharge or related administrative fee
25 is paid by credit or debit cards or any other electronic payment device
26 and the amount is subsequently reversed by the credit card company
27 or bank, the driving privilege of the surcharged driver shall be
28 suspended and the driver shall be subject to the fee imposed for
29 dishonored checks pursuant to section 31 of P.L.1994, c.60
30 (C.39:5-36.1).

31 In addition to any other remedy provided by law, the commission
32 is authorized to utilize the provisions of the SOIL (Set off of
33 Individual Liability) program established pursuant to P.L.1981, c.239
34 (C.54A:9-8.1 et seq.) to collect any surcharge levied under this section
35 that is unpaid on or after the effective date of this act. As an additional
36 remedy, the commission may issue a certificate to the Clerk of the
37 Superior Court stating that the person identified in the certificate is
38 indebted under this surcharge law in such amount as shall be stated in
39 the certificate. The certificate shall reference the statute under which
40 the indebtedness arises. Thereupon the clerk to whom such certificate
41 shall have been issued shall immediately enter upon the record of
42 docketed judgments the name of such person as debtor; the State as
43 creditor; the address of such person, if shown in the certificate; the
44 amount of the debt so certified; a reference to the statute under which
45 the surcharge is assessed, and the date of making such entries. The
46 docketing of the entries shall have the same force and effect as a civil

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1 judgment docketed in the Superior Court, and the commission shall
2 have all the remedies and may take all of the proceedings for the
3 collection thereof which may be had or taken upon the recovery of a
4 judgment in an action, but without prejudice to any right of appeal.
5 Upon entry by the clerk of the certificate in the record of docketed
6 judgments in accordance with this provision, interest in the amount
7 specified by the court rules for post-judgment interest shall accrue
8 from the date of the docketing of the certificate, however payment of
9 the interest may be waived by the commission or its designee. In the
10 event that the surcharge remains unpaid following the issuance of the
11 certificate of debt and the commission takes any further collection
12 action including referral of the matter to the Attorney General or his
13 designee, the fee imposed, in lieu of the actual cost of collection, may
14 be 20 percent of surcharges of \$1,000 or more. The administrator or
15 his designee may establish a sliding scale, not to exceed a maximum
16 amount of \$200, for surcharge principal amounts of less than \$1,000
17 at the time the certificate of debt is forwarded to the Superior Court
18 for filing. The commission shall provide written notification to a
19 driver of the proposed filing of the certificate of debt at least 10 days
20 prior to the proposed filing; such notice shall be mailed to the driver's
21 last address of record with the commission. If a certificate of debt is
22 satisfied following a credit card payment, debit card payment or
23 payment by other electronic payment device and that payment is
24 reversed, a new certificate of debt shall be filed against the surcharged
25 driver unless the original is reinstated.

26 If the administrator or his designee approves a special payment plan
27 for repayment of the certificate of debt, and the driver is complying
28 with the approved plan, the plan may be continued for any new
29 surcharge not part of the certificate of debt. All moneys collectible
30 under this subsection b. shall be billed and collected by the commission
31 except as provided in P.L.1997, c.280 (C.2B:19-10 et al.) for the
32 collection of unpaid surcharges. Commencing on September 1, 1996,
33 or such earlier time as the Commissioner of Banking and Insurance
34 shall certify to the State Treasurer that amounts on deposit in the New
35 Jersey Automobile Insurance Guaranty Fund are sufficient to satisfy
36 the current and anticipated financial obligations of the New Jersey
37 Automobile Full Insurance Underwriting Association, all plan
38 surcharges collected by the commission under this subsection b. shall
39 be remitted to the Division of Motor Vehicles Surcharge Fund for
40 transfer to the Market Transition Facility Revenue Fund, as provided
41 in section 12 of P.L.1994, c.57 (C.34:1B-21.12), for the purposes of
42 section 4 of P.L.1994, c.57 (C.34:1B-21.4) until such a time as all the
43 Market Transition Facility bonds, notes and obligations and all Motor
44 Vehicle Commission bonds, notes and obligations issued pursuant to
45 that section 4 of P.L.1994, c.57 (C.34:1B-21.4) and the costs thereof
46 are discharged and no longer outstanding. From the date of

1 certification by the Commissioner of Banking and Insurance that the
2 moneys collectible under this subsection are no longer needed to fund
3 the association or at such a time as all Market Transition Facility
4 bonds, notes and obligations issued pursuant to section 4 of P.L.1994,
5 c.57 (C.34:1B-21.4) and the costs thereof are discharged and no
6 longer outstanding moneys collectible under this subsection shall,
7 subject to appropriation, be remitted to the New Jersey
8 Property-Liability Insurance Guaranty Association created pursuant to
9 section 6 of P.L.1974, c.17 (C.17:30A-6) to be used for payment of
10 any loans made by that association to the New Jersey Automobile
11 Insurance Guaranty Fund pursuant to paragraph (10) of subsection a.
12 of section 8 of P.L.1974, c.17 (C.17:30A-8); provided that all such
13 payments shall be subject to and dependent upon appropriation by the
14 State Legislature.

15 (3) In addition to any other authority provided in P.L.1983, c.65
16 (C.17:29A-33 et al.), the commissioner, after consultation with the
17 commission, is specifically authorized (a) (Deleted by amendment,
18 P.L.1994, c.64), (b) to impose, in accordance with paragraph (1)(a) of
19 this subsection, surcharges for motor vehicle violations or convictions
20 for which motor vehicle points are not assessed under Title 39 of the
21 Revised Statutes, or (c) to reduce the number of points for which
22 surcharges may be assessed below the level provided in paragraph (1)
23 (a) of this subsection, except that the dollar amount of all surcharges
24 levied under the New Jersey Merit Rating Plan shall be uniform on a
25 Statewide basis for each filer, without regard to classification or
26 territory. Surcharges adopted by the commissioner on or after January
27 1, 1984 for motor vehicle violations or convictions for which motor
28 vehicle points are not assessable under Title 39 of the Revised Statutes
29 shall not be retroactively applied but shall take effect on the date of
30 the New Jersey Register in which notice of adoption appears or the
31 effective date set forth in that notice, whichever is later.

32 c. No motor vehicle violation surcharges shall be levied on an
33 automobile insurance policy issued or renewed on or after January 1,
34 1984, except in accordance with the New Jersey Merit Rating Plan,
35 and all surcharges levied thereunder shall be assessed, collected and
36 distributed in accordance with subsection b. of this section.

37 d. (Deleted by amendment, P.L.1990, c.8.)

38 e. The Commissioner of Banking and Insurance and the
39 commission as may be appropriate, shall adopt any rules and
40 regulations necessary or appropriate to effectuate the purposes of this
41 section.

42 (cf: P.L.2003, c.13, s.31)

43

44 2. This act shall take effect immediately.

1 STATEMENT

2

3 This bill would increase the motor vehicle insurance surcharge
4 imposed upon drivers who have accumulated six or more motor
5 vehicle penalty points from \$100 to \$150.

6 The bill also imposes a new surcharge upon drivers who are
7 convicted of "unsafe driving." The "unsafe driving" offense,
8 established with the enactment of P.L.2000, c.75 (C.39:4-97.2),
9 provides for fines, but specifies that no motor vehicle points are to be
10 assessed until a driver commits his third offense.

11 Under this bill, a person who is convicted of an "unsafe driving"
12 offense would be subject to a \$200 surcharge for a first offense and,
13 if committed within ten years of the first offense, a \$350 surcharge for
14 a second offense and a \$500 surcharge for a third offense. These
15 "unsafe driving" surcharges, like the surcharges for motor vehicle
16 penalty points, would be assessed over a three year period.