

ASSEMBLY, No. 378

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman JOE DANIELSEN

District 17 (Middlesex and Somerset)

SYNOPSIS

Establishes motor vehicle insurance compliance programs; allows law enforcement agencies to utilize license plate readers to enforce motor vehicle insurance requirements.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning motor vehicle insurance and automated license
2 plate readers, supplementing Title 39 of the Revised Statutes,
3 and amending P.L.1990, c.8.

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

7
8 1. (New section) a. There is established an Uninsured Vehicle
9 Enforcement and Compliance Program, which may be administered
10 by each county and municipality in the State. To implement this
11 program, county and municipal governing bodies and law
12 enforcement agencies shall have the authority to enter into
13 contractual agreements with automated license plate reader
14 providers to provide the necessary technology, equipment and
15 maintenance thereof.

16 b. Under the program, each county and municipal prosecutor
17 and participating law enforcement agencies may utilize individual
18 automatic license plate reader systems to access and collect data for
19 the investigation, detection, analysis, or enforcement of the
20 compulsory motor vehicle insurance law, P.L.1972, c.197 (C.39:6B-
21 1 et seq.). A law enforcement agency that utilizes automated
22 license plate readers pursuant to this section shall access the
23 insurance information within the database established pursuant to
24 subsection j. of section 50 of P.L.1990, c.8 (C.17:33B-41).

25 Access to the database shall be restricted to authorized prosecutors
26 and law enforcement agencies. Any entity with which a contract has
27 been executed to provide or maintain the technology or equipment
28 necessary to utilize automated license plate readers or the database
29 shall be entitled to access the data collected exclusively for the
30 purposes enforcing this act.

31 c. A law enforcement officer may verify by sworn affidavit that a
32 photograph generated by an automatic license plate reader system unit
33 identifies a particular vehicle operating on the public roads or
34 highways of this State and that the database confirms that the vehicle
35 was uninsured at the time such vehicle was being operated. The
36 affidavit shall constitute probable cause for prosecution under the
37 compulsory motor vehicle insurance law.

38 d. Any data collected or retained through the use of an automated
39 license plate reader system pursuant to the program shall be retained
40 by the prosecuting authority and law enforcement agency when the
41 data is being used as evidence of a violation of the compulsory motor
42 vehicle insurance law; provided, when the data is no longer needed as
43 evidence of a violation, the data shall be deleted or destroyed.

44 e. Any data collected or retained through the use of an automated
45 license plate reader system shall not be used by an individual or

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 agency for purposes other than enforcement of compulsory motor
2 vehicle insurance law or as otherwise permitted by law. Images of
3 the driver or motor vehicle occupants shall not be used or
4 maintained as evidence by any prosecuting authority or law
5 enforcement agency.

6 f. Any recorded image or information produced in connection
7 with the automated license plate reader shall not be deemed a public
8 record under P.L.1963, c.73 (C.47:1A-1 et seq.), P.L.2001, c.404
9 (C.47:1A-5 et al.), or the common law concerning access to public
10 records.

11 g. The provisions of this section shall not take effect until the
12 Motor Vehicle Commission verifies that:

13 (1) at least 90 percent of the personal lines auto insurance
14 market in the State submits insurance information to the database;
15 and

16 (2) the database is updated in a manner that allows the
17 provisions of this section to be implemented.

18 h. As used in this act, “automated license plate reader” means a
19 system consisting of one or more cameras and related equipment
20 that automatically and without direct human control locates, focuses
21 on, and photographs license plates and vehicles that come into
22 range of the device; that automatically converts digital photographic
23 images of scanned license plates into electronic text documents;
24 that is capable of comparing scanned license plate text data with
25 data files for vehicles on a list programmed into the device’s
26 electronic memory; and that notifies law enforcement, whether by
27 an audible alert or by other means, when a scanned license plate
28 matches the license plate on the programmed list. The term
29 includes both devices that are placed at a stationary location and
30 mobile devices affixed to a law enforcement vehicle that are
31 capable of operating while the vehicle is in motion.

32

33 2. (New section) a. Every prosecuting authority in this State
34 may establish an Uninsured Vehicle Enforcement Diversion
35 Program to allow county and municipal prosecutors to defer
36 prosecution of a person who violates the compulsory motor vehicle
37 insurance law, P.L.1972, c.197 (C.39:6B-1 et seq.).

38 Under the program, a prosecutor may move before the court to
39 postpone proceedings against a person who violates the compulsory
40 motor vehicle insurance law. If the prosecutor's review of the
41 person’s driving records and other criminal history reveals that the
42 offender does not qualify for the program, the prosecutor may
43 notify the court that the prosecutor is prepared to proceed with the
44 prosecution of the offense and the court shall schedule court
45 proceedings as appropriate. The prosecutor shall have the sole
46 discretion to determine if an offender qualifies for and is admitted
47 to the program after considering:

1 (1) whether it is in the interest of public safety to postpone
2 proceedings against the offender;
3 (2) the driving record of the offender;
4 (3) whether there are criminal complaints pending against the
5 offender; and
6 (4) whether the offender has provided the prosecutor with
7 satisfactory proof of motor vehicle liability insurance prior to the
8 hearing.

9 b. Upon referral to the program established pursuant to subsection
10 a. of this section, the prosecutor shall forward to the person a notice,
11 which shall provide:

12 (1) the date on which the violation occurred;
13 (2) a statement of the penalties established pursuant to section 2 of
14 P.L.1972, c.197 (C.39:6B-2);
15 (3) the date on which the person is required to submit to the
16 prosecutor satisfactory proof of motor vehicle liability insurance

17 c. If the prosecutor determines that the person has failed to
18 comply with paragraph (3) of subsection b. of this section the
19 prosecutor may notify the court that the prosecutor is prepared to
20 proceed with the prosecution of the offense and the court shall
21 schedule the appropriate court proceedings.

22 d. A prosecutor who moves before the court to postpone
23 proceedings against a person who violates the compulsory motor
24 vehicle insurance law shall enter into a deferral agreement with that
25 person.

26 e. If, after a minimum of six months from the date of the
27 deferral agreement, the prosecutor is satisfied that the person
28 maintained motor vehicle liability insurance, the prosecutor may
29 move before the court to dismiss the charges for violating the
30 compulsory motor vehicle insurance law.

31 If, at any time, the prosecutor finds that the person has failed to
32 comply with the deferral agreement, the prosecutor may notify the
33 court that the prosecutor is prepared to proceed with the prosecution
34 of the offense and the court shall schedule court proceedings as
35 appropriate.

36 f. The court shall assess a person who enters into a deferral
37 agreement a surcharge of \$245, of which amount:

38 (1) \$120 shall be payable to the governing body of the county or
39 municipality in which the person entered the agreement with a
40 prosecutor pursuant to this section to pay for the cost of the
41 Uninsured Vehicle Enforcement Diversion Program pursuant to this
42 section; and
43 (2) \$120 shall be payable for the cost of equipping, operating,
44 and monitoring the Uninsured Vehicle Enforcement and
45 Compliance Program established pursuant to section 1 of P.L. ,
46 c. (C.) (pending before the Legislature as this bill) including
47 but not limited to, contractual payments to third party entities

1 providing essential services and equipment for the detection of
2 violations of the compulsory motor vehicle insurance law. The \$120
3 assessment shall be payable as follows:

4 (a) in a matter where the summons was issued by a
5 municipality's law enforcement agency, to that municipality;

6 (b) in a matter where the summons was issued by a county's law
7 enforcement agency, to that county; and

8 (c) in a matter where the summons was issued by a State law
9 enforcement agency, to the General Fund; and

10 (3) five dollars to the Public Employees' Retirement System,
11 established pursuant to P.L.1954, c.84 (C.43:15A-7 et seq.).
12

13 3. Section 50 of P.L.1990, c.8 (C.17:33B-41) is amended to
14 read as follows:

15 50. a. Upon the termination of a policy of motor vehicle
16 liability insurance by cancellation for nonpayment of premium
17 pursuant to section 2 of P.L.1968, c.158 (C.17:29C-7), notice of
18 that cancellation shall be filed by the insurer with the **【Division of】**
19 Motor **【Vehicles】** Vehicle Commission not later than 30 days
20 following the effective date of that cancellation.

21 b. The **【division】** commission shall notify the person whose
22 policy was canceled that, unless proof of motor vehicle liability
23 insurance is filed with the **【division】** commission within 30 days of
24 the notification or some other allowable circumstance exists and the
25 **【division】** commission is notified of that circumstance within 30
26 days of the notification, the sanctions and penalties of this section
27 shall apply.

28 c. If the **【Director】** Chief Administrator of the **【Division of】**
29 Motor **【Vehicles】** Vehicle Commission has not received proof of
30 motor vehicle liability insurance or other allowable circumstances
31 within 30 days pursuant to subsection b. of this section, **【he】** the
32 chief administrator shall suspend the registration of **【such】** the
33 vehicle, except that:

34 (1) Suspension shall not be made under this subsection upon the
35 basis of a cancellation of motor vehicle liability insurance if the
36 registration certificate and registration plates of the motor vehicle
37 are surrendered prior to the time at which the cancellation of
38 insurance becomes effective. **【Such surrender】** Surrender shall be
39 made to **【such officers of】** the **【division】** commission as the
40 **【director】** chief administrator shall direct. For the purposes of this
41 paragraph, the expiration of a registration without renewal of that
42 registration shall be deemed to be a surrender of registration as of
43 the date of expiration;

44 (2) Suspension shall not be made under this subsection upon a
45 cancellation of motor vehicle liability insurance if the vehicle has
46 been, or will be, prior to the date of that cancellation, removed from

1 the United States in North America and the Dominion of Canada for
2 the purpose of international traffic, provided that the owner of the
3 vehicle, prior to the date of that cancellation, has filed with the
4 **【director】** chief administrator a statement, in a form prescribed by
5 him, indicating that the vehicle has been, or will be, so removed,
6 and agreeing to notify the **【director】** chief administrator
7 immediately upon return of the vehicle to the United States in North
8 America or the Dominion of Canada. Upon receipt of the statement
9 the **【director】** chief administrator shall restrict the use of the
10 registration to such international traffic until new proof that motor
11 vehicle liability insurance has been secured for the vehicle;

12 (3) Suspension need not be made under this subsection upon the
13 basis of a cancellation of motor vehicle liability insurance if the
14 period of time during which the motor vehicle remained both
15 registered and uninsured was not greater than 15 days. The
16 **【director】** chief administrator shall promulgate regulations
17 governing the conditions under which suspension action may be
18 withheld pursuant to this paragraph.

19 d. Notwithstanding the provisions of subsection c. of this
20 section, an order of suspension may be rescinded if the registrant
21 pays to the commissioner a civil penalty in the amount of \$4 for
22 each day up to 90 days for which motor vehicle liability insurance
23 was not in effect. The provisions of this subsection shall apply only
24 once during any 36-month period and only if the registrant
25 surrenders the certificate of registration and registration plates to
26 the **【director】** chief administrator not more than 90 days from the
27 date of cancellation of motor vehicle liability insurance coverage or
28 submits to the **【director】** chief administrator proof of motor vehicle
29 liability insurance which took effect not more than 90 days from the
30 cancellation of **【his】** the registrant's previous motor vehicle
31 liability insurance.

32 e. Any motor vehicle, the registration for which has been
33 suspended pursuant to this section, shall not be registered or
34 reregistered in the name of the same registrant, or in any other name
35 where the **【director】** chief administrator has reasonable grounds to
36 believe that such registration or reregistration will have the effect of
37 defeating the purposes of this section, and no other motor vehicle
38 shall be registered in the name of such person during the period of
39 suspension.

40 f. **【No registration】** Registration plates shall not be returned to
41 the registrant until proof of motor vehicle liability insurance is
42 submitted to the **【director】** chief administrator.

43 g. If a registrant has not surrendered his certificate of
44 registration and registration plates or obtained motor vehicle
45 liability insurance within 90 days from the date of cancellation of
46 motor vehicle liability insurance, the **【director】** chief administrator

1 shall suspend the driver's license of any such registrant. The
2 suspension shall take effect on the date specified in the order and
3 shall remain in effect until termination of the suspension of the
4 registrant's registration.

5 h. The **【Director】** Chief Administrator of the **【Division of】**
6 Motor **【Vehicles】** Vehicle Commission shall adopt rules and
7 regulations pursuant to the "Administrative Procedure Act,"
8 P.L.1968, c.410 (C.52:14B-1 et seq.), to implement the provisions
9 of this section. The **【director】** chief administrator may, by
10 regulation, require that the provisions of this section shall be
11 applicable to the termination of policies of motor vehicle liability
12 insurance for reasons other than cancellation for nonpayment of
13 premium, including nonrenewals.

14 i. Within 180 days of the effective date of this act the
15 **【Division of】** Motor **【Vehicles】** Vehicle Commission shall develop
16 a format for electronic reporting by insurers writing private
17 passenger automobile insurance, to the **【division】** commission, on a
18 real-time basis, information regarding the cancellation of policies of
19 motor vehicle insurance, the issuance of new policies of motor
20 vehicle insurance, and changes of vehicle on policies of motor
21 vehicle insurance in force in order to verify compliance with the
22 motor vehicle liability insurance requirements of section 1 of
23 P.L.1972, c.197 (C.39:6B-1), and the mandatory automobile
24 insurance requirements of section 4 of P.L.1998, c.21 (C.39:6A-
25 3.1). Information shall be maintained by driver's license number of
26 the named insured. Other information to be provided by insurers
27 shall be established by the **【director】** chief administrator by
28 regulation.

29 j. The **【director】** chief administrator shall establish an
30 electronic **【data base】** database containing the information provided
31 for in subsection i. of this section, which shall be made available to
32 all law enforcement officers for the purpose of enforcing the
33 mandatory motor vehicle insurance requirements of section 1 of
34 P.L.1972, c.197 (C.39:6B-1). The information contained in the
35 database shall be accessible to law enforcement officers via their
36 computers, including computers located in law enforcement
37 vehicles.

38 The **【data base】** database shall not be made available until every
39 insurer writing private passenger insurance has complied with
40 regulations of the **【director】** chief administrator and the information
41 required by subsection i. of this section is reported on a real-time
42 basis. The **【Division of】** Motor **【Vehicles】** Vehicle Commission
43 shall establish security procedures to protect the confidentiality of
44 the information **【on】** in the **【data base】** database, which shall
45 preclude access to the information to any person not otherwise
46 entitled to it under this or any other law.

1 k. The **【data base】** database shall be funded from the
2 Uninsured Motorist Prevention Fund established pursuant to section
3 2 of P.L.1983, c.141 (C.39:6B-3).
4 (cf: P.L.1998, c.22, s.7)

5
6 4. This act shall take effect on the first day of the seventh
7 month next following enactment.
8

9
10 STATEMENT
11

12 This bill establishes an “Uninsured Vehicle Enforcement and
13 Compliance Program” and an “Uninsured Vehicle Enforcement
14 Diversion Program.”

15 Under the “Uninsured Vehicle Enforcement and Compliance
16 Program,” counties, municipalities, and law enforcement agencies
17 would have the authority to enter into contractual agreements with
18 automated license plate reader providers to provide the necessary
19 technology and equipment. A law enforcement agency would be
20 permitted to utilize the automated license plate readers for the
21 purpose of enforcing the requirement that drivers maintain motor
22 vehicle liability insurance. Specifically, law enforcement officers
23 would be permitted to utilize automated license plate readers to
24 determine whether a driver is uninsured. The bill also requires law
25 enforcement officers to have access via computers located in law
26 enforcement vehicles to the information contained in the insurance
27 database maintained by the Motor Vehicle Commission (MVC).

28 The bill provides that access to the database is to be restricted to
29 authorized prosecutors and law enforcement agency users in the
30 program. Any entity with which a contract has been executed to
31 provide or maintain the technology or equipment necessary to
32 utilize automated license plate readers or the database would be
33 entitled to access the data collected exclusively for the purposes of
34 enforcing the provisions of the bill.

35 The bill requires a law enforcement officer to verify by sworn
36 affidavit that a photograph generated by an automatic license plate
37 reader system unit identifies a particular vehicle operating on the
38 public roads or highways of this State and that the database
39 confirmed that the vehicle was uninsured at the time such vehicle was
40 being operated. The affidavit is to constitute probable cause for
41 prosecution under the compulsory motor vehicle insurance law.

42 The bill requires the automated license plate data to be retained by
43 the prosecuting authority and law enforcement agency when used as
44 evidence and then purged thereafter. Any data collected or retained
45 through the use of an automated license plate reader system is not to
46 be used for purposes other than enforcing the motor vehicle
47 compulsory motor vehicle insurance law. Images of the driver or

1 motor vehicle occupants would not be used or maintained as
2 evidence by any prosecuting authority or law enforcement agency.
3 Any recorded image or information produced in connection with the
4 automated license plate reader would not be deemed a public record
5 under the “Open Public Records Act,” or the common law
6 concerning access to public records.

7 The “Uninsured Vehicle Enforcement and Compliance Program”
8 would not take effect until the MVC verifies that at least 90 percent
9 of the personal lines auto insurance market in the State submits
10 insurance information to the commission’s database.

11 In addition, this bill establishes an “Uninsured Vehicle
12 Enforcement Diversion Program” to allow county and municipal
13 prosecutors to defer prosecution of a person who violates the
14 compulsory motor vehicle insurance law. Under the program, a
15 prosecutor may move before the court to postpone proceedings
16 against a person who operates a motor vehicle without insurance.
17 The prosecutor would have the sole discretion to determine if an
18 offender qualifies for and is admitted to the program after
19 considering:

20 (1) whether it is in the interest of public safety to postpone
21 proceedings against the offender;

22 (2) the driving record of the offender;

23 (3) whether there are criminal complaints pending against the
24 offender; and

25 (4) whether the offender has provided the prosecutor with
26 satisfactory proof of motor vehicle liability insurance prior to the
27 hearing.

28 The bill requires a prosecutor to notify a person who is referred to
29 the diversion program. The notification is to include the date on which
30 the violation occurred, a statement of the penalties for violating the
31 compulsory motor vehicle insurance law, and the date on which the
32 person is required to submit to the prosecutor satisfactory proof of
33 motor vehicle liability insurance.

34 A prosecutor who determines that the person has failed to obtain
35 motor vehicle liability insurance may notify the court that the
36 prosecutor is prepared to proceed with prosecuting the offense and
37 the court is to schedule court proceedings, as appropriate. A
38 prosecutor who moves before the court to postpone proceedings
39 against a person who violates the compulsory motor vehicle
40 insurance law, is required to enter into a deferral agreement with
41 that person. If, after a minimum of six months from the date of the
42 deferral agreement, the prosecutor is satisfied that the person
43 maintained motor vehicle liability insurance he or she may move
44 before the court to dismiss the charges.

45 A person who enters into a deferral agreement is required to pay
46 a surcharge of \$245. Of the \$240 assessment:

- 1 (1) \$120 is to be paid to the county or municipality in which the
- 2 person entered the agreement to pay for the cost of the Uninsured
- 3 Vehicle Enforcement Diversion Program;
- 4 (2) \$120 is to be paid to the municipal, county, or State
- 5 authority that issued the summons for the cost of equipping,
- 6 operating, and monitoring the Uninsured Vehicle Enforcement and
- 7 Compliance Program, including but not limited to, contractual
- 8 payments to third party entities providing essential services and
- 9 equipment for the detection of violations of the compulsory motor
- 10 vehicle insurance law; and
- 11 (3) five dollars is to be paid to the Public Employees'
- 12 Retirement System.