

ASSEMBLY, No. 451

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:
Assemblyman GREGORY P. MCGUCKIN
District 10 (Ocean)

SYNOPSIS

Requires law enforcement officers to issue preliminary suspension of driver's license for certain drunk driving offenses.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning driving under the influence and supplementing
2 Title 39 of the Revised Statutes.

3

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

6

7 1. a. In the name of the Chief Administrator of the Motor
8 Vehicle Commission, a law enforcement officer shall issue an
9 immediate preliminary suspension of the driver's license of a
10 person who is arrested for operating a motor vehicle in violation of
11 R.S.39:4-50, section 2 of P.L.1981, c.512 (C.39:4-50.4a), or section
12 1 of P.L.1992, c.189 (C.39:4-50.14). If the person's driver's license
13 was issued by another state, the law enforcement officer shall issue
14 an immediate preliminary suspension of the nonresident reciprocity
15 privilege.

16 The law enforcement officer shall immediately confiscate the
17 person's driver's license, unless the driver's license was issued by
18 another state.

19 The law enforcement officer shall inform the person orally and in
20 writing that if the person is convicted of operating a motor vehicle
21 during the period of license suspension imposed pursuant to this
22 subsection that the person shall be subject to the penalties set forth
23 in R.S.39:3-40.

24 b. The law enforcement officer shall immediately forward to
25 the chief administrator the confiscated driver's license, the notice of
26 the immediate preliminary suspension of the driver's license or
27 nonresident reciprocity privilege, and a report which includes the
28 reason for the suspension.

29 c. The chief administrator shall notify, in writing, the person
30 whose driver's license or nonresident reciprocity privilege has been
31 suspended that the person has the right to request a hearing to
32 contest the issuance of the suspension. The notification shall be
33 sent by certified mail within five days after the receipt of the items
34 listed in subsection b. of this section by the chief administrator.

35 The purpose of the hearing shall be to determine if, pending
36 adjudication of the charge against the person by a municipal court,
37 the preliminary suspension issued by the law enforcement officer
38 pursuant to subsection a. of this section shall remain in effect.

39 A person may request a hearing by notifying the chief
40 administrator within 10 days from the date on which the notice
41 informing the person of the right to a hearing was mailed. A
42 hearing shall be held by an administrative law judge within 10 days
43 of receipt of a request for a hearing.

44 d. At the hearing, the judge shall determine by clear and
45 convincing evidence if there was a factual basis upon which the
46 person was initially stopped by the law enforcement officer and
47 whether the person was properly charged with a violation of
48 R.S.39:4-50, section 2 of P.L.1981, c.512 (C.39:4-50.4a), or section

1 1 of P.L.1992, c.189 (C.39:4-50.14) and, if so, the preliminary
2 suspension shall be continued pending adjudication of the charge
3 against the person by the municipal court.

4 In making the decision, the judge shall consider all available
5 documents, including the summons, police report, and any relevant
6 evidence submitted by the person whose driver's license or
7 nonresident reciprocity privilege has been suspended.

8 e. The period of preliminary suspension imposed under this
9 section shall be deducted from any suspension imposed as a result
10 of the adjudication of the charge against the person by a municipal
11 court.

12 f. Any determination made by an administrative law judge
13 pursuant to a hearing held in accordance with this section shall not
14 be admissible as evidence at any criminal or quasi-criminal
15 proceedings for the alleged violation of R.S.39:4-50, section 2 of
16 P.L.1982, c.512 (C.39:4-50.4a), or section 1 of P.L.1992, c.189
17 (C.39:4-50.14).

18
19 2. This act shall take effect on the first day of the fourth month
20 after enactment.

21 22 23 STATEMENT

24
25 This bill requires law enforcement officers to issue an immediate
26 preliminary suspension of a person's driver's license for certain
27 drunk driving offenses.

28 Under the bill, a law enforcement officer is required to issue an
29 immediate preliminary suspension of the driver's license of any
30 person who is arrested for driving while intoxicated, refusal to
31 submit to a breath test, or, in the case of a person who under 21
32 years of age, operating a motor vehicle with a blood alcohol
33 concentration of 0.01 percent or more, but less than 0.08 percent. If
34 the person's driver's license was issued in another state, the law
35 enforcement officer is required to issue an immediate preliminary
36 suspension of the nonresident reciprocity privilege. In addition, the
37 bill requires the law enforcement officer to immediately confiscate
38 the person's driver's license, unless the driver's license was issued
39 by another state.

40 Under the provisions of this bill, the law enforcement officer is
41 required to forward to the chief administrator the confiscated
42 driver's license, the notice of the immediate preliminary suspension
43 of the driver's license or nonresident reciprocity privilege, and a
44 report which is to include the reason for the suspension.

45 In addition, the bill requires the chief administrator to notify, in
46 writing, the person whose driver's license or nonresident reciprocity
47 privilege was suspended that the person has the right to request a
48 hearing to contest the issuance of the suspension. The bill provides

1 that a person may request a hearing by notifying the chief
2 administrator within 10 days from the date on which the notice
3 informing the person of the right to the hearing was mailed. A
4 hearing is required to be held by an administrative law judge within
5 10 days of receipt of a request for a hearing.

6 The bill provides that the purpose of the hearing is to determine
7 if, pending adjudication of the charge against the person by a
8 municipal court, the preliminary suspension issued by the law
9 enforcement officer under the bill's provisions is to remain in
10 effect. At the hearing, the judge is to determine by clear and
11 convincing evidence if there was a factual basis upon which the
12 person was initially stopped by the law enforcement officer and
13 whether the person was properly charged with driving while
14 intoxicated, refusal to submit to a breath test, or, in the case of a
15 person under 21 years of age, operating a motor vehicle with a
16 blood alcohol concentration of 0.01 percent or more, but less than
17 0.08 percent and if so, the preliminary suspension is to be continued
18 pending adjudication of the charge against the person by the
19 municipal court.

20 Finally, the bill provides that the period of preliminary
21 suspension imposed under the bill is to be deducted from any
22 suspension imposed as a result of the adjudication of the charge
23 against the person by a municipal court.