ASSEMBLY, No. 762

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

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SYNOPSIS

Increases prison time for certain persons convicted of a motor vehicle offense when license suspended for DUI.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.

AN ACT concerning the offense of operating a motor vehicle while driver's license suspended and amending R.S.39:4-40.

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

1. R.S.39:3-40 is amended to read as follows:

39:3-40. No person to whom a driver's license has been refused or whose driver's license or reciprocity privilege has been suspended or revoked, or who has been prohibited from obtaining a driver's license, shall personally operate a motor vehicle during the period of refusal, suspension, revocation, or prohibition.

No person whose motor vehicle registration has been revoked shall operate or permit the operation of such motor vehicle during the period of such revocation.

Except as provided in subsections i. and j. of this section, a person violating this section shall be subject to the following penalties:

a. Upon conviction for a first offense, a fine of $500.00 and, if that offense involves the operation of a motor vehicle during a period when the violator's driver's license is suspended for a violation of R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a), revocation of the violator's motor vehicle registration privilege in accordance with the provisions of sections 2 through 6 of P.L.1995, c.286 (C.39:3-40.1 through C.39:3-40.5);

b. Upon conviction for a second offense, a fine of $750.00, imprisonment in the county jail for not more than five days and, if the second offense involves the operation of a motor vehicle during a period when the violator's driver's license is suspended and that second offense occurs within five years of a conviction for that same offense, revocation of the violator's motor vehicle registration privilege in accordance with the provisions of sections 2 through 6 of P.L.1995, c.286 (C.39:3-40.1 through C.39:3-40.5);

c. (1) Upon conviction for a third offense or subsequent offense, a fine of $1,000.00, imprisonment in the county jail for 10 days. If the third or a subsequent offense involves the operation of a motor vehicle during a period when the violator's driver's license is suspended and the third or subsequent offense occurs within five years of a conviction for the same offense, revocation of the violator's motor vehicle registration privilege shall be revoked in accordance with the provisions of sections 2 through 6 of P.L.1995, c.286 (C.39:3-40.1 through C.39:3-40.5);

(2) Upon conviction for any motor vehicle offense during a period when the violator's driver's license is suspended for a third or subsequent violation of R.S.39:4-50 or a third or subsequent

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.

violation of section 2 of P.L.1981, c.512 (C.39:4-50a), a fine of $1,000, imprisonment in the county jail for not less than 30 days or more than 180 days and revocation of the violator's motor vehicle registration privileges in accordance with the provisions of sections 2 through 6 of P.L.1995, c.286 (C.39:3-40.1 through C.39:3-40.5);

d. Upon conviction, the court shall impose or extend a period of suspension not to exceed six months;

e. Upon conviction, the court shall impose a period of imprisonment for not less than 45 days or more than 180 days, if while operating a vehicle in violation of this section a person is involved in an accident resulting in bodily injury to another person;

f. (1) Notwithstanding subsections a. through e., any person violating this section while under suspension issued pursuant to section 2 of P.L.1972, c.197 (C.39:6B-2), upon conviction, shall be fined $500.00, shall have his license to operate a motor vehicle suspended for an additional period of not less than one year nor more than two years, and may be imprisoned in the county jail for not more than 90 days.

(2) Notwithstanding the provisions of subsections a. through e. of this section and paragraph (1) of this subsection, any person violating this section under suspension issued pursuant to R.S.39:4-50, section 2 of P.L.1981, c.512 (C.39:4-50.4a) or P.L.1982, c.85 (C.39:5-30a et seq.), shall be fined $500, shall have his license to operate a motor vehicle suspended for an additional period of not less than one year or more than two years, and shall be imprisoned in the county jail for not less than 10 days or more than 90 days.

(3) Notwithstanding the provisions of subsections a. through e. of this section and paragraphs (1) and (2) of this subsection, a person shall have his license to operate a motor vehicle suspended for an additional period of not less than one year or more than two years, which period shall commence upon the completion of any prison sentence imposed upon that person, shall be fined $500 and shall be imprisoned for a period of 60 to 90 days for a first offense, imprisoned for a period of 120 to 150 days for a second offense, and imprisoned for 180 days for a third or subsequent offense, for operating a motor vehicle while in violation of paragraph (2) of this subsection while:

(a) on any school property used for school purposes which is owned by or leased to any elementary or secondary school or school board, or within 1,000 feet of such school property;

(b) driving through a school crossing as defined in R.S.39:1-1 if the municipality, by ordinance or resolution, has designated the school crossing as such; or

(c) driving through a school crossing as defined in R.S.39:1-1 knowing that juveniles are present if the municipality has not designated the school crossing as such by ordinance or resolution.

A map or true copy of a map depicting the location and boundaries of the area on or within 1,000 feet of any property used

for school purposes which is owned by or leased to any elementary or secondary school or school board produced pursuant to section 1 of P.L.1987, c.101 (C.2C:35-7) may be used in a prosecution under subparagraph (a) of this paragraph.

It shall not be relevant to the imposition of sentence pursuant to subparagraph (a) or (b) of this paragraph that the defendant was unaware that the prohibited conduct took place while on or within 1,000 feet of any school property or while driving through a school crossing. Nor shall it be relevant to the imposition of sentence that no juveniles were present on the school property or crossing zone at the time of the offense or that the school was not in session;

g. In addition to the other applicable penalties provided under this section, a person violating this section whose license has been suspended pursuant to section 6 of P.L.1983, c.65 (C.17:29A-35) or the regulations adopted thereunder, shall be fined $3,000. The court shall waive the fine upon proof that the person has paid the total surcharge imposed pursuant to section 6 of P.L.1983, c.65 (C.17:29A-35) or the regulations adopted thereunder. Notwithstanding the provisions of R.S.39:5-41, the fine imposed pursuant to this subsection shall be collected by the Division of Motor Vehicles pursuant to section 6 of P.L.1983, c.65 (C.17:29A-35), and distributed as provided in that section, and the court shall file a copy of the judgment of conviction with the director and with the Clerk of the Superior Court who shall enter the following information upon the record of docketed judgments: the name of the person as judgment debtor; the Division of Motor Vehicles as judgment creditor; the amount of the fine; and the date of the order. These entries shall have the same force and effect as any civil judgment docketed in the Superior Court;

h. A person who owns or leases a motor vehicle and permits another to operate the motor vehicle commits a violation and is subject to suspension of his license to operate a motor vehicle and to revocation of registration pursuant to sections 2 through 6 of P.L.1995, c.286 (C.39:3-40.1 through C.39:3-40.5) if the person:

(1) Knows that the operator's license to operate a motor vehicle has been suspended for a violation of R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a); or

(2) Knows that the operator's license to operate a motor vehicle is suspended and that the operator has been convicted, within the past five years, of operating a vehicle while the person's license was suspended or revoked;

i. If the violator's driver's license to operate a motor vehicle has been suspended pursuant to section 9 of P.L.1985, c.14 (C.39:4-139.10), the violator shall be subject to a maximum fine of $100 upon proof that the violator has satisfied the parking ticket or tickets that were the subject of the Order of Suspension;

j. If a person is convicted for a second or subsequent violation of this section and the second or subsequent offense involves a

motor vehicle moving violation, the term of imprisonment for the second or subsequent offense shall be 10 days longer than the term of imprisonment imposed for the previous offense.

For the purposes of this subsection, a "motor vehicle moving violation" means any violation of the motor vehicle laws of this State for which motor vehicle points are assessed by the Director of the Division of Motor Vehicles pursuant to section 1 of P.L.1982, c.43 (C.39:5-30.5).

(cf: P.L.2002, c.28, s.1)

2. This act shall take effect immediately.

STATEMENT

This bill increases the prison time for persons who are convicted of a motor vehicle offense during a period when their driver's license is suspended for a third or subsequent DUI offense or for a third or subsequent refusal to take a chemical or breathalyzer test when stopped for a suspected DUI offense.

Under current law, an individual found guilty for a third or subsequent time of operating a motor vehicle while their license is suspended is subject to imprisonment in the county jail for a period of 10 days. This bill would increase that term of imprisonment to a period of not less than 30 days or more than 180 days in those cases where the violator's driver's license is suspended for a third or subsequent driving under the influence (DUI) offense or for refusing to take a breathalyzer or chemical test when stopped for a suspected DUI offense.

The other penalties remain substantially the same as those for anyone convicted of driving during a period when their driver's license is suspended for a third or subsequent time: a fine of $1,000 and the revocation of the violator's motor vehicle registration privilege when the violations leading to the suspension are for the same offense.