

ASSEMBLY, No. 774

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

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SYNOPSIS

Provides for immediate driver's license suspension under certain circumstances.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning driver's license suspension and amending
2 R.S.39:5-30.

3

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

6

7 1. R.S.39:5-30 is amended to read as follows:

8 39:5-30. a. Every registration certificate, every license
9 certificate, every privilege to drive motor vehicles, including
10 commercial motor vehicles as defined in P.L.1990, c.103 (C.39:3-
11 10.9 et al.), every endorsement, class of license, and commercial
12 driver 's license, may be suspended or revoked, and any person may
13 be prohibited from obtaining a driver's license or a registration
14 certificate, or disqualified from obtaining any class of or
15 endorsement on a commercial driver's license, and the reciprocity
16 privilege of any nonresident may be suspended or revoked by the
17 **【director】** chief administrator for a violation of any of the
18 provisions of this Title or on any other reasonable grounds, after
19 due notice in writing of such proposed suspension, revocation,
20 disqualification or prohibition and the ground thereof.

21 He may also summon witnesses to appear before him at his
22 office or at any other place he designates, to give testimony in a
23 hearing which he holds looking toward a revocation of a license or
24 registration certificate issued by or under his authority. The
25 summons shall be served at least five days before the return date,
26 either by registered mail or personal service. A person who fails to
27 obey the summons shall be subject to a penalty not exceeding
28 **【\$100.00】** \$100, to be recovered with costs in an action at law,
29 prosecuted by the Attorney General, and in addition the vehicle
30 registration or driver's license, or both, as the case may be, shall
31 forthwith be revoked. The fee for witnesses required to attend
32 before the **【director】** chief administrator shall be **【\$1.00】** \$1 for
33 each day's attendance and \$0.03 for every mile of travel by the
34 nearest generally traveled route in going to and from the place
35 where the attendance of the witness is required. These fees shall be
36 paid when the witness is excused from further attendance, and the
37 disbursements made from payment of the fees shall be audited and
38 paid in the manner provided for expenses of the **【department】**
39 commission. The actual conduct of **【said】** the hearing may be
40 delegated by the **【director】** chief administrator to such
41 **【departmental】** commission employees as he may designate, in
42 which case the **【said】** employees shall recommend to the **【director】**
43 chief administrator in writing whether the **【said】** licenses or
44 certificates shall or shall not be suspended or revoked.

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 b. **【**Whenever a matter is presented to the director involving an
2 alleged violation of

3 (1) R.S.39:4-98, where an excess of 20 miles per hour over the
4 authorized speed limit is alleged, and which has resulted in the
5 death of another;

6 (2) R.S.39:4-50, and which has resulted in the death of another;

7 (3) R.S.39:4-96, and which has resulted in the death of another;
8 or

9 (4) R.S.39:4-129, wherein the death of another has occurred,
10 and the director has not determined to immediately issue a
11 preliminary suspension pursuant to subsection e. of this section, the
12 director shall issue a notice of proposed final suspension or
13 revocation of any license certificate or any nonresident reciprocity
14 privilege to operate any motor vehicle or motorized bicycle held by
15 the individual charged or temporary order prohibiting the individual
16 from obtaining any license to operate any motor vehicle or
17 motorized bicycle in this State.

18 In the notice, the director shall provide the individual charged
19 with an opportunity for a plenary hearing to contest the proposed
20 final suspension, revocation or other final agency action. Unless
21 the division receives, no later than the 10th day from the date the
22 notice was mailed, a written request for hearing, the proposed final
23 agency action shall take effect on the date specified in the notice.

24 Upon receipt of a timely request for a plenary hearing, a
25 preliminary hearing shall be held by an administrative law judge
26 within 15 days of the receipt of the request. The preliminary
27 hearing shall be for the purpose of determining whether, pending a
28 plenary hearing on the proposed final agency action, a preliminary
29 suspension shall be immediately issued by the judge. Adjournment
30 of such hearing upon motion by the individual charged shall be
31 given only for good cause shown.

32 At the preliminary hearing, the parties shall proceed on the
33 papers submitted to the judge, including the summons, the police
34 reports and the charged individual's prior driving record submitted
35 by the division, and any brief affidavits permitted by the judge from
36 persons who shall be witnesses at the plenary hearing, and the
37 parties may present oral argument. Based on the papers, on any
38 oral argument, on the individual's prior driving record, and on the
39 circumstances of the alleged violation presented in the papers, the
40 judge shall determine whether the individual was properly charged
41 with a violation of the law and a death occurred; and, if so, whether
42 in the interest of public safety, a preliminary suspension shall be
43 immediately ordered pending the plenary hearing on the proposed
44 suspension or revocation. The administrative law judge shall
45 transmit his findings to the director.

46 A plenary hearing shall be held no later than the 45th day
47 following the preliminary hearing. Adjournment of the hearing
48 shall be given only for good cause shown. If the hearing is

1 otherwise postponed or delayed solely at the instance of the
2 individual charged, the administrative law judge shall immediately
3 issue a preliminary suspension of any license certificate or any
4 nonresident reciprocity privilege held by the individual charged, or
5 if any such preliminary suspension or order is in effect, he shall
6 continue such suspension or order. Such preliminary suspension or
7 temporary order shall remain in effect pending a final agency
8 decision on the matter. If the hearing is otherwise postponed or
9 delayed at the instance of anyone other than the individual charged,
10 the judge shall immediately issue an order restoring the individual's
11 license certificate or any nonresident reciprocity privilege pending
12 final agency decision in the matter. The period of any preliminary
13 suspension imposed under this section shall be deducted from any
14 suspension imposed by the final agency decision in the matter】
15 (Deleted by amendment, P.L. c.) (pending before the
16 Legislature as this bill).

17 c. **【Whenever】** Except as provided in subsection e. of this
18 section, whenever any 【other】 matter is presented to the 【director】
19 chief administrator involving an alleged violation of this title,
20 wherein the death of another occurred and for which he determines
21 immediate action is warranted, he may 【proceed in the manner
22 prescribed in subsection b. above】 issue a notice of proposed final
23 suspension or revocation of any license certificate or any
24 nonresident reciprocity privilege to operate any motor vehicle or
25 motorized bicycle held by the individual charged or temporary
26 order prohibiting the individual from obtaining any license to
27 operate any motor vehicle or motorized bicycle in this State.

28 In the notice, the chief administrator shall provide the individual
29 charged with an opportunity for a plenary hearing to contest the
30 proposed final suspension, revocation or other final agency action.
31 Unless the commission receives, no later than the 10th day from the
32 date the notice was mailed, a written request for hearing, the
33 proposed final agency action shall take effect on the date specified
34 in the notice.

35 Upon receipt of a timely request for a plenary hearing, a
36 preliminary hearing shall be held by an administrative law judge
37 within 15 days of the receipt of the request. The preliminary
38 hearing shall be for the purpose of determining whether, pending a
39 plenary hearing on the proposed final agency action, a preliminary
40 suspension shall be immediately issued by the judge. Adjournment
41 of such hearing upon motion by the individual charged shall be
42 given only for good cause shown.

43 At the preliminary hearing, the parties shall proceed on the
44 papers submitted to the judge, including the summons, the police
45 reports and the charged individual's prior driving record submitted
46 by the commission, and any brief affidavits permitted by the judge
47 from persons who shall be witnesses at the plenary hearing, and the

1 parties may present oral argument. Based on the papers, on any
2 oral argument, on the individual's prior driving record, and on the
3 circumstances of the alleged violation presented in the papers, the
4 judge shall determine whether the individual was properly charged
5 with a violation of the law and a death occurred; and, if so, whether
6 in the interest of public safety, a preliminary suspension shall be
7 immediately ordered pending the plenary hearing on the proposed
8 suspension or revocation. The administrative law judge shall
9 transmit his findings to the chief administrator.

10 A plenary hearing shall be held no later than the 45th day
11 following the preliminary hearing. Adjournment of the hearing
12 shall be given only for good cause shown. If the hearing is
13 otherwise postponed or delayed solely at the instance of the
14 individual charged, the administrative law judge shall continue the
15 preliminary suspension or order. Such preliminary suspension or
16 temporary order shall remain in effect pending a final agency
17 decision on the matter. If the hearing is otherwise postponed or
18 delayed at the instance of anyone other than the individual charged,
19 the judge shall immediately issue an order restoring the individual's
20 license certificate or any nonresident reciprocity privilege pending
21 final agency decision in the matter. The period of any preliminary
22 suspension imposed under this section shall be deducted from any
23 suspension imposed by the final agency decision in the matter.

24 d. Whenever a fatal accident occurs in this State, an
25 investigation of the incident, whether performed by the State Police
26 or by local police, shall be completed and forwarded to the
27 **【director】** chief administrator within 72 hours of the time of the
28 accident.

29 e. Whenever a matter is presented to the **【director】** chief
30 administrator involving an alleged violation of

31 (1) R.S.39:4-98, where an excess of 20 miles per hour over the
32 authorized speed limit is alleged, and which has resulted in the
33 death or serious bodily injury of another;

34 (2) R.S.39:4-50, which has resulted in the death or serious
35 bodily injury of another;

36 (3) R.S.39:4-96 or R.S.39:4-97, which has resulted in the death
37 or serious bodily injury of another; **【or 】**

38 (4) R.S.39:4-129, wherein the death or serious bodily injury of
39 another has occurred; or

40 (5) R.S.39:3-13, section 6 of P.L.1977, c.25 (C.39:3-13.2a), or
41 section 4 of P.L.1950, c.127 (C.39:3-13.4), wherein the death or
42 serious bodily injury of another has occurred, the **【director for good**
43 cause may】 chief administrator shall, without hearing, immediately
44 issue a preliminary suspension of any license certificate or any
45 nonresident reciprocity privilege to operate any motor vehicle or
46 motorized bicycle held by an individual charged or temporary order
47 prohibiting the individual from obtaining any license to operate any

1 motor vehicle or motorized bicycle in this State. For purposes of
2 this subsection, "serious bodily injury" means bodily injury which
3 creates a substantial risk of death or which causes serious,
4 permanent disfigurement, or protracted loss or impairment of the
5 function of any bodily member or organ. Along with the notice of
6 preliminary suspension, the **【director】** chief administrator shall
7 issue a notice of proposed final suspension, revocation or other final
8 agency action, and shall afford the individual the right to a
9 preliminary hearing to contest the preliminary suspension and a
10 plenary hearing to contest the proposed final agency action.

11 The preliminary suspension shall remain in effect pending a final
12 agency decision on the proposed final agency action, unless a
13 request for a preliminary hearing is received by the **【division】**
14 commission no later than the 10th day from the date on which the
15 notice was mailed. The proposed final agency action shall take
16 effect on the date specified in the notice unless a request for a
17 plenary hearing is received by the division no later than the 10th
18 day from the date on which the notice was mailed.

19 Upon timely request by the individual, a preliminary hearing
20 shall be held by an administrative law judge, no later than the 15th
21 day from the date on which the **【division】** commission receives the
22 request. The preliminary hearing shall be for the purpose of
23 determining whether, pending a final agency decision on the matter,
24 the preliminary suspension issued by the **【director】** chief
25 administrator shall remain in effect. Adjournment of the hearing
26 shall be given only for good cause shown. If the preliminary
27 hearing is otherwise postponed or delayed solely at the instance of
28 someone other than the individual charged, the judge shall
29 immediately order that the individual's license certificate or any
30 nonresident reciprocity privilege be restored pending the
31 rescheduled preliminary hearing.

32 At the preliminary hearing, the parties shall proceed on the
33 papers submitted to the judge, including the summons, the police
34 reports and the charged individual's prior driving record submitted
35 by the **【division】** commission, and any brief affidavits permitted by
36 the judge from persons who shall be witnesses at the final hearing,
37 and the parties may present oral arguments. Based on the papers,
38 on any oral argument, on the individual's prior driving record, and
39 on the circumstances of the alleged violation presented in the
40 papers, the judge shall immediately determine whether the
41 individual was properly charged with a violation of the law and a
42 death occurred; and, if so, whether in the interest of public safety,
43 the preliminary suspension shall be continued pending the final
44 agency decision on the matter. The administrative law judge shall
45 transmit his findings to the **【director】** chief administrator.

1 Any plenary hearing to contest the proposed final agency action
2 shall conform to the requirements for a plenary hearing contained in
3 subsection **[b.]** c. of this section.

4 f. In addition to any other final agency action, the **[director]**
5 chief administrator shall require any person whose privileges to
6 operate a motor vehicle or motorized bicycle are suspended or who
7 has been prohibited from obtaining a license, pursuant to this
8 section, to be reexamined to determine the person's ability to
9 operate a motor vehicle or motorized bicycle, prior to regaining or
10 obtaining any driving privileges in this State.

11 Any determination resulting from any preliminary or plenary
12 hearing held pursuant to subsection **[b.,]** c.[,] or e. of this section
13 shall not be admissible at any criminal or quasi-criminal
14 proceedings on the alleged violation or violations.

15 g. In addition to any other requirements imposed by statute or
16 regulation, as a condition for the restoration of a revoked or
17 suspended license issued under the provisions of the "New Jersey
18 Commercial Driver License Act," P.L.1990, c.103 (C.39:3-10.9 et
19 seq.), the person whose commercial driving privileges are revoked
20 or suspended shall successfully complete a commercial driver
21 improvement program. The **[director]** chief administrator, in
22 accordance with the provisions of the "Administrative Procedure
23 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall promulgate rules
24 and regulations prescribing the scope and content of the program,
25 the qualifications of third parties that may offer a commercial driver
26 improvement program, a fee schedule for persons attending a
27 commercial driver improvement program and such other matters as
28 the **[director]** chief administrator may deem appropriate and
29 necessary. The successful completion of a commercial driver
30 improvement program pursuant to this subsection shall not entitle a
31 person to any reduction in the points assessed and recorded under
32 P.L.1982, c.43 (C.39:5-30.5 et seq.). In addition, the **[director]**
33 chief administrator may also require a person holding a commercial
34 driver's license pursuant to P.L.1990, c.103 (C.39:3-10.9 et seq.)
35 who receives 12 or more points during a 24-month period to
36 complete a commercial driver improvement program successfully or
37 face full suspension of the commercial driver's license driving
38 privilege.

39 (cf: P.L.2003, c.131, s.3)

40

41 2. This act shall take effect on the first day of the seventh
42 month after enactment, but the chief administrator may take such
43 anticipatory administrative action as necessary to implement the
44 provisions of this act.

1 STATEMENT

2
3 This bill would require the Chief Administrator of the Motor
4 Vehicle Commission to immediately suspend the driver’s license of
5 a person who has committed certain traffic violations which result
6 in the death or serious bodily injury of another person.

7 Under current law, the chief administrator is authorized to
8 immediately issue a preliminary suspension of a driver’s license for
9 good cause and without hearing if the person allegedly committed
10 any of the following violations: (1) speeding in excess of 20 miles
11 per hour over the speed limit; (2) drunk driving; (3) reckless
12 driving; and (4) leaving the scene of an accident. This bill would
13 change this law to make it mandatory for the chief administrator to
14 immediately suspend a person’s license under these circumstances.

15 The bill also would expand the violations triggering an
16 immediate driver’s license suspension to include driving in
17 violation of a condition of an examination permit, a special
18 learner’s permit, or a provisional driver’s license, including driving
19 with more than the allowed number of passengers or driving during
20 prohibited hours.