

ASSEMBLY, No. 2174

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman RAJ MUKHERJI

District 33 (Hudson)

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District 20 (Union)

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SYNOPSIS

Prohibits imposition of certain penalties for driving with license suspended for parking violations.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning driving with a suspended license and amending
2 R.S.39:3-40.

3

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

6

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

8 39:3-40. **【No】** A person to whom a driver's license has been
9 refused or whose driver's license or reciprocity privilege has been
10 suspended or revoked, or who has been prohibited from obtaining a
11 driver's license, shall not personally operate a motor vehicle during
12 the period of refusal, suspension, revocation, or prohibition.

13 **【No】** A person whose motor vehicle registration has been
14 revoked shall not operate or permit the operation of **【such】** the
15 motor vehicle during the period of **【such】** revocation.

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

19 a. Upon conviction for a first offense, a fine of **【\$500.00】** \$500
20 and, if that offense involves the operation of a motor vehicle during
21 a period when the violator's driver's license is suspended for a
22 violation of R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-
23 50.4a), revocation of the violator's motor vehicle registration
24 privilege in accordance with the provisions of sections 2 through 6
25 of P.L.1995, c.286 (C.39:3-40.1 through C.39:3-40.5);

26 b. Upon conviction for a second offense, a fine of **【\$750.00】**
27 \$750, imprisonment in the county jail for at least one but not more
28 than five days and, if the second offense involves the operation of a
29 motor vehicle during a period when the violator's driver's license is
30 suspended and that second offense occurs within five years of a
31 conviction for that same offense, revocation of the violator's motor
32 vehicle registration privilege in accordance with the provisions of
33 sections 2 through 6 of P.L.1995, c.286 (C.39:3-40.1 through
34 C.39:3-40.5);

35 c. Upon conviction for a third offense or subsequent offense, a
36 fine of **【\$1,000.00】** \$1,000 and imprisonment in the county jail for
37 10 days. If the third or a subsequent offense involves the operation
38 of a motor vehicle during a period when the violator's driver's
39 license is suspended and the third or subsequent offense occurs
40 within five years of a conviction for the same offense, revocation of
41 the violator's motor vehicle registration privilege in accordance
42 with the provisions of sections 2 through 6 of P.L.1995, c.286
43 (C.39:3-40.1 through C.39:3-40.5);

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

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

5 f. (1) In addition to any penalty imposed under the provisions of
6 subsections a. through e. of this section, any person violating this
7 section while under suspension issued pursuant to section 2 of
8 P.L.1972, c.197 (C.39:6B-2), upon conviction, shall be fined
9 ~~【\$500.00】~~ \$500, ~~【shall have his】~~ the person's license to operate a
10 motor vehicle shall be suspended for an additional period of not less
11 than one year ~~【no】~~ or more than two years, and the person may be
12 imprisoned in the county jail for not more than 90 days.

13 (2) In addition to any penalty imposed under the provisions of
14 subsections a. through e. of this section and paragraph (1) of this
15 subsection, any person violating this section under suspension
16 issued pursuant to R.S.39:4-50, section 2 of P.L.1981, c.512
17 (C.39:4-50.4a) or P.L.1982, c.85 (C.39:5-30a et seq.), shall be fined
18 \$500, ~~【shall have his】~~ the person's license to operate a motor
19 vehicle shall be suspended for an additional period of not less than
20 one year or more than two years, and the person shall be imprisoned
21 in the county jail for not less than 10 days or more than 90 days.

22 (3) In addition to any penalty imposed under the provisions of
23 subsections a. through e. of this section and paragraphs (1) and (2)
24 of this subsection, ~~【a person shall have his】~~ the person's license to
25 operate a motor vehicle shall be suspended for an additional period
26 of not less than one year or more than two years, which period shall
27 commence upon the completion of any prison sentence imposed
28 upon that person, the person shall be fined \$500, and the person
29 shall be imprisoned for a period of 60 to 90 days for a first offense,
30 imprisoned for a period of 120 to 150 days for a second offense,
31 and imprisoned for 180 days for a third or subsequent offense, for
32 operating a motor vehicle while in violation of paragraph (2) of this
33 subsection while:

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

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

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

43 A map or true copy of a map depicting the location and
44 boundaries of the area on or within 1,000 feet of any property used
45 for school purposes which is owned by or leased to any elementary
46 or secondary school or school board produced pursuant to section 1
47 of P.L.1987, c.101 (C.2C:35-7) may be used in a prosecution under
48 subparagraph (a) of this paragraph.

1 It shall not be relevant to the imposition of sentence pursuant to
2 subparagraph (a) or (b) of this paragraph that the defendant was
3 unaware that the prohibited conduct took place while on or within
4 1,000 feet of any school property or while driving through a school
5 crossing. Nor shall it be relevant to the imposition of sentence that
6 no juveniles were present on the school property or crossing zone at
7 the time of the offense or that the school was not in session;

8 g. (Deleted by amendment, P.L.2009, c.224);

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

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

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

21 In any case where a person who owns or leases a motor vehicle
22 knows that the operator's license or reciprocity privilege of the
23 person **【he permits】** permitted to operate the motor vehicle is
24 suspended or revoked for any violation of R.S.39:4-50 or section 2
25 of P.L.1981, c.512 (C.39:4-50.4a), the person also shall be subject
26 to the following penalties: for a first or second offense, a fine of
27 \$1,000, imprisonment for not more than 15 days, or both; and for a
28 third or subsequent offense, a fine of \$1,000, imprisonment for not
29 more than 15 days, or both, and forfeiture of the right to operate a
30 motor vehicle over the highways of this State for a period of 90
31 days;

32 i. **【If】** Notwithstanding any other law, rule, or regulation to the
33 contrary, if the violator's driver's license to operate a motor vehicle
34 has been suspended for failure to appear or failure to pay a court-
35 ordered financial obligation for a parking violation pursuant to
36 section 9 of P.L.1985, c.14 (C.39:4-139.10), or for failure to
37 comply with a time payment order for a court-ordered financial
38 obligation imposed for a parking violation, the violator shall be
39 subject to a maximum fine of \$100. When the violator's driver's
40 license was suspended for failure to appear, all other penalty
41 provisions of this section shall be waived upon proof that the
42 violator has paid **【all fines and other assessments related to】** the
43 financial obligation imposed for the parking violation that **【were】**
44 was the subject of the Order of Suspension, or **【if the violator**
45 **makes】** the matter is otherwise disposed by the court, including
46 placing the violator on a time payment order in accordance with the
47 Rules of Court. When the violator's driver's license was suspended

1 for failure to pay, all other penalty provisions of this section shall
2 be waived upon proof that the violator has paid the financial
3 obligation imposed for the parking violation that was the subject of
4 the Order of Suspension or has made sufficient payments to become
5 current with respect to payment obligations under [the] an existing
6 time payment order. The chief administrator shall not levy any
7 surcharge for a conviction of a violation of this subsection;

8 j. If a person is convicted for a second or subsequent violation
9 of this section and the second or subsequent offense involves a
10 motor vehicle moving violation, the term of imprisonment for the
11 second or subsequent offense shall be 10 days longer than the term
12 of imprisonment imposed for the previous offense.

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

17 (cf: P.L.2009, c.332, s.1)

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

21 22 23 STATEMENT

24
25 Under this bill, a person whose driver's license has been
26 suspended for failure to pay outstanding parking fines would not
27 incur any penalty other than the statutory fine of \$100 for this
28 violation.

29 Currently, a person who is convicted for driving while suspended
30 pursuant to R.S.39:3-40, for not responding to a failure to appear
31 notice for a parking violation, for not paying a parking judgment, or
32 for failing to comply with a time payment order is subject to a
33 maximum fine of \$100 under the statute if the person pays the
34 judgment or makes current an existing time payment order. In
35 addition to this statutory penalty, the Motor Vehicle Commission
36 levies a \$250 administrative surcharge for three consecutive years
37 pursuant to the New Jersey Administrative Code
38 (N.J.A.C.13:19-13.1). Thus, in most cases the cumulative surcharge
39 could exceed the amount owed for the parking violations and could
40 subject the person to other adverse consequences if the person is
41 unable to pay.

42 The bill specifically prohibits the imposition of a surcharge by
43 the Motor Vehicle Commission. Under the bill, the only penalty for
44 driving with a license suspended for outstanding parking violations
45 would be the \$100 fine set forth in subsection i. of R.S.39:3-40. No
46 other penalty could be imposed provided the person pays the
47 parking judgment, enters into a time payment plan, or makes current
48 an existing time payment plan.

1 The bill clarifies the distinction between a driver's license that
2 was suspended for failure to appear and a driver's license that was
3 suspended for failure to pay. Under the bill, if the violator's
4 driver's license is suspended for failure to appear, all other penalty
5 provisions would be waived upon proof that the violator has paid
6 the financial obligation imposed for the parking violation or the
7 matter is otherwise disposed by the court, including placing the
8 violator on a time payment order in accordance with the Rules of
9 Court. When the violator's driver's license is suspended for failure
10 to pay, all other penalty provisions would be waived upon proof
11 that the violator has paid the financial obligation imposed for the
12 parking violation that was the subject of the Order of Suspension or
13 has made sufficient payments to become current with respect to
14 payment obligations under an existing time payment order.