ASSEMBLY, No. 2350

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 3, 2020

Sponsored by:
Assemblyman ANTHONY S. VERRELLI
District 15 (Hunterdon and Mercer)
Assemblywoman VALERIE VAINIERI HUTTLE
District 37 (Bergen)
Assemblywoman JOANN DOWNEY
District 11 (Monmouth)

Co-Sponsored by:
Assemblyman Moen and Assemblywoman Chaparro

SYNOPSIS

Establishes program allowing certain applicants to perform community service in lieu of paying motor vehicle surcharges.

CURRENT VERSION OF TEXT

As introduced.

(Sponsorship Updated As Of: 11/5/2020)

AN ACT concerning motor vehicle surcharges, supplementing Title 34 of the Revised Statutes, and amending P.L.1983, c.65.

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

1. (New section) a. There is created within the Department of Labor and Workforce Development a "Motor Vehicle Surcharge Community Service Program" to be administered by the Commissioner of Labor and Workforce Development. The purpose of the program is to allow a person who is unemployed and has enrolled in an education or job training program to perform a community service project in lieu of the payment of a motor vehicle surcharge levied pursuant to paragraph (1), subparagraph (a) of paragraph (2), or paragraph (3) of subsection b. of section 6 of P.L.1983, c.65 (C.17:29A-35). In implementing the program, the commissioner shall coordinate with the Chief Administrator of the Motor Vehicle Commission to waive motor vehicle surcharges imposed on applicants who complete a community service project in participating counties and municipalities that have enrolled in the program pursuant to subsection e. of this section.

b. An applicant's eligibility for participation in the program shall be based on an examination of the applicant's income and other financial resources. In order to be eligible for the program an applicant shall demonstrate to the commissioner that the applicant:

(1) is unemployed;

(2) has been assessed and is unable to pay a motor vehicle surcharge levied pursuant to paragraph (1), subparagraph (a) of paragraph (2), or paragraph (3) of subsection b. of section 6 of P.L.1983, c.65 (C.17:29A-35); and

(3) is enrolled in a job training or education program, or is in the process of applying for a commercial driver license or endorsement.

c. The commissioner shall notify the chief administrator upon an applicant's entry into the program. If the driving privilege of an applicant has been suspended for failure to pay surcharges, the chief administrator shall reinstate the applicant's driving privilege when the applicant commences a community service project with a county or municipality in accordance with subsection e. of this section. If an applicant fails to complete the community service project, the total motor vehicle surcharges levied and any interest accrued thereon shall become due immediately, and the driving privilege of the applicant shall be suspended until the applicant satisfies the outstanding surcharge assessment.

d. An applicant who meets the criteria set forth under subsection b. of this section and successfully completes a

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 <u>thus</u> is new matter.

community service project shall receive a certification from the commissioner. The certification shall be forwarded by the commissioner to the chief administrator who shall waive the full principal amount of any motor vehicle surcharge levied upon the applicant pursuant to paragraph (1), subparagraph (a) of paragraph (2), or paragraph (3) of subsection b. of section 6 of P.L.1983, c.65 (C.17:29A-35) and any interest accrued thereon.

e. The governing body of any county or municipality may apply to the commissioner to participate in the program. The application shall be made in accordance with procedures and on forms prescribed by the commissioner and shall indicate the eligible projects for which the volunteer labor is requested. The eligible community service projects shall include, but not be limited to, improvements to county and municipal buildings, grounds, roads, streams, and other county or municipal property. As used in this act, “improvements” means construction, alteration, repair, litter abatement, renovation, or maintenance of any county or municipal property.

The use of volunteer labor shall not displace or remove from employment any paid public or private employee or in any manner reduce the workforce within a county or municipality. An applicant who meets the criteria established in subsection b. of this section shall not be denied participation in the program due to a lack of community service projects.

f. The commissioner shall promulgate, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) rules and regulations as are necessary to implement the provisions of this act. These rules and regulations shall include provisions to establish guidelines for the types of community service projects for which a county or municipality may apply.

2. Section 6 of P.L.1983, c.65 (C.17:29A-35) is amended to read as follows:

6. a. (Deleted by amendment, P.L.1997, c.151.)

b. There is created a Motor Vehicle Violations Surcharge System which shall apply to all drivers and shall include, but not be limited to, the following provisions:

(1) (a) Surcharges shall be levied, beginning on or after January 1, 1984 but before the first day of the first month next following the date the written notification required pursuant to subsection b. of section 2 of P.L.2019, c.301 (C.52:9S-3.1) is transmitted to the State Treasurer and the Chief Administrator of the New Jersey Motor Vehicle Commission, by the commission established by section 4 of P.L.2003, c.13 (C.39:2A-4) on any driver who, in the preceding 36-month period, has accumulated six or more motor vehicle points, as provided in Title 39 of the Revised Statutes; except that the allowance for a reduction of points in Title 39 of the Revised Statutes shall not apply for the purpose of determining

surcharges under this paragraph. The accumulation of points shall be calculated as of the date the point violation is posted to the driver history record and shall be levied pursuant to rules promulgated by the commission. Surcharges assessed pursuant to this paragraph shall be $150 for six points, and $25 for each additional point. No offense shall be selected for billing which occurred prior to February 10, 1983. No offense shall be considered for billing in more than three annual assessments.

The commission shall not select any offense for billing which occurred on or after the first day of the first month next following the date the written notification required pursuant to subsection b. of section 2 of P.L.2019, c.301 (C.52:9S-3.1) is transmitted to the State Treasurer and the Chief Administrator of the New Jersey Motor Vehicle Commission, and shall have no legal authority to collect any surcharge, together with any interest and administrative fees, that have been billed but remain unpaid, or that may be billed and required to be paid, on or after the that date.

(b) (Deleted by amendment, P.L.1984, c.1.)

(2) (a) Surcharges shall be levied pursuant to subsection f. of section 1 of P.L.2000, c.75 (C.39:4-97.2) for each offense of unsafe driving under subsection a. of that section occurring on or after July 24, 2000 but before the first day of the first month next following the date the written notification required pursuant to subsection b. of section 2 of P.L.2019, c.301 (C.52:9S-3.1) is transmitted to the State Treasurer and the chief administrator of the commission. The commission shall have no legal authority to collect any surcharge, together with any interest and administrative fees, that have been levied but remain unpaid, or that may be levied and required to be paid, on or after that date.

(b) Surcharges shall be levied for convictions (i) under R.S.39:4-50 for violations occurring on or after February 10, 1983 but before the first day of the first month next following the date the written notification required pursuant to subsection b. of section 2 of P.L.2019, c.301 (C.52:9S-3.1) is transmitted to the State Treasurer and the chief administrator of the commission, and (ii) under section 2 of P.L.1981, c.512 (C.39:4-50.4a), or for offenses committed in other jurisdictions of a substantially similar nature to those under R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a), for violations occurring on or after January 26, 1984 but before the first day of the first month next following the date the written notification required pursuant to subsection b. of section 2 of P P.L.2019, c.301 (C.52:9S-3.1) is transmitted to the State Treasurer and the chief administrator of the commission. The commission shall have no legal authority to collect any surcharge, together with any interest and administrative fees, that have been levied but remain unpaid, or that may be levied and required to be paid, on or after that date.

Except as hereinafter provided, surcharges under this subparagraph (b) shall be levied annually for a three-year period, and shall be $1,000 per year for each of the first two convictions, for a total surcharge of $3,000 for each conviction, and $1,500 per year for the third conviction occurring within a three-year period, for a total surcharge of $4,500 for the third conviction. If a driver is convicted under both R.S.39:4-50 and section 2 of P.L.1981, c.512 (C.39:4-50.4a) for offenses arising out of the same incident, the driver shall be assessed only one surcharge for the two offenses.

The commission, for good cause, may authorize payment of any surcharge on an installment basis over a period not to exceed 36 months. If a driver fails to pay the surcharge or any installments on the surcharge, the total surcharge shall become due immediately, except as otherwise prescribed by rule of the commission.

The commission may authorize any person to pay the surcharge levied under this section and collectible by the commission by use of a credit card, debit card or other electronic payment device, and the chief administrator is authorized to require the person to pay all costs incurred by the commission in connection with the acceptance of the credit card, debit card or other electronic payment device. If a surcharge or related administrative fee is paid by credit or debit cards or any other electronic payment device and the amount is subsequently reversed by the credit card company or bank, the driver shall be subject to the fee imposed for dishonored checks pursuant to section 31 of P.L.1994, c.60 (C.39:5-36.1).

In addition to any other remedy provided by law, the commission is authorized to utilize the provisions of the SOIL (Set off of Individual Liability) program established pursuant to P.L.1981, c.239 (C.54A:9-8.1 et seq.) to collect any surcharge levied under this section and collectible by the commission that is unpaid on or after the effective date of this act but before the first day of the first month next following the date the written notification required pursuant to subsection b. of section 2 of P.L.2019, c.301 (C.52:9S-3.1) is transmitted to the State Treasurer and the chief administrator of the commission. As an additional remedy, the commission may issue a certificate to the Clerk of the Superior Court stating that the person identified in the certificate is indebted under this surcharge law in such amount as shall be stated in the certificate. The certificate shall reference the statute under which the indebtedness arises. Thereupon the clerk to whom such certificate shall have been issued shall immediately enter upon the record of docketed judgments the name of such person as debtor; the State as creditor; the address of such person, if shown in the certificate; the amount of the debt so certified; a reference to the statute under which the surcharge is assessed, and the date of making such entries. The docketing of the entries shall have the same force and effect as a civil judgment docketed in the Superior Court, and the commission shall have all the remedies and may take all of the proceedings for

the collection thereof which may be had or taken upon the recovery of a judgment in an action, but without prejudice to any right of appeal. Upon entry by the clerk of the certificate in the record of docketed judgments in accordance with this provision, interest in the amount specified by the court rules for post-judgment interest shall accrue from the date of the docketing of the certificate, however payment of the interest may be waived by the commission or its designee. In the event that the surcharge remains unpaid following the issuance of the certificate of debt and the commission takes any further collection action including referral of the matter to the Attorney General or his designee, the fee imposed, in lieu of the actual cost of collection, may be 20 percent of surcharges of $1,000 or more. The chief administrator or his designee may establish a sliding scale, not to exceed a maximum amount of $200, for surcharge principal amounts of less than $1,000 at the time the certificate of debt is forwarded to the Superior Court for filing. The commission shall provide written notification to a driver of the proposed filing of the certificate of debt at least 10 days prior to the proposed filing; such notice shall be mailed to the driver's last address of record with the commission. Upon the filing of a certificate of debt with the Clerk of the Superior Court, the surcharged driver shall not be eligible for the restoration of his driving privilege until at least five percent of each outstanding surcharge assessment that has resulted in the suspension, including interest and costs, if any, is paid to the commission. If a certificate of debt is satisfied following a credit card payment, debit card payment or payment by other electronic payment device and that payment is reversed, a new certificate of debt shall be filed against the surcharged driver unless the original is reinstated.

If the chief administrator or his designee approves a special payment plan, of such duration as the chief administrator or his designee deems appropriate, for repayment of the certificate of debt, and the driver is complying with the approved plan, the plan may be continued for any new surcharge not part of the certificate of debt.

A certificate of indebtedness shall not be issued for any surcharge levied under this section and collectible by the commission that remains unpaid on or after the first day of the first month next following the date the written notification required pursuant to subsection b. of section 2 of P.L.2019, c.301 (C.52:9S-3.1) is transmitted to the State Treasurer and the chief administrator of the commission. Any certificate issued on or before that date shall be deemed to be satisfied by the commission. All moneys collectible by the commission under subparagraph (b) of paragraph (2) of this subsection shall be billed and collected by the commission except as provided in P.L.1997, c.280 (C.2B:19-10 et al.) for the collection of unpaid surcharges. Commencing on September 1, 1996, or such earlier time as the Commissioner of Banking and Insurance shall certify to the State Treasurer that

amounts on deposit in the New Jersey Automobile Insurance Guaranty Fund are sufficient to satisfy the current and anticipated financial obligations of the New Jersey Automobile Full Insurance Underwriting Association, all surcharges collected by the commission under subparagraph (b) of paragraph (2) of this subsection shall be remitted to the Division of Motor Vehicles Surcharge Fund:

(i) for transfer to the Market Transition Facility Revenue Fund, as provided in section 12 of P.L.1994, c.57 (C.34:1B-21.12), for the purposes of section 4 of P.L.1994, c.57 (C.34:1B-21.4) until such a time as all the Market Transition Facility bonds, notes and obligations and all Motor Vehicle Commission bonds, notes and obligations issued pursuant to that section 4 of P.L.1994, c.57 (C.34:1B-21.4) and the costs thereof are discharged and no longer outstanding; and

(ii) from and after the date of certification by the Commissioner of Banking and Insurance that the moneys collectible under subparagraph (b) of paragraph (2) of this subsection are no longer needed to fund the association or at such time as all Market Transition Facility bonds, notes and obligations and all Motor Vehicle Commission bonds, notes and obligations issued pursuant to section 4 of P.L.1994, c.57 (C.34:1B-21.4) and the costs thereof are discharged and no longer outstanding, for transfer to the Motor Vehicle Surcharges Revenue Fund established pursuant to section 6 of the "Motor Vehicle Surcharges Securitization Act of 2004," P.L.2004, c.70 (C.34:1B-21.28) to be applied as set forth in section 6 of that act. From and after such time as all bonds issued under section 4 of the "Motor Vehicle Surcharges Securitization Act of 2004," P.L.2004, c.70 (C.34:1B-21.26) and the costs thereof are discharged and no longer outstanding, all surcharges collected by the commission under subparagraph (b) of paragraph (2) of this subsection shall, subject to appropriation, be remitted to the New Jersey Property-Liability Insurance Guaranty Association created pursuant to section 6 of P.L.1974, c.17 (C.17:30A-6) to be used for payment of any loans made by that association to the New Jersey Automobile Insurance Guaranty Fund pursuant to paragraph (10) of subsection a. of section 8 of P.L.1974, c.17 (C.17:30A-8); provided that all such payments shall be subject to and dependent upon appropriation by the State Legislature.

All surcharges collected by the courts pursuant to subparagraph (a) of paragraph (2) of this subsection shall be forwarded not less frequently than monthly to the Division of Revenue in the Department of the Treasury. The Division of Revenue shall transfer: all such surcharges received prior to July 1, 2006, to the General Fund, and commencing July 1, 2006, all such surcharges to the Unsafe Driving Surcharge Revenue Fund established pursuant to section 5 of the "Motor Vehicle Surcharges Securitization Act of 2004," P.L.2004, c.70 (C.34:1B-21.27) to be applied as set forth in

section 5 of that act. From and after such time as all bonds (including refunding bonds), notes and other obligations issued under section 4 of the "Motor Vehicle Surcharges Securitization Act of 2004," P.L.2004, c.70 (C.34:1B-21.26), and the costs thereof are discharged and no longer outstanding, all such surcharges collected by the courts pursuant to subparagraph (a) of paragraph (2) of this subsection and forwarded to the Division of Revenue shall be transferred to the General Fund.

Upon request, the Administrative Office of the Courts shall provide a monthly report to the Division of Revenue containing information on the number of convictions for the offense of unsafe driving pursuant to section 1 of P.L.2000, c.75 (C.39:4-97.2) that were entered during such month, the amount of the surcharges that were assessed by the courts pursuant to subsection f. of section 1 of P.L.2000, c.75 (C.39:4-97.2) for such month, and the amount of the surcharges collected by the courts pursuant to subsection f. of section 1 of P.L.2000, c.75 (C.39:4-97.2) during such month.

(3) In addition to any other authority provided in P.L.1983, c.65 (C.17:29A-33 et al.), the commissioner, after consultation with the commission, is specifically authorized (a) (Deleted by amendment, P.L.1994, c.64), (b) to impose, in accordance with subparagraph (a) of paragraph (1) of this subsection b., surcharges for motor vehicle violations or convictions for which motor vehicle points are not assessed under Title 39 of the Revised Statutes, or (c) to reduce the number of points for which surcharges may be assessed below the level provided in subparagraph (a) of paragraph (1) of this subsection b., except that the dollar amount of all surcharges levied under the Motor Vehicle Violations Surcharge System shall be uniform on a Statewide basis for each filer, without regard to classification or territory. Surcharges adopted by the commissioner on or after January 1, 1984 for motor vehicle violations or convictions for which motor vehicle points are not assessable under Title 39 of the Revised Statutes shall not be retroactively applied but shall take effect on the date of the New Jersey Register in which notice of adoption appears or the effective date set forth in that notice, whichever is later.

c. No motor vehicle violation surcharges shall be levied on an automobile insurance policy issued or renewed on or after January 1, 1984, except in accordance with the Motor Vehicle Violations Surcharge System, and all surcharges levied thereunder shall be assessed, collected and distributed in accordance with subsection b. of this section.

d. (Deleted by amendment, P.L.1990, c.8.)

e. The Commissioner of Banking and Insurance and the commission as may be appropriate, shall adopt any rules and regulations necessary or appropriate to effectuate the purposes of this section.

f. (1) Notwithstanding any other section of law to the contrary, upon receiving a certification from the Commissioner of Labor and Workforce Development that a person has performed a community service project pursuant to the "Motor Vehicle Surcharge Community Service Program" established by section 1 of P.L. , c. (C.) (pending before the Legislature as this bill) in lieu of the payment of a motor vehicle surcharge, the chief administrator shall waive all surcharges levied pursuant to paragraph (1), subparagraph (a) of paragraph (2), or paragraph (3) of subsection b. of this section and any interest accrued thereon.

(2) Motor vehicle points assessed by the chief administrator pursuant to section 1 of P.L.1982, c.43 (C.39:5-30.5) shall not be affected by a driver's participation in the "Motor Vehicle Surcharge Community Service Program."

(3) A driver who has any outstanding surcharges levied pursuant to subparagraph (b) of paragraph (2) of subsection b. of this section shall not be eligible to participate in the "Motor Vehicle Surcharge Community Service Program."

(cf: P.L.2019, c.301, s.3)

3. This act shall take effect on the first day of the sixth month following enactment.

STATEMENT

This bill establishes a "Motor Vehicle Surcharge Community Service Program," administered by the Commissioner of Labor and Workforce Development. The program allows a person who is unemployed but has enrolled in an education or job training program to perform community service in lieu of paying motor vehicle surcharges. The bill requires the commissioner to coordinate with the Chief Administrator of the Motor Vehicle Commission (MVC) to waive motor vehicle surcharges imposed on applicants who complete a community service project in participating counties and municipalities.

To be eligible to participate in the program, the bill requires an applicant to demonstrate that the applicant is unemployed, has been assessed and is unable to pay a motor vehicle surcharge or surcharges, and is enrolled in a job training or education program. The process of applying for a commercial driver license or endorsement constitutes job training under the bill. If the driving privilege of an applicant has been suspended for failure to pay surcharges, the bill requires the chief administrator to reinstate the applicant's driving privilege when the applicant commences the community services program. If an applicant fails to complete a community service project, the applicant's total outstanding motor vehicle surcharges and any interest accrued become due

immediately, and the bill directs that the applicant's driving privilege be suspended until the applicant satisfies the outstanding surcharge assessment.

The bill allows the governing body of any county or municipality may apply to the Department of Labor and Workforce Development to participate in the program. The eligible community service projects are to include, but not be limited to, improvements to county and municipal buildings, grounds, roads, streams, and other county or municipal property, provided that the volunteer labor used by a municipality or county may not displace or remove from employment any paid public or private employee or in any way reduce the workforce within a county or municipality. The bill further provides that a qualifying applicant may not be denied participation in the program due to a lack of volunteer labor projects.

After a person has completed a community service project under the program, the bill requires the chief administrator to waive all surcharges and interest levied for accumulated motor vehicle points and those levied for motor vehicle violations or convictions for which points are not assessed.

The bill provides that any driver whose outstanding surcharges include levies imposed for a drunk driving conviction or refusal to submit to a blood alcohol content test is not eligible to participate in this program.