

ASSEMBLY, No. 2402

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 3, 2020

Sponsored by:
Assemblyman BENJIE E. WIMBERLY
District 35 (Bergen and Passaic)

SYNOPSIS

Clarifies procedures for restoration of driver's license after suspension;
authorizes the court to waive imprisonment under certain circumstances.

CURRENT VERSION OF TEXT

As introduced.



1 **AN ACT** concerning motor vehicle licenses, amending R.S.39:3-40
2 and P.L.1975, c.180, and supplementing chapter 3 of Title 39 of
3 the Revised Statutes.

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

7
8 1. R.S.39:3-40 is amended to read as follows:
9 39:3-40. No person to whom a driver's license has been refused
10 or whose driver's license or reciprocity privilege has been
11 suspended or revoked, or who has been prohibited from obtaining a
12 driver's license, shall personally operate a motor vehicle during the
13 period of refusal, suspension, revocation, or prohibition.

14 No person whose motor vehicle registration has been revoked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

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

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

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

36 c. Upon conviction for a third offense or subsequent offense, a
37 fine of \$1,000.00 and imprisonment in the county jail for 10 days. If
38 the third or a subsequent offense involves the operation of a motor
39 vehicle during a period when the violator's driver's license is
40 suspended and the third or subsequent offense occurs within five
41 years of a conviction for the same offense, revocation of the
42 violator's motor vehicle registration privilege in accordance with
43 the provisions of sections 2 through 6 of P.L.1995, c.286 (C.39:3-
44 40.1 through C.39:3-40.5);

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

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

7 f. (1) In addition to any penalty imposed under the provisions
8 of subsections a. through e. of this section, any person violating this
9 section while under suspension issued pursuant to section 2 of
10 P.L.1972, c.197 (C.39:6B-2), upon conviction, shall be fined
11 \$500.00, shall have his license to operate a motor vehicle suspended
12 for an additional period of not less than one year nor more than two
13 years, and may be imprisoned in the county jail for not more than
14 90 days. Upon proof that the person charged with a violation of this
15 section has completed the period of suspension and can exhibit
16 proof of payment of the restoration fee pursuant to section 23 of
17 P.L.1975, c.180 (C.39:3-10a), the court shall waive the term of
18 imprisonment.

19 (2) In addition to any penalty imposed under the provisions of
20 subsections a. through e. of this section and paragraph (1) of this
21 subsection, any person violating this section under suspension
22 issued pursuant to R.S.39:4-50, section 2 of P.L.1981, c.512
23 (C.39:4-50.4a) or P.L.1982, c.85 (C.39:5-30a et seq.), shall be fined
24 \$500, shall have his license to operate a motor vehicle suspended
25 for an additional period of not less than one year or more than two
26 years, and **【shall】** may be imprisoned in the county jail for not less
27 than 10 days or more than 90 days. Upon proof that the person
28 charged with a violation of this section has completed the period of
29 suspension and can exhibit proof of payment of the restoration fee
30 pursuant to section 23 of P.L.1975, c.180 (C.39:3-10a), the court
31 shall waive the term of imprisonment.

32 (3) In addition to any penalty imposed under the provisions of
33 subsections a. through e. of this section and paragraphs (1) and (2)
34 of this subsection, a person shall have his license to operate a motor
35 vehicle suspended for an additional period of not less than one year
36 or more than two years, which period shall commence upon the
37 completion of any prison sentence imposed upon that person, shall
38 be fined \$500 and **【shall】** may be imprisoned for a period of 60 to
39 90 days for a first offense, imprisoned for a period of 120 to 150
40 days for a second offense, and imprisoned for 180 days for a third
41 or subsequent offense, for operating a motor vehicle while in
42 violation of paragraph (2) of this subsection while:

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

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

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

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

10 It shall not be relevant to the imposition of sentence pursuant to
11 subparagraph (a) or (b) of this paragraph that the defendant was
12 unaware that the prohibited conduct took place while on or within
13 1,000 feet of any school property or while driving through a school
14 crossing. Nor shall it be relevant to the imposition of sentence that
15 no juveniles were present on the school property or crossing zone at
16 the time of the offense or that the school was not in session.

17 If the person charged with a violation of this section has
18 completed the period of suspension and can exhibit proof of
19 payment of the restoration fee pursuant to section 23 of P.L.1975,
20 c.180 (C.39:3-10a), the court shall waive the term of imprisonment;

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

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

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

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

34 In any case where a person who owns or leases a motor vehicle
35 knows that the operator's license or reciprocity privilege of the
36 person he permits to operate the motor vehicle is suspended or
37 revoked for any violation of R.S.39:4-50 or section 2 of P.L.1981,
38 c.512 (C.39:4-50.4a), the person also shall be subject to the
39 following penalties: for a first or second offense, a fine of \$1,000,
40 and may be ordered to serve a term of imprisonment for not more
41 than 15 days, or both; and for a third or subsequent offense, a fine
42 of \$1,000, and may be ordered to serve a term of imprisonment for
43 not more than 15 days, or both, and forfeiture of the right to operate
44 a motor vehicle over the highways of this State for a period of 90
45 days. Upon proof that the person charged with a violation of this
46 section has completed the period of suspension and can exhibit
47 proof of payment of the restoration fee pursuant to section 23 of

1 P.L.1975, c.180 (C.39:3-10a), the court shall waive the term of
2 imprisonment;

3 i. If the violator's driver's license to operate a motor vehicle
4 has been suspended pursuant to section 9 of P.L.1985, c.14 (C.39:4-
5 139.10) or for failure to comply with a time payment order, the
6 violator shall be subject to a maximum fine of \$100 upon proof that
7 the violator has paid all fines and other assessments related to the
8 parking violation that were the subject of the Order of Suspension,
9 or if the violator makes sufficient payments to become current with
10 respect to payment obligations under the time payment order;

11 j. If a person is convicted for a second or subsequent violation
12 of this section and the second or subsequent offense involves a
13 motor vehicle moving violation, the term of imprisonment for the
14 second or subsequent offense **【shall】** may be 10 days longer than
15 the term of imprisonment imposed for the previous offense. Upon
16 proof that the person charged with a violation of this section has
17 completed the period of suspension and can exhibit proof of
18 payment of the restoration fee pursuant to section 23 of P.L.1975,
19 c.180 (C.39:3-10a), the court shall waive the term of
20 imprisonment;

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

25 k. When a driver's license to operate a motor vehicle has been
26 suspended or revoked pursuant to this section, the chief
27 administrator of the New Jersey Motor Vehicle Commission shall
28 provide written notification to the licensee pursuant to the
29 provisions of section 3 of P.L. , c. (C.) (pending before the
30 Legislature as this bill).

31 (cf: P.L.2009, c.332)

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33 2. Section 23 of P.L.1975, c.180 (C.39:3-10a) is amended to
34 read as follows:

35 23. The chief administrator shall charge a fee of \$100 for the
36 restoration of any license which has been suspended or revoked by
37 reason of the licensee's violation of any law or regulation and for
38 the restoration of vehicle registrations that have been suspended
39 pursuant to any law. Upon receiving payment of the restoration fee,
40 the chief administrator shall provide the licensee with proof of
41 payment. The chief administrator may promulgate such regulations
42 hereunder as he may deem necessary.

43 (cf: P.L.2007, c.283, s.2)

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45 3. (New section) When a driver's license or motor vehicle
46 registration has been suspended or revoked pursuant to the
47 provisions of R.S.39:3-40, the chief administrator of the New Jersey
48 Motor Vehicle Commission shall provide written notification to the

1 licensee of the period of suspension or revocation. This notification
2 shall also advise the licensee that the period of suspension or
3 revocation will remain in effect until the licensee pays the
4 restoration fee pursuant to section 23 of P.L.1975, c.180 (C.39:3-
5 10a). Upon receipt of payment of the restoration fee the chief
6 administrator shall provide the licensee with proof of payment.

7
8 4. This act shall take effect immediately.

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11 STATEMENT

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13 This bill would clarify the procedures involved in restoring a
14 person's driving privileges once the person's drivers' license has
15 been suspended or revoked. In addition, the court would be
16 required to waive the imposition of a term of imprisonment under
17 certain circumstances.

18 Currently, a person must affirmatively act to restore his license
19 by paying the restoration fee in order for the person to avoid
20 incurring any additional fines, suspension periods or imprisonment.
21 This bill would not alter this responsibility on the part of the driver,
22 but instead would provide adequate notice to the driver of his
23 responsibility to pay the restoration fee once the period of
24 suspension has ended. It is the sponsor's intent that providing
25 motorists with proper notification of their responsibilities would
26 resolve confusion on the part of some motorists who believe that
27 their driving privileges are automatically restored once the
28 suspension or revocation period has ended.

29 Under the provisions of the bill, the chief administrator of the
30 Motor Vehicle Commission would be required to provide written
31 notification to the licensee of the period of suspension or
32 revocation. The chief administrator would also provide notification
33 to the licensee that the period of suspension or revocation would
34 remain in effect until the licensee pays the restoration fee pursuant
35 to section 23 of P.L.1975, c.180 (C.39:3-10a). Upon receipt of
36 payment of the restoration fee the chief administrator would then
37 provide the licensee with proof of payment. It may be beneficial
38 for the driver to retain the proof of payment in the event he is
39 stopped by a police officer and there is inconsistency because the
40 system has not been updated.

41 In addition, this bill would also require the court to waive the
42 imposition of any term of imprisonment for those persons who have
43 completed the period of license suspension and have paid the
44 restoration fees.