

ASSEMBLY, No. 3311

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 25, 2020

Sponsored by:

Assemblyman GREGORY P. MCGUCKIN

District 10 (Ocean)

Assemblyman JOHN CATALANO

District 10 (Ocean)

SYNOPSIS

Requires police notification when driver license is suspended.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning driver's license suspensions or revocations and
2 amending 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]** the proposed suspension,
20 revocation, disqualification or prohibition and the ground thereof.

21 **[He]** The chief administrator may also summon witnesses to
22 appear before him at his office or at any other place he designates,
23 to give testimony in a hearing which he holds looking toward a
24 revocation of a license or registration certificate issued by or under
25 his authority. The summons shall be served at least five days
26 before the return date, either by registered mail or personal service.
27 A person who fails to obey the summons shall be subject to a
28 penalty not exceeding **[\$100.00]** \$100, to be recovered with costs
29 in an action at law, prosecuted by the Attorney General, and in
30 addition the vehicle registration or driver's license, or both, as the
31 case may be, shall forthwith be revoked. The fee for witnesses
32 required to attend before the **[director]** chief administrator shall be
33 **[\$1.00]** \$1 for each day's attendance and \$0.03 for every mile of
34 travel by the nearest generally traveled route in going to and from
35 the place where the attendance of the witness is required. These
36 fees shall be paid when the witness is excused from further
37 attendance, and the disbursements made from payment of the fees
38 shall be audited and paid in the manner provided for expenses of the
39 **[department]** commission. The actual conduct of **[said]** the hearing
40 may be 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】** chief
2 administrator involving an 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】** chief administrator has not determined to
11 immediately issue a preliminary suspension pursuant to subsection
12 e. of this section, the **【director】** chief administrator shall issue a
13 notice of proposed final suspension or revocation of any license
14 certificate or any nonresident reciprocity privilege to operate any
15 motor vehicle or motorized bicycle held by the individual charged
16 or temporary order prohibiting the individual from obtaining any
17 license to operate any motor vehicle or motorized bicycle in this
18 State.

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

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

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

1 administrative law judge shall transmit his findings to the
2 **【director】** chief administrator.

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

21 c. Whenever any other matter is presented to the **【director】**
22 chief administrator involving an alleged violation of this **【title】**
23 Title, wherein the death of another occurred and for which he
24 determines immediate action is warranted, he may proceed in the
25 manner prescribed in subsection b. above.

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

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

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

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

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

40 (4) R.S.39:4-129, wherein the death or serious bodily injury of
41 another has occurred, the **【director】** chief administrator for good
42 cause may, without hearing, immediately issue a preliminary
43 suspension of any license certificate or any nonresident reciprocity
44 privilege to operate any motor vehicle or motorized bicycle held by
45 an individual charged or temporary order prohibiting the individual
46 from obtaining any license to operate any motor vehicle or
47 motorized bicycle in this State. For purposes of this subsection,

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

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

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

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

45 Any plenary hearing to contest the proposed final agency action
46 shall conform to the requirements for a plenary hearing contained in
47 subsection b. of this section.

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

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

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

36 h. When a person's privileges to operate a motor vehicle or
37 motorized bicycle are suspended or revoked, the chief administrator
38 shall notify, in writing, the law enforcement agency of the
39 jurisdiction wherein the person resides.

40 Any determination resulting from any preliminary or plenary
41 hearing held pursuant to subsection b., c., or e. of this section shall
42 not be admissible at any criminal or quasi-criminal proceedings on
43 the alleged violation or violations.

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

45
46 2. This act shall take effect immediately.

1 STATEMENT

2

3 R.S.39:5-30 authorizes the Chief Administrator of the New
4 Jersey Motor Vehicle Commission to suspend or revoke a person's
5 driver's license for a violation of Title 39, the motor vehicle code,
6 or on other reasonable grounds. Upon the suspension or revocation
7 of a person's driver's license, this bill requires the chief
8 administrator to notify, in writing, the law enforcement agency with
9 jurisdiction over where the person resides. The bill also makes
10 technical changes to the statute.