

ASSEMBLY, No. 3466

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED FEBRUARY 25, 2020

Sponsored by:

Assemblyman BENJIE E. WIMBERLY

District 35 (Bergen and Passaic)

SYNOPSIS

Addresses various concerns affecting post-release employment.

CURRENT VERSION OF TEXT

As introduced.



1 **AN ACT** concerning employment after release from incarceration
2 and amending and supplementing various parts of the statutory
3 law.

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

7
8 1. R.S.33:1-26 is amended to read as follows:

9 33:1-26. All licenses shall be for a term of one year from July 1
10 in each year. The respective fees for any such license shall be
11 prorated according to the effective date of the license and based on
12 the respective annual fee as in this chapter provided. Where the
13 license fee deposited with the application exceeds the prorated fee,
14 a refund of the excess shall be made to the licensee. Licenses are
15 not transferable except as hereinafter provided. A separate license
16 is required for each specific place of business and the operation and
17 effect of every license is confined to the licensed premises. No
18 retail license of any class shall be issued to any holder of a
19 manufacturer's or wholesaler's license, and no manufacturer's or
20 wholesaler's license shall be issued to the holder of a retail license
21 of any class. Any person who shall exercise or attempt to exercise,
22 or hold himself out as authorized to exercise, the rights and
23 privileges of a licensee except the licensee and then only with
24 respect to the licensed premises, shall be guilty of a misdemeanor.

25 In case of death, bankruptcy, receivership or incompetency of the
26 licensee, or if for any other reason whatsoever the operation of the
27 business covered by the license shall devolve by operation of law
28 upon a person other than the licensee, the director or the issuing
29 authority may, in his or its discretion, extend the license for a
30 limited time, not exceeding its term, to the executor, administrator,
31 trustee, receiver or other person upon whom the same has devolved
32 by operation of law as aforesaid. Under no circumstances,
33 however, shall a license, or rights thereunder, be deemed property,
34 subject to inheritance, sale, pledge, lien, levy, attachment,
35 execution, seizure for debts, or any other transfer or disposition
36 whatsoever, except for payment of taxes, fees, interest and penalties
37 imposed by any State tax law for which a lien may attach pursuant
38 to R.S.54:49-1 or pursuant to the State Uniform Tax Procedure
39 Law, R.S.54:48-1 et seq., or any similar State lien of tax, except to
40 the extent expressly provided by this chapter.

41 On application made therefor setting forth the same matters and
42 things with reference to the premises to which a transfer of license
43 is sought as are required to be set forth in connection with an
44 original application for license, as to the premises, and after
45 publication of notice of intention to apply for transfer, in the same

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 manner as is required in case of an application for license as to the
2 premises, the director or other issuing authority may transfer, upon
3 payment of a fee of 10% of the annual license fee for the license
4 sought to be transferred, any license issued by him or it respectively
5 to a different place of business than that specified therein, by
6 endorsing permission upon the license.

7 On application made therefor setting forth the same matters and
8 things with reference to the person to whom a transfer of license is
9 sought as are required to be set forth in connection with an original
10 application for license, which application for transfer shall be
11 signed and sworn to by the person to whom the transfer of license is
12 sought and shall bear the consent in writing of the licensee to the
13 transfer, and after publication of notice of intention by the person to
14 whom the transfer of license is sought, to apply for transfer in the
15 same manner as is required in the case of an original application for
16 license, the director or other issuing authority, as the case may be,
17 may transfer any license issued by him or it respectively to the
18 applicant for transfer by endorsing the license. The application and
19 the applicant shall comply with all requirements of this chapter
20 pertaining to an original application for license and shall be
21 accompanied, in lieu of the license fee required on the original
22 application, by a fee of 10% of the annual license fee for the license
23 sought to be transferred, which 10% shall be retained by the
24 director or other issuing authority, as the case may be, whether the
25 transfer be granted or not, and accounted for as other license fees.

26 If the other issuing authority shall refuse to grant a transfer the
27 applicant shall be notified forthwith of the refusal by a notice
28 served personally upon the applicant, or sent to him by registered
29 mail addressed to him at the address stated in the application, and
30 the applicant may, within 30 days after the date of service or
31 mailing of the notice, appeal to the director from the action of the
32 issuing authority. If the other issuing authority shall grant a
33 transfer, any taxpayer or other aggrieved person opposing the grant
34 of the transfer may, within 30 days after the grant of the transfer,
35 appeal to the director from the action of the issuing authority.

36 **【No】** Except as provided under this section, no person who
37 **【would fail to qualify as a licensee under this chapter】** is under the
38 age of majority shall be knowingly employed by or connected in
39 any business capacity whatsoever with a licensee. A person failing
40 to qualify as to age **【or by reason of conviction of a crime involving**
41 **moral turpitude】** may, with the approval of the director, and subject
42 to rules and regulations, be employed by any licensee, but the
43 employee if disqualified by age shall not, in any manner whatsoever
44 serve, sell or solicit the sale or participate in the manufacture,
45 rectification, blending, treating, fortification, mixing, processing or
46 bottling of any alcoholic beverage; and further provided, that no
47 permit shall be necessary for the employment in a bona fide hotel or
48 restaurant of any person failing to qualify as to age so long as the

1 person shall not in any manner whatsoever serve, sell or solicit the
2 sale of any alcoholic beverage, or participate in the mixing,
3 processing or preparation thereof. Except for a person convicted of
4 a sex offense as enumerated in subsection b. of N.J.S.2C:7-2 or a
5 person convicted of a crime involving moral turpitude committed
6 while employed on a licensed premises, a person who has been
7 convicted of a crime involving moral turpitude may be employed by
8 a Class C licensee without obtaining the approval of the director or
9 a rehabilitation employment permit provided the person's
10 responsibilities do not involve serving, selling or soliciting the sale
11 of any alcoholic beverage; participating in the mixing, processing or
12 preparation of alcoholic beverages; providing private security or
13 admission-monitoring services for the premises; or providing or
14 participating in any management or professional services.

15 Each person seeking to be employed or connected in any
16 business capacity whatsoever with a licensee shall submit to the
17 director the applicant's name, address, fingerprints and written
18 consent for a criminal history record background check to be
19 performed. The director is authorized to receive criminal history
20 record information from the State Bureau of Identification in the
21 Division of State Police and the Federal Bureau of Investigation
22 consistent with applicable State and federal laws, rules and
23 regulations. The applicant shall bear the cost for the criminal
24 history record background check, including all costs of
25 administering and processing the check. The Division of State
26 Police shall promptly notify the director in the event a current
27 holder of a license or prospective applicant, who was the subject of
28 a criminal history record background check pursuant to this section,
29 is arrested for a crime or offense in this State after the date the
30 background check was performed. A licensee may use the results
31 of the criminal history background check as a factor in determining
32 whether a person is qualified to be employed by, or connected in
33 any business capacity whatsoever with, the licensee.

34 Any request for relief under this section shall be accompanied by
35 a nonreturnable filing fee of **【\$100.00】** \$100 payable to the
36 director.

37 (cf: P.L.2012, c.32, s.1)

38

39 2. Section 2 of P.L.2002, c.73 (C.6:1-100) is amended to read
40 as follows:

41 2. a. As used in this section:

42 "Aircraft operator" means the holder of an operating certificate
43 issued by the Federal Aviation Administration or a permit issued by
44 the Civil Aeronautics Board or the federal Department of
45 Transportation who conducts scheduled passenger, public charter or
46 private charter flight operations in which passengers are emplaned
47 from or deplaned into a sterile area.

1 "Airport" means a commercial service airport facility conducting
2 business pursuant to Title 14 of Code of Federal Regulations Part
3 139, located wholly within this State operating pursuant to an
4 airport security program approved by the Federal Aviation
5 Administration.

6 "Airport operator" means a State or local government unit,
7 agency or public authority that operates an airport that serves an
8 aircraft operator, except the Port Authority of New York and New
9 Jersey.

10 "Employee" means any person who provides services in the
11 sterile area of an airport.

12 "Prior conviction" means a conviction under the laws of this
13 State, another state, or the United States of an offense substantially
14 equivalent to any crime listed in this section for which a sentence of
15 imprisonment in excess of one year could be imposed.

16 "Sterile area" means that portion of an airport that provides
17 passengers access to boarding aircraft and to which the access
18 generally is controlled through the screening of persons and
19 property in accordance with a security program approved by the
20 Federal Aviation Administration.

21 b. An airport operator shall not employ or permit to be
22 employed any employee who has a disqualifying conviction. An
23 airport operator shall not employ, or permit to be employed, an
24 employee unless it has determined, consistent with the standards of
25 this section, that no criminal history record background information
26 exists on file in the Federal Bureau of Investigation, Criminal
27 Justice Information Service or the Division of State Police which
28 would disqualify that individual from being employed. This section
29 shall apply to all employees who are currently employed at or who
30 are prospective employees at an airport operated by an airport
31 operator. This section shall not apply to employees who are subject
32 to fingerprint-based criminal history record background checks
33 mandated by federal law or rules and regulations.

34 c. Each airport operator shall require, for purposes of
35 determining employment eligibility, the fingerprinting of
36 prospective or current employees. The airport operator is
37 authorized to receive criminal history record background
38 information from the Division of State Police and the Federal
39 Bureau of Investigation, Criminal Justice Information Service
40 consistent with the provisions of Public Law 92-544, for use in
41 determining employment eligibility. Each airport operator shall:

42 (1) promulgate rules and regulations for the use and
43 safeguarding of criminal history record background information
44 received from the Division of State Police and the Federal Bureau
45 of Investigation, Criminal Justice Information Service;

46 (2) develop a form to be used in connection with the submission
47 of fingerprints that contains the specific job title held or sought, and

1 any other information that may be relevant to consideration of the
2 current or prospective employee; and

3 (3) promulgate a form to be provided to all prospective and
4 current employees that shall inform the prospective or current
5 employee that: (a) the airport operator is required to request that
6 employee's criminal history record background information from
7 the Division of State Police and the Federal Bureau of
8 Investigation, Criminal Justice Information Service and review such
9 information pursuant to this section; (b) the prospective or current
10 employee has the right to obtain, review and seek correction of his
11 criminal history record background information; and the
12 prospective or current employee shall have 14 days from the date of
13 any written notice of disqualification to challenge the accuracy of
14 the criminal history record background information.

15 d. The employee or prospective employee shall submit to the
16 airport operator the individual's name and address and shall provide
17 written consent to and cooperate in the securing of fingerprints
18 taken in accordance with applicable State and federal laws, rules,
19 regulations and standards by a State or municipal law enforcement
20 agency or other person designated by the Division of State Police,
21 and any fees imposed by the Division of State Police and the
22 Federal Bureau of Investigation, Criminal Justice Information
23 Service. The airport operator is authorized to exchange fingerprint
24 data with and receive criminal history record background
25 information from the Federal Bureau of Investigation, Criminal
26 Justice Information Service and the Division of State Police for use
27 in determining the eligibility for employment of employees and
28 prospective employees, consistent with the provisions of Public
29 Law 92-544. The airport operator shall promptly transmit such
30 fingerprints and the required fees to the Division of State Police and
31 the Federal Bureau of Investigation, Criminal Justice Information
32 Service for their full search and processing. The Division of State
33 Police is authorized to submit the fingerprints and the appropriate
34 fee to the Federal Bureau of Investigation, Criminal Justice
35 Information Service for a national criminal history record
36 background check.

37 The Division of State Police shall forward the criminal history
38 record to the airport operator in a timely manner.

39 e. All criminal history records processed and sent to the airport
40 operator pursuant to this section shall be confidential pursuant to
41 the applicable federal and state laws, rules and regulations, and
42 shall not be published or in any way disclosed to persons other than
43 an airport operator, unless otherwise authorized by law. No cause
44 of action against an airport operator for damages shall exist for the
45 determination that a prospective or current employee has a
46 disqualifying criminal conviction, or for the lawful disclosure of a
47 disqualifying criminal conviction to an employer, when an airport
48 operator has reasonably and in good faith relied upon the accuracy

1 and completeness of criminal history record background
2 information furnished to it by the Division of State Police or the
3 Federal Bureau of Investigation, Criminal Justice Information
4 Service. An airport operator who acts upon or discloses
5 information pertaining to a disqualifying criminal conviction of a
6 prospective or current employee shall be presumed to be acting in
7 good faith unless it is shown by clear and convincing evidence that
8 the airport operator acted with actual malice toward the person who
9 is the subject of the information.

10 No cause of action against an employer for damages shall exist
11 for acting upon information received from an airport operator that a
12 current employee has a disqualifying criminal conviction, when the
13 employer has reasonably and in good faith relied upon the
14 determination made by the airport operator that the current
15 employee has a disqualifying criminal conviction. An employer at
16 the airport who acts upon information pertaining to a disqualifying
17 criminal conviction of a current employee shall be presumed to be
18 acting in good faith unless it is shown by clear and convincing
19 evidence that the employer acted with actual malice toward the
20 person who is the subject of the information.

21 f. The airport operator shall review the criminal history record
22 of a current or prospective employee covered by this section to
23 determine whether that employee has a disqualifying criminal
24 conviction in his background. **[A]** Except in the case of a
25 prospective employee who has affirmatively demonstrated
26 rehabilitation pursuant to subsection k. of this section, a
27 disqualifying criminal conviction shall be evidenced by a criminal
28 history record background check which reveals a conviction within
29 the preceding 10 years of any of the following:

30 (1) any crime in violation of N.J.S.2C:11-3, N.J.S.2C:11-4,
31 N.J.S.2C:11-5 or N.J.S.2C:11-6;

32 (2) any crime in violation of N.J.S.2C:12-1, N.J.S.2C:12-2 or
33 N.J.S.2C:12-3;

34 (3) any kidnaping in violation of N.J.S.2C:13-1, criminal
35 restraint in violation of N.J.S.2C:13-2, interference with custody in
36 violation of N.J.S.2C:13-4, criminal coercion in violation of
37 N.J.S.2C:13-5 or luring or enticing a child in violation of section 1
38 of P.L.1993, c.291 (C.2C:13-6);

39 (4) any aggravated sexual assault or sexual assault in violation
40 of N.J.S.2C:14-2, or aggravated criminal sexual contact or criminal
41 sexual contact in violation of N.J.S.2C:14-3;

42 (5) any robbery in violation of N.J.S.2C:15-1 or carjacking in
43 violation of section 1 of P.L.1993, c.221 (C.2C:15-2);

44 (6) any crime of bias intimidation in violation of N.J.S.2C:16-1;

45 (7) any arson or related offense in violation of N.J.S.2C:17-1,
46 causing or risking widespread injury or damage in violation of
47 N.J.S.2C:17-2, any crime of criminal mischief in violation of
48 N.J.S.2C:17-3a, any crime of alteration of motor vehicle trademarks

- 1 or identification numbers in violation of section 1 of P.L.1983,
2 c.351 (C.2C:17-6), or any violation of P.L.1983, c.480 (C.2C:17-7
3 et seq.);
- 4 (8) any burglary in violation of N.J.S.2C:18-2 or any crime of
5 criminal trespass in violation of N.J.S.2C:18-3;
- 6 (9) any crime of theft in violation of chapter 20 of Title 2C of
7 the New Jersey Statutes;
- 8 (10) any crime of forgery and fraudulent practices in violation of
9 chapter 21 of Title 2C of the New Jersey Statutes;
- 10 (11) any crime of bribery and corrupt influence in violation of
11 chapter 27 of Title 2C of the New Jersey Statutes;
- 12 (12) any crime in violation of N.J.S.2C:28-1, N.J.S.2C:28-2,
13 N.J.S.2C:28-3a, N.J.S.2C:28-4a, N.J.S.2C:28-5, N.J.S.2C:28-6,
14 N.J.S.2C:28-7 or N.J.S.2C:28-8b;
- 15 (13) any crime in violation of N.J.S.2C:29-1 or N.J.S.2C:29-8;
- 16 (14) any crime in violation of N.J.S.2C:33-1a, N.J.S.2C:33-3,
17 N.J.S.2C:33-14 or section 1 of P.L.1991, c.335 (C.2C:33-14.1);
- 18 (15) any crime in violation of chapter 35 of Title 2C of the New
19 Jersey Statutes;
- 20 (16) any crime in violation of chapter 36 of Title 2C of the New
21 Jersey Statutes;
- 22 (17) any crime in violation of N.J.S.2C:39-3, N.J.S.2C:39-4,
23 section 1 of P.L.1998, c.26 (C.2C:39-4.1), N.J.S.2C:39-5, section 1
24 of P.L.1983, c.229 (C.2C:39-14) or section 1 of P.L.1995, c.405
25 (C.2C:39-16);
- 26 (18) racketeering in violation of P.L.1981, c.167 (C.2C:41-1.1 et
27 al.);
- 28 (19) any crime in violation of sections 2 through 5 of the
29 "September 11th, 2001 Anti-Terrorism Act," P.L.2002, c.26
30 (C.2C:38-2 through 2C:38-5);
- 31 (20) any of the following federal offenses: registration
32 violations involving aircraft not providing air transportation as
33 defined in 49 U.S.C.s.46306; interference with air navigation as
34 defined in 49 U.S.C.s.46308; transporting hazardous material as
35 defined in 49 U.S.C.s.46312; aircraft piracy as defined in 49
36 U.S.C.s.46502; interference with flight crew members and
37 attendants as defined in 49 U.S.C.s.46504; application of certain
38 criminal laws to acts on aircraft as defined in 49 U.S.C.s.46506;
39 carrying a weapon or explosive on an aircraft as defined in 49
40 U.S.C.s.46505; false information and threats as defined in 49
41 U.S.C.s.46507; lighting violations involving transporting controlled
42 substances by aircraft not providing air transportation as defined in
43 49 U.S.C.s.46315; entering aircraft or airport area in violation of
44 security requirements as defined in 49 U.S.C.s.46314; destruction
45 of aircraft or aircraft facilities as defined in 18 U.S.C.s.32;
46 espionage as defined in 18 U.S.C.ss.793, 794, 798, or 3077; treason,
47 sedition and subversive activities as defined in 18 U.S.C.ss.2381,
48 2384 and 2385; a violation of 50 U.S.C.s.783; violence at

1 international airports as defined in 18 U.S.C.s.37; or conspiracy or
2 solicitation as defined in 18 U.S.C.ss. 371 and 373; or

3 (21) an attempt or conspiracy to commit any of the offenses
4 specified in paragraphs (1) through (20) of this subsection.

5 g. Upon receipt of the criminal history record background
6 information from the Division of State Police and Federal Bureau of
7 Investigation, Criminal Justice Information Service for a
8 prospective or current employee, the airport operator shall notify
9 the prospective or current employee, in writing, of the prospective
10 or current employee's qualification or disqualification for
11 employment. If the prospective or current employee is disqualified,
12 the convictions that constitute the basis for the disqualification shall
13 be identified in the written notice to the prospective or current
14 employee. Unless otherwise specified by law or regulation, the
15 prospective or current employee shall have 14 days from the date of
16 the written notice of disqualification to challenge the accuracy of
17 the criminal history record background information. If no challenge
18 is filed or if the determination of the accuracy of the criminal
19 history record background information upholds the disqualification,
20 the airport operator shall notify the employer that the prospective or
21 current employee has been disqualified from employment. When
22 the airport operator determines that employment in a position to
23 which the provisions of this section apply should be terminated
24 pursuant to this section, the current employee shall be afforded
25 notice in writing and the right to be heard and offer proof in
26 opposition to such determination in accordance with the rules and
27 regulations promulgated pursuant to subsection c. of this section.

28 h. The Division of State Police shall promptly notify the airport
29 operator in the event a prospective or current employee, who was
30 the subject of a criminal history record background check
31 conducted pursuant to subsection d. of this section, is convicted of a
32 crime or offense in this State after the date the background check
33 was performed. Upon receipt of such notification, the airport
34 operator shall make a determination regarding the eligibility for
35 employment of the prospective or current employee.

36 i. Every employee shall have a continuing obligation to
37 promptly notify the employee's employer and the airport operator of
38 any conviction of a crime punishable by more than one year in
39 prison. The failure to so notify the employer and airport operator
40 shall be grounds for immediate termination of employment.

41 j. This section shall apply to all prospective employees on the
42 effective date thereof. Airport operators shall require the criminal
43 history record background checks to be initiated on all current
44 employees within 90 days of the effective date of this section.

45 k. Notwithstanding the provisions of subsection f. of this
46 section, an applicant shall not be denied employment on the basis of
47 a conviction of any of the offenses enumerated in this section as
48 disqualification criteria or the commission of any act provided that

1 the applicant has affirmatively demonstrated rehabilitation. In
2 determining whether the prospective employee has affirmatively
3 demonstrated rehabilitation the airport operator shall consider the
4 following factors:

5 (1) the nature and duties of the position for which the applicant
6 has applied;

7 (2) the nature and seriousness of the offense or conduct;

8 (3) the circumstances under which the offense or conduct
9 occurred;

10 (4) the date of the offense or conduct;

11 (5) the age of the applicant when the offense or conduct was
12 committed;

13 (6) whether the offense or conduct was an isolated or repeated
14 incident;

15 (7) any social conditions which may have contributed to the
16 offense or conduct; and

17 (8) any evidence of rehabilitation, including good conduct in
18 prison or in the community, counseling or psychiatric treatment
19 received, acquisition of additional academic or vocational
20 schooling, successful participation in correctional work-release
21 programs, or the recommendation of persons who have or have had
22 the applicant under their supervision.

23 (cf: P.L.2002, c.73, s.2)

24
25 3. (New section) As used in this act:

26 "Chief Administrator" means the Chief Administrator of the
27 New Jersey Motor Vehicle Commission.

28 "Restricted use driver's license" means a license to operate a
29 motor vehicle exclusively for purposes related to employment or
30 education pursuant to the provisions of sections 3 through 7 of this
31 act.

32
33 4. (New section) a. The chief administrator shall issue a
34 restricted use driver's license to a person whose driver's license has
35 been suspended, provided the suspension is not pursuant to a court
36 order, if the person applies for a license and provides certification
37 required pursuant to subsection c. of this section.

38 b. Prior to suspending the driver's license of any person, or
39 upon an application to the court for a restricted use driver's license,
40 the court shall determine whether that person is eligible to apply for
41 a restricted use driver's license pursuant to the provisions of
42 sections 3 through 7 of this act. If the person is determined to be
43 eligible, the court shall explain the conditions under which the
44 license may be attained. A person who requires a restricted use
45 driver's license for employment or education related purposes may
46 so inform the court, which shall then issue the person an application
47 for the license. The person shall return the completed application to
48 the court.

1 c. A person who applies for a restricted use driver's license
2 pursuant to subsections a. or b. of this section shall submit at least
3 one of the following:

4 (1) certification that the applicant is employed or enrolled in an
5 educational institution and the hours during which the applicant is
6 employed or attending classes;

7 (2) certification of the hours during and locations between
8 which it is necessary for the applicant personally to operate a motor
9 vehicle; and

10 (3) certification from an employer offering the applicant
11 employment if the applicant is able to obtain a restricted use
12 driver's license.

13 d. Upon receiving the completed application, the court, or the
14 chief administrator as appropriate, shall determine whether the
15 applicant should be issued a restricted use driver's license. Upon
16 approving an application for a restricted use driver's license, the
17 court immediately shall issue to the applicant a temporary restricted
18 use driver's license and a temporary restricted use placard. Both
19 shall be valid for 30 days unless rescinded by the chief
20 administrator or replaced by an approved restricted use driver's
21 license and placard. The court shall forward the application for a
22 restricted use driver's license to the chief administrator.

23

24 5. (New section) a. Upon approval by the court, or by the
25 chief administrator as appropriate, the chief administrator shall
26 issue an approved restricted use driver's license to a person who has
27 made application pursuant to section 4 of this act. The restricted
28 use driver's license shall be in a form prescribed by the chief
29 administrator and shall be issued as promptly as is practicable in
30 accordance with procedures established by the chief administrator.
31 The license shall be of a color selected by the chief administrator
32 which readily distinguishes it from other driver's licenses issued by
33 this State.

34 b. A restricted use driver's license issued under sections 3
35 through 7 of this act shall authorize the licensee to operate a motor
36 vehicle during certain hours and between certain points solely for
37 the purpose of:

38 (1) traveling to and from the licensee's place of employment or
39 education or while pursuing employment or education;

40 (2) traveling to and from medical appointments on behalf of the
41 license holder or an immediate family member; or

42 (3) transporting the licensee's child to and from a school or a
43 child care facility while in the course of traveling to and from the
44 place of employment or education or while pursuing employment or
45 education.

46 The limitations on the authorized use of the license shall be
47 determined by the chief administrator, and those limitations, as well

1 as the penalties provided for in section 7 of this act, shall be
2 indicated on the license.

3 c. A restricted use driver's license shall expire at the time of
4 the expiration of the suspension or revocation period of the
5 licensee's driver's license or on the last day of the 12th month
6 following the calendar month in which the restricted use license
7 was issued, whichever is earlier.

8 d. A person issued a restricted use driver's license under the
9 provisions of this act may simultaneously hold, or be issued, a non-
10 driver identification card issued pursuant to "The Identification
11 Cards for Nondrivers' Act," P.L.1980, c.47 (C.39:3-29.2 et seq.).

12 e. A restricted use driver's license may be issued to persons
13 whose drivers licenses are suspended or revoked prior to or
14 following the effective date of this act.

15

16 6. (New section) A person whose driver's license has been
17 forfeited under any of the following circumstances shall be
18 ineligible to apply for a restricted use driver's license:

19 a. The person forfeited the license pursuant to section 4 of
20 P.L.1982, c.43 (C.39:5-30.8) or section 2 of P.L.1972, c.197
21 (C.39:6B-2);

22 b. Death or serious bodily injury resulted during the
23 commission of the offense for which the person's license has been
24 forfeited;

25 c. The offense for which the person forfeited the license
26 involved driving at a speed more than 15 miles in excess of the
27 legal limit pursuant to R.S.39:4-98, a violation of R.S.39:4-96, or a
28 violation of section 1 of P.L.1942, c.192 (C.39:4-128.1); or

29 d. The person has been convicted of a violation of R.S.39:3-40.

30

31 7. (New section) The following penalties shall apply with
32 regard to the issuance and use of restricted use driver's licenses:

33 a. An applicant who deliberately falsifies an application for a
34 restricted use driver's license shall have the suspension or
35 revocation of the driver's license extended for a period of one year.

36 b. A restricted use driver's licensee who operates a motor
37 vehicle between points or during hours other than those indicated
38 on the restricted use license shall be fined not less than \$500 or
39 more than \$1,000, and shall be ordered by the court to perform
40 community service for a period of 30 days, and may be sentenced to
41 a term of imprisonment for not more than 90 days. The chief
42 administrator immediately shall rescind the licensee's restricted use
43 license and shall extend the suspension or revocation of his driver's
44 license for a period of two years.

45 c. If, while operating a motor vehicle during unauthorized
46 hours or between unauthorized points, a licensee is convicted of
47 causing an accident resulting in personal injury or death to another
48 person, the licensee shall be fined not less than \$1,000 or more that

1 \$5,000, shall be ordered by the court to perform community service
2 for a period of 30 days, and shall be sentenced to imprisonment for
3 a term of not less than 10 days or more than 120 days. The chief
4 administrator immediately shall rescind the licensee's restricted use
5 driver's license and shall extend the suspension or revocation of the
6 licensee's basic driver's license for a period of five years.

7 d. If a restricted use licensee commits a moving violation under
8 Title 39 of the Revised Statutes while traveling between points and
9 during hours indicated on the restricted use driver's license, the
10 chief administrator immediately shall rescind the person's restricted
11 use license and reinstate the full term of the original suspension or
12 revocation of the driver's license.

13 e. If a restricted use licensee violates the provisions of
14 R.S.39:4- 50, or section 2 of P.L.1981, c.512 (C.39:4-50.4a), the
15 licensee shall be fined not less than \$1,000 or more than \$5,000 and
16 shall be imprisoned for a term of 180 days. The chief administrator
17 shall immediately rescind the person's restricted use driver's license
18 and extend the suspension or revocation of the driver's license for a
19 period of 10 years.

20 f. The penalties in this section shall be applied in addition to
21 any other penalties required by law for a violation of the motor
22 vehicle laws.

23
24 8. Section 2 of P.L.1993, c.296 (C.39:5-30.13) is amended to
25 read as follows:

26 2. The **【Director】** Chief Administrator of the **【Division of**
27 **Motor Vehicles】** New Jersey Motor Vehicle Commission shall
28 suspend, revoke, or postpone the driving privilege in this State for a
29 period of not less than six months or more than two years of every
30 person convicted of or adjudicated delinquent for a drug offense in
31 any federal court or in the court of any other state, or the District of
32 Columbia, unless the chief administrator finds compelling
33 circumstances warranting an exception. When a person whose
34 license is subject to suspension, revocation, or postponement under
35 this act is less than 17 years of age, the period of suspension,
36 revocation or postponement imposed by the director shall
37 commence immediately and shall run for a period of not less than
38 six months or more than two years after the date the person reaches
39 the age of 17. If the driving privilege of any person is under
40 revocation, suspension, or postponement for a violation of Title 2C
41 or Title 39 of the Revised Statutes at the time of the imposition of
42 suspension, revocation, or postponement under this act, the
43 revocation, suspension, or postponement imposed herein shall
44 commence as of the date of termination of the existing suspension,
45 revocation, or postponement.

46 For the purposes of this section, "compelling circumstances
47 warranting an exception" exist if the forfeiture of the person's right
48 to operate a motor vehicle on the highways of this State will result

1 in extreme hardship and alternative means of transportation are not
2 available.

3 (cf: P.L.1993, c.296, s.2)

4

5 9. R.S.39:3-40 is amended to read as follows:

6 39:3-40. No person to whom a driver's license has been refused
7 or whose driver's license or reciprocity privilege has been
8 suspended or revoked, or who has been prohibited from obtaining a
9 driver's license, shall personally operate a motor vehicle during the
10 period of refusal, suspension, revocation, or prohibition, except as
11 provided for holders of a restricted use driver's license issued
12 pursuant to sections 3 through 7 of P.L. , c. (C.) (pending
13 before the Legislature as this bill).

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);

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

47 e. Upon conviction, the court shall impose a period of
48 imprisonment for not less than 45 days or more than 180 days, if

1 while operating a vehicle in violation of this section a person is
2 involved in an accident resulting in bodily injury to another person;

3 f. (1) In addition to any penalty imposed under the provisions
4 of subsections a. through e. of this section, any person violating this
5 section while under suspension issued pursuant to section 2 of
6 P.L.1972, c.197 (C.39:6B-2), upon conviction, shall be fined
7 \$500.00, shall have his license to operate a motor vehicle suspended
8 for an additional period of not less than one year nor more than two
9 years, and may be imprisoned in the county jail for not more than
10 90 days.

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

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

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

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

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

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

46 It shall not be relevant to the imposition of sentence pursuant to
47 subparagraph (a) or (b) of this paragraph that the defendant was
48 unaware that the prohibited conduct took place while on or within

1 1,000 feet of any school property or while driving through a school
2 crossing. Nor shall it be relevant to the imposition of sentence that
3 no juveniles were present on the school property or crossing zone at
4 the time of the offense or that the school was not in session;

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

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

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

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

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

28 i. If the violator's driver's license to operate a motor vehicle
29 has been suspended pursuant to section 9 of P.L.1985, c.14 (C.39:4-
30 139.10) or for failure to comply with a time payment order, the
31 violator shall be subject to a maximum fine of \$100 upon proof that
32 the violator has paid all fines and other assessments related to the
33 parking violation that were the subject of the Order of Suspension,
34 or if the violator makes sufficient payments to become current with
35 respect to payment obligations under the time payment order;

36 j. If a person is convicted for a second or subsequent violation
37 of this section and the second or subsequent offense involves a
38 motor vehicle moving violation, the term of imprisonment for the
39 second or subsequent offense shall be 10 days longer than the term
40 of imprisonment imposed for the previous offense.

41 For the purposes of this subsection, a "motor vehicle moving
42 violation" means any violation of the motor vehicle laws of this
43 State for which motor vehicle points are assessed by the chief
44 administrator pursuant to section 1 of P.L.1982, c.43 (C.39:5-30.5).
45 (cf: P.L.2009, c.332, s.1)

46
47 10. (New section) a. A State, county or municipal department,
48 office or agency shall not require a person to disclose, in an

1 application for employment with that office or agency, whether the
2 person has been convicted of a crime in this State or any
3 substantially similar offense under the laws of another state or the
4 United States.

5 b. Nothing herein shall be construed to exempt a person from
6 undergoing a criminal history record background check otherwise
7 required by law as a condition of employment.

8
9 11. (New section) a. The provisions of this section shall apply
10 to any application by any person for a license or employment with
11 any public or private employer, who has previously been convicted
12 of one or more criminal offenses in this State or in any other
13 jurisdiction, and to any license or employment held by any person
14 whose conviction of one or more criminal offenses in this State or
15 in any other jurisdiction preceded this employment or granting of a
16 license, except where a mandatory forfeiture, disability or bar to
17 employment is imposed by law, and has not been removed by an
18 executive pardon.

19 b. Nothing in this section shall be construed to affect any right
20 an employer may have with respect to an intentional
21 misrepresentation in connection with an application for employment
22 made by a prospective employee or previously made by a current
23 employee.

24 c. An application for any licensure or employment to which the
25 provisions of this section are applicable shall not be denied by
26 reason of the applicant's having previously been convicted of one
27 or more criminal offenses, or by reason of a finding of lack of
28 "good moral character" when that finding is based solely upon the
29 fact that the applicant has previously been convicted of one or more
30 criminal offenses, unless:

31 (1) there is a direct relationship between one or more of the
32 previous criminal offenses and the specific license or employment
33 sought; or

34 (2) the issuance of the license or the granting of employment
35 would involve an unreasonable risk to property or to the safety or
36 welfare of specific persons or the general public.

37 d. In making a determination pursuant to subsection c. of this
38 section, the public agency or private employer shall consider the
39 following factors:

40 (1) the public policy of this State, as expressed in this act, to
41 encourage the licensure and employment of persons previously
42 convicted of one or more criminal offenses;

43 (2) the specific duties and responsibilities necessarily related to
44 the license or employment sought;

45 (3) the bearing, if any, the criminal offense or offenses for
46 which the person was previously convicted will have on the
47 person's fitness or ability to perform one or more of these duties or
48 responsibilities;

1 (4) the time which has elapsed since the occurrence of the
2 criminal offense or offenses;

3 (5) the age of the person at the time of occurrence of the
4 criminal offense or offenses;

5 (6) the seriousness of the offense or offenses;

6 (7) any information produced by the person, or produced on the
7 person's behalf, in regard to his rehabilitation and good conduct;
8 and

9 (8) the legitimate interest of the public agency or private
10 employer in protecting property and the safety and welfare of
11 specific person's or the general public.

12 e. In making a determination pursuant to subsection c. of this
13 section, the public agency or private employer also shall give
14 consideration to a certificate of rehabilitation issued to the applicant
15 pursuant to P.L.2007, c.327 (C.2A:168A-7 et seq.), which
16 certificate shall create a presumption of rehabilitation in regard to
17 the offense or offenses specified therein.

18 f. A public or private employer shall not inquire from an
19 applicant whether the applicant has ever been arrested, charged with
20 a crime, convicted of a sealed noncriminal offense, or adjudicated
21 as a juvenile delinquent.

22 g. A public or private employer shall not consider when
23 making an employment decision, an employment applicant's
24 arrests, if those arrests did not lead to a conviction.

25 h. Any public or private employer who performs a background
26 check on a job applicant shall inform the applicant, prior to
27 performance of the background check of the following in writing:

28 (1) that a background check may be requested in connection with
29 the application for employment;

30 (2) that the applicant, upon request, will be informed within 30
31 days if the report was requested, along with the name and address of
32 the reporting agency; and

33 (3) that the applicant may review the report.

34 i. Any public or private employer who performs a background
35 check on an applicant for employment shall inform the applicant
36 within 30 days of making the request for a background check.

37 j. Any public or private employer who performs a background
38 check on an employment applicant shall provide the applicant with
39 a copy of this act.

40 k. Each public or private employer in this State shall post a
41 copy of this act in a place accessible to employees and job
42 applicants in a visually conspicuous manner.

43 l. Each public or private employer shall provide a job applicant
44 who the employer has refused or denied a license or employment
45 with a written statement setting forth the reasons for the denial
46 within 30 days of a request from an employment applicant for a
47 written statement.

1 extreme hardship and alternative means of transportation are not
2 available.

3 In addition, the bill would allow a potential employee to
4 affirmatively demonstrate rehabilitation when seeking employment
5 at an airport. It also specifies that an alcoholic beverage licensee
6 may only use the results of a criminal history record background
7 check as a factor in determining whether a person is qualified to be
8 employed in the establishment. It is the sponsor's intent to maintain
9 public safety by preserving the statutory requirement that these
10 potential employees undergo a criminal history background check,
11 while allowing employers to independently determine whether a
12 prior conviction would have any effect on future job performance.

13 The bill also would prohibit State, county or municipal
14 employers from requiring a person to disclose criminal convictions
15 on an application for employment. The bill would prohibit the
16 employer from inquiring about convictions for crimes under New
17 Jersey law or substantially similar offenses under federal law or the
18 laws of other states. Under the bill, a person would not be
19 exempted from undergoing a criminal history record background
20 check required by law.

21 Finally, this bill would prohibit all public and private employers
22 from discriminating against ex-convicts and provide for the
23 Commission on Civil Rights to enforce the provisions of this bill.
24 Public and private employers would be prohibited from denying a
25 person a license or employment because the person has previously
26 been convicted of a criminal offense or because the person has been
27 determined to lack "good moral character" based on a previous
28 conviction. The bill applies to current, as well as prospective,
29 employees.

30 Employers would not be subject to this prohibition if: (1) there
31 is a direct relationship between a previous criminal offense and the
32 specific license or employment sought; or (2) issuing the license or
33 hiring the person would involve an unreasonable risk to property or
34 to the safety or welfare of specific persons or the general public.
35 Employers are required to consider the following factors to
36 determine if either of these exceptions apply: (1) that this State's
37 policy is to encourage licensing and employing persons previously
38 convicted of one or more criminal offenses; (2) the specific duties
39 and responsibilities related to the license or employment sought; (3)
40 the bearing, if any, the criminal offense will have on the person's
41 fitness or ability to perform the required duties or responsibilities;
42 (4) how much time has elapsed since the offense was committed;
43 (5) the person's age when the offense was committed; (6) the
44 seriousness of the offense; (7) information provided by the person
45 showing rehabilitation and good conduct; and (8) the legitimate
46 interest of the public agency or private employer in protecting
47 property and the safety and welfare of specific individuals or
48 general public.

1 Under the bill, the issuance of a certificate of rehabilitation to a
2 person creates a presumption of rehabilitation in regard to the
3 offenses to which the certificate applies. An employer is required
4 to consider the certificate in determining whether either of the
5 exceptions apply.

6 The rights of employers with respect to an intentional
7 misrepresentation in connection with an application for employment
8 made by a prospective employee or previously made by a current
9 employee are not affected by the provisions of the bill.