SENATE, No. 132

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:
Senator JAMES W. HOLZAPFEL
District 10 (Ocean)

Co-Sponsored by:
Senator Corrado

SYNOPSIS

Requires police notification when driver's license is suspended.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.

AN ACT concerning driver's license suspensions or revocations and amending R.S.39:5-30.

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

1. R.S.39:5-30 is amended to read as follows:

39:5-30. a. Every registration certificate, every license certificate, every privilege to drive motor vehicles, including commercial motor vehicles as defined in P.L.1990, c.103 (C.39:3-10.9 et al.), every endorsement, class of license, and commercial driver 's license, may be suspended or revoked, and any person may be prohibited from obtaining a driver's license or a registration certificate, or disqualified from obtaining any class of or endorsement on a commercial driver's license, and the reciprocity privilege of any nonresident may be suspended or revoked by the **[**director**]** chief administrator for a violation of any of the provisions of this Title or on any other reasonable grounds, after due notice in writing of **[**such**]** the proposed suspension, revocation, disqualification or prohibition and the ground thereof.

[He**]** The chief administrator may also summon witnesses to appear before him at his office or at any other place he designates, to give testimony in a hearing which he holds looking toward a revocation of a license or registration certificate issued by or under his authority. The summons shall be served at least five days before the return date, either by registered mail or personal service. A person who fails to obey the summons shall be subject to a penalty not exceeding **[**$100.00**]** $100, to be recovered with costs in an action at law, prosecuted by the Attorney General, and in addition the vehicle registration or driver's license, or both, as the case may be, shall forthwith be revoked. The fee for witnesses required to attend before the **[**director**]** chief administrator shall be **[**$1.00**]** $1 for each day's attendance and $0.03 for every mile of travel by the nearest generally traveled route in going to and from the place where the attendance of the witness is required. These fees shall be paid when the witness is excused from further attendance, and the disbursements made from payment of the fees shall be audited and paid in the manner provided for expenses of the **[**department**]** commission. The actual conduct of **[**said**]** the hearing may be delegated by the **[**director**]** chief administrator to **[**such departmental**]** commission employees as he may designate, in which case the **[**said**]** employees shall recommend to the **[**director**]** chief administrator in writing whether the **[**said**]** licenses or 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.

b. Whenever a matter is presented to the ⟦director⟧ chief administrator involving an alleged violation of

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

(2) R.S.39:4-50, and which has resulted in the death of another;

(3) R.S.39:4-96, and which has resulted in the death of another; or

(4) R.S.39:4-129, wherein the death of another has occurred, and the ⟦director⟧ chief administrator has not determined to immediately issue a preliminary suspension pursuant to subsection e. of this section, the ⟦director⟧ chief administrator shall issue a notice of proposed final suspension or revocation of any license certificate or any nonresident reciprocity privilege to operate any motor vehicle or motorized bicycle held by the individual charged or temporary order prohibiting the individual from obtaining any license to operate any motor vehicle or motorized bicycle in this State.

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

Upon receipt of a timely request for a plenary hearing, a preliminary hearing shall be held by an administrative law judge within 15 days of the receipt of the request. The preliminary hearing shall be for the purpose of determining whether, pending a plenary hearing on the proposed final agency action, a preliminary suspension shall be immediately issued by the judge. Adjournment of ⟦such⟧ the hearing upon motion by the individual charged shall be given only for good cause shown.

At the preliminary hearing, the parties shall proceed on the papers submitted to the judge, including the summons, the police reports and the charged individual's prior driving record submitted by the ⟦division⟧ commission, and any brief affidavits permitted by the judge from persons who shall be witnesses at the plenary hearing, and the parties may present oral argument. Based on the papers, on any oral argument, on the individual's prior driving record, and on the circumstances of the alleged violation presented in the papers, the judge shall determine whether the individual was properly charged with a violation of the law and a death occurred; and, if so, whether in the interest of public safety, a preliminary suspension shall be immediately ordered pending the plenary hearing on the proposed suspension or revocation. The administrative law judge shall transmit his findings to the ⟦director⟧ chief administrator.

A plenary hearing shall be held no later than the 45th day following the preliminary hearing. Adjournment of the hearing shall be given only for good cause shown. If the hearing is otherwise postponed or delayed solely at the instance of the individual charged, the administrative law judge shall immediately issue a preliminary suspension of any license certificate or any nonresident reciprocity privilege held by the individual charged, or if any **[**such**]** preliminary suspension or order is in effect, he shall continue **[**such**]** the suspension or order. **[**Such**]** The preliminary suspension or temporary order shall remain in effect pending a final agency decision on the matter. If the hearing is otherwise postponed or delayed at the instance of anyone other than the individual charged, the judge shall immediately issue an order restoring the individual's license certificate or any nonresident reciprocity privilege pending final agency decision in the matter. The period of any preliminary suspension imposed under this section shall be deducted from any suspension imposed by the final agency decision in the matter.

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

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

e. Whenever a matter is presented to the **[**director**]** chief administrator involving an alleged violation of

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

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

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

(4) R.S.39:4-129, wherein the death or serious bodily injury of another has occurred, the **[**director**]** chief administrator for good cause may, without hearing, immediately issue a preliminary suspension of any license certificate or any nonresident reciprocity privilege to operate any motor vehicle or motorized bicycle held by an individual charged or temporary order prohibiting the individual from obtaining any license to operate any motor vehicle or motorized bicycle in this State. For purposes of this subsection, "serious bodily injury" means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ. Along with the notice of preliminary

suspension, the [director] chief administrator shall issue a notice of proposed final suspension, revocation or other final agency action, and shall afford the individual the right to a preliminary hearing to contest the preliminary suspension and a plenary hearing to contest the proposed final agency action.

The preliminary suspension shall remain in effect pending a final agency decision on the proposed final agency action, unless a request for a preliminary hearing is received by the [division] commission no later than the 10th day from the date on which the notice was mailed. The proposed final agency action shall take effect on the date specified in the notice unless a request for a plenary hearing is received by the [division] commission no later than the 10th day from the date on which the notice was mailed.

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

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

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

f. In addition to any other final agency action, the [director] chief administrator shall require any person whose privileges to operate a motor vehicle or motorized bicycle are suspended or who has been prohibited from obtaining a license, pursuant to this section, to be reexamined to determine the person's ability to

operate a motor vehicle or motorized bicycle, prior to regaining or obtaining any driving privileges in this State.

When a person's privileges to operate a motor vehicle or motorized bicycle are suspended or revoked, the chief administrator shall notify, by electronic means, the law enforcement agency of the jurisdiction wherein the person resides.

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

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

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

2. This act shall take effect immediately.

STATEMENT

This bill requires the Chief Administrator of the New Jersey Motor Vehicle Commission, upon the suspension or revocation of a person's driver's license, to notify through electronic means the law enforcement agency with jurisdiction over the place where the person resides. R.S.39:5-30 authorizes the chief administrator to suspend or revoke a person's driver's license for a violation of Title 39, the motor vehicle code, or on other reasonable grounds.