

# ASSEMBLY, No. 1672

## STATE OF NEW JERSEY 213th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2008 SESSION

**Sponsored by:**

**Assemblywoman ALISON LITTELL MCHOSE**

**District 24 (Sussex, Hunterdon and Morris)**

**Assemblywoman JOAN M. VOSS**

**District 38 (Bergen)**

**Assemblywoman PAMELA R. LAMPITT**

**District 6 (Camden)**

**SYNOPSIS**

Requires MVC to immediately suspend driver's license of alleged drunk drivers who cause a death.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel



**(Sponsorship Updated As Of: 3/4/2008)**

1 AN ACT concerning immediate driver's license suspension in  
2 certain cases and 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 proposed suspension, revocation,  
20 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. The actual conduct of said hearing may be delegated by  
40 the **[director]** chief administrator to such departmental employees  
41 as he may designate, in which case the said employees shall  
42 recommend to the **[director]** chief administrator in writing whether  
43 the said licenses or certificates shall or shall not be suspended or  
44 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 (Deleted by amendment, P.L. \_\_\_\_\_, c. \_\_\_\_\_ (pending before the  
8 Legislature as this bill));

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

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

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

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

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

1 hearing on the proposed suspension or revocation. The  
2 administrative law judge shall transmit his findings to the  
3 **【director】** chief administrator.

4 A plenary hearing shall be held no later than the 45th day  
5 following the preliminary hearing. Adjournment of the hearing  
6 shall be given only for good cause shown. If the hearing is  
7 otherwise postponed or delayed solely at the instance of the  
8 individual charged, the administrative law judge shall immediately  
9 issue a preliminary suspension of any license certificate or any  
10 nonresident reciprocity privilege held by the individual charged, or  
11 if any such preliminary suspension or order is in effect, he shall  
12 continue such suspension or order. Such preliminary suspension or  
13 temporary order shall remain in effect pending a final agency  
14 decision on the matter. If the hearing is otherwise postponed or  
15 delayed at the instance of anyone other than the individual charged,  
16 the judge shall immediately issue an order restoring the individual's  
17 license certificate or any nonresident reciprocity privilege pending  
18 final 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 wherein the death of another occurred and for which he determines  
24 immediate action is warranted, he may proceed in the manner  
25 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.

1 Whenever a matter is presented to the chief administrator  
2 involving an alleged violation of R.S.39:4-50, which has resulted in  
3 the death of another, the chief administrator shall, without hearing,  
4 immediately issue a preliminary suspension of any license  
5 certificate or any nonresident reciprocity privilege to operate any  
6 motor vehicle or motorized bicycle held by an individual charged or  
7 temporary order prohibiting the individual from obtaining any  
8 license to operate any motor vehicle or motorized bicycle in this  
9 State.

10 For purposes of this subsection, "serious bodily injury" means  
11 bodily injury which creates a substantial risk of death or which  
12 causes serious, permanent disfigurement, or protracted loss or  
13 impairment of the function of any bodily member or organ. Along  
14 with the notice of preliminary suspension, the **[director]** chief  
15 administrator shall issue a notice of proposed final suspension,  
16 revocation or other final agency action, and shall afford the  
17 individual the right to a preliminary hearing to contest the  
18 preliminary suspension and a plenary hearing to contest the  
19 proposed final agency action.

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

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

41 At the preliminary hearing, the parties shall proceed on the  
42 papers submitted to the judge, including the summons, the police  
43 reports and the charged individual's prior driving record submitted  
44 by the **[division]** commission, and any brief affidavits permitted  
45 by the judge from persons who shall be witnesses at the final  
46 hearing, and the parties may present oral arguments. Based on the  
47 papers, on any oral argument, on the individual's prior driving

1 record, and on the circumstances of the alleged violation presented  
2 in the papers, the judge shall immediately determine whether the  
3 individual was properly charged with a violation of the law and a  
4 death occurred; and, if so, whether in the interest of public safety,  
5 the preliminary suspension shall be continued pending the final  
6 agency decision on the matter. The administrative law judge shall  
7 transmit his findings to the **[director]** chief administrator.

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

11 f. In addition to any other final agency action, the **[director]**  
12 chief administrator shall require any person whose privileges to  
13 operate a motor vehicle or motorized bicycle are suspended or who  
14 has been prohibited from obtaining a license, pursuant to this  
15 section, to be reexamined to determine the person's ability to  
16 operate a motor vehicle or motorized bicycle, prior to regaining or  
17 obtaining any driving privileges in this State.

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

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

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

1       2. This act shall take effect immediately.

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STATEMENT

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6       This bill would require the Chief Administrator of the New  
7 Jersey Motor Vehicle Commission to immediately suspend, without  
8 a hearing, the driver's license of a person who has allegedly  
9 committed drunk driving resulting in another person's death. The  
10 chief administrator is authorized under current law to immediately  
11 suspend a person's license under these circumstances, but it is not  
12 mandatory. This bill would make it mandatory.