Sponsored by:
Senator CHRISTOPHER "KIP" BATEMAN
District 16 (Hunterdon, Mercer, Middlesex and Somerset)

SYNOPSIS
Clarifies that period of suspension remains in effect until driver’s license is restored in certain cases.

CURRENT VERSION OF TEXT
As introduced.
AN ACT concerning driving with a suspended license and amending P.L.2009, c.333.

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

1. Section 1 of P.L.2009, c.333 (C.2C:40-26) is amended to read as follows:
   a. It shall be a crime of the fourth degree to operate a motor vehicle during the period of license suspension in violation of R.S.39:3-40 and until the license has been restored, if the actor's license was suspended or revoked for a first violation of R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a) and the actor had previously been convicted of violating R.S.39:3-40 while under suspension for that first offense. A person convicted of an offense under this subsection shall be sentenced by the court to a term of imprisonment.
   b. It shall be a crime of the fourth degree to operate a motor vehicle during the period of license suspension in violation of R.S.39:3-40 and until the license has been restored, if the actor's license was suspended or revoked for a second or subsequent violation of R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a). A person convicted of an offense under this subsection shall be sentenced by the court to a term of imprisonment.
   c. Notwithstanding the term of imprisonment provided under N.J.S.2C:43-6 and the provisions of subsection e. of N.J.S.2C:44-1, if a person is convicted of a crime under this section the sentence imposed shall include a fixed minimum sentence of not less than 180 days during which the defendant shall not be eligible for parole.

2. This act shall take effect immediately.

STATEMENT

This bill clarifies current law to provide that a person can be charged with the crime of operating a motor vehicle during a period of license suspension: 1) while the period of suspension is in effect, and 2) until the driver’s license has been restored by the Motor Vehicle Commission (MVC).

Current law provides that in certain instances of driving while suspended, where the underlying suspension is due to a DWI conviction, a person commits a fourth degree crime in addition to violating the Motor Vehicle Code. In recent years, there was a

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.
divergence in the way these criminal cases were being handled
across the State. The divergence was based on differing
interpretations of the statute; specifically, whether the statute
provided that a charge could arise only when a person was driving
during the actual period of suspension, or if a charge could arise in
cases where the period of suspension had expired, but the individual
was driving without having the license restored by MVC.

Recently, the Appellate Division of the Superior Court
2015), certif. denied, “that the statute criminalizes the operation of a
motor vehicle only while the operator is serving the court-imposed
term of suspension and not thereafter.” Appeal of this decision was
denied certification by the New Jersey Supreme Court.

Accordingly, scores of cases brought against repeat offenders
charged with driving without a valid license, due to a suspension
based on a DWI conviction, have been dismissed throughout the
State.

In response to this decision, the bill amends current law to
specifically provide that a person may be charged for driving during
the court-imposed period of suspension and for driving after its
conclusion, but before the driver’s license has been restored.