

ASSEMBLY, No. 52

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblyman KAVANAUGH

1 AN ACT concerning restricted use licenses, amending R.S.39:3-40 and
2 supplementing chapter 4 of Title 39 of the Revised Statutes.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. (New section) a. A person who forfeits the right to operate a
8 motor vehicle over the highways of this State pursuant to a conviction
9 for a first offense of R.S.39:4-50 and whose New Jersey driver's
10 license has been collected by the court and forwarded to the Director
11 of the Division of Motor Vehicles may thereafter apply to that court
12 for a restricted use driver's license.

13 b. A person convicted of a first offense of R.S.39:4-50 shall be
14 ineligible to apply for a restricted use driver's license if:

15 (1) the person previously has been convicted of a violation of
16 R.S.39:4-50 or a similar offense under the laws of another state or the
17 federal government; or

18 (2) death resulted during the commission of the offense for which
19 the person has been convicted.

20 c. A person who applies for a restricted use driver's license shall
21 include with the application an affidavit certifying:

22 (1) the hours during which and the locations between which it is
23 necessary for him personally to operate a motor vehicle;

24 (2) that he has no other reasonable means of traveling to and from
25 the place of employment or education at an accredited school, college
26 or university or at a State-approved institution of vocational or
27 technical training, or of pursuing his employment or education, or
28 both, other than by the personal operation of a motor vehicle;

29 (3) that he or his family, or both, will suffer substantial financial or
30 other hardship if he is unable personally to operate a motor vehicle;
31 and

32 (4) that he has paid the fine imposed and served any period of

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 detailment or term of imprisonment imposed by the court for
2 conviction of a first offense of R.S.39:4-50.

3

4 2. (New section) a. An application to the court for a restricted use
5 driver's license shall be accompanied by certification from the
6 administrator of the Intoxicated Driver Resource Center established
7 pursuant to subsection f. of R.S.39:4-50 to which the applicant has
8 been referred upon conviction of a first offense of R.S.39:4-50, that
9 the applicant is a good risk for a restricted use driver's license.

10 b. The certification shall be in a form approved by the Division of
11 Alcoholism in the Department of Health.

12 c. The administrator of the Intoxicated Driver Resource Center
13 may require the applicant to complete all or any portion of the
14 screening, evaluation, referral and program requirements imposed
15 upon the applicant by the Intoxicated Driver Resource Center for
16 conviction of a first offense of R.S.39:4-50, before certifying that the
17 applicant is a good risk for a restricted use driver's license.

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19 3. (New section) a. Upon submission of the personal affidavit
20 required by section 1 of this act and the certification of good risk as
21 required by section 2 of this act, the court may recommend to the
22 Director of the Division of Motor Vehicles that the director issue a
23 restricted use driver's license to the applicant. When determining
24 whether or not to recommend that a restricted use driver's license be
25 issued, the court shall consider, among others, the following criteria:

26 (1) the severity of financial hardship imposed upon the defendant by
27 a complete denial of driving privileges;

28 (2) the circumstances surrounding the commission of the offense;
29 and

30 (3) the probability that the defendant will repeat the offense.

31 b. If the court does not recommend to the director that a restricted
32 use driver's license be issued, the application shall be deemed denied.

33 c. Notice of the court's decision regarding the application for a
34 restricted use driver's license shall be forwarded to the applicant within
35 30 days after application is made.

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37 4. (New section) a. The Director of the Division of Motor
38 Vehicles may issue a restricted use driver's license to a person who has
39 applied therefor pursuant to section 1 of this act if the court has
40 recommended the issuance pursuant to section 3 of this act. In making
41 a determination, the director shall consider the criteria provided for in
42 subsection a. of section 3 of this act. The director shall not be bound
43 by the court's recommendation. The director shall notify the applicant
44 of the approval or denial of the application within seven days of
45 receiving the court's recommendation. If the application is approved,
46 the notice shall provide instructions concerning the issuance of the

1 restricted use driver's license. The restricted use driver's license shall
2 be in a form prescribed by the director and shall be issued as promptly
3 as is practicable in accordance with procedures established by the
4 director.

5 b. A restricted use driver's license issued under this section shall
6 authorize the licensee to operate a motor vehicle during certain hours
7 and between certain points solely for the purpose of either traveling to
8 and from his place of employment or education or pursuing his
9 employment or education, or both. The limitations on the authorized
10 use of the license shall be determined by the director, and those
11 limitations as well as the penalties provided for in subsection d. of this
12 section shall be indicated on the license. The director may impose a
13 fee of no more than \$15.00 for the issuance of a restricted use driver's
14 license.

15 c. A restricted use driver's license shall expire at the time of the
16 expiration of the suspension or revocation period of the licensee's
17 basic driver's license or on the last day of the twelfth month following
18 the calendar month in which the restricted use driver's license was
19 issued, whichever is earlier. If a restricted use licensee's basic driver's
20 license has been suspended or revoked for a period in excess of one
21 year, the licensee may re-apply to the director in accordance with
22 procedures established by the director, during the twelfth calendar
23 month following the calendar month in which the restricted use license
24 was issued.

25 d. Restricted use driver licensees shall be subject to the following
26 penalties:

27 (1) A restricted use licensee who operates a motor vehicle between
28 points or during hours other than those indicated on the restricted use
29 driver's license shall be fined not less than \$500.00 or more than
30 \$1,000.00, and shall be ordered by the court to perform community
31 service for a period of 30 days, and shall be sentenced to imprisonment
32 for a term of not less than 48 consecutive hours, which shall not be
33 suspended or served on probation, or more than 90 days. If, while
34 operating a motor vehicle during unauthorized hours or between
35 unauthorized points, a licensee is involved in an accident resulting in
36 personal injury or death to another person, the sentence of
37 imprisonment shall be for not less than 45 days. In addition, the
38 director immediately shall revoke the person's restricted use driver's
39 license and shall extend the period of suspension or revocation of the
40 licensee's basic driver's license for an additional period of two years.
41 After the additional period of suspension or revocation expires, the
42 licensee may apply to the director for a license to operate a motor
43 vehicle, which application may be granted at the discretion of the
44 director.

45 (2) If a restricted use licensee commits a moving violation under
46 subtitle 1 of Title 39 of the Revised Statutes while traveling between

1 points and during hours indicated on his restricted use driver's license,
2 the director shall immediately revoke the person's restricted use
3 driver's license.

4 (3) If a restricted use licensee violates the provisions of
5 R.S.39:4-50, notwithstanding the penalty provisions provided for
6 therein and without regard to whether the violation occurred during
7 authorized hours or between authorized points, the licensee shall be
8 fined not less than \$1,000.00 or more than \$1,500.00, and shall be
9 imprisoned for a term of 180 days, and shall thereafter forfeit his right
10 to operate a motor vehicle over the highways of this State for 10
11 years.

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

14 39:3-40. No person to whom a driver's license has been refused or
15 whose driver's license or reciprocity privilege has been suspended or
16 revoked, or who has been prohibited from obtaining a driver's license,
17 shall personally operate a motor vehicle during the period of refusal,
18 suspension, revocation, or prohibition, except as provided for by P.L.
19 ____, c. (C.) (now pending before the Legislature as this bill).

20 No person whose motor vehicle registration has been revoked shall
21 operate or permit the operation of such motor vehicle during the
22 period of such revocation.

23 A person violating this section shall be subject to the following
24 penalties:

25 a. Upon conviction for a first offense, a fine of \$500.00;

26 b. Upon conviction for a second offense, a fine of \$750.00 and
27 imprisonment in the county jail for not more than five days;

28 c. Upon conviction for a third offense, a fine of \$1,000.00 and
29 imprisonment in the county jail for 10 days;

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

32 e. Upon conviction, the court shall impose a period of
33 imprisonment for not less than 45 days, if while operating a vehicle in
34 violation of this section a person is involved in an accident resulting in
35 personal injury.

36 Notwithstanding paragraphs a. through e., any person violating this
37 section while under a suspension issued pursuant to R.S.39:4-50, upon
38 conviction, shall be fined \$500.00, shall have his license to operate a
39 motor vehicle suspended for an additional period of not less than one
40 year nor more than two years, and may be imprisoned in the county jail
41 for not more than 90 days.

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43 6. This act shall take effect on the 90th day after enactment.

STATEMENT

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3 This bill permits a person whose driver's license has been forfeited
4 upon conviction of a first offense of operating a motor vehicle while
5 under the influence of an intoxicant or drugs in violation of
6 R.S.39:4-50 to apply for a restricted use driver's license in order to
7 travel to and from his place of employment or education, or both.

8 The applicant must provide an affidavit and certification to the
9 court which initially revoked or suspended the driver's license. The
10 application must set forth the hardship involved, the restricted use to
11 be made and the satisfaction of any fines or terms of detainment or
12 imprisonment. The certification must be obtained from the
13 administrator of the Intoxicated Driver Resource Center to which the
14 applicant was referred for a violation of R.S.39:4-50 and must state
15 that the applicant is a good risk for receipt of the restricted license.
16 If the court makes a recommendation in favor of granting the license,
17 the application is referred to the Director of the Division of Motor
18 Vehicles, who makes the final determination. Application is
19 unavailable to any person convicted of a previous offense under
20 R.S.39:4-50, or to a first offender of R.S.39:4-50 if a death resulted
21 during the commission of the offense.

22 A person who obtains a restricted use driver's license is subject to
23 certain penalties if he violates the restrictions imposed on him or
24 violates motor vehicle laws while the restricted use license is in effect.
25 If the licensee operates a motor vehicle between points or during hours
26 other than those indicated on the license, he will receive penalties
27 based on those imposed upon a person convicted of a second offense
28 of drunken driving (R.S.39:4-50). If, during unauthorized operation
29 of a motor vehicle, he is involved in an accident resulting in death or
30 personal injury, he will receive the same penalties, except that he will
31 be sentenced to imprisonment for not less than 45 days. If a licensee
32 commits a moving violation while operating a motor vehicle as
33 authorized on the restricted use license, the restricted use license
34 immediately will be revoked. If a licensee commits another violation
35 of R.S.39:4-50 while the restricted use license is in effect, he will be
36 fined not less than \$1,000.00 or more than \$1,500.00, will be
37 imprisoned for 180 days, and will forfeit his right to operate a motor
38 vehicle for 10 years. These penalties are based upon the penalties
39 imposed for a third or subsequent offense of drunken driving
40 (R.S.39:4-50), except that the maximum fine is higher and the
41 sentence of imprisonment cannot be reduced by the performance of
42 community service

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3 Permits a first offender of the drunken driving law to apply for a
4 restricted use driver's license.