

ASSEMBLY, No. 782

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblywoman FARRAGHER

1 AN ACT to suspend, upon conviction for a drug offense, a
2 professional, occupational or business license, certificate,
3 registration, or permit held by the offender, amending chapter 1 of
4 Title 45 of the Revised Statutes and chapter 168A of Title 2A of
5 the New Jersey Statutes, and supplementing chapter 35 of the New
6 Jersey Statutes.

7

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

10

11 1. (New section) a. If a person is convicted of a crime under the
12 Comprehensive Drug Reform Act of 1987, P.L.1987, c.106 (C.
13 2C:35-1 et seq.), the court shall suspend any valid license, certificate,
14 registration, or permit which is held by that person. This mandatory
15 suspension shall include all licenses, certificates, registration and
16 permits which have been issued directly to, or in the name of that
17 person, as a private individual and which are required by State law, or
18 regulations promulgated thereto, to be obtained for the purpose of
19 enabling a person to practice a profession, engage in an occupation, or
20 own or operate a commercial enterprise. The suspension shall be in
21 addition to any other disposition the court is authorized by statute to
22 make for a conviction and shall be imposed notwithstanding the
23 provisions of any other statute concerning the issuance, revocation, or
24 suspension of that particular license, certificate, registration, or permit
25 to the contrary.

26 The suspension shall be for a period of two years and shall
27 commence on the date sentence is imposed.

28 A person convicted of a crime under P.L.1987, c.106 (C.2C:35-1
29 et seq.) shall be ineligible to apply for or to receive a license,
30 certificate, registration, or permit to enable that person to practice a
31 profession, engage in an occupation, or own or operate a commercial
32 enterprise for two years from the date of conviction.

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 b. Upon the imposition of a suspension, the court shall notify the
2 convicted person orally and in writing of the suspension and of that
3 person's ineligibility to apply for and receive a license, certificate,
4 registration, or permit required by statute or by regulation
5 promulgated thereto.

6 c. In addition, the court shall immediately notify in writing the
7 department, board, agency, or commission which issued the license,
8 certificate, registration, or permit of the suspension. The notice shall
9 indicate, in addition to any information necessary to identify the person
10 convicted, the first and last date of the suspension period, the
11 identification number, if any and if known, of the license, certificate,
12 registration, or permit and the offense for which the person was
13 convicted.

14 d. Notwithstanding any other statute or regulation concerning the
15 suspension or revocation of licenses, certificates, registrations, or
16 permits, a department, board, agency or commission which receives
17 such a notice from a court shall promptly accept and note the
18 suspension in its records and take whatever action it ordinarily takes
19 to give public notice when a license, certificate, registration, or permit
20 is suspended or revoked.

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22 2. Section 2 of P.L.1968, c.282 (C.2A:168A-1) is amended to read
23 as follows:

24 2. The Legislature finds and declares that it is in the public interest
25 to assist the rehabilitation of convicted offenders by removing
26 impediments and restrictions upon their ability to obtain employment
27 or to participate in vocational or educational rehabilitation programs
28 based solely upon the existence of a criminal record.

29 Therefore, the Legislature finds and declares that notwithstanding
30 the contrary provisions of any law or rule or regulation issued
31 pursuant to law, a person shall not be disqualified or discriminated
32 against by any licensing authority because of any conviction for a
33 crime, unless N.J.S.2C:51-2 is applicable or unless the conviction
34 relates adversely to the occupation, trade, vocation, profession or
35 business for which the license or certificate is sought, or unless the
36 conviction is for a crime under the Comprehensive Drug Reform Act
37 of 1987, P.L.1987, c.106 (C.2C:35-1 et seq.).

38 (cf: P.L.1981, c.487, s.3)

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40 3. Section 2 of P.L.1968, c.282 (C.2A:168A-2) is amended to read
41 as follows:

42 2. (a) Notwithstanding the contrary provisions of any law or rule
43 or regulation issued pursuant to law, no State, county or municipal
44 department, board, officer or agency, hereinafter referred to as
45 "licensing authority" authorized to pass upon the qualifications of any
46 applicant for a license or certificate of authority or qualification to

1 engage in the practice of a profession or business or for admission to
2 an examination to qualify for such a license or certificate may
3 disqualify or discriminate against an applicant for a license or
4 certificate or an application for admission to a qualifying examination
5 on the grounds that the applicant has been convicted of a crime, or
6 adjudged a disorderly person, except that a licensing authority (1)
7 shall disqualify an applicant if required by subsection b. of this section,
8 or (2) may disqualify or discriminate against an applicant for a license
9 or certificate if N.J.S.2C:51-2 is applicable or if a conviction for a
10 crime relates adversely to the occupation, trade, vocation, profession
11 or business for which the license or certificate is sought. In
12 determining that a conviction for a crime relates adversely to the
13 occupation, trade, vocation, profession or business, the licensing
14 authority shall explain in writing how the following factors, or any
15 other factors, relate to the license or certificate sought:

16 a. The nature and duties of the occupation, trade, vocation,
17 profession or business, a license or certificate for which the person is
18 applying;

19 b. Nature and seriousness of the crime;

20 c. Circumstances under which the crime occurred;

21 d. Date of the crime;

22 e. Age of the person when the crime was committed;

23 f. Whether the crime was an isolated or repeated incident;

24 g. Social conditions which may have contributed to the crime;

25 h. Any evidence of rehabilitation, including good conduct in prison
26 or in the community, counseling or psychiatric treatment received,
27 acquisition of additional academic or vocational schooling, successful
28 participation in correctional work-release programs, or the
29 recommendation of persons who have or have had the applicant under
30 their supervision.

31 (b) A licensing authority shall disqualify any applicant for a license
32 or certificate of authority or qualification to engage in the practice of
33 a profession or business or for admission to a qualifying examination
34 for such a license or certificate if the license, certificate, or
35 qualification is required by State law, or regulations promulgated
36 thereto, and the applicant has within two years prior to the date of the
37 application been convicted of a crime under the Comprehensive Drug
38 Reform Act of 1986, P.L.1987, c.106 (C.2C:35-1 et seq.)

39 (cf: P.L.1981, c.487, s.4)

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41 4. Section 1 of P.L.1975, c.382 (C.45:1-13) is amended to read as
42 follows:

43 1. It shall be a valid ground for the refusal to grant, revocation or
44 suspension of a license to practice a health care profession, subject to
45 regulation in this State, including the practice of pharmacy, or for the
46 refusal to admit to an examination a candidate for licensure, that the

1 licensee has prescribed or dispensed a controlled dangerous substance
2 or substances, as defined by the "New Jersey Controlled Dangerous
3 Substances Act", (P.L.1970, c.226) (C.24:21-1 et seq.), in an
4 indiscriminate manner, or not in good faith, or without good cause, or
5 where the licensee reasonably knows or should have known that the
6 substance or substances prescribed are to be used for unauthorized or
7 illicit consumption or distribution or that a substance or substances
8 previously prescribed or dispensed were used by the patient for
9 unauthorized or illicit consumption or distribution. It shall be a valid
10 ground for the revocation or suspension of a license to practice a
11 health care profession, which is regulated by State law or regulations
12 promulgated thereto, including the practice of pharmacy, if the
13 licensee has been convicted of a crime under the Comprehensive Drug
14 Reform Act of 1987, P.L.1987, c.106 (C.2C:35-1 et seq.) and the
15 license has been suspended pursuant to section 1 of P.L....., c....
16 (C.....) (now pending before the Legislature as this bill). It shall
17 also be a valid ground for the refusal to grant a license to practice a
18 health care profession, which is regulated by State law or regulations
19 promulgated thereto, including the practice of pharmacy, or to refuse
20 to admit to an examination a candidate for licensure if that candidate
21 has been convicted of a crime under the Comprehensive Drug Reform
22 Act of 1987, P.L.1987, c.106 (C.2C:35-1 et seq.) within two years
23 prior to the granting of the license or admission to the examination.
24 (cf. P.L.1975, c.382, s.1)

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26 5. Section 8 of P.L.1973, c.78 (C.45:1-21) is amended to read as
27 follows:

28 8. A board may refuse to admit a person to an examination or may
29 refuse to issue or may suspend or revoke any certificate, registration
30 or license issued by the board upon proof that the applicant or holder
31 of such certificate, registration or license

32 a. Has obtained a certificate, registration, license or authorization
33 to sit for an examination, as the case may be, through fraud, deception,
34 or misrepresentation;

35 b. Has engaged in the use or employment of dishonesty, fraud,
36 deception, misrepresentation, false promise or false pretense;

37 c. Has engaged in gross negligence, gross malpractice or gross
38 incompetence;

39 d. Has engaged in repeated acts of negligence, malpractice or
40 incompetence;

41 e. Has engaged in professional or occupational misconduct as may
42 be determined by the board;

43 f. Has been convicted of any crime involving moral turpitude or
44 any crime relating adversely to the activity regulated by the board. For
45 the purpose of this subsection a plea of guilty, non vult, nolo
46 contendere or any other such disposition of alleged criminal activity

1 shall be deemed a conviction;

2 g. Has had his authority to engage in the activity regulated by the
3 board revoked or suspended by any other state, agency or authority
4 for reasons consistent with this section;

5 h. Has violated or failed to comply with the provisions of any act
6 or regulation administered by the board;

7 i. Is incapable, for medical or any other good cause, of discharging
8 the functions of a licensee in a manner consistent with the public's
9 health, safety and welfare.

10 A board shall refuse to admit a person to an examination or shall
11 refuse to issue any certificate, registration or license upon proof that
12 the applicant was convicted of a crime under the Comprehensive Drug
13 Reform Act of 1987, P.L.1987, c.106 (C.2C:35-1 et seq.) within two
14 years prior to an application. A board shall suspend or revoke any
15 certificate, registration, or license upon proof that the holder has been
16 convicted of a crime under the Comprehensive Drug Reform Act of
17 1987, P.L.1987, c.106 (C.2C:35-1 et seq.).

18 (cf: P.L.1978, c.73, s.8)

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20 6. This act shall take effect immediately.

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STATEMENT

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25 This bill requires a court to suspend the professional, occupational,
26 or business license, certificate, registration, or permit of a person
27 convicted of a crime under the Comprehensive Drug Reform Act of
28 1987, P.L.1987, c.106 (C.2C:35-1 et seq.). This suspension applies
29 only to licenses, certificates, registrations, or permits issued pursuant
30 to statute or regulations promulgated thereto and which were issued
31 directly to or in the name of the convicted person. The suspension will
32 be for a period of two years and will commence on the date sentence
33 is imposed. The person will be ineligible for any other license,
34 certificate, registration, or permit required by statute for a profession,
35 occupation or business during the period of suspension.

36 A court is required to immediately notify in writing the department,
37 board, agency, or commission which issued the license, certificate,
38 registration, or permit and that issuing authority must accept the
39 suspension and note it in its records.

40 The bill also amends various sections of chapter 1 of Title 45 of the
41 Revised Statutes and of the Rehabilitated Convicted Offender Act,
42 P.L.1968, c.282 (C.2A:168A-1 et seq.) so that these sections of law
43 make reference to and acknowledge the suspension of professional and
44 occupational licenses required in section 1 of this bill .

45 The prevalence and growth of criminal activity involving the
46 unlawful manufacture, distribution, and sale of controlled dangerous

1 substances is unprecedented in our history; it is the single most
2 important health and law enforcement problem facing the citizens of
3 this State and our response must be aggressive and comprehensive. In
4 order to deter such activity, a potential drug offender must know that
5 punishment for this unlawful conduct will be swift and severe, and will
6 significantly affect his life and livelihood. Therefore, the sponsor
7 believes that, when a person is convicted of a drug offense, any
8 license, certificate, registration, or permit issued to that person by the
9 State for the purpose of enabling him to engage in a profession or
10 occupation, or to own or operate a business, should be suspended for
11 two years. The potential loss of a livelihood for a temporary period
12 will have a significant deterrent effect on a person who contemplates
13 the commission of a drug offense.

14 In addition, it is incompatible with the health, safety and welfare of
15 society for the State to permit a person who is convicted of criminal
16 drug activity to continue to engage, after the conviction, in a
17 profession or occupation, or to own or operate a business, with a
18 license, certificate, registration, or permit which is required by State
19 law.

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24 _____
25 Suspends professional, occupational or business license, certificate,
registration or permit upon conviction for a drug offense.