

ASSEMBLY, No. 1840

STATE OF NEW JERSEY

INTRODUCED MAY 2, 1996

By Assemblywoman QUIGLEY and Assemblyman  
HOLZAPFEL

1 AN ACT concerning suspension or postponement of driving privileges  
2 and amending N.J.S.2C:35-16.

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

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7 1. N.J.S.2C:35-16 is amended to read as follows:

8 2C:35-16. Mandatory Forfeiture or Postponement of Driving  
9 Privileges.

10 In addition to any disposition authorized by this title, the provisions  
11 of section 24 of P.L.1982, c.77 (C.2A:4A-43), or any other statute  
12 indicating the dispositions that can be ordered for an adjudication of  
13 delinquency, and notwithstanding the provisions of subsection c. of  
14 N.J.S.2C:43-2 every person convicted of or adjudicated delinquent for  
15 a violation of any offense defined in this chapter or chapter 36 of this  
16 title shall forthwith forfeit his right to operate a motor vehicle over the  
17 highways of this State for a period to be fixed by the court at not less  
18 than six months or more than two years which shall commence on the  
19 day the sentence is imposed. If the person will be serving a period of  
20 incarceration, the forfeiture or postponement shall commence on the  
21 day the sentence is imposed but shall be tolled during the period of  
22 incarceration and shall begin to run again upon the person's release.

23 In the case of any person who at the time of the imposition of sentence  
24 is less than 17 years of age, the period of the suspension of driving  
25 privileges authorized herein, including a suspension of the privilege of  
26 operating a motorized bicycle, shall commence on the day the sentence  
27 is imposed and shall run for a period as fixed by the court of not less  
28 than six months or more than two years after the day the person  
29 reaches the age of 17 years. If the driving privilege of any person is  
30 under revocation, suspension, or postponement for a violation of any  
31 provision of this title or Title 39 of the Revised Statutes at the time of  
32 any conviction or adjudication of delinquency for a violation of any  
33 offense defined in this chapter or chapter 36 of this title, the

**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 revocation, suspension, or postponement period imposed herein shall  
2 commence as of the date of termination of the existing revocation,  
3 suspension, or postponement but shall be tolled during the service of  
4 a period of incarceration imposed pursuant to this chapter or chapter  
5 36 of this Title.

6 The court before whom any person is convicted of or adjudicated  
7 delinquent for a violation of any offense defined in this chapter or  
8 chapter 36 of this title shall collect forthwith the New Jersey driver's  
9 license or licenses of the person and forward such license or licenses  
10 to the Director of the Division of Motor Vehicles along with a report  
11 indicating the first and last day of the suspension or postponement  
12 period imposed by the court pursuant to this section. For any person  
13 who will be incarcerated for a conviction or adjudication of  
14 delinquency for any offense defined in this chapter or chapter 36 of  
15 this Title, the court shall note that fact to the Director of the Division  
16 of Motor Vehicles when indicating the first day of any postponement  
17 or suspension. The last day of the period of postponement or  
18 suspension shall be calculated by the Division of Motor Vehicles upon  
19 notification by the Department of Corrections of the date that the  
20 person was incarcerated and the date the person was released. If the  
21 court is for any reason unable to collect the license or licenses of the  
22 person, the court shall cause a report of the conviction or adjudication  
23 of delinquency to be filed with the Director. That report shall include  
24 the complete name, address, date of birth, eye color, and sex of the  
25 person and shall indicate the first and last day of the suspension or  
26 postponement period imposed by the court pursuant to this section.  
27 The court shall inform the person orally and in writing that if the  
28 person is convicted of personally operating a motor vehicle during the  
29 period of license suspension or postponement imposed pursuant to this  
30 section, the person shall, upon conviction, be subject to the penalties  
31 set forth in R.S.39:3-40. A person shall be required to acknowledge  
32 receipt of the written notice in writing. Failure to receive a written  
33 notice or failure to acknowledge in writing the receipt of a written  
34 notice shall not be a defense to a subsequent charge of a violation of  
35 R.S.39:3-40. If the person is the holder of a driver's license from  
36 another jurisdiction, the court shall not collect the license but shall  
37 notify forthwith the Director who shall notify the appropriate officials  
38 in the licensing jurisdiction. The court shall, however, in accordance  
39 with the provisions of this section, revoke the person's non-resident  
40 driving privilege in this State.

41 In addition to any other condition imposed, a court may in its  
42 discretion suspend, revoke or postpone in accordance with the  
43 provisions of this section the driving privileges of a person admitted  
44 to supervisory treatment under N.J.S.2C:36A-1 or N.J.S.2C:43-12  
45 without a plea of guilty or finding of guilt.

46 (cf: P.L.1988, c.44, s.7)

1       2. This act shall take effect immediately.

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STATEMENT

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6       This bill amends N.J.S.A 2C: 35-16 concerning the suspension or  
7 postponement of driving privileges incident to conviction for a drug  
8 offense. This bill clarifies that any period of suspension or  
9 postponement shall toll while a person is incarcerated for the offense  
10 which triggered the imposition of the suspension or postponement.

11       Under the provisions of the bill the suspension or postponement is  
12 imposed as of the day of sentence (as is current practice) and the court  
13 collects the driver's license (also, current practice). However, under  
14 this bill, if the person will be serving a term of incarceration the judge  
15 does not note the last day of the suspension or postponement since it  
16 may be unknown given the possible uncertainty of the length of the  
17 prison term. The Department of Corrections will notify the Director  
18 of the Division of Motor Vehicles when the person is released and  
19 provide the dates of the term of incarceration. DMV will then  
20 calculate the last day of the postponement or suspension .

21       The sponsor hopes that this tolling of the license loss will make the  
22 sanction more meaningful. Since the period of suspension or  
23 postponemnt can run from 6 months to two years, the sanction may be  
24 meaningless for persons serving longer terms of incarceration.

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29       Tolls loss of driving privileges incident to drug offense while person  
30 is incarcerated.