

ASSEMBLY, No. 2327

STATE OF NEW JERSEY

INTRODUCED SEPTEMBER 16, 1996

By Assemblywoman QUIGLEY, Assemblymen Garcia,
Greenwald, Assemblywoman Cruz-Perez, Assemblyman
Caraballo, Assemblywoman Weinberg, Assemblyman Doria,
Assemblywoman Allen, Assemblyman DeSopo and
Assemblywoman Crecco

1 AN ACT concerning driver's license suspensions and amending
2 R.S.39:5-30.

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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. R.S.39:5-30 is amended to read as follows:

8 39:5-30. a. Every registration certificate, every license certificate,
9 every privilege to drive motor vehicles, including commercial motor
10 vehicles as defined in P.L.1990, c.103 (C.39:3-10.9 et al., every
11 endorsement, class of license, and commercial driver license, may be
12 suspended or revoked, and any person may be prohibited from
13 obtaining a driver's license or a registration certificate, or disqualified
14 from obtaining any class of or endorsement on a commercial driver
15 license, and the reciprocity privilege of any nonresident may be
16 suspended or revoked by the director for a violation of any of the
17 provisions of this Title or on any other reasonable grounds, after due
18 notice in writing of such proposed suspension, revocation,
19 disqualification or prohibition and the ground thereof. With respect
20 to notice given concerning parking violations under section 9 of
21 P.L.1985, c.14 (C.39:4-139.10), the notice of proposed final
22 suspension of a license shall be served no later than the first day of the
23 fourth year following the date of the last violation. Failure to comply
24 with this deadline shall result in the dismissal of the last complaint with
25 prejudice. The notice shall be served by certified mail with return
26 receipt or, if unclaimed or refused, may be served by personal service.
27 The notice shall clearly state the reason for the suspension, including
28 all pertinent facts concerning the latest parking violation such as the
29 license plate number, location of the violation and the make and model
30 of the vehicle.

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 [He] The director may also summon witnesses to appear before him
2 at his office or at any other place he designates, to give testimony in
3 a hearing which he holds looking toward a revocation of a license or
4 registration certificate issued by or under his authority. The summons
5 shall be served at least five days before the return date, either by
6 registered mail or personal service. A person who fails to obey the
7 summons shall be subject to a penalty not exceeding \$100.00, to be
8 recovered with costs in an action at law, prosecuted by the Attorney
9 General, and in addition the vehicle registration or driver's license, or
10 both, as the case may be, shall forthwith be revoked. The fee for
11 witnesses required to attend before the director shall be \$1.00 for each
12 day's attendance and \$0.03 for every mile of travel by the nearest
13 generally traveled route in going to and from the place where the
14 attendance of the witness is required. These fees shall be paid when
15 the witness is excused from further attendance, and the disbursements
16 made from payment of the fees shall be audited and paid in the manner
17 provided for expenses of the department. The actual conduct of said
18 hearing may be delegated by the director to such departmental
19 employees as he may designate, in which case the said employees shall
20 recommend to the director in writing whether the said licenses or
21 certificates shall or shall not be suspended or revoked.

22 b. Whenever a matter is presented to the director involving an
23 alleged violation of

24 (1) R.S.39:4-98, where an excess of 20 miles per hour over the
25 authorized speed limit is alleged, and which has resulted in the death
26 of another;

27 (2) R.S.39:4-50, and which has resulted in the death of another;

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

29 (4) R.S.39:4-129, wherein the death of another has occurred, and
30 the director has not determined to immediately issue a preliminary
31 suspension pursuant to subsection e. of this section, the director shall
32 issue a notice of proposed final suspension or revocation of any license
33 certificate or any nonresident reciprocity privilege to operate any
34 motor vehicle or motorized bicycle held by the individual charged or
35 temporary order prohibiting the individual from obtaining any license
36 to operate any motor vehicle or motorized bicycle in this State.

37 In the notice, the director shall provide the individual charged with
38 an opportunity for a plenary hearing to contest the proposed final
39 suspension, revocation or other final agency action. Unless the
40 division receives, no later than the 10th day from the date the notice
41 was mailed, a written request for hearing, the proposed final agency
42 action shall take effect on the date specified in the notice.

43 Upon receipt of a timely request for a plenary hearing, a preliminary
44 hearing shall be held by an administrative law judge within 15 days of
45 the receipt of the request. The preliminary hearing shall be for the
46 purpose of determining whether, pending a plenary hearing on the

1 proposed final agency action, a preliminary suspension shall be
2 immediately issued by the judge. Adjournment of such hearing upon
3 motion by the individual charged shall be given only for good cause
4 shown.

5 At the preliminary hearing, the parties shall proceed on the papers
6 submitted to the judge, including the summons, the police reports and
7 the charged individual's prior driving record submitted by the division,
8 and any brief affidavits permitted by the judge from persons who shall
9 be witnesses at the plenary hearing, and the parties may present oral
10 argument. Based on the papers, on any oral argument, on the
11 individual's prior driving record, and on the circumstances of the
12 alleged violation presented in the papers, the judge shall determine
13 whether the individual was properly charged with a violation of the
14 law and a death occurred; and, if so, whether in the interest of public
15 safety, a preliminary suspension shall be immediately ordered pending
16 the plenary hearing on the proposed suspension or revocation. The
17 administrative law judge shall transmit his findings to the director.

18 A plenary hearing shall be held no later than the 45th day following
19 the preliminary hearing. Adjournment of the hearing shall be given
20 only for good cause shown. If the hearing is otherwise postponed or
21 delayed solely at the instance of the individual charged, the
22 administrative law judge shall immediately issue a preliminary
23 suspension of any license certificate or any nonresident reciprocity
24 privilege held by the individual charged, or if any such preliminary
25 suspension or order is in effect, he shall continue such suspension or
26 order. Such preliminary suspension or temporary order shall remain
27 in effect pending a final agency decision on the matter. If the hearing
28 is otherwise postponed or delayed at the instance of anyone other than
29 the individual charged, the judge shall immediately issue an order
30 restoring the individual's license certificate or any nonresident
31 reciprocity privilege pending final agency decision in the matter. The
32 period of any preliminary suspension imposed under this section shall
33 be deducted from any suspension imposed by the final agency decision
34 in the matter.

35 c. Whenever any other matter is presented to the director involving
36 an alleged violation of this title, wherein the death of another occurred
37 and for which he determines immediate action is warranted, he may
38 proceed in the manner prescribed in subsection b. above.

39 d. Whenever a fatal accident occurs in this State, an investigation
40 of the incident, whether performed by the State Police or by local
41 police, shall be completed and forwarded to the director within 72
42 hours of the time of the accident.

43 e. Whenever a matter is presented to the director involving an
44 alleged violation of

45 (1) R.S.39:4-98, where an excess of 20 miles per hour over the
46 authorized speed limit is alleged, and which has resulted in the death

1 or serious bodily injury of another;

2 (2) R.S.39:4-50, which has resulted in the death or serious bodily
3 injury of another;

4 (3) R.S.39:4-96 or R.S.39:4-97, which has resulted in the death or
5 serious bodily injury of another; or

6 (4) R.S.39:4-129, wherein the death or serious bodily injury of
7 another has occurred, the director for good cause may, without
8 hearing, immediately issue a preliminary suspension of any license
9 certificate or any nonresident reciprocity privilege to operate any
10 motor vehicle or motorized bicycle held by an individual charged or
11 temporary order prohibiting the individual from obtaining any license
12 to operate any motor vehicle or motorized bicycle in this State. For
13 purposes of this subsection, "serious bodily injury" means bodily injury
14 which creates a substantial risk of death or which causes serious,
15 permanent disfigurement, or protracted loss or impairment of the
16 function of any bodily member or organ. Along with the notice of
17 preliminary suspension, the director shall issue a notice of proposed
18 final suspension, revocation or other final agency action, and shall
19 afford the individual the right to a preliminary hearing to contest the
20 preliminary suspension and a plenary hearing to contest the proposed
21 final agency action.

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

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

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

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

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

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

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

21 (cf: P.L.1990, c.103, s.33)

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23 2. This act shall take effect on the first day of the fourth month
24 after enactment.

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STATEMENT

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29 Under current law, the Division of Motor Vehicles (DMV) may
30 provide notice by regular mail before suspending a motorist's driver's
31 license for failure to pay a parking judgment. This bill would require
32 that notice of a proposed final license suspension due to the failure of
33 a motorist to answer or appear in court in response to a failure to
34 appear notice, or the failure to pay outstanding parking fines or
35 penalties must be served by certified mail. DMV would have the
36 option of requesting a return receipt or of delivering the notice by
37 personal service if the mailed notice is refused or unclaimed.

38 Current law does not now stipulate a time limit for notifying
39 motorists of the loss of driving privileges following such a parking
40 violation or a series of violations. This bill would set a limit of three
41 years for such notice to be made from the date of the last violation;
42 otherwise, the last complaint will be dismissed. This time limit is a
43 response to some reports of motorists receiving notices of license
44 suspensions for violations that occurred years earlier. The bill also
45 requires a clear statement of the reasons for the suspension action
46 along with an explanation of relevant information concerning the last

1 parking violation that was responsible for the loss of driving privileges.

2 The bill's provisions give greater protection to motorists who may
3 be subjected to harsh penalties for unknowingly driving with a
4 suspended license.

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9 Revises notification process for suspending license for failure to pay
10 parking ticket.