

SENATE, No. 882

STATE OF NEW JERSEY

INTRODUCED MARCH 7, 1996

By Senator ZANE

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) The Legislature finds that strict traffic laws  
8 enacted in recent years, in combination with increased enforcement  
9 efforts, have significantly reduced the number of fatal accidents on the  
10 streets and highways of this State. According to statistics compiled by  
11 the Division of Highway Traffic Safety in the Department of Law and  
12 Public Safety, highway fatalities decreased from 1,051 in 1988 to 871  
13 in 1989.

14 The mandatory suspension of offenders' driving privileges has  
15 contributed in no small part to this decline. These tough penalties  
16 have kept habitual traffic law offenders, those who drive without  
17 proper insurance coverage, and problem drinkers off the roads.  
18 Moreover, these laws convey a clear message: the operation of a  
19 motor vehicle on the public highways of New Jersey is a privilege that  
20 must be earned by responsible behavior and adherence to the law.

21 Notwithstanding these positive benefits, the Legislature recognizes  
22 that the suspension of driving privileges can have adverse, if  
23 unintended, effects on persons whose licenses are suspended and on  
24 their families. The suspension of driving privileges may result in a loss  
25 of livelihood to those without an alternate means of transportation to  
26 work. Residents of rural areas where few public transportation  
27 services are available are particularly vulnerable in this regard. Also,  
28 under the current laws, persons whose occupations require them to  
29 operate a vehicle face a similar loss of livelihood.

30 As an effective law must have swift and certain sanctions, a just law  
31 should strive to temper its penalties with compassion. It is fitting and  
32 proper, therefore, that provision be made to mitigate the potentially  
33 devastating effects of a suspension of driving privileges on certain  
34 first-time offenders, those who are most unlikely to repeat their

**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 offenses. The restricted use driver's license authorized under this act,  
2 will allow these persons the use of their vehicles solely to pursue their  
3 livelihoods. The restricted use driver's license authorized under this  
4 act will not be available to persons who have a driving while under the  
5 influence violation pursuant to R.S.39:4-50 on their record.  
6 Concurrently, the strong penalties provided herein for the abuse of this  
7 privilege will serve to reaffirm this State's resolve to assure the safe  
8 use of its streets and highways.

9

10 2. (New section) As used in this act:

11 "Restricted use license" means a license to operate a motor vehicle  
12 exclusively for employment-related purposes in compliance with the  
13 terms of this act. The license shall be of a color that makes it readily  
14 distinguishable from other driver's licenses issued by the State.

15 "Restricted use placard" means a rectangular sign of at least 12  
16 inches by 8 inches, in the same color as a restricted use license,  
17 bearing the words "restricted use vehicle" in bold letters at least one  
18 inch high.

19

20 3. (New section) a. A person who forfeits the right to operate a  
21 motor vehicle over the highways of this State pursuant to section 2 of  
22 P.L.1972, c.197 (C.39:6B-2) or section 4 of P.L.1982, c.43  
23 (C.39:5-30.8) may apply to the Director of the Division of Motor  
24 Vehicles for a restricted use license.

25 b. A person whose driver's license has been forfeited pursuant to  
26 these laws shall be ineligible to apply for a restricted use driver's  
27 license if:

28 (1) the person previously has been convicted of a violation of  
29 section 2 of P.L.1972, c.197 (C.39:6B-2) or forfeited his license  
30 pursuant to section 4 of P.L.1982, c.43 (C.39:5-30.8);

31 (2) the person previously has been convicted of or forfeited his  
32 license for a similar offense under the laws of another state or the  
33 federal government;

34 (3) death or serious bodily injury resulted during the commission  
35 of the offense for which the person's license has been forfeited; or

36 (4) the offense for which the person forfeited his license involved  
37 driving at a speed more than 15 miles in excess of the legal limit  
38 governed by R.S.39:4-98, a violation of R.S.39:4-96, or a violation of  
39 section 1 of P.L.1942, c.192 (C.39:4-128.1). In the case of a  
40 forfeiture pursuant to section 4 of P.L.1982, c.43 (C.39:5-30.8), this  
41 subsection shall apply to any offense for which the motor vehicle  
42 points were issued; or

43 (5) the person has been convicted of a violation of R.S.39:4-50.

44 c. A person who applies for a restricted use license shall certify in  
45 the application:

46 (1) his place of employment and the hours during which he is

1 employed;

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

4 (3) that no means of public transportation to his place of  
5 employment exists within one mile of his home;

6 (4) whether and, if so, in what manner he is required to operate a  
7 motor vehicle as a condition of employment;

8 (5) that he has no other reasonable means of traveling to and from  
9 the place of employment or of pursuing his employment other than by  
10 the personal operation of a motor vehicle; and (6) that he or his family,  
11 or both, will suffer substantial financial or other hardship if he is  
12 unable to personally operate a motor vehicle.

13 d. A restricted use license will be granted only on the condition that  
14 the applicant:

15 (1) pays any fine and serves any period of detainment or term of  
16 imprisonment imposed by the court in connection with the offense for  
17 which his driver's license is suspended; and

18 (2) provides proof that he possesses fully paid motor vehicle  
19 liability insurance in the amount required by law and for the duration  
20 of the requested restricted use license.

21

22 4. (New section) a. Before suspending the driver's license of any  
23 person for a violation of section 2 of P.L.1972, c.197 (C.39:6B-2), the  
24 court shall determine whether that person is eligible to apply for a  
25 restricted use license under the terms of this act. If the person is  
26 determined to be eligible to apply for a restricted use license, the court  
27 shall explain to him the conditions under which a such a license may  
28 be attained pursuant to this act. A person who requires a restricted  
29 use license for employment related purposes may so inform the court,  
30 which shall then issue the person an application for the license. The  
31 applicant shall complete the application and return it to the court.

32 Upon receiving the completed application, the court shall  
33 immediately issue to the applicant a temporary restricted use license  
34 and a temporary restricted use placard. Both shall be valid for 30 days  
35 unless rescinded by the director or replaced by an approved restricted  
36 use license and placard.

37 The court shall forward the application for a restricted use license  
38 to the division.

39 b. Before mailing a proposed notice to suspend the driver's license  
40 of a person pursuant to section 4 of P.L.1982, c.43 (C.39:5-30.8), the  
41 director shall determine whether that person is eligible to apply for a  
42 restricted use license under the terms of this act. If the person is  
43 determined to be eligible to apply for a restricted use license, the  
44 director shall mail with the notice to suspend a notification that the  
45 person is eligible to apply for a restricted use license and an  
46 explanation of the conditions under which such a license may be

1 obtained pursuant to this act. A person so notified who requires a  
2 restricted use license for employment related purposes may apply for  
3 such a license within 15 days of the mailing of the notice to suspend  
4 by returning a completed application to the director by mail or to a  
5 facility designated by the director.

6 Upon receiving the completed application, the director shall issue  
7 to the applicant a temporary restricted use license and a temporary  
8 restricted use placard. Both shall be valid for 30 days unless rescinded  
9 by the director or replaced by an approved restricted use license and  
10 placard.

11

12 5. (New section) a. The Director of the Division of Motor  
13 Vehicles may issue an approved restricted use license to a person who  
14 has applied for one pursuant to section 4 of this act. In making a  
15 determination, the director shall consider the information provided in  
16 the application, any prior offenses by the applicant, and the criteria  
17 provided for in subsection b. of this section. The director shall notify  
18 the applicant of the approval or denial of the application within seven  
19 working days of its receipt. If the application is approved, the notice  
20 shall provide instructions concerning the issuance of the restricted use  
21 license. If the application is denied, the director shall immediately  
22 rescind the applicant's temporary restricted use license. The director  
23 also shall notify the court which issued the applicant's temporary  
24 restricted use license of this decision. The restricted use license shall  
25 be in a form prescribed by the director and shall be issued as promptly  
26 as is practicable in accordance with procedures established by the  
27 director.

28 b. When determining whether to issue a restricted use license, the  
29 director shall consider, but not be limited to, the following criteria:

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

32 (2) the circumstances surrounding the commission of the offense;  
33 and

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

35 c. A restricted use license issued under this act shall authorize the  
36 licensee to operate a motor vehicle during certain hours and between  
37 certain points solely for the purpose of either traveling to and from his  
38 place of employment or pursuing his employment. The limitations on  
39 the authorized use of the license shall be determined by the director,  
40 and those limitations as well as the penalties provided for in section 6  
41 of this act shall be indicated on the license. The license shall be in  
42 form prescribed by the director. The license shall be bright pink in  
43 color or, if not feasible, another color selected by the director which  
44 readily distinguishes it from other driver's licenses issued by this State.  
45 The director may impose a fee of no more than \$50 for the issuance of  
46 a restricted use license.

1 d. The director shall issue a restricted use placard to each approved  
2 restricted use licensee. The placard shall be prominently displayed in  
3 the rear window, or other location determined by the director, of any  
4 vehicle being driven by a restricted use licensee. The placard shall be  
5 the same color as the restricted use license. No fee shall be charged  
6 for the issuance of the placard. The limitations on the authorized use  
7 of the placard shall be determined by the director, and those limitations  
8 as well as the penalties provided for in section 6 of this act shall be  
9 indicated on the placard.

10 e. A restricted use license shall expire at the time of the expiration  
11 of the suspension or revocation period of the licensee's driver's license  
12 or on the last day of the twelfth month following the calendar month  
13 in which the restricted use license was issued, whichever is earlier.

14 f. A restricted use license shall be issued only to persons whose  
15 driver's licenses are suspended or revoked after the effective date of  
16 this act.

17

18 6. The following penalties shall apply with regard to the issuance  
19 and use of restricted use licenses:

20 (1) An applicant who deliberately falsifies an application for a  
21 restricted use license shall have the suspension or revocation of his  
22 driver's license extended for a period of one year.

23 (2) A restricted use licensee who operates a motor vehicle  
24 between points or during hours other than those indicated on the  
25 restricted use license shall be fined not less than \$500 or more than  
26 \$1,000, and shall be ordered by the court to perform community  
27 service for a period of 30 days, and shall be sentenced to imprisonment  
28 for a term of not less than five days or more than 90 days. The  
29 director shall immediately rescind the licensee's restricted use license  
30 and shall extend the suspension or revocation of his driver's license for  
31 a period of two years.

32 (3) If, while operating a motor vehicle during unauthorized hours  
33 or between unauthorized points, a licensee is convicted of causing an  
34 accident resulting in personal injury or death to another person, he  
35 shall be fined not less than \$1,000 or more that \$5,000, shall be  
36 ordered by the court to perform community service for a period of 30  
37 days, and shall be sentenced to imprisonment for a term of not less  
38 than 10 days or more than 120 days. The director shall immediately  
39 rescind the licensee's restricted use license and shall extend the  
40 suspension or revocation of his basic driver's license for a period of  
41 five years.

42 (4) If a restricted use licensee commits a moving violation under  
43 Title 39 of the Revised Statutes while traveling between points and  
44 during hours indicated on his restricted use license, the director shall  
45 immediately rescind the person's restricted use license and reinstate the  
46 full term of the original suspension or revocation of his driver's license.

1 (5) If a restricted use licensee violates the provisions of  
2 R.S.39:4-50, the licensee shall be fined not less than \$1,000 or more  
3 than \$5,000 and shall be imprisoned for a term of 180 days. The  
4 director shall immediately rescind the person's restricted use license  
5 and extend the suspension or revocation of his driver's license for a  
6 period of 10 years.

7 (6) Penalties in this section shall be applied in addition to any other  
8 penalties required by law for a violation of the motor vehicle laws.

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10 7. R.S.39:3-40 is amended to read as follows:

11 39:3-40. No person to whom a driver's license has been refused or  
12 whose driver's license or reciprocity privilege has been suspended or  
13 revoked, or who has been prohibited from obtaining a driver's license,  
14 shall personally operate a motor vehicle during the period of refusal,  
15 suspension, revocation, or prohibition , except as provided for by  
16 P.L. , c. (C. )(now pending before the Legislature as this bill).

17 No person whose motor vehicle registration has been revoked shall  
18 operate or permit the operation of such motor vehicle during the  
19 period of such revocation.

20 A person violating this section shall be subject to the following  
21 penalties:

22 a. Upon conviction for a first offense, a fine of \$500.00 and, if that  
23 offense involves the operation of a motor vehicle during a period when  
24 the violator's driver's license is suspended for a violation of  
25 R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a),  
26 revocation of the violator's motor vehicle registration privilege in  
27 accordance with the provisions of sections 2 through 6 of P.L.1995,  
28 c.286 (C.39:3-40.1 through C.39:3-40.5);

29 b. Upon conviction for a second offense, a fine of \$750.00,  
30 imprisonment in the county jail for not more than five days and, if the  
31 second offense involves the operation of a motor vehicle during a  
32 period when the violator's driver's license is suspended and that second  
33 offense occurs within five years of a conviction for that same offense,  
34 revocation of the violator's motor vehicle registration privilege in  
35 accordance with the provisions of sections 2 through 6 of P.L.1995,  
36 c.286 (C.39:3-40.1 through C.39:3-40.5);

37 c. Upon conviction for a third offense or subsequent offense, a  
38 fine of \$1,000.00, imprisonment in the county jail for 10 days and, if  
39 the third offense involves the operation of a motor vehicle during a  
40 period when the violator's driver's license is suspended and that third  
41 offense occurs within five years of a conviction for the same offense,  
42 revocation of the violator's motor vehicle registration privilege in  
43 accordance with the provisions of sections 2 through 6 of P.L.1995,  
44 c.286 (C.39:3-40.1 through C.39:3-40.5);

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

1 e. Upon conviction, the court shall impose a period of  
2 imprisonment for not less than 45 days, if while operating a vehicle in  
3 violation of this section a person is involved in an accident resulting in  
4 personal injury to another person;

5 f. (1) Notwithstanding subsections a. through e., any person  
6 violating this section while under suspension issued pursuant to section  
7 2 of P.L.1972, c.197 (C.39:6B-2), upon conviction, shall be fined  
8 \$500.00, shall have his license to operate a motor vehicle suspended  
9 for an additional period of not less than one year nor more than two  
10 years, and may be imprisoned in the county jail for not more than 90  
11 days.

12 (2) Notwithstanding the provisions of subsections a. through e. of  
13 this section and paragraph (1) of this subsection, any person violating  
14 this section under suspension issued pursuant to R.S.39:4-50, section  
15 2 of P.L.1981, c.512 (C.39:4-50.4a) or P.L.1982, c.85 (C.39:5-30 et  
16 seq.), shall be fined \$500, shall have his license to operate a motor  
17 vehicle suspended for an additional period of not less than one year or  
18 more than two years, and shall be imprisoned in the county jail for not  
19 less than 10 days or more than 90 days.

20 g. In addition to the other applicable penalties provided under this  
21 section, a person violating this section whose license has been  
22 suspended pursuant to section 6 of P.L.1983, c.65 (C.17:29A-35) or  
23 the regulations adopted thereunder, shall be fined \$3,000. The court  
24 shall waive the fine upon proof that the person has paid the total  
25 surcharge imposed pursuant to section 6 of P.L.1983, c.65  
26 (C.17:29A-35) or the regulations adopted thereunder.  
27 Notwithstanding the provisions of R.S.39:5-41, the fine imposed  
28 pursuant to this subsection shall be collected by the Division of Motor  
29 Vehicles pursuant to section 6 of P.L.1983, c.65 (C.17:29A-35), and  
30 distributed as provided in that section, and the court shall file a copy  
31 of the judgment of conviction with the director and with the Clerk of  
32 the Superior Court who shall enter the following information upon the  
33 record of docketed judgments: the name of the person as judgment  
34 debtor; the Division of Motor Vehicles as judgment creditor; the  
35 amount of the fine; and the date of the order. These entries shall have  
36 the same force and effect as any civil judgment docketed in the  
37 Superior Court;

38 h. A person who owns or leases a motor vehicle and permits  
39 another to operate the motor vehicle commits a violation and is subject  
40 to suspension of his license to operate a motor vehicle and to  
41 revocation of registration pursuant to sections 2 through 6 of  
42 P.L.1995, c.286 (C.39:3-40.1 through C.39:3-40.5) if the person:

43 (1) Knows that the operator's license to operate a motor vehicle  
44 has been suspended for a violation of R.S.39:4-50 or section 2 of  
45 P.L.1981, c.512 (C.39:4-50.4a); or

46 (2) Knows that the operator's license to operate a motor vehicle is

1 suspended and that the operator has been convicted, within the past  
2 five years, of operating a vehicle while the person's license was  
3 suspended or revoked.  
4 (cf: P.L.1995, c.286, s.1)

1 8. This act shall take effect on the 90th day after enactment.

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4 STATEMENT

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6 This bill would allow a first offender whose license has been  
7 suspended for violation of certain motor vehicle laws to apply for a  
8 restricted use license. The license would be used exclusively for  
9 traveling to work, when other transportation is not available, and for  
10 driving on the job where that is a condition of employment. The bill  
11 is intended to mitigate the adverse effects of a suspension of driving  
12 privileges on certain persons who must drive motor vehicles to  
13 maintain their employment.

14 Persons convicted of a first offense for driving without required  
15 motor vehicle liability insurance would be eligible to apply for a  
16 restricted use license. Persons whose licenses were suspended for the  
17 first time for an accumulation of motor vehicle points also would be  
18 eligible to apply. However, persons whose licenses were previously  
19 suspended under these laws would be ineligible as would those whose  
20 offense involved death or seriously bodily injury, exceeding the speed  
21 limit by more than 15 miles an hour, reckless driving or illegally  
22 passing a school bus. Persons with drunk driving convictions would  
23 not be eligible for this restricted use license.

24 An applicant for a restricted use license would be required to certify  
25 to the satisfaction of the Director of the Division of Motor Vehicles  
26 that no other reasonable means of traveling from his job exists and that  
27 he will suffer substantial financial hardship if the license is not granted.  
28 A restricted use license would be granted only if all fines are paid and  
29 sentences completed in connection with the license suspension and  
30 proof of fully paid liability insurance is provided.

31 The restricted use license would be of a distinctive color which  
32 would distinguish it from other driver's licenses issued by this State.  
33 The license would contain the specific hours and place for which its  
34 use is permitted. In addition, the licensee would be required to display  
35 a prominent placard of similar color in the rear window of any vehicle  
36 he is operating.

37 A restricted use licensee would face penalties for violating the  
38 restrictions imposed or for violating motor vehicle laws while using a  
39 restricted use license. These penalties are in addition to those already  
40 required by law.

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46 Permits certain first-time motor vehicle offenders to apply for  
restricted use license.