

SENATE, No. 1234

STATE OF NEW JERSEY

INTRODUCED JUNE 3, 1996

By Senator ZANE

1 AN ACT concerning the collection of Merit Rating Plan surcharges and
2 amending P.L.1983, c.65.

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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. Section 6 of P.L.1983, c.65 (C.17:29A-35) is amended to read
8 as follows:

9 6. a. A merit rating accident surcharge system for private
10 passenger automobiles may be used in the voluntary market, by the
11 New Jersey Automobile Full Insurance Underwriting Association
12 created pursuant to section 16 of P.L.1983, c.65 (C.17:30E-4), by the
13 Market Transition Facility created pursuant to section 88 of P.L.1990,
14 c.8 (C.17:33B-11), and by any insurance plan established to provide
15 private passenger automobile insurance pursuant to section 1 of
16 P.L.1970, c.215 (C.17:29D-1). No surcharges shall be imposed on or
17 after the operative date of this act, unless there is an at-fault accident
18 within a three-year period immediately preceding the effective date of
19 coverage which results in payment by the insurer of at least a \$300.00
20 claim. All moneys collected under this subsection shall be retained by
21 the insurer assessing the surcharge. Accident surcharges shall be
22 imposed for a three-year period and shall, for each filer, be uniform on
23 a Statewide basis without regard to classification or territory.

24 b. There is created a New Jersey Merit Rating Plan which shall
25 apply to all drivers and shall include, but not be limited to, the
26 following provisions:

27 (1) (a) Plan surcharges shall be levied, beginning on or after
28 January 1, 1984, by the Division of Motor Vehicles on any driver who
29 has accumulated, within the immediately preceding three-year period,
30 beginning on or after February 10, 1983, six or more motor vehicle
31 points, as provided in Title 39 of the Revised Statutes, exclusive of
32 any points for convictions for which surcharges are levied under
33 paragraph (2) of this subsection; except that the allowance for a
34 reduction of points in Title 39 of the Revised Statutes shall not apply

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 for the purpose of determining surcharges under this paragraph.
2 Surcharges shall be levied for each year in which the driver possesses
3 six or more points. Surcharges assessed pursuant to this paragraph
4 shall be \$100.00 for six points, and \$25.00 for each additional point.

5 (b) (Deleted by amendment, P.L.1984, c.1.)

6 (2) Plan surcharges shall be levied for convictions (a) under
7 R.S.39:4-50 for violations occurring on or after February 10, 1983,
8 and (b) under section 2 of P.L.1981, c.512 (C.39:4-50.4a), or for
9 offenses committed in other jurisdictions of a substantially similar
10 nature to those under R.S.39:4-50 or section 2 of P.L.1981, c.512
11 (C.39:4-50.4a), for violations occurring on or after January 26, 1984.
12 Except as hereinafter provided, surcharges under this paragraph shall
13 be levied annually for a three-year period, and shall be \$1,000.00 per
14 year for each of the first two convictions, for a total surcharge of
15 \$3,000 for each conviction, and \$1,500.00 per year for the third
16 conviction occurring within a three-year period, for a total surcharge
17 of \$4,500 for the third conviction. If a driver is convicted under both
18 R.S.39:4-50 and section 2 of P.L.1981, c.512 (C.39:4-50.4a) for
19 offenses arising out of the same incident, the driver shall be assessed
20 only one surcharge for the two offenses.

21 If, upon written notification from the Division of Motor Vehicles,
22 mailed to the last address of record with the division, a driver fails to
23 pay a surcharge levied under this subsection, the license of the driver
24 shall be suspended forthwith until the surcharge is paid to the Division
25 of Motor Vehicles; except that the Division of Motor Vehicles may
26 authorize payment of the surcharge on an installment basis over a
27 period not to exceed 12 months. If a driver fails to pay the surcharge
28 or any installments on the surcharge, the total surcharge shall become
29 due immediately.

30 The director may authorize any person to pay the surcharge levied
31 under this section by use of a credit card, and the director is
32 authorized to require the person to pay all costs incurred by the
33 division in connection with the acceptance of the credit card.

34 In addition to any other remedy provided by law, the director is
35 authorized to utilize the provisions of the SOIL (Setoff of Individual
36 Liability) program established pursuant to P.L.1981, c.239
37 (C.54A:9-8.1 et seq.) to collect any surcharge levied under this section
38 that is unpaid on or after the effective date of this act. As an
39 additional remedy, the director may issue a certificate to the Clerk of
40 the Superior Court stating that the person identified in the certificate
41 is indebted under this surcharge law in such amount as shall be stated
42 in the certificate. The certificate shall reference the statute under
43 which the indebtedness arises. Thereupon the clerk to whom such
44 certificate shall have been issued shall immediately enter upon the
45 record of docketed judgments the name of such person as debtor; the
46 State as creditor; the address of such person, if shown in the

1 certificate; the amount of the debt so certified; a reference to the
2 statute under which the surcharge is assessed, and the date of making
3 such entries. The docketing of the entries shall have the same force
4 and effect as a civil judgment docketed in the Superior Court, and the
5 director shall have all the remedies and may take all of the proceedings
6 for the collection thereof which may be had or taken upon the
7 recovery of a judgment in an action, but without prejudice to any right
8 of appeal. Upon entry by the clerk of the certificate in the record of
9 docketed judgments in accordance with this provision, interest in the
10 amount specified by the court rules for post-judgment interest shall
11 accrue from the date of the docketing of the certificate, however
12 payment of the interest may be waived by the director. In the event
13 that the surcharge remains unpaid following the issuance of the
14 certificate of debt and the director takes any further collection action
15 including referral of the matter to the Attorney General or his
16 designee, the fee imposed, in lieu of the actual cost of collection, may
17 be 20 percent of the surcharge or \$200, whichever is greater. The
18 director shall provide written notification to a driver of the proposed
19 filing of the certificate of debt 10 days prior to the proposed filing;
20 such notice shall be mailed to the driver's last address of record with
21 the division.

22 All moneys collectible under this subsection b. shall be billed and
23 collected by the Division of Motor Vehicles. Of the moneys collected:
24 10%, or the actual cost of administering the collection of the
25 surcharge, whichever is less, shall be retained by the Division of Motor
26 Vehicles until August 31, 1996; five percent, or the actual cost of
27 administering the cancellation notification system established pursuant
28 to section 50 of P.L.1990, c.8 (C.17:33B-41), whichever is less, shall
29 be retained by the Division of Motor Vehicles until August 31, 1996;
30 and prior to October 1, 1991, the remainder shall be remitted to the
31 New Jersey Automobile Full Insurance Underwriting Association and
32 on or after October 1, 1991 until August 31, 1996, the remainder shall
33 be remitted to the New Jersey Automobile Insurance Guaranty Fund
34 created pursuant to section 23 of P.L.1990, c.8 (C.17:33B-5).
35 Commencing on September 1, 1996, or such earlier time as the
36 Commissioner of Insurance shall certify to the State Treasurer that
37 amounts on deposit in the New Jersey Automobile Insurance Guaranty
38 Fund are sufficient to satisfy the current and anticipated financial
39 obligations of the New Jersey Automobile Full Insurance Underwriting
40 Association, all plan surcharges collected by the Division of Motor
41 Vehicles under this subsection b. shall be remitted to the Division of
42 Motor Vehicles Surcharge Fund for transfer to the Market Transition
43 Facility Revenue Fund, as provided in section 12 of P.L.1994, c.57
44 (C.34:1B-21.12), for the purposes of section 4 of P.L.1994, c.57
45 (C.34:1B-21.4) until such a time as all the Market Transition Facility
46 bonds, notes and obligations issued pursuant to that section 4 of that

1 act and the costs thereof are discharged and no longer outstanding.
2 From the date of certification by the Commissioner of Insurance that
3 the moneys collectible under this subsection are no longer needed to
4 fund the association or at such a time as all Market Transition Facility
5 bonds, notes and obligations issued pursuant to section 4 of P.L.1994,
6 c.57 (C.34:1B-21.4) and the costs thereof are discharged and no
7 longer outstanding moneys collectible under this subsection shall,
8 subject to appropriation, be remitted to the New Jersey
9 Property-Liability Insurance Guaranty Association created pursuant to
10 section 6 of P.L.1974, c.17 (C.17:30A-6) to be used for payment of
11 any loans made by that association to the New Jersey Automobile
12 Insurance Guaranty Fund pursuant to paragraph (10) of subsection a.
13 of section 8 of P.L.1974, c.17 (C.17:30A-8); provided that all such
14 payments shall be subject to and dependent upon appropriation by the
15 State Legislature.

16 (3) In addition to any other authority provided in P.L.1983, c.65
17 (C.17:29A-33 et al.), the commissioner, after consultation with the
18 Director of the Division of Motor Vehicles, is specifically authorized
19 (a) (Deleted by amendment, P.L.1994, c.64), (b) to impose, in
20 accordance with paragraph (1)(a) of this subsection, and, except as
21 provided in this subsection, surcharges for motor vehicle violations or
22 convictions for which motor vehicle points are not assessed under
23 Title 39 of the Revised Statutes, or (c) to reduce the number of points
24 for which surcharges may be assessed below the level provided in
25 paragraph (1)(a) of this subsection, except that the dollar amount of
26 all surcharges levied under the New Jersey Merit Rating Plan shall be
27 uniform on a Statewide basis for each filer, without regard to
28 classification or territory. Surcharges adopted by the commissioner on
29 or after January 1, 1984 for motor vehicle violations or convictions for
30 which motor vehicle points are not assessable under Title 39 of the
31 Revised Statutes shall not be retroactively applied but shall take effect
32 on the date of the New Jersey Register in which notice of adoption
33 appears or the effective date set forth in that notice, whichever is later.
34 A Merit Rating Plan surcharge shall not be imposed upon a person for
35 driving with an expired driver's license in violation of R.S.39:3-10 if
36 the license was expired for 12 months or less and the person was
37 otherwise qualified to possess the license at the time of license
38 expiration.

39 c. No motor vehicle violation surcharges shall be levied on an
40 automobile insurance policy issued or renewed on or after January 1,
41 1984, except in accordance with the New Jersey Merit Rating Plan,
42 and all surcharges levied thereunder shall be assessed, collected and
43 distributed in accordance with subsection b. of this section.

44 d. (Deleted by amendment, P.L.1990, c.8.)

45 e. The Commissioner of Insurance and the Director of the Division
46 of Motor Vehicles as may be appropriate, shall adopt any rules and

1 regulations necessary or appropriate to effectuate the purposes of this
2 section.

3 (cf: P.L.1994, c.64, s.1)

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5 2. This act shall take effect on the first day of the second month
6 after enactment and be applicable to all violations occurring after the
7 effective date.

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10 STATEMENT

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12 This bill would eliminate, in certain instances, the \$100 per year
13 insurance surcharge collected for three years by the Division of Motor
14 Vehicles (DMV) from a motorist who fails to renew an otherwise valid
15 driver's license. Drivers whose licenses had expired for one year or
16 less and who were otherwise qualified to possess the license would be
17 exempted from payment of the surcharge.

18 The surcharges were established by P.L.1983, c.65 (C.17:29A-33
19 et seq.) to defray the debt incurred by insurance programs for high-risk
20 drivers. An amendment to that act granted the Commissioner of
21 Insurance the authority to impose surcharges based on motor vehicle
22 violations or convictions that do not carry point assessments as well
23 as those which do. Regulations promulgated by DMV at
24 N.J.A.C.13:19-13.1 established the surcharge for driving with an
25 expired license.

26 The sponsor contends that the intent of the surcharge program was
27 to make high-risk drivers financially responsible for the higher cost of
28 insurance. A person whose only offense is to inadvertently drive with
29 an expired license cannot reasonably be deemed to be a high-risk
30 driver.

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35 Prohibits assessment of insurance surcharges on persons with certain
36 expired licenses.