

# SENATE, No. 1080

# STATE OF NEW JERSEY

## 218th LEGISLATURE

INTRODUCED JANUARY 22, 2018

**Sponsored by:**

**Senator SHIRLEY K. TURNER**

**District 15 (Hunterdon and Mercer)**

**SYNOPSIS**

Establishes restricted use driver's license endorsement for certain motor vehicle offenders with suspended license.

**CURRENT VERSION OF TEXT**

As introduced.

**AN ACT** establishing a restricted use driver's license endorsement, amending R.S.39:3-40, and supplementing Title 39 of the Revised Statutes.

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

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

39:3-40. **[No]** A person to whom a driver's license has been refused or whose driver's license or reciprocity privilege has been suspended or revoked, or who has been prohibited from obtaining a driver's license, shall not personally operate a motor vehicle during the period of refusal, suspension, revocation, or prohibition, except as provided in section 3 of P.L. \_\_\_\_\_, c. \_\_\_\_\_ (C. \_\_\_\_\_) (pending before the Legislature as this bill).

**[No]** A person whose motor vehicle registration has been revoked shall not operate or permit the operation of **[such]** the motor vehicle during the period of **[such]** revocation.

Except as provided in subsections i. and j. of this section, a person violating this section shall be subject to the following penalties:

a. Upon conviction for a first offense, a fine of **[\$500.00]** \$500 and, if that offense involves the operation of a motor vehicle during a period when the violator's driver's license is suspended for a violation of R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a), revocation of the violator's motor vehicle

registration privilege in accordance with the provisions of sections 2 through 6 of P.L.1995, c.286 (C.39:3-40.1 through C.39:3-40.5);

b. Upon conviction for a second offense, a fine of **[\$750.00]** \$750, imprisonment in the county jail for at least one but not more than five days and, if the second offense involves the operation of a motor vehicle during a period when the violator's driver's license is suspended and that second offense occurs within five years of a conviction for that same offense, revocation of the violator's motor vehicle registration privilege in accordance with the provisions of sections 2 through 6 of P.L.1995, c.286 (C.39:3-40.1 through C.39:3-40.5);

c. Upon conviction for a third offense or subsequent offense, a fine of **[\$1,000.00]** \$1,000 and imprisonment in the county jail for 10 days. If the third or a subsequent offense involves the operation of a motor vehicle during a period when the violator's driver's license is suspended and the third or subsequent offense occurs within five years of a conviction for the same offense, revocation of the violator's motor vehicle registration privilege in accordance with the provisions of sections 2 through 6 of P.L.1995, c.286 (C.39:3-40.1 through C.39:3-40.5);

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

e. Upon conviction, the court shall impose a period of imprisonment for not less than 45 days or more than 180 days, if while operating a vehicle in violation of this section a person is involved in an accident resulting in bodily injury to another person;

f. (1) In addition to any penalty imposed under the provisions of subsections a. through e. of this section, any person violating this section while under suspension issued pursuant to section 2 of P.L.1972, c.197 (C.39:6B-2), upon conviction, shall be fined **[\$500.00]** \$500, shall have his license to operate a motor vehicle suspended for an additional period of not less than one year nor more than two years, and may be imprisoned in the county jail for not more than 90 days.

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

(3) In addition to any penalty imposed under the provisions of subsections a. through e. of this section and paragraphs (1) and (2) of this subsection, a person shall have his license to operate a motor vehicle suspended for an additional period of not less than one year or more than two years, which period shall commence upon the completion of any prison sentence imposed upon that person, shall be fined \$500 and shall be imprisoned for a period of 60 to 90 days for a first offense, imprisoned for a period of 120 to 150 days for a second offense, and imprisoned for 180 days for a third or subsequent offense, for operating a motor vehicle while in violation of paragraph (2) of this subsection while:

(a) on any school property used for school purposes which is owned by or leased to any elementary or secondary school or school board, or within 1,000 feet of such school property;

(b) driving through a school crossing as defined in R.S.39:1-1 if the municipality, by ordinance or resolution, has designated the school crossing as such; or

(c) driving through a school crossing as defined in R.S.39:1-1 knowing that juveniles are present if the municipality has not designated the school crossing as such by ordinance or resolution.

A map or true copy of a map depicting the location and boundaries of the area on or within 1,000 feet of any property used for school purposes which is owned by or leased to any elementary or secondary school or school board produced pursuant to section 1 of P.L.1987, c.101 (C.2C:35-7) may be used in a prosecution under subparagraph (a) of this paragraph.

It shall not be relevant to the imposition of sentence pursuant to subparagraph (a) or (b) of this paragraph that the defendant was unaware that the prohibited conduct took place while on or within 1,000 feet of any school property or while driving through a school crossing. Nor shall it be relevant to the imposition of sentence that no juveniles were present on the school property or crossing zone at the time of the offense or that the school was not in session;

g. (Deleted by amendment, P.L.2009, c.224);

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

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

(2) Knows that the operator's license or reciprocity privilege to operate a motor vehicle is suspended and that the operator has been convicted, within the past five years, of operating a vehicle while the person's license was suspended or revoked.

In any case where a person who owns or leases a motor vehicle knows that the operator's license or reciprocity privilege of the person he permits to operate the motor vehicle is suspended or revoked for any violation of R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a), the person also shall be subject to the following penalties: for a first or second offense, a fine of \$1,000, imprisonment for not more than 15 days, or both; and for a third or subsequent offense, a fine of \$1,000, imprisonment for not more than 15 days, or both, and forfeiture of the right to operate a motor vehicle over the highways of this State for a period of 90 days;

i. If the violator's driver's license to operate a motor vehicle has been suspended pursuant to section 9 of P.L.1985, c.14 (C.39:4-139.10) or for failure to comply with a time payment order, the violator shall be subject to a maximum fine of \$100 upon proof that the violator has paid all fines and other assessments related to the parking violation that were the subject of the Order of Suspension, or if the violator makes sufficient payments to become current with respect to payment obligations under the time payment order;

j. If a person is convicted for a second or subsequent violation of this section and the second or subsequent offense involves a motor vehicle moving violation, the term of imprisonment for the second or subsequent offense shall be 10 days longer than the term of imprisonment imposed for the previous offense.

For the purposes of this subsection, a "motor vehicle moving violation" means any violation of the motor vehicle laws of this State for which motor vehicle points are assessed by the chief administrator pursuant to section 1 of P.L.1982, c.43 (C.39:5-30.5).

(cf: P.L.2009, c.332, s.1)

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

"Chief Administrator" means the Chief Administrator of the New Jersey Motor Vehicle Commission.

"Restricted use driver's license endorsement" or "endorsement" means an endorsement to a basic driver's license issued to a person whose driver's license has been suspended or revoked which authorizes the person to operate a motor vehicle exclusively between the person's residence and the person's place of employment; in the person's course of employment when operating a motor vehicle is necessary in order to perform the duties of the person's primary employment; an accredited educational institution; a mandated treatment program; a health care facility; or a child care facility.

3. (New section) a. A person whose driver's license is suspended or revoked under any of the following circumstances may apply to the chief administrator for a restricted use driver's license endorsement:

(1) failure to pay a surcharge levied by the chief administrator pursuant to section 6 of P.L.1983, c.65 (C.17:29A-35) if the person also agrees to a payment plan approved by the chief administrator, except that a person who failed to pay a surcharge levied for a conviction pursuant to R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a) shall not be eligible for an endorsement;

(2) accumulation of motor vehicle penalty points pursuant to section 4 of P.L.1982, c.43 (C.39:5-30.8) if the person attends a Driver Improvement Program offered by the New Jersey Motor Vehicle Commission; or

(3) failure to pay any other surcharge administratively levied by the chief administrator for a violation of Title 39 of the Revised Statutes if the person also agrees to a payment plan approved by the chief administrator.

b. The chief administrator shall issue, in a form and manner prescribed by the chief administrator, an application for an endorsement to a person whose driver's license has been suspended or revoked for any of the offenses set forth in subsection a. of this section.

c. The endorsement shall be issued as promptly as is practicable in accordance with procedures established by the chief administrator.

d. The chief administrator may impose a fee of not more than \$25 for the endorsement.

e. An endorsement shall expire when the person's driver's license is restored following the period of suspension or revocation.

f. Provided the applicant meets the requirements set forth in this section, an endorsement shall only be issued to a person whose driver's license is suspended or revoked after or within 10 years prior to the effective date of this act.

g. The chief administrator may promulgate rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) in order to effectuate the purposes of this act.

4. (New section) Notwithstanding the provisions of R.S.39:3-11, the following penalties shall apply with regard to a restricted use driver's license endorsement:

a. The suspension or revocation of the driver's license of an applicant for an endorsement shall be extended for one year if the applicant deliberately falsifies an application for the endorsement.

b. A driver who operates a motor vehicle between points other than as authorized by the endorsement shall immediately forfeit the endorsement and be subject to the following penalties:

- (1) a fine of not less than \$500 or more than \$1,000, community service for a period of 30 days, and an additional one year driver's license suspension or revocation;
- (2) if the driver is convicted of causing an accident resulting in personal injury or death to another person, a fine of not less than \$1,000 or more than \$5,000, community service for a period of 30 days, and an additional two years driver's license suspension or revocation; and
- (3) if the driver is convicted of a violation of R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a), a fine of not less than \$1,000 or more than \$5,000, and an additional five years driver's license suspension or revocation.

c. The penalties in this section shall be in addition to any other penalties required by law for a violation of this State's motor vehicle laws.

5. This act shall take effect on the first day of the 13th month next following enactment, but the chief administrator may take any anticipatory acts in advance of that date as may be necessary for the timely implementation of this act.

## STATEMENT

This bill establishes a restricted use driver's license endorsement to a basic driver's license for drivers whose licenses have been suspended or revoked for failure to pay certain motor vehicle surcharges or an accumulation of motor vehicle penalty points.

The bill authorizes a driver with a restricted use driver's license endorsement to operate a motor vehicle exclusively between the driver's residence and place of employment, as well as during the person's employment if necessary to perform his or her duties; an accredited educational institution; a mandated treatment program; a health care facility; or a child care facility.

Drivers may apply for the endorsement if their driver's licenses have been suspended or revoked for failure to pay motor vehicle surcharges and they agree to a payment plan approved by the chief administrator, or for an accumulation of motor vehicle penalty points, but only if they attend a driver improvement program. A person who has been convicted of drunk driving or refusing to take a breathalyzer test or has been assessed surcharges resulting from those convictions would not be eligible for an endorsement under the bill.

The bill requires the Chief Administrator of the New Jersey Motor Vehicle Commission (MVC) to develop and issue an application for the restricted use driver's license endorsement and to promptly issue the endorsement to applicants. If an applicant for an endorsement provides false information on the application, the applicant's driver's license is to be suspended or revoked for an additional year. The chief administrator may charge a fee of up to \$25 for the endorsement. The endorsement is to expire when the person's driver's license is restored following the period of suspension or revocation.

The bill also establishes penalties for operating a motor vehicle between points other than those authorized by the endorsement. The endorsement is to be immediately forfeited and the driver is subject to a fine of not less than \$500 or more than \$1,000; community service for a period of 30 days; and an additional one year driver's license suspension or revocation. A driver who is convicted of causing an accident resulting in

personal injury or death to another person while driving between unauthorized points is subject to a fine of between \$1,000 and \$5,000; community service for a period of 30 days; and an additional two years driver's license suspension or revocation. A driver who is convicted of drunk driving or refusing to take a breathalyzer while operating a motor vehicle between unauthorized points is subject to a fine of between \$1,000 and \$5,000 and an additional five years driver's license suspension or revocation.

Under the bill, a person whose driver's license is suspended or revoked after or within 10 years of the effective date of the bill would be eligible for an endorsement, provided the person meets the requirements set forth in the bill.