

# SENATE, No. 2330

## STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED NOVEMBER 13, 2006

**Sponsored by:**

**Senator SHIRLEY K. TURNER**

**District 15 (Mercer)**

**Senator NICHOLAS J. SACCO**

**District 32 (Bergen and Hudson)**

**SYNOPSIS**

Clarifies that suspension for non-driving related offense is distinct from suspension for driving related offense.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 11/28/2006)**

1 AN ACT concerning penalties for a driver's license suspension  
2 amending R.S.39:3-40 and supplementing chapter 3 of Title 39  
3 of the Revised Statutes.

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

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

9 39:3-40. No person to whom a driver's license has been refused  
10 or whose driver's license or reciprocity privilege has been  
11 suspended or revoked, or who has been prohibited from obtaining a  
12 driver's license, shall personally operate a motor vehicle during the  
13 period of refusal, suspension, revocation, or prohibition.

14 No person whose motor vehicle registration has been revoked  
15 shall operate or permit the operation of such motor vehicle during  
16 the period of such revocation.

17 Except as provided in **[subsections i. and]** subsection j. of this  
18 section, a person violating this section shall be subject to the  
19 following penalties:

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

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

36 c. Upon conviction for a third offense or subsequent offense, a  
37 fine of \$1,000.00, imprisonment in the county jail for 10 days. If the  
38 third or a subsequent offense involves the operation of a motor  
39 vehicle during a period when the violator's driver's license is  
40 suspended and the third or subsequent offense occurs within five  
41 years of a conviction for the same offense, revocation of the  
42 violator's motor vehicle registration privilege shall be revoked 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);

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

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

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

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

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

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

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

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

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

45 A map or true copy of a map depicting the location and  
46 boundaries of the area on or within 1,000 feet of any property used  
47 for school purposes which is owned by or leased to any elementary  
48 or secondary school or school board produced pursuant to section 1

1 of P.L.1987, c.101 (C.2C:35-7) may be used in a prosecution under  
2 subparagraph (a) of this paragraph.

3 It shall not be relevant to the imposition of sentence pursuant to  
4 subparagraph (a) or (b) of this paragraph that the defendant was  
5 unaware that the prohibited conduct took place while on or within  
6 1,000 feet of any school property or while driving through a school  
7 crossing. Nor shall it be relevant to the imposition of sentence that  
8 no juveniles were present on the school property or crossing zone at  
9 the time of the offense or that the school was not in session;

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

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

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

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

41 i. **【** If the violator's driver's license to operate a motor vehicle  
42 has been suspended pursuant to section 9 of P.L.1985, c.14 (C.39:4-  
43 139.10), the violator shall be subject to a maximum fine of \$100  
44 upon proof that the violator has satisfied the parking ticket or  
45 tickets that were the subject of the Order of Suspension;**】** Deleted  
46 by P.L. , c. (C. ) (pending before the Legislature as this bill)

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

6 For the purposes of this subsection, a "motor vehicle moving  
7 violation" means any violation of the motor vehicle laws of this  
8 State for which motor vehicle points are assessed by the [Director  
9 of the Division of Motor Vehicles] chief administrator pursuant to  
10 section 1 of P.L.1982, c.43 (C.39:5-30.5).

11 (cf: P.L. 2002, c.28, s.1)

12

13 2. (New section) If the violator's driver's license to operate a  
14 motor vehicle has been suspended pursuant to section 9 of  
15 P.L.1985, c.14 (C.39:4-139.10) or for failure to comply with a time  
16 payment order, the violator shall be subject to a maximum fine of  
17 \$100 upon proof that the violator has paid all fines and other  
18 assessments related to the parking violation that were the subject of  
19 the Order of Suspension or makes sufficient payments to become  
20 current with respect to payment obligations under the time payment  
21 order.

22

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

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#### STATEMENT

28

29 This bill clarifies that a person whose license has been suspended  
30 for failure to comply with a time payment order or for failure to  
31 respond to or pay a parking judgment is not subject to the same  
32 penalties as a person whose license has been suspended for a  
33 driving related offense.

34 Under current law, failure to comply with a time payment order  
35 and failure to respond to or pay a parking judgment are codified as  
36 serious driving related offenses. Offenders are subject to fines that  
37 are not commensurate with the offense. For example, under the  
38 current law, a person whose license was suspended twice for failure  
39 to pay a parking ticket would be subject to the penalties set forth in  
40 N.J.S.A.39:3-40 b. which includes imprisonment for not more than  
41 5 days and a fine of \$750. It is the sponsor's belief that this penalty  
42 is not appropriate for an offense such as failure to pay or respond to  
43 a parking ticket.

44 The bill further clarifies that a person who commits a second  
45 offense of driving with a suspended license must spend at least one  
46 day imprisoned in a county jail. The bill also makes technical  
47 amendments.

**S2330 TURNER, SACCO**

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- 1 This bill was prompted by a recommendation from the Motor
- 2 Vehicles Affordability and Fairness Task Force.