

SENATE, No. 2331

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)

Assemblywoman JOAN M. QUIGLEY

District 32 (Bergen and Hudson)

Assemblyman JOHN S. WISNIEWSKI

District 19 (Middlesex)

SYNOPSIS

Renames New Jersey Rating Plan and provides for changes in procedures for payment of outstanding surcharges.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 1/8/2008)

S2331 TURNER, SACCO

2

1 AN ACT renaming the New Jersey Merit Rating Plan, changing
2 procedures for payment of outstanding surcharges, and amending
3 P.L.1983, c.65.

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

7
8 1. Section 6 of P.L.1983, c.65 (C.17:29A-35) is amended to read
9 as follows:

10 6. a. (Deleted by amendment, P.L.1997, c.151.)

11 b. There is created a **[New Jersey Merit Rating Plan]** Motor
12 Vehicle Violations Surcharge System which shall apply to all
13 drivers and shall include, but not be limited to, the following
14 provisions:

15 (1) (a) **[Plan surcharges]** Surcharges shall be levied, beginning
16 on or after January 1, 1984, by the New Jersey Motor Vehicle
17 Commission (hereafter the "commission") established by section 4
18 of P.L.2003, c.13 (C.39:2A-4) on any driver who, in the preceding
19 36-month period, has accumulated six or more motor vehicle points,
20 as provided in Title 39 of the Revised Statutes; except that the
21 allowance for a reduction of points in Title 39 of the Revised
22 Statutes shall not apply for the purpose of determining surcharges
23 under this paragraph. The accumulation of points shall be
24 calculated as of the date the point violation is posted to the driver
25 history record and shall be levied pursuant to rules promulgated by
26 the commission. Surcharges assessed pursuant to this paragraph
27 shall be \$150.00 for six points, and \$25.00 for each additional
28 point. No offense shall be selected for billing which occurred prior
29 to February 10, 1983. No offense shall be considered for billing in
30 more than three annual assessments.

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

32 (2) (a) **[Plan surcharges]** Surcharges shall be levied pursuant to
33 subsection f. of section 1 of P.L.2000, c.75 (C.39:4-97.2) for each
34 offense of unsafe driving under subsection a. of that section.

35 (b) **[Plan surcharges]** Surcharges shall be levied for convictions
36 (i) under R.S.39:4-50 for violations occurring on or after February
37 10, 1983, and (ii) under section 2 of P.L.1981, c.512 (C.39:4-
38 50.4a), or for offenses committed in other jurisdictions of a
39 substantially similar nature to those under R.S.39:4-50 or section 2
40 of P.L.1981, c.512 (C.39:4-50.4a), for violations occurring on or
41 after January 26, 1984. Except as hereinafter provided, surcharges
42 under this subparagraph (b) shall be levied annually for a three-year
43 period, and shall be \$1,000.00 per year for each of the first two
44 convictions, for a total surcharge of \$3,000 for each conviction, and
45 \$1,500.00 per year for the third conviction occurring within a three-

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 year period, for a total surcharge of \$4,500 for the third conviction.
2 If a driver is convicted under both R.S.39:4-50 and section 2 of
3 P.L.1981, c.512 (C.39:4-50.4a) for offenses arising out of the same
4 incident, the driver shall be assessed only one surcharge for the two
5 offenses.

6 If, upon written notification from the commission or its designee,
7 mailed to the last address of record with the commission, a driver
8 fails to pay a surcharge levied under 【subparagraph (b) of
9 paragraph (2) of】 this 【subsection b.】 section and collectible by the
10 commission, the driving privilege of the driver shall be suspended
11 forthwith until 【the minimum payment requirement as set forth by
12 rule by the commission】 at least five percent of each outstanding
13 surcharge assessment that has resulted in suspension is paid to the
14 commission; except that the commission may authorize payment of
15 the surcharge on an installment basis over a period 【not to exceed】
16 of 12 months for assessments under \$2,300 or 24 months for
17 assessments of \$2,300 or more. The commission, for good cause,
18 may authorize payment of any surcharge on an installment basis
19 over a period not to exceed 36 months. If a driver fails to pay the
20 surcharge or any installments on the surcharge, the total surcharge
21 shall become due immediately, except as otherwise prescribed by
22 rule of the commission.

23 The commission may authorize any person to pay the surcharge
24 levied under this section and collectible by the commission by use
25 of a credit card, debit card or other electronic payment device, and
26 the administrator is authorized to require the person to pay all costs
27 incurred by the commission in connection with the acceptance of
28 the credit card, debit card or other electronic payment device. If a
29 surcharge or related administrative fee is paid by credit or debit
30 cards or any other electronic payment device and the amount is
31 subsequently reversed by the credit card company or bank, the
32 driving privilege of the surcharged driver shall be suspended and
33 the driver shall be subject to the fee imposed for dishonored checks
34 pursuant to section 31 of P.L.1994, c.60 (C.39:5-36.1).

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

1 the State as creditor; the address of such person, if shown in the
2 certificate; the amount of the debt so certified; a reference to the
3 statute under which the surcharge is assessed, and the date of
4 making such entries. The docketing of the entries shall have the
5 same force and effect as a civil judgment docketed in the Superior
6 Court, and the commission shall have all the remedies and may take
7 all of the proceedings for the collection thereof which may be had
8 or taken upon the recovery of a judgment in an action, but without
9 prejudice to any right of appeal. Upon entry by the clerk of the
10 certificate in the record of docketed judgments in accordance with
11 this provision, interest in the amount specified by the court rules for
12 post-judgment interest shall accrue from the date of the docketing
13 of the certificate, however payment of the interest may be waived
14 by the commission or its designee. In the event that the surcharge
15 remains unpaid following the issuance of the certificate of debt and
16 the commission takes any further collection action including
17 referral of the matter to the Attorney General or his designee, the
18 fee imposed, in lieu of the actual cost of collection, may be 20
19 percent of surcharges of \$1,000 or more. The administrator or his
20 designee may establish a sliding scale, not to exceed a maximum
21 amount of \$200, for surcharge principal amounts of less than \$1,000
22 at the time the certificate of debt is forwarded to the Superior Court
23 for filing. The commission shall provide written notification to a
24 driver of the proposed filing of the certificate of debt at least 10
25 days prior to the proposed filing; such notice shall be mailed to the
26 driver's last address of record with the commission. Upon the filing
27 of a certificate of debt with the Clerk of the Superior Court, the
28 surcharged driver shall not be eligible for the restoration of his
29 driving privilege until at least five percent of each outstanding
30 surcharge assessment that has resulted in the suspension, including
31 interest and costs, if any, is paid to the commission. If a certificate
32 of debt is satisfied following a credit card payment, debit card
33 payment or payment by other electronic payment device and that
34 payment is reversed, a new certificate of debt shall be filed against
35 the surcharged driver unless the original is reinstated.

36 If the administrator or his designee approves a special payment
37 plan, of such duration as the administrator or his designee deems
38 appropriate, for repayment of the certificate of debt, and the driver
39 is complying with the approved plan, the plan may be continued for
40 any new surcharge not part of the certificate of debt.

41 All moneys collectible by the commission under subparagraph
42 (b) of paragraph (2) of this subsection b. shall be billed and
43 collected by the commission except as provided in P.L.1997, c.280
44 (C.2B:19-10 et al.) for the collection of unpaid surcharges.
45 Commencing on September 1, 1996, or such earlier time as the
46 Commissioner of Banking and Insurance shall certify to the State
47 Treasurer that amounts on deposit in the New Jersey Automobile
48 Insurance Guaranty Fund are sufficient to satisfy the current and

1 anticipated financial obligations of the New Jersey Automobile Full
2 Insurance Underwriting Association, all **[plan]** surcharges collected
3 by the commission under subparagraph (b) of paragraph (2) of this
4 subsection b. shall be remitted to the Division of Motor Vehicles
5 Surcharge Fund:

6 (i) for transfer to the Market Transition Facility Revenue Fund,
7 as provided in section 12 of P.L.1994, c.57 (C.34:1B-21.12), for the
8 purposes of section 4 of P.L.1994, c.57 (C.34:1B-21.4) until such a
9 time as all the Market Transition Facility bonds, notes and
10 obligations and all Motor Vehicle Commission bonds, notes and
11 obligations issued pursuant to that section 4 of P.L.1994, c.57
12 (C.34:1B-21.4) and the costs thereof are discharged and no longer
13 outstanding; and

14 (ii) from and after the date of certification by the Commissioner
15 of Banking and Insurance that the moneys collectible under
16 subparagraph (b) of paragraph (2) of this subsection b. are no longer
17 needed to fund the association or at such time as all Market
18 Transition Facility bonds, notes and obligations and all Motor
19 Vehicle Commission bonds, notes and obligations issued pursuant
20 to section 4 of P.L.1994, c.57 (C.34:1B-21.4) and the costs thereof
21 are discharged and no longer outstanding, for transfer to the Motor
22 Vehicle Surcharges Revenue Fund established pursuant to section 6
23 of the "Motor Vehicle Surcharges Securitization Act of 2004,"
24 P.L.2004, c.70 (C.34:1B-21.28) to be applied as set forth in section
25 6 that act. From and after such time as all bonds issued under
26 section 4 of the "Motor Vehicle Surcharges Securitization Act of
27 2004," P.L.2004, c.70 (C.34:1B-21.26) and the costs thereof are
28 discharged and no longer outstanding, all **[plan]** surcharges
29 collected by the commission under subparagraph (b) of paragraph
30 (2) of this subsection b. shall, subject to appropriation, be remitted
31 to the New Jersey Property-Liability Insurance Guaranty
32 Association created pursuant to section 6 of P.L.1974, c.17
33 (C.17:30A-6) to be used for payment of any loans made by that
34 association to the New Jersey Automobile Insurance Guaranty Fund
35 pursuant to paragraph (10) of subsection a. of section 8 of P.L.1974,
36 c.17 (C.17:30A-8); provided that all such payments shall be subject
37 to and dependent upon appropriation by the State Legislature.

38 All surcharges collected by the courts **[as plan surcharges]**
39 pursuant to subparagraph (a) of paragraph (2) of this subsection b.
40 shall be forwarded not less frequently than monthly to the Division
41 of Revenue. The Division of Revenue shall transfer: all such
42 surcharges received prior to July 1, 2006, to the General Fund, and
43 commencing July 1, 2006, all such surcharges to the Unsafe Driving
44 Surcharge Revenue Fund established pursuant to section 5 of the
45 "Motor Vehicle Surcharges Securitization Act of 2004," P.L.2004,
46 c.70 (C.34:1B-21.27) to be applied as set forth in section 5 of that
47 act. From and after such time as all bonds (including refunding
48 bonds), notes and other obligations issued under section 4 of the

1 "Motor Vehicle Surcharges Securitization Act of 2004," P.L.2004,
2 c.70 (C.34:1B-21.26), and the costs thereof are discharged and no
3 longer outstanding, all such **【plan】** surcharges collected by the
4 courts pursuant to subparagraph (a) of paragraph (2) of this
5 subsection b. and forwarded to the Division of Revenue shall be
6 transferred to the General Fund.

7 Upon request, the Administrative Office of the Courts shall
8 provide a monthly report to the Division of Revenue containing
9 information on the number of convictions for the offense of unsafe
10 driving pursuant to section 1 of P.L.2000, c.75 (C.39:4-97.2) that
11 were entered during such month, the amount of the surcharges that
12 were assessed by the courts pursuant to subsection f. of section 1 of
13 P.L.2000, c.75 (C.39:4-97.2) for such month, and the amount of the
14 surcharges collected by the courts pursuant to subsection f. of
15 section 1 of P.L.2000, c.75 (C.39:4-97.2) during such month.

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 commission, is specifically authorized (a) (Deleted by amendment,
19 P.L.1994, c.64), (b) to impose, in accordance with subparagraph (a)
20 of paragraph (1) of this subsection b., surcharges for motor vehicle
21 violations or convictions for which motor vehicle points are not
22 assessed under Title 39 of the Revised Statutes, or (c) to reduce the
23 number of points for which surcharges may be assessed below the
24 level provided in subparagraph (a) of paragraph (1) of this
25 subsection b., except that the dollar amount of all surcharges levied
26 under the **【New Jersey Merit Rating Plan】** Motor Vehicle
27 Violations Surcharge System shall be uniform on a Statewide basis
28 for each filer, without regard to classification or territory.
29 Surcharges adopted by the commissioner on or after January 1,
30 1984 for motor vehicle violations or convictions for which motor
31 vehicle points are not assessable under Title 39 of the Revised
32 Statutes shall not be retroactively applied but shall take effect on
33 the date of the New Jersey Register in which notice of adoption
34 appears or the effective date set forth in that notice, whichever is
35 later.

36 c. No motor vehicle violation surcharges shall be levied on an
37 automobile insurance policy issued or renewed on or after January
38 1, 1984, except in accordance with the **【New Jersey Merit Rating**
39 **Plan】** Motor Vehicle Violations Surcharge System, and all
40 surcharges levied thereunder shall be assessed, collected and
41 distributed in accordance with subsection b. of this section.

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

43 e. The Commissioner of Banking and Insurance and the
44 commission as may be appropriate, shall adopt any rules and
45 regulations necessary or appropriate to effectuate the purposes of
46 this section.

47 (cf: P.L.2004, c.70, s.10)

1 2. This act shall take effect on the first day of the sixth month
2 after enactment.

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STATEMENT

6

7 This bill amends the law creating the New Jersey Merit Rating
8 Plan to change the name of the plan to the Motor Vehicle Violations
9 Surcharge System. The bill further changes the term "plan
10 surcharges" to "surcharges." It is the sponsor's belief that this
11 change will better describe the plan.

12 In addition, the bill amends the "Merit Rating Plan" (now the
13 "Surcharge System") to provide that a driver failing to pay a
14 surcharge under the Surcharge System may, by paying at least five
15 percent of each outstanding surcharge assessment owed, remove the
16 driver's suspension for failure to pay. Currently the Motor Vehicle
17 Commission may authorize payment of surcharges on an
18 installment basis for a period not to exceed 12 months for
19 assessments under \$2300, or not exceeding 24 months for
20 assessments of \$2500 or more. The bill provides that the
21 commission may, for good cause, authorize installment payments
22 for a period not exceeding 36 months irrespective of the surcharge
23 assessment. The other permissible installment periods are 12 and
24 24 months.

25 The bill further provides that a surcharged driver against whom a
26 certificate of debt has been filed for non-payment of a surcharge
27 shall not be eligible for the restoration of his driving privilege until
28 at least five percent of each outstanding surcharge assessment that
29 his resulted in the suspension, including interests and costs, if any,
30 has been paid to the commission.