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ASSEMBLY, No. 2087
STATE OF NEW JERSEY
217th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2016 SESSION

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SYNOPSIS

Grants drivers additional time to resolve parking violations prior to license or registration suspension.

CURRENT VERSION OF TEXT

As reported by the Assembly Law and Public Safety Committee on October 27, 2016, with amendments.

AN ACT concerning license suspension and amending P.L.1985, c.14 ¹[and R.S.39:5-30]¹.

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

1. Section 9 of P.L.1985, c.14 (C.39:4-139.10) is amended to read as follows:
 9. a. If a person has failed to respond to a failure to appear notice or has failed to pay a parking judgment, the municipal court may give notice of that fact to the commission in a manner prescribed by the chief administrator. If notice has been given under this section of a person's failure to respond to a failure to appear notice or to pay a parking judgment and if

the fines and penalties are paid or if the case is dismissed or otherwise disposed of, the municipal court shall promptly give notice to that effect to the commission.

b. The judge or the commission may suspend the driver's license, or the registration of the motor vehicle of an owner, lessee, or operator who has not answered or appeared in response to a failure to appear notice or has not paid or otherwise satisfied outstanding parking fines or penalties. ¹[If the license suspension is the result of unpaid, outstanding parking fines or penalties, the effective date of a driver's license suspension shall be at least 30 days from the date of the mailing of the notice of suspension.]

If the suspension results from unpaid, outstanding parking fines or penalties and the person has satisfied all outstanding parking fines or penalties through electronic payment prior to the receipt of the notice of suspension, that person shall be permitted to submit proof of the electronic payment to the court. Upon submission, if the court finds that the person has satisfied all fines and penalties, the court shall promptly give notice to that effect to the commission and the driver's license shall not be suspended.]

If the license or registration suspension is the result of the failure to pay outstanding parking fines or penalties, or respond to a failure to appear notice, the commission shall:

(1) delay the imposition of the license or registration suspension for at least 30 days after the date on which the commission received a notice of suspension from the municipal court; and

(2) upon receipt of a notice of suspension from the municipal court, provide written notice advising the owner, lessee, or operator that the suspension shall take effect 30 days after the date of the commission's notice. The written notice issued by the commission shall provide the reason for suspension, identify the municipal court that issued the notice of suspension, and inform the owner, lessee, or operator that the suspension may be avoided by contacting the municipal court that issued the notice of suspension within the 30 day period to resolve the pending parking violation.¹

If an owner, lessee or operator has been found guilty of a parking offense ¹and has failed to pay or otherwise satisfy outstanding parking fines or penalties¹, the court shall provide notice and an opportunity to appear before a judge prior to suspending that person's driver's license or motor vehicle registration. ¹[The effective date of the suspension and the hearing date shall be at least 30 days from the date of the mailing of the notice.]¹ In determining whether to suspend the person's driver's license or the motor vehicle registration, the judge and the commission shall take into consideration the area where the person resides and whether or not the person has access to off-street parking. ¹[If the owner, lessee or operator is found by the court to be indigent or is participating in a government-based income maintenance program, that person shall be permitted to pay the parking fine and other penalties in installments in accordance with section 1 of P.L.1981, c.365 (C.39:4-203.1)] In accordance with section 1 of P.L.1981, c.365 (C.39:4-203.1) and section 1 of P.L.2009, c.317 (C.2B:12-23.1), a court may permit alternatives to the payment of certain outstanding portions of parking fines and penalties based on a person's ability to pay, including allowing the payment of the fine in installments, conversion of the fine to community service, or revoking portions of the fine or penalty.

When a person whose license or registration has been suspended appears at court proceedings or otherwise resolves pending parking violations, or pays or otherwise satisfies all parking fines or penalties, the municipal court shall provide the person with a receipt of payment and shall give electronic notice to the commission that the person's obligations have been satisfied and the suspension ordered by the court shall not be imposed. If, prior to the effective date of the suspension by the commission, the person submits the receipt of payment to the commission or the commission receives the electronic notice stating that the

person's obligations have been satisfied, the commission shall not suspend the person's license or registration. If the commission receives the receipt or electronic notice after the effective date of the suspension, the person shall seek the restoration of the license or registration through procedures adopted by the commission.¹

c. The commission shall keep a record of a suspension ordered by the court pursuant to subsection b. of this section.
(cf: P.L.2007, c.280, s.1)

¹[2. R.S.39:5-30 is amended to read as follows:

39:5-30. a. Every registration certificate, every license certificate, every privilege to drive motor vehicles, including commercial motor vehicles as defined in P.L.1990, c.103 (C.39:3-10.9 et al.), every endorsement, class of license, and commercial driver 's license, may be suspended or revoked, and any person may be prohibited from obtaining a driver's license or a registration certificate, or disqualified from obtaining any class of or endorsement on a commercial driver's license, and the reciprocity privilege of any nonresident may be suspended or revoked by the [director] chief administrator for a violation of any of the provisions of this Title or on any other reasonable grounds, after due notice in writing of such proposed suspension, revocation, disqualification or prohibition and the ground thereof. If the proposed suspension results from any unpaid fines, penalties, or surcharges imposed for a violation of any provision of this Title, the effective date of a driver's license suspension shall be at least 30 days from the date of the mailing of the notice of proposed suspension. If the person has satisfied all outstanding fines, penalties, or surcharges through electronic payment prior to the receipt of the notice of proposed suspension, that person shall be permitted to submit proof of the electronic payment to the chief administrator. If the chief administrator finds that the person has paid all outstanding fines, penalties, and surcharges, the driver's license shall not be suspended.

He may also summon witnesses to appear before him at his office or at any other place he designates, to give testimony in a hearing which he holds looking toward a revocation of a license or registration certificate issued by or under his authority. The summons shall be served at least five days before the return date, either by registered mail or personal service. A person who fails to obey the summons shall be subject to a penalty not exceeding \$100.00, to be recovered with costs in an action at law, prosecuted by the Attorney General, and in addition the vehicle registration or driver's license, or both, as the case may be, shall forthwith be revoked. The fee for witnesses required to attend before the [director] chief administrator shall be \$1.00 for each day's attendance and \$0.03 for every mile of travel by the nearest generally traveled route in going to and from the place where the attendance of the witness is required. These fees shall be paid when the witness is excused from further attendance, and the disbursements made from payment of the fees shall be audited and paid in the manner provided for expenses of the department. The actual conduct of said hearing may be delegated by the [director] chief administrator to such departmental employees as he may designate, in which case the said employees shall recommend to the [director] chief administrator in writing whether the said licenses or certificates shall or shall not be suspended or revoked.

b. Whenever a matter is presented to the [director] chief administrator involving an alleged violation of

- (1) R.S.39:4-98, where an excess of 20 miles per hour over the authorized speed limit is alleged, and which has resulted in the death of another;
- (2) R.S.39:4-50, and which has resulted in the death of another;
- (3) R.S.39:4-96, and which has resulted in the death of another; or

(4) R.S.39:4-129, wherein the death of another has occurred, and the [director] chief administrator has not determined to immediately issue a preliminary suspension pursuant to subsection e. of this section, the [director] chief administrator shall issue a notice of proposed final suspension or revocation of any license certificate or any nonresident reciprocity privilege to operate any motor vehicle or motorized bicycle held by the individual charged or temporary order prohibiting the individual from obtaining any license to operate any motor vehicle or motorized bicycle in this State.

In the notice, the [director] chief administrator shall provide the individual charged with an opportunity for a plenary hearing to contest the proposed final suspension, revocation or other final agency action. Unless the [division] commission receives, no later than the 10th day from the date the notice was mailed, a written request for hearing, the proposed final agency action shall take effect on the date specified in the notice.

Upon receipt of a timely request for a plenary hearing, a preliminary hearing shall be held by an administrative law judge within 15 days of the receipt of the request. The preliminary hearing shall be for the purpose of determining whether, pending a plenary hearing on the proposed final agency action, a preliminary suspension shall be immediately issued by the judge. Adjournment of such hearing upon motion by the individual charged shall be given only for good cause shown.

At the preliminary hearing, the parties shall proceed on the papers submitted to the judge, including the summons, the police reports and the charged individual's prior driving record submitted by the [division] commission, and any brief affidavits permitted by the judge from persons who shall be witnesses at the plenary hearing, and the parties may present oral argument. Based on the papers, on any oral argument, on the individual's prior driving record, and on the circumstances of the alleged violation presented in the papers, the judge shall determine whether the individual was properly charged with a violation of the law and a death occurred; and, if so, whether in the interest of public safety, a preliminary suspension shall be immediately ordered pending the plenary hearing on the proposed suspension or revocation. The administrative law judge shall transmit his findings to the [director] chief administrator.

A plenary hearing shall be held no later than the 45th day following the preliminary hearing. Adjournment of the hearing shall be given only for good cause shown. If the hearing is otherwise postponed or delayed solely at the instance of the individual charged, the administrative law judge shall immediately issue a preliminary suspension of any license certificate or any nonresident reciprocity privilege held by the individual charged, or if any such preliminary suspension or order is in effect, he shall continue such suspension or order. Such preliminary suspension or temporary order shall remain in effect pending a final agency decision on the matter. If the hearing is otherwise postponed or delayed at the instance of anyone other than the individual charged, the judge shall immediately issue an order restoring the individual's license certificate or any nonresident reciprocity privilege pending final agency decision in the matter. The period of any preliminary suspension imposed under this section shall be deducted from any suspension imposed by the final agency decision in the matter.

c. Whenever any other matter is presented to the [director] chief administrator involving an alleged violation of this title, wherein the death of another occurred and for which he determines immediate action is warranted, he may proceed in the manner prescribed in subsection b. above.

d. Whenever a fatal accident occurs in this State, an investigation of the incident, whether performed by the State Police or by local police, shall be completed and forwarded to the [director] chief administrator within 72 hours of the time of the accident.

e. Whenever a matter is presented to the [director] chief administrator involving an alleged violation of:

(1) R.S.39:4-98, where an excess of 20 miles per hour over the authorized speed limit is alleged, and which has resulted in the death or serious bodily injury of another;

(2) R.S.39:4-50, which has resulted in the death or serious bodily injury of another;

(3) R.S.39:4-96 or R.S.39:4-97, which has resulted in the death or serious bodily injury of another; or

(4) R.S.39:4-129, wherein the death or serious bodily injury of another has occurred, the [director] chief administrator for good cause may, without hearing, immediately issue a preliminary suspension of any license certificate or any nonresident reciprocity privilege to operate any motor vehicle or motorized bicycle held by an individual charged or temporary order prohibiting the individual from obtaining any license to operate any motor vehicle or motorized bicycle in this State. For purposes of this subsection, "serious bodily injury" means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ. Along with the notice of preliminary suspension, the [director] chief administrator shall issue a notice of proposed final suspension, revocation or other final agency action, and shall afford the individual the right to a preliminary hearing to contest the preliminary suspension and a plenary hearing to contest the proposed final agency action.

The preliminary suspension shall remain in effect pending a final agency decision on the proposed final agency action, unless a request for a preliminary hearing is received by the [division] commission no later than the 10th day from the date on which the notice was mailed. The proposed final agency action shall take effect on the date specified in the notice unless a request for a plenary hearing is received by the [division] commission no later than the 10th day from the date on which the notice was mailed.

Upon timely request by the individual, a preliminary hearing shall be held by an administrative law judge, no later than the 15th day from the date on which the [division] commission receives the request. The preliminary hearing shall be for the purpose of determining whether, pending a final agency decision on the matter, the preliminary suspension issued by the [director] chief administrator shall remain in effect. Adjournment of the hearing shall be given only for good cause shown. If the preliminary hearing is otherwise postponed or delayed solely at the instance of someone other than the individual charged, the judge shall immediately order that the individual's license certificate or any nonresident reciprocity privilege be restored pending the rescheduled preliminary hearing.

At the preliminary hearing, the parties shall proceed on the papers submitted to the judge, including the summons, the police reports and the charged individual's prior driving record submitted by the division, and any brief affidavits permitted by the judge from persons who shall be witnesses at the final hearing, and the parties may present oral arguments. Based on the papers, on any oral argument, on the individual's prior driving record, and on the circumstances of the alleged violation presented in the papers, the judge shall immediately determine whether the individual was properly charged with a violation of the law and a death occurred; and, if so, whether in the interest of public safety, the preliminary suspension shall be continued pending the final agency decision on the matter. The administrative law judge shall transmit his findings to the [director] chief administrator.

Any plenary hearing to contest the proposed final agency action shall conform to the requirements for a plenary hearing contained in subsection b. of this section.

f. In addition to any other final agency action, the [director] chief administrator shall require any person whose privileges to operate a motor vehicle or motorized bicycle are suspended or who has been prohibited from obtaining a license, pursuant to this section, to

be reexamined to determine the person's ability to operate a motor vehicle or motorized bicycle, prior to regaining or obtaining any driving privileges in this State.

Any determination resulting from any preliminary or plenary hearing held pursuant to subsection b., c., or e. of this section shall not be admissible at any criminal or quasi-criminal proceedings on the alleged violation or violations.

g. In addition to any other requirements imposed by statute or regulation, as a condition for the restoration of a revoked or suspended license issued under the provisions of the "New Jersey Commercial Driver License Act," P.L.1990, c.103 (C.39:3-10.9 et seq.), the person whose commercial driving privileges are revoked or suspended shall successfully complete a commercial driver improvement program. The [director] chief administrator, in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall promulgate rules and regulations prescribing the scope and content of the program, the qualifications of third parties that may offer a commercial driver improvement program, a fee schedule for persons attending a commercial driver improvement program and such other matters as the [director] chief administrator may deem appropriate and necessary. The successful completion of a commercial driver improvement program pursuant to this subsection shall not entitle a person to any reduction in the points assessed and recorded under P.L.1982, c.43 (C.39:5-30.5 et seq.). In addition, the [director] chief administrator may also require a person holding a commercial driver's license pursuant to P.L.1990, c.103 (C.39:3-10.9 et seq.) who receives 12 or more points during a 24-month period to complete a commercial driver improvement program successfully or face full suspension of the commercial driver's license driving privilege. (cf: P.L.2003, c.131. s.3)]¹

¹[3.] 2.¹ This act shall take effect ¹[immediately] on the first day of the seventh month following enactment and shall apply to parking violations that occur after that date¹.