

39:3-40

LEGISLATIVE HISTORY CHECKLIST

Compiled by the NJ State Law Library

LAWS OF: 2001 **CHAPTER:** 213
NJSA: 39:3-40 (Driving with suspended license)
BILL NO: S1108 (Substituted for A3590)

SPONSOR(S): Zane and Allen

DATE INTRODUCED: March 16, 2000

COMMITTEE: **ASSEMBLY:** Law and Public Safety

SENATE: Law and Public Safety

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** June 28, 2001

SENATE: June 28, 2001

DATE OF APPROVAL: August 20, 2001

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (2nd reprint enacted)

 (Amendments during passage denoted by superscript numbers)

S1108

SPONSORS STATEMENT: (Begins on page 5 of original bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes

SENATE: Yes

FLOOR AMENDMENT STATEMENTS: No

LEGISLATIVE FISCAL ESTIMATE: No

A3590

SPONSORS STATEMENT: (Begins on page 5 of original bill) Yes

COMMITTEE STATEMENT:	ASSEMBLY:	Yes
	SENATE:	No
FLOOR AMENDMENT STATEMENTS:		No
LEGISLATIVE FISCAL ESTIMATE:		No
VETO MESSAGE:		No
GOVERNOR'S PRESS RELEASE ON SIGNING:		No

FOLLOWING WERE PRINTED:

To check for circulating copies, contact New Jersey State Government

Publications at the State Library (609) 278-2640 ext.103 or <mailto:refdesk@njstatelib.org>

REPORTS:	No
HEARINGS:	No
NEWSPAPER ARTICLES:	Yes

NJ enacts tougher penalties for suspended drivers," 8-21-2001 Philadelphia Inquirer, pB5

SENATE, No. 1108

STATE OF NEW JERSEY 209th LEGISLATURE

INTRODUCED MARCH 16, 2000

Sponsored by:

Senator RAYMOND J. ZANE

District 3 (Salem, Cumberland and Gloucester)

Senator DIANE ALLEN

District 7 (Burlington and Camden)

SYNOPSIS

Increases penalty for causing death or injury of another while driving with suspended license.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/9/2000)

1 AN ACT concerning penalties for driving while driver's license is
2 suspended and amending R.S.39:3-40.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. R.S.39:3-40 is amended to read as follows:

8 39:3-40. No person to whom a driver's license has been refused or
9 whose driver's license or reciprocity privilege has been suspended or
10 revoked, or who has been prohibited from obtaining a driver's license,
11 shall personally operate a motor vehicle during the period of refusal,
12 suspension, revocation, or prohibition.

13 No person whose motor vehicle registration has been revoked shall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

16 Except as provided in subsection i. of this section, a person
17 violating this section shall be subject to the following penalties:

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

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

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

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

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 e. [Upon conviction, the court shall impose a period of
2 imprisonment for not less than 45 days, if while operating a vehicle in
3 violation of this section a person is involved in an accident resulting in
4 personal injury to another person;] (Deleted by amendment, P.L. ____,
5 c. .).

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

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

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

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

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

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

40 A map or true copy of a map depicting the location and boundaries
41 of the area on or within 1,000 feet of any property used for school
42 purposes which is owned by or leased to any elementary or secondary
43 school or school board produced pursuant to section 1 of P.L.1997,
44 c.101 (C.2C:35-7) may be used in a prosecution under subparagraph
45 (a) of this paragraph.

46 It shall not be relevant to the imposition of sentence pursuant to

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

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

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

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

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

37 i. If the violator's driver's license to operate a motor vehicle has
38 been suspended pursuant to section 9 of P.L.1985, c.14
39 (C.39:4-139.10), the violator shall be subject to a maximum fine of
40 \$100 upon proof that the violator has satisfied the parking ticket or
41 tickets that were the subject of the Order of Suspension.

42 j. Upon conviction, the court shall impose a period of
43 imprisonment of not less than six months or more than one year upon
44 a person who, while operating a motor vehicle in violation of this
45 section, is involved in an accident resulting in serious bodily injury, as
46 defined in N.J.S.2C:11-1, to another person. If the accident results in

1 the death of another person, the period of imprisonment shall be not
2 less than one year or more than three years. The driver's license of a
3 person convicted of a violation of this subsection shall be suspended
4 for an additional period of one year, which shall commence upon the
5 completion of the period of imprisonment. Penalties enumerated in
6 this subsection shall be in addition to any other penalty applicable
7 under this section.

8 (cf: P.L.1999, c.423, s.3)

9
10 2. This act shall take effect immediately.

11
12
13 STATEMENT

14
15 This bill increases the penalties for persons who, while driving after
16 their driver's licenses have been suspended or revoked, are involved
17 in accidents resulting in injury or death to another person. Under
18 current law, a person involved in an accident resulting in personal
19 injury to another while driving with a suspended license must serve a
20 period of imprisonment of no less than 45 days.

21 This bill increases the penalty for causing serious bodily injury to
22 another person, while driving with a suspended license, to not less than
23 six months or more than one year. If the accident resulted in death,
24 the offender would be imprisoned for not less than one year or more
25 than three years. In addition, the driver's license of a person convicted
26 of either offense would be suspended for an additional period of one
27 year. Penalties imposed by this bill would be in addition to any other
28 applicable penalties for driving with a suspended license.

29 The criminal code currently provides stringent penalties for the
30 crimes of vehicular homicide and assault by auto. However, a finding
31 of reckless driving is necessary for conviction under these laws. This
32 bill recognizes that suspended licensees who drive and cause life-
33 threatening accidents are a serious public menace, regardless of
34 whether reckless driving can be proven.

SENATE LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

SENATE, No. 1108

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 19, 2000

The Senate Law and Public Safety Committee reports favorably and with committee amendments Senate Bill No. 1108.

This bill increases the penalties for persons who, while driving after their driver's licenses have been suspended or revoked, are involved in accidents resulting in injury or death to another person. Under current law, a person involved in an accident resulting in personal injury to another while driving with a suspended license must serve a period of imprisonment of no less than 45 days.

The bill supplements Title 2C of the New Jersey Statutes (the criminal code) by increasing the penalty for causing serious bodily injury to another person while driving with a suspended license to a crime of the fourth degree, which is punishable by a fine of up to \$10,000, imprisonment for up to 18 months, or both. If the accident resulted in death, the offender would be guilty of a crime of the third degree, which is punishable by a fine of up to \$15,000, imprisonment for three to five years, or both. In addition, the driver's license of a person convicted of either offense would be suspended for an additional period of one year. Penalties imposed by this bill would be in addition to any other applicable penalties for driving with a suspended license.

As introduced, the bill amended R.S.39:3-40 to increase the penalty for causing serious bodily injury to another person, while driving with a suspended license, to imprisonment for six months to one year. If the accident resulted in death, the offender would have been imprisoned for one to three years.

The criminal code currently provides stringent penalties for the crimes of vehicular homicide and assault by auto. A finding of reckless driving, however, is necessary for conviction under these laws. This bill recognizes that suspended licensees who drive and cause life-threatening accidents are a serious public menace, regardless of whether reckless driving can be proven.

[First Reprint]

SENATE, No. 1108

STATE OF NEW JERSEY
209th LEGISLATURE

INTRODUCED MARCH 16, 2000

Sponsored by:

Senator RAYMOND J. ZANE

District 3 (Salem, Cumberland and Gloucester)

Senator DIANE ALLEN

District 7 (Burlington and Camden)

Co-Sponsored by:

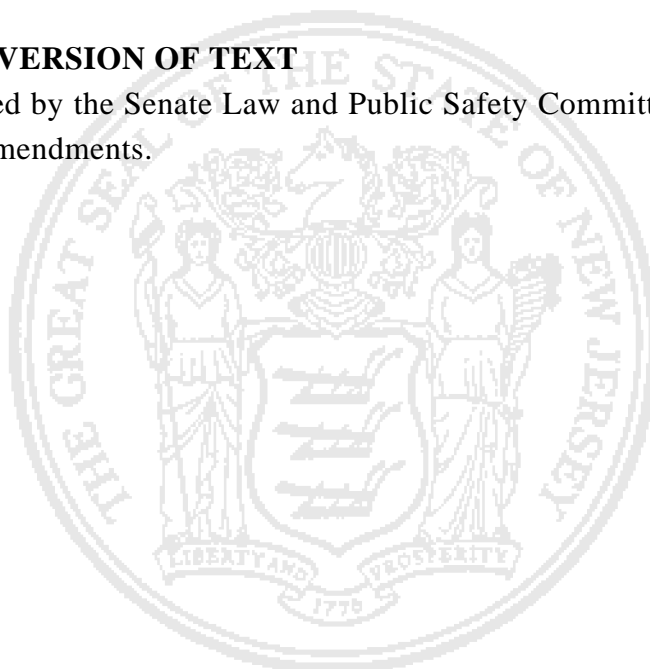
Senators Singer, Robertson, Matheussen, Bucco, Kosco and Vitale

SYNOPSIS

Increases penalty for causing death or injury of another while driving with suspended license.

CURRENT VERSION OF TEXT

As reported by the Senate Law and Public Safety Committee on June 19, 2000, with amendments.



(Sponsorship Updated As Of: 6/30/2000)

1 AN ACT concerning penalties for driving while driver's license is
2 suspended ¹, [and]¹ amending R.S.39:3-40 ¹and supplementing
3 Title 2C of the New Jersey Statutes¹.

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 or
10 whose driver's license or reciprocity privilege has been suspended or
11 revoked, or who has been prohibited from obtaining a driver's license,
12 shall personally operate a motor vehicle during the period of refusal,
13 suspension, revocation, or prohibition.

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

17 Except as provided in subsection I. of this section, a person
18 violating this section shall be subject to the following penalties:

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

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

34 c. Upon conviction for a third offense or subsequent offense, a
35 fine of \$1,000.00, imprisonment in the county jail for 10 days and, if
36 the third offense involves the operation of a motor vehicle during a
37 period when the violator's driver's license is suspended and that third
38 offense occurs within five years of a conviction for the same offense,
39 revocation of the violator's motor vehicle registration privilege in
40 accordance with the provisions of sections 2 through 6 of P.L.1995,
41 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.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SLP committee amendments adopted June 19, 2000.

1 d. Upon conviction, the court shall impose or extend a period of
2 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, if while operating a vehicle in
5 violation of this section a person is involved in an accident resulting in
6 personal injury to another person;] (Deleted by amendment, P.L. . . .
7 c. . .).

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

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

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

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

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

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

42 A map or true copy of a map depicting the location and boundaries
43 of the area on or within 1,000 feet of any property used for school
44 purposes which is owned by or leased to any elementary or secondary
45 school or school board produced pursuant to section 1 of P.L.1997,
46 c.101 (C.2C:35-7) may be used in a prosecution under subparagraph

1 (a) of this paragraph.

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

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

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

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

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

39 i. If the violator's driver's license to operate a motor vehicle has
40 been suspended pursuant to section 9 of P.L.1985, c.14
41 (C.39:4-139.10), the violator shall be subject to a maximum fine of
42 \$100 upon proof that the violator has satisfied the parking ticket or
43 tickets that were the subject of the Order of Suspension.

44 ¹j. Upon conviction, the court shall impose a period of
45 imprisonment of not less than six months or more than one year upon
46 a person who, while operating a motor vehicle in violation of this

1 section, is involved in an accident resulting in serious bodily injury, as
2 defined in N.J.S.2C:11-1, to another person. If the accident results in
3 the death of another person, the period of imprisonment shall be not
4 less than one year or more than three years. The driver's license of a
5 person convicted of a violation of this subsection shall be suspended
6 for an additional period of one year, which shall commence upon the
7 completion of the period of imprisonment. Penalties enumerated in
8 this subsection shall be in addition to any other penalty applicable
9 under this section.]¹

10 (cf: P.L.1999, c.423, s.3)

11
12 ¹2. (New section) a. A person who, while operating a motor vehicle
13 in violation of R.S.39:3-40, is involved in an accident resulting in the
14 death of another person, shall be guilty of a crime of the third degree,
15 in addition to any other penalties applicable under R.S.39:3-40. The
16 person's driver's license shall be suspended for an additional period of
17 one year, in addition to any suspension applicable under R.S.39:3-40.
18 The additional period of suspension shall commence upon the
19 completion of any term of imprisonment.

20 b. A person who, while operating a motor vehicle in violation of
21 R.S.39:3-40, is involved in an accident resulting in serious bodily
22 injury, as defined in N.J.S.2C:11-1, to another person shall be guilty
23 of a crime of the fourth degree, in addition to any other penalties
24 applicable under R.S.39:3-40. The person's driver's license shall be
25 suspended for an additional period of one year, in addition to any
26 suspension applicable under R.S.39:3-40. The additional period of
27 suspension shall commence upon the completion of any term of
28 imprisonment.

29 c. The provisions of N.J.S.2C:2-3 governing the causal relationship
30 between conduct and result shall not apply in a prosecution under this
31 section. For purposes of this offense, the defendant's act of operating
32 a motor vehicle while his driver's license or reciprocity privilege has
33 been suspended or revoked or who operates a motor vehicle without
34 being licensed to do so is the cause of death or injury when:

35 (1) The operation of the motor vehicle is an antecedent but for
36 which the death or injury would not have occurred; and

37 (2) The death or injury was not:

38 (a) too remote in its occurrence as to have a just bearing on the
39 defendant's liability; or

40 (b) too dependent upon the conduct of another person which was
41 unrelated to the defendant's operation of a motor vehicle as to have a
42 just bearing on the defendant's liability.

S1108 [1R] ZANE, ALLEN

6

1 c. It shall not be a defense to a prosecution under this section that
2 the decedent contributed to his own death or injury by reckless or
3 negligent conduct or operation of a motor vehicle.

4 d. Nothing in this section shall be construed to preclude or limit
5 any prosecution for homicide.¹

6

7 ¹[2.] 3.¹ This act shall take effect immediately.

ASSEMBLY LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 1108

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 4, 2001

The Assembly Law and Public Safety Committee reports favorably and with committee amendments Senate Bill No. 1108 (1R).

Senate Bill No. 1108(1R) increases the penalties for persons who, while driving after their driver's licenses have been suspended or revoked, are involved in accidents resulting in serious bodily injury or death to another person. Under current law, a person involved in an accident resulting in personal injury to another while driving with a suspended license must serve a period of imprisonment of no less than 45 days.

The bill supplements Title 2C of the New Jersey Statutes (the criminal code) by increasing the penalty for causing serious bodily injury to another person while driving with a suspended license to a crime of the fourth degree, which is punishable by a fine of up to \$10,000, imprisonment for up to 18 months, or both. If the accident resulted in death, the offender would be guilty of a crime of the third degree, which is punishable by a fine of up to \$15,000, imprisonment for three to five years, or both. In addition, the driver's license of a person convicted of either offense would be suspended for an additional period of one year. Penalties imposed by this bill would be in addition to any other applicable penalties for driving with a suspended license.

The criminal code currently provides stringent penalties for the crimes of vehicular homicide and assault by auto. But a finding of reckless driving is necessary for conviction under these laws. This bill recognizes that suspended licensees who drive and cause life-threatening accidents are a serious public menace, regardless of whether reckless driving can be proven.

The committee amended the bill to clarify that persons who drive with suspended licenses and commit bodily injury would be subject to a term of imprisonment of 45 days to 180 days under R.S.39:3-40. The committee also made technical amendments.

This bill, as amended and reported by the committee, is identical to Assembly Bill No. 3590, also reported by the committee on this same date.

[Second Reprint]

SENATE, No. 1108

STATE OF NEW JERSEY
209th LEGISLATURE

INTRODUCED MARCH 16, 2000

Sponsored by:

Senator RAYMOND J. ZANE

District 3 (Salem, Cumberland and Gloucester)

Senator DIANE ALLEN

District 7 (Burlington and Camden)

Co-Sponsored by:

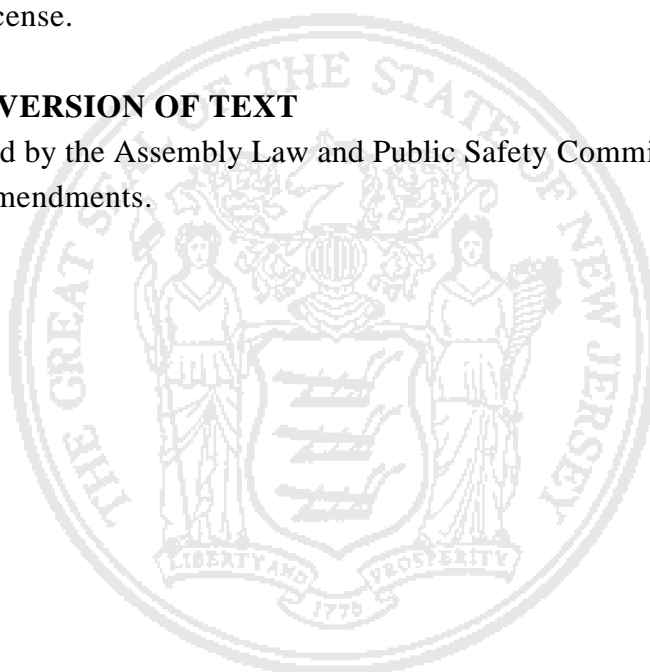
**Senators Singer, Robertson, Matheussen, Bucco, Kosco, Vitale,
Assemblymen Collins, Stuhltrager, Corodemus and Assemblywoman Heck**

SYNOPSIS

Increases penalty for causing death or injury of another while driving with suspended license.

CURRENT VERSION OF TEXT

As reported by the Assembly Law and Public Safety Committee on June 4, 2001, with amendments.



(Sponsorship Updated As Of: 6/29/2001)

1 AN ACT concerning penalties for driving while driver's license is
2 suspended ¹, [and]¹ amending R.S.39:3-40 ¹and supplementing
3 Title 2C of the New Jersey Statutes¹.

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 or
10 whose driver's license or reciprocity privilege has been suspended or
11 revoked, or who has been prohibited from obtaining a driver's license,
12 shall personally operate a motor vehicle during the period of refusal,
13 suspension, revocation, or prohibition.

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

17 Except as provided in subsection i. of this section, a person
18 violating this section shall be subject to the following penalties:

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

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

34 c. Upon conviction for a third offense or subsequent offense, a fine
35 of \$1,000.00, imprisonment in the county jail for 10 days and, if the
36 third offense involves the operation of a motor vehicle during a period
37 when the violator's driver's license is suspended and that third offense
38 occurs within five years of a conviction for the same offense,
39 revocation of the violator's motor vehicle registration privilege in
40 accordance with the provisions of sections 2 through 6 of P.L.1995,
41 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.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SLP committee amendments adopted June 19, 2000.

² Assembly ALP committee amendments adopted June 4, 2001.

1 d. Upon conviction, the court shall impose or extend a period of
2 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, if while operating a vehicle in
5 violation of this section a person is involved in an accident resulting in
6 personal injury to another person;] ²[(Deleted by amendment, P.L. . . .
7 c. .).] Upon conviction, the court shall impose a period of
8 imprisonment for not less than 45 days or more than 180 days, if while
9 operating a vehicle in violation of this section a person is involved in
10 an accident resulting in bodily injury to another person;²

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

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

26 (3) Notwithstanding the provisions of subsections a. through e. of
27 this section and paragraphs (1) and (2) of this subsection, a person
28 shall have his license to operate a motor vehicle suspended for an
29 additional period of not less than one year or more than two years,
30 which period shall commence upon the completion of any prison
31 sentence imposed upon that person, shall be fined \$500 and shall be
32 imprisoned for a period of 60 to 90 days for a first offense, imprisoned
33 for a period of 120 to 150 days for a second offense, and imprisoned
34 for 180 days for a third or subsequent offense, for operating a motor
35 vehicle while in violation of paragraph (2) of this 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 school
41 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 boundaries
46 of the area on or within 1,000 feet of any property used for school

1 purposes which is owned by or leased to any elementary or secondary
2 school or school board produced pursuant to section 1 of P.L.1997,
3 c.101 (C.2C:35-7) may be used in a prosecution under subparagraph
4 (a) of this paragraph.

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

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

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

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

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

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

1 ¹[j. Upon conviction, the court shall impose a period of
2 imprisonment of not less than six months or more than one year upon
3 a person who, while operating a motor vehicle in violation of this
4 section, is involved in an accident resulting in serious bodily injury, as
5 defined in N.J.S.2C:11-1, to another person. If the accident results in
6 the death of another person, the period of imprisonment shall be not
7 less than one year or more than three years. The driver's license of a
8 person convicted of a violation of this subsection shall be suspended
9 for an additional period of one year, which shall commence upon the
10 completion of the period of imprisonment. Penalties enumerated in
11 this subsection shall be in addition to any other penalty applicable
12 under this section.]¹

13 (cf: P.L.1999, c.423, s.3)

14

15 ¹2. (New section) a. A person who, while operating a motor
16 vehicle in violation of R.S.39:3-40, is involved in an accident resulting
17 in the death of another person, shall be guilty of a crime of the third
18 degree, in addition to any other penalties applicable under R.S.39:3-
19 40. The person's driver's license shall be suspended for an additional
20 period of one year, in addition to any suspension applicable under
21 R.S.39:3-40. The additional period of suspension shall commence
22 upon the completion of any term of imprisonment.

23 b. A person who, while operating a motor vehicle in violation of
24 R.S.39:3-40, is involved in an accident resulting in serious bodily
25 injury, as defined in N.J.S.2C:11-1, to another person shall be guilty
26 of a crime of the fourth degree, in addition to any other penalties
27 applicable under R.S.39:3-40. The person's driver's license shall be
28 suspended for an additional period of one year, in addition to any
29 suspension applicable under R.S.39:3-40. The additional period of
30 suspension shall commence upon the completion of any term of
31 imprisonment.

32 c. The provisions of N.J.S.2C:2-3 governing the causal relationship
33 between conduct and result shall not apply in a prosecution under this
34 section. For purposes of this offense, the defendant's act of operating
35 a motor vehicle while his driver's license or reciprocity privilege has
36 been suspended or revoked or who operates a motor vehicle without
37 being licensed to do so is the cause of death or injury when:

38 (1) The operation of the motor vehicle is an antecedent but for
39 which the death or injury would not have occurred; and

40 (2) The death or injury was not:

41 (a) too remote in its occurrence as to have a just bearing on the
42 defendant's liability; or

43 (b) too dependent upon the conduct of another person which was
44 unrelated to the defendant's operation of a motor vehicle as to have a
45 just bearing on the defendant's liability.

46 ²[c.]d.² It shall not be a defense to a prosecution under this

S1108 [2R] ZANE, ALLEN

6

1 section that the decedent contributed to his own death or injury by
2 reckless or negligent conduct or operation of a motor vehicle.

3 ²[d.]e.² Nothing in this section shall be construed to preclude or
4 limit any prosecution for homicide.¹

5

6 ¹[2.] 3.¹ This act shall take effect immediately.

ASSEMBLY, No. 3590

STATE OF NEW JERSEY 209th LEGISLATURE

INTRODUCED MAY 24, 2001

Sponsored by:

Assemblyman JACK COLLINS

District 3 (Salem, Cumberland and Gloucester)

Assemblyman GARY W. STUHLTRAGER

District 3 (Salem, Cumberland and Gloucester)

SYNOPSIS

Increases penalty for causing death or injury of another while driving with suspended license.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning penalties for driving while driver's license is
2 suspended, amending R.S.39:3-40 and supplementing Title 2C of
3 the New Jersey 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 or
10 whose driver's license or reciprocity privilege has been suspended or
11 revoked, or who has been prohibited from obtaining a driver's license,
12 shall personally operate a motor vehicle during the period of refusal,
13 suspension, revocation, or prohibition.

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

17 Except as provided in subsection I. of this section, a person
18 violating this section shall be subject to the following penalties:

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

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

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

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

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 e. [Upon conviction, the court shall impose a period of
2 imprisonment for not less than 45 days, if while operating a vehicle in
3 violation of this section a person is involved in an accident resulting in
4 personal injury to another person;] (Deleted by amendment, P.L. ____,
5 c. .).

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

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

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

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

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

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

40 A map or true copy of a map depicting the location and boundaries
41 of the area on or within 1,000 feet of any property used for school
42 purposes which is owned by or leased to any elementary or secondary
43 school or school board produced pursuant to section 1 of P.L.1997,
44 c.101 (C.2C:35-7) may be used in a prosecution under subparagraph
45 (a) of this paragraph.

46 It shall not be relevant to the imposition of sentence pursuant to

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

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

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

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

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

37 i. If the violator's driver's license to operate a motor vehicle has
38 been suspended pursuant to section 9 of P.L.1985, c.14
39 (C.39:4-139.10), the violator shall be subject to a maximum fine of
40 \$100 upon proof that the violator has satisfied the parking ticket or
41 tickets that were the subject of the Order of Suspension.

42 (cf: P.L.1999, c.423, s.3)

43

44 2. (New section) a. A person who, while operating a motor
45 vehicle in violation of R.S.39:3-40, is involved in an accident resulting
46 in the death of another person, shall be guilty of a crime of the third

1 degree, in addition to any other penalties applicable under R.S.39:3-
2 40. The person's driver's license shall be suspended for an additional
3 period of one year, in addition to any suspension applicable under
4 R.S.39:3-40. The additional period of suspension shall commence
5 upon the completion of any term of imprisonment.

6 b. A person who, while operating a motor vehicle in violation of
7 R.S.39:3-40, is involved in an accident resulting in serious bodily
8 injury, as defined in N.J.S.2C:11-1, to another person shall be guilty
9 of a crime of the fourth degree, in addition to any other penalties
10 applicable under R.S.39:3-40. The person's driver's license shall be
11 suspended for an additional period of one year, in addition to any
12 suspension applicable under R.S.39:3-40. The additional period of
13 suspension shall commence upon the completion of any term of
14 imprisonment.

15 c. The provisions of N.J.S.2C:2-3 governing the causal relationship
16 between conduct and result shall not apply in a prosecution under this
17 section. For purposes of this offense, the defendant's act of operating
18 a motor vehicle while his driver's license or reciprocity privilege has
19 been suspended or revoked or who operates a motor vehicle without
20 being licensed to do so is the cause of death or injury when:

21 (1) The operation of the motor vehicle is an antecedent but for
22 which the death or injury would not have occurred; and

23 (2) The death or injury was not:

24 (a) too remote in its occurrence as to have a just bearing on the
25 defendant's liability; or

26 (b) too dependent upon the conduct of another person which was
27 unrelated to the defendant's operation of a motor vehicle as to have a
28 just bearing on the defendant's liability.

29 d. It shall not be a defense to a prosecution under this section that
30 the decedent contributed to his own death or injury by reckless or
31 negligent conduct or operation of a motor vehicle.

32 e. Nothing in this section shall be construed to preclude or limit
33 any prosecution for homicide.

34
35 3. This act shall take effect immediately.

36
37
38 STATEMENT

39
40 This bill increases the penalties for persons who, while driving after
41 their driver's licenses have been suspended or revoked, are involved
42 in accidents resulting in injury or death to another person. Under
43 current law, a person involved in an accident resulting in personal
44 injury to another while driving with a suspended license must serve a
45 period of imprisonment of no less than 45 days.

46 The bill supplements Title 2C of the New Jersey Statutes (the

1 criminal code) by increasing the penalty for causing serious bodily
2 injury to another person while driving with a suspended license to a
3 crime of the fourth degree, which is punishable by a fine of up to
4 \$10,000, imprisonment for up to 18 months, or both. If the accident
5 resulted in death, the offender would be guilty of a crime of the third
6 degree, which is punishable by a fine of up to \$15,000, imprisonment
7 for three to five years, or both. In addition, the driver's license of a
8 person convicted of either offense would be suspended for an
9 additional period of one year. Penalties imposed by this bill would be
10 in addition to any other applicable penalties for driving with a
11 suspended license.

12 The criminal code currently provides stringent penalties for the
13 crimes of vehicular homicide and assault by auto. A finding of
14 reckless driving, however, is necessary for conviction under these
15 laws. This bill recognizes that suspended licensees who drive and
16 cause life-threatening accidents are a serious public menace, regardless
17 of whether reckless driving can be proven.

ASSEMBLY LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3590

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 4, 2001

The Assembly Law and Public Safety Committee reports favorably and with committee amendments Assembly Bill No. 3590.

Assembly Bill No. 3590 increases the penalties for persons who, while driving after their driver's licenses have been suspended or revoked, are involved in accidents resulting in serious bodily injury or death to another person. Under current law, a person involved in an accident resulting in personal injury to another while driving with a suspended license must serve a period of imprisonment of no less than 45 days.

The bill supplements Title 2C of the New Jersey Statutes (the criminal code) by increasing the penalty for causing serious bodily injury to another person while driving with a suspended license to a crime of the fourth degree, which is punishable by a fine of up to \$10,000, imprisonment for up to 18 months, or both. If the accident resulted in death, the offender would be guilty of a crime of the third degree, which is punishable by a fine of up to \$15,000, imprisonment for three to five years, or both. In addition, the driver's license of a person convicted of either offense would be suspended for an additional period of one year. Penalties imposed by this bill would be in addition to any other applicable penalties for driving with a suspended license.

The criminal code currently provides stringent penalties for the crimes of vehicular homicide and assault by auto. A finding of reckless driving, however, is necessary for conviction under these laws. This bill recognizes that suspended licensees who drive and cause life-threatening accidents are a serious public menace, regardless of whether reckless driving can be proven.

The committee amended the bill to clarify that persons who drive with a suspended license and commit bodily injury would be subject to a term of imprisonment of 45 days to 180 days under R.S.39:3-40.

This bill, as amended and reported by the committee, is identical to Senate Bill No. 1108 (1R), also reported by the committee on this same date.

[First Reprint]

ASSEMBLY, No. 3590

STATE OF NEW JERSEY
209th LEGISLATURE

INTRODUCED MAY 24, 2001

Sponsored by:

Assemblyman JACK COLLINS

District 3 (Salem, Cumberland and Gloucester)

Assemblyman GARY W. STUHLTRAGER

District 3 (Salem, Cumberland and Gloucester)

Co-Sponsored by:

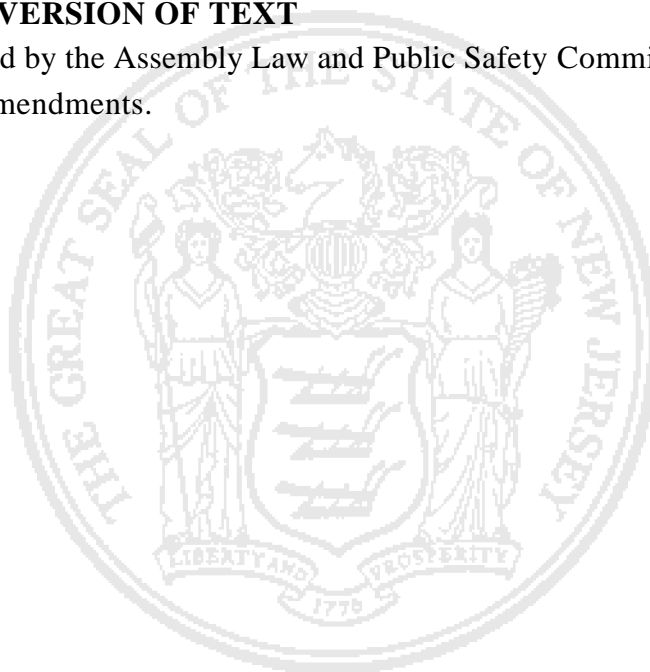
Assemblyman Corodemus and Assemblywoman Heck

SYNOPSIS

Increases penalty for causing death or injury of another while driving with suspended license.

CURRENT VERSION OF TEXT

As reported by the Assembly Law and Public Safety Committee on June 4, 2001, with amendments.



(Sponsorship Updated As Of: 6/29/2001)

1 AN ACT concerning penalties for driving while driver's license is
2 suspended, amending R.S.39:3-40 and supplementing Title 2C of
3 the New Jersey 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 or
10 whose driver's license or reciprocity privilege has been suspended or
11 revoked, or who has been prohibited from obtaining a driver's license,
12 shall personally operate a motor vehicle during the period of refusal,
13 suspension, revocation, or prohibition.

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

17 Except as provided in subsection i. of this section, a person
18 violating this section shall be subject to the following penalties:

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

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

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

42 d. Upon conviction, the court shall impose or extend a period of

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly ALP committee amendments adopted June 4, 2001.

1 suspension not to exceed six months;

2 e. [Upon conviction, the court shall impose a period of
3 imprisonment for not less than 45 days, if while operating a vehicle in
4 violation of this section a person is involved in an accident resulting in
5 personal injury to another person;] ¹[(Deleted by amendment, P.L. . . .
6 c. .).] Upon conviction, the court shall impose a period of
7 imprisonment for not less than 45 days or more than 180 days, if while
8 operating a vehicle in violation of this section a person is involved in
9 an accident resulting in bodily injury to another person:¹

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

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

25 (3) Notwithstanding the provisions of subsections a. through e. of
26 this section and paragraphs (1) and (2) of this subsection, a person
27 shall have his license to operate a motor vehicle suspended for an
28 additional period of not less than one year or more than two years,
29 which period shall commence upon the completion of any prison
30 sentence 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, imprisoned
32 for a period of 120 to 150 days for a second offense, and imprisoned
33 for 180 days for a third or subsequent offense, for operating a motor
34 vehicle while in violation of paragraph (2) of this subsection while:

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

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

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

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

1 school or school board produced pursuant to section 1 of P.L.1997,
2 c.101 (C.2C:35-7) may be used in a prosecution under subparagraph
3 (a) of this paragraph.

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

11 g. In addition to the other applicable penalties provided under this
12 section, a person violating this section whose license has been
13 suspended pursuant to section 6 of P.L.1983, c.65 (C.17:29A-35) or
14 the regulations adopted thereunder, shall be fined \$3,000. The court
15 shall waive the fine upon proof that the person has paid the total
16 surcharge imposed pursuant to section 6 of P.L.1983, c.65
17 (C.17:29A-35) or the regulations adopted thereunder.
18 Notwithstanding the provisions of R.S.39:5-41, the fine imposed
19 pursuant to this subsection shall be collected by the Division of Motor
20 Vehicles pursuant to section 6 of P.L.1983, c.65 (C.17:29A-35), and
21 distributed as provided in that section, and the court shall file a copy
22 of the judgment of conviction with the director and with the Clerk of
23 the 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 as judgment creditor; the
26 amount of the fine; and the date of the order. These entries shall have
27 the same force and effect as any civil judgment docketed in the
28 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 subject
31 to suspension of his license to operate a motor vehicle and to
32 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 is
38 suspended and that the operator has been convicted, within the past
39 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 has
42 been suspended pursuant to section 9 of P.L.1985, c.14
43 (C.39:4-139.10), the violator shall be subject to a maximum fine of
44 \$100 upon proof that the violator has satisfied the parking ticket or
45 tickets that were the subject of the Order of Suspension.

46 (cf: P.L.1999, c.423, s.3)

1 2. (New section) a. A person who, while operating a motor
2 vehicle in violation of R.S.39:3-40, is involved in an accident resulting
3 in the death of another person, shall be guilty of a crime of the third
4 degree, in addition to any other penalties applicable under R.S.39:3-
5 40. The person's driver's license shall be suspended for an additional
6 period of one year, in addition to any suspension applicable under
7 R.S.39:3-40. The additional period of suspension shall commence
8 upon the completion of any term of imprisonment.

9 b. A person who, while operating a motor vehicle in violation of
10 R.S.39:3-40, is involved in an accident resulting in serious bodily
11 injury, as defined in N.J.S.2C:11-1, to another person shall be guilty
12 of a crime of the fourth degree, in addition to any other penalties
13 applicable under R.S.39:3-40. The person's driver's license shall be
14 suspended for an additional period of one year, in addition to any
15 suspension applicable under R.S.39:3-40. The additional period of
16 suspension shall commence upon the completion of any term of
17 imprisonment.

18 c. The provisions of N.J.S.2C:2-3 governing the causal relationship
19 between conduct and result shall not apply in a prosecution under this
20 section. For purposes of this offense, the defendant's act of operating
21 a motor vehicle while his driver's license or reciprocity privilege has
22 been suspended or revoked or who operates a motor vehicle without
23 being licensed to do so is the cause of death or injury when:

24 (1) The operation of the motor vehicle is an antecedent but for
25 which the death or injury would not have occurred; and

26 (2) The death or injury was not:

27 (a) too remote in its occurrence as to have a just bearing on the
28 defendant's liability; or

29 (b) too dependent upon the conduct of another person which was
30 unrelated to the defendant's operation of a motor vehicle as to have a
31 just bearing on the defendant's liability.

32 d. It shall not be a defense to a prosecution under this section that
33 the decedent contributed to his own death or injury by reckless or
34 negligent conduct or operation of a motor vehicle.

35 e. Nothing in this section shall be construed to preclude or limit
36 any prosecution for homicide.

37

38 3. This act shall take effect immediately.

P.L. 2001, CHAPTER 213, *approved August 20, 2001*
Senate, No. 1108 (*Second Reprint*)

1 **AN ACT** concerning penalties for driving while driver's license is
2 suspended ¹, **[and]**¹ amending R.S.39:3-40 ¹and supplementing
3 Title 2C of the New Jersey Statutes¹.

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 or
10 whose driver's license or reciprocity privilege has been suspended or
11 revoked, or who has been prohibited from obtaining a driver's license,
12 shall personally operate a motor vehicle during the period of refusal,
13 suspension, revocation, or prohibition.

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

17 Except as provided in subsection i. of this section, a person
18 violating this section shall be subject to the following penalties:

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

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

34 c. Upon conviction for a third offense or subsequent offense, a fine
35 of \$1,000.00, imprisonment in the county jail for 10 days and, if the
36 third offense involves the operation of a motor vehicle during a period
37 when the violator's driver's license is suspended and that third offense
38 occurs within five years of a conviction for the same offense,
39 revocation of the violator's motor vehicle registration privilege in

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SLP committee amendments adopted June 19, 2000.

² Assembly ALP committee amendments adopted June 4, 2001.

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

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

5 e. [Upon conviction, the court shall impose a period of
6 imprisonment for not less than 45 days, if while operating a vehicle in
7 violation of this section a person is involved in an accident resulting in
8 personal injury to another person;] ²[(Deleted by amendment, P.L. . . .
9 c. .).] Upon conviction, the court shall impose a period of
10 imprisonment for not less than 45 days or more than 180 days, if while
11 operating a vehicle in violation of this section a person is involved in
12 an accident resulting in bodily injury to another person.²

13 f. (1) Notwithstanding subsections a. through e., any person
14 violating this section while under suspension issued pursuant to section
15 2 of P.L.1972, c.197 (C.39:6B-2), upon conviction, shall be fined
16 \$500.00, shall have his license to operate a motor vehicle suspended
17 for an additional period of not less than one year nor more than two
18 years, and may be imprisoned in the county jail for not more than 90
19 days.

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

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

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

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

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

1 A map or true copy of a map depicting the location and boundaries
2 of the area on or within 1,000 feet of any property used for school
3 purposes which is owned by or leased to any elementary or secondary
4 school or school board produced pursuant to section 1 of P.L.1997,
5 c.101 (C.2C:35-7) may be used in a prosecution under subparagraph
6 (a) of this paragraph.

7 It shall not be relevant to the imposition of sentence pursuant to
8 subparagraph (a) or (b) of this paragraph that the defendant was
9 unaware that the prohibited conduct took place while on or within
10 1,000 feet of any school property or while driving through a school
11 crossing. Nor shall it be relevant to the imposition of sentence that no
12 juveniles were present on the school property or crossing zone at the
13 time of the offense or that the school was not in session;

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

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

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

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

44 i. If the violator's driver's license to operate a motor vehicle has
45 been suspended pursuant to section 9 of P.L.1985, c.14
46 (C.39:4-139.10), the violator shall be subject to a maximum fine of

1 \$100 upon proof that the violator has satisfied the parking ticket or
2 tickets that were the subject of the Order of Suspension.

3 ¹[j. Upon conviction, the court shall impose a period of
4 imprisonment of not less than six months or more than one year upon
5 a person who, while operating a motor vehicle in violation of this
6 section, is involved in an accident resulting in serious bodily injury, as
7 defined in N.J.S.2C:11-1, to another person. If the accident results in
8 the death of another person, the period of imprisonment shall be not
9 less than one year or more than three years. The driver's license of a
10 person convicted of a violation of this subsection shall be suspended
11 for an additional period of one year, which shall commence upon the
12 completion of the period of imprisonment. Penalties enumerated in
13 this subsection shall be in addition to any other penalty applicable
14 under this section.]¹

15 (cf: P.L.1999, c.423, s.3)

16
17 ¹2. (New section) a. A person who, while operating a motor
18 vehicle in violation of R.S.39:3-40, is involved in an accident resulting
19 in the death of another person, shall be guilty of a crime of the third
20 degree, in addition to any other penalties applicable under R.S.39:3-
21 40. The person's driver's license shall be suspended for an additional
22 period of one year, in addition to any suspension applicable under
23 R.S.39:3-40. The additional period of suspension shall commence
24 upon the completion of any term of imprisonment.

25 b. A person who, while operating a motor vehicle in violation of
26 R.S.39:3-40, is involved in an accident resulting in serious bodily
27 injury, as defined in N.J.S.2C:11-1, to another person shall be guilty
28 of a crime of the fourth degree, in addition to any other penalties
29 applicable under R.S.39:3-40. The person's driver's license shall be
30 suspended for an additional period of one year, in addition to any
31 suspension applicable under R.S.39:3-40. The additional period of
32 suspension shall commence upon the completion of any term of
33 imprisonment.

34 c. The provisions of N.J.S.2C:2-3 governing the causal relationship
35 between conduct and result shall not apply in a prosecution under this
36 section. For purposes of this offense, the defendant's act of operating
37 a motor vehicle while his driver's license or reciprocity privilege has
38 been suspended or revoked or who operates a motor vehicle without
39 being licensed to do so is the cause of death or injury when:

40 (1) The operation of the motor vehicle is an antecedent but for
41 which the death or injury would not have occurred; and

42 (2) The death or injury was not:

43 (a) too remote in its occurrence as to have a just bearing on the
44 defendant's liability; or

45 (b) too dependent upon the conduct of another person which was
46 unrelated to the defendant's operation of a motor vehicle as to have a

1 just bearing on the defendant's liability.

2 ²[c.]d.² It shall not be a defense to a prosecution under this
3 section that the decedent contributed to his own death or injury by
4 reckless or negligent conduct or operation of a motor vehicle.

5 ²[d.]e.² Nothing in this section shall be construed to preclude or
6 limit any prosecution for homicide.¹

7

8 ¹[2.] 3.¹ This act shall take effect immediately.

9

10

11

12

13 _____
14 Increases penalty for causing death or injury of another while driving
with suspended license.

CHAPTER 213

AN ACT concerning penalties for driving while driver's license is suspended, amending R.S.39:3-40 and supplementing Title 2C of the New Jersey 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:

Penalties for driving while license suspended, etc.

39:3-40. No 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 personally operate a motor vehicle during the period of refusal, suspension, revocation, or prohibition.

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

Except as provided in subsection i. 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 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, imprisonment in the county jail for 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, imprisonment in the county jail for 10 days and, if the third offense involves the operation of a motor vehicle during a period when the violator's driver's license is suspended and that third 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) Notwithstanding subsections a. through e., 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, 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) Notwithstanding 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) Notwithstanding 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. In addition to the other applicable penalties provided under this section, a person violating this section whose license has been suspended pursuant to section 6 of P.L.1983, c.65 (C.17:29A-35) or the regulations adopted thereunder, shall be fined \$3,000. The court shall waive the fine upon proof that the person has paid the total surcharge imposed pursuant to section 6 of P.L.1983, c.65 (C.17:29A-35) or the regulations adopted thereunder. Notwithstanding the provisions of R.S.39:5-41, the fine imposed pursuant to this subsection shall be collected by the Division of Motor Vehicles pursuant to section 6 of P.L.1983, c.65 (C.17:29A-35), and distributed as provided in that section, and the court shall file a copy of the judgment of conviction with the director and with the Clerk of the Superior Court who shall enter the following information upon the record of docketed judgments: the name of the person as judgment debtor; the Division of Motor Vehicles as judgment creditor; the amount of the fine; and the date of the order. These entries shall have the same force and effect as any civil judgment docketed in the Superior Court;

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 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 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;

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), the violator shall be subject to a maximum fine of \$100 upon proof that the violator has satisfied the parking ticket or tickets that were the subject of the Order of Suspension.

C.2C:40-22 Penalty for causing death or injury while driving in violation of R.S.39:3-40.

2. a. A person who, while operating a motor vehicle in violation of R.S.39:3-40, is involved in an accident resulting in the death of another person, shall be guilty of a crime of the third degree, in addition to any other penalties applicable under R.S.39:3-40. The person's driver's license shall be suspended for an additional period of one year, in addition to any suspension applicable under R.S.39:3-40. The additional period of suspension shall commence upon the completion of any term of imprisonment.

b. A person who, while operating a motor vehicle in violation of R.S.39:3-40, is involved in an accident resulting in serious bodily injury, as defined in N.J.S.2C:11-1, to another person shall be guilty of a crime of the fourth degree, in addition to any other penalties applicable under R.S.39:3-40. The person's driver's license shall be suspended for an additional period of one year, in addition to any suspension applicable under R.S.39:3-40. The additional period of

suspension shall commence upon the completion of any term of imprisonment.

c. The provisions of N.J.S.2C:2-3 governing the causal relationship between conduct and result shall not apply in a prosecution under this section. For purposes of this offense, the defendant's act of operating a motor vehicle while his driver's license or reciprocity privilege has been suspended or revoked or who operates a motor vehicle without being licensed to do so is the cause of death or injury when:

(1) The operation of the motor vehicle is an antecedent but for which the death or injury would not have occurred; and

(2) The death or injury was not:

(a) too remote in its occurrence as to have a just bearing on the defendant's liability; or

(b) too dependent upon the conduct of another person which was unrelated to the defendant's operation of a motor vehicle as to have a just bearing on the defendant's liability.

d. It shall not be a defense to a prosecution under this section that the decedent contributed to his own death or injury by reckless or negligent conduct or operation of a motor vehicle.

e. Nothing in this section shall be construed to preclude or limit any prosecution for homicide.

3. This act shall take effect immediately.

Approved August 20, 2001.