

39:5-30 et al

LEGISLATIVE HISTORY CHECKLIST

(Motor vehicle point system established)

NJSA 39:5-30 et al

LAWS 1982 CHAPTER 43

Bill No. S897

Sponsor(s) Graves, Rodgers and Bassano

Date Introduced Feb. 1, 1982

Committee: Assembly ---

Senate Law, Public Safety and Defense

Amended during passage Yes ~~XX~~

Substituted for A765 (not attached since substantially similar to S897.)
Amendments during passage denoted by asterisks.

Date of Passage: Assembly May 13, 1982

Senate March 8, 1982

Date of approval June 28, 1982

Following statements are attached if available:

Sponsor statement Yes ~~XX~~

Also attached, Senate amendments adopted 3-8-82, (with statements)

Committee Statement: Assembly Yes No

Senate Yes ~~NOXX~~

Fiscal Note Yes ~~XX~~ No

Veto Message Yes ~~XX~~ No

Message on signing Yes ~~XX~~

Following were printed:

Reports ~~XX~~ No

Hearings ~~XX~~ No

Former bill number during Byrne's term: S3408

Regulations, promulgated prior to enactment of this legislation: N.J.A.C. 13:19-10 et. seq.

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SENATE, No. 897

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 1, 1982

By Senators GRAVES, RODGERS and BASSANO

Referred to Committee on Law, Public Safety and Defense

AN ACT to establish a motor vehicle point system for driver education and control, ***amending R. S. 39:5-30,*** supplementing chapter 5 of Title 39 of the Revised Statutes and repealing section 2 of P. L. 1969, c. 261 (C. 39:5-30.3).

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

1 ******[1. Any person who is convicted in this State of any of the
2 following offenses, or in another jurisdiction of an offense which if
3 committed in this State would constitute any of the following
4 offenses, shall be assessed points for each conviction in accordance
5 with the following schedule:

Section Number	Offense	Points
6 P. L. 1951, c. 264, 7 s. 5 (C. 27:23-29)	Moving against traffic—New Jersey Turnpike, Garden State 8 Parkway and Atlantic City 9 Expressway	2
10 P. L. 1951, c. 264, 11 s. 5 (C. 27:23-29)	Improper passing—New Jersey Turnpike, Garden State Parkway 12 and Atlantic City Expressway	4
13 P. L. 1951, c. 264, 14 s. 5 (C. 27:23-29)	Unlawful use of medial strip— New Jersey Turnpike, Garden 15 State Parkway and Atlantic City 16 Expressway	2
17 R. S. 39:3-20 18	Operating constructor vehicle in excess of 40 miles per hour	3

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 printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

*—Senate committee amendment adopted February 8, 1982.

**—Senate amendments adopted March 8, 1982.

Section Number	Offense	Points
19 P. L. 1975, c. 250,	Improper operation of motorized	
20 s. 2 (C. 39:4-14.3)	bicycle	2
20A R. S. 39:4-35	Failure to yield to pedestrian	
20B	in crosswalk	2
21 R. S. 39:4-36	Failure to yield to pedestrian	
22	in crosswalk; passing a vehicle	
23	yielding to pedestrian in crosswalk	2
24 P. L. 1939, c. 274	Failure to yield to blind	
25 (C. 39:4-37.1)	pedestrians	2
26 R. S. 39:4-41	Driving through safety zone	2
27 R. S. 39:4-50	Driving while intoxicated	6
28 R. S. 39:4-52	Racing on highway	5
29 R. S. 39:4-55	Improper action or omission	
30	on grades and curves	2
31 R. S. 39:4-57	Failure to observe direction	
32	of officer	2
33 R. S. 39:4-65	Letting off or taking on persons	2
34 R. S. 39:4-66	Failure to stop vehicle before	
35	crossing sidewalk	2
36 P. L. 1951, c. 23,	Failure to yield to pedestrians	
37 s. 48 (C. 39:4-66.1)	or vehicles while entering or	
38	leaving highway	2
39 R. S. 39:4-71	Operating a motor vehicle on a	
40	sidewalk	2
41 R. S. 39:4-80	Failure to obey direction of	
42	officer	2
43 R. S. 39:4-81	Failure to observe traffic signals	2
44 R. S. 39:4-82	Failure to keep right	2
45 P. L. 1951, c. 23,	Improper operating of vehicle on	
46 s. 41 (C. 39:4-82.1)	divided highway or divider	2
47 R. S. 39:4-83	Failure to keep right at	
48	intersection	2
49 R. S. 39:4-84	Failure to pass to right of vehicle	
50	proceeding in opposite direction	5
51 R. S. 39:4-85	Improper passing on right or off	
52	roadway	4
53 P. L. 1951, c. 23,		
54 s. 42 (C. 39:4-85.1)	Wrong way on a one-way street	2
55 R. S. 39:4-86	Improper passing in no passing	
56	zone	4
57 R. S. 39:4-87	Failure to yield to overtaking	
58	vehicle	3

Section Number	Offense	Points
59 R. S. 39:4-88	Failure to observe traffic lanes	2
60 R. S. 39:4-89	Tailgating	5
61 R. S. 39:4-90	Failure to yield at intersection	2
62 P. L. 1951, c. 23,	Failure to use proper entrances to	
63 s. 51 (C. 39:4-90.1)	limited access highways	2
64 R. S. 39:4-91 and	Failure to yield to emergency	
65 R. S. 39:4-92	vehicles	2
66 R. S. 39:4-96	Reckless driving	5
67 R. S. 39:4-97	Careless driving	2
68 R. S. 39:4-98 and	Exceeding maximum speed	
69 R. S. 39:4-99	1-14 miles per hour over limit	2
70	Exceeding maximum speed	
71	15-29 miles per hour over limit	4
72	Exceeding maximum speed	
73	30 miles per hour or more	
74	over limit	5
75 R. S. 39:4-105	Failure to stop for traffic light	2
76 R. S. 39:4-115	Improper turn at traffic light	3
77 R. S. 39:4-119	Failure to stop at flashing red	
78	signal	2
79 R. S. 39:4-122	Failure to stop for police whistle	2
80 R. S. 39:4-123	Improper right or left turn	3
81 R. S. 39:4-124	Improper turn from approved	
82	turning course	3
83 R. S. 39:4-125	Improper "U" turn	3
84 R. S. 39:4-126	Failure to give proper signal	2
85 R. S. 39:4-127	Improper backing or turning in	
86	street	2
87 P. L. 1951, c. 23,	Improper crossing of railroad	
88 s. 68 (C. 39:4-127.1)	grade crossing	2
89 P. L. 1951, c. 23,	Improper crossing of bridge	2
90 c. 69 (C. 39:4-127.2)		
91 R. S. 39:4-128	Improper crossing of railroad	
92	grade crossing by certain vehicles	2
93 P. L. 1942, c. 192,	Improper passing of school bus	5
94 c. 1 (C. 39:4-128.1)		
95 P. L. 1979, c. 438,	Improper passing of frozen	
96 s. 2 (C. 39:4-128.4)	dessert truck	4
97 R. S. 39:4-129	Leaving the scene of an accident	
98	No personal injury	8
99	Personal injury	12
100 R. S. 39:4-144	Failure to observe "stop" or	
101	"yield" signs	2]**

1 **1. The Director of the Division of Motor Vehicles shall have
 2 the authority, pursuant to the "Administrative Procedure Act,"
 3 P. L. 1968, c. 410 (C. 52:14B-1 et seq.), to continue to adopt rules
 4 and regulations to determine the motor vehicle offenses for which
 5 penalty points may be assessed under this act, and the amount of
 6 points to be assessed for each offense.**

1 2. The court shall assess points at the time of conviction for any
 2 offense committed in this State, and the Director of the Division of
 3 Motor Vehicles in the Department of Law and Public Safety shall,
 4 upon receiving notice, assess points for any conviction occurring
 5 in another jurisdiction. The court shall transmit a record of all
 6 points assessed along with the record of conviction to the director.
 7 The director shall maintain records of all points assessed in a
 8 manner which he shall prescribe. In addition to any requirements
 9 the director may prescribe, the record shall include the respective
 10 dates of commission and conviction of the offense or offenses.

1 3. Whenever a licensee has accumulated six or more points, the
 2 director shall notify him at his last address of record with the
 3 Division of Motor Vehicles of the number of points he has been
 4 assessed and the general nature and effects of the point system.

1 4. ~~**[The]~~** *Except for good cause, the*** director shall sus-
 2 pend for a ~~**[fixed minimum]~~** period of *no less than*** 30 days
 3 *and no more than 180 days***, except as provided in section 6 of
 3A this act, the license to operate a motor vehicle of any person who
 3B accumulates

4 a. 12 or more points in a period of 2 years or less, or
 5 b. 15 or more points in a period greater than 2 years, or
 6 c. at least 12 points but fewer than 15 points in a period greater
 7 than 2 years unless the licensee notifies the division in writing
 8 within 10 days of the date of mailing of the proposed notice of
 9 suspension of his intention to attend a driver improvement course
 10 that is approved by the director, and satisfactorily completes such
 11 course.

12 The proposed notice of suspension ~~**[sall]~~** *shall*** be mailed
 13 to the licensee at his last address of record with the Division of
 14 Motor Vehicles and shall clearly state the *length of the suspen-*
 14A *sion, the*** reason for the suspension *and that the licensee has a*
 14B *right to be heard on the suspension***.

15 The suspension shall become effective *15** days from the date of
 16 the mailing of the notice unless the director for cause establishes
 17 another date for commencement of the suspension, or, the licensee
 18 notifies the director in writing within 10 days of the mailing of the
 19 notice of his intention to personally appear at a hearing to challenge
 20 the suspension.

21 The administrative law judge presiding at a hearing held pur-
 22 suant to this section shall only consider evidence of the actual
 23 number of points assessed and the period of time during which
 24 such points were accumulated, taking into consideration any point
 25 reduction credits earned by the licensee, in issuing a suspension.
 26 He may consider other relevant evidence in considering the appro-
 27 priateness of any portion of a suspension issued in excess of ****[the**
 28 **fixed minimum period]** **30 days**.**

29 Any person who fails without reasonable cause to appear at a
 30 hearing provided for by this section, or who fails to satisfactorily
 31 complete the approved driver improvement course, as the case
 32 may be, shall have his license to operate a motor vehicle suspended
 33 forthwith by the director for ****[a fixed minimum period of 30 days,**
 34 **or for]**** the period contained in the proposed notice of suspension
 35 ****[, whichever is greater]**.**

1 5. Points recorded against a licensee shall be reduced at the
 2 rate of three points for each 12 consecutive months in which the
 3 licensee has not committed any violation either resulting in the
 4 assessment of points or in the suspension of driving privileges.
 5 Points recorded against a licensee shall also be reduced by three
 6 points where the licensee attends and satisfactorily completes an
 7 approved license improvement course provided, however, that no
 8 licensee may receive point reduction credits for completion of the
 9 same or a similar course within 2 years of having completed the
 10 original course. No point totals shall be reduced below zero. Com-
 11 putation of the time periods used in granting point reduction credits
 12 shall in all cases be based upon the respective dates of commission
 13 of the offenses for which the licensee was convicted and assessed
 14 points.

1 6. ****[The]** **Except for good cause the**** director shall sus-
 2 pend for a ****[fixed minimum]**** period as provided herein, the
 3 license to operate a motor vehicle of any person who, having had
 4 his license suspended pursuant to subsections a., b., or c. of section 4
 5 of this act, or having satisfactorily completed an approved driver
 6 improvement course pursuant to subsection c. of section 4 of this
 7 act, is convicted of a violation committed within 1 year of the date
 8 of restoration of the driving privilege or the date of completion
 9 of the approved driver improvement course, as the case may be.
 10 For commission of one violation within 1 year the ****[fixed mini-**
 11 **imum]**** period of suspension shall be ****no less than**** 45 days
 12 ****and no more than 90 days****. For a second violation the ****[fixed**
 13 **minimum]**** period of suspension shall be ****no less than**** 90 days
 14 ****and no more than 180 days****.

15 The proposed notice of suspension shall be mailed to the licensee
 16 at his last address of record with the Division of Motor Vehicles.
 17 The notice shall clearly state the ***length of the suspension, the***
 18 *reason for the suspension **and that the licensee has a right to be*
 19 *heard on the suspension***, which shall become effective 15 days
 20 from the date of the mailing of the notice, unless the director for
 21 cause establishes another date for commencement of the suspension,
 22 or unless the licensee notifies the director in writing within 10 days
 23 of the notice of his intention to personally appear at a hearing
 24 to challenge the suspension.

25 The administrative law judge presiding at a hearing held pur-
 26 suant to this section shall only consider evidence of the actual
 27 number of points assessed and the period of time during which
 28 such points were accumulated, taking into consideration any point
 29 reduction credits earned by the licensee. ***He may consider other*
 30 *relevant evidence in considering the appropriate length of a sus-*
 31 *pension for each case.***

32 Any person who fails without reasonable cause to appear at a
 33 hearing provided for by this section shall have his license to op-
 34 erate a motor vehicle suspended forthwith for the term contained
 35 in the proposed notice of suspension.

1 7. It shall not be a defense to ***nor a reason for an adjournment*
 2 *of*** any suspension proceeding instituted pursuant to this act that
 3 a. the director initially notified the licensee of any less stringent
 4 administrative alternatives then available to the licensee ***[,]***
 5 prior to the division receiving notification of more recent points
 6 accumulated by the licensee, or, b. the director failed to notify the
 7 licensee, pursuant to the provisions of section 3 of this act, of the
 8 number of points he had accumulated. ***At any hearing held pursu-*
 9 *ant to this act, the administrative law judge shall consider as*
 10 *reason for the suspension and the length of the suspension the*
 11 *actual number of points accumulated by the licensee prior to the*
 12 *date of the hearing.***

1 ***[8.* In addition to the authority to suspend granted pursuant to
 2 this act, the director may preliminarily suspend, in a summary
 3 manner, the license to operate a motor vehicle or motorized bicycle
 4 of any person charged with a violation of R. S. 39:4-50, or articles
 5 11, 12, 13, 14 and 17 of chapter 4 of Title 39 which has resulted in
 6 the death or serious injury of another. Within 15 days of the effec-
 7 tive date of the suspension order, a preliminary hearing shall be
 8 held by an administrative law judge to determine whether the sus-
 9 pension order shall remain in effect pending a full evidentiary hear-
 10 ing. The judge presiding at such a hearing shall, in addition to the

11 circumstances of the violation, consider the individual's prior driv-
12 ing record in making such a determination.】**

1 **8. R. S. 39:5-30 is amended to read as follows:

2 39:5-30. a. Every registration certificate and every license certi-
3 ficate to drive motor vehicles may be suspended or revoked, and
4 any person may be prohibited from obtaining a driver's license
5 or a registration certificate, and the reciprocity privilege of any
6 nonresident may be suspended or revoked by the director for
7 a violation of any of the provisions of this Title or on any other
8 reasonable grounds, after due notice in writing of such proposed
9 suspension, revocation or prohibition and the ground thereof.

10 He may also summon witnesses to appear before him at his office
11 or at any other place he designates, to give testimony in a hearing
12 which he holds looking toward a revocation of a license or registra-
13 tion certificate issued by or under his authority. The summons shall
14 be served at least 5 days before the return date, either by registered
15 mail or personal service. A person who fails to obey the summons
16 shall be subject to a penalty not exceeding \$100.00, to be recovered
17 with costs in an action at law, prosecuted by the Attorney-General,
18 and in addition the vehicle registration or driver's license, or both,
19 as the case may be, shall forthwith be revoked. The fee for wit-
20 nesses required to attend before the director shall be \$1.00 for each
21 day's attendance and \$0.03 for every mile of travel by the nearest
22 generally traveled route in going to and from the place where the
23 attendance of the witness is required. These fees shall be paid
24 when the witness is excused from further attendance, and the dis-
25 bursements made from payment of the fees shall be audited and
26 paid in the manner provided for expenses of the department. The
27 actual conduct of said hearing may be delegated by the director
28 to such departmental employees as he may designate, in which
29 case the said employees shall recommend to the director in
30 writing, whether the said licenses or certificates shall or shall not
31 be suspended or revoked.

32 b. Whenever a matter is presented to the director involving an
33 alleged violation of

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

37 (2) R. S. 39:4-50, *and which has resulted in the death of another;*

38 (3) R. S. 39:4-96, *and which has resulted in the death of another;*

39 or

40 (4) R. S. 39:4-129, wherein the death of another has occurred,
41 *and the director has not determined to immediately issue a pre-*

42 *liminary suspension pursuant to subsection e. of this section, the*
43 *director shall issue a [proposed] notice of proposed final sus-*
44 *pension or revocation of any license certificate or any nonresident*
45 *reciprocity privileges to operate any motor vehicle or motorized*
46 *bicycle held by the individual charged or [issue a] temporary order*
47 *prohibiting the individual from obtaining any license to operate*
48 *any motor vehicle or motorized bicycle in this State.*

49 *In the notice, the director shall provide the individual charged*
50 *with an opportunity for a plenary hearing to contest the proposed*
51 *final suspension, revocation or other final agency action. Unless*
52 *the division receives, no later than the 10th day from the date the*
53 *notice was mailed, a written request for hearing, the proposed final*
54 *agency action shall take effect on the date specified in the notice.*

55 **[A]** *Upon receipt of a timely request for a plenary hearing, a*
56 *preliminary hearing shall be held [on the matter] by an adminis-*
57 *trative law judge within 15 days of the [date that the summons was*
58 *issued or the arrest was made] receipt of the request. The pre-*
59 *liminary hearing shall be for the purpose of determining whether,*
60 *pending a plenary hearing on the proposed final agency action, a*
61 *preliminary suspension shall be immediately issued by the judge.*
62 *Adjournment of such hearing upon motion by the individual*
63 *charged shall be given only for good cause shown.*

64 **[***The administrative law judge hearing such matter shall deter-*
65 *mine at such hearing whether there is probable cause to believe that*
66 *grounds exist for suspension or revocation of the individual's*
67 *license certificate. If, from the evidence, the administrative law*
68 *judge determines that such grounds exist, he shall immediately*
69 *issue a preliminary suspension of any license certificate or any non-*
70 *resident reciprocity privileges held by the individual charged or*
71 *issue a temporary order prohibiting the individual from obtaining*
72 *any license to operate any motor vehicle in this State. After con-*
73 *cluding the proceeding the administrative law judge shall transmit*
74 *his findings to the director. Whether or not a preliminary finding*
75 *of probable cause was made at a preliminary hearing, a hearing*
76 *shall be held on the matter within 45 days of the date that the*
77 *summons was issued or arrest was made.]*

78 *At the preliminary hearing, the parties shall proceed on the*
79 *papers submitted to the judge, including the summons, the police*
80 *reports and the charged individual's prior driving record submitted*
81 *by the division, and any brief affidavits permitted by the judge*
82 *from persons who shall be witnesses at the plenary hearing, and the*
83 *parties may present oral argument. Based on the papers, on any*
84 *oral argument, on the individual's prior driving record, and on the*

85 *circumstances of the alleged violation presented in the papers, the*
86 *judge shall determine whether the individual was properly charged*
87 *with a violation of the law and a death occurred; and, if so, whether*
88 *in the interest of public safety, a preliminary suspension shall be*
89 *immediately ordered pending the plenary hearing on the proposed*
90 *suspension or revocation. The administrative law judge shall trans-*
91 *mit his findings to the director.*

92 *A plenary hearing shall be held no later than the 45th day*
93 *following receipt of a timely request. Adjournment of [such] the*
94 *hearing [upon motion by the individual charged] shall be given*
95 *only for good cause shown. If the hearing is otherwise postponed*
96 *or delayed solely at the instance of the individual charged, the*
97 *administrative law judge shall immediately issue a preliminary*
98 *suspension of any license certificate or any nonresident reciprocity*
99 *privileges held by the individual charged or if any such preliminary*
100 *suspension or order is in effect, he shall continue such suspension*
101 *or order. Such preliminary suspension or temporary order shall*
102 *be effective until the individual charged appears at [a] the plenary*
103 *hearing [on the matter]. If the hearing is otherwise postponed or*
104 *delayed at the instance of anyone other than the individual charged,*
105 *the judge shall immediately issue an order restoring the individual's*
106 *license certificate or any nonresident reciprocity privilege pending*
107 *final agency decision in the matter. The period of any preliminary*
108 *suspension imposed under this section shall be deducted from any*
109 *suspension imposed by the final agency decision in the matter.*

110 [In addition, the director shall require any person whose privil-
111 leges to operate a motor vehicle are suspended or against whom
112 a temporary order is issued prohibiting the individual from obtain-
113 ing a license, pursuant to this section, to be reexamined to determine
114 the ability of the person to safely operate a motor vehicle prior
115 to regaining or obtaining any driving privileges in this State.

116 Any determination resulting from such hearing shall not be
117 admissible at any criminal or quasi-criminal proceedings on the
118 alleged violation or violations.]

119 c. Whenever any other matter is presented to the director in-
120 volving an alleged violation of this title wherein the death of
121 another occurred and for which he determines immediate action
122 is warranted, he may proceed in the manner prescribed in sub-
123 section b. above.

124 d. Whenever a fatal accident occurs in this State wherein any
125 operator involved in the accident is charged with any of the offenses
126 enumerated in subsection b. of this section, an investigation of the
127 incident, whether performed by the State Police or by local police,

128 shall be completed and forwarded to the director within 72 hours
129 of the time of the accident.

130 *e. Whenever a matter is presented to the director involving an*
131 *alleged violation of*

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

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

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

139 *(4) R. S. 39:4-129, wherein the death or serious bodily injury of*
140 *another has occurred, the director for good cause may, without*
141 *hearing, immediately issue a preliminary suspension of any license*
142 *certificate or any nonresident reciprocity privileges to operate any*
143 *motor vehicle or motorized bicycle held by an individual charged*
144 *or temporary order prohibiting the individual from obtaining any*
145 *license to operate any motor vehicle or motorized bicycle in this*
146 *State. For purposes of this subsection, "serious bodily injury"*
147 *means bodily injury which creates a substantial risk of death or*
148 *which causes serious, permanent disfigurement, or protracted loss*
149 *or impairment of the function of any bodily member or organ.*
150 *Along with the notice of preliminary suspension, the director shall*
151 *issue a notice of proposed final suspension, revocation or other*
152 *final agency action, and shall afford the individual the right to a*
153 *preliminary hearing to contest the preliminary suspension and a*
154 *plenary hearing to contest the proposed final agency action.*

155 *The preliminary suspension shall remain in effect pending a*
156 *final agency decision on the proposed final agency action, unless*
157 *a request for a preliminary hearing is received by the division no*
158 *later than the 10th day from the date on which the notice was*
159 *mailed. The proposed final agency action shall take effect on the*
160 *date specified in the notice unless a request for a plenary hearing*
161 *is received by the division no later than the 10th day from the date*
162 *on which the notice was mailed.*

163 *Upon timely request by the individual, a preliminary hearing*
164 *shall be held by an administrative law judge, no later than the 15th*
165 *day from the date on which the division receives the request. The*
166 *preliminary hearing shall be for the purpose of determining*
167 *whether, pending a plenary hearing on the proposed final agency*
168 *action, the preliminary suspension issued by the director shall re-*
169 *main in effect. Adjournment of the hearing shall be given only for*
170 *good cause shown. If the preliminary hearing is otherwise post-*

171 poned or delayed solely at the instance of someone other than the
 172 individual charged, the judge shall immediately order that the
 173 individual's license certificate or any nonresident reciprocity privi-
 174 ledge be restored pending the rescheduled preliminary hearing.

175 At the preliminary hearing, the parties shall proceed on the
 176 papers submitted to the judge, including the summons, the police
 177 reports and the charged individual's prior driving record submitted
 178 by the division, and any brief affidavits permitted by the judge
 179 from persons who shall be witnesses at the final hearing,
 180 and the parties may present oral arguments. Based on the
 181 papers, on any oral argument, on the individual's prior driving
 182 record, and on the circumstances of the alleged violation presented
 183 in the papers, the judge shall immediately determine whether the
 184 individual was properly charged with a violation of the law and a
 185 death occurred; and, if so, whether in the interest of public safety,
 186 the preliminary suspension shall be continued pending the plenary
 187 hearing on the proposed final agency action. The administrative
 188 law judge shall transmit his findings to the director.

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

192 f. In addition to any other final agency action, the director shall
 193 require any person whose privileges to operate a motor vehicle or
 194 motorized bicycle are suspended or who has been prohibited from
 195 obtaining a license, pursuant to this section, to be reexamined to
 196 determine the persons's ability to operate a motor vehicle or motor-
 197 ized bicycle prior to regaining or obtaining any driving privileges
 198 in this State.

199 Any determination resulting from any preliminary or plenary
 200 hearing held pursuant to this section shall not be admissible at any
 201 criminal or quasi-criminal proceedings on the alleged violation or
 202 violations.**

1 9. Section 2 of P. L. 1969, **[c. 201]** **c. 261** (C. 39:5-30.3)
 2 is repealed, provided, however, that any points accumulated by a
 3 licensee prior to the effective date of this act and pursuant to the
 4 authority granted by section 2 of P. L. 1969, c. 261 (C. 39:5-30.3),
 5 shall remain in full force and effect, and shall be computed along
 6 with points assessed pursuant to the authority contained in this act,
 7 in initiating or proceeding with any administrative action author-
 8 ized herein.

1 10. This act shall take effect 120 days next following enactment.

1 7. It shall not be a defense to any suspension proceeding insti-
 2 tuted pursuant to this act that a. the director initially notified
 3 the licensee of any less stringent administrative alternatives then
 4 available to the licensee, prior to the division receiving notification
 5 of more recent points accumulated by the licensee, or, b. the di-
 6 rector failed to notify the licensee, pursuant to the provisions of
 7 section 3 of this act, of the number of points he had accumulated.

1 8. In addition to the authority to suspend granted pursuant to
 2 this act, the director may preliminarily suspend, in a summary
 3 manner, the license to operate a motor vehicle or motorized bicycle
 4 of any person charged with a violation of R. S. 39:4-50, or articles
 5 11, 12, 13, 14 and 17 of chapter 4 of Title 39 which has resulted in
 6 the death or serious injury of another. Within 15 days of the effec-
 7 tive date of the suspension order, a preliminary hearing shall be
 8 held by an administrative law judge to determine whether the sus-
 9 pension order shall remain in effect pending a full evidentiary hear-
 10 ing. The judge presiding at such a hearing shall, in addition to the
 11 circumstances of the violation, consider the individual's prior driv-
 12 ing record in making such a determination.

1 9. Section 2 of P. L. 1969, c. 201 (C. 39:5-30.3) is repealed,
 2 provided, however, that any points accumulated by a licensee prior
 3 to the effective date of this act and pursuant to the authority
 4 granted by section 2 of P. L. 1969, c. 261 (C. 39:5-30.3), shall re-
 5 main in full force and effect, and shall be computed along with
 6 points assessed pursuant to the authority contained in this act, in
 7 initiating or proceeding with any administrative action authorized
 8 herein.

1 10. This act shall take effect 120 days next following enactment.

STATEMENT

This bill would establish a statutory point system for driver education and control. The present point system is set out by regulation. The statutory section establishing the authority for the present point system is repealed.

There are a few fundamental differences between the system envisioned by this bill and the present point system. First, points assessed for violations occurring within this State would be given by the court at the time of conviction. Only points for offenses occurring out of state would be assessed by the division under this bill. Secondly, the bill establishes an expanded point schedule to cover offenses not included in the present regulations. Some very serious offenses, such as driving while intoxicated, are not included under the present point regulations.

S 897 (1982)

The bill would require a 30-day suspension of the license of anyone accumulating 12 or more points. However, it would permit anyone who has accumulated the points in more than 2 years to take an approved driver improvement course in order to receive 3 point reduction credits. If the point reduction credit would reduce the total below 12 points, there would be no required suspension.

The bill also provides that for each consecutive 12-month period of violation-free driving the licensee is awarded 3 point reduction credits.

The bill provides extended suspension periods for commission of violations within 1 year of either (a) the date of restoration following an earlier suspension or (b) the date of completion of a driver improvement course. For a first violation, the minimum extended period of suspension would be 45 days and for a second it would be 90 days. Any additional violation would bring the individual within the purview of a habitual offender provision contained in a bill introduced at the same time as this bill as part of a motor vehicle reform package.

This bill also provides that the director may preliminarily suspend the license to operate a motor vehicle or motorized bicycle of anyone charged with a violation of R. S. 39:4-50 (operating while under the influence) or articles 11, 12, 13, 14 and 17 of chapter 4 of Title 39 that has resulted in the death or serious injury of another person. Based on a preliminary hearing, the administrative law judge shall determine whether the suspension should remain in effect pending a full evidentiary hearing.

SENATE LAW, PUBLIC SAFETY AND DEFENSE
COMMITTEE

STATEMENT TO

SENATE, No. 897

with Senate committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 8, 1982

This bill would establish a statutory point system for driver education and control. The present point system is set out by regulation. The statutory section establishing the authority for the present point system is repealed.

There are a few fundamental differences between the system envisioned by this bill and the present point system. First, points assessed for violations occurring within this State would be given by the court at the time of conviction. Only points for offenses occurring out of state would be assessed by the division under this bill. Secondly, the bill establishes an expanded point schedule to cover offenses not included in the present regulations. Some very serious offenses, such as driving while intoxicated, are not included under the present point regulations.

The bill would require a 30-day suspension of the license of anyone accumulating 12 or more points. However, it would permit anyone who has accumulated the points in more than 2 years to take an approved driver improvement course in order to receive 3 point-reduction credits. If the point-reduction credit would reduce the total below 12 points, there would be no required suspension.

The bill also provides that for each consecutive 12-month period of violation-free driving the licensee is awarded 3 point-reduction credits.

The bill provides extended suspension periods for commission of violations within 1 year of: (a) the date of restoration of a license following an earlier suspension or (b) the date of completion of a driver improvement course. For a first violation, the minimum extended period of suspension would be 45 days, and for a second it would be 90 days. Any additional violation would bring the individual within the purview of a habitual offender provision contained in a bill introduced at the same time as this bill as part of a motor vehicle reform package.

This bill also provides that the director may preliminarily suspend the license to operate a motor vehicle or motorized bicycle of anyone charged with certain violations that result in the death or serious injury

of another person.

The bill was amended to correct the inadvertent omission of the number of days after the mailing of a proposed notice of suspension in which the suspension becomes effective. As amended, the bill provides that the suspension becomes effective 15 days after the notice is mailed.

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Senate Amendments

to

Senate Bill No. 897 OCR

Amend:

Page	Sec.	Line
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The amendments also grant the director some discretion in suspending the license of a person who has accumulated a certain number of points. The bill without the amendments makes a suspension mandatory. In addition to the minimum periods of suspension contained in the bill, the amendments provide for maximum periods.

The amendments remove section 8 of the bill and replace it with a new section 8, which amends R.S. 39:5-30 to permit the director to issue an immediate preliminary suspension of the license of a person who has committed certain motor vehicle violations that result in the death or serious bodily injury of another person.

The new section 8 further provides that if a person's license is preliminarily suspended pending a full evidentiary hearing, if the full evidentiary hearing does not take place within 45 days of the notice of proposed suspension, the license will be returned to the person until a final determination of the case is made.

Finally, the new section 8 makes certain changes in R.S. 39:5-30 that clarify the procedures that already take place pursuant to the statute.

Amend:

Page	Sec.	Line
6	9	1

f. In addition to any other final agency action, the director shall require any person whose privileges to operate^a/motor vehicle or motorized bicycle are suspended or who has been prohibited from obtaining a license, pursuant to this section, to be reexamined to determine the person's ability to operate a motor vehicle or motorized bicycle prior to regaining or obtaining any driving privileges in this State.

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

Omit " c. 201 " Insert " c. 261 "
STATEMENT

The purpose of these amendments is to remove the schedule containing the motor vehicle offenses for which points can be assessed and the number of points assessed for each offense, and to replace it with a provision authorizing the Director of the Division of Motor Vehicles to establish such a schedule of offenses and points by regulation, extending the system which has been in effect for many years and thereby recognizing the validity of the point system now in effect.

OFFICE OF THE GOVERNOR

FOR IMMEDIATE RELEASE

CONTACT: DAVID DE MAIO

JUNE 28, 1982

Governor Thomas H. Kean today signed legislation giving the Director of the Division of Motor Vehicles authority to make rules and regulations and establish a point system for driving offenses.

The bill, S-897, sponsored by former Senator Frank Graves (D-Passaic), was originally introduced as the "point system" part of a package of motor vehicle legislation which died at the end of former Governor Byrne's term.

The version of the bill signed today allows the DMV Director to set penalty points for offenses and requires the Director to suspend driver's licenses when a driver acquires 12 or more points in two years, or 15 or more points in more than two years, and 12 to 15 points in more than two years unless the driver agrees to attend driver education classes.

The bill also requires suspension for previously suspended drivers convicted of offenses within one year of regaining their license, or within one year of completing the optional driver education program mentioned above. Provisions for erasing three points for every 12 months of violation-free driving are also included.

The bill, which takes effect in 120 days, differs from its original form in that a codified schedule of specific points has been replaced with a provision giving DMV power to adopt rules specifying the penalty points assessed for particular offenses. The current administrative rule making system had lacked legislative authorization.

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