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No

IS 2/26/08

P.L. 2005, CHAPTER 343, *approved January 12, 2006*  
Senate, No. 2517 (*Second Reprint*)

1 AN ACT concerning penalties for drug offenses and amending  
2 N.J.S.2C:35-16.

3

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

6

7 1. N.J.S.2C:35-16 is amended to read as follows:

8 2C:35-16. **[Mandatory]** Forfeiture or Postponement of Driving  
9 Privileges.

10 a. In addition to any disposition authorized by this title, the  
11 provisions of section 24 of P.L.1982, c.77 (C.2A:4A-43), or any other  
12 statute indicating the dispositions that can be ordered for an  
13 adjudication of delinquency, and notwithstanding the provisions of  
14 subsection c. of N.J.S.2C:43-2 **[every]**, a person convicted of or  
15 adjudicated delinquent for a violation of any offense defined in this  
16 chapter or chapter 36 of this title shall forthwith forfeit his right to  
17 operate a motor vehicle over the highways of this State for a period to  
18 be fixed by the court at not less than six months or more than two  
19 years which shall commence on the day the sentence is imposed unless  
20 the court finds compelling circumstances warranting an exception. For  
21 the purposes of this section, compelling circumstances warranting an  
22 exception exist if the forfeiture of the person's right to operate a motor  
23 vehicle over the highways of this State will result in extreme hardship  
24 and alternative means of transportation are not available. In the case  
25 of **[any]** a person who at the time of the imposition of sentence is less  
26 than 17 years of age, the period of **[the]** any suspension of driving  
27 privileges authorized herein, including a suspension of the privilege of  
28 operating a motorized bicycle, shall commence on the day the sentence  
29 is imposed and shall run for a period as fixed by the court of not less  
30 than six months or more than two years after the day the person  
31 reaches the age of 17 years. If the driving privilege of any person is  
32 under revocation, suspension, or postponement for a violation of any  
33 provision of this title or Title 39 of the Revised Statutes at the time of  
34 any conviction or adjudication of delinquency for a violation of any  
35 offense defined in this chapter or chapter 36 of this title, **[the]** any  
36 revocation, suspension, or postponement period imposed herein shall  
37 commence as of the date of termination of the existing revocation,  
38 suspension, or postponement. <sup>2</sup>[<sup>1</sup>A person, at any time after  
39 sentencing and upon notice to the prosecutor, may make an application

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup> Senate SJU committee amendments adopted December 12, 2005.

<sup>2</sup> Senate floor amendments adopted January 5, 2006.

1 to the court to restore his right to operate a motor vehicle over the  
2 highways of this State; provided the application is based upon new  
3 evidence or new information which demonstrates compelling  
4 circumstances warranting an exception.<sup>1</sup><sup>2</sup>

5 [The] b. If forfeiture or postponement of driving privileges is  
6 ordered by the court pursuant to subsection a. of this section, the  
7 court [before whom any person is convicted of or adjudicated  
8 delinquent for a violation of any offense defined in this chapter or  
9 chapter 36 of this title] shall collect forthwith the New Jersey driver's  
10 license or licenses of the person and forward such license or licenses  
11 to the Director of the Division of Motor Vehicles along with a report  
12 indicating the first and last day of the suspension or postponement  
13 period imposed by the court pursuant to this section. If the court is  
14 for any reason unable to collect the license or licenses of the person,  
15 the court shall cause a report of the conviction or adjudication of  
16 delinquency to be filed with the Director. That report shall include the  
17 complete name, address, date of birth, eye color, and sex of the person  
18 and shall indicate the first and last day of the suspension or  
19 postponement period imposed by the court pursuant to this section.  
20 The court shall inform the person orally and in writing that if the  
21 person is convicted of personally operating a motor vehicle during the  
22 period of license suspension or postponement imposed pursuant to this  
23 section, the person shall, upon conviction, be subject to the penalties  
24 set forth in R.S.39:3-40. A person shall be required to acknowledge  
25 receipt of the written notice in writing. Failure to receive a written  
26 notice or failure to acknowledge in writing the receipt of a written  
27 notice shall not be a defense to a subsequent charge of a violation of  
28 R.S.39:3-40. If the person is the holder of a driver's license from  
29 another jurisdiction, the court shall not collect the license but shall  
30 notify forthwith the Director who shall notify the appropriate officials  
31 in the licensing jurisdiction. The court shall, however, in accordance  
32 with the provisions of this section, revoke the person's non-resident  
33 driving privilege in this State.

34 c. In addition to any other condition imposed, a court may in its  
35 discretion suspend, revoke or postpone in accordance with the  
36 provisions of this section the driving privileges of a person admitted  
37 to supervisory treatment under N.J.S.2C:36A-1 or N.J.S.2C:43-12  
38 without a plea of guilty or finding of guilt.

39 (cf: P.L.1988,c.44,s.7)

40  
41 2. This act shall take effect immediately.

42  
43  
44  
45 \_\_\_\_\_  
46 Authorizes court to refrain from imposing driver's license suspension  
47 on defendant convicted of CDS offense if compelling circumstances  
exist.

**SENATE, No. 2517**

**STATE OF NEW JERSEY**  
**211th LEGISLATURE**

INTRODUCED MAY 12, 2005

**Sponsored by:**

**Senator BERNARD F. KENNY, JR.**

**District 33 (Hudson)**

**Senator ANTHONY R. BUCCO**

**District 25 (Morris)**

**Co-Sponsored by:**

**Senator Adler**

**SYNOPSIS**

Authorizes court to refrain from imposing driver's license suspension on defendant convicted of CDS offense if compelling circumstances exist.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 6/10/2005)**

1 AN ACT concerning penalties for drug offenses and amending  
2 N.J.S.2C:35-16.

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

6  
7 1. N.J.S.2C:35-16 is amended to read as follows:

8 2C:35-16. **[Mandatory]** Forfeiture or Postponement of Driving  
9 Privileges.

10 a. In addition to any disposition authorized by this title, the  
11 provisions of section 24 of P.L.1982, c.77 (C.2A:4A-43), or any other  
12 statute indicating the dispositions that can be ordered for an  
13 adjudication of delinquency, and notwithstanding the provisions of  
14 subsection c. of N.J.S.2C:43-2 **[every]**, a person convicted of or  
15 adjudicated delinquent for a violation of any offense defined in this  
16 chapter or chapter 36 of this title shall forthwith forfeit his right to  
17 operate a motor vehicle over the highways of this State for a period to  
18 be fixed by the court at not less than six months or more than two  
19 years which shall commence on the day the sentence is imposed unless  
20 the court finds compelling circumstances warranting an exception. For  
21 the purposes of this section, compelling circumstances warranting an  
22 exception exist if the forfeiture of the person's right to operate a motor  
23 vehicle over the highways of this State will result in extreme hardship  
24 and alternative means of transportation are not available. In the case  
25 of **[any]** a person who at the time of the imposition of sentence is less  
26 than 17 years of age, the period of **[the]** any suspension of driving  
27 privileges authorized herein, including a suspension of the privilege of  
28 operating a motorized bicycle, shall commence on the day the sentence  
29 is imposed and shall run for a period as fixed by the court of not less  
30 than six months or more than two years after the day the person  
31 reaches the age of 17 years. If the driving privilege of any person is  
32 under revocation, suspension, or postponement for a violation of any  
33 provision of this title or Title 39 of the Revised Statutes at the time of  
34 any conviction or adjudication of delinquency for a violation of any  
35 offense defined in this chapter or chapter 36 of this title, **[the]** any  
36 revocation, suspension, or postponement period imposed herein shall  
37 commence as of the date of termination of the existing revocation,  
38 suspension, or postponement.

39 **[The]** b. If forfeiture or postponement of driving privileges is  
40 ordered by the court pursuant to subsection a. of this section, the  
41 court **[before whom any person is convicted of or adjudicated**  
42 delinquent for a violation of any offense defined in this chapter or

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

**Matter underlined thus is new matter.**

1 chapter 36 of this title] shall collect forthwith the New Jersey driver's  
2 license or licenses of the person and forward such license or licenses  
3 to the Director of the Division of Motor Vehicles along with a report  
4 indicating the first and last day of the suspension or postponement  
5 period imposed by the court pursuant to this section. If the court is  
6 for any reason unable to collect the license or licenses of the person,  
7 the court shall cause a report of the conviction or adjudication of  
8 delinquency to be filed with the Director. That report shall include the  
9 complete name, address, date of birth, eye color, and sex of the person  
10 and shall indicate the first and last day of the suspension or  
11 postponement period imposed by the court pursuant to this section.  
12 The court shall inform the person orally and in writing that if the  
13 person is convicted of personally operating a motor vehicle during the  
14 period of license suspension or postponement imposed pursuant to this  
15 section, the person shall, upon conviction, be subject to the penalties  
16 set forth in R.S.39:3-40. A person shall be required to acknowledge  
17 receipt of the written notice in writing. Failure to receive a written  
18 notice or failure to acknowledge in writing the receipt of a written  
19 notice shall not be a defense to a subsequent charge of a violation of  
20 R.S.39:3-40. If the person is the holder of a driver's license from  
21 another jurisdiction, the court shall not collect the license but shall  
22 notify forthwith the Director who shall notify the appropriate officials  
23 in the licensing jurisdiction. The court shall, however, in accordance  
24 with the provisions of this section, revoke the person's non-resident  
25 driving privilege in this State.

26 c. In addition to any other condition imposed, a court may in its  
27 discretion suspend, revoke or postpone in accordance with the  
28 provisions of this section the driving privileges of a person admitted  
29 to supervisory treatment under N.J.S.2C:36A-1 or N.J.S.2C:43-12  
30 without a plea of guilty or finding of guilt.  
31 (cf: P.L.1988,c.44,s.7)

32

33 2. This act shall take effect immediately.

34

35

36

#### STATEMENT

37

38 Under current law, the court must order every person convicted of  
39 an offense concerning controlled dangerous substances or drug  
40 paraphernalia, as set out in chapters 35 and 36 of the Criminal Code,  
41 to forfeit his or her driving privileges for a period of six months to two  
42 years. In cases involving juveniles under the age of 17, the period of  
43 suspension ordered by the court begins after the day the juvenile  
44 reaches age 17. This bill allows the court to refrain from imposing the  
45 driver's license suspension under certain circumstances.

46 As a condition of receipt of certain Federal funds, Federal law (set

1 out in 23 U.S.C.A. §159) requires each state to comply with one of  
2 the following three options:

3 (1) the state must requires driver's license suspension for CDS  
4 offenses in all cases (as does current New Jersey law); or

5 (2) the state must require drivers' license suspension for CDS  
6 offenses unless there are "compelling circumstances warranting an  
7 exception"; or

8 (3) the state's Governor must submit two certifications to the  
9 federal Secretary of Transportation: one stating that the Governor is  
10 opposed to the enactment or enforcement in the state of a law  
11 requiring drivers' license suspensions for convicted drug offenders; and  
12 one stating that the legislature (including both Houses where  
13 applicable) has adopted a resolution expressing its opposition to such  
14 a law.

15 This bill conforms to alternative (2) of the Federal statute. Under  
16 the bill, the court will not order a driver's license suspension for a  
17 person convicted of a drug offense if the court finds "compelling  
18 circumstances warranting an exception." For purposes of the bill,  
19 compelling circumstances warranting an exception exist if the  
20 forfeiture of the person's right to operate a motor vehicle will result in  
21 extreme hardship and alternative means of transportation are not  
22 available.



# SENATE JUDICIARY COMMITTEE

## STATEMENT TO

### **SENATE, No. 2517**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: DECEMBER 12, 2005

The Senate Judiciary Committee reports favorably and with committee amendments Senate Bill No. 2517.

Under current law, the court must order every person convicted of an offense concerning controlled dangerous substances or drug paraphernalia, as set out in chapters 35 and 36 of the Criminal Code, to forfeit his or her driving privileges for a period of six months to two years. In cases involving juveniles under the age of 17, the period of suspension ordered by the court begins after the day the juvenile reaches age 17. This bill allows the court to refrain from imposing the driver's license suspension under certain circumstances.

As a condition of receipt of certain federal funds, federal law (set out in 23 U.S.C.A. §159) requires each state to comply with one of the following three options:

(1) the state must require driver's license suspension for CDS offenses in all cases (as does current New Jersey law); or

(2) the state must require drivers' license suspension for CDS offenses unless there are "compelling circumstances warranting an exception"; or

(3) the state's Governor must submit two certifications to the federal Secretary of Transportation: one stating that the Governor is opposed to the enactment or enforcement in the state of a law requiring drivers' license suspensions for convicted drug offenders; and one stating that the legislature (including both Houses where applicable) has adopted a resolution expressing its opposition to such a law.

This bill conforms to alternative (2) of the federal statute. Under the bill, the court will not order a driver's license suspension for a person convicted of a drug offense if the court finds "compelling circumstances warranting an exception." For purposes of the bill, compelling circumstances warranting an exception exist if the forfeiture of the person's right to operate a motor vehicle will result in extreme hardship and alternative means of transportation are not available.

The committee amendments were proposed by the Commission to

Review Criminal Sentencing established by P.L.2003, c.265. These amendments provide that a person, at any time after sentencing and upon notice to the prosecutor, may make an application to the court to restore his right to operate a motor vehicle if the application is based upon new evidence or new information which demonstrates compelling circumstances warranting an exception. For example, a person may be sentenced to forfeit his driving privileges for two years. After serving one year of that sentence he may relocate and alternative means of transportation may no longer be available near his new residence. Under the amendments that person may apply to the court for reconsideration of his loss of driving privileges given the new information bearing on this matter.

STATEMENT TO  
[FIRST REPRINT]  
**SENATE, No. 2517**

with Senate Floor Amendments  
(Proposed By Senator Kenny)

ADOPTED: JANUARY 5, 2006

These floor amendments would remove the language from the bill which provided that a person, at any time after sentencing and upon notice to the prosecutor, may make an application to the court to restore his right to operate a motor vehicle if the application is based upon new evidence or new information which demonstrates compelling circumstances warranting an exception.

# ASSEMBLY, No. 878

## STATE OF NEW JERSEY 211th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2004 SESSION

**Sponsored by:**

**Assemblyman PETER J. BARNES, JR.**

**District 18 (Middlesex)**

**Assemblywoman MARY T. PREVITE**

**District 6 (Camden)**

**Co-Sponsored by:**

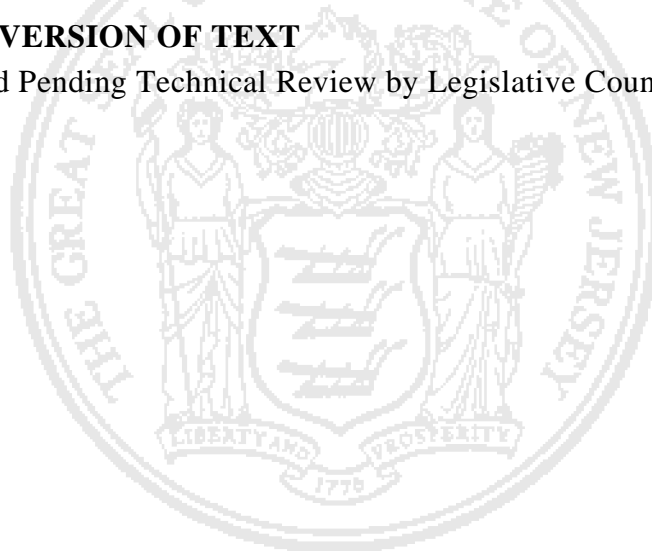
**Assemblymen Diegnan, Egan, Payne, Stanley, Caraballo, Gusciora, Hackett, Burzichelli, Assemblywoman Watson Coleman, Assemblymen Green, Tucker, Assemblywoman Cruz-Perez, Assemblymen Roberts and Conners**

**SYNOPSIS**

Authorizes court to refrain from imposing driver's license suspension on defendant convicted of CDS offense if compelling circumstances exist.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



A878 BARNES, PREVITE

2

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40 ordered by the court pursuant to subsection a. of this section, the  
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21 another jurisdiction, the court shall not collect the license but shall  
22 notify forthwith the Director who shall notify the appropriate officials  
23 in the licensing jurisdiction. The court shall, however, in accordance  
24 with the provisions of this section, revoke the person's non-resident  
25 driving privilege in this State.

26 c. In addition to any other condition imposed, a court may in its  
27 discretion suspend, revoke or postpone in accordance with the  
28 provisions of this section the driving privileges of a person admitted  
29 to supervisory treatment under N.J.S.2C:36A-1 or N.J.S.2C:43-12  
30 without a plea of guilty or finding of guilt.  
31 (cf: P.L.1988,c.44,s.7)

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33 2. This act shall take effect immediately.

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36

#### STATEMENT

37

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40 paraphernalia, as set out in chapters 35 and 36 of the Criminal Code,  
41 to forfeit his or her driving privileges for a period of six months to two  
42 years. In cases involving juveniles under the age of 17, the period of  
43 suspension ordered by the court begins after the day the juvenile  
44 reaches age 17.

45 This bill provides that the court will not order a driver's license  
46 suspension if it finds "compelling circumstances warranting an

**A878 BARNES, PREVITE**

4

1 exception." As prescribed in the bill, compelling circumstances  
2 warranting an exception exist if the forfeiture of the person's right to  
3 operate a motor vehicle will result in extreme hardship and alternative  
4 means of transportation are not available.

# ASSEMBLY JUDICIARY COMMITTEE

## STATEMENT TO

### ASSEMBLY, No. 878

# STATE OF NEW JERSEY

DATED: MAY 10, 2004

The Assembly Judiciary Committee reports favorably Assembly Bill No. 878.

Under current law, the court must order every person convicted of an offense concerning controlled dangerous substances or drug paraphernalia, as set out in chapters 35 and 36 of the Criminal Code, to forfeit his or her driving privileges for a period of six months to two years. In cases involving juveniles under the age of 17, the period of suspension ordered by the court begins after the day the juvenile reaches age 17. This bill allows the court to refrain from imposing the driver's license suspension under certain circumstances.

As a condition of receipt of certain Federal funds, Federal law (set out in 23 U.S.C.A. §159) requires each state to comply with one of the following three options:

(1) the state must require driver's license suspension for CDS offenses in all cases (as does current New Jersey law); or

(2) the state must require drivers' license suspension for CDS offenses unless there are "compelling circumstances warranting an exception"; or

(3) the state's Governor must submit two certifications to the federal Secretary of Transportation: one stating that the Governor is opposed to the enactment or enforcement in the state of a law requiring drivers' license suspensions for convicted drug offenders; and one stating that the legislature (including both Houses where applicable) has adopted a resolution expressing its opposition to such a law.

This bill conforms to alternative (2) of the Federal statute. Under the bill, the court will not order a driver's license suspension for a person convicted of a drug offense if the court finds "compelling circumstances warranting an exception." For purposes of the bill, compelling circumstances warranting an exception exist if the forfeiture of the person's right to operate a motor vehicle will result in extreme hardship and alternative means of transportation are not available.

This bill was prefiled for introduction in the 2004 session pending technical review. As reported, the bill includes the changes required by technical review which has been performed.