

CAN SOMEONE BESIDES THE MVC SUSPEND MY DRIVERS LICENSE?

Most people think that the MVC is the only body to suspend driving privileges. They would be wrong.

NJSA 39:5-31 governs the power of the Court to suspend New Jersey driving privileges. It reads in pertinent part:

39:5-31. Revocation of Driver's license by director or magistrate

The director or any magistrate before whom any hearing under this subtitle is had may revoke the license of any person to drive a motor vehicle, when such a person shall have been guilty of such willful violation of any of the provisions of this subtitle as shall, in the discretion of the magistrate, justify such revocation.

Recently the New Jersey Supreme Court in *STATE v. MORAN*, 202 N.J.311 (2010) interpreted and gave guidance as to the application of the statute.

In the context of a reckless driving violation the Supreme Court defined the term "willful" as follows:

When read in context with related provisions, the word willful conveys a different import in N.J.S.A. 39:4-96 and N.J.S.A. 39:5-31. In the reckless-driving statute, the word "willful" bespeaks a deliberate or intentional disregard of the lives and property of others in the manner in which a driver operates a vehicle. In N.J.S.A. 39:5-31, the term "willful" suggests a deliberate violation of certain motor-vehicle statutes. A willful violation of the reckless-driving statute necessarily involves a state of mind and conduct that exceed reckless driving itself. Thus, to trigger the license suspension provisions of N.J.S.A. 39:5-31, a driver must engage in an aggravated form of reckless driving. (Emphasis in the original)

The Court also indicates that the Court must look at aggravating and mitigating circumstances and then proceeds to list them:

For ease of reference, we direct municipal court and Law Division judges to consider the following factors in determining whether to impose a license suspension under N.J.S.A. 39:5-31, and, if so, the length of the suspension: the nature and circumstances of the defendant's conduct, including whether the conduct posed a high risk of danger to the public or caused physical harm or property damage; the defendant's driving record, including the defendant's age and length of time as a licensed driver, and the number, seriousness, and frequency of prior infractions; whether the defendant was infraction-free for a substantial period before the most recent violation or whether the nature and extent of the defendant's driving record indicates that there is a substantial risk

that he or she will commit another violation; whether the character and attitude of the defendant indicate that he or she is likely or unlikely to commit another violation; whether the defendant's conduct was the result of circumstances unlikely to recur; whether a license suspension would cause excessive hardship to the defendant and/or dependents; and the need for personal deterrence. Cf. N.J.S.A. 39:5-30c (enumerating factors to be considered by MVC in determining appropriateness of imposing maximum suspension of three years). Any other relevant factor clearly identified by the court may be considered as well. It is not necessarily the number of factors that apply but the weight to be attributed to a factor or factors. 202 NJ at 211

While most Courts do not impose this penalty, many do, particularly for more egregious violations. An experienced attorney will know which courts are troublesome and how to manipulate the facts to give you the best chance to avoid loss of license. This is critical. Loss of license means loss of work and great inconvenience. Do not be left to the whims of fate, get experienced counsel.