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2008-09 Term

March 4, 2009

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Senator Barbara Buono  
Two Lincoln Highway  
Suite 401  
Edison, NJ 08820

Re: Senate Bill S2504 (Provides for Immediate Suspension of Driver's License under Certain Circumstances)

Dear Senator Buono:

**TRUSTEES 2009**

Joshua Altman  
Craig M. Aronow  
Daniel N. Epstein  
Angela Foster  
Peter Tu

The Middlesex County Bar Association ("MCBA") writes to express our strong opposition to S2504. This legislation would require the Motor Vehicle Commission to immediately suspend the driver's license of any person who has committed certain traffic violations which result in the death or serious bodily injury of another person.

**TRUSTEES 2010**

Nicole Albert  
Darren M. Gelber  
Richard P. Klein  
Joseph V. Leone  
Andrea J. Sullivan

Under current law, the chief administrator is authorized to immediately issue a preliminary suspension of a driver's license for good cause and without hearing if the person allegedly committed any of the following violations: (1) speeding in excess of 20 miles per hour over the speed limit; (2) drunk driving; (3) reckless driving; and (4) leaving the scene of an accident. This bill would change this law to make it *mandatory* for the chief administrator to immediately suspend a person's license under these circumstances.

**TRUSTEES 2011**

Colleen M. Flynn  
Louis J.R. Kady  
Bruce J. Kaplan  
Robert R. Levinson  
Ellen F. Schwartz

The bill would further expand the violations triggering an immediate driver's license suspension to include driving in violation of a condition of an examination permit, a special learner's permit, or a provisional driver's license, including driving with more than the allowed number of passengers or driving during prohibited hours.

**NJSBA TRUSTEE**

Eric Christopher Landman

**EXECUTIVE DIRECTOR**

Jonathan P. Cowles

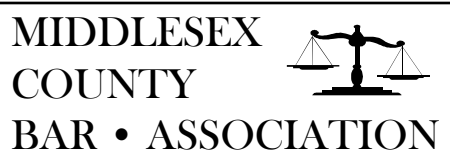
We do not have reason to believe that the Motor Vehicle Commission is reluctant to exercise its discretion where the requisite good cause is evident. S2504 simply goes too far in removing the aforementioned discretion from the Motor Vehicle Commission.

**ASSISTANT DIRECTOR**

Elaine Miller

The mere issuance of an allegation of improper driving or the mere fact that an inexperienced driver is involved in a serious accident should not justify automatic and immediate suspension. We feel that, too often, the possibility of civil litigation seeking damages will motivate the initiation of allegations which may not ultimately be provable.

We hold dearly to the concept of innocence until proven guilty. To immediately suspend a license, for an indefinite or lengthy period, without a proper exchange of information or where the facts do not demonstrate good cause simply removes the necessary human component to the exercise of the very profound power to remove an individual's ability to drive a vehicle.



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Opposition to S.2504  
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The deprivation of a driver's license impacts employment, depend care, education, access to medical care and other significant components to a productive life. While suspension is no doubt appropriate and necessary in some cases, it is too draconian to compel for every allegation of improper driving involving a death.

We submit that the current, discretionary approach is better suited to deal with problem drivers. We believe that the proposed legislation fails to take a balanced approach in light of the fact that the Commission is dealing with only bald allegations. The Commission should first consider various factors before being required to automatically suspend. For example, the Commission should be allowed to consider the individual's prior driving history, whether the charges were initiated by a private citizen complainant or a law enforcement agency, whether the allegations remain under investigation or are pending prosecutorial review, and whether the relative proofs of the matter are questionable.

We believe that, absent clear proof of significantly improper operation, the Commission should not be required to suspend. Instead, the matter should be left to the courts to address after a full disclosure to the defendant of the results of a completed investigation. There should be no doubt that serious criminal charges will flow from those cases involving reckless conduct leading to injury and death. These offenses carry with them significant penalties with the added protection of due process.

To immediately suspend as required in the legislation suggests that the individual presents an immediate, continuing danger on the roadways. We do not see how every case can be found to justify such prejudicial and punitive action.

Accordingly, the MCBA respectfully requests that you vote "NO" on S-2504.

Respectfully,

*Mary P. Nelson*

MARY P. NELSON  
President

MPN/jpc

Cc: All Middlesex County Legislators  
New Jersey State Bar Association  
All New Jersey County Bar Associations  
New Jersey Law Journal & New Jersey Lawyer