



**Memo In Support of Opting Out of
Suspension/Revocation of Driver's License for Drug Convictions**

Proposed Resolution

Relating to: opposing a federal mandate requiring the suspension or revocation of driver's licenses in all circumstances in which a person has been convicted of a drug or other controlled substances violation and exercising the state's option to opt out of this federal mandate.

Whereas, federal law, under [23 USC 159](#) and regulations promulgated under this federal statute, including 23 CFR 192, requires states, as a prerequisite to receiving certain federal transportation-related funds, either to enact a state law mandating the suspension or revocation of driver's licenses in all circumstances in which a person has been convicted of a drug or other controlled substances violation or to resolve that the state is opposed to a federal mandate requiring the suspension or revocation of driver's licenses in these circumstances; and

Whereas, this state adopted legislation in accordance with this federal law under Section 510 of the New York State Vehicle and Traffic Law, mandating driver's license suspensions for adults and juveniles convicted or adjudicated of a violation of this state's Controlled Substances Offenses; and

Whereas, 32 states have adopted resolutions in opposition to the federal mandate, in accordance with the provisions of federal law described above; and

Whereas, the state desires to modify its legislation that was adopted in accordance with this federal law and to instead opt out of this federal mandate, and to do so without loss of federal transportation-related funds to the state; now, therefore, be it

Resolved by the senate, the assembly concurring, That the state of New York opposes a federal mandate requiring the suspension or revocation of driver's licenses in all circumstances in which a person has been convicted of a drug or other controlled substances violation and exercises its option to opt out of this federal mandate; and, be it further

Resolved, That the senate secretary shall send copies of this joint resolution to the secretary of the U.S. department of transportation and to each member of the congressional delegation from this state.

Need for Resolution

In 1992, U.S.C. §159 was adopted from the Department of Transportation and Related Agencies Appropriations Act (HR 5518), which authorized the reduction in the amount of federal highway funds states would be eligible to receive if they did not enact or enforce a law that revokes or suspends the license of a person who was convicted of any drug offense for at least six months or a six month delay in eligibility for a driver's license; regardless of whether or not it was related directly to driving. If a state did not adopt these provisions it would stand to lose over 10% of its federal highway funds. States could opt out of this requirement without losing federal funds if the Governor of the state:

- 1.) submits a written certification that it opposed the enactment and enforcement in the State of a law relating to revocation, suspension, issuance, or reinstatement of driver's licenses of individuals convicted of drug offenses; and
- 2.) submits a written certification to the Secretary of the Department of Transportation that the legislature (including both Houses where applicable) has adopted a resolution expressing its opposition to a law.

In 1993, New York State passed its law requiring a six month suspension or sixth month delay in eligibility for a driver's license for individuals with misdemeanor or felony drug convictions, as well as individuals with youthful offender adjudications (YO) or juvenile delinquencies (JD), even when the offense did not involve driving. In October 2011, the legislature repealed the provision that applied to individuals with YOs and JDs. Individuals whose licenses are suspended are required to pay \$50 upon completion of the suspension duration in order to regain eligibility to get a license.

To date:

- 28 states automatically suspend licenses for some or all drug offenses.
 - Of the 28 states that automatically suspend or revoke licenses 22 of them limit the revocation to only 6 months for first offenses.
- 23 states either suspend or revoke driver's licenses for only driving-related offenses or have just opted out of the federal law.
- 5 states revoke licenses for longer than 6 months for drug convictions unrelated to driving.
- 40 states offer restrictive licenses for those who have suspended licenses can still attend work, treatment programs, or educational courses.

Recommendations:

- The Governor and Legislature should pass a resolution eliminating the drug offense collateral consequence.
- Automatically waive the suspension mandate for individuals with non-driving related drug offenses.
- Waive the \$50 license restoration fee for indigent applicants.