

ASSEMBLY, No. 266

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblymen BATEMAN and KAVANAUGH

1 AN ACT requiring the posting of certain road and highway signs,
2 amending R.S.39:4-50 and supplementing Title 27 and Title 39 of
3 the Revised Statutes.

4

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

7

8 1. (New section) This act shall be known and may be cited as the
9 "Robyn M. Farber Act."

10

11 2. (New section) The Legislature finds that every year many
12 innocent victims have been killed by those driving while
13 alcohol-impaired on the roads and highways of this State. The
14 Legislature further finds that although the number of deaths by
15 alcohol-impaired drivers in this State has recently decreased as a result
16 of a number of factors, including the enactment of stronger laws with
17 stiffer penalties for those arrested and convicted of driving while
18 alcohol-impaired, the increased enforcement of these laws, and the
19 establishment of educational programs for alcohol-impaired drivers,
20 the public needs to be reminded that the problem of motorists who
21 drive while alcohol-impaired continues to exist. The Legislature
22 therefore determines that it is in the public interest to require that signs
23 be erected on State and county roads and highways memorializing
24 individuals who were killed by such drivers.

25

26 3. (New section) The Commissioner of Transportation is
27 authorized to erect appropriate signs memorializing those persons who
28 were killed on State highways by motorists driving under the influence
29 of intoxicating liquor or with a blood alcohol concentration of 0.10%
30 or more by weight of alcohol in the motorist's blood. The signs, which
31 shall conform to the Uniform Manual of Traffic Control Devices for
32 Streets and Highways, shall display the following information:

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 IN LOVING MEMORY OF
2 (Name of victim)
3 (Place of residence)
4
5 KILLED AT THIS LOCATION
6 (Date of accident)
7
8 BY AN ALCOHOL-IMPAIRED DRIVER
9
10 DON'T DRINK AND DRIVE

11

12 The signs shall be located on the State highway on which the victim
13 was killed and as near as possible to the location of the accident,
14 consistent with the requirements of the Uniform Manual of Traffic
15 Control Devices for Streets and Highways. The signs shall be no
16 larger than is required for them to be able to be read by motorists
17 using the roadway and shall be of such a design as is appropriate to the
18 sign's memorial character. Costs related to the design, manufacture
19 and erection of the signs may be defrayed from the "Victims of
20 Alcohol-Impaired Drivers Trust Fund," established pursuant to section
21 6 of this amendatory and supplementary act or as otherwise
22 appropriated by law. However, no sign shall be erected except at the
23 express written request and with the consent of the victim's spouse and
24 children or, if they are not living, the victim's parents or legal guardian,
25 or, if they are not living, the victim's next-of-kin. The department shall
26 supply appropriate forms for recording this request and consent, which
27 forms shall also provide for the inclusion of the information required
28 by this section. Attached to the form shall be the certificate of death
29 of the victim, the record of conviction of the alcohol-impaired person
30 and such other information as the department may require. An
31 appropriate memorial ceremony may be held at the site of the sign.

32

33 4. (New section) The board of chosen freeholders of each county
34 is authorized to erect appropriate signs memorializing those persons
35 who were killed on county roads by motorists driving under the
36 influence of intoxicating liquor or with a blood alcohol concentration
37 of 0.10% or more by weight of alcohol in the motorist's blood. The
38 signs, which shall conform to the Uniform Manual of Traffic Control
39 Devices for Streets and Highways, shall display the following
40 information:

1 IN LOVING MEMORY OF
2 (Name of victim)
3 (Place of residence)
4
5 KILLED AT THIS LOCATION
6 (Date of accident)
7
8 BY AN ALCOHOL-IMPAIRED DRIVER
9
10 DON'T DRINK AND DRIVE

11
12 The signs shall be located on the county road on which the victim
13 was killed and as near as possible to the location of the accident,
14 consistent with the requirements of the Uniform Manual of Traffic
15 Control Devices for Streets and Highways. The signs shall be no
16 larger than is required for them to be able to be read by motorists
17 using the roadway and shall be of such a design as is appropriate to the
18 sign's memorial character. Costs related to the design, manufacture
19 and erection of the signs may be defrayed from the "Victims of
20 Alcohol-Impaired Drivers Trust Fund," established pursuant to section
21 6 of this amendatory and supplementary act or as otherwise
22 appropriated by law. However, no sign shall be erected except at the
23 express written request and with the consent of the victim's spouse and
24 children, or, if they are not living, the victim's parents or legal
25 guardian, or if they are not living, the victim's next-of-kin. The county
26 clerk shall supply appropriate forms for recording this request and
27 consent, which forms shall also provide for the inclusion of the
28 information required by this section. Attached to the form shall be the
29 certificate of death of the victim, the record of conviction of the
30 alcohol-impaired person and such other information as the county
31 clerk may require. An appropriate memorial ceremony may be held at
32 the site of the sign.

33

34 5. R.S.39:4-50 is amended to read as follows:

35 39:4-50. (a) A person who operates a motor vehicle while under
36 the influence of intoxicating liquor, narcotic, hallucinogenic or
37 habit-producing drug, or operates a motor vehicle with a blood alcohol
38 concentration of 0.10% or more by weight of alcohol in the
39 defendant's blood or permits another person who is under the influence
40 of intoxicating liquor, narcotic, hallucinogenic or habit-producing drug
41 to operate a motor vehicle owned by him or in his custody or control
42 or permits another to operate a motor vehicle with a blood alcohol
43 concentration of 0.10% or more by weight of alcohol in the
44 defendant's blood, shall be subject:

45 (1) For the first offense, to a fine of not less than \$250.00 nor
46 more than \$400.00 and a period of detainment of not less than 12

1 hours nor more than 48 hours spent during two consecutive days of
2 not less than six hours each day and served as prescribed by the
3 program requirements of the Intoxicated Driver Resource Centers
4 established under subsection (f) of this section and, in the discretion
5 of the court, a term of imprisonment of not more than 30 days and
6 shall forthwith forfeit his right to operate a motor vehicle over the
7 highways of this State for a period of not less than six months nor
8 more than one year.

9 (2) For a second violation, a person shall be subject to a fine of not
10 less than \$500.00 nor more than \$1,000.00, and shall be ordered by
11 the court to perform community service for a period of 30 days, which
12 shall be of such form and on such terms as the court shall deem
13 appropriate under the circumstances, and shall be sentenced to
14 imprisonment for a term of not less than 48 consecutive hours, which
15 shall not be suspended or served on probation, nor more than 90 days,
16 and shall forfeit his right to operate a motor vehicle over the highways
17 of this State for a period of two years upon conviction, and, after the
18 expiration of said period, he may make application to the Director of
19 the Division of Motor Vehicles for a license to operate a motor
20 vehicle, which application may be granted at the discretion of the
21 director, consistent with subsection (b) of this section.

22 (3) For a third or subsequent violation, a person shall be subject to
23 a fine of \$1,000.00, and shall be sentenced to imprisonment for a term
24 of not less than 180 days, except that the court may lower such term
25 for each day, not exceeding 90 days, served performing community
26 service in such form and on such terms as the court shall deem
27 appropriate under the circumstances and shall thereafter forfeit his
28 right to operate a motor vehicle over the highways of this State for 10
29 years.

30 If the driving privilege of any person is under revocation or
31 suspension for a violation of any provision of this Title or Title 2C of
32 the New Jersey Statutes at the time of any conviction for a violation
33 of this section, the revocation or suspension period imposed shall
34 commence as of the date of termination of the existing revocation or
35 suspension period. In the case of any person who at the time of the
36 imposition of sentence is less than 17 years of age, the forfeiture,
37 suspension or revocation of the driving privilege imposed by the court
38 under this section shall commence immediately, run through the
39 offender's seventeenth birthday and continue from that date for the
40 period set by the court pursuant to paragraphs (1) through (3) of this
41 subsection. A court that imposes a term of imprisonment under this
42 section may sentence the person so convicted to the county jail, to the
43 workhouse of the county wherein the offense was committed, to an
44 inpatient rehabilitation program or to an Intoxicated Driver Resource
45 Center or other facility approved by the Director of the Division of
46 Alcoholism in the Department of Health; provided that for a third or

1 subsequent offense a person shall not serve a term of imprisonment at
2 an Intoxicated Driver Resource Center as provided in subsection (f).

3 A person who has been convicted of a previous violation of this
4 section need not be charged as a second or subsequent offender in the
5 complaint made against him in order to render him liable to the
6 punishment imposed by this section on a second or subsequent
7 offender, but if the second offense occurs more than 10 years after the
8 first offense, the court shall treat the second conviction as a first
9 offense for sentencing purposes and if a third offense occurs more than
10 10 years after the second offense, the court shall treat the third
11 conviction as a second offense for sentencing purposes.

12 (b) A person convicted under this section must satisfy the
13 screening, evaluation, referral, program and fee requirements of the
14 Division of Alcoholism's Intoxicated Driving Programs Unit, and of
15 the Intoxicated Driver Resource Centers and a program of alcohol
16 education and highway safety, as prescribed by the Director of the
17 Division of Motor Vehicles. The sentencing court shall inform the
18 person convicted that failure to satisfy such requirements shall result
19 in a mandatory two day term of imprisonment in a county jail and a
20 driver license revocation or suspension and continuation of revocation
21 or suspension until such requirements are satisfied, unless stayed by
22 court order in accordance with Rule 7:8-2 of the N.J. Court Rules,
23 1969, or R.S.39:5-22. Upon sentencing, the court shall forward to the
24 Bureau of Alcohol Countermeasures within the Intoxicated Driving
25 Programs Unit a copy of a person's conviction record. A fee of \$80.00
26 shall be payable to the Alcohol Education, Rehabilitation and
27 Enforcement Fund established pursuant to section 3 of P.L.1983,
28 c.531 (C.26:2B-32) to support the Intoxicated Driving Programs Unit.

29 (c) Upon conviction of a violation of this section, the court shall
30 collect forthwith the New Jersey driver's license or licenses of the
31 person so convicted and forward such license or licenses to the
32 Director of the Division of Motor Vehicles. The court shall inform the
33 person convicted that if he is convicted of personally operating a
34 motor vehicle during the period of license suspension imposed
35 pursuant to subsection (a) of this section, he shall, upon conviction, be
36 subject to the penalties established in R.S.39:3-40. The person
37 convicted shall be informed orally and in writing. A person shall be
38 required to acknowledge receipt of that written notice in writing.
39 Failure to receive a written notice or failure to acknowledge in writing
40 the receipt of a written notice shall not be a defense to a subsequent
41 charge of a violation of R.S.39:3-40. In the event that a person
42 convicted under this section is the holder of any out-of-State driver's
43 license, the court shall not collect the license but shall notify forthwith
44 the director, who shall, in turn, notify appropriate officials in the
45 licensing jurisdiction. The court shall, however, revoke the
46 nonresident's driving privilege to operate a motor vehicle in this State,

1 in accordance with this section. Upon conviction of a violation of this
2 section, the court shall notify the person convicted, orally and in
3 writing, of the penalties for a second, third or subsequent violation of
4 this section. A person shall be required to acknowledge receipt of that
5 written notice in writing. Failure to receive a written notice or failure
6 to acknowledge in writing the receipt of a written notice shall not be
7 a defense to a subsequent charge of a violation of this section.

8 (d) The Director of the Division of Motor Vehicles shall
9 promulgate rules and regulations pursuant to the "Administrative
10 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) in order to
11 establish a program of alcohol education and highway safety, as
12 prescribed by this act.

13 (e) Any person accused of a violation of this section who is liable
14 to punishment imposed by this section as a second or subsequent
15 offender shall be entitled to the same rights of discovery as allowed
16 defendants pursuant to the Rules Governing Criminal Practice, as set
17 forth in the Rules Governing the Courts of the State of New Jersey.

18 (f) The counties, in cooperation with the Division of Alcoholism
19 and the Division of Motor Vehicles, but subject to the approval of the
20 Division of Alcoholism, shall designate and establish on a county or
21 regional basis Intoxicated Driver Resource Centers. These centers
22 shall have the capability of serving as community treatment referral
23 centers and as court monitors of a person's compliance with the
24 ordered treatment, service alternative or community service. All
25 centers established pursuant to this subsection shall be administered by
26 a certified alcoholism counselor or other professional with a minimum
27 of five years' experience in treatment of alcoholism. All centers shall
28 be required to develop individualized treatment plans for all persons
29 attending the centers; provided that the duration of any ordered
30 treatment or referral shall not exceed one year. It shall be the center's
31 responsibility to establish networks with the community alcohol
32 education, treatment and rehabilitation resources and to receive
33 monthly reports from the referral agencies regarding a person's
34 participation and compliance with the program. Nothing in this
35 subsection shall bar these centers from developing their own education
36 and treatment programs; provided that they are approved by the
37 Division of Alcoholism.

38 Upon a person's failure to report to the initial screening or any
39 subsequent ordered referral, the Intoxicated Driver Resource Center
40 shall promptly notify the sentencing court of the person's failure to
41 comply.

42 Required detention periods at the Intoxicated Driver Resource
43 Centers shall be determined according to the individual treatment
44 classification assigned by the Bureau of Alcohol Countermeasures.
45 Upon attendance at an Intoxicated Driver Resource Center, a person
46 shall be assessed a per diem fee of \$50.00 for the first offender

1 program or a per diem fee of \$75.00 for the second offender program,
2 as appropriate.

3 The centers shall conduct a program of alcohol education and
4 highway safety, as prescribed by the Director of the Division of Motor
5 Vehicles.

6 The Director of the Division of Alcoholism shall adopt rules and
7 regulations pursuant to the "Administrative Procedure Act," P.L.1968,
8 c.410 (C.52:14B-1 et seq.), in order to effectuate the purposes of this
9 subsection.

10 (g) In addition to the penalties provided for a violation of any
11 provision of this Title or Title 2C of the New Jersey Statutes, a person
12 convicted under this section for operating a motor vehicle while under
13 the influence of an intoxicating liquor or operating a motor vehicle
14 with a blood alcohol concentration of 0.10% or more by weight of
15 alcohol in the defendant's blood who is also convicted of death by auto
16 under the provisions of N.J.S.2C:11-5, shall be subject to a penalty of
17 \$150 per fatality, and such penalty may be recovered pursuant to
18 N.J.S.2A:58-1 et seq.

19 (cf: P.L.1993, c.296, s.6)

20

21 6. a. (New section) There is created in the Department of
22 Transportation a special non-lapsing fund to be known as the "Victims
23 of Alcohol-Impaired Drivers Trust Fund." There shall be deposited in
24 the fund the amount collected from penalties pursuant to subsection
25 (g) of R.S.39:4-50. Monies deposited in the fund shall be held in
26 interest-bearing accounts in public depositories as defined pursuant to
27 section 1 of P.L.1970, c.236 (C.17:9-41), and may be invested or
28 reinvested in such securities as are approved by the State Treasurer.
29 Interest or other income earned on monies deposited into the fund, and
30 any monies which may be appropriated or otherwise become available
31 for the purposes of the fund, shall be credited to and deposited in the
32 fund for use as set forth in this amendatory and supplementary act.

33 b. Monies in the fund shall be utilized by the Department of
34 Transportation and counties, as appropriate, to finance the cost of the
35 design, manufacture and erection of informational signs pursuant to
36 sections 3 and 4 of this amendatory and supplementary act.

37 c. In order to carry out the purposes of this amendatory and
38 supplementary act, the Commissioner of Transportation is authorized
39 to contract for and to accept any gifts or grants or loans of funds or
40 property or financial or other aid in any form from the United States
41 of America or any agency or instrumentality thereof, or from the State
42 or any agency, instrumentality or political subdivision thereof, or from
43 any other source, public or private, and to comply, subject to the
44 provisions of this amendatory and supplementary act, with the terms
45 and conditions thereof.

1 7. The act shall take effect immediately.

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STATEMENT

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6 This bill would authorize memorial signs to be erected on State and
7 county roads and highways for individuals who were killed by
8 alcohol-impaired drivers. The information for each of these signs
9 would include the victim's name and place of residence, the date of the
10 accident, and a warning that motorists should not drink and drive.
11 Information provided for each sign would be available only after the
12 consent of the respective victim's family or guardian or next-of-kin.

13 The bill also requires persons convicted of operating a motor
14 vehicle while under the influence of an intoxicating liquor or operating
15 a motor vehicle with a blood alcohol concentration of 0.10% or more
16 by weight of alcohol in the defendant's blood and convicted of "death
17 by auto," pursuant to the provisions of N.J.S.2C:11-4, to pay a fine of
18 \$150 per fatality to the "Victims of Alcohol-Impaired Drivers Trust
19 Fund," a fund to be established and administered by the Department of
20 Transportation. Monies in the fund would be used by the department
21 and counties to design, manufacture and erect the signs.

22 The bill is named after Robyn M. Farber of Parsippany, who was
23 fatally injured by an impaired driver while she was walking home from
24 her job as a cashier at a local pharmacy on the night of November 24,
25 1993.

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29

30 Requires that signs be posted on certain roads and highways
31 memorializing victims of alcohol-impaired drivers.