

SENATE, No. 715

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 15, 1996

By Senator BUBBA

1 AN ACT requiring the posting of certain road and highway signs,
2 amending and supplementing Title 39 of the Revised Statutes.

3

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

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

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

24

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

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is 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 expressed written request and with the consent of the victim's spouse
24 and 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
26 department shall supply appropriate forms for recording this request
27 and 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 department
31 may require. An appropriate memorial ceremony may be held at the
32 site of the sign.

33
34 4. (New section) The board of chosen freeholders of each county
35 is authorized to erect appropriate signs memorializing those persons
36 who were killed on county roads by motorists driving under the
37 influence of intoxicating liquor or with a blood alcohol concentration
38 of 0.10% or more by weight of alcohol in the motorist's blood. The
39 signs, which shall conform to the Uniform Manual of Traffic Control
40 Devices for Streets and Highways, shall display the following
41 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 expressed written request and with the consent of the victim's spouse
24 and 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 Whenever an operator of a motor vehicle has been involved in an
31 accident resulting in death, bodily injury or property damage, a police
32 officer shall consider that fact along with all other facts and
33 circumstances in determining whether there are reasonable grounds to
34 believe that person was operating a motor vehicle in violation of this
35 section.

36 If the driving privilege of any person is under revocation or
37 suspension for a violation of any provision of this Title or Title 2C of
38 the New Jersey Statutes at the time of any conviction for a violation
39 of this section, the revocation or suspension period imposed shall
40 commence as of the date of termination of the existing revocation or
41 suspension period. In the case of any person who at the time of the
42 imposition of sentence is less than 17 years of age, the forfeiture,
43 suspension or revocation of the driving privilege imposed by the court
44 under this section shall commence immediately, run through the
45 offender's seventeenth birthday and continue from that date for the
46 period set by the court pursuant to paragraphs (1) through (3) of this

1 subsection. A court that imposes a term of imprisonment under this
2 section may sentence the person so convicted to the county jail, to the
3 workhouse of the county wherein the offense was committed, to an
4 inpatient rehabilitation program or to an Intoxicated Driver Resource
5 Center or other facility approved by the chief of the Intoxicated
6 Driving Program Unit in the Department of Health; provided that for
7 a third or subsequent offense a person shall not serve a term of
8 imprisonment at an Intoxicated Driver Resource Center as provided in
9 subsection (f).

10 A person who has been convicted of a previous violation of this
11 section need not be charged as a second or subsequent offender in the
12 complaint made against him in order to render him liable to the
13 punishment imposed by this section on a second or subsequent
14 offender, but if the second offense occurs more than 10 years after the
15 first offense, the court shall treat the second conviction as a first
16 offense for sentencing purposes and if a third offense occurs more than
17 10 years after the second offense, the court shall treat the third
18 conviction as a second offense for sentencing purposes.

19 (b) A person convicted under this section must satisfy the
20 screening, evaluation, referral, program and fee requirements of the
21 Division of Alcoholism and Drug Abuse Intoxicated Driving Program
22 Unit, and of the Intoxicated Driver Resource Centers and a program
23 of alcohol education and highway safety, as prescribed by the Director
24 of the Division of Motor Vehicles. The sentencing court shall inform
25 the person convicted that failure to satisfy such requirements shall
26 result in a mandatory two-day term of imprisonment in a county jail
27 and a driver license revocation or suspension and continuation of
28 revocation or suspension until such requirements are satisfied, unless
29 stayed by court order in accordance with Rule 7:8-2 of the Rules
30 Governing the Courts of the State of New Jersey, or R.S.39:5-22.
31 Upon sentencing, the court shall forward to the Bureau of Alcohol
32 Countermeasures within the Intoxicated Driving Program Unit a copy
33 of a person's conviction record. A fee of \$100.00 shall be payable to
34 the Alcohol Education, Rehabilitation and Enforcement Fund
35 established pursuant to section 3 of P.L.1983, c.531 (C.26:2B-32) to
36 support the Intoxicated Driving Programs Unit.

37 (c) Upon conviction of a violation of this section, the court shall
38 collect forthwith the New Jersey driver's license or licenses of the
39 person so convicted and forward such license or licenses to the
40 Director of the Division of Motor Vehicles. The court shall inform the
41 person convicted that if he is convicted of personally operating a
42 motor vehicle during the period of license suspension imposed
43 pursuant to subsection (a) of this section, he shall, upon conviction, be
44 subject to the penalties established in R.S.39:3-40. The person
45 convicted shall be informed orally and in writing. A person shall be
46 required to acknowledge receipt of that written notice in writing.

1 Failure to receive a written notice or failure to acknowledge in writing
2 the receipt of a written notice shall not be a defense to a subsequent
3 charge of a violation of R.S.39:3-40. In the event that a person
4 convicted under this section is the holder of any out-of-State driver's
5 license, the court shall not collect the license but shall notify forthwith
6 the director, who shall, in turn, notify appropriate officials in the
7 licensing jurisdiction. The court shall, however, revoke the
8 nonresident's driving privilege to operate a motor vehicle in this State,
9 in accordance with this section. Upon conviction of a violation of this
10 section, the court shall notify the person convicted, orally and in
11 writing, of the penalties for a second, third or subsequent violation of
12 this section. A person shall be required to acknowledge receipt of that
13 written notice in writing. Failure to receive a written notice or failure
14 to acknowledge in writing the receipt of a written notice shall not be
15 a defense to a subsequent charge of a violation of this section.

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

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

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

1 Upon a person's failure to report to the initial screening or any
2 subsequent ordered referral, the Intoxicated Driver Resource Center
3 shall promptly notify the sentencing court of the person's failure to
4 comply.

5 Required detention periods at the Intoxicated Driver Resource
6 Centers shall be determined according to the individual treatment
7 classification assigned by the Bureau of Alcohol Countermeasures.
8 Upon attendance at an Intoxicated Driver Resource Center, a person
9 shall be required to pay a per diem fee of \$75.00 for the first offender
10 program or a per diem fee of \$100.00 for the second offender
11 program, as appropriate. Any increases in the per diem fees after the
12 first full year shall be determined pursuant to rules and regulations
13 adopted by the Commissioner of Health in consultation with the
14 Governor's Council on Alcoholism and Drug Abuse pursuant to the
15 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
16 seq.).

17 The centers shall conduct a program of alcohol education and
18 highway safety, as prescribed by the Director of the Division of Motor
19 Vehicles.

20 The Commissioner of Health shall adopt rules and regulations
21 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
22 (C.52:14B-1 et seq.), in order to effectuate the purposes of this
23 subsection.

24 (g) In addition to the penalties provided for a violation of any
25 provision of this Title or Title 2C of the New Jersey Statutes, a person
26 convicted under this section for operating a motor vehicle while under
27 the influence of an intoxicating liquor or operating a motor vehicle
28 with a blood alcohol concentration of 0.10% or more by weight of
29 alcohol in the defendant's blood who is also convicted of death by auto
30 under the provisions of N.J.S.2C:11-5, shall be subject to a penalty of
31 \$150 per fatality, and such penalty may be recovered pursuant to
32 N.J.S.2A:58-1 et seq.

33 (cf: P.L.1995, c.243, s.1)

34

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

