

SENATE, No. 1424

STATE OF NEW JERSEY

INTRODUCED JULY 25, 1996

By Senators MATHEUSSEN, KOSCO and Inverso

1 AN ACT increasing the penalty for certain motor vehicle violations and  
2 amending R.S.39:4-50.

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

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7 1. R.S.39:4-50 is amended to read as follows:

8 39:4-50. (a) A person who operates a motor vehicle while under  
9 the influence of intoxicating liquor, narcotic, hallucinogenic or  
10 habit-producing drug, or operates a motor vehicle with a blood alcohol  
11 concentration of 0.10% or more by weight of alcohol in the  
12 defendant's blood or permits another person who is under the influence  
13 of intoxicating liquor, narcotic, hallucinogenic or habit-producing drug  
14 to operate a motor vehicle owned by him or in his custody or control  
15 or permits another to operate a motor vehicle with a blood alcohol  
16 concentration of 0.10% or more by weight of alcohol in the  
17 defendant's blood, shall be subject:

18 (1) For the first offense, to a fine of not less than \$250.00 nor  
19 more than \$400.00 and a period of detainment of not less than 12  
20 hours nor more than 48 hours spent during two consecutive days of  
21 not less than six hours each day and served as prescribed by the  
22 program requirements of the Intoxicated Driver Resource Centers  
23 established under subsection (f) of this section and, in the discretion  
24 of the court, a term of imprisonment of not more than 30 days and  
25 shall forthwith forfeit his right to operate a motor vehicle over the  
26 highways of this State for a period of not less than six months nor  
27 more than one year.

28 (2) For a second violation, a person shall be subject to a fine of not  
29 less than \$500.00 nor more than \$1,000.00, and shall be ordered by  
30 the court to perform community service for a period of 30 days, which  
31 shall be of such form and on such terms as the court shall deem  
32 appropriate under the circumstances, and shall be sentenced to  
33 imprisonment for a term of not less than 48 consecutive hours, which  
34 shall not be suspended or served on probation, nor more than 90 days,

**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 and shall forfeit his right to operate a motor vehicle over the highways  
2 of this State for a period of not less than two years and not more than  
3 four years upon conviction, and, after the expiration of said period, he  
4 may make application to the Director of the Division of Motor  
5 Vehicles for a license to operate a motor vehicle, which application  
6 may be granted at the discretion of the director, consistent with  
7 subsection (b) of this section.

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

16 Whenever an operator of a motor vehicle has been involved in an  
17 accident resulting in death, bodily injury or property damage, a police  
18 officer shall consider that fact along with all other facts and  
19 circumstances in determining whether there are reasonable grounds to  
20 believe that person was operating a motor vehicle in violation of this  
21 section.

22 If the driving privilege of any person is under revocation or  
23 suspension for a violation of any provision of this Title or Title 2C of  
24 the New Jersey Statutes at the time of any conviction for a violation  
25 of this section, the revocation or suspension period imposed shall  
26 commence as of the date of termination of the existing revocation or  
27 suspension period. In the case of any person who at the time of the  
28 imposition of sentence is less than 17 years of age, the forfeiture,  
29 suspension or revocation of the driving privilege imposed by the court  
30 under this section shall commence immediately, run through the  
31 offender's seventeenth birthday and continue from that date for the  
32 period set by the court pursuant to paragraphs (1) through (3) of this  
33 subsection. A court that imposes a term of imprisonment under this  
34 section may sentence the person so convicted to the county jail, to the  
35 workhouse of the county wherein the offense was committed, to an  
36 inpatient rehabilitation program or to an Intoxicated Driver Resource  
37 Center or other facility approved by the chief of the Intoxicated  
38 Driving Program Unit in the Department of Health; provided that for  
39 a third or subsequent offense a person shall not serve a term of  
40 imprisonment at an Intoxicated Driver Resource Center as provided in  
41 subsection (f).

42 A person who has been convicted of a previous violation of this  
43 section need not be charged as a second or subsequent offender in the  
44 complaint made against him in order to render him liable to the  
45 punishment imposed by this section on a second or subsequent  
46 offender, but if the second offense occurs more than 10 years after the

1 first offense, the court shall treat the second conviction as a first  
2 offense for sentencing purposes and if a third offense occurs more than  
3 10 years after the second offense, the court shall treat the third  
4 conviction as a second offense for sentencing purposes.

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

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

1 a defense to a subsequent charge of a violation of this section.

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

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

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

33 Upon a person's failure to report to the initial screening or any  
34 subsequent ordered referral, the Intoxicated Driver Resource Center  
35 shall promptly notify the sentencing court of the person's failure to  
36 comply.

37 Required detention periods at the Intoxicated Driver Resource  
38 Centers shall be determined according to the individual treatment  
39 classification assigned by the Bureau of Alcohol Countermeasures.  
40 Upon attendance at an Intoxicated Driver Resource Center, a person  
41 shall be required to pay a per diem fee of \$75.00 for the first offender  
42 program or a per diem fee of \$100.00 for the second offender  
43 program, as appropriate. Any increases in the per diem fees after the  
44 first full year shall be determined pursuant to rules and regulations  
45 adopted by the Commissioner of Health in consultation with the  
46 Governor's Council on Alcoholism and Drug Abuse pursuant to the

1 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
2 seq.).

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

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

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12 2. This act shall take effect on the first day of the third month after  
13 enactment.

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#### STATEMENT

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18 This bill would increase the penalty for a second violation of driving  
19 while under the influence of drugs or alcohol. Currently, individuals  
20 convicted of a second offense of driving under the influence face  
21 imprisonment for not less than 48 hours or more than 90 days, and  
22 forfeit their right to operate a motor vehicle for two years. This bill  
23 would give a judge the option to suspend a second offender's license  
24 for up to four years.

25 Preventing those who repeatedly drive while under the influence  
26 from driving for a longer time would increase public safety, while duly  
27 punishing those who disregard the motor vehicle laws of this State.

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Increases penalty for second violation of driving under the influence.