

SENATE, No. 1954

STATE OF NEW JERSEY

INTRODUCED MARCH 24, 1997

By Senator BUBBA

1 AN ACT concerning the operation of motor vehicles by persons under
2 the influence of liquor or drugs, amending R.S.39:4-50 and
3 P.L.1979, c.396.

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

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

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

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

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

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 shall not be suspended or served on probation, nor more than 90 days,
2 and shall forfeit his right to operate a motor vehicle over the highways
3 of this State for a period of two years upon conviction, and, after the
4 expiration of said period, he may make application to the Director of
5 the Division of Motor Vehicles for a license to operate a motor
6 vehicle, which application may be granted at the discretion of the
7 director, consistent with 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 Director of the Division of
38 Alcoholism in the Department of Health; provided that for a third or
39 subsequent offense a person shall not serve a term of imprisonment at
40 an Intoxicated Driver Resource Center as provided in subsection (f).

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

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

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

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

46 (d) The Director of the Division of Motor Vehicles shall

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

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

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

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

34 Required detention periods at the Intoxicated Driver Resource
35 Centers shall be determined according to the individual treatment
36 classification assigned by the Bureau of Alcohol Countermeasures.
37 Upon attendance at an Intoxicated Driver Resource Center, a person
38 shall be assessed a per diem fee of \$50.00 for the first offender
39 program or a per diem fee of \$75.00 for the second offender program,
40 as appropriate.

41 The centers shall conduct a program of alcohol education and
42 highway safety, as prescribed by the Director of the Division of Motor
43 Vehicles.

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

1 subsection.

2 (g) Upon a conviction of a violation of this section, the court shall
3 collect pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1) from
4 the defendant and forward to the State Treasurer a five percent
5 surcharge on any fine imposed on that defendant. The State Treasurer
6 shall deposit the five percent fine surcharge in a "Drunk Driver's
7 Victims Indemnification Fund" which is to be administered by the
8 Victims of Crimes Compensation Board in satisfying claims and for
9 related administrative costs filed in accordance with the provisions of
10 the "Criminal Injuries Compensation Act of 1971," P.L.1971, c.317
11 (C.52:4B-1 et seq.).

12 (cf: P.L.1994, c.184, s.1)

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14 2. Section 2 of P.L.1979, c.396 (2C:43-3.1) is amended to read as
15 follows:

16 2. a. (1) In addition to any disposition made pursuant to the
17 provisions of N.J.S.2C:43-2, any person convicted of a crime of
18 violence, theft of an automobile pursuant to N.J.S.2C:20-2, eluding a
19 law enforcement officer pursuant to subsection b. of N.J.S.2C:29-2 or
20 unlawful taking of a motor vehicle pursuant to subsection b., c. or d.
21 of N.J.S.2C:20-10 shall be assessed at least \$100.00, but not to exceed
22 \$10,000.00 for each such crime for which he was convicted which
23 resulted in the injury or death of another person. In imposing this
24 assessment, the court shall consider factors such as the severity of the
25 crime, the defendant's criminal record, defendant's ability to pay and
26 the economic impact of the assessment on the defendant's dependents.

27 (2) (a) In addition to any other disposition made pursuant to the
28 provisions of N.J.S.2C:43-2 or any other statute imposing sentences
29 for crimes, any person convicted of any disorderly persons offense, any
30 petty disorderly persons offense, or any crime not resulting in the
31 injury or death of any other person shall be assessed \$50.00 for each
32 such offense or crime for which he was convicted.

33 (b) In addition to any other disposition made pursuant to the
34 provisions of section 24 of P.L.1982, c.77 (C.2A:4A-43) or any other
35 statute indicating the dispositions that can be ordered for adjudications
36 of delinquency, any juvenile adjudicated delinquent, according to the
37 definition of "delinquency" established in section 4 of P.L.1982, c.77
38 (C.2A:4A-23), shall be assessed at least \$30.00 for each such
39 adjudication, but not to exceed the amount which could be assessed
40 pursuant to paragraph (1) or paragraph (2) (a) of subsection a. of this
41 section if the offense was committed by an adult.

42 (c) In addition to any other assessment imposed pursuant to the
43 provisions of R.S.39:4-50, the provisions of section 12 of P.L.1990,
44 c.103 (C.39:3-10.20) relating to a violation of section 5 of P.L.1990,
45 c.103 (C.39:3-10.13), the provisions of section 19 of P.L.1954, c.236
46 (C.12:7-34.19) or the provisions of section 3 of P.L.1952, c.157

1 (C.12:7-46), any person convicted of operating a motor vehicle,
2 commercial motor vehicle or vessel while under the influence of liquor
3 or drugs shall be assessed \$50.00.

4 (d) In addition to any term or condition that may be included in an
5 agreement for supervisory treatment pursuant to N.J.S.2C:43-13 or
6 imposed as a term or condition of conditional discharge pursuant to
7 N.J.S.2C:36A-1, a participant in either program shall be required to
8 pay an assessment of \$50.00.

9 (e) A person convicted of a violation of R.S.39:4-50 shall pay an
10 additional amount equal to five percent of any fine imposed for that
11 violation which shall be deposited in the fund established by
12 subparagraph (d) of paragraph (6) of subsection a. of this section.

13 (3) All assessments provided for in this section shall be collected
14 as provided in section 3 of P.L.1979, c.396 (C.2C:46-4) and the court
15 shall so order at the time of sentencing. When a defendant who is
16 sentenced to incarceration in a State correctional facility has not, at
17 the time of sentencing, paid an assessment for the crime for which he
18 is being sentenced or an assessment imposed for a previous crime, the
19 court shall specifically order the Department of Corrections to collect
20 the assessment during the period of incarceration and to deduct the
21 assessment from any income the inmate receives as a result of labor
22 performed at the institution or on any work release program or from
23 any personal account established in the institution for the benefit of the
24 inmate. All moneys collected, whether in part or in full payment of
25 any assessment imposed pursuant to this section, shall be forwarded
26 monthly by the parties responsible for collection, together with a
27 monthly accounting on forms prescribed by the Victims of Crime
28 Compensation Board pursuant to section 19 of P.L.1991, c.329
29 (C.52:4B-8.1), to the Victims of Crime Compensation Board.

30 (4) The Victims of Crime Compensation Board shall forward
31 monthly all moneys received from assessments collected pursuant to
32 this section to the State Treasury for deposit as follows:

33 (a) Of moneys collected on assessments imposed pursuant to
34 paragraph a. (1):

35 (i) the first \$72.00 collected for deposit in the Victims of Crime
36 Compensation Board Account,

37 (ii) the next \$3.00 collected for deposit in the Criminal Disposition
38 and Revenue Collection Fund,

39 (iii) the next \$25.00 collected for deposit in the Victim Witness
40 Advocacy Fund, and

41 (iv) moneys collected in excess of \$100.00 for deposit in the
42 Victims of Crime Compensation Board Account;

43 (b) Of moneys collected on assessments imposed pursuant to
44 paragraph a. (2) (a), (c) or (d):

45 (i) the first \$39.00 collected for deposit in the Victims of Crime
46 Compensation Board Account,

- 1 (ii) the next \$3.00 collected for deposit in the Criminal Disposition
2 and Revenue Collection Fund, and
- 3 (iii) the next \$8.00 collected for deposit in the Victim and Witness
4 Advocacy Fund;
- 5 (c) Of moneys collected on assessments imposed pursuant to
6 paragraph a. (2) (b):
- 7 (i) the first \$17.00 for deposit in the Victims of Crime
8 Compensation Board Account, and
- 9 (ii) the next \$3.00 collected for deposit in the Criminal Disposition
10 and Revenue Collection Fund, and
- 11 (iii) the next \$10.00 for deposit in the Victim and Witness
12 Advocacy Fund, and
- 13 (iv) moneys collected in excess of \$30.00 for deposit in the Victims
14 of Crime Compensation Board Account.
- 15 (5) The Victims of Crime Compensation Board shall provide the
16 Attorney General with a monthly accounting of moneys received,
17 deposited and identified as receivable, on forms prescribed pursuant
18 to section 19 of P.L.1991, c.329 (C.52:4B-8.1).
- 19 (6) (a) The Victims of Crime Compensation Board Account shall
20 be a separate, nonlapsing, revolving account that shall be administered
21 by the Victims of Crime Compensation Board. All moneys deposited
22 in that Account shall be used in satisfying claims pursuant to the
23 provisions of the "Criminal Injuries Compensation Act of 1971,"
24 P.L.1971, c.317 (C.52:4B-1 et seq.) and for related administrative
25 costs.
- 26 (b) The Criminal Disposition and Revenue Collection Fund shall be
27 a separate, nonlapsing, revolving account that shall be administered by
28 the Victims of Crime Compensation Board. All moneys deposited in
29 that Fund shall be used as provided in section 19 of P.L.1991, c.329
30 (C.52:4B-8.1).
- 31 (c) The Victim and Witness Advocacy Fund shall be a separate,
32 nonlapsing, revolving fund and shall be administered by the Division
33 of Criminal Justice, Department of Law and Public Safety and all
34 moneys deposited in that Fund pursuant to this section shall be used
35 for the benefit of victims and witnesses of crime as provided in section
36 20 of P.L.1991, c.329 (C.52:4B-43.1) and for related administrative
37 costs.
- 38 (d) The "Drunk Driver's Victims Indemnification Fund" shall be a
39 separate, nonlapsing revolving account that shall be administered by
40 the Victims of Crimes Compensation Board pursuant to subsection (g)
41 of R.S.39:4-50.
- 42 b. (Deleted by amendment, P.L.1991, c.329).
- 43 c. (Deleted by amendment, P.L.1991, c.329).
- 44 d. (Deleted by amendment, P.L.1991, c.329).
- 45 (cf: P.L.1995, c.135, s.1)

1 3. This act shall take effect immediately.

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STATEMENT

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6 This bill provides that upon a conviction of the offense of drunk
7 driving (R.S.39:4-50), the court shall collect pursuant to section 2 of
8 P.L.1979, c.396 (C.2C:43-3.1) from the defendant and forward to the
9 State Treasurer a five percent surcharge on any fine imposed on that
10 defendant. The State Treasurer shall deposit the five percent fine
11 surcharge in a "Drunk Driver's Victims Indemnification Fund" which
12 is to be administered by the Violent Crimes Compensation Board in
13 satisfying claims and for related administrative costs filed in
14 accordance with the provisions of the "Criminal Injuries Compensation
15 Act of 1971," P.L.1971, c.317 (C.52:4B-1 et seq.).

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20 Imposes 5% surcharge on fines imposed on persons convicted of
21 drunk driving; creates "Drunk Driver's Victims Indemnification Fund."