

39:4-139.2 to 39:4-139.14

LEGISLATIVE HISTORY CHECKLIST

NJSA: 39: 4-139.2 to 39: 4-139.14

("Parking Offenses
Adjudication Act")

LAWS OF: 1985

CHAPTER: 14

Bill No: A452

Sponsor(s): McEnroe and others

Date Introduced: Pre-filed

Committee: **Assembly:** Law, Public Safety and Defense

Senate: Law, Public Safety and Defense

Amended during passage: Yes

Amendments during passage denoted
by asterisks

Date of Passage:

Assembly: June 18, 1984

Senate: Nov. 19, 1984

Date of Approval: January 23, 1985

Following statements are attached if available:

Sponsor statement:

Yes

Also attached: Senate
amendments, adopted
10-18-84 (with statement)

Committee statement:

Assembly

Yes

Senate

Yes

Fiscal Note:

No

Veto Message:

No

Message on Signing:

Yes

Following were printed:

Reports:

No

Hearings:

No

Attached: "State's scofflaws could be hit hard under a new law" 6-3-85, Asbury Park
Press

14 85
1-23-85
[SECOND OFFICIAL COPY REPRINT]

ASSEMBLY, No. 452

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1984 SESSION

By Assemblyman McENROE, Assemblywoman GARVIN, Assemblymen THOMPSON, NAPLES, WATSON and OTLOWSKI

AN ACT concerning parking offenses and repealing P. L. 1973, c. 274.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. This act shall be known and may be cited as "The Parking
2 Offenses Adjudication Act."

1 2. As used in this act:

2 a. "Director" means the Director of the Division of Motor Ve-
3 hicles.

4 b. "Division" means the Division of Motor Vehicles in the De-
5 partment of Law and Public Safety.

6 c. "Parking offense" means a violation of a State statute, an
7 ordinance or resolution adopted by a county, municipality or au-
8 thority or a regulation issued by a State authority which regulates
9 the parking of vehicles. For purposes of this act, violations of
10 ordinances or regulations will be within the civil jurisdiction of the
11 court.

12 d. "Parking ticket" means the summons issued alleging that a
13 parking offense has occurred.

1 3. a. The complaint and summons shall be a uniform traffic
2 ticket in the form prescribed by the Administrative Director of
3 the Courts and shall contain information advising the person to
4 whom it is issued of the manner in which and the time within which
5 an answer to the offense alleged is required. The parking ticket
6 shall also advise that penalties may result from a failure to answer,
7 that the failure to answer or appear shall be considered an ad-

**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 printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

***—Assembly committee amendments adopted May 14, 1984.**

****—Senate amendments adopted October 18, 1984.**

8 mission of liability, and that a default judgment may be entered
9 against the owner of the vehicle.

10 b. A parking ticket shall be served personally upon the operator
11 of a vehicle who is present at the time of service, and his name
12 shall be recorded on the parking ticket, together with the plate
13 number and type as shown by the registration plates of the vehicle
14 and the make or model of the vehicle. If the operator is not present,
15 the parking ticket shall be served upon the owner of the vehicle
16 by affixing the parking ticket to the vehicle in a conspicuous place,
17 or by any other method appropriate under R. 4:4-4 of the Rules
18 Governing the Courts of the State of New Jersey.

19 c. A parking ticket shall also contain sufficient information to
20 inform the person of the nature, date, time and location of the
21 offense alleged. Service of a parking ticket by affixation as pro-
22 vided in subsection b. of this section shall have the same effect
23 as if the parking ticket was personally served on the owner or
24 operator of the vehicle.

25 d. The original parking ticket shall be signed by the complainant
26 who shall certify to the truth of the facts set forth therein. The
27 original parking ticket or a true copy of the parking ticket shall
28 be considered a record kept in the ordinary business of the en-
29 forcement agency and shall be prima facie evidence of the facts
30 contained therein.

31 e. An operator of a vehicle who is not the owner, but who uses
32 or operates the vehicle with the permission of the owner, express
33 or implied, shall be considered the agent of the owner to receive
34 parking tickets served in accordance with subsection b. of this
35 section.

1 4. ****[The]**** ***a. Except as provided in subsection b. of this*
1A *section, the*** owner and operator shall be jointly liable for parking
2 offenses, unless the owner can show that the vehicle was used
3 without his consent, express or implied. An owner who pays any
4 fine, penalty, civil judgment, costs or administrative fees in con-
5 nection with a parking offense shall have the right to recover that
6 sum from the operator in a court of competent jurisdiction.

7 ***b. (1) The owner of a motor vehicle who has leased the motor*
8 *vehicle shall not be liable for a parking offense when the motor*
9 *vehicle is under the control or in the possession of the lessee if,*
10 *upon notice of a parking offense, the owner of a motor vehicle*
11 *which was leased at the time of the offense notifies the clerk of the*
12 *court where the case is pending, by a notarized statement of the*
13 *name and address of the lessee. The notarized statement shall be*
14 *in a form prescribed by the administrative director of the courts.*

15 (2) *After providing the name and address of the lessee, the*
 16 *owner shall not be required to attend a hearing on the offense, un-*
 17 *less notified that the offense may have been caused by mechanical*
 18 *failure of the vehicle which resulted from the owner's failure to*
 19 *maintain the vehicle.*

20 (3) *Paragraph (1) of this subsection shall not apply to a park-*
 21 *ing offense which was caused by mechanical failure of the vehicle*
 22 *which resulted from the owner's failure to maintain the vehicle.*

23 *The lessee of the motor vehicle who intends to claim the offense*
 24 *resulted from the owner's failure to maintain the vehicle shall*
 25 *notify the clerk of the court where the case is pending and the owner*
 26 *of the vehicle of this claim within five days after receiving notice*
 27 *of the offense or at least seven days prior to the date the case will*
 28 *be heard by the court, whichever is later.*

29 (4) *If the owner of the vehicle fails to comply with the provi-*
 30 *sions of paragraph (1) of this subsection, the court hearing the*
 31 *violation may take any action which the interests of justice require,*
 32 *including finding the owner of the motor vehicle liable for the park-*
 33 *ing offense.***

1 5. The municipal court shall immediately upon expiration of time
 2 to answer or appear, with respect to residents of New Jersey,
 3 follow the procedures set forth in R. 7:6-3(a) of the Rules Gov-
 4 erning the Courts of the State of New Jersey. These procedures
 5 include the mailing of a notice of offense or a failure to appear
 6 notice to defendant. That notice shall be on a form approved by
 7 the Administrative Director of the Courts and shall inform the
 8 defendant of the parking offense charged, the time and date of
 9 the parking offense, the amount of fines, penalties and costs due;
 10 of his right to have a hearing; that a civil judgment may be en-
 11 tered against him for failure to appear or pay the amount due;
 12 and that his driver's license may be suspended; that his driving
 13 privileges may be revoked; and that a warrant may be issued for
 14 his arrest.

15 The procedures set forth in R. 7:6-3(e) of the Rules Governing
 16 the Courts of the State of New Jersey shall be followed in the case
 17 of a nonresident.

1 6. a. In answer to a parking ticket or failure to appear notice,
 2 a person to whom a parking ticket or failure to appear notice was
 3 issued may:

4 (1) Admit the commission of the parking offense by payment
 5 of the fine and penalty due; or

6 (2) Deny liability and appear in court in accordance with the
 7 instructions on the summons or otherwise as provided by court
 8 rule.

9 b. A person to whom a parking ticket or failure to appear notice
10 has been issued may answer by personal appearance or by mail
11 in accordance with instructions on the summons.

12 c. A person who admits the commission of a parking offense
13 shall, at the same time he submits his answer, pay the civil fine
14 and any additional penalties established pursuant to local ordinance
15 or regulation which may be due for failure to answer within the
16 time required.

1 7. a. The officer issuing the ticket shall not be required to appear
2 at the hearing of a case unless the respondent has denied that the
3 parking offense occurred by his commission and the court deter-
4 mines that the officer's presence is required. The court may grant
5 a reasonable adjournment if the officer is not available at the time
6 of hearing. It shall not be required that evidence other than the
7 parking ticket and information from the division identifying the
8 owner of the vehicle, be submitted to the court, and that docu-
9 mentation in proper form shall be considered prima facie evidence
10 that the registered owner of the vehicle was the person who com-
11 mitted the parking offense.

12 b. If a person to whom a failure to appear notice has been issued
13 fails to answer or fails to appear at a hearing when he is required
14 to do so, or, having admitted commission of the parking offense
15 fails to pay the fine and penalties assessed by the court, the court
16 may, in addition to all other remedies and penalties currently avail-
17 able to the court for failure to appear, enter a judgment by default
18 sustaining the charges, fix the appropriate fine and assess appro-
19 priate penalties and costs, if any.

20 c. A judgment by default may be vacated by the court within one
21 year after its entry only upon written application setting forth both
22 a sufficient defense to the charge and an excusable neglect as to the
23 respondent's failure to attend the hearing. If a failure to appear
24 notice was mailed to the registered owner at the address appearing
25 on the records of the division, the failure to receive the notice shall
26 not be considered a defense unless the owner can prove that the
27 division was advised of the owner's correct address prior to the
28 date of the parking offense.

29 d. If payment is not made within 10 days after entry of a default
30 judgment for a parking offense, the order of the court may be filed
31 in the office of the clerk of the Superior Court and, when filed, shall
32 have the effect of a civil money judgment. Judgments for parking
33 offenses shall be maintained in a separate judgment roll from other
34 civil judgments. Execution may be levied and other measures may
35 be taken for the collection of the judgment which are authorized for

36 the collection of an unpaid civil judgment. The court may assess
37 costs against a judgment debtor, not to exceed \$25.00 for each
38 violation, to be paid upon satisfaction of the judgment.

39 e. If a notice of appeal is filed by the person against whom judg-
40 ment is entered within 10 days after entry of the judgment and the
41 payment of costs which the court shall require, a hearing de novo
42 shall be held in accordance with the rules of the court. Service of a
43 notice of appeal shall not stay the enforcement of a judgment
44 appealed from unless the appellant shall have posted a bond in the
45 amount of the judgment plus court costs at or before service of the
46 notice of appeal.

47 f. A default judgment under this act may be filed by the court
48 at any time within three years after the parking ticket was issued.

1 8. a. For a period of 24 months from the effective date of this
2 act, \$2.00 out of each parking penalty assessed where a failure to
3 appear notice issued under these provisions and disbursed to the
4 municipality shall be earmarked and distributed to the municipal
5 court by the municipality to provide for the operating costs to
6 administer this act. These funds shall be in addition to the munici-
7 pal court's normal budget allocation but in no event shall exceed
8 those additional costs to the court incurred as a result of this act.

9 b. If a respondent defaults in the payment of a fine, penalty or
10 costs, or of an installment, the court may require the respondent to
11 show cause why the default should not be treated as a civil contempt
12 and may issue a summons or order to show cause or a bench warrant
13 of arrests for the respondent's appearance. The officers of a corpo-
14 ration or the partners, directors or officers of an association may be
15 held in contempt upon a default by the corporation or association.

1 9. a. If a person has failed to respond to a failure to appear
2 notice or has failed to pay a parking judgment, the municipal court
3 may give notice of that fact to the division in a manner prescribed
4 by the director. If notice has been given under this section of a
5 person's failure to respond to a failure to appear notice or to pay a
6 parking judgment and if the fines and penalties are paid or if the
7 case is dismissed or otherwise disposed of, the municipal court shall
8 promptly give notice to that effect to the division.

9 b. The judge or the division may suspend the driver's license of
10 an owner, lessee, or operator who has not answered or appeared in
11 response to a failure to appear notice or has not paid or otherwise
12 satisfied outstanding parking fines or penalties.

13 c. The division shall keep a record of a suspension ordered by
14 the court pursuant to subsection b. of this section.

1 10. a. When a person whose license has been suspended pursuant

2 to subsection b. of section 9 of this act satisfies the fines and any
3 penalties imposed by the court, the court shall forward to the
4 division a notice to restore the person's driving license.

5 b. Upon receiving a notice to restore pursuant to subsection a.
6 of this section, the division shall record the restoration and notify
7 the person of the restoration.

1 11. There shall be included in the fines and penalties imposed
2 by the court on a person whose license has been suspended pur-
3 suant to subsection b. of section 9 of this act, a fee of \$3.00 which
4 shall be transferred by the court to the division. All fees so trans-
5 ferred shall be deposited in a fund established to effectuate the
6 purposes of this act.

1 12. ****a.**** The governing body of every municipality may make,
2 amend, repeal and enforce an ordinance authorizing the impound-
3 ment or immobilization of a vehicle found within the jurisdiction
4 of that municipality if there are any outstanding warrants against
5 the ****[owner, operator or lessee of the]**** vehicle.

6 ****b.** *Except for vehicles owned by lessors who have complied*
7 *with paragraphs (1) and (2) of subsection b. of section 4 of this*
8 *act, if the outstanding warrants are not paid by midnight on the*
9 *30th day following the day on which the vehicle was impounded or*
10 *immobilized, the vehicle may be sold at a public auction. The mu-*
11 *nicipality shall give notice of the sale by certified mail to the owner,*
12 *if his name and address are known, and to the holder of any secu-*
13 *rity interest filed with the director, and by publication in a form to*
14 *be prescribed by the director by one insertion, at least five days*
15 *before the date of the sale, in one or more newspapers published in*
16 *this State and circulating in the municipality in which the motor*
17 *vehicle has been impounded or immobilized.*

18 *c. At any time prior to the sale, the owner of the motor vehicle*
19 *or other person entitled to the motor vehicle may reclaim posses-*
20 *sion of the motor vehicle upon payment of the reasonable costs of*
21 *removal and storage of the motor vehicle, any fine or penalty and*
22 *court costs assessed against him for a violation that gave rise to*
23 *the impoundment or immobilization of the motor vehicle, and any*
24 *outstanding warrants against the vehicle; however, the owner-*
25 *lessor of a motor vehicle who has complied with paragraphs (1)*
26 *and (2) of subsection b. of section 4 of this act shall be entitled to*
27 *reclaim possession without payment and the lessee shall be liable*
28 *for any fine, penalty, court costs and outstanding warrants against*
29 *the vehicle.*

30 *d. Any proceeds obtained from the sale of a vehicle at public*
31 *auction pursuant to subsection b. of this section in excess of the*

32 amount owed to the municipality for the reasonable costs of re-
33 moval and storage of the motor vehicle, any fine or penalty and
34 court costs assessed against him for a violation that gave rise to
35 the impoundment or immobilization of the motor vehicle, and any
36 outstanding warrants against the vehicle, shall be returned to the
37 owner of the vehicle, if his name and address are known.**

1 *13. A municipality may enter into a contract with a public
2 agency or private organization for services to be rendered in the
3 processing of parking offenses under this act. A municipality which
4 contracts for processing services shall submit a plan to the Supreme
5 Court describing the services to be provided and the procedures
6 to be used. The Supreme Court shall approve a plan submitted by
7 a municipality prior to the implementation of that plan.*

1 *~~[13.]~~* *14* P. L. 1973, c. 274 (C. 39:4-139.1) is repealed.

1 *~~[14.]~~* *15.* This act shall take effect on the one hundred and
2 eightieth day after enactment.

STATEMENT

Municipalities are losing millions of dollars a year because of the inability of municipal courts to successfully collect unpaid parking tickets. This inability to collect unpaid parking tickets results from an enforcement system which is both ineffective and costly to maintain. The purpose of the bill, "The Parking Offenses Adjudication Act," is to strengthen and improve the procedures involved in the collection of fines resulting from parking tickets.

A452 (1985)

ASSEMBLY LAW, PUBLIC SAFETY AND DEFENSE
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 452

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: MAY 14, 1984

As amended by the Assembly Law, Public Safety and Defense Committee, Assembly Bill No. 452, entitled the "Parking Offenses Adjudication Act," facilitates the collection of fines assessed for parking violations by according municipalities and municipal courts new powers and establishing new methods of dealing with violators who fail or refuse to pay their parking fines.

The bill sets forth uniform requirements governing the content of and method for issuing parking tickets, the liability of the operator and the owner of a motor vehicle for which a parking ticket is issued, the rights of the parking violator to a hearing and the additional penalties assessed if the violator fails to pay the fine assessed for the parking ticket.

The bill authorizes a court to enter a default judgment against any person who fails to pay a fine or who fails to appear at a hearing. A default judgment may be entered at any time within three years from the date a parking ticket is issued. A default judgment is to be filed in the Superior Court and is to have the effect of a civil money judgment. Execution may be levied and other measures taken for the collection of the judgment which are authorized for the collection of unpaid civil judgments.

For 24 months after the date on which this bill is enacted into law, \$2.00 of each parking penalty is to be earmarked and distributed to the municipal court by the municipality to provide for administrative operating costs.

The bill allows a municipal court to inform the Division of Motor Vehicles of a person's failure to pay a fine on a parking ticket and the division may suspend the driver's license of that person. A municipality may enact an ordinance providing for the impoundment or immobilization of a motor vehicle if there are any outstanding warrants against the owner or operator for unpaid fines or parking tickets. In addition, a municipality may enter into a contract with a public agency or private organization for services to be rendered in the processing of parking tickets issued pursuant to the provisions of this bill.

SENATE LAW, PUBLIC SAFETY AND DEFENSE
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 452

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STATE OF NEW JERSEY

DATED: SEPTEMBER 13, 1984

Assembly Bill No. 452 OCR, entitled the "Parking Offenses Adjudication Act," facilitates the collection of fines assessed for parking violations by according municipalities and municipal courts new powers and establishing new methods of dealing with violators who fail or refuse to pay their parking fines.

The bill sets forth uniform requirements governing the content of and method for issuing parking tickets, the rights of the parking violator to a hearing, and the additional penalties assessed if the violator fails to pay the fine assessed for the parking ticket.

The bill also sets forth the liability of both the operator and the owner of a motor vehicle for which a parking ticket is issued. The owner and operator are jointly liable for a parking violation unless the owner can show that the vehicle was used without his express or implied consent. An owner who pays a fine in connection with a parking offense has the right to recover the sum from the operator in court.

The bill authorizes a court to enter a default judgment against any person who fails to pay a fine or who fails to appear at a hearing. A default judgment may be entered at any time within three years from the date a parking ticket is issued. A default judgment is to be filed in the Superior Court and is to have the effect of a civil money judgment. Execution may be levied and other measures taken for the collection of the judgment which are authorized for the collection of unpaid civil judgments.

For 24 months after the date on which this bill is enacted into law, \$2.00 of each parking penalty is to be earmarked and distributed to the municipal court by the municipality to provide for administrative operating costs.

The bill allows a municipal court to inform the Division of Motor Vehicles of a person's failure to pay a fine on a parking ticket, and the division may suspend the driver's license of that person. A municipality

may enact an ordinance providing for the impoundment or immobilization of a motor vehicle if there are any outstanding warrants against the owner or operator for unpaid fines or parking tickets. In addition, a municipality may enter into a contract with a public agency or private organization for services to be rendered in the processing of parking tickets issued pursuant to the provisions of this bill.

The bill repeals P. L. 1973, c. 274 (C. 39:4-139.1), which establishes that the owner of a leased motor vehicle is not liable for parking violations that occurred when the vehicle was under the control of the lessee, unless the offense was caused by a mechanical failure that resulted from the owner's failure to maintain the vehicle.

to

Assembly Bill No. 452 OCR

*adopted
10-14-89*

Amend:

Page	Sec.	Line
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poundment or immobilization of the motor vehicle, and any outstanding warrants against the vehicle, shall be returned to the owner of the vehicle, if his name and address ^{are}~~be~~ known."

STATEMENT

These amendments authorize a municipality to sell at public auction any motor vehicle that has been impounded or immobilized by the municipality because of unpaid parking fines.

The amendments also establish that a person who has leased a motor vehicle to another is not liable for any parking violations committed by the lessee, as long as the owner notifies the clerk of the court of the name and address of the lessee. The owner of a leased vehicle would be liable if the parking violation was the result of a mechanical failure caused by the owner's failure to maintain the vehicle properly.

The Community Development Bond Act authorized the sale of \$85 million in bonds. The Local Development Financing Fund is scheduled to eventually receive \$45 million from that bond.

The Governor also signed legislation establishing uniform methods and procedures for the collection of fines resulting from parking tickets.

The bill, A-452, was sponsored by Assemblyman Harry McEnroe, D-Essex.

It establishes that the owner and operator of a vehicle are jointly liable for a parking offense, and that the parking summons and information from the Division of Motor Vehicles identifying the owner shall be considered "prima facie" evidence that the registered owner of the vehicle is the person who committed the parking offense.

The bill also allows municipal court judges to suspend the driver license of the owner if the owner fails to respond to the summons, and fails to respond to a failure to appear notice. It also permits the municipality to impound and eventually sell at auction the vehicle of an owner who fails to respond to municipal court notices, and permits the docketing of parking offenses in Superior Court.

The Governor also signed A-504, sponsored by Assemblyman John P. Doyle, D-Ocean, which prohibits a person from operating a motorcycle with a passenger whose feet do not fit firmly on the footrests and who does not wear a securely fitted helmet of the proper size.

A-1320, sponsored by Assemblyman Thomas J. Deverin, D-Middlesex, which strengthens the capitalization requirement of surplus lines insurers and authorizes the creation of surplus lines associations of licensed surplus lines brokers.

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