

39:4-50

LEGISLATIVE HISTORY CHECKLIST

NJSA: 39: 4-50, 26: 2B-9.1

(Alcohol control measures--transfer from Motor Vehicles to Division of Alcoholism)

LAWS OF: 1984

CHAPTER: 243

Bill No: A2701

Sponsor(s): Herman and Kern

Date Introduced: October 18, 1984

Committee: Assembly: Judiciary  
Senate: Judiciary

Amended during passage: No Substituted for S2331 (not attached since identical to A2701)

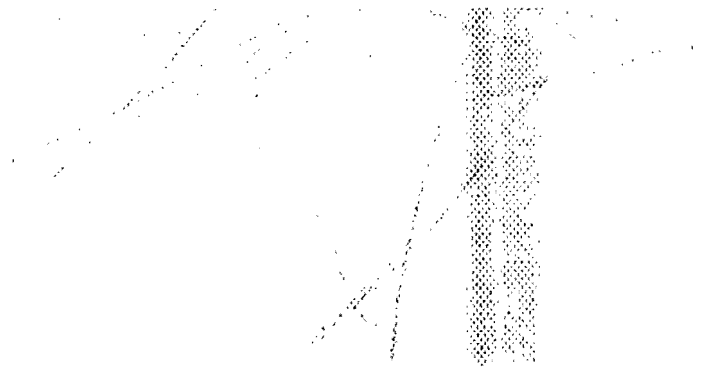
Date of Passage: Assembly: Dec. 6, 1984  
Senate: Dec. 17, 1984

Date of Approval: January 2, 1985

Following statements are attached if available:

Sponsor statement:		Yes
Committee statement:	Assembly	Yes
	Senate	<del>No</del> YES
Fiscal Note:		No
Veto Message:		No
Message on Signing:		<del>No</del> YES
Following were printed:		
Reports:		No
Hearings:		No

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ASSEMBLY, No. 2701

STATE OF NEW JERSEY

INTRODUCED OCTOBER 18, 1984

By Assemblymen HERMAN and KERN

AN Act concerning the operation of motor vehicles by persons under the influence of intoxicating liquor or drugs, amending R. S. 39:4-50 and supplementing Title 26 of the Revised Statutes.

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

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

2 39:4-50. (a) A person who operates a motor vehicle while under  
3 the influence of intoxicating liquor, narcotic, hallucinogenic or  
4 habit-producing drug, or operates a motor vehicle with a blood  
5 alcohol concentration of 0.10% or more by weight of alcohol in the  
6 defendant's blood or permits another person who is under the in-  
7 fluence of intoxicating liquor, narcotic, hallucinogenic or habit-  
8 producing drug to operate a motor vehicle owned by him or in his  
9 custody or control or permits another to operate a motor vehicle  
10 with a blood alcohol concentration of 0.10% or more by weight of  
11 alcohol in the defendant's blood, shall be subject:

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

**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.

22 (2) For a second violation, a person shall be subject to a fine of  
23 not less than \$500.00 nor more than \$1,000.00, and shall be ordered  
24 by the court to perform community service for a period of 30 days,  
25 which shall be of such form and on such terms as the court shall  
26 deem appropriate under the circumstances and shall be sentenced  
27 to imprisonment for a term of not less than 48 consecutive hours,  
28 which shall not be suspended or served on probation, nor more  
29 than 90 days, and shall forfeit his right to operate a motor vehicle  
30 over the highways of this State for a period of two years upon  
31 conviction, and, after the expiration of said period, he may make  
32 application to the Director of the Division of Motor Vehicles for  
33 a license to operate a motor vehicle, which application may be  
34 granted at the discretion of the director, consistent with subsection  
35 (b) of this section.

36 (3) For a third or subsequent violation, a person shall be sub-  
37 ject to a fine of \$1,000.00, and shall be sentenced to imprisonment  
38 for a term of not less than 180 days, except that the court may  
39 lower such term for each day, not exceeding 90 days, served per-  
40 forming community service in such form and on such terms as the  
41 court shall deem appropriate under the circumstances and shall  
42 thereafter forfeit his right to operate a motor vehicle over the high-  
43 ways of this State for 10 years.

44 If the driving privilege of any person is under revocation or  
45 suspension for a violation of any provision of this Title at the time  
46 of any conviction for a violation of this section, the revocation or  
47 suspension period imposed shall commence as of the date of termi-  
48 nation of the existing revocation or suspension period. A court  
49 that imposes a term of imprisonment under this section may  
50 sentence the person so convicted to the county jail, to the work-  
51 house of the county wherein the offense was committed, to an in-  
52 patient rehabilitation program or to an Intoxicated Driver Re-  
53 source Center or other facility approved by [the Director of the  
54 Division of Motor Vehicles and] the Director of the Division of  
55 Alcoholism in the Department of Health; provided that for a third  
56 or subsequent offense a person shall not serve a term of imprison-  
57 ment at an Intoxicated Driver Resource Center as provided in  
58 subsection (f).

58A A person who has been convicted of a previous violation of this  
58B section need not be charged as a second or subsequent offender in  
58C the complaint made against him in order to render him liable to  
58D the punishment imposed by this section on a second or subsequent  
59 offender, but if the second offense occurs more than 10 years after  
60 the first offense the court shall treat the second conviction as a first

61 offense for sentencing purposes and if a third offense occurs more  
62 than 10 years after the second offense, the court shall treat the third  
63 conviction as a second offense for sentencing purposes.

64 (b) A person convicted under this section must satisfy the  
65 screening, evaluation, referral and program requirements of the  
66 Division of **Motor Vehicles'** *Alcoholism's* Bureau of Alcohol  
67 Countermeasures, and of the Intoxicated Driver Resource Centers  
68 *and a program of alcohol education and highway safety as pre-*  
69 *scribed by the Director of the Division of Motor Vehicles.* The sen-  
70 tencing court shall inform the person convicted that failure to  
71 satisfy such requirements shall result in a mandatory two day term  
72 imprisonment in a county jail and a driver license revocation or  
73 suspension and continuation of revocation or suspension until such  
74 requirements are satisfied, unless stayed by court order in accor-  
75 dance with Rule 7:8-2 of the N. J. Court Rules, 1969, or R. S.  
76 39:5-22. Upon sentencing, the court shall forward to the Bureau of  
77 Alcohol Countermeasures a copy of a person's conviction record.  
78 A fee, **not to exceed** of \$40.00, shall be payable to the **Division**  
79 **of Motor Vehicles for the Bureau of Alcohol Countermeasures'**  
80 **screening and evaluation program** *Alcohol Education, Rehabilita-*  
81 *tion and Enforcement Fund established pursuant to section 3, P. L.*  
82 *1983, c. 531 (C. 26:28-32) to support the Bureau of Alcohol Counter-*  
83 *measures to defray the cost of screening, evaluation and alcohol*  
84 *education programs in the Intoxicated Driver Resource Centers.*

85 (c) Upon conviction of a violation of this section, the court shall  
86 collect forthwith the New Jersey driver's license or licenses of the  
87 person so convicted and forward such license or licenses to the  
88 Director of the Division of Motor Vehicles. The court shall inform  
89 the person convicted that if he is convicted of personally operating  
90 a motor vehicle during the period of license suspension imposed  
91 pursuant to subsection (a) of this section, he shall, upon conviction,  
92 be subject to the penalties established in R. S. 39:3-40. The person  
93 convicted shall be informed orally and in writing. A person shall  
94 be required to acknowledge receipt of that written notice in writing.  
95 Failure to receive a written notice or failure to acknowledge in  
96 writing the receipt of a written notice shall not be a defense to a  
97 subsequent charge of a violation of R. S. 39:3-40. In the event  
98 that a person convicted under this section is the holder of any out-  
99 of-state driver's license, the court shall not collect the license but  
100 shall notify forthwith the director who shall, in turn, notify appro-  
101 priate officials in the licensing jurisdiction. The court shall, how-  
102 ever, revoke the nonresident's driving privilege to operate a motor  
103 vehicle in this State in accordance with this section. Upon convic-

104 tion of a violation of this section, the court shall notify the person  
105 convicted, orally and in writing, of the penalties for a second, third  
106 or subsequent violation of this section. A person shall be required  
107 to acknowledge receipt of that written notice in writing. Failure to  
108 receive a written notice or failure to acknowledge in writing the  
109 receipt of a written notice shall not be a defense to a subsequent  
110 charge of a violation of this section.

111 (d) The Director of the Division of Motor Vehicles shall pro-  
112 mulgate [administrative] rules and regulations *pursuant to the*  
113 "*Administrative Procedure Act*," P. L. 1968, c. 410 (C. 52:14B-1 et  
114 seq.) in order to [effectuate the purposes of this act] *establish a*  
115 *program of alcohol education and highway safety as prescribed by*  
116 *this act.*

117 (e) Any person accused of a violation of this section who is liable  
118 to punishment imposed by this section as a second or subsequent  
119 offender shall be entitled to the same rights of discovery as allowed  
120 defendants pursuant to the Rules Governing Criminal Practice as  
121 set forth in the Rules Governing the Courts of the State of New  
122 Jersey.

123 (f) The counties, in cooperation with the Division of Alcoholism  
124 and the Division of Motor Vehicles, but subject to the approval of  
125 the Division of Alcoholism, shall designate and establish on a county  
126 or regional basis Intoxicated Driver Resource Centers. These  
127 centers shall have the capability of serving as community treat-  
128 ment referral centers and as court monitors of a person's compli-  
129 ance with the ordered treatment, service alternative or community  
130 service. All centers established pursuant to this subsection shall be  
131 administered by a certified alcoholism counsellor or other profes-  
132 sional with a minimum of five years' experience in treatment of  
133 alcoholism. All centers shall be required to develop individualized  
134 treatment plans for all persons attending the centers; provided that  
135 the duration of any ordered treatment or referral shall not exceed  
136 one year. It shall be the center's [responsibility] *responsibility*  
137 to establish networks with the community alcohol education, treat-  
138 ment and rehabilitation resources and to receive monthly reports  
139 from the referral agencies regarding a person's participation and  
140 compliance with the program. Nothing in this subsection shall bar  
141 these centers from developing their own education and treatment  
142 programs; provided that they are approved by the Division of  
143 Alcoholism.

144 Upon a person's failure to report to the initial screening or any  
145 subsequent ordered referral, the Intoxicated Driver Resource

146 Center shall promptly notify the sentencing court of the person's  
147 failure to comply.

148 Required detention periods at the Intoxicated Driver Resource  
149 Centers shall be determined according to the individual treatment  
150 classification assigned by the Bureau of Alcohol Countermeasures.  
151 Upon attendance at an Intoxicated Driver Resource Center, a per-  
152 son shall be assessed a per diem charge [not to exceed] of \$25.00  
153 to be collected by the center and used to defray costs. [The per  
154 diem charge may be waived by the sentencing court upon good  
155 cause shown.]

156 *The centers shall conduct a program of alcohol education and*  
157 *highway safety as prescribed by the Director of the Division of*  
158 *Motor Vehicles.*

159 The [Directors of the Divisions of Alcoholism and Motor Vehi-  
160 cles] *Director of the Division of Alcoholism* shall adopt rules and  
161 regulations pursuant to the "Administrative Procedure Act,"  
162 P. L. 1968, c. 410 (C. 52:14B-1 et seq.), in order to effectuate the  
163 purposes of this subsection.

1 2. (New section) The Bureau of Alcohol Countermeasures in the  
2 Division of Motor Vehicles in the Department of Law and Public  
3 Safety is transferred to the Division of Alcoholism in the Depart-  
4 ment of Health pursuant to the provisions of the "State Agency  
5 Transfer Act," P. L. 1971, c. 375 (C. 52:14D-1 et seq.).

1 3. This act shall take effect immediately.

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#### STATEMENT

The purpose of this bill is to transfer the Bureau of Alcohol Countermeasures in the Division of Motor Vehicles to the Division of Alcoholism.

At the present time, the Bureau of Alcohol Countermeasures is responsible for the screening, evaluation, education and referral of persons who have been convicted of drunk driving. Pursuant to P. L. 1983, c. 444 (Senate Bill No. 1042 of 1983), this function will largely be taken over by the Intoxicated Driver Resource Centers when the law takes effect in October of 1984.

Enactment of this legislation would consolidate all of the screening, evaluation, education and referral functions that would be done under P. L. 1983, c. 444 by the Division of Motor Vehicles' Bureau of Alcohol Countermeasures, the Division of Alcoholism and the Intoxicated Driver Resource Centers and places the responsibility for these functions in the Division of Alcoholism, which would set the standards and provide overall coordination for the centers. The

staff now performing some of these functions at the Division of Motor Vehicles would be transferred to the Division of Alcoholism pursuant to the "State Agency Transfer Act," P. L. 1971, c. 375 (C. 52:14D-1 et seq.). This is a sensible transfer since the Legislature has created a Division of Alcoholism to be the lead agency in this area.

The changes in this bill are supported by the Division of Motor Vehicles and the Division of Alcoholism.

The bill also makes the per diem charge for the centers mandatory and not permissive, while transferring the current fee collected by the Division of Motor Vehicles to the Division of Alcoholism. These amendments will ensure stable funding for the centers.

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147 failure to comply.

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153 to be collected by the center and used to defray costs. [The per  
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155 cause shown.]

156 *The centers shall conduct a program of alcohol education and*  
157 *highway safety as prescribed by the Director of the Division of*  
158 *Motor Vehicles.*

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The changes in this bill are supported by the Division of Motor Vehicles and the Division of Alcoholism.

The bill also makes the per diem charge for the centers mandatory and not permissive, while transferring the current fee collected by the Division of Motor Vehicles to the Division of Alcoholism. These amendments will ensure stable funding for the centers.

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ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2701

STATE OF NEW JERSEY

DATED: NOVEMBER 8, 1984

The purpose of this bill is to transfer the Bureau of Alcohol Countermeasures in the Division of Motor Vehicles to the Division of Alcoholism in the Department of Health.

At the present time, the Bureau of Alcohol Countermeasures is responsible for the screening, evaluation, education and referral of persons who have been convicted of drunk driving. Pursuant to P. L. 1983, c. 444 (S-1042 of 1982), which took effect in October of 1984, this function will largely be taken over by the Intoxicated Driver Resource Centers.

Enactment of this legislation would consolidate all of the screening, evaluation, education and referral functions that would be done under P. L. 1983, c. 444 by the Division of Motor Vehicles' Bureau of Alcohol Countermeasures, the Division of Alcoholism and the Intoxicated Driver Resource Centers, and places the responsibility for these functions in the Division of Alcoholism, which would set the standards and provide overall coordination for the centers. The staff now performing some of these functions at the Division of Motor Vehicles would be transferred to the Division of Alcoholism pursuant to the "State Agency Transfer Act" P. L. 1971, c. 375 (C. 52:14D-1 et seq.).

The bill also makes the per diem charge for the centers mandatory and not permissive, while transferring the current fee collected by the Division of Alcoholism. This bill will ensure stable funding for the centers.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2701

**STATE OF NEW JERSEY**

DATED: DECEMBER 17, 1984

Assembly Bill No. 2701 would transfer the Bureau of Alcohol Countermeasures from the Division of Motor Vehicles to the Division of Alcoholism in the Department of Health. Presently, the Bureau of Alcohol Countermeasures is responsible for the screening, evaluation, education and referral of persons who have been convicted of drunk driving. Under P. L. 1983, c. 444 which became effective in October of this year, this function will largely be taken over by the Intoxicated Driver Resource Centers.

The rationale for the transfer of the Bureau of Alcohol Countermeasures is to consolidate the screening, evaluation, education and referral functions for drunk drivers within the Division of Alcoholism. The staff now performing these functions would be transferred to the Division of Alcoholism.

Assembly Bill No. 2701 also would change the present law with regard to the fees for the treatment program for drunk drivers. Presently, a fee of up to \$40.00 is to be charged by the Bureau of Alcohol Countermeasures for the screening and evaluation of a drunk driver. Assembly Bill No. 2701 clarifies that the fee is to be \$40.00 and that the fee will go toward defraying the cost of the Intoxicated Driver Resource Centers.

Also presently, a person who is required to be detained at an Intoxicated Driver Resource Center may be charged a per diem rate not to exceed \$25.00 but the per diem charge may be waived by the sentencing court. Assembly Bill No. 2701- would remove the ability of the court to waive the per diem charge and clarify that the per diem charge is to be \$25.00.



## OFFICE OF THE GOVERNOR NEWS RELEASE

**CN-001**  
**Contact:** PAUL WOLCOTT  
609-292-8956

**TRENTON, N.J. 08625**  
**Release:** FRIDAY, JAN. 4, 1985

Governor Thomas H. Kean has signed the following bills:

A-2701, sponsored by Assemblyman Martin A. Herman, D-Salem, which transfers the Bureau of Alcohol Countermeasures, currently in the Division of Motor Vehicles, to the Division of Alcoholism in the Department of Health.

The Bureau of Alcohol Countermeasures is responsible for screening, evaluation, education and referral for treatment of persons convicted of drunk driving. Since the Intoxicated Driver Resource Centers created last year are operated by the Division of Alcoholism, the transfer places the two similar functions under the same administrative agency.

A-17, sponsored by Assemblyman Jimmy Zangari, E-Essex, which provides that insurers are prohibited from paying fire insurance claims until the insured submits official certification that demolition is not required, or that the costs of demolition have been paid.

S-1528, sponsored by State Senator Edward T. O'Connor, Jr., D-Hudson, which makes administrative amendments to the Uniform Limited Partnership Act of 1976.

S-2479, sponsored by Senate President Carmen A. Orechio, D-Essex, which provides for the appointment of a municipal disaster control director in municipalities governed under the commission form of government. The director would be appointed by the commissioner responsible for disaster control.

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