

59:5-6

LEGISLATIVE HISTORY CHECKLIST
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NJSA: 59:5-6

(Police officers--
municipalities--immunity
from suits by
released persons)

LAWS OF: 1989

CHAPTER: 325

Bill No: A1461

Sponsor(s): Kline

Date Introduced: Pre-filed

Committee: Assembly: Law, Public Safety & Corrections

Senate: December 21, 1989

Amended during passage: Yes Amendments during passage
denoted by asterisks.

Date of Passage: Assembly: June 20, 1988

Senate: December 21, 1989

Date of Approval: January 12, 1990

Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly: Yes

Senate: Yes

Fiscal Note: No

Veto Message: No

Message on signing: No

Following were printed:

Reports: No

Hearings: No

KBG/SLJ

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1988 SESSION

By Assemblyman KLINE

1 AN ACT concerning immunity for public entities and employees
and supplementing chapter 5 of Title 59 of the New Jersey
3 Statutes.

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

7 1. a. Neither a public entity nor a public employee is liable
for any injury suffered by a motor vehicle driver upon his
9 voluntary release from police custody ¹after reasonable
precautions have been taken so that the driver is released in a
11 position of relative safety and refuge¹ following his arrest on a
charge of operating a motor vehicle while under the influence of
13 intoxicating liquor or drugs, pursuant to R.S.39:4-50.

b. Neither a public entity nor a public employee is liable for
15 any injury suffered by a motor vehicle occupant upon his
voluntary release from police detention ¹after reasonable
17 precautions have been taken so that the occupant is released in a
position of relative safety and refuge¹ following the arrest of a
19 motor vehicle driver on a charge of operating a motor vehicle
while under the influence of intoxicating liquor or drugs, pursuant
21 to R.S.39:4-50.

23 2. This act shall take effect immediately.

25 PUBLIC SAFETY
Tort Liability

27 Provides police officers and municipalities with immunity from
29 lawsuits by persons injured upon their release from custody
following arrest on drunk driving charges.

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SJU committee amendments adopted August 4, 1988.

ASSEMBLY, No. 1461
STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel
PRE-FILED FOR INTRODUCTION IN THE 1988 SESSION

By Assemblyman KLINE

1 AN ACT concerning immunity for public entities and employees
and supplementing chapter 5 of Title 59 of the New Jersey
3 Statues.

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

7 1. a. Neither a public entity nor a public employee is liable
for any injury suffered by a motor vehicle driver upon his
9 voluntary release from police custody following his arrest on a
charge of operating a motor vehicle while under the influence of
11 intoxicating liquor or drugs, pursuant to R.S. 39:4-50.

b. Neither a public entity nor a public employee is liable for
13 any injury suffered by a motor vehicle occupant upon his
voluntary release from police detention following the arrest of a
15 motor vehicle driver on a charge of operating a motor vehicle
while under the influence of intoxicating liquor or drugs,
17 pursuant to R.S. 39:4-50.

2. This act shall take effect immediately.

19

21

STATEMENT

23 This bill provides immunity from civil liability for police
officers and municipalities who are sued by people injured in
25 accidents that occur upon their release from police custody
following arrest and processing on a charge of operating a motor
27 vehicle while under the influence of intoxicating liquor or
drugs. Under current law, which would remain unchanged by
29 this bill, police officers do not have the authority to keep
defendants in custody after processing is completed, and must
31 release them if they so request.

1 Police officers also do not have authority to prevent the
2 release of drunk passengers who were riding in the defendants'
3 motor vehicles. Although police officers will attempt to
4 contact the families and friends of defendants and passengers to
5 arrange transportation home, these attempts are not always
6 successful, and defendants and passengers are sometimes
7 uncooperative. Several municipalities have become targets of
8 lawsuits by people who had insisted upon their legal right to
9 walk home alone following their release from custody, and were
10 subsequently injured in accidents.

11

13 PUBLIC SAFETY

Tort Liability

15

16 Provides police officers and municipalities with immunity from
17 lawsuits by persons injured upon their release from custody
18 following arrest on drunk driving charges.

ASSEMBLY LAW, PUBLIC SAFETY AND CORRECTIONS
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1461

STATE OF NEW JERSEY

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DATED: APRIL 25, 1988

The Assembly Law, Public Safety and Corrections Committee favorably reports Assembly Bill 1461,

Assembly Bill 1461 supplements the "New Jersey Tort Claims Act" (N.J.S. 59:1-1 et seq.) to provide immunity from civil liability for police officers and municipalities for injuries suffered by individuals in accidents that occur after their release from police custody following their arrest and processing on charges of operating a motor vehicle while under the influence of intoxicating liquor or drugs. The immunity from civil liability granted under this bill applies not only to any injuries suffered by a defendant driver following his voluntary release, but also to any injuries suffered by any of that defendant's passengers following their voluntary release.

Under current law, police officers do not have the authority to keep defendants who are charged with driving while under the influence of intoxicating liquors or drugs after they have been processed and, therefore, must release those individuals if they so request. Similarly, police officers do not have the authority to prevent the release of drunk passengers who were riding in the defendant's motor vehicle at the time of the arrest. The provisions of the bill do not change or alter this aspect of current law; it does not give the police and new or greater authority to detain defendants or their passengers, nor does it in anyway infringe upon the right of any defendant or passenger to request and receive his legal release.

This bill was prefiled for introduction in the 1988 session pending technical review. As reported, the bill includes the changes required by technical review which has been preformed.

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SENATE JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1461

with Senate committee amendments

STATE OF NEW JERSEY

DATED: AUGUST 4, 1988

The Senate Judiciary Committee reports favorably and with committee amendments Assembly Bill No. 1461.

This bill would supplement the "New Jersey Tort Claims Act," N.J.S.A.59:1-1 et seq. to provide immunity from civil liability for public employees and public entities for injuries suffered by a motor vehicle driver upon his voluntary release after being arrested for driving while under the influence of intoxicating liquor or drugs. This immunity would also apply to passengers.

Police officers do not have the authority to detain defendants who are charged with driving under the influence, or their passengers, after the defendant has been processed. These people must be released upon request. This bill does not change the state of the law. It merely provides immunity from civil liability for injuries drivers or their passengers sustain following their release from custody.

The committee amendments provide that there will be immunity from liability if the driver or occupant is released from police custody or detention after reasonable precautions have been taken so that they are released in a position of relative safety and refuge.