

39:4-50

LEGISLATIVE HISTORY CHECKLIST

NJSA: 39:4-50

(DWI convictions--increase fees to Division of Alcoholism & Intoxicated Drivers Resources Center)

LAWS OF: 1986

CHAPTER 126

BILL NO: S1947

Sponsor(s): Graves and Ewing

Date Introduced: March 10, 1986

Committee: Assembly: -----

Senate: Laws, Public Safety and Defense

Amended during passage: No Substituted for A2337 (not attached since identical to S1947)

Date of Passage: Assembly: Sept. 8, 1986

Senate: May 15, 1986

Date of Approval: Oct. 9, 1986

Following statements are attached if available:

Sponsor statement: Yes

Committee statement: Assembly No

Senate Yes

Fiscal Note: No

Veto Message: No

Message on Signing: No

Following were printed:

Reports: Yes

Hearings: No

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(over)

Report, referred to in statements:

974.901 New Jersey. State Commission on Drunk Driving
M79 Annual report. . .Dec. 31, 1985. Trenton, 1985.
(see especially pp. 28-29; Appendix D)

SENATE, No. 1947

STATE OF NEW JERSEY

INTRODUCED MARCH 10, 1986

By Senators GRAVES and EWING

Referred to Committee on Law, Public Safety and Defense

AN Act concerning fees charged by Intoxicated Driver Resource Centers and the Intoxicated Driving Programs Unit in the Division of Alcoholism and amending R. S. 39:4-50.

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
13 more than \$400.00 and a period of detainment of not less than 12
14 hours nor more than 48 hours spent during two consecutive days of
15 not less than six hours each day and served as prescribed by the
16 program 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 workhouse
51 of the county wherein the offense was committed, to an inpatient
52 rehabilitation program or to an Intoxicated Driver Resource Center
53 or other facility approved by the Director of the Division of
54 Alcoholism in the Department of Health; provided that for a third
55 or subsequent offense a person shall not serve a term of imprison-
56 ment at an Intoxicated Driver Resource Center as provided in
57 subsection (f).

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

64 offense for sentencing purposes and if a third offense occurs more
65 than 10 years after the second offense, the court shall treat the third
66 conviction as a second offense for sentencing purposes.

67 (b) A person convicted under this section must satisfy the
68 screening, evaluation, referral [and], program and fee require-
69 ments of the Division of Alcoholism's [Bureau of Alcohol Counter-
70 measures] *Intoxicated Driving Programs Unit*, and of the Intoxi-
71 cated Driver Resource Centers and a program of alcohol education
72 and highway safety, as prescribed by the Director of the Division
73 of Motor Vehicles. The sentencing court shall inform the person
74 convicted that failure to satisfy such requirements shall result in a
75 mandatory two day term of imprisonment in a county jail and a
76 driver license revocation or suspension and continuation of revoca-
77 tion or suspension until such requirements are satisfied, unless
78 stayed by court order in accordance with Rule 7:8-2 of the N. J.
79 Court Rules, 1969, or R. S. 39:5-22. Upon sentencing, the court
80 shall forward to the Bureau of Alcohol Countermeasures *within the*
81 *Intoxicated Driving Programs Unit* a copy of a person's conviction
82 record. A fee of [\\$40.00] \$80.00 shall be payable to the Alcohol
83 Education, Rehabilitation and Enforcement Fund established pur-
84 suant to section 3, P. L. 1983, c. 531 (C. 26:[28] 2B-32) to support
85 the [Bureau of Alcohol Countermeasures, to defray the cost of
86 screening, evaluation and alcohol education programs in the Intoxi-
87 cated Driver Resource Centers] *Intoxicated Driving Programs*
88 *Unit*.

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

107 vehicle in this State, in accordance with this section. Upon convic-
108 tion of a violation of this section, the court shall notify the person
109 convicted, orally and in writing, of the penalties for a second, third
110 or subsequent violation of this section. A person shall be required
111 to acknowledge receipt of that written notice in writing. Failure to
112 receive a written notice or failure to acknowledge in writing the
113 receipt of a written notice shall not be a defense to a subsequent
114 charge of a violation of this section.

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

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

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

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

149 Center shall promptly notify the sentencing court of the person's
150 failure to comply.

151 Required detention periods at the Intoxicated Driver Resource
152 Centers shall be determined according to the individual treatment
153 classification assigned by the Bureau of Alcohol Countermeasures.
154 Upon attendance at an Intoxicated Driver Resource Center, a per-
155 son shall be assessed a per diem [charge of \$25.00 to be collected
156 by the center and used to defray costs] *fee of \$50.00 for the first*
157 *offender program or a per diem fee of \$75.00 for the second offender*
158 *program, as appropriate.*

159 The centers shall conduct a program of alcohol education and
160 highway safety, as prescribed by the Director of the Division of
161 Motor Vehicles.

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

1 2. This act shall take effect immediately.

STATEMENT

The Division of Alcoholism in the Department of Health is authorized by R. S. 39:4-50 to establish the Intoxicated Driver Resource Centers (IDRCs) on the county government level to implement a detention, evaluation, and treatment program for drunk drivers. The Intoxicated Driver Resource Centers replaced the Alcohol Countermeasures Program administered by the Division of Motor Vehicles. The law also provides a fee structure for the IDRCs and the Bureau of Alcohol Countermeasures, which has been transferred to the Department of Health.

The IDRC program has eliminated delays in post conviction evaluation of drunk drivers and improved program attendance by more than 52 percent over the previous program. Evaluation of drunk drivers has substantially improved, resulting in an 82 percent increase in the referrals of drunk drivers to appropriate counseling assistance.

In order for the system to attain self-sufficiency and not burden the taxpayers, fees must be increased to reflect the real program costs at the county and state levels. This goal is supported by the report of the State Commission on Drunk Driving, which states that "In order to reduce the cost to taxpayers, all governmental drunk driving programs should be fully fundable from the proceeds of fines, surcharges and fees." The experience of the first year

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operation of the program shows that without fee increases all the IDRCs will either cease to function before the end of 1986 or have to be supported by tax funds. In addition, the Intoxicated Driving Programs Unit will experience a 50 percent cut in staff, resulting in serious program backlogs and cessation of program development.

This bill increases the Division of Alcoholism's fee from \$40.00 to \$80.00. It increases the county per diem fee for first offender IDRCs to \$50.00 and the per diem fee at the second offender residential IDRCs to \$75.00. Under current law, the fee payable to an Intoxicated Driver Resource Center for any offense is \$25.00. These increases will provide a stable funding base for the system without using taxes. The proposed fees are equal to or less than those charged by comparable programs in other states.

The bill also places the Bureau of Alcohol Countermeasures within the Intoxicated Driving Programs Unit of the Division of Alcoholism.

MOTOR VEHICLE—GENERAL

Raises fees paid to Division of Alcoholism and Intoxicated Driver Resource Centers by persons convicted of driving under the influence of intoxicating liquor or drugs.

SENATE LAW, PUBLIC SAFETY AND DEFENSE
COMMITTEE

STATEMENT TO

SENATE, No. 1947

STATE OF NEW JERSEY

DATED: MARCH 24, 1986

The Senate Law, Public Safety and Defense Committee favorably reports Senate Bill No. 1947.

The Division of Alcoholism in the Department of Health is authorized by R. S. 39:4-50 to establish the Intoxicated Driver Resource Centers (IDRCs) on the county government level to implement a detention, evaluation, and treatment program for drunk drivers. The Intoxicated Driver Resource Centers replaced the Alcohol Countermeasures Program administered by the Division of Motor Vehicles. The law also provides a fee structure for the IDRCs and the Bureau of Alcohol Countermeasures, which has been transferred to the Department of Health.

This bill increases the Division of Alcoholism's fee from \$40.00 to \$80.00. It increases the county per diem fee for first offender IDRCs to \$50.00 and the per diem fee at the second offender residential IDRCs to \$75.00. Under current law, the fee payable to an Intoxicated Driver Resource Center for any offense is \$25.00.

The bill also places the Bureau of Alcohol Countermeasures within the Intoxicated Driving Programs Unit of the Division of Alcoholism.

The purpose of this bill is to increase fees to reflect the real program costs at the county and State levels. This goal is supported by the report of the State Commission on Drunk Driving, which states that "In order to reduce the cost to taxpayers, all governmental drunk driving programs should be fully fundable from the proceeds of fines, surcharges and fees." The experience of the first year of the program's operation shows that without fee increases all the IDRCs will either cease to function before the end of 1986 or have to be supported by tax funds.