

LEGISLATIVE HISTORY CHECKLIST

NJSA: 12:7-34.19 et al (Boats--operating under the influence of drugs--penalties)

LAWS OF: 1986

CHAPTER 39

BILL NO: A5

Sponsor(s): Zimmer

Date Introduced: Pre-filed

Committee: Assembly: Law, Public Safety & Defense

Senate: -----

Amended during passage: Yes Substituted for S592 (not attached since identical to A5). Amendments during passage denoted by asterisks.

Date of Passage: Assembly: May 5, 1986

Senate: May 15, 1986

Date of Approval: June 26, 1986

Following statements are attached if available:

Sponsor statement: Yes

Committee statement: Assembly Yes

Senate No

Fiscal Note: No

Veto Message: No

Message on Signing: No

Following were printed:

Reports: No

Hearings: No

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ASSEMBLY, No. 5**STATE OF NEW JERSEY**

PRE-FILED FOR INTRODUCTION IN THE 1986 SESSION

By Assemblyman ZIMMER

AN ACT concerning the operation of vessels by persons under the influence of intoxicating liquors or drugs, amending P. L. 1954, c. 236, P. L. 1952, c. 157, P. L. 1982, c. 77, and supplementing Title 12 of the Revised Statutes.

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

1 1. Section 19 of P. L. 1954, c. 236 (C. 12:7-34.19) is amended to
2 read as follows:

3 19. *a.* No person shall operate a **[power]** vessel **[or motor]** while
4 under the influence of intoxicating liquor **[or any]**, a narcotic,
5 *hallucinogenic*, or **[habit-forming]** *habit-producing* drug or with a
6 *blood alcohol concentration of 0.10% or more by weight of alcohol.*

7 *No person shall* **[, or]** permit **[any person]** *another* who **[may be]**
8 *is* under the influence of intoxicating liquor **[or any]**, a narcotic,
9 *hallucinogenic*, or **[habit-forming]** *habit-producing* drug or who
10 *has a blood alcohol concentration of 0.10% or more by weight of*
11 *alcohol* to operate any **[power]** vessel **[or motor]** owned by **[him]**
12 *the person* or in his custody or control.

13 *As used in this section, "vessel" means a power vessel as defined*
14 *in section 1 of P. L. 1954, c. 236 (C. 12:7-34.1) or a vessel which is 12*
15 *feet or greater in length.*

16 Any person who **[shall violate]** *violates* this section shall be
17 subject to *the following:*

18 (1) *For a first offense, to a fine of not less than* **[\$200.00]** *\$250.00,*
19 **[or]** *nor more than* **[\$500.00]** *or to imprisonment for not less than*
20 *30 days or not more than six months, or both, and shall forthwith*
21 *forfeit his* **[\$400.00]; and to the revocation of the right to operate a**

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 March 6, 1986.**

22 **[power]** vessel **[or motor]** on the waters of this State for a period
23 of not less than six months nor more than one year from the date of
24 conviction.

25 (2) For a second offense, to a fine of not less than \$500.00 nor
26 more than \$1,000.00; to the performance of community service for
27 a period of 30 days, in the form and on the terms as the court deems
28 appropriate under the circumstances; to imprisonment for a term
29 of not less than 48 hours nor more than 90 days, which shall not be
30 suspended or served on probation; and to the revocation of the
31 right to operate a vessel on the waters of this State for a period of
32 two years after the date of conviction.

33 (3) For a third or subsequent offense, to a fine of \$1,000.00; to
34 imprisonment for a term of not less than 180 days, except that the
35 court may lower this term for each day not exceeding 90 days dur-
36 ing which the person performs community service, in the form and
37 on the terms as the court deems appropriate under the circum-
38 stances; and to the revocation of the right to operate a vessel on the
39 waters of this State for a period of 10 years after the date of convic-
40 tion.

41 b. 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
43 the complaint made against him in order to render him liable to the
44 punishment imposed by this section against a second or subsequent
45 offender. If a second offense occurs more than 10 years after the
46 first offense, the court shall treat a second conviction as a first
47 offense for sentencing purposes and, if a third offense occurs more
48 than 10 years after the second offense, the court shall treat a third
49 conviction as a second offense for sentencing purposes.

50 c. If a court imposes a term of imprisonment under this section,
51 the person may be sentenced to the county jail, to the workhouse of
52 the county where the offense was committed, or to an inpatient
53 rehabilitation program approved by the Director of the Division
54 of Alcoholism in the Department of Health.

55 d. If the right to operate a vessel is under revocation or suspen-
56 sion for a violation of a provision of this title at the time of a
57 conviction for a violation of this section, the revocation period im-
58 posed under this section shall commence as of the date of termina-
59 tion of the existing revocation or suspension period.

60 **[No new license shall be issued to any person convicted of operat-**
61 **ing a power vessel or motor while under the influence of intoxicating**
62 **liquor or narcotic or habit producing drug until two years after the**
63 **date of his conviction, if for a first offense, or five years after a**
64 **subsequent conviction.]**

65 e. In addition to any other requirements provided by law, a per-
 66 son convicted under this section shall satisfy the screening, evalua-
 67 tion, referral and program requirements of the Bureau of Alcohol
 68 Countermeasures in the Division of Alcoholism in the Department
 69 of Health. A fee of \$40.00 shall be payable to the Alcohol Education,
 70 Rehabilitation and Enforcement Fund established under section 3
 71 of P. L. 1983, c. 531 (C. 26:28-32) by the convicted person in order
 72 to defray the costs of the screening, evaluation and referral by the
 73 Bureau of Alcohol Countermeasures and the cost of an education
 74 or rehabilitation program. Failure to satisfy this requirement shall
 75 result in the immediate forfeiture of the right to operate a vessel
 76 on the waters of this State or the continuation of revocation until
 77 the requirements are satisfied.

1 2. Section 27 of P. L. 1954, c. 236 (C. 12:7-34.27) is amended
 2 to read as follows:

3 27. Any judge [or municipal magistrate] or the [Commissioner
 4 of the Department or the] Director of the Division of [Planning
 5 and Development, or the Chief of the Bureau of Navigation, of the
 6 department] *Motor Vehicles in the Department of Law and Public*
 7 *Safety*, shall revoke or suspend a license to operate a [power]
 8 vessel, of any person[, and in the case of an owner, the certificate of
 9 registration,] where the holder is, or shall have been convicted of
 10 homicide or of operating a [power] vessel while [intoxicated. Such
 11 licenses and certificates of registration] *under the influence of*
 12 *intoxicating liquor, or a narcotic, hallucinogenic or habit-producing*
 13 *drug. A license may be suspended or revoked for any other viola-*
 14 *tion of any of the provisions of this act or of any rule or regulation*
 15 *prescribed by the [department] director. A conviction by a court of*
 16 *competent jurisdiction shall not be essential to sustain a suspension*
 17 *or a revocation, except as herebefore expressly provided. Where*
 18 *revocation or suspension is permissive, the holder shall have an*
 19 *opportunity to be heard. A license [or certificate of registration]*
 20 *may be temporarily suspended without notice, pending hearing and*
 21 *any prosecution or investigation. Attendance of witnesses may be*
 22 *compelled by subpoena. Failure of the holder or any other person*
 23 *possessing the license card [or registration certificate, or number*
 24 *plates,] to deliver the same to the suspending or revoking officer*
 24A *shall constitute a violation of this act. Officers suspending or revok-*
 25 *ing licenses [or certificates] shall promptly place such license*
 26 *cards[, registration certificates and number plates] in the custody*
 27 *of the [department] division except where the [department] divi-*
 28 *sion shall otherwise direct. Power to restore a license [or registra-*
 29 *tion] shall be exclusively in the [department] division. Wherever*

30 revocation is mandatory hereunder, no new license [or certificate]
 31 shall be issued to the person whose license [or certificate] is re-
 32 voked, for at least six months after the date of such revocation, nor
 33 thereafter, except at the direction of the [department] *director*.
 34 Where revocation is permissive, no new license [or certificate]
 35 shall be issued until after the expiration of 30 days from the date
 36 of the revocation, nor thereafter except at the direction of the
 37 [department] *director*.

1 3. Section 29 of P. L. 1954, c. 236 (C. 12:7-34.29) is amended to
 2 read as follows:

3 29. Upon the suspension or revocation of any license [or certifi-
 4 cate of registration], the judge[, magistrate] or officer suspending
 5 or revoking the same shall forthwith transmit to the [department]
 6 *Director of the Division of Motor Vehicles in the Department of*
 7 *Law and Public Safety* a certificate of the fact and the ground upon
 8 which the license [or certificate] was suspended or revoked.

1 4. Section 3 of P. L. 1952, c. 157 (C. 12:7-46) is amended to read
 2 as follows:

3 3. a. No person shall operate a [power] vessel while under the
 4 influence of [any] intoxicating liquor [or any], a narcotic, *hallu-*
 5 *cinogenic*, or [habit-forming] *habit-producing* drug or with a blood
 6 *alcohol concentration of 0.10% or more by weight of alcohol. No*
 7 *person shall [, or] permit [any person] another who [may be] is*
 8 *under the influence of intoxicating liquor [or], a narcotic, hallu-*
 9 *cinogenic or [habit-forming] habit-producing drug, or who has a*
 10 *blood alcohol concentration of 0.10% by weight of alcohol, to*
 11 *operate any [power] vessel owned by [him] the person or in his*
 12 *custody [and] or control.*

13 *As used in this section, "vessel" means a power vessel as defined*
 14 *by section 2 of P. L. 1962, c. 73 (C. 12:7-34.37) or a vessel which is*
 15 *12 feet or greater in length.*

16 *A person who violates this section shall be subject to the follow-*
 17 *ing:*

18 (1) *For a first offense, to a fine of not less than \$250.00 nor more*
 19 *than \$400.00; and to the revocation of the right to operate a vessel*
 20 *on the waters of this State for a period of not less than six months*
 21 *nor more than one year from the date of conviction.*

22 (2) *For a second offense, to a fine of not less than \$500.00 nor*
 23 *more than \$1,000.00; to the performance of community service for*
 24 *a period of 30 days in the form and on the terms as the court deems*
 25 *appropriate under the circumstances; and to imprisonment for a*
 26 *term of not less than 48 hours nor more than 90 days, which shall*
 27 *not be suspended or served on probation and to the revocation of*

28 *the right to operate a vessel on the waters of this State for a period*
29 *of two years after the date of conviction.*

30 (3) *For a third or subsequent offense, to a fine of \$1,000.00; to*
31 *imprisonment for a term of not less than 180 days, except that the*
32 *court may lower this term for each day not exceeding 90 days dur-*
33 *ing which the person performs community service, in the form and*
34 *on the terms as the court deems appropriate under the circum-*
35 *stances; and to the revocation of the right to operate a vessel on*
36 *the waters of this State for a period of ten years from the date of*
37 *conviction.*

38 *b. A person who has been convicted of a previous violation of*
39 *this section need not be charged as a second or subsequent offender*
40 *in the complaint made against him in order to render him liable to*
41 *the punishment imposed by this section against a second or sub-*
42 *sequent offender. If a second offense occurs more than 10 years*
43 *after the first offense, the court shall treat a second conviction as a*
44 *first offense for sentencing purposes and, if a third offense occurs*
45 *more than 10 years after the second offense, the court shall treat a*
46 *third conviction as a second offense for sentencing purposes.*

47 *c. If a court imposes a term of imprisonment under this section,*
48 *the person may be sentenced to the county jail, to the workhouse*
49 *of the county where the offense was committed, or to an inpatient*
50 *rehabilitation program approved by the Director of the Division*
51 *of Motor Vehicles and the Director of the Division of Alcoholism*
52 *in the Department of Health.*

53 *d. If the right to operate a vessel is under revocation or suspen-*
54 *sion for a violation of provision of this title at the time of a convic-*
55 *tion for a violation of this section, the revocation period imposed*
56 *under this section shall commence as of the date of termination of*
57 *the existing revocation or suspension period.*

58 *e. In addition to any other requirements provided by law, a*
59 *person convicted under this section shall satisfy the screening,*
60 *evaluation, referral and program requirements of the Bureau of*
61 *Alcohol Countermeasures in the Division of Alcoholism in the*
62 *Department of Health. A fee of \$40.00 shall be payable to the*
63 *Alcohol Education, Rehabilitation and Enforcement Fund estab-*
64 *lished under section 3 of P. L. 1983, c. 531 (C. 26:28-32) by the con-*
65 *victed person in order to defray the costs of the screening, evalua-*
66 *tion and referral by the Bureau of Alcohol Countermeasures and*
67 *the cost of an education or rehabilitation program. Failure to*
68 *satisfy this requirement shall result in the immediate forfeiture*
69 *of the right to operate a vessel on the waters of this State, or the*
70 *continuation of revocation until the requirements are satisfied.*

1 5. Section 4 of P. L. 1982, c. 77 (C. 2A:4A-23) is amended to read
2 as follows:

3 4. Definition of delinquency. As used in this act, "delinquency"
4 means the commission of an act by a juvenile which if committed
5 by an adult would constitute:

6 a. A crime;

7 b. A disorderly persons offense or petty disorderly persons
8 offense; or

9 c. A violation of any other penal statute, ordinance or regula-
10 tion.

11 But, the commission of (1) an act which constitutes a violation
12 of chapter 3, 4, 6 or 8 of Title 39 of the Revised Statutes by a
13 juvenile of or over the age of 17 years; (2) an act relating to the
14 ownership or operation of a motorized bicycle which constitutes
15 a violation of chapter 3 or 4 of Title 39 of the Revised Statutes
16 by a juvenile of any age; **[or]** (3) an act which constitutes a viola-
17 tion of article 3 or 6 of chapter 4 of Title 39 of the Revised Statutes
18 pertaining to pedestrians and bicycles, by a juvenile of any age; *or*
19 (4) *an act which constitutes a violation of section 19 of P. L. 1954,*
20 *c. 236 (C. 12:7-34.19), section 3 of P. L. 1952, c. 157 (C. 12:7-46)*
21 *or section 9 of P. L. , c. . . . (C.) (now pending*
22 *before the Legislature as this bill)* shall not constitute delinquency
23 as defined in this act.

1 6. (New section) In a prosecution for a violation of section 19
2 of P. L. 1954, c. 236 (C. 12:7-34.19) or section 3 of P. L. 1952, c. 157
3 (C. 12:7-46) relating to the operation of a vessel while under the
4 influence of intoxicating liquor, the amount of alcohol in the defen-
5 dant's blood at the time alleged as shown by chemical analysis of the
6 defendant's blood, urine, breath, or other bodily substance shall
7 give rise to the following presumptions:

8 a. If there was at that time 0.05% or less by weight of alcohol in
9 the defendant's blood, it shall be presumed that the defendant was
10 not under the influence of intoxicating liquor;

11 b. If there was at that time in excess of 0.05% but less than
12 0.10% by weight of alcohol in the defendant's blood, this fact shall
13 not give rise to any presumption that the defendant was or was not
14 under the influence of intoxicating liquor, but this fact may be con-
15 sidered with other competent evidence in determining the guilt or
16 innocence of the defendant.

17 The provisions of this section shall not be construed to require
18 that evidence of the amount of alcohol in the defendant's blood has
19 to be presented, nor shall they be construed to limit the introduc-
20 tion of any other competent evidence bearing upon the question of

21 whether or not the defendant was under the influence of intoxicat-
22 ing liquor.

1 7. (New section) a. A person who operates a power vessel or a
2 vessel which is 12 feet or greater in length on the tidal or non-tidal
3 waters of this State shall be deemed to have given his consent to the
4 taking of samples of his breath for the purpose of making chemical
5 tests to determine the content of alcohol in his blood, except that
6 the taking of samples shall be made in accordance with the pro-
7 visions of this amendatory and supplementary act and at the request
8 of the State Marine Police Force or a law enforcement officer who
9 has reasonable grounds to believe that the person has been operat-
10 ing a vessel in violation of the provisions of section 19 of P. L. 1954,
11 c. 236 (C. 12:7-34.19) or section 3 of P. L. 1952, c. 157 (C. 12:7-46).

12 b. A record of the taking of the sample, disclosing the date and
13 time thereof, as well as the result of any chemical test, shall be
14 made and a copy shall be furnished or made available to the person
15 so tested upon his request.

16 c. In addition to the samples taken and tests made at the direction
17 of the State Marine Police Force or a law enforcement officer, the
18 person tested shall be permitted to have samples taken and chemical
19 tests of his breath, urine or blood made by a person or physician of
20 his own selection.

21 d. The State Marine Police Force or a law enforcement officer
22 shall inform the person tested of his rights under subsections b. and
23 c. of this section.

24 e. No chemical test, as provided in this section, or specimen
25 necessary for a test, may be made or taken forcibly and against
26 physical resistance thereto by the defendant. The State Marine
27 Police Force or a law enforcement officer shall, however, inform the
28 person arrested of the consequences of refusing to submit to the
29 test in accordance with section 9 of this amendatory and supple-
30 mentary act. A standard statement, prepared by the Director of the
31 Division of Motor Vehicles in the Department of Law and Public
32 Safety, shall be read by the State Marine Police Force or a law
33 enforcement officer to the person under arrest.

1 8. (New section) Chemical analyses of the arrested person's
2 breath, to be considered valid under the provisions of this amend-
3 atory and supplementary act, shall have been performed according
4 to methods approved by the Attorney General and by a person
5 certified for this purpose by the Attorney General. The Attorney
6 General is authorized to approve satisfactory techniques or
7 methods, to ascertain the qualifications and competence of indi-
8 viduals to conduct the analyses, and to make certifications of the

9 individuals. Certifications shall be subject to termination or
10 revocation at the discretion of the Attorney General. The Attorney
11 General shall prescribe a form for reports of the chemical analysis
12 of breath to be used by law enforcement officers and others acting
13 in accordance with the provisions of this amendatory and supple-
14 mentary act. The forms shall be sequentially numbered. Each chief
15 of police, in the case of forms distributed to law enforcement officers
16 and others in his municipality, or the other officer, board, or official
17 having charge or control of the law enforcement department where
18 there is no chief, and the Director of the Division of Motor Vehicles
19 and the Superintendent of State Police, in the case of forms
20 distributed to law enforcement officers and other personnel in their
21 divisions, shall be responsible for the furnishing and proper
22 disposition of the forms. Each responsible party shall prepare or
23 have prepared records and reports relating to the forms and their
24 disposition in the manner and at such times as the Attorney General
25 shall prescribe.

1 9. (New section) a. A judge shall revoke the right of a person to
2 operate a power vessel or a vessel which is 12 feet or greater in
3 length, if after being arrested for a violation of section 19 of P. L.
4 1954, c. 236 (C. 12:7-34.19) or section 3 of P. L. 1952, c. 157 (C.
5 12:7-46), the person refuses to submit to the chemical test provided
6 for in section 7 of this amendatory and supplementary act when
7 requested to do so. The revocation shall be for six months unless
8 the refusal was in connection with a ***subsequent*** *second* of-
9 fense under section 19 of P. L. 1954, c. 236 (C. 12:7-34.19) or section
10 3 of P. L. 1952, c. 157 (C. 12:7-46), in which case the revocation
11 period shall be for two years. *If the refusal was in connection with
12 a third or subsequent offense under section 19 of P. L. 1954, c. 236
12A (C. 12:7-34.19) or section 3 of P. L. 1952, c. 157 (C. 12:7-46), the
12B revocation shall be for 10 years.* The court shall also fine a person
12C convicted under this section not less than \$250.00 or more than
12D \$500.00.

13 b. The court shall determine by a preponderance of the evidence
14 whether the arresting officer had probable cause to believe that the
15 person had been operating or was in actual physical control of the
16 vessel while under the influence of intoxicating liquor, or a narcotic,
17 hallucinogenic or habit-producing drug, whether the person was
18 placed under arrest, and whether the person refused to submit to
19 the test upon request of the officer. If these elements of the viola-
20 tion are not established, no conviction shall issue.

21 c. In addition to any other requirements provided by law, a
22 person whose right to operate a vessel is revoked for refusing to

23 submit to a chemical test shall satisfy the screening, evaluation,
 24 referral and program requirements of the Bureau of Alcohol
 25 Countermeasures in the Division of Alcoholism in the Department
 26 of Health. A fee of \$40.00 shall be payable to the Alcohol Education,
 27 Rehabilitation and Enforcement Fund established under section 3
 28 of P. L. 1983, c. 531 (C. 26:28-32) by the convicted person in order
 29 to defray the costs of the screening, evaluation and referral by the
 30 Bureau of Alcohol Countermeasures and the cost of an education
 31 or rehabilitation program. Failure to satisfy this requirement shall
 32 result in the immediate revocation of the right to operate a vessel
 33 on the waters of this State or the continuation of revocation until
 34 the requirements are satisfied. The revocation **for a first offense**
 35 shall be independent of a revocation imposed because of a convic-
 36 tion under the provisions of section 19 of P. L. 1954, c. 236 (C.
 37 12:7-34.19) or section 3 of P. L. 1952, c. 157 (C. 12:7-46)*; *the revo-*
 38 *cation for a second or subsequent offense shall be concurrent with a*
 39 *revocation imposed because of a conviction under the provisions of*
 40 *section 19 of P. L. 1954, c. 236 (C. 12:7-34.19) or section 3 of*
 41 *P. L. 1952, c. 157 (C. 12:7-46).**

1 10. (New section) a. A person who has been convicted of violating
 2 section 19 of P. L. 1954, c. 236 (C. 12:7-34.19) or section 3 of P. L.
 3 1952, c. 157 (C. 12:7-46), and who has been imprisoned in a county
 4 jail or workhouse in the county in which the offense was committed,
 5 shall not be released after commitment until the term of imprison-
 6 ment imposed has been served. A person imprisoned in the county
 7 jail or workhouse may, at the discretion of the court, be released
 8 on a work release program.

9 b. A warden or other officer having custody of the county jail or
 10 workhouse shall not release a person until the sentence has been
 11 served, except that a person may be released by the court on a
 12 work release program. A person sentenced to an inpatient re-
 13 habilitation program may be released by the court, upon the petition
 14 of the treating agency, to an outpatient rehabilitation program for
 15 the duration of the original sentence.

16 c. This section shall not be construed to interfere in any way with
 17 the operation of a writ of habeas corpus, a proceeding in lieu of the
 18 prerogative writ, or an appeal.

1 11. (New section) A person shall receive written notice of the
 2 penalties under section 19 of P. L. 1954, c. 236 (C. 12:7-34.19),
 3 section 3 of P. L. 1952, c. 157 (C. 12:7-46), and section 9 of P. L.
 4, c. . . . (C.) (now pending before the Legisla-
 5 ture as this bill) when that person is issued a license to operate a
 6 vessel, a registration certificate, a certificate of number or a

7 certificate of ownership under chapters 7 and 7A of Title 12 of the
8 Revised Statutes.

1 12. This act shall take effect immediately but shall remain in-
2 operative until 180 days after enactment.

BOATS, VESSELS, WATERWAYS

Amends the drunk boating statutes to conform them to the drunk
driving statutes.

STATEMENT

This bill amends the drunk boating statutes to conform them to the recently revised drunk driving laws relating to the operation of motor vehicles.

The bill requires that a person whose blood alcohol concentration is 0.10% or greater be considered guilty of operating a vessel while intoxicated. Other provisions of the bill generally conform New Jersey's drunk boating laws, including the use of breath tests and toxicological analysis on suspected offenders, to the license suspension and revocation practices and procedures that prevail under current motor vehicle law.

Sections 1 and 4 of the bill set forth the penalties for drunk boating on tidal and nontidal waters. The penalties would be as follows:

1st offense—fine of \$250.00 to \$400.00, and revocation of the right to operate a vessel for six months to one year.

2nd offense—fine of \$500.00 to \$1,000.00, community service for 30 days, imprisonment 48 hours to 90 days, and revocation of the right to operate a vessel for two years.

3rd or subsequent offense—fine of \$1,000.00, imprisonment for 180 days (90 days of which may be community service), and revocation of the right to operate a vessel for 10 years.

A person sentenced to imprisonment may serve the time at a county jail, county workhouse or inpatient rehabilitation program. In addition, the bill requires a person to complete a program of alcohol or drug education or rehabilitation and to pay a fee of \$40.00 for the cost of such a program.

Section 2 of the bill amends a provision of current law so that certificates of registration for vessels could no longer be suspended or revoked. Only the right to operate a vessel would be subject to revocation.

The bill defines "vessel" for the purposes of the drunk boating statutes as a power vessel or a vessel which is 12 feet or greater in length.

Section 11 of the bill requires a notice of the penalties for drunk boating to be distributed to any person who receives a license, registration certificates, certificate of number or title certificate for a boat.

AS (1986)

ASSEMBLY LAW, PUBLIC SAFETY, DEFENSE AND
CORRECTIONS COMMITTEE

STATEMENT TO
ASSEMBLY, No. 5
with Assembly committee amendments

STATE OF NEW JERSEY

DATED: MARCH 6, 1986

The Assembly Law, Public Safety, Defense and Corrections Committee favorably reports Assembly Bill No. 5 with amendments.

As amended, the bill amends the laws which deal with the operation of power vessels while under the influence of intoxicating liquor or drugs by conforming them to the prevailing laws which deal with the operation of a motor vehicle while under the influence of intoxicating liquor or drugs.

The bill prohibits a person whose blood alcohol concentration is 0.10% or greater from operating a vessel on the tidal or nontidal waters of this State. The bill defines "vessel" as a power vessel or any other vessel which is 12 feet or greater in length.

Sections 1 and 4 of the bill set forth penalties for drunk boating on tidal and nontidal waters. The penalties would be as follows:

1st offense—fine of \$250.00 to \$400.00, and revocation of the right to operate a vessel for six months to one year;

2nd offense—fine of \$500.00 to \$1,000.00, community service for 30 days, imprisonment 48 hours to 90 days, and revocation of the right to operate a vessel for two years;

3rd or subsequent offense—fine of \$1,000.00, imprisonment for 180 days (90 days of which may be community service), and revocation of the right to operate a vessel for 10 years.

A person sentenced to imprisonment may serve the time at a county jail, county workhouse or inpatient rehabilitation program. In addition, the bill requires a person to complete a program of alcohol or drug education or rehabilitation and to pay a fee of \$40.00 for the cost of such a program.

Section 2 of the bill amends a provision of current law so that certificates of registration for vessels could no longer be suspended or revoked. Only the right to operate a vessel would be subject to revocation.

Section 11 of the bill requires a notice of the penalties for drunk boating to be distributed to any person who receives a license, registration certificates, certificate of number, or title certificate for a vessel.

Other provisions in the bill generally conform the boating statutes to the procedures which prevail for drunk driving, including those dealing with breath tests, toxicological analysis and the refusal to submit to a breath test.

The committee amended the bill to clarify the penalties set forth in section 9, the section which deals with a refusal to submit to a breath test when requested to do so by a person in authority.

This bill was pre-filed for introduction in the 1986 session pending technical review. As reported, the bill includes the changes required by technical review which has been performed.
