

39:4-50 and 39:4-50.4a

LEGISLATIVE HISTORY CHECKLIST

NJSA 39:4-50 and 39:4-50.4a (Driving under influence of liquor or drugs--increase penalty)

LAWS 1981 CHAPTER 537

Bill No. S3466

Sponsor(s) Graves, Rodgers & Caufield

Date Introduced Nov. 23, 1981

Committee: Assembly -----

Senate Law, Public Safety & Defense

Amended during passage Yes ~~No~~ Amendments during passage denoted by asterisks.

Date of Passage: Assembly Jan. 11, 1982

Senate Dec. 14, 1982

Date of approval Jan. 12, 1982

Following statements are attached if available:

Sponsor statement	Yes	No	Also attached: Senate amendments, adopted 12-7-81 (with statement & Senate amendments, adopted 12-10-81 (with statement)
Committee Statement: Assembly	Yes	No	
Senate	Yes	No	
Fiscal Note	Yes	No	
Veto Message	Yes	No	
Message on signing	Yes	No	

Following were printed:

Reports	Yes	No
Hearings	Yes	No

6/22/81

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SENATE, No. 3466

STATE OF NEW JERSEY

INTRODUCED NOVEMBER 23, 1981

By Senators GRAVES, RODGERS and CAUFIELD

Referred to Committee on Law, Public Safety and Defense

AN ACT concerning the operation of motor vehicles by persons under the influence of intoxicating liquor or drugs and amending R. S. 39:4-50 and ****[P. L. 1966, c. 142 (C. 39:4-50.4)]****
****section 2 of P. L., c. . . . (now pending before the Legislature as Assembly Bill No. 2293 of 1980)****.

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 permits another person who is under the
5 influence of intoxicating liquor, narcotic, hallucinogenic or habit-
6 producing drug to operate a motor vehicle owned by him or in his
7 custody or control, shall be subject, for the first offense, to a fine
8 of not less than ~~[\$200.00]~~ \$250.00 nor more than \$400.00 or im-
9 prisonment for a term of not more than 30 days or both, in the
10 discretion of the court, and shall forthwith forfeit his right to
11 operate a motor vehicle over the highways of this State for a period
12 of ~~[not less than 60 days nor more than 180 days]~~ *~~[2 years]~~*
12A ~~***not less than 6 months nor more than** *1 year**~~ [and shall be
12B ordered by the court to perform community service for a period of
12C 30 days, which shall be of such form and on such terms as the court
12D shall deem appropriate under the circumstances*]**. Except as
13 hereinafter provided, for a second violation, he shall be subject to
14 a fine of not less than \$500.00 nor more than \$1,000.00, ~~[or]~~ and
15 ~~****shall be ordered by the court to perform community service~~
16 ~~for a period of 30 days, which shall be of such form and on such~~
17 ~~terms as the court shall deem appropriate under the circumstances~~

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

18 *or**** [shall]**** may**** be sentenced to imprisonment*
 19 *for a term of [no more] not ****[less]**** more*****
 20 *****[**than 5 days nor more**]**** than 90 days, [or both,] and*
 21 *shall forfeit his right to operate a motor vehicle over the highways*
 22 *of this State for a period of [not less than 1 year nor more than 3]*
 23 ***[5]** **2** years upon conviction, and, after the expiration of*
 24 *said period, he may make application to the Director of the Division*
 25 *of Motor Vehicles for a license to operate a motor vehicle, which*
 26 *application may be granted at the discretion of the director, con-*
 27 *sistent with subsection b. of this section. Except as hereinafter*
 28 *provided, for a third or subsequent violation, he shall be subject*
 29 *to a fine of \$1,000.00, [or] and shall be sentenced to imprisonment*
 30 *for a term of not less than [30 days nor more than] 180 days,*
 31 *****except that the court may lower such term for each day, not*
 32 *exceeding 90 days, served performing community service in such*
 33 *form and on such terms as the court shall deem appropriate under*
 34 *the circumstances**** [or both, in the discretion of the court,] and*
 34A *shall thereafter forfeit his right to operate a motor vehicle over*
 34B *the highways of this State [for a period of 5 years upon conviction,*
 34C *and, after the expiration of said period, he may make application*
 34D *to the Director of the Division of Motor Vehicles for a license to*
 35 *operate a motor vehicle, which application may be granted at the*
 36 *discretion of the director, consistent with subsection (b) of this*
 37 *section] ****or 10 years****. If the driving privilege of any person*
 38 *is under revocation or suspension for a violation of any provision*
 39 *of this Title at the time of any conviction for a violation of this*
 40 *section, the revocation or suspension period imposed shall com-*
 41 *mence as of the date of termination of the existing revocation or*
 41A *suspension period. A court that imposes a term of imprisonment*
 41B *under this section may sentence the person so convicted to the county*
 41C *jail, to the workhouse of the county wherein the offense was com-*
 41D *mitted, or to an in-patient rehabilitation program approved by the*
 41E *Director of the Division of Motor Vehicles.*

42 A person who has been convicted of a previous violation of this
 43 section need not be charged as a second or subsequent offender in
 44 the complaint made against him in order to render him liable to
 45 the punishment imposed by this section on a second or subsequent
 46 offender, but if the second offense occurs more than 10 years after
 47 the first offense the court shall treat the second conviction as a first
 48 offense for sentencing purposes and if a third offense occurs more
 49 than 10 years after the second offense, the court shall treat the
 50 third conviction as a second offense for sentencing purposes.

51 (b) In addition to any other requirements provided by law, a
 52 person convicted under this section must satisfy the requirements
 53 of a program of alcohol education or rehabilitation approved by
 54 the Director of the Division of Motor Vehicles. Failure to satisfy
 55 such requirements shall result in a driver license revocation or
 56 suspension or continuation of revocation or suspension until such
 57 requirements are satisfied, unless stayed by court order in accord-
 58 ance with Rule 7:8-2 of the N. J. Court Rules, 1969, or R. S.
 59 39:5-22. A fee, not to exceed \$30.00, shall be payable to the director
 60 from every person required to satisfy the requirements of a pro-
 61 gram of alcohol education or rehabilitation under the provisions of
 62 this section.

63 (c) Upon conviction of a violation of this section, the court shall
 64 collect forthwith the New Jersey drivers' license or licenses of the
 65 person so convicted and forward such license or licenses to the
 66 Director of the Division of Motor Vehicles. In the event that a
 67 person convicted under this section is the holder of any out-of-
 68 state driver's license, the court shall not collect the license but shall
 69 notify forthwith the director who shall, in turn, notify appropriate
 70 officials in the licensing jurisdiction. The court shall, however,
 71 revoke the nonresident's driving privilege to operate a motor
 72 vehicle in this State in accordance with this section.

73 (d) The Director of the Division of Motor Vehicles shall pro-
 74 mulgate administrative rules and regulations in order to effectuate
 75 the purposes of this act.

1 ****[2. Section 4 of P. L. 1966, c. 42 (C. 39:4-50.4) is amended
 2 to read as follows:

3 4. (a) If an operator of a motor vehicle, after being arrested for
 4 a violation of R. S. 39:4-50, shall refuse to submit to the chemical
 5 test provided for in section 2 of this act when requested to do so,
 6 the arresting officer shall cause to be delivered to the Director of
 7 Motor Vehicles his sworn report of such refusal in which report
 8 he shall specify the circumstances surrounding the arrest and the
 9 grounds upon which his belief was based that the person was driv-
 10 ing or operating a motor vehicle in violation of the provisions of
 11 R. S. 39:4-50. Upon receipt of such a report, if the director shall
 12 find that the arresting officer acted in accordance with the provi-
 13 sions of this act, he shall, upon written notice, suspend the person's
 14 license or permit to drive or operate a motor vehicle, or if such
 15 person is a nonresident, the privilege to drive or operate a motor
 16 vehicle within this State, unless such person, within 10 days of the
 17 date of such notice, shall have requested, in writing, a hearing be-
 18 fore the director. Upon such request, the director shall hold a
 19 hearing on the issues of whether the arresting officer had reason-

20 able grounds to believe the person had been driving or was in
 21 actual physical control of a motor vehicle on the public highways
 22 or quasi-public areas of this State while under the influence of in-
 23 toxicating liquor, whether the person was placed under arrest, and
 24 whether he refused to submit to the test upon request of the officer.
 25 If no such hearing is requested within the time allowed, or if after
 26 a hearing the director shall find against the person on such issues,
 27 ***he shall fine the person not less than \$250.00 nor more than \$500.00*
 28 *and*** he shall revoke such person's license or permit to drive or op-
 28A erate a motor vehicle, or the privilege to drive or operate a motor ve-
 29 hicle within this State if such person is a nonresident for a period
 30 as prescribed in paragraph (b) to be calculated from the date of
 31 the director's determination, or if such person is a resident without
 32 a license or permit to drive or operate a motor vehicle in this State,
 33 the director shall deny to such person the issuance of any such
 34 license or permit during the period prescribed from the date of the
 35 director's determination. Such revocation shall be independent of
 36 any revocation imposed by virtue of a conviction under the pro-
 37 visions of R. S. 39:4-50.

38 (b) Any revocation of the right to operate a motor vehicle over
 39 the highways of this State for refusing to submit to a chemical test
 40 shall be for **[90 days]** ***[1 year]*** ***6 months*** unless the re-
 41 fusal was in connection with a subsequent offense of this section, in
 42 which case, the revocation period shall be for **[1 year]** *2 years*. In
 43 addition to any other requirements provided by law, a person whose
 44 operator's license is revoked for refusing to submit to a chemical
 45 test must satisfy the requirements of a program of alcohol educa-
 46 tion or rehabilitation pursuant to the provisions of R. S.
 47 39:4-50.】****

1 ****2. Section 2 of P. L., c. . . . (now pending before the
 2 Legislature as Assembly Bill No. 2293 of 1980) is amended to read
 3 as follows:

4 2. The municipal court shall revoke the right to operate a motor
 5 vehicle of any operator who, after being arrested for a violation
 6 of R. S. 39:4-50, shall refuse to submit to the chemical test provided
 7 for in section 2 of P. L. 1966, c. 142 (C. 39:4-50.2) when requested
 8 to do so, for **[90 days]** *6 months* unless the refusal was in connec-
 9 tion with a subsequent offense under this section, in which case the
 10 revocation period shall be for **[1 year]** *2 years*.

11 The municipal court shall determine by a preponderance of the
 12 evidence whether the arresting officer had probable cause to believe
 13 that the person had been driving or was in actual physical control
 14 of a motor vehicle on the public highways or quasi-public areas of
 15 this State while under the influence of intoxicating liquor or a nar-

16 *cotic, hallucinogenic, or habit-producing drug or marihuana,*
17 *whether the person was placed under arrest, and whether he re-*
18 *fused to submit to the test upon request of the officer, and if these*
19 *elements of the violation are not established, no conviction shall*
20 *issue. In addition to any other requirements provided by law, a*
21 *person whose operator's license is revoked for refusing to submit*
22 *to a chemical test shall satisfy the requirements of a program of*
23 *alcohol education or rehabilitation pursuant to the provisions of*
24 *R. S. 39:4-50. The revocation shall be independent of any revo-*
25 *cation imposed by virtue of a conviction under the provisions of*
26 *R. S. 39:4-50.*

27 *In addition to issuing a revocation, the municipal court shall fine*
28 *a person convicted under this section, a fine of not less than \$250.00*
29 *nor more than \$500.00.*****

1 3. *This act shall take effect immediately ***but shall apply only*
2 *to offenses committed after the effective date of the act***.*

SENATE, No. 3466

STATE OF NEW JERSEY

INTRODUCED NOVEMBER 23, 1981

By Senators GRAVES, RODGERS and CAUFIELD

Referred to Committee on Law, Public Safety and Defense

AN ACT concerning the operation of motor vehicles by persons under the influence of intoxicating liquor or drugs and amending R. S. 39:4-50 and P. L. 1966, c. 142 (C. 39:4-50.4).

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 permits another person who is under the
5 influence of intoxicating liquor, narcotic, hallucinogenic or habit-
6 producing drug to operate a motor vehicle owned by him or in his
7 custody or control, shall be subject, for the first offense, to a fine
8 of not less than **[\$200.00]** *\$250.00* nor more than \$400.00 or im-
9 prisonment for a term of not more than 30 days or both, in the
10 discretion of the court, and shall forthwith forfeit his right to
11 operate a motor vehicle over the highways of this State for a period
12 of **[not less than 60 days nor more than 180 days]** *2 years*. Except
13 as hereinafter provided, for a second violation, he shall be subject
14 to a fine of not less than \$500.00 nor more than \$1,000.00, **[or]** *and*
15 *shall be sentenced to* imprisonment for a term of **[no more]** *not less*
16 *than 90 days, [or both,]* and shall forfeit his right to operate a
17 motor vehicle over the highways of this State for a period of **[not**
18 **less than 1 year nor more than 3]** *5 years* upon conviction, and,
19 after the expiration of said period, he may make application to the
20 Director of the Division of Motor Vehicles for a license to operate
21 a motor vehicle, which application may be granted at the discretion
22 of the director, consistent with subsection b. of this section. Except
23 as hereinafter provided, for a third or subsequent violation, he shall
24 be subject to a fine of \$1,000.00, **[or]** *and shall be sentenced to im-*
25 *prisonment for a term of not less than [30 days nor more than] 180*
26 *days, [or both, in the discretion of the court,]* and shall thereafter

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

27 forfeit his right to operate a motor vehicle over the highways of this
28 State [for a period of 5 years upon conviction, and, after the expira-
29 tion of said period, he may make application to the Director of the
30 Division of Motor Vehicles for a license to operate a motor vehicle,
31 which application may be granted at the discretion of the director,
32 consistent with subsection (b) of this section]. If the driving
33 privilege of any person is under revocation or suspension for a
34 violation of any provision of this Title at the time of any conviction
35 for a violation of this section, the revocation or suspension period
36 imposed shall commence as of the date of termination of the existing
37 revocation or suspension period. A court that imposes a term of
38 imprisonment under this section may sentence the person so con-
39 victed to the county jail, to the workhouse of the county wherein the
40 offense was committed, or to an in-patient rehabilitation program
41 approved by the Director of the Division of Motor Vehicles.

42 A person who has been convicted of a previous violation of this
43 section need not be charged as a second or subsequent offender in
44 the complaint made against him in order to render him liable to
45 the punishment imposed by this section on a second or subsequent
46 offender, but if the second offense occurs more than 10 years after
47 the first offense the court shall treat the second conviction as a first
48 offense for sentencing purposes and if a third offense occurs more
49 than 10 years after the second offense, the court shall treat the
50 third conviction as a second offense for sentencing purposes.

51 (b) In addition to any other requirements provided by law, a
52 person convicted under this section must satisfy the requirements
53 of a program of alcohol education or rehabilitation approved by
54 the Director of the Division of Motor Vehicles. Failure to satisfy
55 such requirements shall result in a driver license revocation or
56 suspension or continuation of revocation or suspension until such
57 requirements are satisfied, unless stayed by court order in accord-
58 ance with Rule 7:8-2 of the N. J. Court Rules, 1969, or R. S.
59 39:5-22. A fee, not to exceed \$30.00, shall be payable to the director
60 from every person required to satisfy the requirements of a pro-
61 gram of alcohol education or rehabilitation under the provisions of
62 this section.

63 (c) Upon conviction of a violation of this section, the court shall
64 collect forthwith the New Jersey drivers' license or licenses of the
65 person so convicted and forward such license or licenses to the
66 Director of the Division of Motor Vehicles. In the event that a
67 person convicted under this section is the holder of any out-of-
68 state driver's license, the court shall not collect the license but shall
69 notify forthwith the director who shall, in turn, notify appropriate

70 officials in the licensing jurisdiction. The court shall, however,
71 revoke the nonresident's driving privilege to operate a motor
72 vehicle in this State in accordance with this section.

73 (d) The Director of the Division of Motor Vehicles shall pro-
74 mulgate administrative rules and regulations in order to effectuate
75 the purposes of this act.

1 2. Section 4 of P. L. 1966, c. 42 (C. 39:4-50.4) is amended to read
2 as follows:

3 4. (a) If an operator of a motor vehicle, after being arrested for
4 a violation of R. S. 39:4-50, shall refuse to submit to the chemical
5 test provided for in section 2 of this act when requested to do so,
6 the arresting officer shall cause to be delivered to the Director of
7 Motor Vehicles his sworn report of such refusal in which report
8 he shall specify the circumstances surrounding the arrest and the
9 grounds upon which his belief was based that the person was driv-
10 ing or operating a motor vehicle in violation of the provisions of
11 R. S. 39:4-50. Upon receipt of such a report, if the director shall
12 find that the arresting officer acted in accordance with the provi-
13 sions of this act, he shall, upon written notice, suspend the person's
14 license or permit to drive or operate a motor vehicle, or if such
15 person is a nonresident, the privilege to drive or operate a motor
16 vehicle within this State, unless such person, within 10 days of the
17 date of such notice, shall have requested, in writing, a hearing be-
18 fore the director. Upon such request, the director shall hold a
19 hearing on the issues of whether the arresting officer had reason-
20 able grounds to believe the person had been driving or was in
21 actual physical control of a motor vehicle on the public highways
22 or quasi-public areas of this State while under the influence of in-
23 toxicating liquor, whether the person was placed under arrest, and
24 whether he refused to submit to the test upon request of the officer.
25 If no such hearing is requested within the time allowed, or if after
26 a hearing the director shall find against the person on such issues,
27 he shall revoke such person's license or permit to drive or operate
28 a motor vehicle, or the privilege to drive or operate a motor ve-
29 hicle within this State if such person is a nonresident for a period
30 as prescribed in paragraph (b) to be calculated from the date of
31 the director's determination, or if such person is a resident without
32 a license or permit to drive or operate a motor vehicle in this State,
33 the director shall deny to such person the issuance of any such
34 license or permit during the period prescribed from the date of the
35 director's determination. Such revocation shall be independent of
36 any revocation imposed by virtue of a conviction under the pro-
37 visions of R. S. 39:4-50.

38 (b) Any revocation of the right to operate a motor vehicle over
 39 the highways of this State for refusing to submit to a chemical test
 40 shall be for **[90 days]** *1 year* unless the refusal was in connection
 41 with a subsequent offense of this section, in which case, the revoca-
 42 tion period shall be for **[1 year]** *2 years*. In addition to any other
 43 requirements provided by law, a person whose operator's license is
 44 revoked for refusing to submit to a chemical test must satisfy the
 45 requirements of a program of alcohol education or rehabilitation
 46 pursuant to the provisions of R. S. 39:4-50.

1 3. This act shall take effect immediately.

SPONSOR'S STATEMENT

This bill would raise the mandatory minimum fine for first offense of driving while intoxicated from \$200.00 to \$250.00 and would raise the license forfeiture period for a first offense to 2 years. Presently courts are required to suspend the operator's license for from 2 to 6 months. For a second conviction the licensee would have his license suspended for a period of 5 years and for a third conviction his license would be permanently revoked. The mandatory jail term for a second offense would be for 90 days and for a 3rd offense, for 180 days. In addition the bill would raise the license forfeiture provisions for first refusal to submit to a chemical test to 1 year. Presently that is set at 3 months.

S 3466 (1981)

SENATE LAW, PUBLIC SAFETY AND DEFENSE
COMMITTEE

STATEMENT TO
SENATE, No. 3466
with Senate committee amendment

STATE OF NEW JERSEY

DATED: NOVEMBER 23, 1981

As amended, this bill would raise the mandatory minimum fine for first offense of driving while intoxicated from \$200.00 to \$250.00 and would raise the license forfeiture period for a first offense to 1 year. In addition, it would require the court to order the person to perform 30 days of community service. Presently, the courts are required to suspend the operator's license for from 2 to 6 months. For a second conviction, the licensee would have his license suspended for a period of 5 years and for a third conviction, his license would be permanently revoked. The mandatory jail term for a second offense would be for 90 days and for a third offense, for 180 days. In addition, the bill would raise the license forfeiture provisions for first refusal to submit to a chemical test to 1 year. Presently that is set at 3 months.

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SENATE COMMITTEE AMENDMENT TO

SENATE, No. 3466

STATE OF NEW JERSEY

ADOPTED NOVEMBER 23, 1981

Amend page 1, section 1, line 12, omit "2 years", insert "1 year, and shall be ordered by the court to perform community service for a period of 30 days, which shall be of such form and on such terms as the court shall deem appropriate under the circumstances".

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SENATE, No. 3466

STATE OF NEW JERSEY

INTRODUCED NOVEMBER 23, 1981

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7 custody or control, shall be subject, for the first offense, to a fine
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10 discretion of the court, and shall forthwith forfeit his right to
11 operate a motor vehicle over the highways of this State for a period
12 of **[not less than 60 days nor more than 180 days]** ***[2 years]***
12A *1 year, and shall be ordered by the court to perform community
12B service for a period of 30 days, which shall be of such form and on
12C such terms as the court shall deem appropriate under the circum-
13 stances*. Except as hereinafter provided, for a second violation, he
14 shall be subject to a fine of not less than \$500.00 nor more than
15 \$1,000.00, **[or]** and shall be sentenced to imprisonment for a term of
16 **[no more]** not less than 90 days, **[or both,]** and shall forfeit his
17 right to operate a motor vehicle over the highways of this State for
18 a period of **[not less than 1 year nor more than 3]** 5 years upon con-
19 viction, and, after the expiration of said period, he may make appli-
20 cation to the Director of the Division of Motor Vehicles for a license
21 to operate a motor vehicle, which application may be granted at the
22 discretion of the director, consistent with subsection b. of this

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32 the director, consistent with subsection (b) of this section]. If the
33 driving privilege of any person is under revocation or suspension
34 for a violation of any provision of this Title at the time of any con-
35 viction for a violation of this section, the revocation or suspension
36 period imposed shall commence as of the date of termination of the
37 existing revocation or suspension period. A court that imposes a
38 term of imprisonment under this section may sentence the person so
39 convicted to the county jail, to the workhouse of the county wherein
40 the offense was committed, or to an in-patient rehabilitation pro-
41 gram approved by the Director of the Division of Motor Vehicles.

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43 section need not be charged as a second or subsequent offender in
44 the complaint made against him in order to render him liable to
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46 offender, but if the second offense occurs more than 10 years after
47 the first offense the court shall treat the second conviction as a first
48 offense for sentencing purposes and if a third offense occurs more
49 than 10 years after the second offense, the court shall treat the
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55 such requirements shall result in a driver license revocation or
56 suspension or continuation of revocation or suspension until such
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65 person so convicted and forward such license or licenses to the

66 Director of the Division of Motor Vehicles. In the event that a
67 person convicted under this section is the holder of any out-of-
68 state driver's license, the court shall not collect the license but shall
69 notify forthwith the director who shall, in turn, notify appropriate
70 officials in the licensing jurisdiction. The court shall, however,
71 revoke the nonresident's driving privilege to operate a motor
72 vehicle in this State in accordance with this section.

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1 2. Section 4 of P. L. 1966, c. 42 (C. 39:4-50.4) is amended to read
2 as follows:

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5 test provided for in section 2 of this act when requested to do so,
6 the arresting officer shall cause to be delivered to the Director of
7 Motor Vehicles his sworn report of such refusal in which report
8 he shall specify the circumstances surrounding the arrest and the
9 grounds upon which his belief was based that the person was driv-
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15 person is a nonresident, the privilege to drive or operate a motor
16 vehicle within this State, unless such person, within 10 days of the
17 date of such notice, shall have requested, in writing, a hearing be-
18 fore the director. Upon such request, the director shall hold a
19 hearing on the issues of whether the arresting officer had reason-
20 able grounds to believe the person had been driving or was in
21 actual physical control of a motor vehicle on the public highways
22 or quasi-public areas of this State while under the influence of in-
23 toxicating liquor, whether the person was placed under arrest, and
24 whether he refused to submit to the test upon request of the officer.
25 If no such hearing is requested within the time allowed, or if after
26 a hearing the director shall find against the person on such issues,
27 he shall revoke such person's license or permit to drive or operate
28 a motor vehicle, or the privilege to drive or operate a motor ve-
29 hicle within this State if such person is a nonresident for a period
30 as prescribed in paragraph (b) to be calculated from the date of
31 the director's determination, or if such person is a resident without
32 a license or permit to drive or operate a motor vehicle in this State,
33 the director shall deny to such person the issuance of any such

34 license or permit during the period prescribed from the date of the
35 director's determination. Such revocation shall be independent of
36 any revocation imposed by virtue of a conviction under the pro-
37 visions of R. S. 39:4-50.

38 (b) Any revocation of the right to operate a motor vehicle over
39 the highways of this State for refusing to submit to a chemical test
40 shall be for **[90 days]** *1 year* unless the refusal was in connection
41 with a subsequent offense of this section, in which case, the revoca-
42 tion period shall be for **[1 year]** *2 years*. In addition to any other
43 requirements provided by law, a person whose operator's license is
44 revoked for refusing to submit to a chemical test must satisfy the
45 requirements of a program of alcohol education or rehabilitation
46 pursuant to the provisions of R. S. 39:4-50.

1 3. This act shall take effect immediately.

SENATE AMENDMENTS TO
SENATE, No. 3466
[OFFICIAL COPY REPRINT]

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STATE OF NEW JERSEY

ADOPTED DECEMBER 7, 1981

Amend page 1, section 1, line 12, after “[2 years]”, insert “not less than 6 months nor more than”.

Amend page 1, section 1, line 12A, omit “, and shall be ordered by the court to perform community”.

Amend page 1, section 1, lines 12B-12C, omit in their entirety.

Amend page 1, section 1, line 13, omit “stances” on line 13.

Amend page 1, section 1, line 16, after “not less”, insert “than 5 days nor more”.

Amend page 1, section 1, line 18, omit “5”, insert “2”.

Amend page 3, section 2, line 26, after “issues,” insert “he shall fine the person not less than \$250.00 nor more than \$500.00 and”.

Amend page 4, section 4, line 40, omit “1 year”, insert “6 months”.

STATEMENT

These amendments change the penalties for drunk driving to provide flexibility in suspension of license for a first offense and removes community service as a disposition. The amendment provides flexibility for sentencing to imprisonment for a second offense and reduces the forfeiture of license to 2 years.

The amendment also provides for a range of fines for refusal to take the breathalyzer from \$250.00 to \$500.00 and lowers the loss of driving privileges from 1 year to 6 months for first time refusals.

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

[SECOND OFFICIAL COPY REPRINT]

SENATE, No. 3466

STATE OF NEW JERSEY

INTRODUCED NOVEMBER 23, 1981

By Senators GRAVES, RODGERS and CAUFIELD

Referred to Committee on Law, Public Safety and Defense

AN ACT concerning the operation of motor vehicles by persons under the influence of intoxicating liquor or drugs and amending R. S. 39:4-50 and P. L. 1966, c. 142 (C. 39:4-50.4).

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 permits another person who is under the
5 influence of intoxicating liquor, narcotic, hallucinogenic or habit-
6 producing drug to operate a motor vehicle owned by him or in his
7 custody or control, shall be subject, for the first offense, to a fine
8 of not less than **[\$200.00]** \$250.00 nor more than \$400.00 or im-
9 prisonment for a term of not more than 30 days or both, in the
10 discretion of the court, and shall forthwith forfeit his right to
11 operate a motor vehicle over the highways of this State for a period
12 of **[not less than 60 days nor more than 180 days]** ***[2 years]***
12A ****not less than 6 months nor more than** *1 year****, and shall be
12B *ordered by the court to perform community service for a period of*
12C *30 days, which shall be of such form and on such terms as the court*
12D *shall deem appropriate under the circumstances****]********. Except as
13 hereinafter provided, for a second violation, he shall be subject to
14 a fine of not less than \$500.00 nor more than \$1,000.00, **[or]** and
15 *shall be sentenced to imprisonment for a term of [no more] not less*
16 ****than 5 days nor more**** than 90 days, **[or both,]** and shall forfeit
17 his right to operate a motor vehicle over the highways of this State
18 for a period of **[not less than 1 year nor more than 3]** ****[5]** **2****
19 years upon conviction, and, after the expiration of said period, he
20 may make application to the Director of the Division of Motor Ve-
21 hicles for a license to operate a motor vehicle, which application

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

22 may be granted at the discretion of the director, consistent with
23 subsection b. of this section. Except as hereinafter provided, for a
24 third or subsequent violation, he shall be subject to a fine of
25 \$1,000.00, **[or]** *and shall be sentenced to imprisonment* for a term
26 of not less than **[30 days nor more than]** 180 days, **[or both, in the**
27 **discretion of the court,]** and shall thereafter forfeit his right to
28 operate a motor vehicle over the highways of this State **[for a**
29 **period of 5 years upon conviction, and, after the expiration of said**
30 **period, he may make application to the Director of the Division**
31 **of Motor Vehicles for a license to operate a motor vehicle, which**
32 **application may be granted at the discretion of the director, con-**
33 **sistent with subsection (b) of this section].** If the driving privilege
34 of any person is under revocation or suspension for a violation
35 of any provision of this Title at the time of any conviction for a
36 violation of this section, the revocation or suspension period im-
37 posed shall commence as of the date of termination of the existing
38 revocation or suspension period. A court that imposes a term
38A of imprisonment under this section may sentence the person so
39 convicted to the county jail, to the workhouse of the county wherein
40 the offense was committed, or to an in-patient rehabilitation pro-
41 gram approved by the Director of the Division of Motor Vehicles.

42 A person who has been convicted of a previous violation of this
43 section need not be charged as a second or subsequent offender in
44 the complaint made against him in order to render him liable to
45 the punishment imposed by this section on a second or subsequent
46 offender, but if the second offense occurs more than 10 years after
47 the first offense the court shall treat the second conviction as a first
48 offense for sentencing purposes and if a third offense occurs more
49 than 10 years after the second offense, the court shall treat the
50 third conviction as a second offense for sentencing purposes.

51 (b) In addition to any other requirements provided by law, a
52 person convicted under this section must satisfy the requirements
53 of a program of alcohol education or rehabilitation approved by
54 the Director of the Division of Motor Vehicles. Failure to satisfy
55 such requirements shall result in a driver license revocation or
56 suspension or continuation of revocation or suspension until such
57 requirements are satisfied, unless stayed by court order in accord-
58 ance with Rule 7:8-2 of the N. J. Court Rules, 1969, or R. S.
59 39:5-22. A fee, not to exceed \$30.00, shall be payable to the director
60 from every person required to satisfy the requirements of a pro-
61 gram of alcohol education or rehabilitation under the provisions of
62 this section.

63 (c) Upon conviction of a violation of this section, the court shall

64 collect forthwith the New Jersey drivers' license or licenses of the
65 person so convicted and forward such license or licenses to the
66 Director of the Division of Motor Vehicles. In the event that a
67 person convicted under this section is the holder of any out-of-
68 state driver's license, the court shall not collect the license but shall
69 notify forthwith the director who shall, in turn, notify appropriate
70 officials in the licensing jurisdiction. The court shall, however,
71 revoke the nonresident's driving privilege to operate a motor
72 vehicle in this State in accordance with this section.

73 (d) The Director of the Division of Motor Vehicles shall pro-
74 mulgate administrative rules and regulations in order to effectuate
75 the purposes of this act.

1 2. Section 4 of P. L. 1966, c. 42 (C. 39:4-50.4) is amended to read
2 as follows:

3 4. (a) If an operator of a motor vehicle, after being arrested for
4 a violation of R. S. 39:4-50, shall refuse to submit to the chemical
5 test provided for in section 2 of this act when requested to do so,
6 the arresting officer shall cause to be delivered to the Director of
7 Motor Vehicles his sworn report of such refusal in which report
8 he shall specify the circumstances surrounding the arrest and the
9 grounds upon which his belief was based that the person was driv-
10 ing or operating a motor vehicle in violation of the provisions of
11 R. S. 39:4-50. Upon receipt of such a report, if the director shall
12 find that the arresting officer acted in accordance with the provi-
13 sions of this act, he shall, upon written notice, suspend the person's
14 license or permit to drive or operate a motor vehicle, or if such
15 person is a nonresident, the privilege to drive or operate a motor
16 vehicle within this State, unless such person, within 10 days of the
17 date of such notice, shall have requested, in writing, a hearing be-
18 fore the director. Upon such request, the director shall hold a
19 hearing on the issues of whether the arresting officer had reason-
20 able grounds to believe the person had been driving or was in
21 actual physical control of a motor vehicle on the public highways
22 or quasi-public areas of this State while under the influence of in-
23 toxicating liquor, whether the person was placed under arrest, and
24 whether he refused to submit to the test upon request of the officer.
25 If no such hearing is requested within the time allowed, or if after
26 a hearing the director shall find against the person on such issues,
27 ***he shall fine the person not less than \$250.00 nor more than \$500.00*
28 *and*** he shall revoke such person's license or permit to drive or op-
28A erate a motor vehicle, or the privilege to drive or operate a motor ve-
29 hicle within this State if such person is a nonresident for a period
30 as prescribed in paragraph (b) to be calculated from the date of

31 the director's determination, or if such person is a resident without
32 a license or permit to drive or operate a motor vehicle in this State,
33 the director shall deny to such person the issuance of any such
34 license or permit during the period prescribed from the date of the
35 director's determination. Such revocation shall be independent of
36 any revocation imposed by virtue of a conviction under the pro-
37 visions of R. S. 39:4-50.

38 (b) Any revocation of the right to operate a motor vehicle over
39 the highways of this State for refusing to submit to a chemical test
40 shall be for **[90 days]** ~~**[1 year]**~~ ~~***6 months**~~ unless the refusal
41 was in connection with a subsequent offense of this section, in which
42 case, the revocation period shall be for **[1 year]** ~~2 years~~. In addition
43 to any other requirements provided by law, a person whose opera-
44 tor's license is revoked for refusing to submit to a chemical test
45 must satisfy the requirements of a program of alcohol education
46 or rehabilitation pursuant to the provisions of R. S. 39:4-50.

1 3. This act shall take effect immediately.

SENATE AMENDMENT TO
SENATE, No. 3466
[SECOND OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

ADOPTED DECEMBER 10, 1981

Amend page 4, section 3, line 1, after "immediately", insert: "but shall apply only to offenses committed after the effective date of the act".

STATEMENT

This amendment makes it clear that the bill shall not apply to offenses committed before the effective date of the act.

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SENATE, No. 3466

STATE OF NEW JERSEY

INTRODUCED NOVEMBER 23, 1981

By Senators GRAVES, RODGERS and CAUFIELD

Referred to Committee on Law, Public Safety and Defense

AN ACT concerning the operation of motor vehicles by persons under the influence of intoxicating liquor or drugs and amending R. S. 39:4-50 and P. L. 1966, c. 142 (C. 39:4-50.4).

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 permits another person who is under the
5 influence of intoxicating liquor, narcotic, hallucinogenic or habit-
6 producing drug to operate a motor vehicle owned by him or in his
7 custody or control, shall be subject, for the first offense, to a fine
8 of not less than **[\$200.00]** *\$250.00* nor more than \$400.00 or im-
9 prisonment for a term of not more than 30 days or both, in the
10 discretion of the court, and shall forthwith forfeit his right to
11 operate a motor vehicle over the highways of this State for a period
12 of **[not less than 60 days nor more than 180 days]** ***[2 years]***
12A ****not less than 6 months nor more than** *1 year****, **[and shall be**
12B **ordered by the court to perform community service for a period of**
12C **30 days, which shall be of such form and on such terms as the court**
12D **shall deem appropriate under the circumstances*]****. Except as
13 hereinafter provided, for a second violation, he shall be subject to
14 a fine of not less than \$500.00 nor more than \$1,000.00, **[or]** **and**
15 **shall be sentenced to** imprisonment for a term of **[no more]** *not less*
16 ****than 5 days nor more**** than 90 days, **[or both,]** and shall forfeit
17 his right to operate a motor vehicle over the highways of this State
18 for a period of **[not less than 1 year nor more than 3]** ****[5]** **2****
19 years upon conviction, and, after the expiration of said period, he
20 may make application to the Director of the Division of Motor Ve-
21 hicles for a license to operate a motor vehicle, which application

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

22 may be granted at the discretion of the director, consistent with
23 subsection b. of this section. Except as hereinafter provided, for a
24 third or subsequent violation, he shall be subject to a fine of
25 \$1,000.00, ~~or~~ and shall be sentenced to imprisonment for a term
26 of not less than ~~30 days nor more than~~ 180 days, ~~or both, in the~~
27 discretion of the court, and shall thereafter forfeit his right to
28 operate a motor vehicle over the highways of this State ~~for a~~
29 period of 5 years upon conviction, and, after the expiration of said
30 period, he may make application to the Director of the Division
31 of Motor Vehicles for a license to operate a motor vehicle, which
32 application may be granted at the discretion of the director, con-
33 sistent with subsection (b) of this section. If the driving privilege
34 of any person is under revocation or suspension for a violation
35 of any provision of this Title at the time of any conviction for a
36 violation of this section, the revocation or suspension period im-
37 posed shall commence as of the date of termination of the existing
38 revocation or suspension period. A court that imposes a term
38A of imprisonment under this section may sentence the person so
39 convicted to the county jail, to the workhouse of the county wherein
40 the offense was committed, or to an in-patient rehabilitation pro-
41 gram approved by the Director of the Division of Motor Vehicles.

42 A person who has been convicted of a previous violation of this
43 section need not be charged as a second or subsequent offender in
44 the complaint made against him in order to render him liable to
45 the punishment imposed by this section on a second or subsequent
46 offender, but if the second offense occurs more than 10 years after
47 the first offense the court shall treat the second conviction as a first
48 offense for sentencing purposes and if a third offense occurs more
49 than 10 years after the second offense, the court shall treat the
50 third conviction as a second offense for sentencing purposes.

51 (b) In addition to any other requirements provided by law, a
52 person convicted under this section must satisfy the requirements
53 of a program of alcohol education or rehabilitation approved by
54 the Director of the Division of Motor Vehicles. Failure to satisfy
55 such requirements shall result in a driver license revocation or
56 suspension or continuation of revocation or suspension until such
57 requirements are satisfied, unless stayed by court order in accord-
58 ance with Rule 7:8-2 of the N. J. Court Rules, 1969, or R. S.
59 39:5-22. A fee, not to exceed \$30.00, shall be payable to the director
60 from every person required to satisfy the requirements of a pro-
61 gram of alcohol education or rehabilitation under the provisions of
62 this section.

63 (c) Upon conviction of a violation of this section, the court shall

64 collect forthwith the New Jersey drivers' license or licenses of the
65 person so convicted and forward such license or licenses to the
66 Director of the Division of Motor Vehicles. In the event that a
67 person convicted under this section is the holder of any out-of-
68 state driver's license, the court shall not collect the license but shall
69 notify forthwith the director who shall, in turn, notify appropriate
70 officials in the licensing jurisdiction. The court shall, however,
71 revoke the nonresident's driving privilege to operate a motor
72 vehicle in this State in accordance with this section.

73 (d) The Director of the Division of Motor Vehicles shall pro-
74 mulgate administrative rules and regulations in order to effectuate
75 the purposes of this act.

1 2. Section 4 of P. L. 1966, c. 42 (C. 39:4-50.4) is amended to read
2 as follows:

3 4. (a) If an operator of a motor vehicle, after being arrested for
4 a violation of R. S. 39:4-50, shall refuse to submit to the chemical
5 test provided for in section 2 of this act when requested to do so,
6 the arresting officer shall cause to be delivered to the Director of
7 Motor Vehicles his sworn report of such refusal in which report
8 he shall specify the circumstances surrounding the arrest and the
9 grounds upon which his belief was based that the person was driv-
10 ing or operating a motor vehicle in violation of the provisions of
11 R. S. 39:4-50. Upon receipt of such a report, if the director shall
12 find that the arresting officer acted in accordance with the provi-
13 sions of this act, he shall, upon written notice, suspend the person's
14 license or permit to drive or operate a motor vehicle, or if such
15 person is a nonresident, the privilege to drive or operate a motor
16 vehicle within this State, unless such person, within 10 days of the
17 date of such notice, shall have requested, in writing, a hearing be-
18 fore the director. Upon such request, the director shall hold a
19 hearing on the issues of whether the arresting officer had reason-
20 able grounds to believe the person had been driving or was in
21 actual physical control of a motor vehicle on the public highways
22 or quasi-public areas of this State while under the influence of in-
23 toxicating liquor, whether the person was placed under arrest, and
24 whether he refused to submit to the test upon request of the officer.
25 If no such hearing is requested within the time allowed, or if after
26 a hearing the director shall find against the person on such issues,
27 ***he shall fine the person not less than \$250.00 nor more than \$500.00*
28 *and*** he shall revoke such person's license or permit to drive or op-
28A erate a motor vehicle, or the privilege to drive or operate a motor ve-
29 hicle within this State if such person is a nonresident for a period
30 as prescribed in paragraph (b) to be calculated from the date of

31 the director's determination, or if such person is a resident without
32 a license or permit to drive or operate a motor vehicle in this State,
33 the director shall deny to such person the issuance of any such
34 license or permit during the period prescribed from the date of the
35 director's determination. Such revocation shall be independent of
36 any revocation imposed by virtue of a conviction under the pro-
37 visions of R. S. 39:4-50.

38 (b) Any revocation of the right to operate a motor vehicle over
39 the highways of this State for refusing to submit to a chemical test
40 shall be for ~~90 days~~ **1 year** ~~6 months~~ unless the refusal
41 was in connection with a subsequent offense of this section, in which
42 case, the revocation period shall be for ~~1 year~~ **2 years**. In addition
43 to any other requirements provided by law, a person whose opera-
44 tor's license is revoked for refusing to submit to a chemical test
45 must satisfy the requirements of a program of alcohol education
46 or rehabilitation pursuant to the provisions of R. S. 39:4-50.

1 3. This act shall take effect immediately ****but shall apply only*
2 *to offenses committed after the effective date of the act***.*

ASSEMBLY AMENDMENTS TO

SENATE, No. 3466

[THIRD OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

ADOPTED JANUARY 7, 1982

Amend page 1, title, line 3, after "R. S. 39:4-50 and", omit "P. L. 1966, c. 142 (C. 39:4-50.4)", insert "section 2 of P. L. . . . , c. . . . (now pending before the Legislature as Assembly Bill No. 2293 of 1980)".

Amend page 1, section 1, line 14, after "and", insert "shall be ordered by the court to perform community service for a period of 30 days, which shall be of such form and on such terms as the court shall deem appropriate under the circumstances or".

Amend page 1, section 1, line 15, omit "shall", insert "may"; omit "less", insert "more".

Amend page 1, section 1, line 16, omit "than 5 days nor more".

Amend page 2, section 1, line 26, after "days," insert "except that the court may lower such term for each day, not exceeding 90 days, served performing community service in such form and on such terms as the court shall deem appropriate under the circumstances".

Amend page 2, section 1, line 33, after "section"]", insert "for 10 years".

Amend pages 3-4, section 2, lines 1-46, omit, insert new section 2 as follows:

"2. Section 2 of P. L. . . . , c. . . . (now pending before the Legislature as Assembly Bill No. 2293 of 1980) is amended to read as follows:

2. The municipal court shall revoke the right to operate a motor vehicle of any operator who, after being arrested for a violation of R. S. 39:4-50, shall refuse to submit to the chemical test provided for in section 2 of P. L. 1966, c. 142 (C. 39:4-50.2) when requested to do so, for **[90 days]** *6 months* unless the refusal was in connection with a subsequent offense under this section, in which case the revocation period shall be for **[1 year]** *2 years*.

The municipal court shall determine by a preponderance of the evidence whether the arresting officer had probable cause to believe that the person had been driving or was in actual physical control of a motor vehicle on the public highways or quasi-public areas of this State while under the influence of intoxicating liquor or a narcotic, hallucinogenic, or habit-producing drug or marihuana, whether the person was placed under arrest, and whether he refused to submit to the test upon request

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

of the officer, and if these elements of the violation are not established, no conviction shall issue. In addition to any other requirements provided by law, a person whose operator's license is revoked for refusing to submit to a chemical test shall satisfy the requirements of a program of alcohol education or rehabilitation pursuant to the provisions of R. S. 39:4-50. The revocation shall be independent of any revocation imposed by virtue of a conviction under the provisions of R. S. 39:4-50.

In addition to issuing a revocation, the municipal court shall fine a person convicted under this section, a fine of not less than \$250.00 nor more than \$500.00".

[ASSEMBLY REPRINT]

SENATE, No. 3466

[THIRD OFFICIAL COPY REPRINT]

with Assembly amendments adopted January 7, 1982

STATE OF NEW JERSEY

INTRODUCED NOVEMBER 23, 1981

By Senators GRAVES, RODGERS and CAUFIELD

Referred to Committee on Law, Public Safety and Defense

AN ACT concerning the operation of motor vehicles by persons under the influence of intoxicating liquor or drugs and amending R. S. 39:4-50 and ****[P. L. 1966, c. 142 (C. 39:4-50.4)]****
****section 2 of P. L., c. . . . (now pending before the Legislature as Assembly Bill No. 2293 of 1980)****.

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 permits another person who is under the
5 influence of intoxicating liquor, narcotic, hallucinogenic or habit-
6 producing drug to operate a motor vehicle owned by him or in his
7 custody or control, shall be subject, for the first offense, to a fine
8 of not less than ~~[\$200.00]~~ \$250.00 nor more than \$400.00 or im-
9 prisonment for a term of not more than 30 days or both, in the
10 discretion of the court, and shall forthwith forfeit his right to
11 operate a motor vehicle over the highways of this State for a period
12 of ~~[not less than 60 days nor more than 180 days]~~ ~~*[2 years]*~~
12A ~~**not less than 6 months nor more than**~~ *1 year**~~[, and shall be~~
12B ~~ordered by the court to perform community service for a period of~~
12C ~~30 days, which shall be of such form and on such terms as the court~~
12D ~~shall deem appropriate under the circumstances*]**. Except as~~
13 hereinafter provided, for a second violation, he shall be subject to
14 a fine of not less than \$500.00 nor more than \$1,000.00, ~~[or]~~ and
15 ~~****shall be ordered by the court to perform community service~~
16 ~~for a period of 30 days, which shall be of such form and on such~~
17 ~~terms as the court shall deem appropriate under the circumstances~~

is not enacted and is intended to be omitted in the law.

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill

18 *or**** ***[shall]**** ***[may]**** be sentenced to imprisonment*
 19 *for a term of [no more] not ****[less]**** ****more*****
 20 *****[**than 5 days nor more**]**** than 90 days, [or both,] and*
 21 *shall forfeit his right to operate a motor vehicle over the highways*
 22 *of this State for a period of [not less than 1 year nor more than 3]*
 23 ***[5]** **2** years upon conviction, and, after the expiration of*
 24 *said period, he may make application to the Director of the Division*
 25 *of Motor Vehicles for a license to operate a motor vehicle, which*
 26 *application may be granted at the discretion of the director, con-*
 27 *sistent with subsection b. of this section. Except as hereinafter*
 28 *provided, for a third or subsequent violation, he shall be subject*
 29 *to a fine of \$1,000.00, [or] and shall be sentenced to imprisonment*
 30 *for a term of not less than [30 days nor more than] 180 days,*
 31 *****except that the court may lower such term for each day, not*
 32 *exceeding 90 days, served performing community service in such*
 33 *form and on such terms as the court shall deem appropriate under*
 34 *the circumstances**** [or both, in the discretion of the court,] and*
 34A *shall thereafter forfeit his right to operate a motor vehicle over*
 34B *the highways of this State [for a period of 5 years upon conviction,*
 34C *and, after the expiration of said period, he may make application*
 34D *to the Director of the Division of Motor Vehicles for a license to*
 35 *operate a motor vehicle, which application may be granted at the*
 36 *discretion of the director, consistent with subsection (b) of this*
 37 *section] ****or 10 years****. If the driving privilege of any person*
 38 *is under revocation or suspension for a violation of any provision*
 39 *of this Title at the time of any conviction for a violation of this*
 40 *section, the revocation or suspension period imposed shall com-*
 41 *mence as of the date of termination of the existing revocation or*
 41A *suspension period. A court that imposes a term of imprisonment*
 41B *under this section may sentence the person so convicted to the county*
 41C *jail, to the workhouse of the county wherein the offense was com-*
 41D *mitted, or to an in-patient rehabilitation program approved by the*
 41E *Director of the Division of Motor Vehicles.*

42 A person who has been convicted of a previous violation of this
 43 section need not be charged as a second or subsequent offender in
 44 the complaint made against him in order to render him liable to
 45 the punishment imposed by this section on a second or subsequent
 46 offender, but if the second offense occurs more than 10 years after
 47 the first offense the court shall treat the second conviction as a first
 48 offense for sentencing purposes and if a third offense occurs more
 49 than 10 years after the second offense, the court shall treat the
 50 third conviction as a second offense for sentencing purposes.

51 (b) In addition to any other requirements provided by law, a
52 person convicted under this section must satisfy the requirements
53 of a program of alcohol education or rehabilitation approved by
54 the Director of the Division of Motor Vehicles. Failure to satisfy
55 such requirements shall result in a driver license revocation or
56 suspension or continuation of revocation or suspension until such
57 requirements are satisfied, unless stayed by court order in accord-
58 ance with Rule 7:8-2 of the N. J. Court Rules, 1969, or R. S.
59 39:5-22. A fee, not to exceed \$30.00, shall be payable to the director
60 from every person required to satisfy the requirements of a pro-
61 gram of alcohol education or rehabilitation under the provisions of
62 this section.

63 (c) Upon conviction of a violation of this section, the court shall
64 collect forthwith the New Jersey drivers' license or licenses of the
65 person so convicted and forward such license or licenses to the
66 Director of the Division of Motor Vehicles. In the event that a
67 person convicted under this section is the holder of any out-of-
68 state driver's license, the court shall not collect the license but shall
69 notify forthwith the director who shall, in turn, notify appropriate
70 officials in the licensing jurisdiction. The court shall, however,
71 revoke the nonresident's driving privilege to operate a motor
72 vehicle in this State in accordance with this section.

73 (d) The Director of the Division of Motor Vehicles shall pro-
74 mulgate administrative rules and regulations in order to effectuate
75 the purposes of this act.

1 ****[2. Section 4 of P. L. 1966, c. 42 (C. 39:4-50.4) is amended
2 to read as follows:

3 4. (a) If an operator of a motor vehicle, after being arrested for
4 a violation of R. S. 39:4-50, shall refuse to submit to the chemical
5 test provided for in section 2 of this act when requested to do so,
6 the arresting officer shall cause to be delivered to the Director of
7 Motor Vehicles his sworn report of such refusal in which report
8 he shall specify the circumstances surrounding the arrest and the
9 grounds upon which his belief was based that the person was driv-
10 ing or operating a motor vehicle in violation of the provisions of
11 R. S. 39:4-50. Upon receipt of such a report, if the director shall
12 find that the arresting officer acted in accordance with the provi-
13 sions of this act, he shall, upon written notice, suspend the person's
14 license or permit to drive or operate a motor vehicle, or if such
15 person is a nonresident, the privilege to drive or operate a motor
16 vehicle within this State, unless such person, within 10 days of the
17 date of such notice, shall have requested, in writing, a hearing be-
18 fore the director. Upon such request, the director shall hold a
19 hearing on the issues of whether the arresting officer had reason-

20 able grounds to believe the person had been driving or was in
 21 actual physical control of a motor vehicle on the public highways
 22 or quasi-public areas of this State while under the influence of in-
 23 toxicating liquor, whether the person was placed under arrest, and
 24 whether he refused to submit to the test upon request of the officer.
 25 If no such hearing is requested within the time allowed, or if after
 26 a hearing the director shall find against the person on such issues,
 27 ***he shall fine the person not less than \$250.00 nor more than \$500.00*
 28 *and*** he shall revoke such person's license or permit to drive or op-
 28A erate a motor vehicle, or the privilege to drive or operate a motor ve-
 29 hicle within this State if such person is a nonresident for a period
 30 as prescribed in paragraph (b) to be calculated from the date of
 31 the director's determination, or if such person is a resident without
 32 a license or permit to drive or operate a motor vehicle in this State,
 33 the director shall deny to such person the issuance of any such
 34 license or permit during the period prescribed from the date of the
 35 director's determination. Such revocation shall be independent of
 36 any revocation imposed by virtue of a conviction under the pro-
 37 visions of R. S. 39:4-50.

38 (b) Any revocation of the right to operate a motor vehicle over
 39 the highways of this State for refusing to submit to a chemical test
 40 shall be for **[90 days]** ***[1 year]*** ***6 months*** unless the re-
 41 fusal was in connection with a subsequent offense of this section, in
 42 which case, the revocation period shall be for **[1 year]** *2 years*. In
 43 addition to any other requirements provided by law, a person whose
 44 operator's license is revoked for refusing to submit to a chemical
 45 test must satisfy the requirements of a program of alcohol educa-
 46 tion or rehabilitation pursuant to the provisions of R. S.
 47 39:4-50.]****

1 ****2. Section 2 of P. L., c. . . . (now pending before the
 2 Legislature as Assembly Bill No. 2293 of 1980) is amended to read
 3 as follows:

4 2. The municipal court shall revoke the right to operate a motor
 5 vehicle of any operator who, after being arrested for a violation
 6 of R. S. 39:4-50, shall refuse to submit to the chemical test provided
 7 for in section 2 of P. L. 1966, c. 142 (C. 39:4-50.2) when requested
 8 to do so, for **[90 days]** *6 months* unless the refusal was in connec-
 9 tion with a subsequent offense under this section, in which case the
 10 revocation period shall be for **[1 year]** *2 years*.

11 The municipal court shall determine by a preponderance of the
 12 evidence whether the arresting officer had probable cause to believe
 13 that the person had been driving or was in actual physical control
 14 of a motor vehicle on the public highways or quasi-public areas of
 15 this State while under the influence of intoxicating liquor or a nar-

16 cotic, hallucinogenic, or habit-producing drug or marihuana,
17 whether the person was placed under arrest, and whether he re-
18 fused to submit to the test upon request of the officer, and if these
19 elements of the violation are not established, no conviction shall
20 issue. In addition to any other requirements provided by law, a
21 person whose operator's license is revoked for refusing to submit
22 to a chemical test shall satisfy the requirements of a program of
23 alcohol education or rehabilitation pursuant to the provisions of
24 R. S. 39:4-50. The revocation shall be independent of any revo-
25 cation imposed by virtue of a conviction under the provisions of
26 R. S. 39:4-50.

27 In addition to issuing a revocation, the municipal court shall fine
28 a person convicted under this section, a fine of not less than \$250.00
29 nor more than \$500.00.****

1 3. This act shall take effect immediately ***but shall apply only
2 to offenses committed after the effective date of the act***.

FROM THE OFFICE OF THE GOVERNOR

FOR IMMEDIATE RELEASE:

JANUARY 13, 1982

FOR FURTHER INFORMATION

DAVE DE'MAIO

Governor Brendan Byrne signed the following Senate bills yesterday morning (this partial list duplicates the numerical list you were given yesterday):

S-3466, sponsored by Senator Frank X. Graves Jr. (D-Passaic), increasing penalties for persons convicted of driving while intoxicated. Under the bill:

- first offenders may be fined \$250-\$400, spend 30 days in jail, or lose their license for 6 to 12 months--an increase in the fines and loss of license time;
- second offenders may be fined \$500 to \$1,000, up to 90 days in jail, must perform 30 days of community service, or lose their license for 2 years--an increase in the loss of license period, and the new requirement for community service; and
- third offenders may be fined \$1,000, must spend 30 to 180 days in jail with credit for 90 days of community service, or lose their license for 10 years--an increase in the sentence and loss of license provisions.

The bill also strengthens criminal penalties against those who refuse to take "breathalyzer" tests. The provisions for community service penalties are new; there are no such provisions under current law.

Governor Byrne did not sign the "motor vehicle" package of bills (S-3401, S-3402, and S-3404 through S-3410) sponsored by Senator Graves.

S-3222, sponsored by Senator Matthew Feldman (D-Bergen), "grandfathering" into the civil service system municipal or county utility authority personnel who were left out of the system after the authorities were reorganized by legislation enacted in 1977. This is a one-time-only provision.

S-3213, sponsored by Senator Eugene Bedell (D-Monmouth), making technical changes in the laws governing penalties for violations of booking, or performing artists, employment agencies. Quasi-criminal sanctions of a fine (\$50-\$250) and jail sentence (up to one-year) for operating without a license are replaced by civil penalties of \$300 for the first offense and \$500-\$1,000 for the second, among other technical changes.

1. 2. This act shall take effect immediately.

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.