

39:4-50

LEGISLATIVE HISTORY CHECKLIST

NJSA 39:4-50 (Drunk driving--second offense--prescribe penalties)  
 LAWS 1981 CHAPTER 47  
 Bill No. S1267  
 Sponsor(s) Perskie  
 Date Introduced May 5, 1980  
 Committee: Assembly Judiciary, Law, Public Safety and Defense  
 Senate Judiciary

Amended during passage  Yes  No

Date of Passage: Assembly Jan. 22, 1981

Senate June 26, 1980

Date of approval Feb. 25, 1981

Following statements are attached if available:

Sponsor statement  Yes  No

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

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CHAPTER 47 LAWS OF N. J. 1981  
APPROVED 2-25-81

SENATE, No. 1267

STATE OF NEW JERSEY

INTRODUCED MAY 5, 1980

By Senator PERSKIE

Referred to Committee on Judiciary

AN ACT concerning the penalty for operating a motor vehicle while under the influence of intoxicating liquor or certain drugs and amending R. S. 39:4-50.

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

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

2 39:4-50. (a) A person who operates a motor vehicle while under  
3 the influence of intoxicating liquor, narcotic, hallucinogenic or  
4 habit-producing drug, or 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 nor more than \$400.00 or imprisonment  
9 for a term of not more than 30 days or both, in the discretion of the  
10 court, and shall forthwith forfeit his right to operate a motor  
11 vehicle over the highways of this State for a period of not less than  
12 60 days nor more than 180 days. Except as hereinafter provided,  
13 for a second violation, he shall be subject to a fine of not less than  
14 \$500.00 nor more than \$1,000.00, or imprisonment for a term of  
15 no more than 90 days, or both, and shall forfeit his right to operate  
16 a motor vehicle over the highways of this State for a period of  
17 not less than 1 year nor more than 3 years upon conviction, and,  
18 after the expiration of said period, he may make application to  
19 the Director of the Division of Motor Vehicles for a license to  
20 operate a motor vehicle, which application may be granted at the  
21 discretion of the director, consistent with subsection b. of this  
22 section. Except as hereinafter provided, for a third or subsequent  
23 violation, he shall be subject to a fine of \$1,000.00, or imprisonment  
24 for a term of not less than 30 days nor more than 180 days, or  
25 both, in the discretion of the court, and shall forfeit his right to

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

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

41 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  
44 the punishment imposed by this section on a second or subsequent  
45 offender, but if the second offense occurs [15 or more years after  
46 the first conviction the court shall treat the conviction as a first  
47 offense, and if a third or subsequent offense occurs 10 or more years  
48 after the first conviction, the court shall treat the conviction as a  
49 second offense] *more than 10 years after the first offense the court*  
50 *shall treat the second conviction as a first offense for sentencing*  
51 *purposes and if a third offense occurs more than 10 years after the*  
52 *second offense, the court shall treat the third conviction as a second*  
53 *offense for sentencing purposes.*

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

66 (c) Upon conviction of a violation of this section, the court shall  
67 collect forthwith the New Jersey drivers' license or licenses of the  
68 person so convicted and forward such license or licenses to the

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

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

1 2. This act shall take effect immediately.

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### SPONSOR'S STATEMENT

Prior to 1977, R. S. 39:4-50 provided for two grades of punish-  
 ment for drunk driving; one for the first offender and a second  
 for the subsequent offender. Under the 1977 amendments, a new  
 more severe penalty provision was added for third and subsequent  
 offenders. Also as part of the 1977 amendments, language was  
 added to R. S. 39:4-50 providing that

"if a second offense occurs 15 or more years after the first  
 conviction, the court shall treat the conviction as a first offense,  
 and if a third or subsequent offense occurs 10 or more years after  
 the first conviction, the court shall treat the conviction as a second  
 offense."

This language seems to mandate two undesirable and probably  
 unintentional results. First, this language would seem to require  
 that a person convicted of a second offense 14 years after his first  
 drunk driving conviction and a person convicted of a third drunk  
 driving offense 11 years after his first conviction both be sentenced  
 as second offenders. Secondly, this language would seem to require  
 that only persons convicted of drunk driving three or more times  
 within a 10 year period would be subject to the enhanced penalty  
 for subsequent offenders. Persons convicted of drunk driving on  
 innumerable occasions as long as the latest conviction was more  
 than 10 years after the first would be sentenced as second offenders.

To clarify the meaning of R. S. 39:4-50, this bill would provide  
 that any second offense occurring more than 10 years after the  
 first offense be treated for sentencing purposes as a first offense  
 and that any third offense occurring more than 10 years after the  
 second conviction be treated for sentencing purposes as a second  
 offense.

51267 (1981)

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 1267

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STATE OF NEW JERSEY

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DATED: JUNE 9, 1980

Prior to 1977, R. S. 39:4-50 provided for two grades of punishment for drunk driving; one for the first offender and a second for the subsequent offender. Under the 1977 amendments, a new more severe penalty provision was added for third and subsequent offenders. Also as part of the 1977 amendments, language was added to R. S. 39:4-50 providing that "If a second offense occurs 15 or more years after the first conviction, the court shall treat the conviction as a first offense, and if a third or subsequent offense occurs 10 or more years after the first conviction, the court shall treat the conviction as a second offense."

This language seems to mandate two undesirable and probably unintentional results. First, this language would seem to require that a person convicted of a second offense 14 years after his first drunk driving conviction and a person convicted of a third drunk driving offense 11 years after his first conviction both be sentenced as second offenders. Secondly, this language would seem to require that only persons convicted of drunk driving three or more times within a 10 year period would be subject to the enhanced penalty for subsequent offenders. Persons convicted of drunk driving on innumerable occasions as long as the latest conviction was more than 10 years after the first would be sentenced as second offenders.

To clarify the meaning of R. S. 39:4-50, this bill would provide that any second offense occurring more than 10 years after the first offense be treated for sentencing purposes as a first offense and that any third offense occurring more than 10 years after the second conviction be treated for sentencing purposes as a second offense.

FEBRUARY 25, 1981

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Since few parents and teachers and their vehicles meet these requirements, the bill clarifies this point in the existing law. In addition, the Department of Education and Human Resources plan to implement regulations which would impose minimum safety requirements in cases in which students are transported in private vehicles.

S-1429, sponsored by Senator Steven Perskie (D-Atlantic) which amends the Optional County Charter Law to clarify the powers of county governing bodies.

The bill provides that county officers, boards, commissions and authorities may be reorganized, altered or abolished by the county.

It also provides that the county administrative code may set forth accounting controls, central purchasing practices, personnel procedures and regulations and central data processing services to govern the county board of taxation, county board of elections, county jury commissioners, county prosecutors, county clerks, surrogates and sheriffs.

S-1267, also sponsored by Senator Perskie, corrects a technical deficiency in the law regarding sentencing of drunk drivers. This bill provides that a person convicted of a second offense more than ten years after the first offense shall be treated as first offenders for sentencing purposes and if a third offense occurs more than ten years after the second offense it shall be treated as a second offense for sentencing purposes.

S-1518, sponsored by Senator Perskie, which corrects a technical error in the statute which establishes uniform residency requirements for local elective offices. The bill makes it clear that in order to run for local elective office a candidate must have been a resident of the municipality or county for one year preceding the election.

AJR-42, sponsored by Assemblyman Thomas J. Deverin (D-Union), which recognizes the founding of the National Guard Militia Museum at Sea Girt and requests the Secretary of State to allow the museum to reproduce the Great Seal of the State of New Jersey.