

39:4-50

LEGISLATIVE HISTORY CHECKLIST

(Drunk driving cases--discovery--existing procedures for criminal defendants applicable)

NJSA 39:4-50

LAWS 1982

CHAPTER 58

Bill No. A796

Sponsor(s) Kern, Wright and Markert

Date Introduced Feb. 8, 1982

Committee: Assembly

Senate Law, Public Safety and Defense

Amended during passage Yes No

Date of Passage: Assembly Feb. 8, 1982

Senate May 17, 1982

Date of approval July 6, 1982

Following statements are attached if available:

Sponsor statement	Yes	No (Below)
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

Sponsors' statement:

This bill makes the discovery procedures available to defendants in criminal actions pursuant to the Rules of Court applicable to defendants in cases involving operating a motor vehicle under the influence of liquor or drugs where the defendant is a second or subsequent offender.

6/22/81

CHAPTER 58 LAWS OF N. J. 1982
APPROVED 7-6-82

ASSEMBLY, No. 796

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 8, 1982

By Assemblyman KERN, Assemblywoman WRIGHT
and Assemblyman MARKERT

(Without Reference)

AN ACT concerning the offense of operating a motor vehicle while under the influence of intoxicating liquor or 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 \$250.00 nor more than \$400.00 or imprisonment for
9 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 vehicle
11 over the highways of this State for a period of *not less than 6 months*
12 *nor more than 1 year*. Except as hereinafter provided, for a second
13 violation, he shall be subject to a fine of not less than \$500.00 nor
14 more than \$1,000.00, *and shall be ordered by the court to perform*
15 *community service for a period of 30 days, which shall be of such*
16 *form and on such terms as the court shall deem appropriate under*
17 *the circumstances or may be sentenced to imprisonment for a term*
18 *of not more than 90 days*, and shall forfeit his right to operate a
19 motor vehicle over the highways of this State for a period of 2 years
20 upon conviction, and, after the expiration of said period, he may

Matter printed in italics thus is new matter.

21 make application to the Director of the Division of Motor Vehicles
22 for a license to operate a motor vehicle, which application may be
23 granted at the discretion of the director, consistent with subsection
24 b. of this section. Except as hereinafter provided, for a third or sub-
25 sequent violation, he shall be subject to a fine of \$1,000.00, *and shall*
26 *be sentenced to* imprisonment for a term of not less than 180 days,
27 *except that the court may lower such term for each day, not exceed-*
28 *ing 90 days, served performing community service in such form and*
29 *on such terms as the court shall deem appropriate under the circum-*
30 *stances* and shall thereafter forfeit his right to operate a motor
31 vehicle over the highways of this State *for 10 years*. If the driving
32 privilege of any person is under revocation or suspension for a
33 violation of any provision of this Title at the time of any conviction
34 for a violation of this section, the revocation or suspension period
35 imposed shall commence as of the date of termination of the existing
36 revocation or suspension period. A court that imposes a term of
37 imprisonment under this section may sentence the person so con-
38 victed to the county jail, to the workhouse of the county wherein the
39 offense was committed, or to an in-patient rehabilitation program
40 approved 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 more than 10 years after
46 the first offense the court shall treat the 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 the third
49 conviction as a second offense for sentencing purposes.

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

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

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

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

74 (e) *Any person accused of a violation of this section who is liable*
75 *to punishment imposed by this section as a second or subsequent*
76 *offender shall be entitled to the same rights of discovery as allowed*
77 *defendants pursuant to the Rules Governing Criminal Practice as*
78 *set forth in the Rules Governing the Courts of the State of New*
79 *Jersey.*

1 2. This act shall take effect immediately.

STATEMENT

This bill makes the discovery procedures available to defendants in criminal actions pursuant to the Rules of Court applicable to defendants in cases involving operating a motor vehicle under the influence of liquor or drugs where the defendant is a second or subsequent offender.

SENATE LAW, PUBLIC SAFETY AND DEFENSE
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 796

STATE OF NEW JERSEY

DATED: MARCH 8, 1982

This bill makes the discovery procedures that are available to defendants in criminal actions according to the New Jersey Court Rules governing criminal practice also applicable to defendants accused of drunk driving as second or subsequent offenders.

The rule on discovery contained in the New Jersey Court Rules governing criminal practice (R. 3:13-3) in effect makes the prosecution's entire file available to the defendant upon his demand. It requires that the prosecuting attorney permit a defendant, upon written request, to inspect and copy relevant books or documents belonging to the defendant and obtained from him; records of the defendant's statements or confessions; grand jury testimony of all witnesses; reports of physical or mental examinations and scientific tests; records of the defendant's prior convictions; other books and documents; names and addresses of persons who possess relevant information and may be called as witnesses; records or statements of persons with information or codefendants and their prior records of conviction; police reports; and warrants.

A defendant who seeks discovery must permit the State to inspect or copy the same types of information that are in his possession.

The rule exempts certain documents from discovery, e.g., internal investigative reports and records of statements made by a defendant to his attorney.

The penalties facing a person accused of drunk driving as a second or subsequent offender are severe. For conviction of a second offense, a person is fined \$500.00 to \$1,000.00; ordered to perform community service for 30 days or sentenced to imprisonment for up to 90 days; and sentenced to forfeit his driving privileges for 2 years. For conviction of a third or subsequent offense, he is fined \$1,000.00; sentenced to imprisonment for at least 180 days, which can be decreased for each day, not exceeding 90 days, served performing community service; and sentenced to forfeit his driving privileges for 10 years.

The rule on discovery in the municipal courts (R. 7:4-2g.) states that when the defendant is subject to imprisonment or some other severe penalty upon conviction, the rule on discovery in criminal cases (discussed above) shall apply.

OFFICE OF THE GOVERNOR

RELEASE: IMMEDIATE

CONTACT: PAUL WOLCOTT

WEDNESDAY, JULY 7, 1982

Governor Thomas H. Kean has signed the following bills:

A-632 (OCR) SCR, sponsored by Assemblyman Vincent Pellecchia, D-Passaic, which permits the manufacture and sale of slot machines within the state to New Jersey casinos. The bill defines such a business as a casino service industry and requires licensing by the Casino Control Commission.

A-48, sponsored by Assemblyman Michael J. Matthews, D-Atlantic, which permits the governing body of a county or municipality to appropriate funds to private, non-profit organizations for the purpose of providing services to runaway or homeless youths, under the age of 18, and their families.

A-796, sponsored by Assemblyman Walter M.D. Kern, R-Bergen, which extends the right of discovery to persons accused of drunk driving.

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