

39:4-64

**LEGISLATIVE HISTORY CHECKLIST**

**NJSA:** 39:4-64 (Littering on highways--rebuttable presumption that vehicle is the perpetrator)

**LAWS OF:** 1983

**CHAPTER:** 346

**Bill No:** A867

**Sponsor(s):** Smith and others

**Date Introduced:** February 22, 1982

**Committee:** **Assembly:** Judiciary, Law, Public Safety & Defense

**Senate:** Judiciary

**Amended during passage:** Yes according to Governor's recommendations

Amendments denoted by asterisks substituted for S1737 (not attached since substantially similar to A867; Senate committee statement to S1737 attached)

**Date of Passage:**

**Assembly:** May 13, 1982

Re-enacted 7-7-83

**Senate:** March 7, 1983

Re-enacted 9-15-83

**Date of Approval:** September 22, 1983

**Following statements are attached if available:**

**Sponsor statement:**

Yes

**Committee statement:**

**Assembly**

Yes

**Senate**

Yes

**Fiscal Note:**

No

**Veto Message:**

Yes

**Message on Signing:**

~~No~~ Yes

**Following were printed:**

**Reports:**

No

**Hearings:**

No

9-22-83

[SECOND OFFICIAL COPY REPRINT]

## ASSEMBLY, No. 867

## STATE OF NEW JERSEY

INTRODUCED FEBRUARY 22, 1982

By Assemblymen SMITH, KAVANAUGH, WEIDEL and LITTELL

Referred to Committee on Judiciary, Law, Public Safety  
and Defense

AN ACT concerning \***[motor vehicles,]**\* *the throwing, placing or depositing of litter upon the highways of this State and* \*amending R. S. 39:4-64 \*\***[\*and P. L. 1983, c. 65\*]**\*\*.

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

1 1. R. S. 39:4-64 is amended to read as follows:

2 39:4-64. *\*a.\* No person shall throw or drop any bundle, object,*  
3 *article or debris of any nature from a vehicle whether in motion*  
4 *or not when such vehicle is on a highway. The words "object,*  
5 *article or debris of any nature" as used in this section shall be*  
6 *deemed to include a lighted cigarette, cigar, match, or live ashes,*  
7 *or any substance or thing in and of itself likely to cause a fire,*  
8 *but such inclusion shall not be deemed to in anywise limit the*  
9 *generality of said words "object, article or debris of any nature."*  
10 *Any person who violates this section shall be subject to a fine of*  
11 *not less than \$100.00 nor more than \$500.00 for each offense.*

12 *\***[There shall be a rebuttable presumption that the registered***  
13 *owner of the vehicle from which a bundle, object, article or debris*  
14 *was thrown or dropped was the person who committed the act.]\**

15 *\*\***[\*b. The director shall adopt rules and regulations to assess***  
16 *penalty points against any person who is convicted of an offense*  
17 *under this section. The penalty points imposed under this section*  
18 *shall not be included within the points accumulated by a driver for*  
19 *purposes of plan surcharges pursuant to section 6 of the "New*

**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:**

**\*—Senate amendments adopted February 24, 1983.**

**\*\*—Assembly amendments adopted in accordance with Governor's recommendations June 16, 1983.**

20 *Jersey Automobile Insurance Reform Act of 1982,' P. L. 1983,*  
 21 *c. 65 (C. 17:29A-35).]\*\**

22 *\*\*[c.]\*\* \*\*b.\*\* There shall be a rebuttable presumption that the*  
 23 *registered owner of the vehicle, if present in the vehicle, or, in his*  
 24 *absence, the driver of the vehicle, is presumed to be responsible for*  
 25 *any violation of this section, if:*

26 *(1) A bundle, object, article or debris of any nature is thrown*  
 27 *or dropped from the vehicle by an occupant of the vehicle;*

28 *(2) There are two or more occupants in the vehicle; and*

29 *(3) It cannot be determined which occupant of the vehicle is*  
 30 *the violator.\**

1 *\*\*[2. Section 6 of P. L. 1983, c. 65 (C. 17:29A-35) is amended*  
 2 *to read as follows:*

3 6. a. A merit rating accident surcharge system for private  
 4 passenger automobiles may be used both in the voluntary market  
 5 and by the New Jersey Automobile Full Insurance Underwriting  
 6 Association created pursuant to *section 16 of P. L. 1983, c. 65;*  
 7 *C. 17:30E-4.* No surcharges for damage to any property shall be  
 8 imposed on or after the operative date of this act, unless there is  
 9 an accident within a three year period immediately preceding the  
 10 effective date of coverage which results in payments by the  
 11 insurer of at least a \$300.00 property damage liability claim or  
 12 any payment by the insurer of a bodily injury claim arising out  
 13 of a collision of a private passenger automobile with a pedestrian.  
 14 All moneys collected under this subsection shall be retained by the  
 15 insurer assessing the surcharge. Accident surcharges shall be  
 16 imposed for a three year period and shall, for each filer, be uniform  
 17 on a Statewide basis without regard to classification or territory.

18 b. There is created a New Jersey Merit Rating Plan which shall  
 19 apply to all drivers and shall include, but not be limited to the  
 20 following provisions:

21 (1) (a) Plan surcharges shall be levied by the Division of Motor  
 22 Vehicles on any driver who has accumulated, within the immedi-  
 23 ately preceding three year period, beginning on or after the  
 24 effective date of this act, six or more motor vehicle points as  
 25 provided in Title 39 of the Revised Statutes, exclusive of any  
 26 points for convictions pursuant to R. S. 39:4-50 or R. S. 39:4-64;  
 27 except that the allowance for a reduction of points in Title 39 of  
 28 the Revised Statutes shall not apply for the purpose of determining  
 29 surcharges under this paragraph. Surcharges shall be levied for  
 30 each year in which the driver possesses six or more points. Sur-  
 31 charges assessed pursuant to this paragraph shall be not less than  
 32 \$100.00 for six points, and not less than \$25.00 for each additional

33 point. The commissioner may increase the amount of surcharges  
34 as he deems necessary.

35 (b) For a three year period following the effective date of this  
36 act, any driver who has accumulated on or after that date three  
37 or more motor vehicle points, other than for a conviction pursuant  
38 to R. S. 39:4-50 or R. S. 39:4-64, shall be annually subject to a  
39 surcharge in the amount of \$55.00 for the first three points and  
40 \$15.00 for each additional point up to six. For six or more points,  
41 the surcharges provided in paragraph (1) (a) shall apply. The  
42 allowance for a reduction of points as provided in Title 39 of the  
43 Revised Statutes shall not apply for the purpose of determining  
44 surcharges under this paragraph. The provisions of this para-  
45 graph shall expire three years following the effective date of this  
46 act.

47 (2) Plan surcharges shall be levied for convictions under R. S.  
48 39:4-50 for a violation occurring on or after the effective date of  
49 this act. Surcharges levied under this paragraph shall be for a  
50 three year period, and shall be not less than \$1,000.00 for each of  
51 the first two convictions, and not less than \$1,500.00 for the third  
52 conviction occurring within a three year period. The commissioner  
53 may increase the amount of surcharges as he deems necessary.

54 If, upon receipt of written notification by certified mail, return  
55 receipt requested, from the Division of Motor Vehicles, mailed to  
56 the last address of record with the division, a driver fails to pay a  
57 surcharge levied under this subsection, the license of the driver  
58 shall be suspended forthwith until the surcharge is paid to the  
59 Division of Motor Vehicles; except that upon satisfactory showing  
60 of indigency, the Division of Motor Vehicles may authorize pay-  
61 ment of the surcharge on an installment basis over a period not  
62 to exceed six months.

63 All moneys collectible under this subsection shall be billed and  
64 collected by the Division of Motor Vehicles. Of the moneys col-  
65 lected, 80% shall be remitted to the New Jersey Automobile Full  
66 Insurance Underwriting Association, and 20% shall be retained,  
67 for administrative expenses, by the Division of Motor Vehicles  
68 and turned over to the State Treasury for deposit in a special  
69 account to be used by the Division of Motor Vehicles, as may be  
70 necessary, to modernize its operations and improve its effective-  
71 ness and efficiency in order to discharge its statutory obligations.  
72 Any moneys in the special account at the end of a fiscal year shall  
73 be transferred to the General State Fund for use for general State  
74 purposes. Moneys shall be appropriated annually to the special  
75 account.

76 c. Any motor vehicle conviction points accumulated within a  
 77 three year period prior to the operative date of this act by a driver  
 78 insured under the automobile insurance plan established pursuant  
 79 to P. L. 1970, c. 215 (C. 17:29D-1), shall be carried over into the  
 80 New Jersey Automobile Full Insurance Underwriting Association,  
 81 if such driver is insured by the association, and shall be used to  
 82 determine any surcharges for motor vehicle convictions to which  
 83 the driver may be subject pursuant to subsection b. of this section.  
 84 Surcharges shall be levied in accordance with subsection b., except  
 85 that the New Jersey Automobile Full Insurance Underwriting  
 86 Association shall bill and collect the surcharges. Of the moneys  
 87 collected, the association shall retain 80% and 20% shall be re-  
 88 mitted to the Division of Motor Vehicles and turned over to the  
 89 State Treasury for deposit in a special account for use as pro-  
 90 vided in subsection b. Moneys shall be appropriated annually to  
 91 the special account.

92 The provisions of this subsection shall expire three years from  
 93 the operative date of this act.

94 d. The dollar amount of all motor vehicle conviction surcharges  
 95 shall be at least equivalent to the differential between the rates  
 96 charged to insureds as promulgated by the rating bureau which  
 97 files rates for the greatest number of insurers in the voluntary  
 98 private passenger automobile insurance market in this State and  
 99 the Supplement I rates in use as of December 31, 1982 by the  
 100 automobile insurance plan established pursuant to P. L. 1970, c. 215  
 101 (C. 17:29D-1), and the amount collectible under the motor vehicle  
 102 conviction surcharge system in use by the automobile insurance  
 103 plan established pursuant to P. L. 1970, c. 215 (C. 17:29D-1 et seq.)  
 104 prior to the implementation of this act.

105 e. The Commissioner of Insurance and the Director of the Divi-  
 106 sion of Motor Vehicles, as may be appropriate, shall adopt any  
 107 rules and regulations necessary or appropriate to effectuate the  
 108 purposes of this section.\*]\*\*

1 \***[2.]**\* \*\***[3.]**\*\* \*\*2.\*\* This act shall take effect immediately.

ASSEMBLY, No. 867

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 22, 1982

By Assemblymen SMITH, KAVANAUGH, WEIDEL and LITTELL

Referred to Committee on Judiciary, Law, Public Safety  
and Defense

AN ACT concerning motor vehicles, amending R. S. 39:4-64.

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

1 1. R. S. 39:4-64 is amended to read as follows:

2 39:4-64. No person shall throw or drop any bundle, object,  
3 article or debris of any nature from a vehicle whether in motion  
4 or not when such vehicle is on a highway. The words "object,  
5 article or debris of any nature" as used in this section shall be  
6 deemed to include a lighted cigarette, cigar, match, or live ashes,  
7 or any substance or thing in and of itself likely to cause a fire,  
8 but such inclusion shall not be deemed to in anywise limit the  
9 generality of said words "object, article or debris of any nature."  
10 Any person who violates this section shall be subject to a fine of  
11 not less than \$100.00 nor more than \$500.00 for each offense.

12 *There shall be a rebuttable presumption that the registered*  
13 *owner of the vehicle from which a bundle, object, article or debris*  
14 *was thrown or dropped was the person who committed the act.*

1 2. This act shall take effect immediately.

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STATEMENT

This bill would create a rebuttable presumption that the owner of a car from which littering was done is the one who did the littering.

Littering on the highways is a continuing, and expensive, problem. It not only creates an eyesore and a mess which is expensive to clean up, it also causes damage to the environment.

**Matter printed in italics thus is new matter.**

One of the problems in enforcing the anti-littering law is that often, a law enforcement officer will see litter coming from a car and be able to take down the license plate number, but not see who actually did it. He will then have great difficulties in determining which passenger actually threw the garbage out of the window, or if the summons is not issued until later, who was even driving the car at the time of the violation. This bill would help alleviate this problem by using the principle applied to parking violations, that the owner of a motor vehicle is responsible for its operation unless he can prove otherwise.

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ASSEMBLY JUDICIARY, LAW, PUBLIC SAFETY  
AND DEFENSE COMMITTEE

STATEMENT TO  
ASSEMBLY, No. 867

**STATE OF NEW JERSEY**

DATED: MAY 3, 1982

This bill would create a rebuttable presumption that the owner of a car from which littering was done is the one who did the littering. In the law of evidence, this is a presumption which holds good until disproved or which standing alone will support a finding against contradictory evidence.



SENATE JUDICIARY COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 867**

**STATE OF NEW JERSEY**

DATED: SEPTEMBER 23, 1982

Assembly No. 867 would amend the present statute prohibiting the throwing of debris from a vehicle to create a rebuttable presumption that the registered owner of the vehicle from which the debris was thrown is the person who committed the act.

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SENATE TRANSPORTATION AND COMMUNICATIONS  
COMMITTEE

STATEMENT TO  
SENATE, No. 1737

**STATE OF NEW JERSEY**

DATED: OCTOBER 18, 1982

This bill creates a rebuttable presumption that the owner of a vehicle if present in the vehicle or the driver of the vehicle if the owner is not present is responsible for littering from the vehicle in violation of R. S. 39:4-64.a. This rebuttable presumption exists if littering occurs by an occupant of the vehicle, there are at least two occupants of the vehicle, and it cannot be determined which occupant is the violator.

In addition, the bill requires the Director of the Division of Motor Vehicles to adopt rules and regulations to assess penalty points against any person convicted under the relevant statute as amended by this bill.

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STATE OF NEW JERSEY  
EXECUTIVE DEPARTMENT

June 13, 1983

ASSEMBLY BILL NO. 867 (OCR)

To the General Assembly:

Pursuant to Article V, Section I, paragraph 14 of the Constitution, I herewith return Assembly Bill No. 867 (OCR) with my recommendations for reconsideration.

Assembly Bill No. 867 makes two amendments to the statute which prohibits littering on highways and roads in the State. First, the bill creates a rebuttable presumption with respect to who in the vehicle is doing the littering. Specifically, the bill provides that the registered owner of the vehicle, if present in the vehicle or, if the registered owner is not present, then the driver is presumed to be responsible for violating the statute where the following three conditions are met: 1) the litter is thrown or dropped from the vehicle by an occupant of the vehicle; 2) there are two or more occupants in the vehicle; and 3) it cannot be determined which occupant of the vehicle is the violator. This amendment addresses an enforcement problem under the anti-littering law. A law enforcement officer may see litter coming from a car and be able to take down the license plate number without seeing who actually did the littering. This bill provides an appropriate way to address this practical problem.

The second amendment would require that penalty points be assessed against a person who violates the anti-littering law. The bill directs the Director of the Division of Motor Vehicles to adopt rules and regulations assessing penalty points against violators of the statute. However, these penalty points would not be included as points for the purposes of surcharges under the New Jersey Automobile Insurance Reform Act. I am recommending that this amendment be deleted from the bill.

The point system which we have developed through our Department of Motor Vehicles is designed to remove from our roads dangerous and unsafe drivers. It does so by assessing points for various traffic violations, and imposes sanctions, such as mandatory attendance at driver education classes or license revocation, once a certain number of points have been accumulated. While littering is certainly wrongful conduct and presents the public with an unpleasant nuisance,

STATE OF NEW JERSEY  
EXECUTIVE DEPARTMENT

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it does not raise the serious safety issues that offenses such as failing to stop at a red light do. The Legislature has recognized the difference between the offense of littering and other traffic violations by providing that the points for littering would not be accumulated for surcharge purposes under the New Jersey Automobile Insurance Reform Act. Accordingly, I see no reason for including the offense of littering within our motor vehicle point system and recommend that this provision be deleted from the bill.

Accordingly, I herewith return Assembly Bill No. 867 (OCR) and recommend that it be amended as follows:

Page 1, Title, line 3: Delete "and P.L. 1983, c. 65"

Page 1, Section 1, lines 15 to 21: Delete

Page 2, Section 1, line 22: Delete "c." and insert "b."

Page 2, 3 and 4, Section 2, lines 1 to 108: Delete

Page 4, Section 3, line 1: Delete "3." and insert "2."

Respectfully,

/s/ Thomas H. Kean  
GOVERNOR

(seal)

Attest:

/s/ W. Cary Edwards

Chief Counsel

MONDAY, SEPTEMBER 26, 1983

Governor Thomas H. Kean has signed the following bills:

A-3003, sponsored by Assemblyman John W. Markert, R-Bergen, which amends statutes governing size and weight regulations for trucks. The amendments establishes maximum allowable weights, brings State requirements into line with Federal law and restructures the statutes for greater clarity. The bill was originally the subject of a conditional veto.

A-867, sponsored by Assemblyman Elliott F. Smith, R-Somerset, which creates a rebuttable presumption that when litter is dropped or thrown from a vehicle, where there are two or more occupants and it cannot be determined which occupant threw the litter, the registered owner of the vehicle, or the driver if the owner is not present, is presumed to be responsible. The bill originally called for penalty points to be assessed for littering violations. That provision was the subject of a conditional veto recommendation.

A-1536, sponsored by Assemblyman Christopher J. Jackman, D-Hudson, which allows licensed lenders under the Small Loan Act and the Secondary Mortgage Loan Act to make property insurance available to the borrower for real or personal property which is security for the loan.

A-218, sponsored by Assemblyman Byron M. Baer, D-Bergen, which supplements the Radiation Protection Act by prohibiting the transportation or in-transit storage of high-level radioactive materials in Essex, Bergen, Hudson, Middlesex, Union, Camden, Passaic, Mercer and Monmouth counties, all of which have population densities of more than 1,000 persons per square mile. The bill was originally the subject of a conditional veto. The Governor recommended changes in a provision that would have inadvertently prohibited the transportation of scientific equipment and materials. He also recommended a change to require transporters to use all available modes, as well as routes of transport, and alternatives to the shipment itself.